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2019 **Marek Kopanický**

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Supranational and Intergovernmental Approach to the Accession Process of Montenegro to the European Union

Master's thesis

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Topic characteristics / Research Question(s):

My thesis will focus on the political and economic strategies and initiatives employed by the European Union as such and individual EU Member States in order to support the accession process of Montenegro into the European Union. Regarding supranational approach of the European Union, I will elaborate an effort of various EU institutions, primarily the European Commission. When it comes to the activities of individual EU Member States, my intention is to compare the efforts and impacts of two different Member States – one "old and big" member (e.g. Germany) and one "new and small" member (e.g. Slovakia).

There is an intense academic debate on differences between the supranational approach of the EU and intergovernmental approach of its Member States in various areas of the European integration., including the accession process of new members and precisely this comparison should be a cornerstone of my thesis.

Montenegro has been chosen as an object of my research intentionally, since this country is currently considered to have the highest level of preparation for the EU membership and unproblematic relations with all EU members states unlike Turkey, Kosovo, or Republic of Macedonia. Indeed, its historical and geographical features as well as recent EU documents predetermine this country to become next EU member state.

Working hypotheses:

1. In practice, the European Commission is the crucial EU institution when it comes to the accession process of new EU Member States.
2. Powerful and key EU Member States play more important role in the process of fulfilment of the Chapters of the EU acquis than smaller Member States.
3. Supranational and intergovernmental approaches are rather complementary than contradictory in regard to the admission process of new EU Member States.

Methodology:

The main research methods of my thesis will be comparisons, both between the EU as a whole and its Member States, as well as between the EU institutions and EU Member States themselves. Besides these comparisons, the method of abstraction will

be employed in several cases in order to omit too complicated EU's law questions or detailed technicalities of EU admission process. The methods of analysis and synthesis may be used, where necessary.

Concerning the questions of the EU enlargement process in the first part of the thesis, I will undertake a thorough analysis of high-class academic literature and official sources of the EU institutions related to this topic. Similarly, in the following chapters, I want to base by thesis on official governmental sources and statistics as well as quality articles from journals oriented on the European integration issues. If possible, I would like to include also personal or electronical communication with competent representatives of the EU, Montenegro or other actors relevant for the purposes of the thesis.

The literature used in the thesis should reflect the most recent developments of the Montenegro's admission process, thus mostly sources issued after 2010 will be used. There are several reasons why this year has been chosen, firstly, the Treaty of Lisbon entered into force in December 2009 and secondly, Montenegro was granted the status of candidate country in this years.

Outline:

1. Introduction
2. Theoretical background and the review of world (European) literature
3. Methodology, methods of research and inquiry used in the thesis
3. Supranational EU approach towards Montenegro accession talks
    a) European Commission Activities
    b) Initiatives of other European Institutions
4. Intergovernmental approach of various EU Member States towards Montenegro accession talks
    a) Case of Germany
    b) Case of Slovakia
5. Discussion
6. Conclusion
7. References / Bibliography

References / Bibliography: (specify at least 5 relevant references)

EEAS. (2016). *Shared Vision, Common Action: A Stronger Europe - A Global Strategy for the European Union's Foreign And Security Policy.*

Hill, Ch. & Smith, M. (2011). *International Relations and the European Union*. Oxford University Press. 584 p.

Marsh, S. & Mackenstein, H. (2014). *The International Relations of the EU.* New York: Routledge. 330 p.

Mix, D. E. (2013). *The European union: Foreign and Security Policy*. Congressional Research Service. pp. 1-25.

Official webpage of the Delegation of the European Union to Montenegro: https://eeas.europa.eu/delegations/montenegro_en

Date: 21 May 2018

Approval of the supervisor (signature or a faximile): 

DECLARATION OF AUTHORSHIP

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on 6 May 2019

_____

Marek Kopanický

REFERENCES

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ABSTRACT

The volume deals with the analysis of the relationship of the two dominant theoretical approaches of European integration – supranational and intergovernmental – towards the EU enlargement policy on the example of the accession process of Montenegro. The research goes into depth by analysing not the complex accession process as such, but the relations and attention of various European institutions and the EU member states to the particular and deliberately selected negotiation chapters of the Acquis Communautaire. The main aim of the thesis is to find out to what extent and whether at all does the behaviour of the EU institutions and its member states by the accession process correspond with the internal structure of the EU policies and competences stipulated in the EU treaties. The thesis succeeded to show that there is no reason to believe that the activities of the supranational institutions of the EU - the Commission and the Parliament - are dominant by chapter which is closely connected to the exclusive competence of the EU or that they would pay any special attention to this chapter. Similarly, there is no explicit proof that the activities of the incumbent EU member states are dominant by chapter which is closely connected to the shared competence of the EU or that they would pay any particular attention to this chapter. Thus, the internal structure and division of the EU competences do not play a significant role in the accession process of a new member state since this process is led and driven by its own rules and procedures.

KEY WORDS: European Union, enlargement, Montenegro, accession process, supranationalism, intergovernmentalism, Acquis Communautaire

NÁZEV PRÁCE (IN CZECH): Nadnárodní a mezivládní přístup k procesu přistoupení Černé Hory do Evropské unie

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The greatest debt is owed to my supervisor, doc. Mgr. Tomáš Weiss, M.A., PhD., for his time, academic guidance, valuable advice, and enriching comments, which considerably helped me in the process of elaboration of this thesis.

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INTRODUCTION

Supranationalism and intergovernmentalism are undoubtedly two dominant theories of European integration and their characteristics and preferences influenced more or less all EU institutions and policies, including enlargement. Theoretically speaking, we may say that the current version of the Union is a result of alternation, overlapping, and competition of these two dominant theoretical approaches to the European integration during the last decades. For the purposes of our thesis, the supranational approach is understood mainly by the activities of the EU as such, represented by its supranational institutions, the European Commission and the European Parliament. On the other hand, the intergovernmental approach is conceived on the national, or say, bilateral level, i.e. by the activities of the incumbent EU member states in their direct relationship to Montenegro, or within the Council of the EU.

A cornerstone of this thesis is the analysis of the relationship of these two theoretical paradigms towards the EU enlargement on the example of the accession process of Montenegro. This country has been pragmatically selected to represent the main object of the presented thesis since it is now in a leading position on its path towards the EU in comparison with its Western Balkan peers. The research is designed to go into depth by analysing the relations and attention of various European institutions and the EU member states to the particular and selected negotiation chapters of the Acquis Communautaire. The two investigated Acquis chapters have been deliberately chosen to represent such policies, which are closely connected to one exclusive and one shared competence in the internal structure of policies of the EU. The exact classification of the EU competences is stipulated in the EU treaties and its condensed version is also a part of this volume.

The main research question, as well as the hypotheses of this thesis, have an intention to find out, to what extent, and whether at all, is possible to identify any interrelation between the activities and treatment of EU institutions and its member states towards the selected Acquis chapters in Montenegro accession process. Whether these actors pay any special attention to the chapters, that are closely connected to two different EU policies and competences when it comes to the internal division of the EU competences.

The academic debate, as well as European experience with recent enlargement rounds, assume the increasing level of conditionality and meritocracy in the accession process.

At the same time, the EU member states tend to have still more and more important position by the accession process of new member states. Is it true also by the accession process of Montenegro? Do the incumbent EU member states control the whole accession process and make it predominantly intergovernmental? Does the once powerful supranational Commission restrain its role on a purely advisory level? What is the mission of the European Parliament within the enlargement policy? Is there any interrelation between behaviour of the EU institutions and member states within the internal structure of the EU policies and in the negotiations on the Acquis chapters? Or does the accession process have its own procedures that do not correspond with the division of competences within the EU?

We believe that the presented thesis might be an interesting piece for readers, who are interested not only in the issues of the European Union politics but also for those who come from Montenegro or other Western Balkan countries and deals with their prospective future within the EU or the accession process itself. Obviously, the volume is open for all people interested in these topics, no matter what their field of study or interest is, or what country they come from.

When it comes to the chapter by chapter summary, the structure of the thesis goes as follows. The first chapter deals with the theoretical delimitation of supranationalism and intergovernmentalism and the influence of these two dominant theories of European integration on the institutional, theoretical, and practical aspects of the EU enlargement and the accession process with a candidate country. Subsequently, it outlines also recent trends in the EU enlargement policy, displayed in increased meritocracy, conditionality, and internationalization of the accession process. The second chapter is devoted to the explanation of the research question, hypotheses, sources, and methods. Besides that, this chapter also clarifies the selection of Montenegro as the main object of this thesis as well as two investigated Acquis chapters. The third chapter discusses Montenegro's path towards the European Union and the attention and activities of the EU institutions and its member states within the Acquis chapters 29 – Customs Union and 27 – Environment and Climate Change during the accession negotiations with Montenegro.

1 THEORETICAL DEBATE

1. 1 Theoretical Approaches to European Integration

The development of European integration in the second half of the 20th century was a result of the brilliant ideas of several individuals, the difficult post Second World War situation, as well as the rivalry of the two main theoretical approaches to peaceful cooperation and co-existence between, particularly Western-European, states. There was a long-lasting and broad debate on various platforms - academic, political, diplomatic - about searching such a way, which would avoid and prevent another destructive conflict on the European continent with the implications for the whole World. However, there was a consensus on this final goal, then experts and leaders were not unanimous when it came to a practical form of it. Broadly speaking, whether the form of the integration on the European continent should pursue the creation of the European *"Union"* or *"Federation"* to maintain lasting peace and prosperity after two devastating world wars. (Phinnemore, 2016: 13 - 14). Exactly that *"or"* between the words *"Union"* and *"Federation"* markedly demonstrates a major mental separation and illustrates a strong theoretical debate between the founders and architects of the organizations and institutions, that have been, one after another, established in the late 1940s or the 1950s and to which may include also the European Communities, a predecessor of today's European Union.

The following theoretical debate has an aim to introduce the reader the historical embeddedness and intrinsic separation of the two crucial theoretical approaches that guide the history of whole European integration and remained to be the most influential until our days. In the following subchapters, we are going to draw the attention on that two theoretical approaches that are stipulated also in the title of this thesis and their throughout elaboration and conceptualization will have a remarkable impact on the rest of this thesis.

The whole development of European integration is often characterized and illustrated right through the alternation, overlapping, and competition of these two dominant, sometimes labelled as "Grand Theories", or theoretical approaches of European integration:

- supranational approach, which stems from neo-functionalism; and
- intergovernmental approach.

Academic literature on European integration agrees and offers, discusses and elaborates two mainstream views, models, theories, or approaches onto European integration. As Hix and Høyland (2011: 16-18) assert: *"there are two broad theoretical frameworks for understanding EU politics – the first theoretical framework is known as intergovernmentalism (...) the second theoretical framework is perhaps best labelled the supranational politics approach"* (…) *"both borrow assumptions and arguments from general study of political science and both share a common research method – the use of theoretical assumptions to generate propositions, which are then tested empirically"*.

In Rosamond's (2000: 2) words: *"the conversation between supranationalists and intergovernmentalists is usually presented as the main ongoing schism in the integration theory literature since the mid-1960s and they present stark alternatives in many ways."* We would argue that this conversation is even older and goes back to the 1950s, what we have already briefly mentioned before.

On the following pages, we will develop various theoretical and practical nuances of these two main theoretical approaches for two reasons. The first one is in order to document their significance for the development of European integration in the course of the last decades, whereas the latter one is to grasp them as precisely as possible for our research aims in the next parts of this volume.

1. 1. 1 Supranationalism

When speaking about supranationalism, the authors tend to start with a definition of functionalism that goes back to work of David Mitrany already in the interwar period, as well as neo-functionalism, which is connected mostly with names of E. B. Haas and L. Lindberg. This thesis cannot be an exception, because the logical order forces us to proceed in the same manner. Functionalist approaches, by far dominated by Mitrany's name and books, are a branch of the broad movement that sought to theorize the conditions of the international society, that would maintain the end of human conflicts, achieving systems of lasting peace and prioritize the human needs of public welfare.

Mitrany's functionalism offers a largely technocratic vision of human governance, where the efficient performance of inter- or transnational institutions would result in a process of popular loyalty transference away from the nation-state (Rosamond, 2000: 32-34).

When it comes to neo-functionalism, its story usually began in 1958 with the Ernst B. Haas's publication of *The Uniting of Europe: Political, Social, and Economic Forces 1950-1957*, what shows us the clear Eurocentric orientation of this stream of thoughts. Neo-functionalism was particularly influential in the 1950 s and the 1960s when its proponents did offer a plausible account of the moves towards economic and political integration that seemed to be taking place in Western Europe. Neo-functionalism at that time did not only dominated the theoretical field of regional integration studies, it was also something of a quasi-official ideology of European integration (Diez, et al., 2011: 190). Thus, this region became a major focus for neo-functionalism and vice versa. However, during the 1970s and mainly in the 1980s, this theory was marginalized in academic circles, what has been caused by the integration slowdown and dominance of the nation-state concept, own for the rival intergovernmental approach. After the early 1990s, neo-functionalism did experience a revival thanks to a dynamics around the single market finalization, the creation of the European Union by the Maastricht Treaty and several enlargements preparations (Jensen, 2016: 54-55). All in all, neofunctionalism is very much connected to the case of European integration by our days. However, during last two or three decades, under the influence of authors such as Stone Sweet and Sandholtz, it is perhaps better labelled as *supranationalism*, and thus we are going to prefer this term as well.

There are several characteristics that will help us to explain and understand the importance of this theory. The core and best-known concept is a *spillover*. Neo-functionalist integration evolves spontaneously by a process of spillover, both functional and technical. Spillover refers to the *"process whereby members of an integration scheme – agreed on some collective goals for a variety of motives but unequally satisfied with their attainment of these goals – attempt to resolve their dissatisfaction by resorting to collaboration in another, related sector (expanding the scope of mutual commitment) or by intensifying their commitment to the original sector (increasing the level of mutual commitment), or both"* (Schmitter, 1969: 162). The increasing difficulty in dealing with functional or technical issues at the national level, and the tendency of integration to

generate spillovers, can be exploited by supranational agents or agencies, which could then promote strategies for further integration from above. The process of integration is, for neo-functionalists, endogenous and its final result would be a new political community, superimposed over the pre-existing ones (Andreatta, 2011: 25). The second neo-functionalist feature is its emphasis on so-called "low-politics" and traditional distaste for power politics sometimes labelled as "high politics". This derives from the functionalist school that was giving priority to questions as the wellbeing of the citizens, economic growth and prosperity and concerns for legal and economic relationships between political communities (Ibid., 24). As the third, and, in this enumeration, the final characteristic of the neo-functionalism, we may perceive its focus on the role of supranational institutions and elites. Supranational institutions are not simply passive agents, instead, they do have their own institutional interests, policy preferences, resources, and powers. Indeed, next to the European Commission (EC), the European Parliament (EP), and European Court of Justice (ECJ), which are traditionally considered to be the main supranational EU institutions, neo-functionalists admit also the role of private interest groups in shaping the EU policy agenda, bypassing national governments and going straight to the representatives of the personnel of the Commission, MEPs and ECJ judges (Hix & Høyland, 2011: 17).

To sum this up, neo-functionalism represents an important and influential theory, formulated already in the light of the early experiences of the European Communities, that pursue functional and political spillover effect, which is directly or indirectly promoted by purposeful authority of the supranational institutions (Rosamond, 2000: 202). By now, we have succinctly explored the development of the neo-functional stream of thoughts and its characteristic features. Now, we will draw our attention onto the definitional delimitation of supranationalism and related terms thereof.

A key point on the way to the concept we call supranational governance, was a theory of A. Stone Sweet and W. Sandholtz from the late 1990s (Stone Sweet and Sandholtz, 1997; Sandholtz and Stone Sweet, 1998). They have developed this on the basis of Haasian neo-functionalism with a form of the institutionalist analysis as a less state-centric and more supranational alternative to the influential work on liberal intergovernmentalism of A. Moravcsik, which will be elaborated below. Stone Sweet and Sandholtz do not use the spillover concept but they analyse the institutionalization of transactions among national

and European levels of regulation and governance. The supranational end of continuum represents centralized control of governance capacity over policy areas across member states, what reduces the costs of transactions (such as in the field of trade, communications, or travel) (Rosamond, 2000: 126-128). Using their vocabulary, the European Union suddenly began to look much more like the kind of organization that Haas and others had predicted would emerge as a consequence of regional political and economic integration with an influence on many policy areas such as defence, social policy, competition, or enlargement (Jensen, 2016: 61-63).

