

DEBATING THE DIFFERENTIATED INTEGRATION: THE CASE OF KOSOVO

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ABSTRACT

DEBATING THE DIFFERENTIATED INTEGRATION: THE CASE OF KOSOVO

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This thesis analyzes the European Union as a system of differentiated integration characterized by both vertical and horizontal differentiation. Differentiated integration is an instrument to accommodate heterogeneity in the European Union in the aspect of distribution, deficiency and autonomy implications of enlargement. Differentiation among the member states (internal differentiated integration) results from the high interdependence and high politicization of policy areas. On the other hand, differentiation of selective policy integration of non-member states (external differentiated integration) occurs on highly interdependent but not necessarily on highly politicized policy areas. External differentiated integration is mainly carried out by the European Union conditionalities in which bargaining power plays a crucial role. These patterns are illustrated in the case study of Kosovo where external differentiated integration model is seen as an alternative and feasible mode of integration for Kosovo's relation with the EU.

Keywords: Differentiated integration, European Union, External governance, Governance by Conditionality, Kosovo

ÖZ

FARKLILAŞTIRILMIŞ ENTEGRASYON TARTIŞMASI: KOSOVA ÖRNEĞİ

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Yüksek Lisans, Avrupa Çalışmaları Bölümü

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Bu tez, Avrupa Birliği'ni hem dikey hem de yatay farklılaşma ile karakterize edilen farklılaştırılmış entegrasyon sistemini analiz etmektedir. Farklılaştırılmış entegrasyon, genişlemenin dağılım, yetersizlik ve özerklik etkileri açısından Avrupa Birliğinde heterojenliği barındırmak için kullanılan bir araçtır. Üye devletler arasındaki farklılaşma (iç farklılaştırılmış entegrasyon), politika alanlarının yüksek karşılıklı bağımlılığı ve yüksek politize edilmesinden kaynaklanmaktadır. Öte yandan, üye olmayan devletlerin seçici politika entegrasyonunun farklılaşması (dışsal farklılaştırılmış entegrasyon), politik alanlarda birbirine bağımlı ve politize (yüksek politize şart değil) edilmesinden oluşur. Dışa yönelik farklılaştırılmış entegrasyon, esas olarak pazarlık gücünün önemli bir rol oynadığı ve Avrupa Birliği'nin şartlarına göre yürütülür. Bu alanlar, dışa yönelik farklılaştırılmış entegrasyon modelinin Kosova'nın AB ile olan ilişkisi için alternatif ve uygulanabilir bir entegrasyon modeli olarak görüldüğü Kosova örneğinde gösterilmiştir.

Anahtar Kelimeler: Farklılaştırılmış entegrasyon, Avrupa Birliđi, Dış yönetim, Koşulsallık, Kosova

To my family

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LIST OF ABBREVIATIONS

AAK	Alliance for the Future of Kosovo (Aleanca për Ardhmërinë e Kosovës)
AFSJ	Area of Freedom, Security and Justice
CARDS	Community Assistance for Reconstruction, Development and Stabilization
CEEC	Central and Eastern European Countries
CFSP	Common Foreign and Security Policy
CSDP	Common Security and Defense Policy
DI	Differentiated Integration
EAR	European Agency for Reconstruction
ECLO	European Commission Liaison Office
EEC	European Economic Community
EMU	Economic and Monetary Union
ESCB	European System of Central Banks
ESDP	European Security and Defense Policy
EU	European Union
EULEX	European Union Rule of Law Mission in Kosovo
EUMM	European Union Monitoring Mission
EUP	European Union Planning Team

EURATOM	The European Atomic Energy Community
EUSR	European Union Special Representative
FRY	Federal Republic of Yugoslavia
FYROM	Former Yugoslav Republic of Macedonia
GDP	Gross Domestic Product
GLPS	Group for Legal and Political Studies
IBM	Integrated Border Management
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
IMF	International Monetary Fund
IPA	Instrument for Pre-Accession Assistance
JHA	Justice and Home Affairs
KCSF	Kosovar Civil Society Foundation
KIPRED	Kosovar Institute for Policy, Research and Development
KLA	Kosovo Liberation Army
LVV	Movement for Self-Determination (Lëvizja VetëVendosje)
NATO	North Atlantic Treaty Organization
OSCE	Organization for Security and Co-operation in Europe
PDK	Democratic League of Kosovo (Partia Demokratike e Kosovës)
SAA	Stability and Association Agreement
SAP	Stability and Association Process

SAPD	Stabilization and Association Process Dialogue
SEA	Single European Act
SFRY	Socialist Federal Republic of Yugoslavia
SRSG	Special Representative of the Secretary General
STM	Stability and Association Tracking Mechanism
TFEU	Treaty of the Functioning of the European Union
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNMIK	United Nations Mission in Kosovo
UNSC	United Nations Security Council
WB	Western Balkans

CHAPTER I

INTRODUCTION

Since the beginning of the European integration process in the mid-1950s, there were debates about how much and under what conditions to expand the EC/EU¹. The first four enlargement rounds of 1973, 1981, 1986 and 1995 remained essentially similar and persistent. They become members of the EC/EU by fulfilling the convergence criteria of the community method. However, with the Big Bang enlargement of 2004, things started to change. With the increasing heterogeneity in the Union and deep splits in their positions about any policy, highlighted complications of evolving forward together and at the same time. Therefore, the classical community method started to be considered insufficient to deal with the increasing diversity within the Union. It is at this moment where the need for a new model of integration started to emerge.

European Union has changed a lot in the twenty-first century when compared to the earlier years. In the preamble of the Rome Treaty it has been declared that EU's intention is to "lay the foundations of an ever closer union among the peoples of Europe" (The Treaty of Rome, 1957). This, in the beginning, demanded the participation of all member states in the policies. This was kind of a uniform integration. Nevertheless, in the twenty-first century, the EU membership rose to 28 members and countries from former Yugoslavia started to become candidates and

¹ For further details see (Majone, 2006; Hansen, 2003)

potential candidates. Therefore, the issue of “ever closer union” can no longer be taken for granted.

European integration theories, mainly neofunctionalism and liberal intergovernmentalism generally focus on empirical questions of why and how Union deepens and widens (Wiener & Diez, 2009). However, they explain the opt-outs of the member states from any policy area or opt-ins of non-members to it, as a temporary or accidental reaction of these negotiations. Rather than explaining this phenomenon as short-lived, this research investigates an alternative model of integration which is differentiated integration.

Looking at external differentiation of the EU, especially the case of Kosovo, we see that this type of integration might emerge as an alternative to accession. In this way, non-members remain an integral part of integration process while maintaining their sovereignty. In 2014, European Council said that there is no one path of integration towards EU². Therefore, a legal structure cannot be uniform or accepted by all, in terms of territory and scope (Stubb, 1996, p. 285). This is exactly what Schimmelfennig, Leuffen and Rittberger try to explain. For them, a system of differentiated integration doesn't mean several Europes which have different jurisdictions. In fact what they try to tell is that there is a single European Union with its member states, organizational and territorial extension that alter by function (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 767). The idea of this thesis is to show this through examples from both internal differentiation analyzing three different policy areas and external differentiation mainly analyzing the case of Kosovo.

