



# The Role of the Unilateral Harmonization to the EU Integration

*Flamur Mrasori\**

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*\*PhD, Assistant Professor, Faculty of Law, University of Prishtina, Chairman of the Central Bank Board, Central Bank of the Republic of Kosovo (31, George Bush St., Prishtina, Republic of Kosovo) <https://orcid.org/0000-0002-5419-378X>*



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## ABSTRACT

*The addressing regarding EU integration done so far presents different observations and analyses including almost the same dimension or components. This is due to the fact that concepts for EU integration were usually constructed from the Union's perspective, i.e. this process was portrayed as an attempt of the aspiring countries (including their specifics) for accession to the auspices of the Union (including but not limited to interests, policies and proactivity of the Union on the basis of formal accession criteria). Through this research paper, I attempt to make a step forward in observing a “nonconventional” component of integration, that is the role of unilateral harmonisation to the EU Integration and its adverse effect. As a concept, herein unilateral harmonization is constructed by being compared with different approaches dedicated to harmonization, in particular, with the Copenhagen criteria for the*

*very purpose of showing the originality, bindingness and impact of unilateral harmonization on European integration. In this regard, it is herewith argued whether unilateral harmonization is cognitive (mandatory) in nature or not, compared to the accession process from a legal and political perspective. Finally, its role and effect on European integration and/or its adverse effect on European integration is evaluated. Therefore, based on current circumstances related to Unions' integration processes and policies, the effect of unilateral harmonization in two enlargement or currently integrating regions, i.e. Western Balkan countries and countries where EU neighbourhood policy applies (focusing on one of those countries), has been assessed. Sustainable conclusions have been built upon realistic arguments and circumstances which bring into light new concepts and advantages and disadvantages regarding EU integration of relevant enlargement regions.*

***The keywords:** unilateral harmonization, membership, EU membership perspectives, impact to the EU integration, regions of integration.*

## **Introduction**

The principles and values based on which the European Union is built and operates comprise an accepted and necessary solid basis for the functioning of each society in national contexts, even if not part of it. The issue how these values can be translated into a practical and framed process to be achieved by third (aspiring) countries, can be addressed in more dimensions, but this paper will address unilateral harmonization as a new concept (not practical), yet original. Given that the overall European integration process is generally understood as a process that is defined, supervised, evaluated, and implemented by the Union, through the unilateral harmonization concept is observed another perspective, which is the role of non-member states in the integration process. By adequately weighing and exhausting the arguments through research methods, it has been possible to draw theoretical explanatory constructions which appear as new notions but do not infringe or dominate similar proven notions or even those that are like a common narrative of the Union. Unilateral harmonization is dealt with from different points of view, including its mandatory or non-mandatory character, the eventual correlation with the formal

accession criteria to the Union and the unilateral harmonization relation towards the political and legal perspectives of accession. Such addressing leads to two very important matters, which could be summarized into two essential research questions: 1. Does unilateral harmonization have an effect on EU Integration; and, 2. Can unilateral harmonization have an adverse effect on EU Integration?

Based on the nomenclature of addressing and construction of arguments, as well as the factors, relevant circumstances, treatment perspectives, etc., it turns out concisely and in a grounded manner that unilateral harmonization affects the European integration in both contexts as raised in the key research questions as above. Regarding the effects of unilateral harmonization, there is no difference in its existence in the enlargement or integration regions being dealt with; the differences appear both in the outcome and the consequences of the respective effects on these regions. Another circumstance that is worth mentioning is the fact that regardless of the specifics and disunity of the accession process in different stages of enlargement, the effect of unilateral harmonization is considered as a unified, yet not entirely independent from the specifics of enlargement phases and especially those of enlargement or integration regions. This finding has been broken down in three essential parts of this paper and summarized accordingly in the conclusion part.

### **Methodology**

The complexity of integration processes imposes a unique methodology and approach for each of its dimensions. This paper deals with unilateral harmonization as a not very much researched dimension or rather being the first of this kind. In addition to the perspectives of addressing the effect of this dimension, the research enables drawing a realistic conclusion on the essential questions or hypotheses from the relevant comparison of enlargement or

integration regions. From the legal analysis, and treatment of the legal and political perspectives, this paper succeeds to reveal the binding degree of the criteria for accession to the Union, the comparison and correlation of the latter with the unilateral harmonization as well as its positive and adverse effects on the integration processes. The narrative built upon this basis consists of a bold analysis, comparison, and conclusion which to someone may resemble the approach of Eurosceptics in the time of the global recession, particularly during the last decade in the Eurozone. Yet, under no circumstances neither the beginning nor the end of this article is based on the above concepts. Addressing and comparing realistic circumstances for current enlargement or integration regions may even encourage sceptical understandings of integration processes. This circumstance becomes even more apparent as the questions raised in this paper are deliberately not answered directly to allow future readers and scholars to dive in to more “correct” answers (which seems easy in today’s context) not limiting themselves only to the answers I would have provided them with.

