DEFENDING DEMOCRACY IN THE WESTERN BALKANS: EUROPEAN IDENTITY, SECURITY, AND CONSTITUTIONAL CRISES (1990-)[*]

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Riassunto: L'articolo analizza le terre adriatiche post-jugoslave come laboratorio storico-istituzionale in cui l'allargamento dell'UE funge da dispositivo di "difesa della democrazia". Ricostruisce il nesso tra dissoluzione jugoslava, Processo di stabilizzazione e associazione e promessa di Salonicco, esaminando come resilienza costituzionale, costituzionalismo sorvegliato e condizionalità sullo stato di diritto interagiscano con la crescente stanchezza dell'allargamento nei Balcani occidentali.

Parole chiave: Allargamento dell'UE, resilienza costituzionale, Balcani Occidentali

Abstract: The article analyses the post-Yugoslav lands as a historical-institutional laboratory where EU enlargement operates as a device for "defending democracy". It reconstructs the link between the Yugoslav dissolution, the Stabilisation and Association Process and the Thessaloniki promise, examining how constitutional resilience, monitored constitutionalism and rule of law conditionality interact with growing enlargement fatigue in the Western Balkans.

Keywords: Eu Enlargement, constitutional resilience, Western Balkan.

[*] This article has resulted from the research conducted during a research stay at the Union University Belgrade as a part of the PNRR-TNE International Mobility Programme: Assessing the Impact of Constitutional Crises on Security (IMP-ACCTS) project (Project proposal TNE23-00057 – CUP B61I24000450006). The research was conducted in close collaboration with prof. Jelena Jerincić from the Union University Belgrade. The two articles published in this issue of the journal are the result of joint research efforts.

1. The post-Yugoslav Adriatic Lands as a historical-institutional laboratory between constitutional crisis and the European project

In the recent history of the Adriatic lands, the dissolution of Yugoslavia marks a rupture that simultaneously redefines the internal political equilibria and the international positioning of the entire Western Balkans region. Between 1991 and 1992, with the declarations of independence of Slovenia, Croatia, and Macedonia (now North Macedonia), and subsequently Bosnia and Herzegovina (to which would be added the far more contested and divisive declaration of Kosovo in 2008), the experience of the Socialist Federation came to an end, opening a sequence of conflicts that transformed the Balkans into one of the principal flashpoints of instability in South-Eastern Europe. The birth, in 1992, of the Federal Republic of Yugoslavia (Serbia and Montenegro) and, subsequently, the processes of state reconfiguration in Bosnia, Kosovo, and Montenegro marked the beginning of a phase in which the construction of internal constitutional orders was closely intertwined with the intervention of external actors— from the United Nations to NATO, from the OSCE to the European Union— called upon to manage, not without divisions and polarisations, not only the end of war, but also the fragility of the new constitutional architectures.

In this context, the Adriatic loses its traditional profile as a space of exchange and mobility to assume the features of an unstable frontier, marked by ceasefire lines, international missions, and contested borders. The Yugoslav crisis produces not only new states: it also imposes the renegotiation of sovereignty, identity, and institutions, often within constitutional frameworks subject to strong international tutelage, as evidenced by the peace agreements and the complex *power-sharing* mechanisms adopted, for example, in Bosnia and Herzegovina and Kosovo. The combination of conflict violence, ethnicisation of representation, and the protracted presence of external actors has generated, along the Adriatic coast and in the Balkan hinterland, what may be defined as a laboratory of *monitored constitutionalism*, in which the formal sovereignty of states confronts conditionalities and constraints that transcend national borders.

From this perspective, the post-Yugoslav lands offer a specific declination of the broader debate on Europeanisation and resilience. While this article uses the notion of *constitutional resilience* to capture the capacity of democratic orders born from war and international tutelage to withstand shocks and avoid illiberal regressions, more recent scholarship on the Western Balkans has widened the lens, speaking of *resilient transformation* in order to em-

phasise the depth, durability and social distribution of accession-driven reforms.[1] Rather than contradicting this approach, the historical-institutional reconstruction proposed here seeks to provide its long-term background, showing how monitored constitutionalism, reinforced conditionality and the promise of enlargement have configured, since the 1990s, a peculiar European grammar of democracy defence in a particularly exposed region.

It is within this framework that the European Union began to redefine its role, gradually moving from observer and crisis mediator to protagonist of a long-term stabilisation project. Already from the late 1990s, with the launch of the Stabilisation and Association Process (SAP)[2], the EU elaborated a strategy that explicitly links post-war reconstruction, the normalisation of neighbourly relations, and the prospect—albeit conditional and long-term—of accession. The European Council of Cologne in 1999 and, subsequently, the summits in Feira (2000) and Zagreb (2000) sanctioned the recognition of states born from the Yugoslav dissolution as potential candidates for entry into the Union, thereby inserting the implosion of the Federation into a broader European geopolitical strategy of enlargement and continental reunification.

Throughout the first half of the 2000s, this prospect consolidated and was refined: on the one hand, the stabilisation and association agreements introduced a legal framework that prefigured future membership obligations and charted a progressive path of approximation to the Community *acquis*; on the other hand, the still vivid memory of conflicts and massive human rights violations induced the EU to supplement the Copenhagen Criteria with specific conditions linked to cooperation with the International Criminal Tribunal for the former Yugoslavia, regional reconciliation, and respect for borders. In this manner, the enlargement towards the former Yugoslav states assumes peculiar features from the outset: it is not merely a process of economic and legal integration, but a device for managing the legacies of war and transforming political cultures, in which the constitutional dimension - rule of law, protection of rights, institutional arrangements - is inseparable from questions of security and public order.

The promise, clearly formulated at the Thessaloniki summit of 2003, that the future of the Balkans lies within the European Union should therefore be

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[1] *The Western Balkans and the Challeges of EU Accession. The Resilient Transofrmation*, ed. by Igor Vidačak (London 2026).

