Serbia’s European integrations: the EU or the EEA?

Serbia’s membership in the European Economic Area (EEA), without its joining the European Union (EU), has recently been discussed as an alternative path towards the country’s economic integration with the EEA member states and Switzerland, i.e. with the area accounting for the largest share of Serbia’s foreign trade.

This article considers the possibilities, as well as the costs and benefits of Serbia’s accession to the EEA.

The article will, first of all, define the EEA and then point to the differences between the EU and the EEA and analyse the form of accession to the EEA. Finally, it will consider the economic and political effects of EEA accession, as compared to EU accession.

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1. What is the European Economic Area?

The mere existence of an alternative does not mean that it is either better or worse; it is simply about the fact that it exists. While it is beyond doubt that international isolation, wars and ruined economy are a rather dismal alternative, there are many other options that do not entail human suffering and economic destruction, and should be seriously considered as such, assessing the costs and benefits of abandoning the path towards the European Union and searching for some other solution. EEA accession is one of such solutions, even though the EEA’s characteristics and institutional structure have a lot in common with the European Union.

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3. Conclusion

The integration of a country situated on the European continent into the European Union, certainly has an alternative. This alternative has been resorted to not only by the countries that we usually see as successful examples of putting EU membership aside (Iceland, Switzerland, Norway and Liechtenstein), but also by those that took another path. Serbia, which was at the door of this organisation over 20 years ago, only to return to the point where it had been decades before following several years of war, most certainly provides the closest example of a country seeking a distant alternative to the European Union.

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1 OJ No L 1, 3.1.1994, p. 3
2 Belgium, Holland, Luxembourg, Germany, France, Italy, the United Kingdom, Ireland, Denmark, Greece, Spain and Portugal
3 Austria, Finland, Sweden, Norway, Iceland and Liechtenstein
EEA\textsuperscript{4} and to define the financial obligations of non-EU member states, in order to enable the functioning of the EEA.\textsuperscript{5} Essentially, the EEA provided a form which was to enable EFTA members to have access to the EU common market, without the obligation to become EU members.

However, in order to fully clarify why there was a need to establish the EEA in the first place, we have to review the reasons for which EFTA members decided to abandon the institutional and economic dualism in Europe in 1980’s. The dualism was manifested through the parallel existence of the European Economic Community (later the European Union) and EFTA. The most important reasons for such a decision were as follows:

1) EFTA was a more favourable way of association\textsuperscript{6} for the states that had remained politically neutral during the Cold war – it was about “exclusively” economic integrations without any political connotations or common policies that could be considered restrictive when it comes to the sovereignty of the countries participating in them;

2) After the economic crisis of the 1980’s, EFTA members tried to find a way out in joining the somewhat more dynamic economies of the European Community of that time. Furthermore, the liberal thought, which was considered dominant in the economic science of that day, certainly gained a better foothold in the institutional structure of the European Community than in EFTA;

3) At the same time, the European Commission (EC) was not eager to accept new members at that moment, since the then EC President Jacques Delors thought that the acceptance of new members would slow down Agenda 1992 and the creation of a single market and a monetary union.

The fall of the Berlin Wall and the opening of the association process for the countries of the former Eastern Bloc were the main reasons for the radical turn in the enlargement policy of the European Community, which was at that time finalising negotiations on a new agreement, later signed in Maastricht. In other words, the EU was very willing to accept affluent West European countries as its members as soon as possible, since it was clear that the (financial) capacity of net contributors\textsuperscript{7} would be put on trial once East European countries joined the European Union.

The sequence of events leads us to the conclusion that the EEA was conceived as a stopover on the way to full EU integration. In other words, at the time of its establishment, the EEA was supposed to bring twelve European Community members and seven members of the so-called outer circle, i.e. EFTA, economically closer. However, at the time of the signature of the EEA Agreement, it was already known that (at least) five of seven EFTA members – Austria, Finland, Sweden, Norway and Switzerland – actually wanted to join the EU, rather than only be partners in the form of the EEA.\textsuperscript{8} While the first three countries joined the EU within its “fourth enlargement” in 1995, Norwegian and Swiss citizens rejected EU membership at their respective referenda.\textsuperscript{9}

The key reasons for the refusal of Iceland, Norway, Liechtenstein and Switzerland to join the EU are the maintenance of vital economic activities and the exploitation of natural resources.