### **1. Unilateral harmonization (mandatory or non-mandatory) and its impact to EU integration**

The European Union, which presents the most advanced regional organization and co-operation known to date, is developed through the multi-dimensional national integration process where diversity<sup>1</sup> becomes a value and together with other values it becomes a permanent source of cohesive force for a more credible supranational Union. Furthermore, through such features, the Union consistently became attractive to non-members from the four poles of Europe, including the Eastern and former socialist bloc countries. This means that just as the divergences became a value for the Union, similarly the integration to the Union

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<sup>1</sup> Diversity initially means the national aspect, and then the ethnical, cultural, religious and also geographical aspect, in a narrow sense, under the nowadays circumstances.

of non-member and aspiring countries became a value in the national context by encouraging unilateral harmonization<sup>1</sup>. In practical conceptual reference, the integration processes are dealt with from internal<sup>2</sup> and external<sup>3</sup> angles. In this regard and based on the practical circumstances of the integration processes and accession to the Union, it could be noted that unilateral actions in the context of harmonization with the Union have an impact on European integration, especially nowadays in the case of the Western Balkans<sup>4</sup>. But in specific circumstances, unilateral actions may have legal problems or implications, which are not simple for aspiring countries. Such case can be unilateral euroization of Kosovo, especially Montenegro (negotiation of chapters on economic and monetary union) that is rightfully described by (Adrian-Gabriel, 2018) as an unprecedented problem in the history of EU enlargement. From the history of accessions, particularly before the Copenhagen<sup>5</sup> criteria were established, in the context of this paper, there was more *ad hoc* harmonization than unilateral one, while far less coordinated harmonization with the European Union of that time. That is due to the fact that non-member countries and the then EU Member States did not have significant

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<sup>1</sup> The unilateral harmonization dealt with in this paper is a rather practical and general existential concept on any area of action of non-EU countries, i.e. actions for harmonization of legislation and other areas within the Union not being detached from the legal context rather than as a formal or conventional concept in the Union narrative.

<sup>2</sup> European integration from the internal angle means the deepening of cooperation which, in legal terms, would be considered as increased powers delegated by member states and strengthening the Union with sovereign powers of its own members and by their willingness expressed through treaties.

<sup>3</sup> European integration from the external angle conveys the aspiration and readiness of non-member countries to the extent of actions for unilateral harmonization.

<sup>4</sup> The Western Balkans in the context of European integration include all countries that are parties to the Stabilization and Association Process. For more, see [https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/glossary/stabilisation-and-association-process\\_en](https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/glossary/stabilisation-and-association-process_en)

<sup>5</sup> The period before 1993 when the formal criteria for accession to the EU were issued. For more, see: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:accession\\_criteria\\_copenhagen](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:accession_criteria_copenhagen)

differences among them in terms of development. Differences were of individual specifics of non-member countries because some of them did not fit in with the values of the Union, or there were other prevailing factors as in the case of Spain<sup>1</sup> and Greece<sup>2</sup>. But, what after the Copenhagen criteria were established? The effect was in several directions: the dynamics of accession have increased, the accession process has become unique, the European perspective for non-member countries has been reconfirmed and the role of unilateral harmonization in the integration processes has continued to grow. Hereby a distinctive parallel can be easily drawn to accession before and after the entry into force of the Copenhagen criteria with a focus on unilateral harmonization with the Union. Accessions before the Copenhagen criteria were subject to non-unique and *ad hoc* criteria, which could reduce the argumentative power for a unilateral harmonization compared to the period after the Copenhagen criteria started to apply, which directly increase the argumentative power of harmonization where, among others, the aspiring countries become familiar with the criteria early in advance and are not bound to the *ad hoc* criteria. This circumstance does not imply that in the above two periods of accession, such process was without any political influence, because the accession process ultimately requires unanimous decision-making by the Union (respectively the Council) and unanimous national ratification (Treaty on European Union, art. 49, paras 1 and 2).

The conventional concept of harmonization with the Union is encountered as from the Copenhagen criteria, where one of them is the legal criterion on harmonization of national legislation with the EU Acquis, yet the conventional concept is a narrower concept compared to the unilateral harmonization. To this end, the essence of unilateral harmonization can only be theoretically related to the legal criterion given that, when fulfilled,

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<sup>1</sup> Spain was under the rule of Francisco Franco's regime until 1975.