It is a complicated, maybe even impossible task, to find and put an exhausting definition of supranationalism, but for the purposes of this thesis, we may adopt one as a synthesis from the following ones. The volume *European Union Politics* of Cini and Borragán (2016: 420-421) defines supranationalism as *"an approach to the study of the EU that emphasizes the autonomy of the European institutions and the importance of common European policies",* supranational as *"above the national level, what may refer to institutions, policies of a particular type of cooperation or integration"*, and supranational institutions as *"an institution in the EU system of governance to which member states have delegated sovereignty, such as the European Commission, the European Parliament, the European Central Bank (ECB), or the Court of Justice of the European Union"*.

Koen Lenaerts (2005: 11-18), a renowned expert on the European Union law and current President of the Court of Justice of the European Union concludes that supranational "*aptly describes the European Community due to several essential characteristics:*

a) *the possession of institutions that are independent in composition and operation;*
b) *the use of decision-making procedures by majority votes that nonetheless bind all Member States;*
c) *the implementation of EC decisions by or under the supervision of EC institutions; and*
d) *the creation of judicially-enforceable rights and obligations through the treaties and secondary legislation."*

Institutionally speaking, the Commission and the Parliament, sometimes together with the Court of Justice, are commonly described as the institutions, most clearly embodying the supranational ideas. The European Commission itself (previously the High Authority

of the European Coal and Steel Community) was repeatedly reiterated without any controversy in all Treaties as an institution designed to further the interests of the entire Community or Union, rather than specific states interests, what affirms its status as a supranational body. This is even reinforced by the collegiate nature and collective decision-making of the Commission as well as the status, role, and powers of the President of the Commission (Goebel, 2013: 86-98).

As the European Parliament is concerned, there are three aspects of its internal operating structure that augment its supranational character. The first one is that after each direct elections, MEPs, elected on the basis of their party affiliation in each member state have customarily formed the EU-wide political party groupings, sometimes labelled as fractions. The second one is the status and role of the Parliament President, similarly as it was by the Commission President. And the third, but not least is the role and importance of twenty standing, plus several ad hoc, committees (Ibid., 112-114). Moreover, the evolution of the European Parliament represents *"a move toward a more supranational system obtaining capacity directly from citizens instead of via national governments*", as well as *"a common European level (parliament) complementing, rather than replacing, joint governmental decision-making"* (Corbett, 2012: 255). Just for the sake of clarification, it is worth to note that the European Parliament operates as today since the 1970s, while the first direct elections took place in June 1979 and has since been repeated every five years. Before this time, there was only an Assembly, operating in a purely advisory capacity and composed of the delegation from then member states' parliaments (Goebel, 2013: 110).

Not to omit the role of the Court of Justice of the EU, it was also analysed extensively using the supranational approach. For instance, Burley and Mattli (1993) argue that the Court has been a very important institution in the building of a supranational community, and not only in the legal matters. Although the founding member states of the Communities had no intention to give the Court the supremacy over national legal system, the Court itself has been able to develop its doctrine over the course of the 1960s and 1970s as well as advance the political integration by using technical and apolitical arguments in the legal arena (Jensen, 2016: 62).

1. 1. 2 Intergovernmentalism

Intergovernmentalism, as the second broad framework for understanding European integration and politics, has remained to be a dominant paradigm since the 1960s or even earlier. At the very heart of the intergovernmental thinking lies a particular conception of the sovereignty of nation states. It has various meanings and interpretations but in principle, intergovernmentalists claim that the EU member states are the most important actors by far and that they manage to engage in European integration without ceding sovereignty. This implies that states remain significantly in control of the integration process and all important aspects and policies thereof. Accordingly, European integration implies at most a pooling or sharing of sovereignty, if that, as opposed to a transfer of sovereignty from the national to the supranational level (Keohane and Hoffmann, 1991: 277). The proponents of the intergovernmental approach accept the role of the European institutions yet only in a limited scope. Rather than assuming that these institutions are capable of playing an independent or autonomous role within European integration process, intergovernmentalists tend to stress that the supranational actors, the Commission, in particular, are little more than servants of the member states. The European institutions that really matter, then, are the Council (of ministers) and the European Council (of heads of states and governments), while the role of the other European institutions is more peripheral (Cini, 2016: 68).

As we mentioned above, in the previous part about supranationalism, the intergovernmental approach was particularly dominant during the late 1960s and two decades on, based on the work of Stanley Hoffmann who laid the foundation of the so-called *classical* intergovernmentalism. He was refusing the neo-functional theory, claiming that concentrating on the process of the integration, neo-functionalists had forgotten the state-centric context within which it was taking place. Moreover, intergovernmentalism rejected the spill-over effect, a core neo-functional concept, arguing that this was more an act of faith than a proven fact (Ibid.). Rosamond (2000: 75) coined this period of the integration as *"the intergovernmentalist backlash"* claiming that in these years *"the fundamental premises of the integration experiment were renegotiated heavily in favour of the member states and the principle of intergovernmentalism trumped that of supranationalism."*

When the revival of the long-standing theoretical conversation between supranationalism and intergovernmentalism appeared again, it was only in the 1990s, and the debate was on the intergovernmental side moderated mainly by a prominent political scientist, Andrew Moravcsik and his *liberal* intergovernmentalism. It is a very broad, still-influencing theory of European integration, that draws upon earlier intergovernmental insights, but offers a much more rigorous approach, incorporating realist and neoliberal elements, together with components of institutionalism, geopolitics or bargaining theory (Cini, 2016: 73-77). All in all, however, again, given the scope and aims of this thesis, we will devote more attention to the definitional aspects of the intergovernmentalism, particularly in its relationship with the EU institutions and later on also with the EU enlargement. Similarly to the situation with supranationalism above, to find and put an exhausting definition of intergovernmentalism is almost impossible, yet for the purposes of this volume, we may adopt one as a synthesis from the following ones.

The volume *European Union Politics* of Cini and Borragán (2016: 408) defines intergovernmentalism as *"a theory of European integration that privileges the role of states. When conceptualizing decision-making mechanisms in the context of the EU, this refers to the decisions being made by the member states only, without involvement of the supranational institutions",* and intergovernmental as *"a principle of cooperation that involves sovereign states and which occurs on a government-to-government basis, without the extensive involvement of supranational actors".* Another author, Rosamond (2000: 200-201) defines intergovernmentalism as *"an approach to integration that treats states, and national governments in particular, as the primary actors in the integration process. Supranational institutions are of limited importance to processes of integration".*

When it comes to European institutions, the situation starts to be somewhat blurred. The Council of the European Union, commonly called the Council of Ministers functioned historically almost totally in an intergovernmental mode since the creation of the European Economic Community (EEC) in 1958. Indeed, it is still accurate to say, as professors Wyatt and Dashwood do in their famous textbook *European Union Law* (2011: 66), that *"the European Council and the Council represent the persistent intergovernmental instinct within the process of European integration"* (…) *"in contrast to the pursuit of a supranational or collective European interests by the Commission and*

Parliament." Nevertheless, after the adoption of the Single European Act of 1987 and still more after the Treaties of Maastricht, Amsterdam, Nice and Lisbon, the Council's operational rule and mode of decision-taking has shifted in the direction of supranationalism. All in all, the Council remains intrinsically intergovernmental in structure, because the minister of each member state is present and a voice of his (her) member state is clearly heard. Yet Council's ability and willingness to act by a type of majority vote on important legislation has shifted its operation rule from purely intergovernmental to one that possess also some supranational features. This argument is supported also by the evolution of the so-called qualified majority voting system, which has shifted from the unanimity to a special type of majority vote[1] based on the aggregate population (Goebel, 2013: 79 & 98-99).

Not only new Treaties, enumerated above yet also the EU enlargements rounds in 2004 and 2007 have strengthened the influence of supranational and quasi-supranational character of the Council, predominantly its main ancillary organ – the Coreper. In general, the Coreper (whose names is an acronym based on the French equivalent of the English title - the Committee of the Permanent Representatives) is a high-level subordinate body that prepares the legislative drafts and deals with the policies and technical issues concerning them. A remarkable increase of the member states, ministers present at the meetings of the Council as well as the Ambassadors present at the meetings of the Coreper has helped to sustain the supranational character of the Council. Traditionally, the Council was considered to be the intergovernmental body of the Union *par excellence*, since it represents the governments of the member states. Nevertheless, the term intergovernmental no longer seems applicable to all parts of the Council (Lempp and Altenschmidt, 2008: 517). Indeed, *"while the Council may be intergovernmental in inspiration and formal design, in practice, it has developed an extensive supranational character through the largely overlooked dimension of informal integration"* (Lewis, 2003: 1014-1015). In another contribution, Lewis characterizes the Coreper as *"something of a chimera: to some: it resembles a bastion of intergovernmentalism; to*

[1] However, this is not the case for several types of voting, *inter alia,* also for the accession of new member states, where the requirement of an unanimity is still necessary, what amplifies the intergovernmental nature of the Council in this issue, which is going to be addressed in detail in subchapter about the Institutional approach to the EU enlargement.

others, it appears less like inter-state bargaining than a haven for Eurocrats to go native" (Lewis, 2012: 316). Altogether, the Coreper can plausibly be said to exercise an operational role of seeking supranational goals, even though it is clearly intergovernmental in its structure. Thus, it may be perceived to be the most supranational part of the Council, which both executive and legislative roles have always been largely in an intergovernmental mode (Goebel, 2013: 103-104).

The situation is rather similar or even identical considering the European Council – politically the most powerful and authoritative institution of the European Union, comprised of the political leaders, i.e. heads of states and governments of all member states. According to Goebel, it should be stressed that until the effective date of the Treaty of Lisbon, the European Council can be characterized as a purely intergovernmental body, since its decisions were always taken by consensus. Thus, it is somewhat surprising that despite its strong intergovernmental character, it has historically tended to take policy decisions promoting the progress of EU economic integration, as well as endorsing new policy programs in social policy, environmental protection or consumer rights (Goebel, 2013: 131). As professor Schoutheete (2012: 65) has accurately observed: *"the European Council has largely fashioned the Union as we know it today ... even if the European Council is basically intergovernmental in character, the system it has so largely contributed to is not mainly intergovernmental."*

In this regard, it is worth emphasizing that the European Council is only since the Treaty of Lisbon recognized as an official institution of the EU, with a precise articulation of its role, capacity to make "legally-binding" decisions, and authorization to make certain decisions other than by consensus. As indicated above, the Treaty of Lisbon has authorized two more facts, that represent a significant shift from the traditional intergovernmental nature of the European Council towards a supranational character. A possibility to take many important and sensitive operational decisions by a qualified majority vote as the former, and the creation of the office of President of the European Council as the latter. This altogether clearly points to a shift in its nature from a purely intergovernmental body to one with at least some supranational characteristics (Goebel, 2013: 133-141).

To sum up and conclude this debate, we have briefly described the core foundations and characteristics of the two dominant theoretical approaches to the development of European integration – supranationalism and intergovernmentalism, what led us to the definitional delimitation of both of them. Subsequently, we have closely looked at the main European institutions separately, by which we have analysed the extent to which each institution by its tradition, structure, and operations possesses a more supranational or an intergovernmental character. The Treaty of Maastricht and even more the Treaty of Lisbon have established or accentuated the supranational features of all institutions since the member states have yielded a bit more sovereignty to the supranational institutional structure. That is apparent mostly when it comes to the voting procedures. The overall conclusion is one in which the EU institutions, including even the Council and the European Council, historically and intrinsically intergovernmental in structure, have gradually moved towards the supranational nature and action. Although, as we will show later, the issue of the EU enlargement process and accession policy may represent one of the exceptions since by them the unanimity of all actors is still needed and inevitable.

1. 2 Division of competences within the EU

For the purposes of our thesis, it is important to stipulate and explain the classification of the powers and competences of the European Union here. As we will explain later, this subchapter will help us to substantiate the research question, posit the hypotheses, and clarify the research methods in the methodology chapter. Moreover, it will provide us a useful platform to analyse, discuss and assess the nexus between the selected competences and the selected chapters of the *Aquis Communautaire,* which are going to be described in chapter 3, devoted to the discussion as the empirical part of the thesis. Last but not least, we will also link this analysis to our previous theoretical debate on supranationalism and intergovernmentalism.

The Treaty of Lisbon, that came into force in December 2009, has clarified the division of competences between the EU and its member states and these are enumerated in the Treaty on the Functioning of the European Union (TFEU). However, they are divided strictly upon the basis of the fundamental and crucial EU principles of subsidiarity,

proportionality, and conferral, which are altogether stipulated in the Article 5 of the Treaty on European Union (TEU):

- *The limits of Union competences are governed by the **principle of conferral**. The use of Union competences is governed by the principles of subsidiarity and proportionality. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States. (...)*
- *Under the **principle of subsidiarity**, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. (...)*
- *Under the **principle of proportionality**, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties. (...)*

After the literal explanation of the principles upon which the competences are divided, we shall proceed to the enumeration of them in accordance with the wording of articles 3-6 of the TFEU. It is important to note, that already Article 2 TFEU deals with the categories and areas of Union competences, but its nature is rather general and all-embracing, and for the understanding of the division of competences within EU are more important articles 3 to 6 as follows:

Article 3 enumerates the areas, in which the EU alone is able to legislate and adopt binding acts. The member states are able to do so themselves only if empowered by the EU to implement these acts.

*"The Union shall have exclusive competence in the following areas: **(a) customs union**[2]**;** (b) the establishing of the competition rules necessary for the functioning of the internal market; (c) monetary policy for the Member States whose currency is the euro; (d) the*

[2] Bolded intentionally by the author in order to highlight the area, we are going to analyze in particular. The same applies below by the area of Environment.

conservation of marine biological resources under the common fisheries policy; (e) common commercial policy" (Treaty on the Functioning of the European Union).

Article 4 says that the Union shall share competence with the Member States where the Treaties confer on it a competence which does not relate to the areas referred to in Articles 3 and 6. Shared competences mean that the EU and EU countries are able to legislate and adopt legally binding acts. However, the member states can do so only where the EU has not exercised its competence or has explicitly ceased to do so.

"Shared competence between the Union and the Member States applies in the following principal areas: (a) internal market; (b) social policy, for the aspects defined in this Treaty; (c) economic, social and territorial cohesion; (d) agriculture and fisheries, excluding the conservation of marine biological resources; ***(e) environment[3];*** *(f) consumer protection; (g) transport; (h) trans-European networks; (i) energy; (j) area of freedom, security and justice; (k) common safety concerns in public health matters, for the aspects defined in this Treaty. In the areas of research, technological development and space, the Union shall have competence to carry out activities, in particular to define and implement programmes; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs. In the areas of development cooperation and humanitarian aid, the Union shall have competence to carry out activities and conduct a common policy; however, the exercise of that competence shall not result in Member States being prevented from exercising theirs"* (Treaty on the Functioning of the European Union).

Article 5 explains, in which areas the member states shall coordinate their policies within the Union. They encompass the economic, employment and social policies.

And finally, article 6 says in which areas, the Union can only intervene to support, coordinate or complement the action of EU countries, but legally binding EU acts must not require the harmonisation of EU countries' laws or regulations.

"The areas of such action shall, at European level, be: (a) protection and improvement of human health; (b) industry; (c) culture; (d) tourism; (e) education, vocational training,

[3] See footnote 2.

youth and sport; (f) civil protection; (g) administrative cooperation" (Treaty on the Functioning of the European Union).

Since the issues of the EU enlargement process and policy, as well as the accession process with a candidate country itself, are quite central to the presented volume, we are going to pay close attention to them from the three different - theoretical, institutional and practical - perspectives in the subsequent subchapters.

1. 3 Theoretical approach to the EU enlargement

Enlargement has both shaped and been shaped by the development of the European Union over the decades. In general, a successful accession of new member states is usually perceived to be one of the biggest accomplishments of European integration, since the membership of the European Union has increased significantly from the original six to the current number of twenty-eight[4] member states.