When analyzing external differentiated integration, the case of Kosovo is different from other cases of the Western Balkans. Kosovo's independence has not been recognized by five EU member states. Because of this legal obstacle, EU cannot speak with one voice towards Kosovo. Although EU has been present in Kosovo even

² Pointed out in (Müftüler-Baç, 2017, p. 4)

before its declaration of independence, the likelihood of Kosovo joining the EU remains low, at least for the near future (Heath, 2016). Yet, this burdensome relation between them doesn't necessarily mean that Kosovo's integration path is stalled. If the relation of Kosovo with EU would have been based on the classical community method, then, from its inception, Kosovo's path towards EU would have been more challenging because of non-recognizers. However, with the differentiated integration model, we observe that Kosovo doesn't lag behind its neighbors, even though it moves in a different speed and even in a different path as it does not chase membership in a classical sense.

What firstly makes this study unique is that even though differentiated integration came out as a model with the Single European Act (SEA) in the late 1980s and with the Treaty of Maastricht in 1990s, it wasn't studied as detailed as theories of the European Union. Mainly because it was seen as a temporal derogation of integration. However, what is important in this study is the fact that differentiated integration is seen as the most enduring, essential and indispensable characteristic of today's EU. The second unique feature of this thesis is that until now Kosovo hasn't been studied as a special case of differentiated integration because of EU's status neutral approach to it. Therefore, my research question is "Considering the situation of Kosovo, is differentiated integration a potential model to integrate Kosovo into the EU?"

The second chapter of the thesis is essentially about the whole system of differentiated integration. Firstly, I am going to explain the limits of classical community method and why it doesn't work in the case of Kosovo. Then, the focus will be on how different scholars explain differentiated integration, how does it occur and what are the types of it. Soon after, there is a comparison of differentiated integration with neofunctionalism and liberal intergovernmentalism. Following this, I will look at differentiated integration in practice by analyzing Security and Defense

Policy, Area of Freedom, European Monetary Union and Security and Justice (AFSJ) mainly Schengen Treaty.

The third chapter of the thesis is going to be about the case of Kosovo. Firstly, the focus will be on external governance of EU to better understand the external differentiated integration and prepare the ground for the case of Kosovo. Here it is important to mention that differentiated integration is taken as a model in Kosovo's integration. However, this type of integration is not accession to the membership but it is an integration to specific policy areas of the EU. In this chapter, the historical background of Kosovo is going to be analyzed. Thereafter, I will analyze the Kosovo-EU relations between 1999-2008 by focusing on Zagreb Summit and Thessaloniki Summit. After that, there is an evaluation of Kosovo-EU relations between 2008-2016 concentrating on EULEX and EU-facilitated dialogue. The final issue is about Stability and Association Process of Kosovo by analyzing in details and see why SAP is so important in relation to differentiated integration.

The fourth chapter is a detailed discussion on the future of EU-Kosovo relations. Here, I will wrap up and bridge the gap of the system of differentiated integration in relation with Kosovo. The nature of my methodology is qualitative research mainly collected from secondary sources and analyzing the public debates, parliamentary speeches and local think tanks what they think about Kosovo-EU relations and do they have the knowledge of differentiated integration.

The final part of the thesis will be the conclusion where I will summarize briefly all the chapters and try to give answers to the questions I raised in this part.

CHAPTER II

THEORETICAL AND CONCEPTUAL FRAMEWORK

2.1.The limits of classical community method

For many decades, the Community Method has been one of the main decision-making methods of the European Union. Community method came out with the Treaties of Rome in 1957 that created a legal order within a structure of institutional system. The aim of Community Method was to achieve common goals. The decision making of the Community method is characterized 1) by the exclusive right of the European Commission to formulate proposals 2) the co-decision power between European Council and the European Parliament 3) by the rule of qualified majority voting in the Council (EUR-Lex, 2017).

The early 1990s were high times for the EU. The fall of the Iron curtain and collapse of Soviet empire raised some important questions about the future of the EU's integration process. The prospect of the EU that is going to expand to the post-communist countries throughout the Central and Eastern Europe was the main question which in 2004 became a reality. The tension of the widening and deepening of the Union at the same time was getting bigger and the "unitary principle" in the EU was impossible to be sustained (Guérot, 2004). For many years, European Union has sought to widen and deepen in parallel. With the Maastricht Treaty of 1992, the widening process has been moving forward quickly while the deepening task has faltered (Guérot, 2004, p. 1). It is at this moment where the debates about the applicability of community method of enlargement were raised and the arguments about new models of integration such as "multi-speed" and "variable geometry" took place.

According to Christopher Preston, classical community method of enlargement is based on five principles (Preston, 1995). First of all, applicants should accept all the *acquis communautaire* of the EU (Preston, 1995, p. 452). This means that there are no available opt-outs. Accession implies full acceptance of the legislation adopted in the Treaties, statements and resolutions and international agreements of the EC/EU. Secondly, accession negotiations focus on the practicalities of the applicants taking on the *acquis* (Preston, 1995, p. 453). This process of full transformation or so to say the acceptance of the *acquis* is managed by setting target dates which were usually limited transitional periods. These transitional periods gave the right to temporary derogations of the new member states but this didn't pave the way to the amendments of the Community rules (European Council, 1993). Thirdly, problems caused by an increased diversity of an enlarged Community are addressed by creating new policy instruments overlaying existing ones and not by fundamental reform of the latter's inadequacies (Preston, 1995, p. 454). In the all rounds of enlargements, EC/EU added new policies to its *acquis* in order to overcome any potential structural economic problems (Preston, 1997, pp. 229-230). These problems were not only caused by new members but also by other existing EU policies. A good example of this principle is CAP. Different prices of agricultural products was a big problem not only to new members but also to the existing ones. To illustrate, a large level of food imports from cheaper countries was a big problem for UK. Therefore, the application of the *acquis* either enforced internal adjustment costs on the Member States or imposed high budgetary burdens on new Members (Preston, 1995, p. 454). In this case the adjustment cost was under the responsibility of the applicant but with the promise of revision of the *acquis* is once the new member joins the Community (Preston, 1995). Fourth principle of the classical "community method" of enlargement is that new Members integrate within a basis of limited incremental adaptation into the Community's institutional structure (Preston, 1995, p. 455). This principle helps to overcome the difficulties of the *acquis* with the promise of full review after the enlargement. However, it doesn't allow any opt-outs from its *acquis*. The final principle is that Community tends to negotiate with

the states that have close relations with each other (Preston, 1995, p. 455). Until 1995, the four enlargement rounds have all been with the states that are economically or politically close to the Community and its ideology with the exception of Greece (Preston, 1997, p. 230). The accession of Greece in 1981 was different because it was a Mediterranean country, relatively poor and recently democratized state which in a way proved that EC wasn't only a Western club (for a detailed discussion see Karamouzi, 2013).

From these principles it is understood that candidate country in order to be admitted should make its own adjustments inside the framework of the *acquis* while EC does not change. This was the case with the first four enlargement rounds of 1973, 1981, 1986 and 1995 of the EC/EU. However, the enlargements of 2004, 2007 and 2013 are different cases. They were neither politically nor economically close to the EU (Cini, 2007). They were in a transition period from planned economy to an open market economy and politically from communism towards democracy. Because they were unable to fulfil the convergence criteria at once, EU faced opt-outs mainly in the areas of security and Monetary Union (EMU).