<sup>2</sup> The accession of Greece was in the Union's interest due to its geographical position.

it implies accession to the Union and the assumption of rights and obligations the accession process entails. Consequently, unilateral harmonization is a process preceding the fulfilment of the legal criteria in particular and other accession criteria in general; it is also a process of fulfilment of challenges/sub-criteria arising from individual specifics of the countries undergoing the accession process. These individual specifics of aspiring (non-member) countries in the current circumstances significantly contribute to what (Eriksen, 2020) qualifies as the formalizing of European differentiation (contributed by Brexit) as the EU's internal differentiation also affects the Union's relations with non-member countries (Eriksen, 2018).

The above relation of unilateral harmonization with the legal criterion can be made to accurately reflect whether unilateral harmonization is mandatory or not. In this regard, it must be noted that there are different relations between the Union and the enlargement regions, thus, EU relationship with the Western Balkans and the countries to which the EU neighbourhood policy applies to differs. Such a relation would be affected if the harmonization process was divided from the approximation process of legislation. For the purpose of this paper, the EU approximation would serve as a common ground for the unilateral harmonization in all enlargement or integration regions. Based on such circumstances, unilateral harmonization is “mandatory” although it appears subjectively<sup>1</sup> and objectively<sup>2</sup>, and it has a direct impact on the EU integration process from both the Union's perspective and the aspiring countries' perspective. Practically, unilateral harmonization with the Union, as mandatory, bears legal prerequisites, especially in the Western Balkan countries as each of them is in a “contractual relationship” with the Union through the

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<sup>1</sup> Willingness and national strategic orientation of aspiring countries for EU accession.

<sup>2</sup> Confirmation of the European perspective for the aspiring countries and the Union's support to them until their full membership.

Stabilization and Association Agreements<sup>1</sup>. From this perspective, unilateral harmonization in the Western Balkan countries poses obligations for the Union itself to support them until their full membership. From a typical comparison, as far as the binding role of unilateral harmonization in the regions implementing the Stabilization and Association Process and the European Neighbourhood Policy is concerned, the degree of obligation is dominant in the Western Balkans region as these processes and policies are clearly different from each other in terms of the content and volume of relations with the Union. However, the above relations should not be considered as processes and policies that the Union simply applies to these countries. They should rather be treated as they actually are, i.e. relations as under the category of treaties (Treaty on European Union, art. 8; Treaty on the Functioning of the European Union, art. 218) that the Union has with the countries of the two enlargement regions.

## **2. EU membership-legal and political perspective vs unilateral harmonization**

European integration as a multidimensional process can, in its substance, be addressed in a narrower or restrictive concepts which, in fact, do not present this as a complete process or a process expressed in all its dimensions. Such circumstance results from the treatment of the European integration from different perspectives such as: the EU perspective, the Western Balkan countries' perspective or the EU neighbourhood policy countries' perspective.

From the EU perspective, the process at stake implies deepening of cooperation, strengthening of EU institutions with national competences (Treaty on European Union, art. 5, paras 1 and 2), and enlargement of the Union. From the Western Balkans' perspective,

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<sup>1</sup> The Western Balkan countries are under the Stabilization and Association Agreements with the Union, which enables their participation in the Stabilization and Association Process as a political framework for dialogue between the Union and these countries by providing support to them until their full membership in the Union.

European integration actually means accession to the Union as an aspiration and national priority for a functional economy, strengthening of democracy and modernization. Whereas, from the EU neighbourhood policy perspective another version emerges regarding the substance of this process characterized by different aspirations and not the intentional unity<sup>1</sup> of the countries, which are part of this policy. This is due to the fact that for the vast majority of countries that are part of the Union's policy the aspects of security and economic and trade cooperation are essential, while Ukraine aims the accession to the Union in addition to these aspects. Based on the substantive concepts of the above perspectives, accession to the Union appears as a common denominator. From this point of view, the process of accession should be treated from the legal context as the substantive aspect seems to have differences related to the specifics of the enlargement regions or even to the specifics of the respective countries of the above regions. The legal character of accession to EU or EU enlargement is significantly more specific than the concepts and areas of co-operation within the EU, such as the Internal Market, the Customs Union etc., as treaty categories (Treaty on the Functioning of the European Union, art. 26 and 30) because the accession process still remains influenced by the pronounced political, geopolitics and geostrategy<sup>2</sup> perspectives of the Union. In this context, the nature of accession to the Union will be treated from two separate perspectives, the first being the legal perspective and the second being the political one.

The legal perspective addresses the accession process by analysing what is contained in the primary legal acts of the Union,

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<sup>1</sup> This is due to the fact that not all the EU neighbourhood policy countries have the goal, journey, geographical and geostrategic position to join the Union. E.g. Ukraine's aspiration is different from that of all other countries of the EU neighbourhood policy, it rather bears similarities with the aspirations of the Western Balkan countries.