The mentioned reasons widely range from determining the permitted levels of fishing under the EU legislation, which undermines the economic interests of Iceland\textsuperscript{10}


\textsuperscript{5} The Agreement between the European Union, Iceland, Liechtenstein and Norway on an EEA Financial Mechanism for the period 2009-2014 (OJ No L 291, 9.11.2010, p. 4)

\textsuperscript{6} With the exception of Switzerland and Liechtenstein, all the other EFTA members shared their boundaries with the Eastern Block countries, over land or sea.

\textsuperscript{7} The states that contribute to the EU budget more than they use funds from it.

\textsuperscript{8} Regardless of the fact that it was not on the list of the countries that had applied for EU membership, it could be assumed that Liechtenstein would have “followed” Switzerland in its intentions.

\textsuperscript{9} At 1994 referendum Norway rejected EU membership for the second time (52.2% of citizens voted against); Switzerland rejected EEA membership, and as a result, Bern “froze” EU membership negotiations (50.3% of citizens voted against).

\textsuperscript{10} The mentioned amendments to the EU legislation have created more favourable conditions for fishing, and it is to be expected that the amendments will contribute to Iceland’s accession to the EU in the forthcoming period.
and Norway,\textsuperscript{11} oil exploitation in the North Sea in the case of Norway, to the issue of bank secrecy and bank deposit taxation in the case of Liechtenstein. Similar challenges concerning the banking sector can also be seen in the case of Switzerland, but it is important to emphasise that the Swiss refuse to become EU members also because they would have to allocate significant resources for the EU budget and funds, and because, politically speaking, the question remains for them whether Switzerland’s EU membership is compatible with its traditional political neutrality.\textsuperscript{12}

1.1. Differences between the EU and the EEA

In order to comprehend the differences between the EU and the EEA, we need to go back to the time when the European Economic Community was established under the Treaty of Rome of 1957. Essentially, although the motives of European integrations may be debatable, with the emphasis on security and political ones, we may well say that the Treaty of Rome clearly indicates that the basic motive of these integrations is of economic nature. The same is true of EFTA, the only difference lying in the fact that the European Economic Community took it to another level and formed a customs union as well. This difference was not only a catalyst of the future EU trade policy, but also one of the reasons why the EFTA countries did not want to take the path towards the EEC. To clarify this, it should be stressed that at that time customs protection was much used as an instrument of domestic market protection; generally, protectionism was neither rare nor regulated as it is today. A customs union meant not only the possibility of duty-free trade (which is the purpose of every free trade agreement, such as EFTA), but also common customs tariffs for third countries.

Although the preamble of the EEA Agreement does not only focus on economic integrations, but also on the enlargement of the justice, freedom and democracy zone – something that we would typically see as a part of the EU accession process – its content is in fact entirely economic, with significant social implications. In other words, the EEA defines the implementation of the so-called four freedoms of the EU in the entire EEA. While the free movement of capital can be seen as an economic freedom \textit{par excellence}, the free movement of goods goes deep into production standards and, generally, into the functioning of an economy. Furthermore, the free movement of persons and services \textit{de facto} abolishes all restrictions on settlement and labour between the EU members and non-member states which are the EEA members. This is a very sensitive political issue, particularly in the situation of high unemployment and economic crisis.\textsuperscript{13}

There are several significant exceptions from the four mentioned freedoms in the case of the EEA – it is not fully applied in the field of agriculture and fishery, due to the need to protect the markets of non-EU members against the powerful common agricultural policy and specific interests in the fishing industry. On the other hand, all EEA countries are obliged to apply the EU \textit{acquis} in some very sensitive fields, such as the protection of competition.