In fact, things started to change when European Commission published Agenda 2000 report. In this report it was argued that the upcoming enlargement cannot continue with the classical community method but it should make some major changes both in institutions and decision making procedures (Agenda 2000, 1997). These debates about limitations of the classical community method came into the fore since 1994 when the possibility of the enlargement of the Union towards the Central and East European Countries was argued. It was clear that the enlarged Union of 20 or more cannot be ruled as the Community of 12 (MacLean, 2001, pp. 16-17). It is at this time when the possibilities about multi-speed Europe, *a la carte* and variable geometry in particular and differentiated integration in general was highlighted and soon was brought into a spotlight.

When we look the relationship of EU with Western Balkan (WB) countries, in particular with Kosovo, it is almost impossible to integrate Kosovo into the EU with the classical community method. The reason why is that Kosovo gained its independence in 2008, but still five countries of EU (Spain, Romania, Slovakia, Greece and Cyprus) doesn't recognize its independence. This is the first issue and the main one that will challenge the integration of Kosovo to the EU in the first stance. The second issue is that Kosovo ideologically in political and economic terms is close to the EU, but in practice is far away from it. Kosovo's economy is really poor (second poorest country in Europe after Moldova) with a GDP per capita (PPP) of \$9.600, unemployment rate is 33% (youth unemployment rate nearly 60%), the population below poverty line is more than 30% and the main income comes from the remittances (17% of the GDP) based on 2016 estimations (The World Factbook - Kosovo, 2017). Moreover, corruption is high, there is lack of transparency and accountability, policy incapability in Kosovo (for further details see Assessment of Corruption in Kosovo, 2016). Considering these issues, Kosovo and many other Western Balkan countries would lack behind in terms of integration if the classical community method would still prevail. Therefore, this study, will investigate Kosovo's integration into the EU with the model of differentiated integration and see if this is a possible solution. The upcoming part of this thesis will focus on what Differentiated Integration is, what makes it distinct from the other theories, why it is important to study and finally how this integration theory affects the Kosovo's integration path towards EU?

2.2. System of Differentiated Integration

European Union has changed a lot in the twenty-first century when compared to the earlier years. In the preamble of the Rome Treaty it has been declared by the founding fathers of the EEC that EU's intention is to "*lay the foundations of an ever closer union among the peoples of Europe*" and "*ensure the economic and social*

progress of their countries by common action to eliminate the barriers which divide Europe” (The Treaty of Rome, 1957). As was set out in the Treaty, these political and economic objectives demanded the participation of all six member states (Cini, 2007, p. 393). This common action so to say was the legal requirement for the uniform integration. However, with the Big Bang enlargement of 2004, the EU membership rose to 25 (later on 28) members and countries from former Yugoslavia started to become candidates and potential candidates. Therefore, the issue of “ever closer union” involving 28 member states was hard to maintain. This diversity in the Union highlighted difficulties of moving forward together and at the same time. Thus, differentiated integration began to explain the current trends towards a looser forms of integration.

According to Junge, while uniform integration was a speed towards an “ever closer union”, with the differentiated integration the ever closer union is likely to become more difficult (Junge, 2007). Did these different reforms in this aspect pave the way to the “even farther union”?

The debates about DI took place before 1990s but with the Treaty of Maastricht there was an attempt to utilize differentiated integration through institutionalization. In the Maastricht Treaty this was referred as “flexibility”, which in the Amsterdam Treaty took a legal concept and was named as “closer cooperation” and in Nice Treaty as “enhanced cooperation” (Jokela, 2014, p. 11). However, this doesn’t mean that before Maastricht Treaty there wasn’t flexibility. As stated above, four enlargement rounds had their transition periods which has to do with flexibility in this aspect. Nevertheless, this example of flexibility was not contested among member states and the gradual adjustment to the *acquis* was going to take place. Cini named this as “the paradigm of uniformity”, that policy problem is best conducted at European level and that all countries should engage in binding legislative agreements (2007, p. 392). Nevertheless, after the Maastricht Treaty this flexibility took another form where we see a shifting from the paradigm of uniformity (Cini, 2007, p. 393). The first example

of this is Economic and Monetary Union (EMU). Maastricht Treaty introduced five convergence criteria in order to become full members (Afxentiou, 2000). Flexibility here enters the picture where member states accept the possibility of multi-speed Europe. British reluctance to move beyond the single market and towards the EMU triggered the differentiation within European integration especially after Maastricht Treaty of 1992. Opting-out of Denmark and UK from EMU resulted in ideas of a multi-speed Europe (Jokela, 2014, pp. 10-11). In addition, the ones that comply with those convergence criteria are going to move faster than those who are not. The Danish suggested an increasing degree of flexibility in the integration process which means member states were going to move with different speeds towards a same goal (Dyson & Sepos, 2010, p. 127), while British wanted a more permanent differentiation of member states where they can “pick and choose” the elements of integration in their interest (Dyson & Sepos, 2010, pp. 99-100). On the other hand German and French advocated a multi-speed Europe like of Danish, in which member states hold a common goal of “Europe for all”, where some of members can move faster than the others (Dyson & Sepos, 2010, pp. 156-158). With the example of EMU, three methods of integration were introduced which are multi-speed Europe, Europe a la carte, and concentric circles (Cini, 2007). Shortly, multi-speed Europe differentiates by time, a la carte integration by policy and concentric circles by space (Cini, 2007, p. 398).

In the EU there are some common goals of integration that are accepted by the member states. However, differences between member states make it impossible to achieve these goals at the same time. Therefore, some countries lead towards the common goal according to their abilities. This differentiation of countries in the aspect of time reaching a common goal is multi-speed Europe. On the other hand, some rules and policies of the EU, such as monetary policy apply to some of the member states while many of internal market rules have been adopted by non-members. Schengen agreement does not apply in some of the member states but apply in some non-member states. All those policies that countries “pick and choose” is an a la carte form of an integration. Lastly, concentric circles focuses on the European Union as a whole and

it divides it to different kinds of layers or circles. The inner circle represents those members that accepted all the policies of the EU. Even if it seems like an a la carte form of integration, it differs in a way that concentric circles form of integration doesn't make policies available for picking and choosing but it restricts the option to different types of international organizations (Cini, 2007, pp. 396-398).

All these opt-outs and opt-ins, different speeds and circles were mainly seen as temporary side effects of bargaining about more integration. However, Schimmelfennig et al. argue that these developments in European integration may not be necessarily temporary derogations of integration and this is the most enduring characteristic of the EU. This is what he calls "a system of differentiated integration" (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 765). He, by this system doesn't mean several Europes which have different jurisdictions. In fact what he tries to tell is that there is a single European Union with its member states, organizational and territorial extension that alter by function (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 767). This study investigates differentiated integration and functioning of the European Union from this perspective. Rather than hoping that one day all the member states of the EU are going to be centered in one pool and seeing this as a transition period, this study will look and analyze in details the differentiated integration as a system that prevails in EU.