<sup>2</sup> Accession of Greece (1981), the EU enlargement towards eastern countries (2004), and the case of Ukraine, although under different circumstances from the first two cases.

namely the Treaty of Lisbon. On the other hand, the political perspective addresses the analysis of the Treaty of Lisbon focussing on decision-making of the EU institutions, particularly on EU Member States for admission of new members. From the above consideration of the Treaty of Lisbon, it is concluded that the latter does not include the formal accession criteria or the Copenhagen Criteria as an integral part, but it recognizes their “binding” status by expressly stating that they must be taken as a baseline for admission of new members in the Union (Treaty on European Union, art. 49 para 1). Moreover, the Treaty of Lisbon sets forth provisions on the procedure for the accession of a new country to the Union and the (decision-making) role of its institutions as well as the role of the member states (Treaty on European Union, art. 49, paras 1 and 2). This means that from a legal perspective the accession process has a qualitative legal coverage even though it does not explicitly provide in its text the Copenhagen Criteria. In this regard, the question may be raised why the relevant criteria are not an integral part of the Treaty of Lisbon given that their status is clearly recognized? The answer would be very simple in practical terms of the powers of the Union institutions because in this option the European Court of Justice of the EU would take precedence over the admission of new members by eliminating the amount of political influence (unanimous vote in the Council and unanimous national ratification of accession agreements (Treaty on European Union, art. 49, para 2)) in this process due to the fact that this institution has the sole authority for a unique interpretation of the Treaties (Treaty on European Union, art. 19, para 1). As far as the political perspective is concerned, the addressing has a practical character and is related to the pre-accession stages until the full membership including the decision-making forms of institutions and member states regarding the admission of new members to the Union. From this point of view, the accession process, and particularly the accession,

cannot be considered as a process that is politically uninfluenced because the Treaty of Lisbon stipulates the unanimous vote by the Council (as an intergovernmental institution) and unanimous national ratification of treaties/agreements of Member States with the applicant State (Treaty on European Union, art. 49). The political influence in the accession process becomes even more emphasised by the fact that the Council seeks from the Commission (supranational institution) and the Parliament (representing the legitimacy of the people) consent (Treaty on European Union, art. 49, para 1) only herby “undermining” their role in the admission of new members in favour of the Council itself and EU Member States. The minimization of the political role in this context can not be understood by the elimination of unanimous decision-making in the Council and in the national ratification, which I agree with (Lacey & Bauböck, 2017) for maintaining the unanimity requirement (it is Treaty obligations, ensure public support in all member states), but open issues between member states and aspiring countries should be eliminated, significantly minimizing the political role and use of the “national veto” in the membership process. However, although on the EU accession a limited number of provisions, not to say a single article, specifically from the Treaty of Lisbon, is dedicated, I concur with the extremely modest and diplomatic conclusion of (Topidi, 2013) that the Treaty of Lisbon represents a kind of continuity in terms of policies that analogously and in the context of the problem addressed herein I would say reinforces the need to undermine the political role in the accession process as it is mentioned above but not only (taken into consideration exactly how hard this would be achieved).

The political perspective, in this context, emphasises the Union’s and its members’ role regarding the accession process by not addressing the enlargement political effects because that would be considered as addressing the legal consequences of membership and not just the latter. It is understandable that accession bears

changes of various natures and areas, including the political ones, especially with the recent enlargements. To this end, it is rightly said that the enlargement of the Union was caused by, what (Solanke, 2015) calls, seismic political changes inside and outside the European Union.

Based on all that has been stated above, accession to the Union, currently comprises a complex, “binding”, and unexplained legal process, which overpasses the amount of political impact that derives from the members of the Union and the Council, as intergovernmental institution and in conjunction with the respective determinations of the Treaty of Lisbon.

Among other things, it is very important to query the direct effects on the problems or hypotheses posed in this research paper. Hence the question, will unilateral harmonization have an impact on membership? The short answer is YES, but that is not clearly explained without comparing it to the legal and political perspective of the accession. Unilateral harmonization up to the definition of formal accession criteria has been more a practical manifestation of the aspirations of non-member countries rather than an obligation as in today’s sense. This is due to the fact that the accession process was done based on ad hoc requirements related to individual specifics of the countries seeking membership, so it was not a unique process since the efforts for unilateral harmonization were not very concrete but were done after the application for membership. In short, the legal perspective of accession is manifested after the Copenhagen Council in 1993, when the formal accession criteria were set, the continuity of which, in the context of the Union’s policies and values, is ensured by the Treaty of Lisbon (Treaty on European Union, art. 2, 49), making the accession process “unique” in its content as compared with the aspiring states.