[2] Ch. Pippan, *The Rocky Road to Europe: The EU's Stabilisation and Association Process for the Western Balkans and the Principle of Conditionality* in *European Foreign Affairs* R *view,* 9 (2004) 219-245.

read not merely as a political announcement, but as the opening of a new cycle in the institutional history of the post-Yugoslav lands.[3] From that moment, the implosion of Yugoslavia and its consequences ceased to be perceived exclusively as a regional problem to become the testing ground for a specific European modality of peacebuilding and democracy defence, founded on the combined use of conditionality, cooperation, and the prospect of full belonging to the EU's community of values (In the cases of Slovenia and Croatia, the defence of democracy has been incorporated into the EU's legal and political framework, primarily in relation to Article 7 of the Treaty on European Union).

This trajectory, which unites the end of a socialist federal experience and the initiation of a long and complex enlargement process, has constituted the historical-institutional background within which today's reflections on constitutional resilience, militant democracy[4], and the very redefinition of European identity in the Adriatic-Balkan space are situated.

2. From the Dissolution of Yugoslavia to the European Question (1991–2003)

The dissolution of Yugoslavia between 1991 and 1992 inaugurates, in the Adriatic-Balkan space, a transitional phase in which the crisis of the federal state and the violence of conflicts immediately intertwine with the European question. The declarations of independence of Slovenia, Croatia, Macedonia (now North Macedonia), and Bosnia and Herzegovina mark the end of the Socialist Federation's experience, but also open a season in which the construction of new political orders is inseparable from the manner in which

[3] E. *Petrillo, Ten years after the Thessaloniki Declaration. For the Balkans the worst is not over yet,* in *Centro Militare di Studi Strategici -Quarterly* 1 (2013) 5-12; Wim van Meurs, *The next Europe: South-eastern Europe after Thessaloniki,* in *SEER – South-East Europe Review for Labour and Social Affairs*, 3 (2003) *9-16*.

[4] Cfr. K. Loewenstein, *Militant Democracy and Fundamental Rights*, I, in *American Political Science Association*, 31 (1937) 422-423; A. Di Giovine, *Democrazie protette e protezione della democrazia* (Torino 2005); S. Tyulkina, *Militant Democracy. Undemocratic Political Parties and Beyond* (London 2015); M. Thiel, *The "Militant Democracy" Principle in Modern Democracies* (London 2016); A. Malkopoupou, L. Norman, *Three Models of Democratic Self-Defence: Militant Democracy and Its Alternatives*, in *Political Studies*, 66 (2018) 442-458; R. Tarchi, *Democrazia e istituzioni di garanzia*, in RivistaAic, 3 (2018) 994-995; M. Calamo Specchia, *Un prisma costituzionale, la protezione della Costituzione: dalla democrazia "militante" all'autodifesa costituzionale*, in *Diritto Pubblico Comparato ed Europeo* 1 (2021) 92-129; A. Gatti, *Liberal Democracies and Religious Extremism. Rethin-king Militant Democracy through the German Constitutional Experience*, in *Diritto Pubblico Comparato ed Europeo* 1 (2021) 131-152.

these states positioned themselves vis-à-vis the European Community first and the European Union subsequently. The very drafting of new constitutions and the initiation of first democratisation processes occur in a context marked by wars, secessions, military interventions, and progressive forms of international administration, which profoundly affect the configuration of sovereignty and the relationship between internal and external levels of decision-making.

On the institutional plane, the Yugoslav fracture produces a mosaic of differentiated situations. Slovenia and Croatia, though directly involved in the first armed clashes, benefit from relatively more favourable conditions: firmer control of territory, state structures already consolidated at republican level, a clear projection towards Western Europe that soon translates into an explicit orientation towards accession to the European Community. The picture is different in Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, and Macedonia, where the combination of ethnic plurality, inherited conflicts from the past, and interference from federal apparatuses rendered far more complex the passage from Yugoslav socialism to stable forms of political pluralism. In Bosnia, the 1992–1995 conflict and the Dayton Accords gave rise to a constitutional settlement strongly conditioned by the international community, in which the Office of the High Representative possesses extraordinary powers of intervention in domestic legislation; in Kosovo, the 1998-1999 war and United Nations Security Council Resolution 1244 determine the establishment of a United Nations civil administration (UNMIK) with extensive legislative and executive competences, designed to create provisional institutions of self-government.

These *exceptional* solutions have contributed to configuring the post-Yugoslav area as a space of monitored constitutionalism, in which the formal sovereignty of states and entities is accompanied by external tutelage over the fundamental contents of political order and inter-group relations. The International Criminal Tribunal for the former Yugoslavia (ICTY), established in 1993 with retroactive mandate from 1991, added a further level of conditionality: the definition and prosecution of crimes committed during the conflicts have had not only a criminal justice function, but have also affected the legitimation of new elites, the public narrative of war, and the conditions set for the normalisation of relations amongst states. Overall, between the late 1990s and the early 2000s, this geographical area became a laboratory in which novel forms of interweaving between international intervention, nation-building, and constitutional reconstruction were experimented, with direct implications for the future relationship with the EU.

From the first passages of the crisis, the European dimension is present, albeit ambiguously. The European Community initially attempts to play a role of political mediation, but divides profoundly on the theme of recognising secessionist states, as shown by the case of Slovenia and Croatia, regarding which Germany pressed for rapid recognition whilst other partners feared the effect of triggering or aggravating conflicts. The decision of 15 January 1992 to diplomatically recognise Slovenia and Croatia, followed by that on Bosnia, did not halt the violence but made evident that the Yugoslav dissolution was no longer perceived merely as an internal matter, but as a problem of European order, with repercussions for the entire continental equilibrium after the end of the Cold War. At the same time, the progressive transformation of the Community into the European Union – with the Maastricht Treaty of 1992 – provides an institutional framework within which the *Balkan question* is reread as a testing ground for the EU's capacity to act as a security actor and to promote democracy beyond its own borders.

The war in Kosovo and NATO's intervention in 1999 represented a further turning point. Security Council Resolution 1244, besides placing Kosovo under UN administration and providing for a NATO-led security force, explicitly invited the insertion of the conflict's resolution into a broader stabilisation strategy for South-Eastern Europe, prefiguring a central role for the European Union in economic support, institutional reconstruction, and the promotion of regional cooperation. In the same period, the EU promoted the Stability Pact for South-Eastern Europe, which sought to coordinate the action of the principal international actors (EU, NATO, OSCE, financial institutions) with the objective of transforming an area perceived as an unstable periphery into a space of political, economic, and security cooperation. The *Yugoslav question* thus intertwines with the nascent European policy towards the Western Balkans, in which the horizon of enlargement begins to emerge as a possible structural response to the fragilities that emerged with the Federation's dissolution.