2.2.1. Horizontal and vertical differentiation

Schimmelfennig, Leuffen and Rittberger in the article "The European Union as a system of differentiated integration: interdependence, politicization and differentiation" propose two types of differentiations: horizontal and vertical. Horizontal differentiation has to do with territorial dimension and alludes to the fact that many policies are not uniformly valid in the member states (Schimmelfennig, Leuffen, & Rittberger, 2015). On the other hand, vertical differentiation has to do with

the policy areas which have been integrated in different levels and speeds of centralization (Schimmelfennig, Leuffen, & Rittberger, 2015). Each and every policy in the EU has its centralization level and the territorial extension of it, respectively vertical and horizontal integration. If a policy area is uniformly integrated and all members participate in that policy area, then, there is a horizontal and vertical integration but differentiation does not occur (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 767). Vertical differentiation occurs when there is a deviation in vertical integration (Schimmelfennig, Leuffen, & Rittberger, 2015). However, in horizontal integration the importance is in the number of member states that participate in the policy areas. The deviation (meaning opt-outs or/and opt-ins of states) of horizontal integration throughout the policies is horizontal differentiation (Schimmelfennig, Leuffen, & Rittberger, 2015). If one or both of these two types of integrations are zero, system of differentiated integration does not occur.

When one looks at horizontal differentiation, it is seen that this kind of differentiation is constituted by internal and external differentiation. If one or more member states do not participate in a policy it is called an internal differentiation (Schimmelfennig, Leuffen, & Rittberger, 2015). For example, opting – out of Denmark from CFSP. On the other hand, if a non-member state participates in any policy area of EU it is called an external differentiation (Schimmelfennig, Leuffen, & Rittberger, 2015). Iceland, Switzerland, Norway and Liechtenstein are not members of the European Union but have signed agreements regarding the Schengen area (Schimmelfennig, Leuffen, & Rittberger, 2015). This is the understanding of the differentiated integration from Schimmelfennig, Leuffen and Rittberger.

Furthermore, Dyson and Sepos in the book “Which Europe? The politics of Differentiated Integration” analyze differentiated integration as the process in which European states or sub-state units move at distinct speeds and objectives but towards common policies (Dyson & Sepos, 2010, p. 4). In addition, differentiation and integration are not mutually exclusive or linear, one-way processes (Dyson & Sepos,

2010, p. 5). These two terms are interrelated. This definition of Dyson and Sepos is restricted only with multi-speed type of differentiated integration. They investigate the attributes of integration in order to better understand the integration itself. However, Holzinger and Schimmelfennig, Leuffen and Rittberger analyze differentiated integration as the process which helps to defeat the deadlock of the EU's integration by letting member states and non-member states to collaborate at various levels of integration (for further details see: Holzinger & Schimmelfennig, 2012, p. 299 & Schimmelfennig, Leuffen, & Rittberger, 2015). This is not only restricted with multi-speed type of differentiated integration but it goes beyond it by analyzing the horizontal and vertical differentiation and including the non-members of the EU in this process.

In addition, Junge explains differentiated integration as a term which covers all the above mentioned methods of European Integration (multi-speed, a la carte and concentric circles) in which member states do not participate in every policy and that the implementation of European policies remains to the member states own progress (Junge, 2007, p. 392). The idea of Junge is not wrong but in my opinion is insufficient because differentiated is more than these three models. Nevertheless, Schimmelfennig and Winzen argue that differentiated integration has moved beyond so to say multi-speed integration, a la carte or concentric circles. Rather, differentiated integration differs notably across both countries and policies (Schimmelfennig & Winzen, 2014, pp. 10-11). Differentiated integration can also be exceptive and discriminatory or constitutional and instrumental (which are going to be explained later) (for further information see: Schimmelfennig & Winzen, 2014 & Schimmelfennig & Winzen, 2016). Thus, this shows that “differentiated integration is itself differentiated by policy areas, time and countries” (Schimmelfennig & Winzen, 2014, p. 10). Considering this, differentiation integration can differ from several months to few years. Moreover, differentiated integration is not always associated with either “a la carte” (differences in policies) or “variable geometry” (differences in countries) (Schimmelfennig & Winzen, 2014, pp. 10-11). Mostly, “differentiated integration varies across both

policies and countries” (Schimmelfennig & Winzen, 2014, p. 11). In order to understand what this sentence means, one has to look at two important concepts which are politicization and interdependence.

2.2.2. How does differentiated integration occur?

Interdependence is a factor which drives the integration, whereas politicization is a factor that acts as an obstacle for an integration (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 765). These two concepts are the main factors of integration and they are essential to understand how differentiated integration works. Before moving to these concepts it is important to mention that differentiated integration tries to keep an institutional core stable while flashing fluctuations across space and policy areas (Holzinger & Schimmelfennig, 2012). Therefore, the focus in this study will be on policies and countries.

Interdependence, not only in differentiated integration but also in other theories of European Union like in neofunctionalism and liberal intergovernmentalism is seen as the main factor that drives the integration (Wiener & Diez, 2009). When governments become aware that with one-sided policies they do not achieve desired results, intergovernmentalists argue that governments seek to join multi-lateral cooperation for the economic and security benefits which otherwise they could not achieve (Schimmelfennig, Leuffen, & Rittberger, 2015). By this way interdependence between governments rises and integration is triggered. However, as claimed by neofunctionalists, transactions and multinational exchanges are the factors that pushes the integration and therefore this paves the way for international rules in this aspect (Schimmelfennig, Leuffen, & Rittberger, 2015). This is more of an international interdependence which creates the effect of spill-over.

Interdependence differs from time to time, across countries and policies. According to neofunctionalists, this means that, some policies require stronger

transnational exchanges, thus, different countries can be affected differently. According to de Wilde, politicization happens when there is an increase and divergence of opinions and how they are served towards the process of policy formulation in the European Union (deWilde, 2011, p. 560). Some of the main indicators of politicization are Eurosceptic public opinions or parties and mass-level prominence (Schimmelfennig, Leuffen, & Rittberger, 2015). Politicization in European Union started to rise more after the Maastricht Treaty which have prompted political cleavages lately in the politics of EU (Marks & Steenbergen, 2004). Such as the issue of migration and border control. As interdependence, politicization differs across countries, policies and time.

Thus, as it is seen from the above mentioned definitions, interdependence is the one who creates the first demand for the integration, however, if this demand is going to be achieved depends on politicization. Schimmelfennig, Leuffen and Rittberger give a perfect illustration to the occurrence of differentiated integration.

Table 1: How does differentiated integration occur?

1.	Low interdependence → No politicization
2.	Strong interdependence + Weak or no politicization → integration
3.	Strong interdependence + Strong politicization → integration will fail or become differentiated

(Schimmelfennig, Leuffen, & Rittberger, 2015).