Such unification is an essential argument regarding the impact of unilateral harmonization on the accession process. This is

due to the fact that the aspiring states have already had a clear roadmap for the challenges and measures of moving towards the Union. Furthermore, unilateral harmonization, as stated above, has a “binding” character not only because it can produce «legal consequences» (increase the dynamics of membership<sup>1</sup>) for the Union, especially in the integration region known as the Western Balkans, because the Union is in «contractual relationships” with all countries of this region, which are subject of enlargement. It can be stated that the Union has had this aim also with the countries of the other enlargements or integration regions, namely the countries which are part of the EU neighbourhood policy, but never in the context of a substantive relationship and to the same “binding” degree as it had with the Western Balkan countries. The distinctions in question, apart from being narrative in nature or as foreseen with treaties, they come inevitably from what (Eriksen, 2018) refers to as EU’s internal differentiation and I fully agree that is reflected in the EU’s relations with non-EU members countries. This is due to the fact that the relations with the two respective regions of enlargement according to the Treaty of Lisbon differ not only in substance but also in content (Treaty on European Union, art. 8; Treaty on the Functioning of the European Union, art. 217 and 218), not limiting the possibility for the Union to have a preferential or differential approach to the regions of enlargement or integration regions or even to the respective countries of those regions individually.

Therefore, based on the above addressing, in contrast to the legal perspective of membership, the political perspective had the opposite role for unilateral harmonization, as the influence of the latter significantly diminishes but is not completely limited to the accession process. The impact of unilateral harmonization in

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<sup>1</sup> The case of Croatia which was part of the Stabilization and Association Process as a political dialogue framework between the Union and the Western Balkans, but which has joined the Union 10 years ago, while other countries, part of this Process, are still far from membership.

this context is manifested in practical terms, as countries take the necessary steps for harmonization that directly affect the dynamics of the accession process, making the amount of political influence apparent or less significant. Finally, unilateral harmonization has a direct effect on the accession process but under no circumstances dominates the legal or political perspective in this context.

### **3. Could unilateral harmonization have adverse effect to the EU integration?**

The European Union, since its establishment and up to date, has encountered various challenges, but it has not recorded any regress in terms of integration processes. This become more obvious when the degree of competence delegated by member states to the Union is observed in each of its treaties. Thus, none of the subsequent treaties has restored the previously conferred powers to the delegates or member states. On the contrary, those treaties have consistently only expanded the range of respective powers in favour of the Union or its institutions. This circumstance expressed in all the treaties is nothing else but a manifestation of the willingness from the member states to strengthen the institutions of the Union, which has resulted in the increase of the cohesive force and the assurance of the latter's continuity.

Unilateral harmonization, in a broad and practical sense, implies the aim and effort of the integration regions or respective countries to embrace the values of the Union (Treaty on European Union, art. 2). In this sense we can raise a question that to euro-sceptics may sound relatively normal but to other categories may appear paradoxical. Hence, *can unilateral harmonization have an adverse effect on European integration?* Answering this question directly, it can be stated that the answer is "YES"! Reaching this conclusion in the context of this research, enables us to carefully address all relevant factors and circumstances that directly or indirectly affect the relevant response to be elaborated below.

Enlargement or integration regions are known to have their very clear distinctive specifics. The Western Balkans countries are part of a “very specific integration process” and currently each of them is under “contractual relationship” with the Union, wherein the harmonization process is multidimensional and/or comprehensive. While EU neighbourhood policy countries are part of a “concrete policy” of the Union where the harmonization process is not multidimensional let alone more comprehensive. This is rather obvious in the definition provided for in Treaty of Lisbon which promotes a special relationship with this enlargement region, which is very general with mutual rights and obligations and with opportunities for joint actions without exclusively promoting membership (Treaty on European Union, art. 8). So, we can adequately presume that the agreements concluded on this basis cover the competencies and procedures for concluding treaties set out in the Treaty on the Functioning of the European Union (Biondi et al., 2012), but still do not equate this relationship with what the Union has with the Western Balkans (Ukraine is an exception in this context from other countries of the integration region to which it belongs). EU Neighbourhood Policy, although it presents a relationship between the Union and the countries of that integration region, cannot be stated that it has no shortcomings, especially given the fact that the EU association agreements with Ukraine do not provide any clause for a no-direct effect<sup>1</sup>. Nevertheless, the Council (Treaty on European Union, art. 16) urges the EU Court of Justice (Treaty on European Union, art. 19) to prevent the implementation of association agreements on the basis of that fundamental principle of EU law (Craig & de Búrca, 2021). Based on the above, the difference between enlargement or integration regions may seem only a theoretical or conceptual variation, but within it, there lies a range of other differences, on

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<sup>1</sup> The direct effect in this context would mean the direct implementation of the association agreements by both the Court of Justice and the courts of the EU member states.

the basis of which relevant factors and circumstances can be constructed within an explanatory framework in the context of a “non-unique puzzle arguments”<sup>1</sup>. In this context the answer is constructed on the geographical, political, geopolitical, geostrategic, economic and legal factors, which influenced the creation of many relevant circumstances and only those that have a significant effect on the direct answer as above, shall be mentioned, such as: non-opening of negotiations with Albania and Northern Macedonia, Euromaidan 2013<sup>2</sup> and the Russian aggression against Ukraine 2022.