The obligation of all EEA countries to unselectively apply the EU \textit{acquis} led to a phenomenon called “fax democracy”. It is a colloquial term for the process of adoption of the European legislation and, under the EEA Agreement, mandatory application of a significant part of the \textit{acquis} in the countries that are members of the EEA, but not EU members. However, although these regulations concern extremely sensitive issues, EEA members that are not EU members have no influence on the decision-making process; nevertheless, their representatives are entitled to be present in the conference hall and to make comments on draft regulations. There is a similar phenomenon in the framework of the European Union called a “democratic deficit”, although it is somewhat more complex and broader.

1.2. Forms of EEA accession

Nevertheless, the later establishment of the EEA should not be understood as an alternative to the EU or EFTA. On the contrary, the EEA was supposed to “unite” these two integration processes, opening a possibility for an even deeper economic integration of European countries, without mandatory political


\textsuperscript{12} http://www.swissinfo.ch/eng/country_information/country_profile/Switzerland_and_the_EU.html?cid=5764106

\textsuperscript{13} This may be the main reason for today’s increasing euroscepticism and for putting new candidate countries on ice.
integration, which was becoming increasingly typical of the EU.

Ever since the EEA was set up, which coincided with the establishment of the EU in Maastricht, the EEA has never been acceded by a state which did not become a new member of the European Union. Furthermore, irrespective of the fact that the agreement in question is a multilateral agreement between EU members and EFTA countries (rather than an EU-EFTA bilateral agreement), and that it contains no indications that the accession of third countries is excluded, it is difficult to assume, due to the nature of the agreement, that EEA membership would be possible outside the EU and EFTA framework. In fact, new EU members automatically enter the EEA, although their membership is formally negotiated; the last time EFTA was enlarged, the EEA had not even been formed, and therefore so far there has been no need to negotiate membership of a new EEA country, without its being an EU member.

Therefore, EEA accession outside the EU integration process is debatable, if for no other reason, then because it has never occurred so far. Actually, no country has ever expressed a desire for such integration, which, for the time being, makes the whole process terra incognita. However, in view of the reason for establishing the EEA, it can be assumed that EFTA membership could be an “alternative” precondition for EEA membership for a state that is not already a contracting party.

Switzerland is de facto a part of the EEA, although not de iure. In other words, the country strove to join the EU together with other EFTA members which did so in 1995, but Swiss citizens rejected even EEA membership at a referendum, thus indefinitely postponing accession negotiations. However, the Governments of Switzerland and the EEA member countries found Solomon’s solution to the problem in the form of a series of bilateral agreements, in which Switzerland remained a sovereign country, independently passing decisions on the implementation of each and every new European regulation, which, on the other hand, EEA countries are obliged to automatically incorporate into their legislations. In the case of Switzerland, the Bilateral Commission needs to unanimously adopt new acquis for it to be implemented. However, the Commission has never decided to the contrary, for in that case it would be possible to apply a clause permitting either contracting party to cancel the implementation of the agreement in its entirety, if any regulation is not fully implemented. In view of all that, we could conclude that the sovereignty Switzerland has striven to preserve by staying outside the EEA and the EU is nothing but an illusion.

2. European integrations of Serbia

As it was mentioned in the introductory part, there have been recent discussions in Serbia about the EEA as an alternative path to European integrations. Serbian political and economic discourse is not the only one in which the issue of an alternative to the EU is being reviewed. Actually, there have been voices in EU members themselves requesting the (temporary) end of the enlargement process and exploration of alternatives for the Western Balkans, Turkey and the countries of the so-called Eastern Partnership. Similarly, there have been discussions in Great Britain about the so-called “Norwegian model”, as almost an ideal alternative to EU membership, which has always been looked at with high degree of caution or even scepticism in Norway.

Although many think that the main reason for joining the EU is a higher living standard, the effects of EU integrations ceased to be exclusively economic long ago. Political and social effects of these integrations are far-reaching: the Copenhagen criteria define the basic tasks to be performed by each country aspiring to become a member, concerning basic economic, legal and political preconditions for EU membership. In addition to that, it is considered that the EU can take the credit for the peace enjoyed by its members for over half a century now, which is without precedent in the history of the European continent. Finally, the

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14 These are the states which became EU members in 2004 and 2007: Slovenia, Hungary, Poland, the Czech Republic, The Slovak Republic, Lithuania, Latvia, Estonia, Malta, Cyprus, Romania and Bulgaria. In early 2013, negotiations started concerning Croatia’s accession to the EEA, scheduled to occur on the day of Croatia’s accession to the European Union, i.e. on 1 July 2013.