For the purposes of this thesis, we will adopt the Juncos's and Borragán's (2016: 228) understanding of the EU enlargement as both – *a process* and *a policy.*

- As a process, it involves the gradual and incremental adaptation undertaken by countries pursuing to join the EU in order to meet the membership criteria. The enlargement as the process became more complicated after the end of the Cold War when the Union had to respond to the accession ambitions of the newly democratized countries from the region of Central and Eastern Europe (CEE). This continues with time and the EU's membership requirements have been expanded and deepened for the prospective admission of the Western Balkan countries. In general, the number and diversity of countries wanting to join the Union have increased, what intensifies the need for the Union to also adapt its decision-making, policies, and institutional set-up to an ever-increasing and diverse membership.
- As a policy, enlargement refers to the principles, goals, and instruments defined by the EU with the aim of incorporating new member states. It is a typically more

[4] A table of all EU member states with a year of their entry is in the Annex. The United Kingdom is still a member of the EU at this point of time.

intergovernmental policy under which member states retain their strength over decision-making, while the Commission plays a delegated and advisory role monitoring the suitability of countries to join and acting as a key point of contact. The European Parliament must approve the accession of new members through the consent procedure and this all should be in accordance with the valid EU legislation. And this thesis will devote more attention to these institutional questions in its following parts.

What, however, complicates the situation about enlargement remarkably, is that the important stakeholders by the enlargement process and policy are not only the EU official institutions but also existing member states, mostly in a form of their democratically-elected parliaments and leaders, representing the current domestic political positions of the countries. Thus, logically, the bigger the club of the member states, the bigger is a possibility of a bilateral obstruction of the candidate country accession from the side of the incumbent member state. Accordingly, both the process and policy thanks to which a country can become a member of the EU has become more complex, complicated and conditional with time and a number of the member states. As Hillion (2011: 215) has insightfully summarized: *"enlargement rounds have varied historically due to internal factors, such as the nature of the membership composition, as well as the external ones like the political, economic and security climate of the day."* Today, the process represents a relatively hierarchical, institutionalized and formal mode of governance, designed to be an objective, predictable and linear and guided by strict constraints and decision-making procedures, which undoubtedly have their basis in legal agreements and treaties.

The ambition of the following lines is, therefore, based on the title and the aims of this volume, to characterize, and where possible or needed, also accentuate an important theoretical division between supranational and intergovernmental aspects of the European enlargement process and policy. In practice it means, that we will disaggregate the enlargement process and policy in its institutional nature, which Jakovleski (2015: 83) accurately describes as follows: *"formally speaking, enlargement is an intergovernmental process, suggesting the member states are firmly in control if its outcome. However, the EU's supranational actors, specifically the European Parliament and the European Commission also attempt to influence enlargement at various stages."*

This will meaningfully help us to discuss the answers on the research questions and hypotheses of this thesis.

Furthermore, Jakovleski (2015: 85-87) offers also the second valuable distinction which will be indirectly followed in this thesis, namely the distinction between the vertical (EU vs. candidate country) and the horizontal (intra-EU) dimensions of the institutional relationships, which are often not treated as theoretically relevant in the literature on EU enlargement. Broadly speaking, enlargement is the continuous process through which different actors coordinate their behaviours according to a set of common rules and objectives. In its vertical (top-down) dimension, enlargement process and policy encompasses bilateral negotiations between the candidate country and the EU institutions or its member states and fulfilling of the formal criteria for membership (mostly Copenhagen Accession Criteria, Acquis Communautaire) from the side of the candidate country. On the other hand, in its horizontal dimension, it encompasses relatively complicated communication and decision-making on the level of the EU institutions.

At the same time, it goes without saying that two dominant theoretical approaches, we have elaborated above, have a big say in all relevant EU policies and agendas, enlargement included. Or to put it conversely, EU enlargements is such a comprehensive process and policy, that it strongly challenges the explanatory power of two Grand Theories of European integration. Thus, our intention now is to illuminate their relations to the enlargement process and policy.

When it comes to supranationalism*,* it explains several aspects of enlargement, such as the role of interest groups, supranational and transnational actors, or a neo-functional logic of the irreversibility of the accession process. Later on, we will extensively focus mainly on the role, capabilities, and competences of the supranational institutions – the Commission and the Parliament – during the enlargement process and within the enlargement policy. In general, they both take a pro-enlargement stance, what is given by their supranational nature, which inherently stresses the common interest of the Union, as opposed to the specific interests of various member states, represented by the intergovernmental approach. Moreover, the supranational institutions facilitate the enlargement process through their detachment from state-centric or state-level interests

and their adherence onto the common European interests, ideas, and values (Ellison, 2006: 151).

On the other hand, the contribution of intergovernmentalism into the enlargement debate is following and twofold. Firstly, it focuses on the asymmetrical relationship between the incumbent member states and the candidate countries. Using Jakovleski's terminology, this relationship is rather vertical, often several years long and fulfilled by more or less political and technical rounds of negotiations between the representatives and institutions of the EU as such, or its member states respectively. In this case, one may speak partially about the bilateral (country-to-country) dimension of the relationship. Vachudova (2005: 65-79) reminds, that in this perspective, the member states sometimes tend to behave as an exclusive club dictating the terms of accession to new members, whereas the candidate country (or countries) has (or have) to accept such demanding accession criteria, for instance, even possible temporary restrictions in various areas, just in order to avoid an exclusion from the EU enlargement.

Secondly, intergovernmentalism explains how states bargain and negotiate with each other within the EU institutional framework, i.e. in the Council of the European Union[5] and the European Council, what remarkably resembles the Jakovleski's horizontal relationship dimension. In regard to this perspective, Juncos and Borragán (2016: 236) admit that intergovernmentalism is somehow unable to explain why the member states always decide to go ahead with accession talks, although new members bring along extra financial demands on incentives and subventions, lesser cohesion within the Union or geopolitical costs of the territorial expansion.

1. 4 Institutional approach to the EU enlargement

The intention of this subchapter is to characterize the key facts, changes, and developments in the decision-making regarding the role of the different institutions and actors (the Commission, the Parliament, the Council, the European Council, and member states) involved in the accession process and policy of the EU Enlargement. At the same

[5] The situation is, as already outlined, confusing and blurred, because of the two voting systems in the Council – unanimity and qualified majority voting, what is going to be explained in detail below.

time, their supranational or intergovernmental features will be highlighted, where possible or needed.

As briefly outlined above, institutionally speaking, the EU enlargement represents a mix of actions and operations driven by all main EU institutions, which posit a bunch of challenging questions. This may be documented, and partially illuminated, also by the correspondent provision of the Treaty on European Union (TEU), whose Article 49 stipulates: "*Any European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.* ***The European Parliament*** *and* ***national Parliaments*** *shall be notified of this application. The applicant State shall address its application to* ***the Council****, which shall act unanimously after consulting* ***the Commission*** *and after receiving the consent of* ***the European Parliament,*** *which shall act by a majority of its component members. The conditions of eligibility agreed upon by the* ***European Council*** *shall be taken into account. The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements."*

The European Commission[6] plays a major role in managing the negotiation process with the countries wishing to join, nevertheless, it is formally not an official signatory party to the accession treaties. Its formal role can be described as one of a conditional agenda-setter, based on its role in monitoring and providing recommendations (Tsebelis, 2001: 370). One of the main Commission's preferences is to obtain a greater role over enlargement proceedings where possible, i.e. where the Treaties allow it. On the one hand, the Commission attempts to do this by accelerating the enlargement process, because the role of the Commission gradually increases the further along the path to the EU a candidate country moves. This is due to its expertise and the technical nature of the final stages of the accession negotiations. The Commission is also trying to show the continuous progress and success in the negotiations, even though pushing for enlargement

[6] The names of the institutions are here as well as above and below bolded intentionally by the author in order to increase the clarity of the text.

when the political or economic climate is not favourable may be contra-productive (Jakovleski, 2015: 89-90).

On the other hand, there are important constraints regarding the extent of the Commission's overreach vis-à-vis member states, represented separately or within the Council, caused by the fact that, as will be noted later, one of the Council's prerogatives is to conduct the negotiations with the candidate countries. The relationship between these two institutions has been intricate during all previous enlargement rounds. As Sedelmeier (2010: 418-419) claims, although only the TEU Article 49 refers to the Council's need to consult the Commission during the process, in fact ever since the first accession of the United Kingdom, Denmark and Ireland in 1973, the Commission has provided a detailed formal opinion[7] covering candidate's political, administrative, judicial and economic status, on which the Council relies both during the subsequent negotiations, as well as in deciding whether the candidate is suitable for accession. Interestingly, the Council almost always - with only one exception of Greece - acts in accordance with the Commission's opinion, although it is not binding. Furthermore, the Commission regularly reviews and evaluates in annual reports the candidate's status and progress toward achieving the necessary conditions for accession to the EU.

As Jakovleski (2015: 90) reminds, the Commission's opinion and reporting on enlargements to the Council is quite dependent on its relationship with the candidate country. Naturally, the Commission is better able to attain its preferences for enlargement when the candidate shows a good record of reforms and what makes significantly easier for the Commission to convince member states about the benefits of enlarging the Union as such. Considering the relationship between the Commission and the Council, Jakovleski's interviewee, who was a Council delegate of a state that recently joined the EU (probably a Croatian one), sums it quite well and wittily saying that "*when the Commission helps candidates and pushes enlargement forward, it is "your best friend before membership," yet once those candidates join the Union, the Commission*

[7] In the EU terminology, this opinion is commonly termed from French equivalent as *avis.* The procedure is that once a country has formally submitted an application for membership to the Council of the European Union, the Commission is invited to submit its so-called *avis* (opinion) to the Council. In the *avis,* the Commission presents recommendations about the process, including any conditions for immediate accession talks (Cini & Borragán, 2016: 391-392).

becomes" your biggest enemy," because it then pushes existing members for furthering enlargement" (Ibid.).

As it was articulated earlier, **the European Parliament** represents a powerful supranational force in all of its operational roles within the EU institutional system. Thus, it is not surprising, that it plays a role also in the enlargement process, however, this role is relatively minor, comparing to its influence on the internal EU policy issues. Undoubtedly, the most important Parliament's competence in this regard is so-called consent, or, in the alternative, a veto, power over any proposed accession by a candidate country to the EU, pursuant again to the TEU Article 49. The EP was first granted this power, at that time called assent, in the Single European Act (SEA) in 1987, subsequently carried over into the Treaties. Accordingly, the Parliament held formal votes in favour of all following enlargement rounds since 1995 (Goebel, 2013: 121).

Apart from this, however, the Parliament is often completely side-lined by the Council during the intermediary stages of the enlargement process. In practice, the Parliament has a more ideational approach towards the enlargement policy underpinned by its relatively higher democratic legitimacy compared to other institutions. Yet, its involvement remains separated from actual decision-making procedures on enlargement policy, or in a better situation, dependent upon information provided by the Commission. As Jakovleski (2015: 91) claims, *"the Parliament's inability to assert itself over enlargement matters is attributed to its lack of expertise on enlargement policy and weak capacity to institutionally engage in daily policy-making. This is because enlargement itself is a political game, and not a legislative one where the Parliament can assert itself and challenge the authority of member states."* A partial exception to this claim represents Parliament's Committee on Foreign Affairs (AFET), which appoints standing rapporteurs for all candidate and potential candidate countries. Their responsibility is to report to the Parliament on the political, economic and social developments in the candidate countries concerned. By visits to the candidate countries and establishing contacts not only with politicians but also with the business community, university professors, representatives of minorities and average citizens they try to get an accurate assessment of these developments. Sometimes the rapporteurs, or other MEPs, are also involved in monitoring elections and referenda in the countries. Other standing committees of the EP consider the relevance of enlargement in the areas for which they are directly competent

and act in forms of the adoption of legislative or non-legislative reports, recommendations or the organisation of debates or conferences (European Parliament, 2018a).

The Council of the European Union exercises a key constitutional role with regard to the accession of new member states. Already the original Treaty establishing European Economic Community from 1957 stipulated that any candidate country must apply to the Council, which has to approve the application unanimously. Although both Treaties of Maastricht and Lisbon have added procedural requirements of the Commission's consultation and reports and consent (or assent) from the side of the Parliament, the ultimate decision still remains one in which the Council must act unanimously. The requirement of unanimity means that all member states serve as veto players, what is, according to Goebel (2013: 106): *"obviously necessary, because the final step in the accession process is the ratification of an accession treaty by all the member states."* Unanimity requires everyone to agree or abstain from voting, meaning that abstention does not prevent a decision from being taken. An official website of the Council states that the Council has to vote unanimously on a number of matters which the member states consider to be sensitive, among which, inter alia, are also the matters related to the EU membership (Council of the European Union, 2017a).

This is an immensely crucial fact relating also to the theoretical debate, whether the Council is more a supranational or an intergovernmental body. The Council is one of the four major EU institutions, thus, as such, it is supranational. This assertion might be supported also by the fact that a need of the qualified majority voting system in all matters but enumerated above, has significantly shifted the Council in the direction of supranationalism. On the contrary, the Council remains predominantly intrinsically intergovernmental in structure, as the main institution representing the member states' governments (and interests), as well as partially in decision-making, where each member state has veto power over the most important matters, EU membership included.

From the practical point of view, the dominant configuration[8] of the Council that deals with the enlargement matters is the General Affairs Council (GAC). It establishes and

[8] Altogether there are 10 configurations of the Council: General Affairs (GAC), Foreign Affairs (FAC), Economic and Financial Affairs (Ecofin), Agriculture and Fisheries (Agrifish), Justice and Home Affairs (JHA), Employment, Social Policy, Health and Consumer Affairs (EPSCO), Competitiveness (COMPET), Transport, Telecommunications and Energy (TTE), Environment (ENV), Education, Youth, Culture and Sport (EYC).

supervises the whole EU enlargement process and accession negotiations. In practice, the GAC decisions open a technical evaluation procedure that will determine whether:

- the country meets all the necessary criteria for consideration as an official candidate for EU membership;
- formal membership negotiations can be opened and successfully closed;
- the candidate country can join the EU.

When a country submits an application to join the EU, the Council invites the European Commission to submit its opinion on this application. Later on, the ministerial discussion and any potential decisions are based on the Commission's annual enlargement strategy and individual progress reports on each candidate country (Council of the European Union, 2018a).

Finally, **the European Council,** as probably still the most intergovernmental EU institution, which plays only a minor and informal role in the accession process, but an important one in the enlargement policy. As its main mission is to determine the EU's general political direction and strategic priorities, *"all important new initiatives either originate in the European Council or receive from it its seal of approval, including the revisions of the Treaty and accession of new member states."* (Hayes-Renshaw & Wallace, 2006: 170).

Even though the above-cited TEU Article 49 mentions that *"the conditions of eligibility agreed upon by the European Council shall be taken into account"*, the European Council has literally no responsibilities regarding the accession process itself, as it is not one of the EU's legislating bodies at all. Despite this fact, the European Council has made one outstanding input into the process of the enlargement, namely the adoption of the Copenhagen Criteria at the European Council summit of June 1993, which are valid until these days and together with similarly important terms will be defined in the following subchapter.

1. 5 Accession process of a candidate country to the EU in practice

Our ambition in this subchapter is to provide a reader with an overview of the practical steps of the accession process of a candidate country (for our research it is Montenegro, what will be explained in the methodology chapter) to the European Union. Simultaneously, we will try to define as exactly as possible the crucial terms of the accession process, such as Copenhagen Criteria, Acquis Communautaire, or accession negotiations, what will help us to avoid mistakes and discrepancies in their usage within the following parts of this volume.

Although the main actors, i.e. European institutions, incumbent member states, and candidate countries, remain the same, the process through which a country becomes a member of the European Union has remarkably evolved over time. Even without providing a deeper look into the distant past, we may claim that before the Eastern enlargement in 2004, the procedure was much more straightforward and simpler. In reality, immediately after the end of the Cold War, the newly-established democracies of the central and eastern Europe expressed their will and eagerness to become the members of European integration project. At those times, the EU enlargement had a strong symbolic dimension and was regarded as a tool for implementation of democracy and prosperity as well as the building of a stable and secure environment for these countries. The European Union was, immediately after adoption of the Maastricht Treaty, prompted to establish a better-defined staging of the accession process and a comprehensive set of political and economic requirements and accession conditions, which are since then known as the Copenhagen criteria (Juncos and Borragán, 2016: 229-231).

Prior to the Copenhagen criteria, stipulated below, there are also two more eligibility points that an applicant country must fulfil at first:

- *be a state within geographical Europe; and*
- *respect and commit to the values set out in Article 2 TEU, namely: respect for human dignity, freedom, democracy, equality and the rule of law; respect for human rights, including the rights of persons belonging to minorities; and respect for a pluralistic society and for non-discrimination, tolerance, justice, solidarity and equality between women and men* (Summary of Joining the EU - the accession process, 2016).