The reason for dwelling only on these circumstances is the aim to strengthen the arguments that the unilateral harmonization has been followed by an “adverse effect” in the process of European integration. Each of these circumstances influenced by the respective factors shall be presented without elaborating the circumstance as a single one. The case of non-opening of negotiations for membership in the Union for Albania and Northern Macedonia goes as a dependent process, which is interdependent on a cycle of the same conditions that suggest that their commitment and actions can be described as “negligible sacrifices” by the Union, and influenced by political factors or the political perspective of accession. This statement is clarified by the following questions: How much has the political and constitutional sacrifice of Northern Macedonia for the name change<sup>3</sup> (overcoming the obstacle with Greece) stimulated the next

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<sup>1</sup> It is defined in this way because the factors and circumstances in which it is alluded to are not unique either to the integration regions we are talking about or to the membership process framed by formal criteria.

<sup>2</sup> Euromaidan is synonymous with peaceful protests in Independence Square in Kiev (November 2013) that later became popular after then-Ukrainian President Viktor Yanukovich refused to sign an agreement with the Union that would bring Ukraine even closer to the Union.

<sup>3</sup> Greece and North Macedonia (12 June 2018) signed the so-called “Prespa Agreement” on the normalisation of their relations and changed the name from “Macedonia” to “North Macedonia”.

obstacle from Bulgaria? How much attention has been paid to the Albania's "political and constitutional sacrifice" for justice reform, which stimulated another obstacle on behalf of the "Union's desire" to treat Albania and Northern Macedonia in the same package?<sup>1</sup>

Euromaidan in 2013, in this paper is considered as another typical case of the "adverse effect" of unilateral harmonization in the integration processes. The incentive for unilateral harmonization and for fostering the European aspiration for Ukraine may be considered as a category of Treaties as they envisage the geographical factor as determining for the right to membership in the Union (Treaty on European Union, art. 49). In addition, circumstances of a non-legal nature and how they affected Ukraine's relationship to the European integration must be considered. An interesting circumstance should be mentioned here in a comparative context at various times, but in the same substance. That is, how much did the Union attribute correct relevance to the geopolitics towards Ukraine (even nowadays) compared to Greece, which joined the Union in 1981? Greece's membership was attractive to both sides, in particular to Greece, in addition to its economics, democratization, and modernization, while for the Union, the geopolitics during the Cold War was crucial due to the strategic position that Greece holds (Chalmers & Tomkins, 2007).

This finding is more than precise and tangible and helps us a lot to compare the mutual attractiveness between Ukraine and the Union. What was attractive in the case of Greece and the Union as above is seen as a challenge in the recent circumstances between the Union and Ukraine. The challenges came exactly from the interconnection of geopolitical and geostrategic factors

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<sup>1</sup> This forces the EU to issue challenges and other requirements in order to gain time for overcoming the problem between Macedonia and Bulgaria, making Albania dependent or rather interdependent on the race of Northern Macedonia for it, opening accession negotiations in favour of the desire of the member states or the Union to address them in the package.

to which the Union and Ukraine's interest did not turn out to be parallel neither in the context of time nor on their importance, although the Union should have known and considered such standing<sup>1</sup>. Also, the geostrategic position and economic significance of Ukraine are very influential factors in the "adverse effect" of unilateral harmonization. Nevertheless, it is not assumed that any of these factors dominate the influence of the "feed of the Russian economy"<sup>2</sup> from the Union itself or its members to its dependence, stagnating the Union's expansion to the East, in general, and in particular to the integration of Ukraine. The component that also shows the "adverse effect" of unilateral harmonization is Ukraine's unilateral approach to Euro-Atlantic integration, which seems to change not only the geopolitics of the Continent but also the global politics, should Russian aggression last for as long as it will to upsurge the passivity or even disruption of the West (the most optimistic and unwanted version). Thus, Russia's armed and stimulated conflict in eastern Ukraine has reduced or minimized the likelihood of membership in the near future (Dadomo & Quenivet, 2020). This circumstance is more evident as compared to Euromaidan (2013). From the armed conflict and the annexation of Crimea, came the fading of Ukraine's Euro-Atlantic perspective and the interest of the Union and the North Atlantic Alliance (NATO) for Ukraine's integration. Worse, the Russian regime saw this circumstance as an effective influence on the Union and the West to keep "hands off" Ukraine's Euro-Atlantic integration, further stimulating ambitions for aggression based on false, unjustified, and unprovoked causes. Consequently, an interesting fact should be noted as a change of discourse in the "positive" but delayed context of the Union towards Ukraine, although in more

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<sup>1</sup> See any statement (in the past before Russian aggression) of the representatives of the Union for the enlargement to the East specifically the case of Ukraine.