Between 1999 and 2003, this link between the post-Yugoslav crisis and European prospect consolidated through the definition of the Stabilisation and Association Process (SAP), conceived as a reference framework for all Western Balkan countries, including states born from Yugoslavia's dissolution. The SAP presented itself from the outset as a hybrid policy, halfway between traditional development cooperation and pre-accession: instruments of economic assistance and reconstruction were flanked by stabilisation and association agreements containing obligations for progressive alignment with the Community *acquis* and creating joint institutions for monitoring and political dialogue. In this manner, the *European question* entered directly into the

lexicon and agendas of post-Yugoslav political classes, which were called upon to conceive their reforms not only as responses to internal or international pressures, but also as obligatory passages in a path that, at least on the declarative plane, could lead to EU accession.

The period culminating in the Thessaloniki summit of 2003 was, from this viewpoint, decisive. At Thessaloniki, the Union reaffirmed forcefully that the future of the Balkans lay within the European Union and formally recognised to the countries of the Stabilisation and Association Process a prospect of accession, albeit subordinated to full respect for the Copenhagen Criteria and the specific conditions linked to cooperation with the ICTY, regional reconciliation, and the management of territorial controversies. The *European question* thus ceased to be a mere rhetorical horizon and became a structuring element of the domestic and foreign policy of former Yugoslav states, which had to confront the dual task of consolidating their democratic institutions and demonstrating a credible will to integrate.

In summary, between 1991 and 2003 the trajectory from Yugoslavia's dissolution to the *European question* produced a dual effect. On the one hand, the interweaving of conflicts, international administrations, and supranational criminal justice generated constitutional settlements marked by strong external presence and a novel articulation between levels of government, laying the foundations for a reflection on the monitored character of new post-Yugoslav democracies. On the other hand, the European Union's response – from the recognition of states to the intervention in Kosovo, from the creation of the SAP to the Thessaloniki promise – progressively integrated this experience into a vaster narrative of enlargement and continental reunification, in which accession appeared not only as a long-term objective, but as an instrument for managing the legacies of war and redefining European identity in the Adriatic lands. This dual dynamic will constitute the indispensable premise for understanding, in subsequent years, the evolution of conditionality policies, the centrality of the rule of law, and the progressive emergence of the language of *constitutional resilience* in European discourse on the Western Balkans.

3. Stabilisation, Security, and the Thessaloniki Promise: The European Codification of the Balkans' Future

The phase that opened at the end of the 1990s marked the transition from emergency management of conflicts to the construction of a European framework for long-term stabilisation, in which security and the prospect of accession were progressively welded together. In this context, the Western Balkans – and in particular states born from Yugoslavia's dissolution – cease

to be perceived exclusively as a theatre of crisis to become the testing ground for a new European *grammar* of post-war order, founded on political conditionality, protection of the rule of law, and gradual integration into the Union's space. The region is thus inscribed in a dual narrative: on the one hand, that of pacification and normalisation of neighbourly relations; on the other, that of a possible 'second European reunification', after that with Central-Eastern Europe, through the extension of the *acquis* and EU values to the Adriatic shores and Balkan hinterland.

The Stabilisation and Association Process (SAP), launched in 1999, was the principal instrument through which the Union began to codify this new approach. It presented itself as a tailor-made policy for the Western Balkans, combining financial aid, reconstruction support, promotion of regional cooperation, and, above all, a contractual dynamic founded on Stabilisation and Association Agreements (SAAs). The latter did not merely regulate access to the single market or provide for forms of political dialogue: they delineated a path of progressive alignment with the *acquis*, introducing institutionalised monitoring mechanisms and fixing, in many cases, specific conditions relating to the functioning of democratic institutions, respect for fundamental rights, reform of the judicial sector, and cooperation with the International Criminal Tribunal for the former Yugoslavia. The underlying idea was that the region's lasting stabilisation could not be separated from a profound transformation of internal orders, oriented towards the Union's constitutional model.

In parallel, the SAP intertwined with a series of initiatives more directly connected to the security dimension. The Stability Pact for South-Eastern Europe, promoted at the end of the 1990s, aimed to coordinate the action of the principal international actors – European Union, NATO, OSCE, financial institutions – to address the structural causes of instability in the region: state fragility, economies devastated by war, presence of refugees and displaced persons, transnational organised crime, frozen conflicts. The logic was that of cooperative security which would surpass mere military management of crises and aim to progressively integrate the Western Balkans into the Euro-Atlantic system, making accession to the EU and – for some – to NATO the culmination of a normalisation path. In this perspective, stabilisation was not only military but also institutional: it concerned the manner in which states organised their powers, guaranteed rights, and redefined their place in the region.

Precisely the nexus between stabilisation, borders, and mobility became one of the distinctive features of the European codification of the Balkans' future. On the one hand, the Union insisted on the necessity of recognising

and respecting internationally established borders after the Yugoslav wars, rejecting any hypothesis of territorial redesign on an ethnic basis; on the other, it promoted forms of cross-border cooperation that should attenuate the political and symbolic weight of such borders, transforming them into lines of contact rather than separation. The financial instruments for regional cooperation, programmes supporting transport infrastructure and energy networks, initiatives on border control and visa regimes were integral parts of this design: they aimed to reduce the risk that the Western Balkans would remain a 'pocket of instability' at the Union's margins and, at the same time, to prepare future integration into the European area of freedom, security, and justice.

The Thessaloniki promise of 2003 represented the moment in which this evolution was made explicit on the political and symbolic plane. The summit between the EU and Western Balkan countries, hosted by Greece, sanctioned that the region's future should lie within the European Union and that the SAP countries were destined, once conditions were satisfied, to become full members. In this manner, the Union surpassed the distinction between neighbourhood and potential candidacy and recognised to former Yugoslav states a prospect that, at least in principle, placed them on the same path already travelled by Central-Eastern European states. However, the Thessaloniki promise was not unconditional: it was accompanied by a reinforcement of references to the Copenhagen Criteria, the obligation of cooperation with the ICTY, respect for minority rights, and proper management of bilateral relations. The codification of the Balkans' European future thus passed through a delicate balance between openness and vigilance.