The Copenhagen criteria, named after the place where they were in June 1993 adopted, in general, define the crucial and rather strict political, economic and infrastructure conditions that had to be satisfied by the candidate country in order to join the EU. Specifically, they are:

1. *stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities;*
2. *a functioning market economy and the ability to cope with competitive pressure and market forces within the EU;*
3. *ability to take on the obligations of membership, including the capacity to effectively implement the rules, standards, and policies that make up the body of EU law (the 'acquis'), and adherence to the aims of political, economic and monetary union* (Glossary of summaries, 2019).

Just for the sake of completeness, we add that the European Council that took place in Madrid in December 1995 added that the candidate country must be able to apply EU law and must be able to ensure that the EU law transposed into national legislation is implemented effectively through appropriate administrative and judicial structures.

Acquis Communautaire is another term, which is immensely important for both the accession process, as well as for this thesis, and represents the body of common rights and obligations that are binding on all EU countries, as EU Members. Currently, the Acquis[9] as such is divided into 35 chapters[10] or policy areas and each of them must be negotiated separately. Candidate countries have to accept the Acquis before they can join the EU. Derogations from the Acquis are granted only in exceptional circumstances and are limited in scope. The Acquis must be incorporated by applicant countries into their national legal order by the date of their accession to the EU and they are obliged to apply it from that date. All in all adoption and implementation of the Acquis are the basis of the accession negotiations (Glossary of summaries, 2019).

[9] Acquis is a constantly evolving body, that comprises: the content, principles and political objectives of the Treaties; legislation adopted in application of the treaties and the case law of the Court of Justice of the EU; declarations and resolutions adopted by the EU; measures relating to the common foreign and security policy, justice and home affairs; international agreements concluded by the EU and those concluded by the EU countries between themselves in the field of the EU's activities.

[10] They are all stipulated in detail in the Annex.

After the definitions of the Copenhagen criteria and Acquis Communautaire, we have to shed light also on the accession negotiations with a candidate country, which are launched only when all EU governments, meeting in the European Council, have unanimously agreed upon accession. Negotiations take place in intergovernmental conferences between the governments of the EU countries and that of the candidate country. They help candidate countries to prepare for EU membership as well as allow the EU to prepare itself for enlargement in terms of absorption capacity. The Council decides unanimously whether to open each chapter.

Negotiations under each chapter of the Acquis are based on the 2 main elements:

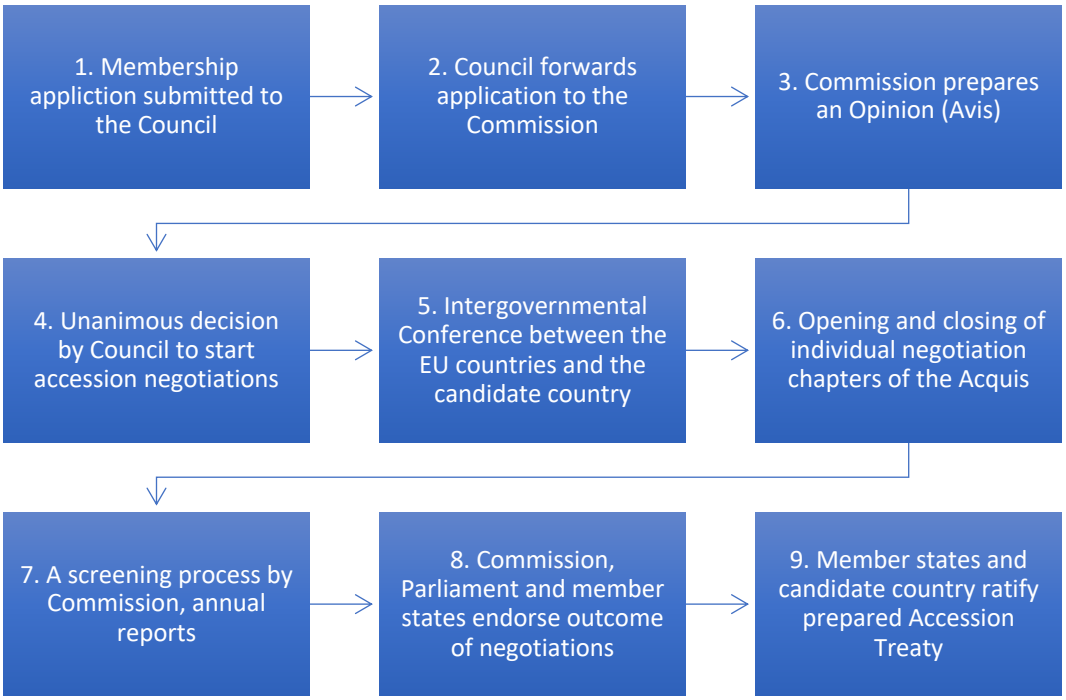
- Negotiating positions – before negotiations can start, the candidate country must submit its position and the EU must adopt a common position. For most chapters, the EU will set closing benchmarks in this position which need to be met by the candidate country before negotiations in the policy area concerned can be closed. No negotiations on any individual chapter are closed until every EU government is satisfied with the candidate's progress in that policy field, as analysed by the Commission. And the whole negotiation process is only concluded definitively once every chapter has been closed.
- Screening process – this consists of verifying whether individual items of the Acquis listed in a given chapter have been transposed into the law of the candidate country. Only when the candidate country shows that it has already implemented a chapter the Acquis, or that it will implement it by the date of accession, can that chapter be provisionally closed. The exception is where a candidate country agrees to special arrangements with respect to a part of the Acquis. The findings by chapter are presented by the Commission to the Member States in the form of a screening report. The conclusion of this report is a recommendation of the Commission to either open negotiations directly or to require that certain conditions – opening benchmarks - should first be met.

When negotiations on all chapters are completed, the terms and conditions - including possible safeguard clauses and transitional arrangements - are incorporated in an accession treaty. This treaty needs the European Parliament's consent and the Council's unanimous approval. All contracting states then ratify it in line with their own

constitutional rules. (Glossary of summaries, 2019; Summary of Joining the EU - the accession process, 2016; European Commission: Steps towards joining, 2016).

After all, we will visually depict the accession process with a focus on the role of the individual EU institutions and member states therein. The aim of the following figure 1 is to visualise and emphasize how intricate, complex, and long the accession process is, and how many times both supranational and intergovernmental actors step into that.

Figure 1: A simplified model of key stages of the accession process to the EU



Source: Prepared by the author, inspired by Juncos and Borragán (2016: 234).

1. 6 Conditionality and intergovernmentalization in the accession process

The last subchapter of the theoretical debate is devoted to the recent trends in the enlargement process and policy, that are relevant for our volume. The Eastern big-bang enlargement was a great accomplishment for European integration, however, the further development forced the European Union and especially its incumbent members to become more attentive during the accession process. This has displayed in increased meritocracy, conditionality and internationalization of the accession process.

The extremely complicated procedure of the accession process, as it was described earlier, led to the creation of a complex monitoring mechanism managed within the Commission's Enlargement Directoriate-General (DG), which is today called DG for Neighbourhood and Enlargement Negotiations (DG NEAR). This body acts as a gate-keeper and deciding when a country is ready to move to the next stage of the accession process. Compliance is monitored regularly by the annual reports created by the Commission and the whole process follows also the benchmarks in different documents. In case of the Western Balkan states, these are called Stabilization and Association Agreement (SAA). Although political considerations play a role here as well, the aforementioned facts show us that the enlargement process is also strongly merit-based (Vachudova, 2005: 112-113).

Accordingly, this merit-based approach creates a space for differentiation and the preference for bilateralism in the EU's relations with candidate countries. This happened twice during the preparation of the "big-bang enlargement round" of 2004, when 5 countries started the negotiations already in 1997 as a result of the Luxembourg Council (Luxembourg Group), followed by six others (in addition to Malta) as the Helsinki European Council in 1999 (Helsinki Group). And however, five states which were initially left behind made it to catch up the first group and were among 10 states accessing in May 2004, Romania and Bulgaria were not deemed ready to join the EU and had to wait until 2007. To support the argument about the meritocratic nature of the process, let us remind also that Croatia has entered the Union alone in 2013, right after fulfilling all criteria and finishing the complex accession procedure. Furthermore, a current state of play regarding the Western Balkan enlargement round indicates that it will likely be again

a multi-speed process, in which countries are going to access individually or in smaller groups rather than *en bloc*.

These episodes are showing us that the principles of conditionality and meritocracy are increasingly important in the EU enlargement policy and process, what the Council repeatedly reminds, lastly for example in the Conclusions from the GAC meeting in June 2018: *In line with previous Council conclusions, and in the framework of the Copenhagen political criteria and of the Stabilisation and Association Process, which remains the common framework for relations with the Western Balkans, the Council reaffirms the need, in accordance with the renewed consensus on enlargement, for fair and rigorous conditionality and the principle of own merits*, *combined with the EU's capacity, in all its dimensions, to integrate new members* (Council of the European Union, 2018b: 3).

The lessons learnt from the 2004 and 2007 enlargement rounds, however, have logically led to a more comprehensive and strict application of conditionality and merit-based approach from the side of the EU towards prospective member states, at the moment especially those of the Western Balkans. As Miščević and Mrak (2017: 190-192) describe, EU institutions and member states have become significantly more attentive to the issues of unresolved border disputes, consistent fulfilment of the Acquis chapters, or setting early deadlines for the completion of the negotiations. In addition to this, a wide phenomenon of so-called enlargement fatigue and growing scepticism among European citizens in many member states towards a further widening of the EU have contributed its part to the slowing down of the EU enlargement dynamics towards the Western Balkans. Furthermore, as the EU has been predominantly dealing with the economic and migrant crises and the whole Brexit issue during the last years, the importance of the enlargement agenda has been marginalized and minimized.

In relation to our previous debates about the theoretical and institutional aspects of the enlargement, the same authors state that the relative power of the supranational European Commission, which has traditionally been a bold supporter of the EU enlargements, has been weakened and consequently the position of the Council and member states has been amplified. They argue that the enlargement process is now run more on the intergovernmental basis than was the case during the large Eastern enlargement. The Commission continues to play a central bureaucratic role, but the role of the member

states, through the Council and the European Council, operating in the intergovernmental mode, has become more direct and explicit (Ibid. 193).

To support this, O'Brennan (2013: 39) offers a bunch of examples through which the Council, rather than the Commission, is increasingly setting the benchmarks for delineating progress in accession negotiations and thus largely determining the pace at which negotiations proceed. This more latent intergovernmental mode of enlargement decision-making was already evident for example when Slovenia made maritime territorial demands of Croatia or in the Greek long-lasting objections to FYROM's name (recently resolved with an agreement that the country should rename itself Republic of North Macedonia). These examples indicate the extent to which the enlargement process has been removed from its own internal, rational and normative decision-making logic and is now subject to increased politicization and a growing number of bilateral conditions that would have been considered inappropriate before.

The increasing role of the individual member states in the EU enlargement policy towards the Western Balkans might be nicely summarized by the following quote from the Executive Summary of the European Policy Centre (EPC) Paper called *EU member states and enlargement towards the Balkans*, where the authors write about *"increased national safeguards and mechanisms to steer and control the conduct of enlargement; increased 'intergovernmentalisation' in the sense that the General Affairs Council and the European Council assume a more decisive role in decision-making on enlargement, often overruling or ignoring the Commission's opinion; and the growing influence of domestic politics at key moments of the enlargement process and over outcomes in the dossier"* (Balfour and Stratulat, 2015: xiii).

Similarly, Hillion (2010: 6) states that motivated by the past experiences of some candidate countries' lack of preparedness for admission, several adjustments have been made in recent years in order to strengthen the control of the EU member states over the conduct of the enlargement process and policy. He critically asserts that instead of analysing candidate prospects from a purely objective set of criteria, the nationalization of the enlargement has introduced a whole host of legal and political hurdles, slowed down the accession process and raised also new questions about the credibility and effectiveness of the enlargement process and policy. In addition to this, the EU has

expanded the role of conditionality at all stages of the enlargement process and the ”New Approach to EU Enlargement Negotiations” is based on stronger consolidation, conditionality, and communication (Ibid.:15).

All these theoretical observations of various scholars are finding their practical implications in reality from 2006 on, since when the accession negotiations are guided by the opening and closing benchmarks, which are required to be met to either open or provisionally close the specific chapter. This fact is especially important for our research, because as Miščević and Mrak (2017: 196) write, the benchmarks were actually used for the first time for opening of negotiations with Montenegro and since then have become an integral part of every chapter and an important instrument for a more structured approach to the accession negotiations. Since 2011 the conditionality is further equipped by the newly introduced “fundamentals first” pillars which stipulate the rule of law conditionality elaborated in Acquis chapter 23 - Judiciary and fundamental rights and Acquis chapter 24 - Justice, freedom and security, that must be tackled from the beginning of the negotiations. In practice, this means that these two chapters are the first ones to be opened and the last to be closed and throughout the whole process are under extraordinary supervision. Furthermore, this practice gives them a role of so-called “controller” or the negotiations or “imbalance clause” which means that any delay in implementation of the obligations under these two key chapters may mean the activation of mechanism that stops negotiations on all other chapters as well. This, together with aforementioned benchmarks, posits just another evidence of how the negotiations are increasingly in hand of the EU member states. Miščević and Mrak (2017: 197) conclude that each step of the accession process now is far more difficult and politicized than ever before, what might be nicely documented by the note, that Montenegro has twice as any “interim benchmarks” in chapters 23 and 24 only, than was the total number of all benchmarks in Croatia’s EU accession negotiations.

Whether the advanced accession process of Montenegro is really that much dominated by the EU member states, or the powerful European Commission still has a strong voice in it, at least by the policies, which are in the EU exclusive competency, is going to be the analysed and evaluated in subsequent empirical part of this thesis.

2 RESEARCH DESIGN AND METHODOLOGY

2. 1 Research question and hypotheses

A cornerstone of the presented thesis is the analysis of the relationship of the two dominant theoretical paradigms or approaches of European integration - supranational and intergovernmental - towards the EU enlargement on the example of the accession process of Montenegro. The supranational approach is understood mainly by the activities and policies of the European Union as such, predominantly its clearly supranational institutions, the European Commission and the European Parliament. The intergovernmental approach is conceived on the national, or better to say, bilateral level, i.e. by the activities and policies of the incumbent EU member states in direct relationship to Montenegro, or within the Council.

In fact, the research goes into depth by analysing not the complex accession process as such, but the relation and attention of various European institutions and member states to the particular and selected negotiation chapters of the Acquis, which are deliberately selected to answer the research question and to assess the hypotheses of this thesis. The process of this selection is explained in subchapter 2. 3. However, in order to analyse, discuss, and assess the nexus between the selected chapters of the Aquis and the approaches of supranationalism and intergovernmentalism towards the EU enlargement on the example of the accession process of Montenegro, we have decided to associate them with the internal structure of the EU policies according to the division of the EU competences, stipulated in the TFEU, and within this thesis, discussed in subchapter 1. 2.

That said, we posit that the supranational approach, embodied in activities of the supranational institutions of the European Union, will be dominant by the chapters of the Acquis, which are closely connected to the exclusive competences of the Union.

Whereas, the intergovernmental approach, embodied in activities of the individual member states, will be dominant by the chapters of the Acquis, which are closely connected to the shared competences of the Union.

To put this all by a single core research question: *To what extent, and whether at all, does the behaviour of the EU as such, represented by the EC and the EP (supranational approach) and its member states, represented bilaterally or by the Council and the EC*

(intergovernmental approach) in the accession process of Montenegro correspond with the internal structure of the EU policies according to the division of the EU competences?

An important methodological aspect of the thesis, which needs to be also clarified in the chapter of research design and methodology is a delimitation of its hypotheses. Based on the theoretical debate elaborated above, we have decided to determine and set up the following hypotheses:

- H1: A supranational approach, embodied in activities of the supranational institutions of the European Union, will be dominant by that chapters of the *Acquis,* which are closely connected to the *exclusive* competences of the Union.
- H2: An intergovernmental approach, embodied in activities of the individual member states, will be dominant by that chapters of the *Acquis*, which are closely connected to the *shared* competences of the Union.

The thorough answer on the aforementioned research question as well as the coherent evaluation and assessment of these hypotheses are provided in the conclusion of this volume.