If interdependence is low between governments, or about policies, there will be no politicization or politicization will not matter since there won't be demand for integration in the first place. However, if there is strong interdependence and weak or no politicization at all, there will be demand for integration and likely that kind of integration will occur. Lastly, if strong interdependence is combined with strong politicization, there would be high demand for integration but because of strong politicization, integration will fail or on the other way it will become differentiated (Schimmelfennig, Leuffen, & Rittberger, 2015). This is how differentiated integration

occurs. Thus if we have to link vertical and horizontal differentiation with interdependence and politicization we can say that in European Union, vertical differentiation rises as interdependence and politicization varies across policies. In the same line, horizontal differentiation escalates when interdependence and politicization varies across countries. In addition, the scale of vertical and horizontal differentiation depends on the extent of interdependence, politicization and asymmetry of politicization across countries as Moravcsik calls it (Moravcsik, 1998). Therefore, vertical differentiation is based on variation in interdependence, while horizontal differentiation is mainly triggered by politicization (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 765). Thus, this is how differentiated integration occurs which is the most comprehensive one. The reason why this study relies on Schimmelfennig, Leuffen and Rittberger understanding of differentiated integration is because it has a more comprehensive level of analysis, it is more complex but at the same time inclusive and workable. This model of differentiated integration doesn't apply only inside the borders of the EU, but it can be applied to the non-members too. In this way, I think that this understanding of differentiated integration thoroughly matches the reality.

2.2.3. Explaining the differentiated integration of new member states

Enlargement is a good way to study differentiated integration because if we look at the record of the European Union it has been one of the main drivers of differentiated integration. One reason is that accession treaties usually come with lots of transitional arrangements where new member states are either excluded from some of the benefits of membership or are given exceptions to adopt to the obligations of membership. So, enlargement rounds introduced lots of differentiation to the EU law, yet, only for a limited time because permanent opt-out was not allowed. However, the long term effect is that enlargement also increases the heterogeneity of the membership

of the EU and therefore creates demand for the differentiation (Leuffen, Rittberger, & Schimmelfennig, 2013). Therefore, differentiated integration is a major instrument that the EU has to accommodate heterogeneity among its members, preferences and capacity (Schimmelfennig & Winzen, 2016, p. 7).

As differentiated integration is something that has to be negotiated, bargaining power is an important factor (Schimmelfennig, 2001). Differentiated integration is negotiated in accession negotiations, so, it depends according to this theoretical perspective on the relative bargaining power of the participating actors. There are two different sources of differentiated integration which are exemptive and discriminatory differentiation (Schimmelfennig & Winzen, 2016). Exemptive differentiation means that new member states are exempted from some obligations of membership and exempted from some rules that do not have to comply with at least for some time (Schimmelfennig, 2014). On the other hand, discriminatory differentiation means that old member states decide to exclude the new member states from some of the benefits. To illustrate, excluded from freedom of movement, labor and some cases of agriculture (Schimmelfennig, 2014). New member states usually try to gain exemption in order to reduce the adaption costs of integration and try to avoid discrimination because benefits of membership are what they are trying to gain. This is an instrument that the EU has to deal with the conflict about distribution, deficiency and autonomy implications of enlargement. It is an instrument to accommodate heterogeneity in the membership and to placate potential losers of enlargement (Schimmelfennig & Winzen, 2016, p. 9). It may also be argued that there is a demand that comes from the heterogeneity of the membership but whether you get or do not get exemption or whether you can avoid discrimination depends on relative bargaining power. There is a need to distinguish these two different forms because the outcomes are different in terms of discrimination and exemptions.

Discrimination is something that the old member states demand and try to impose on new member states. One assumption here is that this is most likely to be the

case in the areas that are highly politicized like immigration and expenditure policies (Schimmelfennig, 2014, p. 687). There might be stronger reasons for old member states to demand discrimination in this areas. Furthermore, I expect discrimination to be widespread in the pre-accession period for the reason that the old member states bargaining power is higher prior to accession than that is after the accession. Therefore, they are more able to impose discrimination on the new member states when they are not actually member states yet.

Then, the assumption is that old member states will demand discrimination especially if new member states are poorer, weakly governed and if they are larger (Schimmelfennig, 2014, p. 691). Poorer member states will demand more distribution of funds, weakly governed states will create problems of implementation, efficiency and compliance and finally larger new member states have a larger impact on the EU than the smaller ones. Moreover, it should also matter how much bargaining power the new member states have (Schimmelfennig, 2014). Simply it can be said that bargaining power here means what discrimination by the old member states accession country can refuse without hurting itself. And again it is assumed that wealthier, well-governed and Eurosceptic new member states will have more bargaining power because it would hurt them less if they are not going to be accepted (Schimmelfennig & Winzen, 2016) (for further details see Kelemen, Menon, & Slapin, 2015).

Exemptive differentiation, is the opposite of discriminatory differentiation for very similar reasons. It is something that new member states demand. Poorer, weakly governed, smaller and more Eurosceptic new member states will demand more exemptions. But at the same time those very countries do not have the bargaining power to really get the exemption (Schimmelfennig, 2014, p. 685). Therefore, I think that bargaining power at the end matters the most, whereas, wealthier countries would be less likely to be discriminated which will also get more exemptive differentiation.

There is an alternative explanation that one should also look at. From normative perspective one can say that there is a norm in the EU which is a legal norm,

therefore, all member states should be treated equally. On the contrary, some can say that it might make sense for the EU to give poorer and weaker countries some extra “leave way” so that they have better chances to adopt. These two examples may lead to different expectations on discriminatory and exemptive differentiation.

This thesis of differentiated integration is based only on treaty law excluding EU’s secondary law. Therefore, there are two types of differentiation in EU treaty law which are Instrumental and Constitutional differentiation (Schimmelfennig & Winzen, 2014). Instrumental differentiation has to do with horizontal integration or so to say widening of the EU. Similar to exempted differentiation, in instrumental differentiation old member states prohibit new members states temporarily from some policy areas until they meet the policy requirements. Thus, this kind of differentiation is temporal or so to say transitional and it includes poor new member states of south and east (Schimmelfennig & Winzen, 2014, p. 3).

On the other hand, constitutional differentiation has to do with vertical integration or deepening of the EU. Usually constitutional differentiation is motivated by Eurosceptic countries which are afraid of losing their national sovereignties by devoting their power to a supranational entity. Thus, this kind of differentiation tend to be permanent and includes states such as Denmark, Britain and Ireland (Schimmelfennig & Winzen, 2014, pp. 3-4). Moreover, while instrumental differentiation is driven by Efficiency and distributional concerns, constitutional differentiation is motivated by identity and national sovereignty issues (Schimmelfennig & Winzen, 2014).

2.3. Differentiated integration in relation with integration theories

When analyzing differentiated integration, it is important to look at two theories of European integration: neofunctionalism and intergovernmentalism. As it is argued by Leuffen, Rittberger and Schimmelfennig, differentiation is the result of the same

two main forces (interdependence and politicization) that also pushes the integration in this two theories (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 77).

The arguments between neofunctionalism and intergovernmentalism has long influenced the political and theoretical discourses of the EU causing ambiguity about the *finalite politique* of the European integration. Neofunctionalism observes European Integration as a process in which integration in one area will lead to integration in another area which will end up to a political union. In this aspect, supranational institutions have an important role to achieve political autonomy. On the contrary, intergovernmentalism put emphasis on nation states and their bargaining power as the main factors that drive European integration (Wiener & Diez, 2009). These two theories constituted the main debates of the European integration when comparing with other theories. However, each theory can portray and depict limited periods of the European Integration. As Wiener and Diez describe, each integration theory is seen as a stone that is added to the picture of European integration. It is hard to finish this picture as new theories add new stones to alter the picture (2009).