For former Yugoslav states, the Thessaloniki promise produced ambivalent effects. On the one hand, it provided a legitimation framework and a powerful incentive for reformist elites, who could present constitutional reforms, privatisations, strengthening of independent institutions, and reconciliation policies as necessary stages towards entry into the European club. On the other hand, the temporal distance between political promise and concrete results – in a context of strong competition amongst elites, conflictual memories, and socio-economic fragility – fed the risk of progressive disillusionment, both in societies and ruling classes. This tension was particularly evident along the coast and in the Adriatic internal regions, where traditional projection towards Italy and Central Europe combined with the weight of Yugoslav legacies and high expectations regarding integration's benefits.

On the legal-institutional plane, the European codification of the Balkans' future translated into a dense network of normative and procedural instruments. The Stabilisation and Association Agreements defined in detailed

manner the stages of normative convergence, fixing calendars for commercial liberalisation and establishing joint Councils and Committees charged with monitoring implementation of obligations. At the same time, the Union introduced, from this phase, elements that would become typical of its democracy defence strategy: attention to the functioning of the rule of law, the fight against corruption, judicial independence, protection of media and civil society. Through periodic reports, roadmaps, and European partnerships, the EU reserved the possibility of assessing progress and modulating, accelerating, or slowing the approximation path.

The security dimension traversed these devices transversally. Judicial and police cooperation, the fight against organised crime, control of migratory flows, and management of the Union's external borders were themes that entered fully into dialogue between Brussels and Balkan capitals. In prospect, integration into the Schengen area and access to freedoms of movement were presented as rewards for former Yugoslav states' capacity to transform from providers of insecurity to reliable partners in managing common challenges. Thus, stabilisation was not only a preliminary condition for enlargement, but became its constitutive part: one did not accede to the EU to be stabilised afterwards, but rather one stabilised oneself precisely through a slow accession process.

In this framework, the Thessaloniki promise assumed a profoundly codifying value. It crystallised a nexus between stabilisation, security, and integration destined to mark the entire subsequent history of relations between the Union and the Western Balkans. The region was definitively conceived as a transitional space towards membership, in which constitutional reforms, reconciliation, border management, and judicial cooperation were not separate chapters, but dimensions of a single Europeanisation project. At the same time, the promise introduced an element of open temporality: the European future was certain on the plane of principles, but indeterminate in the times and modes of realisation, leaving space for new asymmetries and possible frustrations.

Viewed from a historical-institutional perspective, the phase running from the SAP's definition to the Thessaloniki promise can thus be read as the moment in which the European Union writes – that is, codifies – the Balkans' future in European terms. Stabilisation and security ceased to be merely technical objectives and were inserted into a framework of values and political belonging; at the same time, enlargement lost its purely economic and legal dimension to assume the features of a policy for managing war legacies and defending democracy in a space perceived as vulnerable. It is against this background that, in subsequent years, there would emerge with

greater clarity both the centrality of discourse on constitutional resilience and the first forms of enlargement fatigue, two phenomena that drew origin precisely from the intrinsic tension between promise and conditionality inscribed in the decisions of this phase.

4. EU Accession as a Device for Democracy Defence

In the trajectory of former Yugoslav states, accession to the European Union has never been merely a foreign policy objective or a technical process of alignment with the acquis, but has progressively configured itself as a veritable device for democracy defence. In analytical terms, this means that accession cannot be reduced to a sequence of legal transfers or institutional engineering: it must be read in terms of the *depth* of internalisation of democratic norms, the *durability* of reforms across electoral cycles and crises, and the *distribution* of their costs and benefits within societies, dimensions that recent debates on resilient transformation have brought to the forefront[5]. The Thessaloniki promise and the framework of the Stabilisation and Association Process inserted from the outset the European prospect within a language of return to Europe that implied not only economic reconstruction, but also the profound transformation of political orders. In this sense, the EU appeared as the external guarantor of a transition that, in the absence of conditionalities and accompaniment, could easily have slipped towards new forms of authoritarianism and aggressive nationalism. Accession, far from being a mere final goal, became the framework within which to redefine the rules of democratic play and the very political identities of new states, though along trajectories that would later diverge between those ex-Yugoslav countries that became EU members and those that remained in the pre-accession limbo.

From the first phases of the Stabilisation and Association Process, the Union has indissolubly linked the prospect of membership to respect for the Copenhagen Criteria, placing at the centre the existence of stable institutions capable of guaranteeing the rule of law, fundamental rights, and a pluralist public sphere. In the case of states born from the Yugoslav collapse, this framework grafted onto constitutional orders marked by recent wars, strong ethnic polarisations, and forms of monitored constitutionalism, transforming the accession path into one of the principal instruments through which the EU sought to prevent authoritarian regressions and illiberal drifts at its borders. Cooperation itself with the International Criminal Tribunal for the former Yugoslavia, required as a political condition, was read – and often

[5] I. Vidačak, *Resilient Transformation in the Western Balkans's EU Accession: An Introductory Framework*, in *The Western Balkans and the Challeges of EU Accession* 1-14

contested – as part of a broader strategy aimed at defusing the destabilising potential of armed nationalisms and promoting a political culture founded on individual responsibility and condemnation of war crimes. Over time, this logic has produced different outcomes in Slovenia and Croatia, where the "European way" of dealing with the past has been progressively internalised within the Union, and in the other ex-Yugoslav states, where conditionality has remained predominantly external and closely tied to the still incomplete accession process.

The insistence on chapters – and subsequently clusters – dedicated to justice, freedom, and security accentuated this militant dimension of the enlargement process. The conditions set regarding judicial independence, the fight against corruption, depoliticisation of public administration, protection of minorities, and media freedom did not merely require punctual legislative reforms, but aimed to affect internal power balances, reducing the margins for institutional capture by nationalist or clientelist elites. Through continuous monitoring mechanisms – annual reports, action plans, roadmaps – the EU closely followed the implementation of reforms, anchoring their advancement to concrete benefits in terms of opening or closing negotiating chapters. In this manner, accession became a form of soft militant democracy: there was no direct intervention to prohibit parties or limit the operability of certain political forces, but an institutional environment was constructed that could render more difficult the concentration of power and more costly the systematic violation of democratic rules. Yet, as subsequent experience in the Western Balkans has shown, such *soft militant democracy* does not automatically guarantee deep and lasting change: without credible and time-consistent incentives, conditionality risks producing *shallow Europeanisation*, in which rules and institutions are formally aligned with EU standards but remain weakly embedded in everyday governance practices.[6]

After accession, as the Slovenian and Croatian cases suggest, this dense web of conditionality tends to loosen and is replaced by the more general and less intrusive instruments available within the Union, thereby shifting the problem of democracy defence from a pre-accession logic of leverage to a post-accession logic of mutual monitoring among peers.