2. 2 Selection of Montenegro as the main object of the thesis

The research design of the thesis, as partially indicated above, seeks to deal with the details of the accession process of Montenegro to the European Union. Montenegro has been chosen to represent the main object of the presented thesis from following - very pragmatic and logical - reasons. Broadly speaking, Montenegro is in a leading position on its path towards the EU accession and a likely candidate to meet the 2025 accession date suggested by the European Commission's latest 2018 enlargement strategy (European Parliamentary Research Service (EPRS), 2018). This assertion might be illuminated by a brief explanation of the status of other five aspirants from the Western Balkan region (Figure 2), where

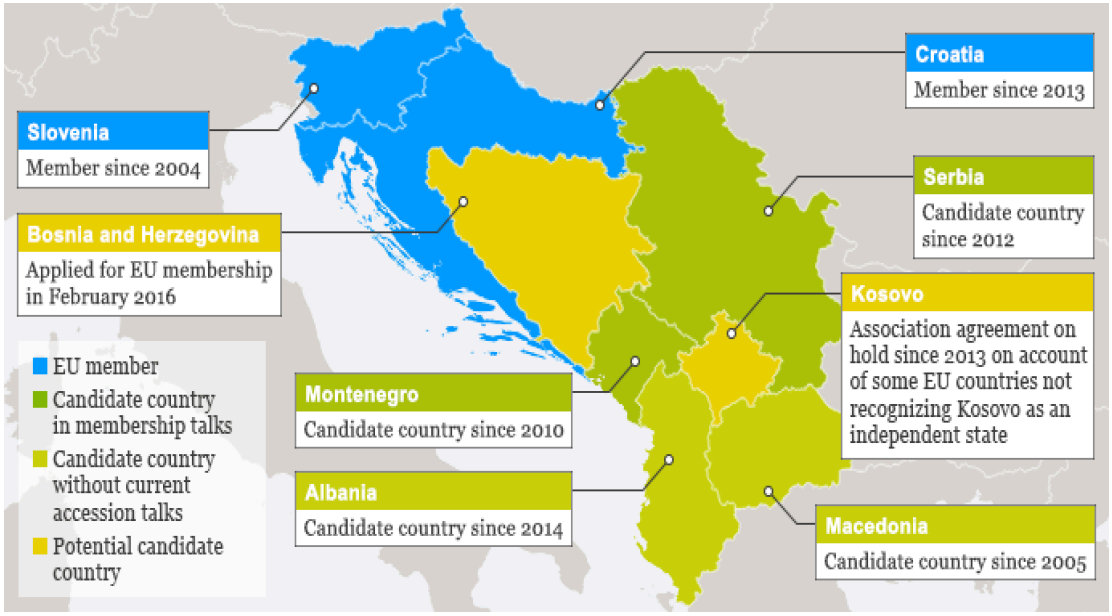
- Albania (Candidate),
- Bosnia and Hercegovina (Potential candidate/Applicant),
- Kosovo (Potential candidate/Applicant with disputed status),
- North Macedonia (Candidate),

- Serbia (Negotiating candidate)

are well behind in the EU accession process and with major issues of multiple causes, such as bilateral disputes with its neighbours, corruption, the rule of law or democracy quality concerns. Naturally, as the above-cited EPRS report also reminds, despite many favourable developments, Montenegro has still a lot of work ahead in order to reach EU standards in many areas, such as respect for the rule of law, media freedom or the fight against corruption and organised crime (Ibid.).

All in all, a current Montenegro's negotiation status is, that out of a total of 35 negotiation chapters, 32 chapters have now been opened for negotiations of which 3 chapters have already been provisionally closed (Council of the European Union, 2018c).

Figure 2: Western Balkans and the EU



Source: DW. (2018). EU to start membership talks with Macedonia and Albania. Available at: https://p.dw.com/p/30Kvp [Accessed: 18 March 2019].

Further reasons for Montenegro being ahead with the EU accession talks in comparison to its Western Balkan peers are that it became the first country from six current Western Balkan candidates and potential candidates for EU membership to start accession negotiations with the EU already in 2012, and more importantly, Montenegro also joined

NATO in June 2017, achieving another strategic foreign policy priority and claiming an immensely important signal implying a major step forward on the country's pro-Western course (EPRS, 2018).

Interestingly enough, Montenegro has one more important connection with the EU since 2002, even before gaining independence from Serbia, when country unilaterally adopted the euro as its de facto currency. It means that the euro is not legal tender there, but is treated as such by the population. Before 2002, Montenegrins used German marks (European Central Bank, 2019). Although this might seem like an advantage for the integration efforts of Montenegro at first glance, the opposite is true. This issue has proven to be quite sticking for Montenegro's bid to join the EU since the EU institutions, on the forehead with the European Central Bank have repeatedly voiced their discontent over this unilateral use of the euro, as this is incompatible with the Treaties of the EU. Diplomats have suggested that it's unlikely Montenegro will be forced to withdraw the euro from circulation in their country just to adopt it again after accession to the EU, however, the specific provisions in relation to this matter will have to be negotiated clearly in the final accession agreement (Caso, 2018).

2. 3 Selection of analysed Acquis chapters

In order to answer the research question and evaluate and assess the veracity of the hypotheses, we are going to study and analyse two particular Acquis chapters of Montenegro's accession negotiations – one for the supranational approach (subchapter 3. 2) and one for the intergovernmental approach (subchapter 3. 3).

The first one will be chapter 29 – Customs Union because this chapter covers such a policy area, that is according to the EU internal policy structure in an exclusive competence of the European Union, in accordance with the division of the EU competences described in subchapter 1. 2. Customs union is literally stipulated in article 3 TFEU as an area, in which the EU alone is able to legislate and adopt binding acts. Practically speaking, this means, that the customs union Acquis consists almost exclusively of legislation which is directly binding on the member states.

The second one will be chapter 27 – Environment and Climate changes, as the content of this chapter overlaps with the policy area of environment that belongs to the shared competence of the member states and the EU, in accordance with the division of the EU competences described in subchapter 1. 2. The policy area of environment is stipulated in article 4 TFEU as an area, in which both the EU and EU countries are able to legislate and adopt legally binding acts. However, the member states can do so only where the EU has not exercised its competence or has explicitly ceased to do so. In practice, the EU has its common environmental policy but many of its member states are well-known for their high environmental standards as well.

An informed reader could argue and object that supporting or complementing competences from article 6 TFEU are more suitable for the research of the intergovernmental approach. However, this is not the case, because by these areas, legally binding EU acts must not require the harmonisation of EU countries' laws or regulations.

Two aforementioned chapters have also been selected because they both have the same status as currently opened and not yet provisionally closed within Montenegro's accession process.

2. 4 Research methods

The thesis employs several research methods in the course and process of obtaining, explaining, interpreting and evaluating of all included information.

Firstly, since the research deals with a specific case study analysing the details of the accession process of Montenegro to the European Union from the perspective of the two theoretical approaches, thus we identify it as *a comparative case study analysis.* Therefore, the research is based on the usage of *qualitative comparisons*. This type of a research method is chosen and occurs on several places of the thesis, because the title, research question as well as the hypotheses of the thesis are formulated into a form of juxtapositions, that compares two variables – theories, institutions, chapters, etc. In other words, we compare two theoretical paradigms represented by approaches of several actors to Montenegro's accession to the EU, both the EU institutions and the incumbent EU member states. For the purpose of the best possible explanation and understanding of

these comparisons, we provide you with an illustrative scheme of these comparisons (Figure 3).

Figure 3: Scheme of the qualitative comparisons

Source: Prepared by the author.

Secondly, a qualitative scientific method of *document (documentary) analysis* is used extensively to break down the comprehensive activities and strategies of all EU enlargement stakeholders, i.e. the European institutions, EU member states and one candidate country - Montenegro, in a form of statements and opinions of their representatives, diplomats, and experts into more straightforward ideas and practical steps. By this, we mean an evaluation and analysis of public reports and articles, press releases and conferences as well as their electronic communication with an author, and any other sources of relevant information about the analysed issues. The document analysis should help us to assess and examine the complex problems separately and rigorously. As Bowen describes, document analysis is a systematic procedure for reviewing or evaluating documents - both printed and electronic (computer-based and Internet-transmitted) material, which requires that data be examined and interpreted to elicit meaning, gain understanding, and develop empirical knowledge (Bowen, 2009: 27-29).

As usual, documentary analysis serves mostly as a complement to other research methods and thus, subsequently, a scientific method of *synthesis* has to be used as well, in order to interpret and evaluate these partial ideas and practical steps from analytical part with a final ambition to answer the research question and hypotheses as plausibly and thoroughly as possible. By this we mean a process, in which we are going to interpret and evaluate the findings in such a manner, that would maximally help us to answer the research question as well as judge the veracity of the stated hypotheses.

Lastly, to a large extent, a theoretical method of *abstraction* has to be used, by which we mean that on several places, the thesis defines its limitations and caveats, where it must abstract from complex explanations of European integration historical development, many intricate legislative issues of the EU law system or other details, not considered to be relevant to the main aims of this volume. These constraints are partially given also by a limited scope, research question, and hypotheses of the thesis, which are stipulated above. All in all, the method of abstraction significantly simplifies the thesis, which contributes to maintain its content as well as formal dynamics.

2. 5 Research sources

Subsequent discussion and conclusion, i.e. the empirical part of the thesis, is drawn mainly upon the publicly available documents or reports accessible on the official websites of the European Union institutions – the Commission, the Parliament as well as both Councils. By this, we mean various screening or annual reports, minutes from meetings, press releases, articles, etc. In addition, the websites of Montenegro's official institutions and ministries are utilized, predominantly the pages of the Ministry of Foreign Affairs, European Integration Office and the official website of the Government of Montenegro devoted to the accession process.

Furthermore, we seek to enrich and underpin the research by the information, opinions, and statements gained from the interviews or electronic correspondence with relevant personalities, responsible officials or diplomats which have a very close look at the EU enlargement process and policy as such, and Montenegro accession negotiations, in particular. The respondents come from the European Commission's DG NEAR, the European Parliament's Committee on Foreign Affairs (AFET), the Slovak Ministry of

Foreign and European Affairs, the Czech Ministry of Foreign Affairs, and the European Integration Office of Montenegro established by the Government of Montenegro.

Naturally, a majority of the sources used in the practical part of the thesis reflects the most recent developments of the accession process of Montenegro to the EU, i.e. predominantly sources issued during last months or years.

The final list of all sources that were used during the process of elaboration of this thesis, both in its theoretical and practical parts, is stated at the very end of this volume.

2. 6 Expected contribution of the thesis

From the methodological point of view, the main contribution of the thesis is in its comparative nature and extensive inclusion of the various EU enlargement stakeholders on the side of the research subjects, i.e. not only one state or institution, but various EU member states and all main EU institutions. On the contrary, at the side of the research object, there is just and only one candidate country with the highest possibility to become the next accessing EU member state – Montenegro, what enables us to eliminate potential deviations caused by including more candidate countries.

However, this fact might also be perceived vice-versa. By this, we mean, that it cannot be excluded, that the findings of this thesis may be expanded for other candidate countries in the future research. Yet since it is not an objective of the thesis, it might be presented as one the indirect contributions of the thesis to the debate about these and similar issues.

From the practical point of view, the presented volume represents a rather original perspective onto the issue of the EU accession process, which goes into depth by analysing the particular and selected negotiation chapters of the Acquis and putting them into the relationship with the theoretical approaches of supranationalism and intergovernmentalism. Indeed, we do not want to claim that there is a lack of papers concerning theories of supranationalism and intergovernmentalism, the future of the EU enlargement or Montenegro's integration aspirations themselves, yet that we try to put forward a new and rather deep perspective onto these questions.

3 DISCUSSION

3. 1 Montenegro's path towards the European Union

The formal relations between the European Union and Montenegro were established shortly after the declaration of its independence in June 2006. Although the former State Union of Serbia and Montenegro started the accession process to the EU in 2005, after the legitimate, widely-respected, and successful Montenegrin referendum for independence in May 2006, Montenegro had to start its own and separate negotiations once again. However, the Euro-Atlantic orientation and effort for integration was literally stipulated in the Constitution of Montenegro and the EU accession process represents the long-lasting foreign policy priority for Montenegro (Šístek, 2017: 494).

Its European perspective was reaffirmed immediately also by the EU, what the European Council expressed already in June 2006 after the recognition of the country's independence by all EU member states. The immediate dynamics and reciprocal interest on the development of the mutual relations can be nicely documented also by the fact, that the diplomatic relations between Montenegro and the Union are conducted through the Mission of Montenegro to the EU in Brussels, which is functional already since 2006, and the EU Delegation to Montenegro in Podgorica, which was opened in 2007. Besides these bilateral diplomatic relations, based on the decision of the Council from September 2006, a dialogue was established also at the ministerial level between the Montenegrin Government and the EU institutions. The first such dialogue took place on 22 January 2007 and on the same day, the European Council passed also a decision on the adoption of a new European Partnership with Montenegro. The priorities set forth in this document have been incorporated into the Action Plan for Implementation of Recommendations from the European Partnership adopted by the Montenegrin Government in May 2007 (EU Del to Montenegro, 2017).

Later that year, on 15 October 2007, Montenegro signed the Stabilisation and Association Agreement (SAA) in Luxembourg and, officially speaking, by this act, Montenegro has formally agreed an association with the European Community and its member states, and thereby accepted the responsibility for its European future. The SAA was unanimously supported by all parliamentary parties and ratified in the Montenegrin Parliament on 13

November 2007. One month later, on 13 December 2007, the consent to the SAA was given by also the European Parliament and it entered into force on 1 May 2010 (Ibid.).

Meanwhile, it is important to mention, that on 15 December 2008, Montenegro has submitted also the formal application for the EU membership. Here the process expects, that the Council invites the Commission to submit its opinion on the Montenegrin application (so-called *Avis*, as we have mentioned earlier), which is based on the complex questionnaire answers from the candidate country - Montenegro - back to the Commission. This step was executed on the highest political level, i.e. between the EU Commissioner responsible for Enlargement, at that time Olli Rehn, and the prime minister of the candidate country, then the Montenegrin Prime Minister Milo Djukanović. Quite quickly, within one year, this process was done, the Commission issued a positive opinion and on 17 December 2010, the European Council agreed to give Montenegro candidate country status. Since then, Montenegro is an official candidate country for EU membership (Šístek, 2017: 494).

The accession negotiations with Montenegro officially started in June 2012, after the Commission's recommendation from October 2011 was approved by the GAC formation of the Council on 26 June 2012. The press release from this GAC meeting states that: *"the Council decided, subject to the endorsement by the European Council, that accession negotiations should be opened on 29 June 2012."* (Council of the European Union, 2012: 7). Since then, a total number of 11 Intergovernmental Conference meetings at the ministerial level have been held in Brussels until December 2018. Four other Accession Conference meetings with Montenegro were also held at the deputy level.

As a result of all these Intergovernmental Conference meetings, based on deputy and COELA meetings[11], as of April 2019, out of a total of 35 negotiation chapters, 32 chapters have now been opened[12] for negotiations of which 3 chapters have already been provisionally closed.

[11] COELA is an abbreviation for one from a range of so-called preparatory bodies, that prepare the Council detailed positions by topic. When it comes to the enlargement and accession process of candidate countries, there exists *Working Party on Enlargement and Countries Negotiating Accession to the EU* (COELA), that is in charge of the enlargement process and relations with the candidate countries negotiating their accession to the EU. It meets usually twice a week (Council of the European Union, 2017b).

[12] Moreover, it is important to state that about the chapter 34 – Institutions and chapter 35 – Other issues, there are no real negotiations, since there is "nothing to adopt".

For now, further Accession Conferences will be planned, as appropriate, in order to take the process forward in the first half of 2019 and later on. The current status of the individual Acquis chapters in Montenegro's accession negotiations can be always found on several places, inter alia, also at the official website of the Government of Montenegro devoted to the accession process.[13]

Figure 4: Current status of the Acquis chapters in Montenegro accession process

Source: OFFICIAL WEBSITE OF THE GOVERNMENT OF MONTENEGRO DEVOTED TO THE ACCESSION PROCESS. (2019). Available at: https://www.eu.me/images/17I19_Tabela_pregled_poglavlja_ENG.jpg [Accessed: 11 April 2019].

[13] The english version of this official website might be found here: https://www.eu.me/en/.