15 This clause is known in the literature as the „guillotine clause“.

16 See more at: http://www.novosti.rs/vesti/naslovna/aktuelno.289.html; 412823-Evropa-ali-bez-Unije
European Union strengthens its global political and economic role through its members’ joint action.

Therefore, unlike in the case of exclusive EEA accession, in the case of EU accession, it is necessary to consider not only economic, but also political arguments.

### 2.1. Economic effects

Economic effects of both kinds of integration are comprehensive, numerous and extremely significant. If we had to single out the most important one, it would certainly be access to the European common market, one of the richest in the world, including over 500 million people.

#### 2.1.1. Access to the common market

As for access to the common market, usually referred to as the “four freedoms” in the European integrations, including the free movement of goods, persons, capital and services, there is no essential difference between EU and EEA membership. In other words, although the four freedoms are part of the European acquis, under the EEA Agreement, they are also equally applied to EEA member countries that are not EU members. The application of the Schengen Agreement only facilitates the implementation of these freedoms in such countries.

Benefits from “access to the common market”, which is often mentioned in the literature as one of the main reasons for EU accession, can be equally enjoyed through EEA membership, without being an EU member. The implementation of the four freedoms is not narrowed down or limited in terms of time, and EEA members are not looked at with suspicion in business practices. In other words, the economic effects stemming from access to the common market are identical in both scenarios.

In view of the issue of a country’s credibility and the trust that financial markets and foreign investors include in risk premia, often a decisive factor when choosing a destination for investment, a dilemma may arise. The factors that attract foreign direct investment have been thoroughly reviewed in professional literature; however, it is difficult to come up with a clear conclusion about the exact list of criteria affecting such decisions. Nevertheless, it could be generally said that the stability, competitiveness and sustainability of a country’s position, constitute a large part of the corpus of criteria in question. The EU accession process in fact means legitimising stability, competitiveness and sustainability; in this connection, a large number of EU countries have shown a stable pattern of conduct, their behaviour being relatively predictable.

At this point it is impossible to conclude through comparative analysis whether Serbia’s accession to the EEA, without its being an EU member, would produce the same effect as EU membership, but in view of economic criteria, we are inclined to conclude that the differences, should there be any, would not be significant. However, benefits from the process are not only yielded at its end, but rather after each phase – signature of the Stabilisation and Association Agreement, candidate status, beginning of accession negotiations. These are the turning points at which the credibility of the countries included in the EU association process increased, as well as their economic benefits. In the transitional countries which joined the EU in 2004, the basic economic indicators, such as GDP per capita or the level of foreign direct investment, started to change more significantly just before the moment of their joining the EU and after the beginning of accession negotiations. Their economic development is considered to be related to the credibility they earned within the EU accession process.

Common market access is accompanied by the liberalisation of foreign trade and a gradual increase of competition in the domestic market. It is based on establishing a common market significantly before EU accession, in order to facilitate economic adjustments and to increase exports from the countries aspiring to become a part of the common market. In 2001, Serbia’s economy was granted a duty-free access to the common market, but the expected positive effects basically failed to come. After a decade of economic decline, caused by wars and international isolation, Serbia’s economy could not offer much to the common

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17 As measured by disposable income.
market and the situation changed slowly between 2001 and 2013. On the other hand, by signing the Stabilisation and Association Agreement with the EU, Serbia committed itself to gradually reducing its customs duties on imports from the EU, thus continuing the market liberalisation which commenced in 2001.