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[6] Cfr. *The Western Balkans and the Challeges of EU Accession*. In particular I refer to the articles of D. Phinnemore, *The Evolving nature of EU conditionality: From Copenhagen to 'fundamental first* 17-28 and E. Akse, *Regulatory impact assessment in the Western Balkans: A Key to sustainable Implementation of EU Standards* 115-130 and T. Antunes, *The ex post rule of Law Conditionality and its Implications for EU enlargement: Lessons for the Western Balkans* 131-144.

A crucial element of this strategy was the temporal anticipation of political conditionality. Unlike what occurred in previous enlargement waves, in the case of the Western Balkans the chapters relating to the rule of law were opened in an initial phase of negotiations and remained open until the end, conditioning the entire process. The logic was linear: without credible progress on justice, fundamental rights, and the functioning of democratic institutions, there was no sense in advancing on economic chapters or the internal market. This conferred upon the EU significant power to direct the constitutional choices of candidate countries, but also rendered more visible the asymmetric nature of the relationship, in which one party set the rules and assessed results, whilst the other was substantially in a position of permanent adaptation. Precisely this asymmetry has fed, over time, both the capacity of pro-European elites to utilise the EU as a reformist lever, and the critical narratives that represented European demands as interferences in national sovereignty. Once a country enters the Union, as in the case of Slovenia and Croatia, that asymmetry is partially reconfigured: conditionality loses its pre-accession character and the defence of democracy must be pursued with instruments – such as infringement procedures, political peer pressure, and rule of law dialogues – that are less direct and, in many respects, less effective than the leverage exercised over candidate states.

The dimension of democracy defence intensified further in light of rule of law crises within the Union, particularly in the cases of Hungary and Poland. The emergence of governments that openly contested certain rule of law principles – judicial independence, media pluralism, protection of minorities – induced the Commission and several Member States to interrogate themselves on the limits of available instruments once a country had already become a member. Faced with these difficulties, the Western Balkans ended up being viewed as the terrain on which to experiment with robust and prolonged conditionality, capable of preventing such involutions at the root. The new methodology for enlargement, applied in the first instance to former Yugoslav states, responded to this concern, placing clusters relating to the rule of law at the centre of the entire negotiating path and reinforcing the idea that the quality of democracy was not a collateral aspect, but the very heart of the process. Against this background, the different position of Slovenia and Croatia – already within the Union and therefore subject to the same, problematic, toolbox as other Member States – highlights the existence of two distinct but interrelated fronts of democracy defence: one external, based on conditionality towards candidates, and one internal, based on the still evolving instruments of the Union's own constitutional order.

For the societies and political elites of the post-Yugoslav lands, all this has had profound and sometimes ambivalent effects. On the one hand, the prospect of accession has provided a legitimation framework for reforms that, in the absence of external constraints, would have been politically far more controversial: from the revision of constitutional texts to the restructuring of superior judicial councils, from the introduction of independent control authorities to the liberalisation of the media sector. In many cases, the rhetoric of "doing what Europe asks" has enabled reformist governments to overcome internal resistance, presenting changes as obligatory steps in a shared path. On the other hand, the distance between the entity of required reforms and the slowness of advancement in negotiations has contributed to rooting the perception of indefinite surveillance, in which democracy seemed to depend on an external judgement more than on internal consensus. This perception is particularly acute in those ex-Yugoslav states that still remain outside the Union, whereas in Slovenia and Croatia the debate on democracy and the rule of law increasingly takes place within European institutions and procedures, thus re-framing the relationship between national sovereignty and supranational oversight.

From a historical-institutional perspective, the case of former Yugoslav states thus shows how enlargement has been transformed into a laboratory for redefining the relationship between European integration and protection of the constitutional order. The combination of conflict memory, reinforced conditionality, and attention to the rule of law has made of the "European way" a peculiar form of militant democracy: not founded on the prohibition of parties or direct compression of freedoms, but on the prolonged use of incentives and constraints to orient the evolution of institutions and contain the risks of illiberal involution. At the same time, the subsequent experience of Slovenia and Croatia as Member States reveals the limits of this model once the powerful lever of accession is exhausted, and raises the question of how to ensure that democracy defence does not stop at the threshold of membership. Precisely this ambivalence – between tutelage and control, defence of values and power asymmetry, pre-accession leverage and post-accession vulnerability – will be at the base, in subsequent years, of both European narratives on constitutional resilience and the first manifestations of enlargement fatigue, which traverse societies and ruling classes and which constitute one of the central nodes of contemporary debate on the Balkans' future in the Union's political space.

In this sense, the accession process in the post-Yugoslav lands can be seen as an early laboratory of the tensions that contemporary scholarship now captures under the heading of *resilient transformation*: the same instru-

ments that defend democracy by constraining illiberal drifts may, if they remain primarily external and unevenly enforced, generate symbolic compliance and fatigue rather than the deep, resilient consolidation of constitutional orders that the Union officially pursues

5. Constitutional Resilience and Enlargement Fatigue in the Adriatic-Balkan Space

In the recent lexicon of the European Union, the notion of constitutional resilience expresses the idea that democracies must be capable of resisting internal and external shocks – economic crises, conflicts, populisms, foreign interferences – without collapsing or becoming denaturing. In the Adriatic-Balkan space, and in particular in the states heir to Yugoslavia, this category has assumed a peculiar meaning: here resilience concerns not only the capacity to withstand contingent pressures, but the very possibility of consolidating a constitutional order born from recent wars, delicate ethnic compromises, and forms of international tutelage. The EU accession process inserts itself exactly on this fracture line, presenting itself at the same time as a factor for strengthening democratic institutions and as a potential source of new tensions, both political and symbolic.