My main question here is “how differentiated integration is best viewed in light of European integration theories?” Each theory will formulate a hypothesis that it will be analyzed in “Differentiated integration in practice” section.

2.3.1. Neofunctionalism

Neofunctionalism was firstly developed by Ernst B. Haas and scholars like Leon Lindberg and Phillippe Schmitter and became the leading theory of European integration until the mid-1960s (Rosamond, 2000). It is described as regional integration theory that takes into account the role of non-state actors like European Commission and European Court of Justice as the main institutions for further integration (Wiener & Diez, 2009). However, one cannot exclude the role of the states either. The duty of the member states is also important because they arrange the

conditions of the integration process although they don't completely regulate the change (Schmitter, 2004, p. 46). In a nutshell, neofunctionalism is based on a scheme for integration where at least two states determine to collaborate and attain integration in a given sector. In order to be successful, states choose a supranational authority to supervise it and by this way it becomes a leading figure of the integration project (Rosamond, 2000, p. 59). The most distinguished characteristic of neofunctionalism is a spill-over effect. There are three types of spill-overs: a functional, political and cultivated spillover (Wiener & Diez, 2009, pp. 57-60). Shortly, a functional spill-over is mainly based on economics in which in order to take full advantages from integration, further steps in other areas should be done (Wiener & Diez, 2009, p. 57). For example, a functional spill-over took place when the integration of coal and steel community required the integration in other energy sectors and at the end the integration of economies as a whole by establishing European Economic Community (EEC). A political spill-over occurs due to the pressure of the elites in member states realizing that problems and interests are not going to be solved in domestic level and attribute them to the supranational level (Wiener & Diez, 2009, p. 59). To illustrate, in 1957 Treaty of Rome wasn't the only treaty. With the political spill-over Treaty establishing the European Atomic Energy Community (EURATOM) was also signed. Finally, in cultivated spill-over, supranational institutions are the ones who provide initiatives to integrate. The Commission here plays the integrative leadership role (Wiener & Diez, 2009, pp. 60-61). The Commission by removing the non-tariff barriers in 1985, paved the way for the Single European Act that was signed in 1986 (Wiener & Diez, 2009). By this way neofunctionalism explains the European Union as the finalite politique of the integration project.

Now when we analyze neofunctionalism in relation to differentiated integration, Leuffen, Rittberger and Schimmelfennig argue that supranational actors would prefer uniform integration, rather than differentiated integration (2013, p. 77). In order to maximize the competences, supranational actors acquire high levels of centralization in different policy areas of the EU. According to authors, these actors

also aim to diminish the vertical differentiation and to prevent the horizontal differentiation because they believe that supranational regulations are more efficient than national regulations and that horizontal differentiation tends to block the European governance (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 77). The reason why is that it is hard to manage the decision making process and to monitor such a big Union. Transnational actors on the other hand, are contented with the vertical differentiation, but not as well as with horizontal differentiation (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 77). I think these two types of actors (transnational and supranational) accept differentiated integration to a certain degree but not as a permanent condition of the European integration. Therefore, what these authors try to indicate is that the main aspects that drive differentiated integration in neofunctionalism are the intensity and scope of transnational exchanges as well as preferences of supranational actors that appreciate uniform kind of an integration rather than differentiated integration (Leuffen, Rittberger, & Schimmelfennig, 2013, pp. 81-83). Then we can say that differentiated integration is only allowed in a temporary manner and the end goal is uniform integration in neofunctionalism.

2.3.2. Intergovernmentalism

Intergovernmentalism theory made an appearance in mid-1960s during “empty chair crisis” as an alternative to the neofunctionalism theory. Scholars like Moravcsik, Hoffman and Milward were the ones who developed this theory. They basically argue that neofunctionalists disregarded the identity of the nation states. This realist ideology take states as the most important actors of international affairs and in development of European integration (Lelieveldt & Princen, 2011, p. 37). There are three main assumptions of liberal intergovernmentalism developed by Andrew Moravcsik: rational state behavior, a theory of national preference formation and intergovernmentalist analysis of interstate negotiation (Moravcsik, 1993, p. 480).

Shortly, in rational state behavior, determinants of national preferences are the costs and benefits of economic interdependence (Moravcsik, 1993, p. 480). In order to achieve the objectives, states will use the most convenient means for them. A theory of national preference formation is based on domestic pressures and interactions between them (Moravcsik, 1993, p. 483). For example, Britain had a highly competitive banking system. Being aware of this, Thatcher liberalized the service sector in order to be more competitive than before. Final assumption of Moravcsik is that outcomes of the negotiations between states is based on bargaining power (Moravcsik, 1993, pp. 497-498). Therefore, domestic goals and interests command the course of integration. From this perspective of intergovernmentalists, state sovereignty is an important issue and thus topics such as security which remain to “high politics” should be in the hands of the nation states (Pollack, 2005).

Where does the differentiated integration fit in the picture? According to Leuffen et al, if there wasn't an option of differentiated integration then the member states who have a most powerful bargaining power would define the limits of integration (2013, p. 53). The leading state in this aspect would prevent any form of vertical and/or horizontal integration if it is not profitable to its state interest. As a result trade-offs would come out. If this dominant state wants to increase the vertical integration, it has to expel those members that do not benefit from this. On the other hand, if it wants to enlarge it has to decrease the level of centralization in order to adjust. This is widening versus deepening dilemma (Leuffen, Rittberger, & Schimmelfennig, 2013, pp. 53-54). According to intergovernmentalists, this dilemma can be solved by facilitating cooperation opportunities on different levels of centralization among different groups and countries. Thus, intergovernmentalism describes differentiated integration by bargaining power, divergence in interdependence issues and preferences of states (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 54). Intergovernmentalism and politicization have also shaped the bilateral relations of EU with the non-EU members too. Thus, we can say that if differentiated integration is the result of the member state's choice in

intergovernmental bargaining, then, this is only possible by preserving state identity and autonomy.

2.4. Differentiated Integration in Practice within the EU

European Union is highly differentiated. The modes and models of differentiated integration vary depending on the policy area. This section of this study will show how the theories of integration explain differentiated integration in major policy areas of the EU. This is going to be illustrated through a brief overview of three policy areas: Security and Defence Policy, Economic and Monetary Union and Area of Freedom, Security and Justice – Schengen Treaty.

2.4.1. Security and Defence Policy

The first policy area that will be covered is the area of Security and Defence Policy (CSDP). The areas of security and defence are attributed to as an issue of “high politics” and as such they determine the autonomy, integrity and the survival of the nation states (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 184). The idea of common defence policy started from the 1940s onwards but a proper security and defence policy was not included in the treaties until Maastricht Treaty which established the Common Foreign and Security Policy. According to scholars, progress in security and defence integration is possible only through differentiated integration (Jokela, 2014, p. 33; Leuffen, Rittberger, & Schimmelfennig, 2013, p. 193). Moreover, “flexibility” has been demanded because of the sensitivities and differences between the member states in this field because the differences of the member states in this area would be impossible to integrate within CSDP without DI. Security and Defence policy is one of the most divisive issues between the member states because countries known as “Europeanist” such as France and Belgium favor increased cooperation

limited to European countries, while the others known as “Atlanticist” such as UK, Netherlands, Germany, Portugal and some of the CEE countries want to be associated with NATO or prefer not to challenge it. There is also one member state that opted-out from the cooperation from any defence policy which is Denmark (Howorth, 2014, pp. 117-129). There are also some countries that defined themselves as neutrals and non-aligned which are Sweden, Finland, Austria & Ireland (Howorth, 2014, p. 120).