All economic arguments concerning benefits from access to the common market, secured by EEA membership regardless of the form of its implementation, will lose momentum unless Serbia carries out radical economic reforms aimed at redirecting budget funds – from subsidies for numerous money-losing public companies to investment in the sectors which can contribute to economic growth in the future, such as education, science and infrastructure. Furthermore, it is necessary to implement many reforms concerning the rule of law, particularly in the fields of the law of obligations or bankruptcy law, more efficient protection of property, more efficient execution of judgements, fight against corruption and a transparent decision-making process. Exactly the same is expected from a country in the EU accession process. Without the mentioned reforms, EEA or EU membership would not assist Serbia much, for if Serbia fails to implement the reforms, it cannot expect significant economic growth and progress.

In view of the fact that the EEA and EFTA do not have a defined accession procedure, EEA enlargement negotiations boiled down to the statement that a new country was entering the EU and that the country should be formally included in the EEA. It can be therefore concluded that the economic effects of EEA accession would be identical both when achieved through EU integration or through alternative integration, but only provided that the integration process is fully completed and implemented. On the other hand, the process of EU integration is familiar, recognised and (economically) predictable, which cannot be said about the alternative path. This is why we can conclude, inter alia, that the positive economic effects of acceding to the European Union would ensue somewhat earlier and would be more gradual.

2.1.2. Effects of common policies

When speaking of the economic effects of integration, we usually take into account access to the common market. However, a country’s economic system and economy are very complex and depend on many different, not necessarily economic factors. And yet, if we had to single out one objective of economic development, it would probably be higher living standards. This is precisely why GDP per capita is considered to be the most important convergence indicator in the entire eurointegration process; for all its shortcomings, it is still the most reliable measure of a country’s economic development and living standards. Convergence, as one of the objectives of the European Union when it comes to new member countries (or those that are below average in terms of development), is based on economic theory, rather than on the mere altruism of the successful. In other words, even regional development is not useful only for the less developed regions, but also for more developed ones – in this case, as we are discussing a common market, we can apply the analogy to the member states.

Therefore, the EU incorporates convergence into a series of its common policies, above all the regional and cohesion policies, whose funds account for about 40% of the EU budget.

2.1.3. Effects on the budget

Direct financial benefits stemming from the EU funds that operate within common policies are reserved only for EU members, or in exceptional cases, for candidate countries and potential candidates. At the same time, EU membership has its price not only in terms of renouncing one’s sovereignty and adjusting to the EU legislation, but also in terms of money.

Each member state is obliged to contribute funds to the EU budget. The magnitude of these funds primarily depends on the size and successfulness of the national economy, measured by gross national income. A twofold effect is achieved hereby: contributions to the EU budget are defined based both on the population size and economic strength. Direct contributions determined in such a manner account for about 70% of the “membership price”, while the remainder is the
amount directly allocated from VAT collected in a member country, customs revenues minus administrative costs, and other dues. Thus, the EU annually receives 48 € per capita from Bulgaria, 84 € from Hungary, 60 € from Romania and 107 € from the Slovak Republic.¹⁹

These expenses do not apply to EEA members that are not EU members. However, the EEA Agreement envisages contributions to the EU budget by EFTA members for the functioning of the common market, again depending on member states’ economic strength. These contributions are smaller than in the case of EU members (at the moment, Norway annually contributes about 67 € per capita,²⁰ while as an EU member it would have to pay up to five times more); however, it should be taken into account that all countries, including the richest ones, receive significant funds from the EU budget through common policies.

If the three present EEA members which are not EU members, or Switzerland, became EU member countries, there is no doubt that they would be “net contributors”, i.e. they would pay to the European budget more than they would receive from it. Therefore, their present situation, in which they have to finance the functioning of the common market to a somewhat smaller extent, without the right to use funds from the EU budget, is not much different from what their situation would be if they become EU members.

Serbia is in a completely different situation. If it were only an EEA member, the rule on contributing to common market functioning would apply to it. Bearing in mind its GDP, Serbia’s contribution would be modest. However, its contribution should be seen in relation to the benefit it would have from the EU budget. Serbia would undoubtedly be a “net recipient” of funds from the European budget for many years. As the key criterion in this regard is GDP, “net contributors” are as a rule countries richer than average, while “net recipients” are the poorer ones; if it became an EU member, Serbia would be the poorest among them.