Since the late 1990s, the Union has interpreted post-Yugoslav orders as systems in transition, exposed to risks of relapse into conflict or forms of competitive authoritarianism. The response has been to subject such orders to extended and long-term conditionality, which has concerned not only the adoption of norms aligned with the *acquis*, but also the configuration of constitutional courts, superior judicial councils, independent control authorities, electoral systems, and mechanisms for minority protection.[7] In this perspective, resilience has been conceived as the product of "institutional engineering" guided also from the exterior, in which the EU has played the role of guarantor and, at the same time, architect of new democracies. In the Bosnian and Kosovar case, this grafted onto already profoundly internationalised settlements; in Croatia, Slovenia, North Macedonia, Serbia, and Montenegro, European influence manifested itself above all through the logic of necessary adaptation to advance in the accession path.

[7] *The Europeanisation of the Western Balkans: A Failure of EU Conditionality?,* ed. by J. Džankić, S. Keil, M. Kmezić (New York 2019); F. Bieber, *Building Impossible States? State-Building Strategies and EU Membership in the Western Balkans* (London 2013).

This dynamic has undoubtedly contributed to strengthening certain rule of law bulwarks. Reforms of criminal procedure codes, the creation of autonomous judicial councils, the introduction or strengthening of constitutional courts, the establishment of ombudsmen and authorities for data protection or media regulation have often been the direct fruit of dialogue with the Union. In many cases, the prospect of accession has offered reformist forces instruments to balance the weight of elites rooted in apparatuses inherited from the socialist era or consolidated during conflicts, gradually constructing a fabric of guarantees and counterbalances. The very European rhetoric on the community of values has favoured the emergence of public discourses centred on fundamental rights, minority protection, condemnation of corruption and clientelism.

However, precisely the prolonged and asymmetric nature of conditionality has also produced more ambivalent effects. On the one hand, constitutional resilience has often been conceived in prevalently formal terms: the adoption of laws, strategies, institutions apparently aligned with European standards has not always coincided with an effective transformation of governance practices. There have derived phenomena of normative mimicry, in which constitutional and legislative texts appear fully Europeanised, whilst their implementation remains selective or distorted. On the other hand, the perception that internal equilibria depend on assessments and reports coming from Brussels has fed, in non-negligible segments of elites and public opinions, a sentiment of dependency and subtle resentment. In this context, resilience sometimes appears as a virtue imposed from the exterior more than as a fully internalised objective.

Against this background is situated the progressive emergence of *enlargement fatigue* in the Adriatic-Balkan space. If in the first phases accession was perceived as a relatively near horizon and as a reward proportionate to required efforts, with the passing of years the distance between adopted reforms and concrete results in terms of negotiating advancement has widened. The repeated postponements of opening or substantial conduct of negotiations – due as much to internal resistances within the EU as to bilateral conflicts and real delays in reforms – have fed a sense of diffuse frustration. At the elite level, this translates into the temptation to use European rhetoric in a selective manner: emphasising the European Union as a symbolic resource when it serves to legitimate unpopular reforms, but denouncing *bureaucratic Brussels* when it is necessary to discharge externally the responsibility for failures or slownesses.

In societies, enlargement fatigue assumes even more complex forms. The initial enthusiasm for the *return to Europe* gives way, in broad strata of the

population, to a more disenchanted attitude: massive emigration of young people towards Member States, perception of persistent economic inequalities, slowness in resolving identity and territorial controversies contribute to undermining the idea that accession represents an inevitable and desirable destiny. In this climate, the rhetoric on constitutional resilience can be perceived as abstract, distant from daily concerns, and sometimes instrumentalised by political actors who denounce European demands as obstacles to development or as threats to national sovereignty.

The tension between resilience and fatigue manifests itself with particular evidence in the Adriatic dimension. Along the coast and in internal regions historically linked to traffic and exchanges with the opposite shore, European integration is often experienced as the possibility of rediscovering one's vocation as a bridge between diverse worlds; at the same time, the weight of conflictual memories and the slowness of enlargement procedures feed the sensation that the Adriatic remains an incomplete frontier, more than a fully shared space. The superimposition of historical networks of Adriatic relations and new lines of legal demarcation – external borders of the EU, differences in visa regimes, security controls – renders evident how much the European project is still under construction and how much its capacity to generate belonging remains fragile.

In historical-institutional terms, one can thus speak of a dual narrative. On the one hand, the European one, which presents the reforms required of former Yugoslav states as an instrument to render their democracies more robust, less exposed to authoritarian temptations and the return of violence. On the other hand, that which emerges from segments of societies and local ruling classes, for whom conditionality itself can appear as a form of protection that is not accompanied by genuine equal recognition. When integration seems to recede in time, the discourse on resilience risks transforming, in the eyes of many, into a rhetoric that justifies a perpetual provisionality, in which countries remain perpetually *almost European*, but never fully inside.

It is in this interweaving that enlargement fatigue takes shape in the Adriatic-Balkan space: not only as loss of enthusiasm for the European project, but as erosion of a governance model founded on reforms without guarantee of entry within predictable times. On the one hand, constitutional resilience appears as an indispensable normative objective; on the other, the manner in which it is pursued – through intense and prolonged external control – can weaken precisely the internal legitimation of institutions one would wish to strengthen. The outcome is an unstable equilibrium, in which democracy is

formally defended but remains exposed to recurrent waves of distrust, apathy, or resentment.[8]

For the post-Yugoslav lands, this equilibrium represents today one of the principal stakes. If accession continues to configure itself as an indefinite goal, the narrative of resilience risks being sucked into that of fatigue and disillusion; if, on the contrary, the Union knows how to translate the Thessaloniki promise into a more credible and mutually binding path, the long season of conditionality might perhaps be reread, *a posteriori*, as a necessary phase of constitutional learning, in which the Adriatic-Balkan space has contributed decisively to redefining the very European idea of democracy defence.

6. Conclusions

The trajectory of the post-Yugoslav lands allows observation, in a relatively brief temporal arc, of the interweaving of three dynamics that, elsewhere in Europe, have unfolded over longer times: the dissolution of a socialist federal order, the construction of new constitutional orders in a post-war context, and the progressive grafting of these orders into the European Union's political and legal space. The Adriatic and its Balkan hinterland thus become a laboratory in which to read, in concentrated form, the tensions between sovereignty and integration, between national identities and community of values, between democracy defence and power asymmetries that traverse the entire European project. Far from being a mere regional chapter, the vicissitude of former Yugoslav states illuminates certain structural nodes of European construction itself in its contemporary form, though along trajectories that began to diverge as some of these states entered the Union while others remained on the threshold.