<sup>2</sup> Union imports during 2021 reach the value of 188 billion or higher by 39.45% compared to 2020 <https://data.imf.org/?sk=9D6028D4-F14A-464C-A2F2-59B2CD424B85>

severe circumstances. So, as maintained that the armed conflict in Eastern Ukraine severely affected its integration aspirations, especially by “reducing the interest” of the Union and NATO, and the escalation of this conflict made this discourse change now, as NATO but especially the Union have raised Ukraine’s interest in integration precisely in much more serious circumstances, which seems to be more a “correctional policy effort” rather than an integration one.

Russian aggression in Ukraine, as unprovoked, unjustified and in violation to the international law is therefore one of the extreme circumstances of the unilateral effect of harmonization or unilateral aspirations for European (and Euro-Atlantic) integration. Without addressing this aggression against a sovereign European state in the broader context, it has exposed weaknesses in the Union’s geopolitics, challenging the international legal order and its enforcement mechanisms, and exposed a “unification” of the democratic world, which nevertheless has not turned out to be sufficient to prevent such an aggression<sup>1</sup>.

Finally, as far as the “adverse effect” of unilateral harmonization is concerned, we can draw a similar conclusion as in the case of Northern Macedonia, Albania and in Ukraine (but with much more profound consequences, although far beyond its membership in the Union) as even its actions and efforts for membership in the Union (and NATO) can be freely described as “negligible sacrifices” which certainly influenced the Russian aggression based on fictitious reasons and play with low instincts. Thus, even in this case, same as above, the arguments for the “adverse effect” of unilateral harmonization are drawn by raising the following questions: How much has the sacrifice and the will of the Ukrainian

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<sup>1</sup> The unification of the democratic world in the context of economic sanctions against Russia could not be without effects, however, it has not enough to prevent this aggression. To make matters worse, there were few countries that, fortunately, do not support such sanctions against Russia, especially countries that belong to the Western Balkans integration region, such as Serbia, but the Union was not so harsh on it.

people been considered in the Euromaidan protests? How much has the Ukraine's scrutiny been considered in the regime change and democratization of the country? How much has the cooperation with the Union and its open position that it is a European country with clear aspirations for Euro-Atlantic integration been taken into account? And last but not the least: How much will the current sacrifice of Ukraine be considered, a sacrifice that from the beginning has revealed the shortcomings in the adherence and functionality of the international legal order?

### **Conclusions**

Based on an articulated narrative in the present time, grounded on the history and current circumstances of the Union, until the Copenhagen Criteria were established, the accession process has been considered as a non-unique process. Earlier on, only ad hoc and specifics-based criteria were outlined, which were based on the individual requirements towards aspiring countries. After this stage, the aspiring countries underwent a unique process based on clear criteria, but their individual specifics made and still make differences at the time of membership and in the volume of sub-criteria for membership. Consequently, defining formal criteria is one of the key factors in unilateral harmonization onset, even in the context of this paper, the conclusions of which are laid as below:

Although we have drawn comparative parallels of unilateral harmonization in the various regions of enlargement or integration, the unilateral harmonization differs in countries where the European Union implements the Stabilization and Association Process as well as in countries where it implements the EU Neighbourhood Policy. Thus, the degree of unilateral harmonization and obligations to the Union is more obvious in the Western Balkans than in the region implementing the neighbourhood policy;

The treatment of the integration/membership process from a legal and political point of view also revealed some shortcomings that the process in question entails, especially the amount of political influence on European integration in general, and the accession process, in particular. This is due to the fact that the unanimous vote in the Council and the unanimity for the national ratification of the Accession Treaties is the «last door» for accession into the European Union. In this context the non-inclusion of the accession criteria expressly in the treaties favours the amount of political influence;

Unilateral harmonization has a positive effect on the European integration process, especially after the definition of the Copenhagen Criteria, as it shortens the path to membership, minimizes ad hoc challenges and requirements (as before the definition of these criteria), but does not significantly affect the amount of political impact in the accession process;

The dynamics of unilateral harmonization may be diminished by the legal pre-requisites of the EU's relations with the Western Balkan countries (contractual relations through the SAA) but do not occur similarly in countries where the EU neighbourhood policy is implemented as they have specific relations with the EU, as defined in Article 8 of the TEU;

Unilateral harmonization has also produced the adverse effect in both enlargement regions, revealing in this way the shortcomings for an efficient enlargement process, as well as the shortcomings in the geopolitics of the EU (and NATO) by overcoming the context of the integrations at stake to show the lack of functionality of international law and its enforcement mechanisms;

The strategic orientation of the aspiring countries for accession to the European Union by both enlargement regions has stimulated unilateral harmonization by pushing them towards undertaking constitutional and national actions and sacrifices for the same goals. However, their consideration was not equivalent to the weight

and effort these countries (such as Northern Macedonia, Albania, Ukraine) have been carrying.