Concurrently with the Intergovernmental Conference meetings at the ministerial and deputy levels, since 2012, the European Commission leads the screening process on the progress and improvements in relation to the accession process of Montenegro to the EU. These screening activities are embodied on the annual basis, mainly in a form of the extensive, around 100-pages long reports, that are officially titled as *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions.* By now, the Commission issued six such reports between years 2012 and 2018.[14] In accordance with the Copenhagen Criteria, the content of the document is usually divided into the reports on political criteria, economic criteria and ability to take on the obligations of membership, where the analysis is structured according to the list individual Acquis chapters. In each sector, the assessment of the Commission covers the progress achieved during the reporting period, usually one year, and summarises the overall level of preparation. Although in a case of deterioration, the stage might be shifted backwards as well, in general, there are nine stages of EC assessments that continuously graduate:

1) totally incompatible
2) early stage / very hard to adopt
3) considerable efforts needed
4) some level of preparation
5) further efforts needed
6) moderately prepared
7) no major difficulties expected
8) good level of preparation
9) well prepared / well advanced

Therefore, logically, these reports on Montenegro are going to be one of the main sources of analysis in the pages to come dealing with the specific and deliberately selected negotiation chapters, as it has been indicated earlier in the chapter devoted to the research design and methodology.

[14] Montenegro Report has not been issued in 2017, because in 2016 and years before, the EC published the reports in autumn, however, the EC had decided to issue it during spring in the future and thus there was a year and a half pause between Report 2016 from November 2016 and Report 2018 from April 2018.

In addition to the annual reports, the Commission is supposed to prepare also so-called screening reports regarding each chapter. However, this activity is not continuous, yet one-off and the thorough screening process in case of Montenegro's accession process took place only in the second half year of 2012 and the first half year of 2013. All screening reports are available at the Commission webpages and are also going to be analysed and utilized in the subsequent analysis and debate about the specific Acquis chapters 29 – Customs Union and 27 – Environment and Climate Change.

3. 2 Acquis Chapter 29 – Customs Union

As explained in the methodology, chapter 29 is a very suitable one for our research as a chapter covering such a policy area, that is according to the EU internal policy structure, in an exclusive competence of the European Union. In practice, this means, that the customs union Acquis consists almost exclusively of legislation which is directly binding on the member states. Our task for the next few pages would be to analyse and assess from various sources and perspectives, whether the supranational European institutions play any special role particularly by negotiations on this chapter. Indeed, to preserve the comparative nature of our research and make the findings and conclusion of this thesis more reliable and plausible, we will have a short look at the involvement of the incumbent member states into the negotiations over this chapter as well.

The screening process over this chapter proceeded during 2013 and in November of that year, the Commission issued a 15-pages-long Screening report, where it *assesses* the initial degree of Montenegro's legislation alignment and implementation capacity at the beginning of the accession process regarding for this area relevant issues, such as general customs rules and procedures, customs valuation and classification, cash control at the borders, administrative organisation or computerization (European Commission, 2013).

Besides the Screening report, the Commission issues also annual progress reports, where the realized progress within each chapter is elaborated. Herein, the Commission's Progress Report from 2013 uses in a part devoted to chapter 29, sentence constructions such as *"...some progress has been achieved in the area (...) efforts for further alignment with the Acquis need to continue (...) additional efforts are needed to enhance management capacity (...) overall, preparations in the field of customs union are*

moderately advanced" (Montenegro 2013 Progress Report, 2013). And the diction did not change at all over time, when the latest publicized Report from April 2018 says in regard to chapter 29 the following *"... Montenegro is moderately prepared for customs union and made some progress during the reporting period (...) on customs legislation, the degree of alignment is high (...) amendments to the customs code were adopted (...) Further harmonisation is needed on transit, drug precursors, security aspects, and on export control for cultural goods"* (Montenegro 2018 Report, 2018).

Citing this, it is clear that Commission's vocabulary is very plain and impartial in these reports, purely *assessing* the current situation and mentioning legislative or practical steps that have been made during the reviewed period of time or has to be made in the future. Moreover, based on the meticulous documentary analysis, we may say, that this is valid for all other chapters as well, without any visible difference among them, with an exception of chapters 23 and 24, to which special attention is devoted when it comes to the order, scope, and detail, in which they are described and assessed.

This finding has been confirmed also during the interview with the employee of the Political Desk for Montenegro at the Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR), who reiterated that *"the role of the Commission in this process is merit-based or technical and less political (...) the Commission may acknowledge or reward the progress, i.e. whether Montenegro set up new institutions or action plans in a given area, but never says that pushes forward or accentuates any chapter (...) the tangible progress of the accession process remains in hands of the member states"* (Interview with an employee of the Commission's DG NEAR, 2019).

As regards to the second supranational institution, the European Parliament, into Montenegro's accession talks, it is fully involved in the Stabilisation and Association Process (SAP), and its consent has been required for the conclusion of all SAAs (Article 218(6) TFEU). The Parliament must also consent to any new accession to the EU at the very end of the process (Article 49 TEU), as we have extensively discussed in the theoretical part of this volume. In a personal interview, a veteran MEP stated, that "*the EP is informally always the biggest supporter of the EU enlargement and at the same time has the greatest interest in fast advancement of the whole accession process. However, practically speaking, when it comes to the everyday activities of the EP and its*

committees, they do not possess a very strong position on the technical parts of accession negotiations" (Interview with MEP, 2019).

Yet anyway, the EP step into the ongoing accession process in two main forms:

- expresses and adopts positions on enlargement in a form of *annual resolutions* responding to the Commission's annual country reports, which are first discussed in the European Parliament's Committee on Foreign Affairs (AFET) and afterwards also in a plenary session of the whole EP;
- maintains regular bilateral relations with the Montenegrin parliament, *the Skupština,* within a form of *Delegation to the EU-Montenegro Stabilisation and Association Parliamentary Committee (SAPC),* abbreviated also as D-ME, which role is to discuss with their counterparts issues relevant to the SAP and the EU accession process as such (European Parliament, 2019).

Broadly speaking, none of the last five annual resolutions to the Commission's reports on Montenegro (between 2013 and 2018, with no such report from 2017, as explained above) literally mention chapter 29 or customs union and herewith connected issues in any context. In general, it is not surprising, that the resolutions dedicate a lot of attention to fundamental chapters 23 and 24 and discuss mostly democratization, the rule of law, civil society and human rights, yet mention also sectoral policies correspondent to specific Acquis chapters such as employment, education, environment, energy or transport. Thus, we may conclude that supposedly important common European policy of the customs union has been omitted as either not problematic or rather irrelevant for the EP. It is worth to note, that the EP uses a different, one may say more emotionally-coloured, diction in its resolutions with verbs such as *"welcomes; raises its concern; notes; calls for; regrets; underlines; or urges"* (EP resolutions on Montenegro, 2018).

Regarding the second major form of the EP involvement in a form of bilateral inter-parliamentary meetings of the EU-Montenegro SAPC, there have been altogether 17 such meetings since 2010 until now (the last meeting took place on 13 March 2019) taking place in Podgorica, Brussels or Strasbourg. After the exploration of the Minutes, Press Releases, and Declaration of Recommendations from all 17 meetings, we may state, that chapter 29 – Customs Union has been explicitly discussed on this forum only twice – in years 2014 and 2015 - both times in the identical and not very substantial context, where

„the Montenegrin Members highlighted that important chapters related the customs union and on taxation were opened as a part of the Acquis and they informed that the Government (of Montenegro) *is committed to reduce the grey economy and fight tax evasion through legislative and policy measures"* (European Parliament Delegations, 2019).

Based on the documentary analysis of the main reports and documents produced by both supranational institutions regarding chapter 29 – Customs Union, we clearly see that there is no visible or textual indication that this chapter would be more important for them than the others. The only accentuated chapters are numbers 23 and 24, describing fundamental judiciary and fundamental rights or justice, freedom, and security.

Now, we are going to have a closer look at the investigated issue from the perspective of Montenegro's documents and institutions, precisely, whether they contain or imply any mark or proof that the supranational institutions of the EU somehow accentuate the customs union chapter.

Firstly, Negotiating position of Montenegro regarding this chapter, issued in May 2014, copies the structure of the initial Commission's Screening report, declares the readiness of Montenegro to attain full implementation and alignment of its legislation with the Acquis without requesting neither transitional period nor exceptions from the Acquis covered by this chapter. Furthermore, it enumerates a list of legal norms and measurements that has to be done in the following years. Overall, this stands for a highly technical document, where the possibility of finding a mark for increased attention from the side of the supranational institutions was inherently low. However, what is immensely important to state, the document does not differ from Negotiating positions of Montenegro regarding several other chapters, we have reviewed. Thus, we may say, that this chapter does not stand out in any regard among all other chapters on similar technical areas, we have examined, such as 9 – Financial Services, 18 – Statistics or 30 – External Relations (Government of Montenegro, 2014).

Secondly, since January 2017, the Ministry of European Affairs of Montenegro issues five newsletters and three magazines, called *Eurokaz*, where are concentrated all news from the negotiating process, interviews with Montenegro's as well as European officials or representatives of the EU member states' governments, however, that all without any

substantial note on chapter 29. The only reference on this chapter was made by news from the meeting of Sub-Committee on Trade, Industry, Customs, Taxation, and Cooperation. Obviously, chapter 29 has been opened already in 2014, it means before these newsletters or magazines began to be published. On the other hand, a few chapters are mentioned in more detail in them, what is, however, not the case of the customs union chapter. On the contrary, what is again mentioned clearly and at several places in these documents, the cornerstone of the integration process and the condition for further progress are measurable results in the field of the rule of law as well as efforts and intensity of reforms in the field of justice, fundamental rights, fight against corruption and organised crime. Those are the fields, which are closely followed by the European institutions and no others (Official website of the Government of Montenegro, 2019: Brochures and publications).

Thirdly, the webpage of the Government of Montenegro provides nine articles with a remark to chapter 29 – Customs Union, with references on various meetings or reports devoted to this chapter. The most important one took place recently, in January 2019, in a form of the public debate on chapter 29 - Customs Union organized in Podgorica. At this event, H.E. Mr. Aivo Orav, Head of EU Delegation to Montenegro reminded that the EU supports the Government of Montenegro in the demanding and expensive task of establishing effective control at the borders and pointed out that Montenegro has achieved a lot in this area, but further progress is needed in certain areas, especially when it comes to the implementation of measures to facilitate trade and work on capacity building of customs officers and the provision of adequate staff. All in all, the examined articles do not provide any indication of a particular treatment of this chapter by the supranational institutions of the EU and the only findable statement from the EU representative was again relatively restrained and plain.

When it comes to the involvement of the incumbent member states in the negotiations on this chapter, the findable mentions are rare and not very substantial on both Council as well as bilateral platforms. It is worth to mention that chapter 29 has been opened at the fifth meeting of the Accession Intergovernmental Conference with Montenegro at Ministerial level on 16 December 2014 together with three other chapters. There have not been set any opening benchmarks, yet three closing benchmarks, specifically:

- to continue to adopt legislation in the remaining areas requiring further alignment,
- to apply its customs rules consistently and efficiently across its customs offices,
- to reach sufficient progress in developing all the required IT interconnectivity systems (Lukic, 2018: 122-123).

The press release from this meeting of the Intergovernmental Conference is a very plain and informative document without any indication of the special treatment granted by the Council as such or any member state to the opened chapters. Besides chapter 29, three other chapters were opened at this conference, chapters 18 - Statistics, 28 - Consumer and health protection, and 33 - Financial and budgetary provisions. Although this has happened at the end of the six months long Italian presidency of the Council of the European Union, there is also none findable mark that chapter 29 would be somewhat crucial for Italians representatives and interests at that time. We may say all four chapters are treated equally in this press release, what underlines an ordinariness of chapter 29 among the other chapters also from the perspective of the Council (Council of the European Union, 2014). What is more, the preferences of individual member states towards individual Acquis chapters, e.g. chapter 29, are undetectable even from personal or electronic conversations with the diplomats and officials who attend technical or political meetings about these issues. This limitation is even more convex in the discussion provided in the next subchapter devoted to chapter 27 on Environment and Climate Change.

To sum up this discussion, chapter 29 – Customs Union does not differ by any mean from all other ordinal negotiation chapters of the Acquis. Neither the European Commission nor the European Parliament devotes special treatment or attention to this chapter during their meetings, or within the documents, they issue. This finding has been confirmed both by the content of documents issued by Montenegro's authorities as well as by the officials, who provided us an interview on this issue. Concerning the hypothesis 1, it was not possible to prove or corroborate that activities of the supranational institutions of the European Union - the Commission and the Parliament - are dominant by chapter 29 – Customs Union, which is closely connected to the *exclusive* competence of the EU. Furthermore, from the perspective of intergovernmentalism, represented by the Council or individual member states, it was also impossible to detect any special status of this chapter among the others as well.

3. 3 Acquis Chapter 27 – Environment and Climate Change

A selection of chapter 27 on Environment and Climate Change has been justified in the methodology as a chapter that content significantly overlaps with the policy area of environment that belongs to the shared competences of the member states and the EU. In practice, policies of sustainability, fight against climate changes or greener economy and society have very high standards among the EU member states. Thus, our task for the next few pages would be to analyse and assess from various sources and perspectives, whether the incumbent EU member states pay any special attention or particular treatment by negotiations on this chapter. Indeed, in terms of preserving the comparative nature of our research and increasing the plausibility of our findings and conclusions, we will have a short look at the involvement of the supranational institutions into the negotiations over this chapter as well.

The screening process over chapter 27 proceeded also during 2013 and the initial Commission's *assessment* of the status of progress and Acquis alignment in this policy area was rather weak, in their language - at early stage. On the other hand, this was not especially surprising since chapter 27 counts for one of the most demanding and largest chapters of the EU Acquis that requires both significant administrative and financial investments from the state as well as local authorities. Concretely speaking, "*the acquis comprises over 200 major legal acts covering horizontal legislation, water and air quality, waste management, nature protection, industrial pollution control and risk management, chemicals and genetically modified organisms (GMOs), noise and forestry. Compliance with the Acquis requires significant investment. A strong and well-equipped administration at the national and local level is imperative for the application and enforcement of the environment Acquis"* (Lukic, 2018: 116). Given the low state of preparations of Montenegro in this field, it was given a single, although, very broad and complicated, following opening benchmark: *"Montenegro presents to the Commission a comprehensive national strategy, including an action plan, which will serve as a basis for the transposition, implementation and enforcement of the EU Acquis on environment and climate change, including plans for the developing of the relevant administrative capacities (also including inspections), and an estimation of the financial resources required, with targets and deadlines. Particular attention should be given for alignment with water, nature and waste sector Acquis, integrating waste minimization measures*

and management of waste that cannot be treated other than landfilled and to the polity planning and administrative capacity considerations for climate action" (Ibid.: 117).

About the complexity of this opening benchmark tells also the fact, that Montenegro succeeded to fulfil it only in March 2017, i.e. approximately 4 years after the screening process. Chapter 27 was subsequently opened as the penultimate one, only on 10 December 2018 at the twelfth meeting of the Accession Conference with Montenegro at ministerial level. At this Intergovernmental Conference, the EU set eight other partial benchmarks that need to be met for the provisional closure of this chapter. In addition, "*the EU underlined that it would devote particular attention to monitoring all specific issues mentioned in its common position. Monitoring of progress in the alignment with and implementation of the Acquis will continue throughout the negotiations"* (Council of the European Union, 2018d).

What is important to mention, prior to this Conference, the EU had to adopt its Common Position to this chapter, what happened on 6 December 2018. As this document represents the EU Common Position, there are no explicit remarks or mentions on preferences given by one or more member states. However, we may suspect they exist, as the document contains the following "disclaimer" at its very beginning:

- Any view expressed by either party on a chapter of the negotiations will in no way prejudge the position, which may be taken on other chapters;
- Agreements – even partial agreements – reached during the course of the negotiations on chapters to be examined successively may not be considered as final until an overall agreement has been established (Common Negotiating Position for Chapter 27, 2018).

This is also in full compliance with the statement of the Slovak diplomat, responsible for Montenegro accession process, who in our discussion on chapter 27 tacitly confirmed that: *"...generally speaking, the EU member states pay particular attention to those areas that concern them at most. Needless to say, the negotiating chapters 23 (on justice and fundamental rights) and 24 (on justice, freedom, and security) are considered to be the hardest"* (Interview with an employee of the Slovak MFA, 2019).