The reason for achieving the common defence through differentiated integration would be for the ones most related to each other to join forces and for those most willing to point the way (Jokela, 2014, p. 34). However there is always a risk that differentiated integration may result in a shattering of the EU’s image (Jokela, 2014, p. 41). This may be the case, but on the other hand is the only way forward to gather the member states towards an ever closer union. A combination of strong interdependence and strong politicization will pave the way towards differentiated integration. In Common Security and Defence Policy we can see a strong interdependence between “Europeanist countries” and a strong interdependence between political will and structural capabilities. On the other hand, a strong politicization comes from the Eurosceptic public opinions of UK and Denmark which were against of decoupling the military assets of NATO, and wanted to be associated with NATO in this aspect (Howorth, 2014). Therefore, the combination of strong interdependence and strong politicization in this policy area would either fail the integration or become differentiated. In this case we have a differentiated integration.

2.4.2. Economic and Monetary Union

Differentiated integration is an integration between those EU member states that are able and willing to do so. That is the case with almost all the policy areas in EU and especially with the Economic and Monetary Union (EMU) which is going to be my final case analysis. The Single European Act in 1986 was a call for a closer

monetary cooperation which in 1989 with the Delors Plan the initiation in this direction was launched (Dyson & Maes, 2016, pp. 212-232). However, the monetary union started in 1999 and the conversion of national currencies into Euro took place as late as in 2002.

In order to become members of the Eurozone, member states need to fulfil the convergence criteria which came with the Maastricht Treaty. The convergence criteria includes convergence of inflation and long term interest rates into the rates of the countries with the lowest inflation, budget deficits of not more than 3% of GDP and total government debt not exceeding 60% of GDP (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 148). Furthermore, non-EU states are required to submit the convergence program that shows how they are going to achieve these criteria (De Neve, 2007, p. 513). Therefore, monetary union started with 11 member states in 1999 (Leuffen, Rittberger, & Schimmelfennig, 2013, pp. 149-150) and today reaches the highest number of 19 (European Commission, 2017).

The establishment of EMU was a milestone for European integration process because it is supranationally centralized. In this policy area, governments of the member states do not have any influence since the supranationality is in the European System of Central Banks (ESCB) hand. Therefore, here we have a vertical integration of EMU. Monetary policy is also one of the most differentiated areas of the EU. It is the perfect example of the “concentric circles” type of differentiated integration which includes horizontal differentiation. In the inner corner of the concentric circles we have European System of Central Banks (ESCB). In the other circle close to the inner core we have 19 member states of the EU that are part of the euro area. In the “outer circle” we have states that are able to join the Eurozone but they don’t have the will to. Those states are Denmark, Sweden and the UK which opted-out from the Eurozone. The other circle comprises the member states that have the will to join Eurozone and are waiting in line until they fulfill the convergence criteria. Those countries are Romania, Bulgaria, Croatia, Hungary, Czech Republic and Poland. The last outer layer includes

the countries that have monetary agreements with EMU but are not members of the EU, such as Monaco, San Marino and Vatican (Dyson & Sepos, 2010, p. 224). In addition, there are also countries such as Kosovo and Montenegro which use euro as their currency but they are not included in the circles because they don't have monetary agreements with the EMU, thus, they use euro without taking part into the institutions of the monetary integration (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 150).

Intergovernmentalism explains all this phenomenon of shifting from national currencies (intergovernmental coordination) to Euro (supranationalism) as a result of intergovernmental bargaining and which also shows the supremacy or the victory of German bargaining power (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 179). Here we can also make the distinction of Schimmelfennig argument between “drivers” (member states that are pro enlargement) and “brakeman” (member states that are against further enlargement)³. The driver which is Germany in this policy area, played an important role in establishing monetary system because Eurozone was mostly going to reinforce the former German mark zone (Dyson & Sepos, 2010, p. 231), and with the rhetorical action achieved to convince the brakeman (Schimmelfennig, 2001). On the other hand, supranationalism explains this process of EMU as a force of transnational network of central bankers and some experts on monetary issues (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 179) which paved the way to the functional spillover and thus, forming internal market and finally the EMU.

2.4.3. Area of Freedom, Security and Justice – Schengen Treaty

Area of Freedom, Security and Justice (AFSJ) is considered another major policy area where differentiated integration is being discussed and even realized. Freedom of movement in the EU is one of the main principles in which it promotes communication, business in particular and it facilitates the lives of people in general.

³ For further details on drivers and brakeman see (Schimmelfennig, 2001)

Therefore, creating an area with a minimum border control, the so called Schengen area, among the states that participates to it was the main step to achieving this aim. The Schengen area was established in 1985 by an intergovernmental treaty, which in 1986 was incorporated to EU treaties (Jokela, 2014, p. 75). The Schengen area also have an Integrated Border Management (IBM) which has to do with the EU's external borders. However, what is important here is that both IBM and Schengen area are transforming their borders over time and this complexity is considered a perfect example of differentiated integration.

In the Schengen zone there are over 400 million people from 26 countries, however, not all of the EU member states are part of the Schengen area (Jokela, 2014, p. 75). There are five types of differentiated integration in the Schengen zone. The first one is "opt-outs". This includes member states such as UK, Ireland and Denmark. The first two countries have kept themselves out from the *acquis* of the Schengen regarding the issues like border control, visas and migration (Jokela, 2014, p. 77). However, Denmark has an interesting position in this aspect. Even though in 1996 it signed the Schengen Agreement, in the Treaty of Amsterdam decided to opt-out from it (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 231). Here we can see that the combination of weak interdependence of these countries with the EU's Schengen policy and a strong bargaining power paved the way towards the "opt-outs" (Kölliker, 2001; Leuffen, Rittberger, & Schimmelfennig, 2013, p. 231). When we talked about the interdependence and politicization issues, we saw that weak interdependence would lead to no or weak politicization. Yet, in this issue of opt outs, bargaining power- as how liberal intergovernmentalist prefer to say, plays an important role that triggers differentiated integration. This first category has to do with the differentiated horizontal integration.

The second type of differentiated integration in the Schengen zone is "opt-ins". Shortly, this principle gives the right to the countries that they opted-out before to pick and choose some of the decisions of the Council and integrate them into their domestic

laws (Jokela, 2014, p. 77). The good example of this is that UK and Ireland have opted-in in the cases of judicial cooperation asylum and immigration issues regarding civil matters (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 227). This, as we can understand from the decision, is the typical form of Europe a la carte type of the differentiated integration.