Finally, it should be noted that unilateral harmonization, although it may seem an unconventional concept or even a theoretical construction, it is argued to exist in practice, it is a concept with concrete content, it is a measure of integration aspirations, it shortens the path of integration if not influenced by geopolitical and geostrategic factors, it has a direct impact on the European integration process but may also produce the adverse effect as combined with other factors and circumstances.

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**Мрасорі Ф. Роль односторонньої гармонізації в інтеграції з ЄС. – Стаття.**

Проведені раніше дослідження інтеграції з ЄС є різними спостереженнями та аналізами, що поєднують практично однакові аспекти або компоненти. Це пов'язано з тим, що концепції інтеграції з ЄС зазвичай формувалися з погляду Союзу, тобто цей процес зображувався як спроба країн, які прагнуть (включаючи їх специфіку) вступити до Союзу (включаючи, але не обмежуючись інтересами, політикою та активністю Союзу на основі формальних критеріїв приєднання). У роботі зроблено крок уперед у розгляді “нетрадиційної” компоненти інтеграції, тобто ролі односторонньої гармонізації в інтеграції з ЄС та її негативних наслідків. У якості концепції одностороння гармонізація вибудовується шляхом порівняння з різними підходами, присвяченими гармонізації, зокрема з Копенгагенськими критеріями, з метою показати оригінальність, обов'язковість та вплив односторонньої гармонізації на європейську інтеграцію. У зв'язку з цим аргументується питання про те, чи має одностороння гармонізація когнітивний (обов'язковий) характер, або ні порівняно з процесом приєднання з правової та політичної точок зору. Нарешті, оцінюється її роль та вплив на європейську інтеграцію та/або її негативний вплив на європейську інтеграцію. Таким чином, оцінюється, виходячи з поточних обставин, пов'язаних з інтеграційними процесами та політикою Союзу, ефект односторонньої гармонізації у двох регіонах, що розширюються або на теперішній час інтегруються, тобто у краї-

нах Західних Балкан та країнах, де застосовується політика добросусідства ЄС (з акцентом на одну з цих країн). Висновки були побудовані на реальних аргументах та обставинах, що пояснюють нові концепції розширення, переваги та недоліки інтеграції з ЄС відповідних регіонів.

**Ключові слова:** одностороння гармонізація, членство, перспективи членства у ЄС, вплив на інтеграцію з ЄС, регіони інтеграції.

***Мрасори Ф. Роль односторонней гармонизации в интеграции с ЕС. – Статья.***

Проведенные ранее исследования интеграции с ЕС представляют собой различные наблюдения и анализы, включающие практически одни и те же аспекты или компоненты. Это связано с тем, что концепции интеграции с ЕС обычно формировались с точки зрения Союза, т.е. этот процесс изображался как попытка стремящихся стран (включая их специфику) вступить в Союз (включая, но не ограничиваясь интересами, политикой и активностью Союза на основе формальных критериев присоединения). В этой работе сделан шаг вперед в рассмотрении “нетрадиционного” компонента интеграции, т.е. роли односторонней гармонизации в интеграции с ЕС и ее негативных последствиях. В качестве концепции односторонняя гармонизация выстраивается путем сравнения с различными подходами, посвященными гармонизации, в частности с Копенгагенскими критериями, с целью показать оригинальность, обязательность и влияние односторонней гармонизации на европейскую интеграцию. В связи с этим аргументируется вопрос о том, носит ли односторонняя гармонизация когнитивный (обязательный) характер или нет по сравнению с процессом присоединения с правовой и политической точек зрения. Наконец, оценивается ее роль и влияние на европейскую интеграцию и/или ее негативное влияние на европейскую интеграцию. Таким образом, оценивается, исходя из текущих обстоятельств, связанных с интеграционными процессами и политикой Союза, эффект односторонней гармонизации в двух расширяющихся или в настоящее время интегрирующихся регионах, т.е. в странах Западных Балкан и странах, где применяется политика добрососедства ЕС (с акцентом на одну из этих стран). Выводы были построены на реальных аргументах и обстоятельствах, проливающих свет на новые концепции расширения, преимущества и недостатки интеграции с ЕС соответствующих регионов.

**Ключевые слова:** односторонняя гармонизация, членство, перспективы членства в ЕС, влияние на интеграцию с ЕС, регионы интеграции.