Based on all circumstances discussed above, it is explicitly clear that chapter 27 is financially and legislatively immensely demanding, perhaps the most difficult one, with

an obvious exception of the fundamental chapters 23 and 24. This fact was reiterated also by the Montenegrin officials, saying that: *"chapter 27 is, together with numbers 11 – Agriculture and rural development, 12 – Food safety, veterinary and phytosanitary policy, and 13 – Fisheries, the most challenging, especially regarding the investments in infrastructure and having mind limited administrative capacities"* (Interview with an employee of the European Integration Office of Montenegro, 2019). However, we may implicitly suspect, that the individual member states do not want to underestimate also the development in this technical but cumbersome chapter and thus stall its progress through numerous additional benchmarks, demands, or postponements. Again, the interviewed DG NEAR employee confirmed that *"by more complicated chapters the member states are hesitant to take a fast approach and choose various transitional periods and other technical obstacles"*. In other words, *"countries could not change the technical procedures but they can impose higher standards"* (and thus) *"…benchmarks are legitimate instrument for that* (…) *this is happening more often than pushing on speed of the negotiations in order to prioritize some chapters*" (Interview with an employee of the Commission's DG NEAR, 2019).

Clearly speaking, both cited respondents were not willing to reveal or indicate concrete member states that maintain hesitant positions, since this is happening exclusively behind the closed door of the COELA meetings.[15]

By now, we have examined the documents and fora, that represents the common positions of the incumbent EU member states – the Council and its COELA Working Group, where we were not able to find an explicit mark or proof, that some member states accentuate the chapter on the environment and climate change more than the others. However, there are several implicit indications of it confirmed also by the close followers and participants or these accession talks. There exists a presumption that countries that are generally more active in questions of environmental protection, green economy, or fight against climate change, such as Scandinavian member states - Denmark, Sweden, and Finland - or Austria

[15] For the sake of completeness, we add that both aforementioned respondents are frequent participants of COELA meetings, where meet 28 delegates from Permanent Representations of the incumbent member states, the European Commission's DG NEAR representative, the European External Action Service (EEAS) representative, and the Secretariat of the Council representative. It is important to note, that these meetings take place in a confidential mode, what was clearly the main reason, why they could not mention any particular countries during our interviews.

would be the ones who emphasize and maintain the strict policy over these issues also within accession talks with Montenegro. Therefore, in the following lines, we are going to look for more specific proof of this from the perspective of Montenegro's documents and bilateral platforms, which took place between Montenegro and the EU member states and the representatives thereof during the last years.

Firstly, similar to chapter 29, we have studied all *Eurokaz* magazines and newsletters issued by the Ministry of European Affairs of Montenegro full of interviews with Montenegro's as well as European officials or representatives of the EU member states' governments on accession progress and public information. Unlike chapter 29, Environment and Climate Change chapter is mentioned there many times as chapter 27, as one of the most challenging chapters, both in terms of the scope of the Acquis and financial challenges in implementing European environmental standards. What is more, in Eurokaz Vol. 3, there is even a three-pages long article with Director General of the Directorate for Environment at the Ministry of Sustainable Development and Tourism, praising the eventual opening of the respective chapter. However, all eight brochures and publications are without any substantial note or indication on explicit support or restraint made by any EU member state (Official website of the Government of Montenegro, 2019: Brochures and publications).

Secondly, it seems that the ideal way how an individual member state can support, accentuate, or push for a specific chapter is the Council Presidency, that lasts 6 months. During the last two and a half years, the presidency was held by Malta, Estonia, Bulgaria, Austria and currently it is in hand of Romania. All mentioned countries did not conceal their support to the accession of Montenegro to the EU and for instance, Bulgaria, Austria, and Romania openly advocated for the maximal acceleration of the enlargement process as the integration of Western Balkans was among their presidency's priorities. The Bulgarian ambassador to Montenegro highlighted mainly the importance of "*the EU-Western Balkans Summit in Sofia in May 2018"* and chapter 27 was mentioned marginally as *"the one which should be opened by the end of 2018"* (what actually happened). The Austrian ambassador to Montenegro similarly indicated "*the goal of Austrian presidency is to advance Montenegro's accession negotiations as far as possible"* and "*aim to open chapter 27, together with the possible closure of several already opened chapters as soon as the preconditions have been fulfilled".* What must be stated here again is their

accordance when it comes to "*the strengthening of the rule of law and freedom of media"* as well as strict merit-based principle applied to all Acquis chapters (Official website of the Government of Montenegro, 2019: Brochures and publications – Eurokaz 2: 16-21).

On the contrary, unfortunately for our research, the official stances of the national representatives do not publicly go to the depth of individual Acquis chapters – and chapter 27 is not an exception. For example, one may presume that the fact that chapter 27 – Environment and Climate Change was finally opened during the Austrian Presidency in December 2018 could signalize its credit on it. However, this is not a solid argument. As the interviewed DG NEAR employee explains and confirms *"this is a possible scenario and there might exist tacit signals for it, however, negotiations on each chapter are often so long and complicated that the fact that the chapter was opened during that particular presidency does not mean automatically, that the presiding country had its priority in a given area"* (Interview with an employee of the Commission's DG NEAR, 2019).

Thirdly, the webpage of the Government of Montenegro provides 34 articles with a remark to chapter 27 – Environment and Climate Change what is significantly more than nine mentions on chapter 29. Again, these articles contain references on various reports devoted to this chapter as well as bilateral meetings of Montenegro's highest representatives with various foreign officials, where chapter 27 was one of the main topics. From these articles, we found out that this was the case with officials coming from Austria, Finland, Romania, and Croatia, further with the German Ambassador to Montenegro and once also with the Head of the Department for Montenegro in the European Commission's DG NEAR. It is always hard to figure out, whether a mention means also support. As all these countries belong to those who rather openly support Montenegro's accession aspirations in general, it is very likely that they simply do so when it comes to one of the most difficult chapters as well.

Concerning the involvement of the supranational EU institutions in the negotiations on this chapter, we were able to detect the following. The Commission's annual progress reports discuss chapter 27 in a usual manner, with the stipulation of done as well as still needed steps in the fields of horizontal legislation, air and water quality, waste management or nature protection, etc. The scope and content of this chapter do not differ from all other chapters, again only with a prominent and already several times mentioned

exception of chapters 23 and 24. It is note-worthy, that although Montenegro succeeded to increase its status in investigated chapter from (2) “at early stage” in 2013 only to (4) “some level of preparation” in 2018, it was not an obstacle for the member states in the Council to open this chapter in 2018. This fact underlines the theoretical assumption that the Council is able to advance the accession process by opening chapters still more and more arbitrarily, in spite of a relatively negative assessment provided by the Commission.

Regarding the European Parliament’s forms of involvement, the environmental issues together with climate change are mentioned in all five resolutions responding to the Commission’s annual country reports in a category of the socio-economic problems together with energy and transportation. On the other hand, this mentions are very similar, general and all-embracing, in principle only: *“welcoming the positive developments in further aligning Montenegro’s national environmental and climate change legislation”* and *“encouraging Montenegro to undertake further efforts in the areas of environment and climate change by strengthening administrative capacity to implement relevant EU policies and legislation in order to ensure alignment with the environment and climate change acquis*” (EP resolutions on Montenegro, 2018). Similarly, the regular bilateral relations with Montenegro’s parliament in the form of *Delegation to the EU-Montenegro Stabilisation and Association Parliamentary Committee (SAPC),* abbreviated as D-ME, mention the environmental challenges in their minutes and press releases more often than, for instance, customs union. The Committee supported the steps that led to the eventual opening of this chapter in 2018 and often called for devoting special attention to UNESCO-protected areas in Montenegro, particularly to Tara river and the Ulcinj salt pans as well as urged Montenegro’s authorities to fully align national legislation with the Renewable Energy Directive and Energy Efficiency Directive (European Parliament Delegations, 2019). All in all, this fact is quite predictable and understandable, given by the generally significant position, the EP represents by the environmental and climate change policies in the EU structure.

As the Czech diplomat reminded us during our interview, it is possible to identify even the third, very implicit or indirect competence of the European Parliament regarding the accession process, which is connected to its budgetary responsibilities and is particularly important by chapter 27. The EP also decides about the share of financial instruments allocated to the individual candidate countries or potential candidate countries, by which

it can indirectly show its preference among them. These instruments, under the heading of Instrument for Pre-Accession Assistance (IPA), exist from 2007 and for the period 2014-2020 are called IPA II (Interview with an employee of the Czech MFA, 2019). Given the frontrunner position of Montenegro's accession talks, it gets comparatively a significant sum of funds for several objectives, under IPA II it was €270.5m. Importantly enough, the environment & climate action is the fourth most prioritized sector (€37.5m) immediately after agriculture and rural development, rule of law and fundamental rights, and democracy and governance (European Parliament, 2018b).

To sum up this discussion, chapter 27 – Environment and Climate Change belong to the most discussed ones within Montenegro's accession talks because it stands for one of the most demanding ones and thus waited a very long time to be eventually opened in December 2018. The hypothesis 2 that the activities of the incumbent EU member states are dominant by chapter 27 – Environment and Climate Change was not confirmed or proven. Alternatively, this is not explicitly detectable by the public from two possible reasons. The first, detailed stances of individual countries on specific chapters (such as 27) are confidential, or at least, not revealed in press conferences and releases, official documents or through personal communication with competent officials and diplomats. The second, the progress in negotiations over this chapter (and presumably over all others as well) is dependent purely, or at least mostly, on successful fulfilling of given benchmarks, reaching the EU Acquis standards, and overall positive development in Montenegro. Furthermore, from the perspective of supranationalism, represented by the Commission and the Parliament, their activities or treatment do not remarkably differ in relation to chapters 29 and 27, or paradoxically, we may even state, that they care more about chapter 27, since environmental issues are generally important to them. Thus, the internal structure of the EU competences plays not such a significant role here as our hypotheses and research question anticipated and assumed.

CONCLUSION

At the outset of this volume, we briefly described and defined the core foundations and characteristics of the two dominant theoretical approaches to European integration – supranationalism and intergovernmentalism. Simultaneously, we showed up that these two paradigms continuously overlap and compete with each other during the decades of the European integration and influence each of European policies, including enlargement. It has provided us a platform to elaborate the institutional, theoretical and practical aspects of the accession process of a new member state to the EU. Our aim here was to emphasize how intricate, complex, and long the accession process is, and how many times both supranational as well as intergovernmental actors step into that. At the end of the theoretical debate, we devoted our attention to the theoretical description of the recent trends in the enlargement policy indicating the increasing meritocracy, conditionality, and intergovernmentalization of the whole accession process.

The main aim of the thesis and its research was to analyse to what extent, and whether at all, does the behaviour of the EU institutions and its member states by the accession process of Montenegro to the EU, correspond with the internal structure of the division of the EU policies and competences, stipulated in the EU treaties. The added value of our research design lies in its depth, going onto the level of the individual and deliberately selected Acquis chapters, and their nexus on the policies and competences of the EU, as they are divided in the EU treaties. In other words, we tried to find out whether it is possible to observe that the supranational approach, embodied in activities of the EU supranational institutions - the Commission and the Parliament, is dominant by the chapters of the Acquis, which are closely connected to the exclusive competences of the Union. And on the other hand, whether it is possible to observe that the intergovernmental approach, embodied in activities of the individual member states - within the Council or on the bilateral level, is dominant by the chapters of the Acquis, which are closely connected to the shared competences of the Union. As the only object of our research was selected Montenegro as a country, which is from various reasons considered to be in a leading position to become the next EU member state.

Our comparative case study analysis, based on several qualitative comparisons, thorough documentary analysis and underpinned by the opinions and statements gained from the

interviews or electronic correspondence with officials and diplomats which have a very close look at Montenegro accession negotiations, has succeeded to draw several findings and conclusions, we would like to present in the following lines.

Regarding the main research question, we were not able to observe or find out any interrelation between the exclusive or shared nature of the EU competence or policy and the interest, attention, or treatment of the supranational and intergovernmental actors of the EU devoted to the particular negotiation chapters of the Acquis.

To put it more specifically, we assess the veracity of the hypotheses as follows. Concerning the hypothesis 1, it was not possible to corroborate that activities of the supranational institutions of the EU - the Commission and the Parliament, are dominant by chapter 29 - Customs Union, which, as a policy, belongs to the exclusive competence of the EU. Similarly, the hypothesis 2 that the activities of the incumbent EU member states are dominant by chapter 27 - Environment and Climate Change, which, as a policy, belongs to the shared competence of the Union, was not confirmed or proven as well.

This said, we conclude that there does not exist a nexus between the internal structure of the EU policies, as they are divided in the EU treaties and the behaviour of the EU supranational institutions and the EU member states within the accession process. In other words, the accession process of a new member state is led and driven by its own rules and procedures regardless of the division of the competences within the EU.

Moreover, let us draw several further findings and conclusions, which do not directly answer the main research question or our hypotheses, but accompanied us throughout the whole research and are significantly related to the discussed issues.

Firstly, none of the "technical" or ordinal negotiation chapters of the Acquis is particularly and explicitly accentuated by any of the EU institutions or particular member states. The only exception represents chapter 23 – Judiciary and fundamental rights, and chapter 24 – Justice, freedom and security, which are, on the contrary, mentioned and accentuated in almost every document and statement, we have worked with. The higher official, the clearer and more frequent are the notes on issues of the rule of law, democracy, freedom of media, etc. This observation confirms that the Union follows the considerably stricter and merit-based new approach to the EU enlargement, which is characterized by an increased role of conditionality and number of legal and political

requirements represented by interim benchmarks in these two chapters. Undoubtedly, this is a consequence of the past experiences, when some candidate countries were admitted to the EU prior to complete solution and alignment with the EU values in these regards.

Secondly, we observed that howsoever ambitious and tireless the Commission would be in its "pro-enlargement" activities, it cannot overcome a strong and ever-stronger role of the EU member states on that places in the accession process, where unanimity is required. And this is not the case only at the very beginning and the end of the whole process but practically by opening and closing of each Acquis chapter. Even the strong political will of some member states to accelerate the negotiations would be useless without real reforms taking place in a candidate country. In fact, the word "negotiations" is a misnomer. Substantial development in a candidate country itself is the most crucial condition for advancing the accession process and nothing else. As mentioned above, first of all, a candidate country must intensify its reform effort in the most challenging and sensitive issues of human rights, the rule of law, fight against corruption, and modernization of the public administration and judiciary as the pace of the negotiations in all other chapters depends on progress in these areas.

Thirdly, when we, at several places, mention a possible acceleration of the accession process, the opposite is true. In a current situation, rather the deceleration of the accession negotiations with all candidate countries might be observed. At first glance, this is caused by a more sensitive approach of the EU institutions and member states to the fundamental values and policies, described above. However, in reality, the roots are much more profound. It would be a mistake not to mention the enlargement fatigue of the Union after almost doubling its number of members between 2004 and 2013, multiplied by an unparalleled Brexit issue, migration and refugee crises, as well as a rise of Euroscepticism all around the EU. Thus, the Union is unprecedently prudent and diffident regarding its enlargement and the successful accession of Montenegro in the following five years is improbable.

The issues, which our further findings and conclusions shortly deal with, did not primarily belong to the main subjects of our investigation and analysis, however, they may serve as solid foundations for further research and theses in this interesting field of study.

REFERENCE LIST

ANDREATTA, F. (2011). The European Union's International Relations: A Theoretical View. In: HILL, CH. & SMITH, M. eds. 2011. *International Relations and the European Union.* Oxford: Oxford University Press. Ch. 2.

BALFOUR, R. & STRATULAT, C. (2015). Executive Summary. In: BALFOUR, R. & STRATULAT, C. eds. 2015. *EU member states and enlargement towards the Balkans.* [Online]. EPC Issue Paper No. 79. Available at: http://www.epc.eu/documents/uploads/pub_5832_eu_balkans_-_issue_paper.pdf?doc_id=1654 [Accessed: 14 February 2019].

BOWEN, G. A. (2009). Document Analysis as a Qualitative Research Method. In: *Qualitative Research Journal*. [Online]. 9 (2). p. 27-40. Available at: https://www.emeraldinsight.com/doi/abs/10.3316/QRJ0902027 [Accessed: 15 March 2019].

BURLEY, A. M. & MATTLI, W. (1993). Europe before the Court: A Political Theory of Legal Integration. In: *International Organization*. [Online]. 47 (1). p. 41-76. Available at: http://www.seep.ceu.hu/alpsa/articles/burley.pdf [Accessed: 1 February 2019].

CASO, A. (2018). *The Next Enlargement Wave: Montenegro Set to Be the Next One In.* [Online]. Available at: https://mycountryeurope.com/politics/the-next-enlargement-wave-montenegro-next-member-state/ [Accessed: 13 March 2019].

CINI, M. (2016). Intergovernmentalism. In: CINI, M. & BORRAGÁN, N. eds. 2016. *European Union Politics.* Oxford: Oxford University Press. Ch. 5.