Therefore, apart from the costs, we must also consider the benefits from the EU budget, not applicable to EEA members which are non-EU members. The funds from the European budget are not poured into the state budgets, but invested in the member countries (and their citizens) through different programmes within EU common policies. The states which are comparable to Serbia (somewhat higher GDP, similar population size, neighbouring countries) are also “net recipients”.

When the contribution to the EU budget is deducted from the funds they receive, Bulgaria is left with 77 € per capita annually, Hungary with 265 €, Romania with 75 € and Slovakia with 89 €. According to another relative indicator, this ranges between 1.1% and 2.6% of the countries’ GDP. In absolute amounts, Bulgaria received 1.1 billion € in 2011, Hungary 5.3 billion, Romania 2.7, and the Slovak Republic 1.8 billion €.²¹

It should also be pointed out that the manner in which EU budget funds are used is not arbitrary, but precisely defined. The funds are granted either by the working bodies of the European Commission or the member country itself, but under the rules set by Brussels. The allocated funds are intended for specific purposes and the receiving country may not reallocate them or use them for some other purpose.

The major part of allocations from the EU budget (over 90%) is used for subsidies within the common agricultural policy and productive public expenditure – investment in infrastructure, education, science and other sectors which are considered to ensure economic growth in the future. Therefore, the funds that the states receive from the EU budget are used for development purposes and are aimed at yielding positive effects in the mid-term and long-term.

Serbia, just like other transition economy that still may not be considered developed, allocates the bulk of its budget for unproductive public expenditure, thus securing social peace (by covering the pension fund deficit) and facilitating the functioning of the oversized public sector (by granting subsidies to public companies). The fact that the funds received from the EU budget can be used for development purposes only,

²⁰ http://www.regjeringen.no/upload/UD/Vedlegg/eu/Norway%20and%20the%20EU.pdf, p. 11
²¹ Supra fn 19
means that they may not be used for unproductive public expenditure and the purposes by which maximum political effects are achieved in a short time, but rather for the productive public expenditure for which the receiving states most often “do not have” enough funds in their own budgets.

2.1.4. Effects on Agriculture

The common agricultural policy (CAP) is implemented through high customs duties, agricultural import quotas and direct subsidies for producers. The basic objective of CAP is to increase the income of agricultural producers and to maintain agricultural production. CAP measures have a non-market character, as it is through these measures that both the EU and its member countries directly affect the production process for two basic purposes:

1) To support agricultural producers with a view to ensuring unhindered agricultural production; and
2) To ensure the stable supply of agricultural products that will cost the consumer a reasonable price.

CAP\textsuperscript{22} is implemented through three types of measures: (a) direct assistance to agricultural producers (ensuring food quality, environmental protection and animal health), (b) investment in sustainable rural development and (c) assistance in case of adverse effects arising from market imperfections or bad weather conditions.

Unlike the EU, the EEA does not have common agricultural policy mechanisms; EEA members cannot expect assistance in developing their agriculture, promoting the competition of agricultural production, preventing any significant food price increase and fluctuations, nor can they expect support in redressing adverse market effects and bad weather consequences.

Bearing in mind the historical and present importance of agricultural production in Serbia, and Serbia’s potential for economic growth should it promote agricultural production competition and develop the food industry, it is beyond doubt that the EU common agricultural policy may create numerous positive effects which are impossible in case of EEA accession.

In addition, agriculture in EEA member countries which are not in the EU is not based on mass production and subsidies that have the same objectives as CAP. On the contrary, the objective of agricultural subsidies is to maintain traditionally modest agricultural production, with extremely strong customs protection against the EU agricultural product market.\textsuperscript{23}

For a country like Serbia, aspiring to achieve high agricultural exports to the European market, the scenario of becoming an EEA member without being an EU member, would not be particularly favourable. On the one hand, customs protection would make Serbian products uncompetitive in terms of prices; on the other, market liberalisation would put Serbian agricultural producers in the position to compete with those who have at their disposal somewhat less than 60 billion € annually in agricultural subsidies.

2.2. Political effects

When we spoke about economic effects, we mentioned the need to implement comprehensive economic and social reforms; although the effects are mainly economic, the process itself is not.