From the historical-institutional viewpoint, the first decisive passage is represented by Yugoslavia's end and the birth of new states. The Federation's dissolution did not merely produce a series of international legal subjects, but set in motion a process of profound renegotiation of sovereignty forms, constitutional settlements, and collective political identities. In Bosnia and Herzegovina and Kosovo, peace agreements and United Nations resolutions gave rise to regimes of monitored constitutionalism, in which the barycentre of fundamental decisions remains at least in part external; in other cases, such as Croatia, Slovenia, North Macedonia, Serbia, and Montenegro,

[8] J. O'Brennan, *'On the Slow Train to Nowhere?' The European Union, 'Enlargement Fatigue' and the Western Balkans*, in *European Foreign Affairs Review* 19 (2014) 221-241.

transition occurred within formally more autonomous frameworks, but nonetheless marked by the weight of recent conflicts, inherited apparatuses, and strong polarisations. The Adriatic-Balkan region thus presents itself, from the outset, as a space in which the demarcation line between internal and external is particularly porous and contested, and in which the subsequent distinction between EU members and non-members has further stratified these differences.

The European Union's entry onto this scene is neither immediate nor linear, but progressive and reactive. Initially hesitant in the face of wars of secession, the EU is forced to measure itself against its own incapacity to prevent or halt violence and against the limits of a foreign policy still under construction. Precisely the failure of purely diplomatic management of the Yugoslav crisis pushes, from the late 1990s onwards, towards a qualitative leap: the launch of the Stabilisation and Association Process, the creation of specific instruments for South-Eastern Europe, the Thessaloniki promise of 2003 mark the choice to treat the Western Balkans no longer as a problematic periphery, but as part of an enlarged future for the Union. In this passage, the Balkan question becomes the European question: the destiny of former Yugoslav states is inscribed in the continental reunification project, but on condition that they transform themselves profoundly on the institutional plane and, in some cases, that they succeed in crossing the threshold from candidacy to membership.

It is here that enlargement assumes, in the Adriatic-Balkan case, the face of a democracy defence device. Accession is conceived not only as a reward for an already accomplished transformation, but as a lever to guide and control such transformation. Through the Copenhagen Criteria, negotiating chapters dedicated to justice and fundamental rights, constant references to cooperation with the International Criminal Tribunal for the former Yugoslavia, the Union assigns itself the task of vigilating over the quality of new democracies, with the objective of preventing the return of aggressive nationalisms, ethnic violence, or competitive authoritarianisms. The militant logic does not translate into the prohibition of parties or suspension of freedoms, but in the systematic use of conditionality, prolonged surveillance, the possibility of slowing or blocking the accession path in case of regressions. In the cases of Slovenia and Croatia, this logic has accompanied the entire pre-accession phase and has then been partially absorbed into the Union's internal mechanisms; in the other post-Yugoslav states, it continues to structure a still unfinished relationship, in which democracy defence remains closely tied to a promise of membership yet to be realised.

Seen from today's vantage point, this first codification of enlargement as a device for democracy defence in the post-Yugoslav lands appears as the starting point of a longer trajectory. What in the 1990s and early 2000s took the form of reinforced conditionality, monitored constitutionalism and a dense web of political and legal obligations has, over time, been reframed in a vocabulary that explicitly speaks of *resilient transformation*. Contemporary debates on the Western Balkans no longer focus only on whether candidate countries have adopted the *acquis* and met the Copenhagen Criteria, but on the *depth* of internalisation of reforms, their *durability* across crises and changes of government, and the *distribution* of their costs and benefits within societies.[9] In this perspective, the Adriatic-Balkan experience constitutes the historical-institutional background of more recent efforts to move beyond a model centred almost exclusively on external conditionality, towards one that seeks to generate robust and socially sustainable democratic orders.

This strategy, as the article has sought to show, has a dual face. On the one hand, it has favoured the construction of constitutional infrastructures that would hardly have assumed the same form without the European constraint: strengthened constitutional courts, relatively autonomous judicial councils, independent authorities, devices for minority and fundamental rights protection, mechanisms for judicial cooperation and corruption control. In this sense, the accession process has effectively contributed to increasing the resilience of post-Yugoslav orders, equipping them with institutional antibodies against possible illiberal drifts. Europe was perceived, at least for a certain period, as an external guarantor of an otherwise uncertain transition, and the rhetoric of "return to Europe" performed a not negligible function of democratic mobilisation, particularly in the Slovenian and Croatian cases, where this rhetoric has subsequently been re-elaborated within an already acquired membership.

On the other hand, however, the intensity and duration of this conditionality have rendered evident the asymmetric character of the relationship between Union and candidate countries. Former Yugoslav states have had to accept a profound revision of their constitutional architectures under the supervision of a subject that, whilst presenting itself as a community of values, remained external to internal legitimation dynamics. The temporal distance between required efforts and the concrete prospect of accession, accentuated by uncertainties and rethinkings internal to the EU, has fed forms of constitutional fatigue and enlargement fatigue, in elites and societies. Democracy

[9] Cfr. D. Phinnemore, *The Evolving nature of EU conditionality: From Copenhagen to 'fundamental first'*, in *The Western Balkans and the Challeges of EU Accession* 17-28.

defence, thus conceived, sometimes risks appearing as tutelage without full recognition, as surveillance that does not translate into belonging. It is precisely in this gap between formal alignment and incomplete recognition that the seeds of what would later be described as *enlargement fatigue* are sown, both in the Union and in the post-Yugoslav societies, undermining the credibility of conditionality and the very promise of a shared European future. This is particularly evident in those ex-Yugoslav states still outside the Union, whereas in Slovenia and Croatia the question of democracy defence is increasingly framed within the same, and not always sufficient, instruments used for other Member States.