CINI, M. & BORRAGÁN, N. (2016). *European Union Politics.* Oxford: Oxford University Press.

COMMON NEGOTIATING POSITION FOR CHAPTER 27. (2018). *European Union Common Position. Chapter 27: Environment and Climate Change.* [Online]. Available at: https://www.eu.me/en/press/press-releases/item/3704-common-negotiating-position-for-chapter-27 [Accessed: 22 April 2019].

CORBETT, R. (2012). The Evolving Roles of the European Parliament and of National Parliaments. IN: BIONDI, A., EECKHOUT, P., AND RIPLEY, S. eds. 2012. *EU Law After Lisbon.* [Online]. Available at: http://www.oxfordscholarship.com/view/10.1093/acprof:oso/9780199644322.001.0001/acprof-9780199644322-chapter-12 [Accessed: 14 February 2019].

COUNCIL OF THE EUROPEAN UNION. (2012). *General Affairs. 11690/12.* Press Release. 26 June 2012. [Online]. Available at: http://data.consilium.europa.eu/doc/document/ST-11690-2012-INIT/en/pdf [Accessed: 25 March 2019].

COUNCIL OF THE EUROPEAN UNION. (2014). *Fifth meeting of the Accession Conference with Montenegro at Ministerial level - 4 new chapters opened*. Press Release. 16 December 2014. [Online]. Available at: https://www.consilium.europa.eu/media/21904/146346.pdf [Accessed: 20 April 2019].

COUNCIL OF THE EUROPEAN UNION. (2017a). *Unanimity.* [Online]. Available at: https://www.consilium.europa.eu/en/council-eu/voting-system/unanimity/ [Accessed: 10 March 2019].

COUNCIL OF THE EUROPEAN UNION. (2017b). *Working Party on Enlargement and Countries Negotiating Accession to the EU.* [Online]. Available at: https://www.consilium.europa.eu/en/council-eu/preparatory-bodies/working-party-enlargement-countries-negotiating-accession-eu/ [Accessed: 18 April 2019].

COUNCIL OF THE EUROPEAN UNION. (2018a). *Enlargement.* [Online]. Available at: https://www.consilium.europa.eu/en/policies/enlargement/ [Accessed: 12 March 2019].

COUNCIL OF THE EUROPEAN UNION. (2018b). *Enlargement and Stabilisation and Association process.* Council Conclusions. 26 June 2018. [Online]. Available at: https://www.consilium.europa.eu/media/35863/st10555-en18.pdf [Accessed: 2 March 2019].

COUNCIL OF THE EUROPEAN UNION. (2018c). *Montenegro Status of Negotiations.* [Online]. Available at: https://www.consilium.europa.eu/en/policies/enlargement/montenegro/ [Accessed: 2 March 2019].

COUNCIL OF THE EUROPEAN UNION. (2018d). *Twelfth meeting of the Accession Conference with Montenegro at Ministerial level.* Press Release. 10 December 2018. [Online]. Available at: https://www.consilium.europa.eu/en/press/press-releases/2018/12/10/twelfth-meeting-of-the-accession-conference-with-montenegro-at-ministerial-level-brussels-10-decem ber-2018/ [Accessed: 21 April 2019].

DIEZ, T, ET AL. (2011). *Key Concepts in International Relations.* London: SAGE Publications.

DW. (2018). *EU to start membership talks with Macedonia and Albania.* [Online]. Available at: https://p.dw.com/p/30Kvp [Accessed: 18 March 2019].

ELLISON, D. L. (2006). Divide and Conquer: The European Union Enlargement's Successful Conclusion? In: *International Studies Review.* 8 (1). p. 150-165.

EP RESOLUTIONS ON MONTENEGRO. (2018). *Annual Resolutions to Commission Reports on Montenegro.* [Online]. Available at: http://www.europarl.europa.eu/delegations/en/d-me/documents/ep-resolutions [Accessed: 19 April 2019].

EUROPEAN CENTRAL BANK (ECB). (2019). *The euro outside Europe.* [Online]. Available at: https://www.ecb.europa.eu/explainers/show-me/html/euro_outside_europe.en.html [Accessed: 18 March 2019].

EUROPEAN COMMISSION (2013). *Screening report: Chapter 29 – Customs Union.* [Online]. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/montenegro/screening_reports/screening_report_montenegro_ch29.pdf [Accessed: 19 April 2019].

EUROPEAN COMMISSION. (2016). *Steps towards joining.* [Online]. Available at: https://ec.europa.eu/neighbourhood-enlargement/policy/steps-towards-joining_en [Accessed: 12 March 2019].

EUROPEAN PARLIAMENT. (2018a). *The Enlargement of the Union.* [Online]. Available at: http://www.europarl.europa.eu/factsheets/en/sheet/167/the-enlargement-of-the-union [Accessed: 13 March 2019].

EUROPEAN PARLIAMENT. (2018b). *Montenegro - financial assistance under IPA II.* [Online]. Available at: https://ec.europa.eu/neighbourhood-enlargement/instruments/funding-by-country/montenegro_en [Accessed: 25 April 2019].

EUROPEAN PARLIAMENT. (2019). *The Western Balkans.* [Online]. Available at: http://www.europarl.europa.eu/ftu/pdf/en/FTU_5.5.2.pdf [Accessed: 13 March 2019].

EUROPEAN PARLIAMENT DELEGATIONS. (2019). *D-ME Inter-parliamentary meetings.* [Online]. Available at: http://www.europarl.europa.eu/delegations/en/d-me/activities/inter-parliamentary [Accessed: 19 April 2019].

EUROPEAN PARLIAMENTARY RESEARCH SERVICE (EPRS). (2018). *Montenegro - a lead candidate for EU accession.* [Online]. Available at: http://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628238/EPRS_ATA(2018)628238_EN.pdf [Accessed: 15 March 2019].

EU DELEGATION TO MONTENEGRO. (2017). *Montenegro and the EU.* [Online]. Available at: https://eeas.europa.eu/delegations/montenegro/27529/montenegro-and-eu_en [Accessed: 30 March 2019].

GLOSSARY OF SUMMARIES. (2019). *Glossary of summaries.* [Online]. Available at: https://eur-lex.europa.eu/summary/glossary.html [Accessed: 12 March 2019].

GOEBEL, R. (2013). Supranational? Federal? Intergovernmental? The Governmental Structure of the European Union After the Treaty of Lisbon. In: *Columbia Journal of European Law.* [Online]. 20 (1). p. 77-142. Available at: http://ir.lawnet.fordham.edu/faculty_scholarship/577 [Accessed: 10 February 2019].

GOVERNMENT OF MONTENEGRO. (2014). *Negotiating position of Montenegro for the Intergovernmental Conference on accession of Montenegro to the European Union Chapter 29 – Customs Union.* Government of Montenegro. May 2014.

HAAS, B. E. (2004). *Uniting Of Europe: Political, Social, and Economic Forces, 1950-1957 (Contemporary European Politics and Society).* University of Notre Dame Press.

HAYES-RENSHAW, F. & WALLACE, H. (2006). Overlapping Competences: the Council and the European Council. In: *The Council of Ministers.* p. 165-185. [Online]. Available at: https://www.researchgate.net/publication/311787006_Overlapping_Competences_the_Council_and_the_European_Council [Accessed: 11 February 2019].

HILLION, C. (2010). *The Creeping Nationalisation of the EU Enlargement Policy. SIEPS*: Report No. 6. [Online]. Available at: http://sieps.hemsida.eu/sites/default/files/2010_6_.pdf [Accessed: 1 February 2019].

HILLION, C. (2011). EU Enlargement. In: CRAIG, P. & DE BURCA, G. eds. 2011. *The Evolution of EU Law.* Oxford: Oxford University Press.

HIX, S. & HØYLAND, B. (2011). *The Political System of the European Union*. 3rd edition (The European Union Series). Palgrave MacMillan.

JAKOVLESKI, V. (2015). Changing from Within? The Intra-Organizational Dynamics of EU Enlargement. In: *EUROPOLITY.* 9 (2). p. 83-110. [Online]. Available at: https://ideas.repec.org/a/epl/eplnew/y2015v9i2p83-110.html [Accessed: 25 February 2019].

JENSEN, C. S. (2016). Neo-functionalism. In: CINI, M. & BORRAGÁN, N.: 2016. European Union Politics.

JUNCOS, A. E. & BORRAGÁN, N. (2016). Enlargement. IN: CINI, M. & BORRAGÁN, N. eds. 2016. *European Union Politics.* Oxford: Oxford University Press. Ch. 16.

KEOHANE, R.O. & HOFFMANN, S. (1991). *The New European community: Decision Making and Institutional Change Boulder.* Westview Press.

LEMPP, J. & ALTENSCHMIDT, J. (2008). The Prevention of Deadlock through Informal Processes of 'Supranationalization': The Case of Coreper. In: *European Integration*. 30 (4). p. 511-526. [Online]. Available at: https://www.tandfonline.com/doi/abs/10.1080/07036330802294813 [Accessed: 5 February 2019].

LENAERTS, K., VAN NUFFEL, P. AND BRAY, R. (2005). *Constitutional Law of the European Union.* London: Thomson/Sweet & Maxwell.

LEWIS, J. (2003). Informal Integration and the Supranational Construction of the Council. In: *Journal of European Public Policy.* 10 (6). p. 996–1019. [Online]. Available at: https://www.tandfonline.com/doi/abs/10.1080/1350176032000148405 [Accessed: 2 March 2019].

LEWIS, J. (2012). National Interests: the Committee of Permanent Representatives. In: PETERSON, J. & SHACKLETON, M. eds. 2012. *The Institutions of the European Union.* Oxford University Press.

LUKIC, D. (2018). *Analysis of Benchmarks for Montenegro through comparison with Croatia and Serbia.* Ministry of European Affairs. January 2018.

MIŠČEVIĆ, T. & MRAK, M. (2017). The EU Accession Process: Western Balkans vs EU-10. In: *Croatian Political Science Review*. 54 (4). p. 185-204. [Online]. Available at: https://hrcak.srce.hr/190343 [Accessed: 25 March 2019].

MONTENEGRO 2013 PROGRESS REPORT. (2013). [Online]. Available at: https://eeas.europa.eu/sites/eeas/files/montenegro_2013.pdf [Accessed: 15 April 2019].

MONTENEGRO 2018 REPORT. (2018). [Online]. Available at: https://eeas.europa.eu/sites/eeas/files/20180417-montenegro-report.pdf [Accessed: 18 April 2019].

O'BRENNAN, J. (2013). *Enlargement Fatigue and its Impact on the Enlargement Process in the Western Balkans.* [Online]. Available at: https://www.academia.edu/12882126/Enlargement_Fatigue_and_its_impact_on_the_Enlargement_Process_in_the_Western_Balkans_ [Accessed: 25 March 2019].

OFFICIAL WEBSITE OF THE GOVERNMENT OF MONTENEGRO DEVOTED TO THE ACCESSION PROCESS. (2019). [Online]. Available (also in English) at: https://www.eu.me/en/ [Accessed: 25 April 2019].

PHINNEMORE, D. (2016) The European Union: Establishment and Development. In: CINI, M. & BORRAGÁN, N. eds. 2016. *European Union Politics.* Oxford: Oxford University Press. Ch. 2.

ROSAMOND, B. (2000). *Theories of European Integration*, Palgrave MacMillan.

SANDHOLTZ, W. & STONE SWEET, A. (1998). *European Integration and Supranational Governance.* Oxford: Oxford University Press.

SEDELMEIER, U. (2010). Enlargement: from rules for accession to a policy towards Europe? In: WALLACE, H., POLLARD, M. A. AND YOUNG, A. R., (eds.) *Policy-Making in the European Union.* Oxford: Oxford University Press. p. 401-430.

SCHMITTER, P. (1969). Three Neo-Functional Hypotheses about International Integration. In: *International Organization*. 23 (1). p. 161-166. [Online]. Available at: https://ideas.repec.org/a/cup/intorg/v23y1969i01p161-166_02.html [Accessed: 5 February 2019].

SCHOUTHEETE, P. D. (2012). The European Council, IN: PETERSON, J. & SHACKLETON, M. eds. 2012. *The Institutions of the European Union.* Oxford University Press.

STONE SWEET, A. & SANDHOLTZ W. (1997). European Integration and Supranational Governance. In: *Journal of European Public Policy.* 4 (3). p. 297-317. [Online]. Available at: https://www.tandfonline.com/doi/abs/10.1080/13501769780000011 [Accessed: 9 February 2019].

SUMMARY OF JOINING THE EU - THE ACCESSION PROCESS. (2006). [Online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM:l14536&from=CS [Accessed: 21 February 2019].

ŠÍSTEK, F. (2017). *Dějiny Černé Hory*. Praha: Nakladatelství Lidové noviny.

TREATY ON EUROPEAN UNION. [Online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016M/TXT [Accessed: 5 March 2019].

TREATY ON THE FUNCTIONING OF THE EUROPEAN UNION. [Online]. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1552984390798&uri=CELEX:12012E/TXT [Accessed: 5 March 2019].

TSEBELIS, G. (2001). *Veto Players: How Political Institutions Work.* Princeton: Princeton University Press. [Online]. Available at: http://nzaher710.free.fr/coursLSES/poltique.pdf [Accessed: 26 February 2019].

VACHUDOVA, M.A. (2005). *Europe Undivided: Democracy, Leverage and Integration after Communism.* Oxford: Oxford University Press.

WYATT, D. & DASHWOOD, A. A. ET AL. (2011). *Wyatt and Dashwood's European Union Law*. Oxford: Hart Publishing.

LIST OF INTERVIEWS

Interview with an employee of the Commission's DG NEAR, phone call, 10 April 2019.

Interview with an employee of the Slovak MFA, e-mail correspondence, 16 April 2019.

Interview with MEP, phone call, 18 April 2019.

Interview with an employee of the Czech MFA, phone call, 25 April 2019.

Interview with an employee of the European Integration Office of Montenegro, Government of Montenegro, e-mail correspondence, 26 April 2019.

APPENDICES

Appendix 1: Table of all EU member states with a year of their access.

Year of entry	Countries
01/01/1958	Belgium
	France
	Germany
	Italy
	Luxembourg
	Netherlands
01/01/1973	Denmark
	Ireland
	United Kingdom
01/01/1981	Greece
01/01/1986	Portugal
	Spain
01/01/1995	Austria
	Finland
	Sweden
01/05/2004	Cyprus
	Czechia
	Estonia
	Hungary
	Latvia
	Lithuania
	Malta
	Poland
	Slovakia
	Slovenia
01/01/2007	Bulgaria
	Romania
01/07/2013	Croatia

Source: OFFICIAL WEBSITE OF THE EUROPEAN UNION. (2019*). The 28 member countries of the EU.* [Online]. Available at: https://europa.eu/european-union/about-eu/countries_en#tab-0-1 [Accessed: 20 April 2019].

Appendix 2: All 35 chapters of the Acquis Communautaire.

Chapter 1: Free movement of goods
Chapter 2: Freedom of movement for workers
Chapter 3: Right of establishment and freedom to provide services
Chapter 4: Free movement of capital
Chapter 5: Public procurement
Chapter 6: Company law
Chapter 7: Intellectual property law
Chapter 8: Competition policy
Chapter 9: Financial services
Chapter 10: Information society and media
Chapter 11: Agriculture and rural development
Chapter 12: Food safety, veterinary and phytosanitary policy
Chapter 13: Fisheries
Chapter 14: Transport policy
Chapter 15: Energy
Chapter 16: Taxation
Chapter 17: Economic and monetary policy
Chapter 18: Statistics

Chapter 19: Social policy and employment
Chapter 20: Enterprise and industrial policy
Chapter 21: Trans-European networks
Chapter 22: Regional policy and coordination of structural instruments
Chapter 23: Judiciary and fundamental rights
Chapter 24: Justice, freedom and security
Chapter 25: Science and research
Chapter 26: Education and culture
Chapter 27: Environment
Chapter 28: Consumer and health protection
Chapter 29: Customs union
Chapter 30: External relations
Chapter 31: Foreign, security and defence policy
Chapter 32: Financial control
Chapter 33: Financial and budgetary provisions
Chapter 34: Institutions
Chapter 35: Other issues

Source: EUROPEAN COMMISSION. (2019). *Chapters of the Acquis.* [Online]. Available at: https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership/chapters-of-the-acquis_en [Accessed: 20 April 2019].