The question is whether the reforms take place as a result of getting closer to the EU or the other way round – whether EU membership comes as a “prize” for a country’s dedication and successfullness in implementing reforms on its own. If we assume that it is exclusively a “prize”, then we could not see the EU association process as a motive for economic and social reforms, but as a sincere desire of a society to change, regardless of whether the desire comes from the awareness of the need to implement changes, or, more often, the reforms are the only way out from the difficult situation the society has been facing for quite some time.

\textsuperscript{22} See more at http://europa.eu/pol/agr.

\textsuperscript{23} Customs protective tariff on cheese in Norway is 400%. The situation is similar in Switzerland – for more details see the study Muller and Grether, http://www.unige.ch/ses/metri/mueller/cahier0201.pdf.
It seems that the will necessary to implement reforms is independent of the European integration process, but it would not be rational to claim that the process itself does not have a stabilising effect to say the least. Economic reforms may often be unpopular, and governments justify them to their public with the need to harmonise their legislations with acquis, thus trying to maintain political legitimacy. Likewise, if reforms are successfully implemented, the European institutions strengthen the political legitimacy of the national authorities by acknowledging their success, either formally (a new phase in the integration process) or informally (announcements).

2.2.1. The question of Kosovo’s status

The issue of Serbia’s relationship with Kosovo has lately been discussed in the framework of the Copenhagen criteria, in connection with the request for good neighbourly relations. These criteria have been generally very liberally applied as a tool for solving bilateral issues between an EU member and a country striving to accede to it. In the case of Serbia, relations between Belgrade and Priština are defined as a bilateral issue between specific EU member countries and Serbia. In other words, the EU does not have a defined position, inter alia, concerning the precise conditions that a country is expected to fulfil in such a situation, nor are its members united concerning the status issue.

However, since in the enlargement domain the consent of all member countries is needed almost in each individual phase (granting potential candidate status, signature and ratification of the Stabilisation and Association Agreement, granting candidate status, starting accession negotiations, opening individual chapters, closing negotiations, signature of the accession agreement and its ratification), an issue that can be seen as bilateral may easily become a central political issue in a country’s negotiations with the EU. Sometimes the reforms which a country should implement are not the most difficult ones, but such issues often receive the greatest publicity.

Therefore, the issue of relations between Belgrade and Priština is a central political issue of Serbia’s EU membership candidacy. Although there was an ambition to fully separate the two processes, it is clear that no such thing will happen and that the issue will be reviewed time and again as the process continues. It is quite clear that the issue of (re)defining relations between the two parties will be on the agenda in the course of Serbia’s EU accession process – although it cannot be said with certainty what the (final) requests of each individual EU member for Serbia are in that regard.

There is no political agenda of EEA accession, and, consequently, no need to implement or (creatively) interpret the Copenhagen criteria. However, the EEA Agreement opens the common market for each country that accedes to it, including the very sensitive labour market. It is difficult to assume that the EU countries which have some kind of political agenda in the case of Serbia, would suddenly give up their demands if Serbia opted only for the EEA economic integration. Although the Copenhagen criteria are excluded as a formal condition, bilateral conditionality instruments still exist – maybe even to a larger extent than in the EU accession process, for in the case of the EEA, there are only bilateral negotiations, while in the case of the EU, the European institutions have the upper hand.

It is impossible to expect economic convergence which is not accompanied by and compatible with the harmonisation of the legal system and fulfilment of political standards. Although the Copenhagen criteria for EU accession are general, they nevertheless include all European values and the necessary and sufficient conditions for EU accession, as interpreted by the existing EU members. Consequently, we cannot assume that it would be possible to expect Serbia’s membership in the EEA without the implicit fulfilment of the Copenhagen criteria, i.e. the interpretation of their fulfilment before signing the agreement with Serbia.

2.2.2. Serbia’s political influence and “fax democracy”

Serbia, as a relatively small country has little influence on the global policy. It is difficult to imagine that the situation would significantly change if Serbia joined the EU, knowing that a country with a population of some 7 million can hardly have any major influence on the Union with the population of over 500 million people. This is why the issue of “fax democracy” also arises in the context of Serbia as an EU member.