The specificity of the Adriatic-Balkan space lies precisely in this tension. Here the long history of the Adriatic frontier—crossroads of empires, nationalisms, migrations, memory conflicts—meets the recent history of European construction. The post-Yugoslav lands have been inserted into a macro-narrative that wishes them to "return to Europe", but the modality of this return has been marked by strong external direction, complex technical procedures, constraints often perceived as mutable. It is unsurprising, then, that the very idea of Europe is sometimes experienced as ambivalent: a promise of normalisation and development, but also a source of frustration and resentment when the horizon of accession recedes or seems subordinated to factors that escape the control of local societies. The divergence, in this respect, between the experience of those who have already entered the Union and that of those who remain candidates constitutes an internal fault line within the post-Yugoslav space, which any historical-institutional analysis is now called upon to take into account.

From a historiographical viewpoint, this picture suggests at least three interpretative paths. The first concerns the manner in which the post-Yugoslav vicissitude contributes to redefining the history of European enlargement: here emerges with clarity how accession is no longer merely a process of geographical expansion and norm diffusion, but a policy for managing war legacies, controlling instability risks, and regulating identities, whose effects differ according to whether a state is positioned inside or outside the Union. The second concerns the history of post-authoritarian democracies: the Balkan case shows how the construction of democratic institutions can occur within a framework of profoundly interdependent sovereignty, in which the line between imposition and learning, between tutelage and paternalism, remains subtly mobile both before and after accession. The third, finally, regards the very history of the Adriatic lands: their integration into the EU does not cancel, but rather reworks, preceding historical stratifications, making the Adriatic an exemplary place for observing the encounter (and con-

flict) between national memories, historical regions, and new European political geographies, including the new internal frontier that now separates Member States from candidate countries.

In this sense, reading the parabola of former Yugoslav states as part of the history of the Adriatic lands allows avoidance of a dual temptation: on the one hand, that of reducing the Balkans to a pathological periphery, explicable only in terms of backwardness or delay; on the other, that of absorbing their experience into a linear narrative of Europeanisation success. The historical-institutional perspective highlights instead the intrinsically conflictual and incomplete nature of this process: every advancement towards the EU has been accompanied by resistances, renegotiations, creative adaptations; every European reform has been reinterpreted in light of internal political equilibria and still living memories of Yugoslav dissolution; and even in the cases where accession has been achieved, as in Slovenia and Croatia, the question of how to defend democracy within the Union remains far from resolved.

The reflections on constitutional resilience and militant democracy acquire, in light of this trajectory, a more nuanced meaning. If, on the one hand, it is difficult to deny that the EU has performed a bulwark function against possible authoritarian or nationalist involutions, on the other hand it is necessary to interrogate oneself on the limits of a model that entrusts democracy defence above all to mechanisms of external conditionality.[10] The question that traverses the Adriatic-Balkan space – and which in reality concerns the entire Union – is whether democracy can truly be said to be "defended" when its equilibrium depends so substantially on the presence of an external guarantor and on the promise of an entry still deferred, or, once inside, on instruments that have shown themselves only partially capable of responding to internal rule of law crises.

In conclusion, the post-Yugoslav lands offer to more recent European history a privileged observatory. Here the implosion of a federal state, the violence of conflicts, the construction of new orders, and the gradual entry—realised only for some—into the Union's project superimpose and reciprocally condition one another. The Thessaloniki promise has transformed this region into a laboratory of second-generation enlargement, in which democracy defence is not a point of departure, but an objective to be constructed and verified along an uneven path, differentiated between members and non-members. Whether this laboratory produces, in the medium term,

[10] Cfr. C. Lequesne, E. Wang, *Democratic Backslading in the EU: Implication for Enlargment Credibility*, in *The Western Balkans and the Challeges of EU Accession* 42-54.

democracies effectively more resilient and a European belonging more fully shared remains an open question, which historiography and institutional analysis will have to continue following, also by extending the comparison beyond the ex-Yugoslav cases considered here.

In the light of more recent developments, this observatory also allows one to assess the limits and potential of the ongoing attempt to reconfigure enlargement as a policy of resilient transformation. The introduction of a *fundamentals-first* approach, the possibility of reversibility in negotiations, and the growing emphasis on staged benefits and gradual integration testify to the Union's awareness that democracy defence cannot rest on formal compliance alone, but requires reforms that are deeply internalised, durable across crises and changes of government, and perceived as fair in their social and political effects. At the same time, the post-Yugoslav experience suggests that the success of this strategy depends not only on the formal sophistication of EU instruments, but also on the credibility, consistency, and recognitional capacity of the enlargement process itself. Where conditionality appears intermittent, asymmetrical, or politically selective, the risk is that resilience remains more proclaimed than achieved, and that democratic consolidation continues to be accompanied by fatigue, symbolic compliance, and contested belonging.

In the most recent phase, these dynamics have been further reconfigured by the evolution of the European Union's enlargement methodology and by the overlapping crises that have brought enlargement back to the core of the European agenda. The *fundamentals-first* approach, the possibility of reversibility in negotiations, and the staged access to benefits envisaged in instruments such as the Growth Plan for the Western Balkans seek to ensure that accession produces not only formal compliance, but reforms that are deep, durable, and socially sustainable. At the same time, debates on democratic backsliding within the Union, on the rise of the radical right, and on European strategic autonomy reveal that the credibility of enlargement and the resilience of post-Yugoslav democracies depend increasingly on the joint evolution of internal EU reforms and external conditionality.[11] From this viewpoint, the Adriatic-Balkan space becomes not only the historical laboratory of second-generation enlargement, but also a key testing ground for the new

[11] Cfr. C. Lequesne, E. Wang, *Democratic Backslading in the EU: Implication for Enlargment Credibility*, in *The Western Balkans and the Challeges of EU Accession* 42-54 and R. Balfour, *The rise of radical right in the European Union: implications for enlargement and the Western Balkans*, in *The Western Balkans and the Challeges of EU Accession* 55-66.

agenda of *resilient transformation* that contemporary scholarship has placed at the centre of reflections on the future of the Union and its borders.[12]

What appears already evident today is that, along the coasts and in the Adriatic hinterland, the history of post-Cold War Europe cannot be recounted without holding together, in a single interpretative framework, Yugoslav dissolution, enlargement, democracy defence, the internal differentiation between Member States and candidates, and the redefinition of European identity.

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[12] Cfr. J. Cloos, *The Future of the EU: Scenarios for internal reform and credible enlargement*, in *The Western Balkans and the Challeges of EU Accession* 67-79