According to comparable data, Serbia could count on about 17 seats in the European Parliament, which has around 750 members. The extent of its influence in the Council of the European Union would be similar.

Nevertheless, we should not overlook Serbia’s right to pass sovereign decisions in the situations when unanimity is requested, where its vote would be equally important as the vote of any other member state.

More importantly, although so far Serbia has not displayed the capacity for such association, if a regional block be formed, the synergy of individual countries’ influence would by far surpass their mere number. The Višegrad Group,25 which at this point is a significant political group in the European Union and an unavoidable partner in the decision-making process, is a good example of the above.

It is also worth mentioning that there are attempts to pass all decisions in the European institutions by consensus. Although it is a very difficult and long process, often defocusing specific regulations, this means that the opinion of each state is acknowledged and taken into account. Over 90% of decisions for which a qualified majority is sufficient, are passed by consensus in any case. In other words, regardless of the relatively little political power that Serbia would have in the European institutions, its mere presence at the table would play an important role.

If Serbia joined the EEA without becoming an EU member, its political influence would remain negligible, although somewhat bigger than today. It could be hardly assumed that Serbia’s influence would be nearly as powerful as that exercised by Switzerland or Norway, although even these countries hardly have a possibility to affect the decision-making process.

3. Conclusion

The reasons for which particular EEA members have not acceded to the EU are primarily of economic, rather than political nature. In the case of Serbia, however, it seems that the motives would precisely be political, be that because of the caution aroused due to EU institutional weaknesses in a time of crisis, or because of an attempt to avoid the interpretation of the Copenhagen criteria by some EU members concerning Kosovo, in the manner which would be problematic for Serbia.

Economically speaking, we can hardly identify one or more vital issues in which Serbia irreconcilably differs from the EU, as is the case with Iceland, Norway, Liechtenstein and Switzerland, in which the issues would constitute the key obstacle for acceding to the European Union.

Therefore, we shall now mention four groups of potential advantages as an argument in favour of the path leading to the EEA, without integration into the EU:

1) Uncertain future of the EU; by acceding (only) to the EEA, Serbia would partially protect itself against the political turmoil which might take place in the EU;
2) Serbia would not be obliged to accede to the eurozone (nor could it do so fully), in other words to introduce the euro, whose future is also questionable, as its national currency. Furthermore, Serbia would not have to implement the common policies which are not envisaged by the EEA Agreement and which it does not consider to be in its interest (e.g. implementation of the Schengen acquis);
3) Serbia would maintain a somewhat higher degree of national sovereignty and would be independent in adopting regulations in a large number of fields;
4) In different discussions there has often been mention of the Kosovo issue and the fact that the

25 Hungary, the Czech Republic, the Slovak Republic and Poland.
26 Supra fn 16.
EFTA and EEA accession processes make no reference to any political conditions, including the need to establish good neighbourly relations or fulfil the Copenhagen criteria. However, there is no guarantee that this issue will not be raised in the process of ratification of the accession agreement (or earlier), as a request of any individual EEA country.

Furthermore, it should also be mentioned that the economic benefits of EEA integration with regard to common market access would be very significant and almost, if not completely the same as those arising from EU integration. These benefits are, economically speaking, the most important ones, both in the case of EEA and EU accession.

The following are the advantages of EU integrations as compared to EEA integrations:

1) Full access to the common market, including the market of agricultural products, accompanied by benefits from the common agricultural policy;
2) Benefits for the budget of Serbia and its regions, arising from access to the EU common policies, particularly the regional and cohesion policies;
3) The EU’s technical and political assistance in the EU accession process and monitoring political, legal and economic reforms, thus ensuring the implementation of the adopted laws and institutional reforms;
4) The EU accession process and mere membership in this organisation are a strong signal to investors and financial markets that the country is reliable, or at least that the entire EU will guarantee for the country if it finds itself in a serious crisis. This means more business opportunities, as well as access to cheaper capital;
5) The protection of state interests through participating in the EU institutions and the possibility of influencing the adoption of common legislation.