Thirdly, there is the principle of enhanced cooperation which is a good example of multi-speed Europe type of the differentiated integration. To illustrate, Dublin Convention (1997) which later became Dublin Regulation (2003), Prüm Convention (2005), Hague Programme (2004) and Stockholm Programme (2009) are only some of the examples of enhanced cooperation in the Area of Freedom, Security and Justice (AFSJ) (Leuffen, Rittberger, & Schimmelfennig, 2013, pp. 223-225). Prüm Convention was built upon Schengen model but its outside of the EU's jurisdiction (Prüm Convention, 2008). Firstly it was signed in 2005 by seven countries, Austria, France, Germany, Belgium, Spain, Luxembourg and the Netherlands and entered into force in 2007 (Prüm Convention, 2008). It is the best example for enhanced cooperation because it aims police cooperation with increased information exchange in order to fight crime and terrorism (Kroll & Leuffen, 2015, p. 367).

The fourth category is “the Schengen association status” (Jokela, 2014, p. 76). This category has to do with the members of the Schengen Agreement which are not EU members: Switzerland, Norway and Iceland (Kölliker, 2006, pp. 214-216). Schengen area is particularly important to be analyzed because it is the most prominent example of the external differentiation. At the beginning, Schengen was going to be open only to the EU members and not to the countries outside of the Union. Yet, when differentiation started inside the EU borders, this paved the way also to the differentiation outside the EU which offered to some countries the right to participate in the Schengen (Kölliker, 2006, p. 213). Thus, in the Schengen area we can see both vertical and horizontal differentiation. And not only this. Schengen area also is a good example of internal and external differentiation (Leuffen, Rittberger, &

Schimmelfennig, 2013, p. 221). Switzerland, Norway and Iceland do not have decision-making powers, however, they implement the *acquis* of the Schengen in their domestic legal system (Jokela, 2014, p. 77). According to liberal intergovernmentalism, there is a weak bargaining power of non EU members in this aspect. They can contribute informally but they don't have the right to vote or to take part in formal decision-making processes, thus, their influence is limited (Wichmann, 2009).

The final category is about the members of the EU that are waiting in line to become members of the Schengen Agreement. Those countries are Romania, Croatia, Cyprus and Bulgaria (Leuffen, Rittberger, & Schimmelfennig, 2013, p. 221). The main reason why those countries are not part of the Schengen Treaty is because they mainly have border control issues.

As we can see there are five (or even more) different types of differentiated integration present in the Schengen area in particular and AFSJ in general. In the line with the neo-functional spillover argument, the free movement of person triggers demands for integration in other areas like justice and home affairs. When we look at the liberal intergovernmentalism we can see the importance of bargaining power in understanding the position of Denmark, the UK and Ireland why they opted-out and opted-in in some policy areas regarding the Schengen Agreement. According to Moravcsik, Schengen area is in a category of non-economic, political and institutional policies (Moravcsik, 1993, p. 483). Therefore, politicians have an important role here when comparing with interest groups. With the liberal intergovernmentalism we can also understand why non-EU member states like Norway, Switzerland and Iceland have joined the Schengen area.

AFSJ is one of the most complicated areas of the EU. Even though the integration in this area started lately, differentiated integration model has been developed promptly since the 1990s. UK, Ireland and Denmark negotiated the patterns of a *la carte* model. For example, in 2013, UK opted-out from 130 acts of AFSJ and

opted-back to the 36 of them (Koenig, 2015, p. 10). However in the Schengen area, UK and Ireland have opt-out completely while Denmark is doomed to the Schengen regulations under international law (Koenig, 2015, p. 10). On the other hand, liberal intergovernmentalist can explain the opt-ins of Norway and Switzerland in the Schengen area. Interdependence can explain why non-EU countries joined the Schengen (for further arguments see Leuffen, Rittberger, & Schimmelfennig, 2013, pp. 232, 243). Therefore, the combination of internal and external differentiation, makes this policy area one of the most differentiated ones.

CHAPTER III

THE CASE OF KOSOVO

Kosovo is an important case to be analyzed when it comes to the issue of differentiated integration. This case is unique in a sense that how EU relates and treats a state without recognizing its independence and sovereignty. However, before analyzing the case of Kosovo in particular, one should look at how differentiated integration with the non-members state works in general, how EU approaches to the Balkans, and finally the issue of Kosovo in relation with differentiated integration will be analyzed in details.

3.1. External Governance of the EU: Differentiated Integration and non-Member States

Differentiated integration is not a phenomenon that occurs only inside the boundaries of the EU. In the three examples of differentiated integration above, it is seen that this phenomenon is also present in the EU's external relations or so to say external governance. To illustrate, Switzerland, Norway and Iceland are not members of the EU but they are part of the Schengen association agreement. On the other hand, also Monaco, San Marino and Vatican have monetary agreements with the EU and use euro as their currency while they are not members of the EU.

Besides many examples of external differentiation with third countries, I want to focus on external governance mainly towards Western Balkans in order to better understand the case of Kosovo. The case of Kosovo is important to be analyzed since

it is different from the other countries of the Balkans and problematic in the aspect of legal obstructions on recognizing its independence.

Theoretically speaking, external governance model has its roots in the debates of comparative politics and international relations. It rejects the idea of unitary state model of the EU and it diverges from traditional foreign policy analysis (Lavenex & Schimmelfennig, 2009, p. 792). It generates more of an institutionalist view in the post-Westphalian order where we see a growing role of non-state actors and international institutions. Therefore according to institutionalist view the internal modes of EU governance is shaping the external governance of it (Lavenex & Schimmelfennig, 2009, p. 792). The effectiveness of external governance also depends on interdependence of EU with third countries and vice versa. Thus, when we talk about the external governance issue, we have to consider all the factors that shapes it.

Recent developments both in the EU and in the Western Balkans give reason to doubt if EU is going to continue one of its successful policies which is enlargement (Epstein & Sedelmeier, 2008). According to the Commission report in 2006, EU will be reluctant about new commitments (European Commission, 2006). Moreover, even some current commitments of EU to the Western Balkans are under pressure from several member states and EU citizens because they are afraid of the possible enlargement fatigue as of 2004 (Schimmelfennig, 2008, p. 919). Therefore, after the 2004 enlargement, new candidates are facing more difficulties and uncertainties in this aspect. The question of “EU’s integration capacity” is also put forward.

When talking about external governance of the EU, we have to consider three things. First, with each and every enlargement the potential candidates are diminishing in number and thus, the border of Europe or so to say the arguments about where Europe begins and ends, are becoming more ambiguous and divisive. Secondly, after the Big Bang enlargement, questions about integration capacity of EU are in the spotlight (Schimmelfennig, 2014, p. 8). “Is EU ready to enlarge towards Western Balkans?” is one of the main questions that is being asked. Lastly, the remaining

candidates and potential candidates are those countries that experienced wars and are mainly poor countries. So, their transition process to the liberal democracies, fight against corruption, economic development etc. proceeds slower and difficult.

Considering these three important issues, interdependence and the intensity of EU relations with third world countries mainly with its neighborhood still prevails (Lavenex & Schimmelfennig, 2009, p. 793). This is the reason why nowadays scholars put more emphasis on EU governance than focusing on accession process of potential and candidate countries (Grabbe, 2006).

When Copenhagen criteria of 1993 became the condition of the candidate countries to become full members, the EU council stated that “the Union has the capacity to absorb new members which is in the interest of the countries and of the Union” (European Council, 1993). Perhaps, the term absorption is not the best term to use. The European Commission want it a more dynamic and positive term, thus, decided to change it from “absorption capacity” to “integration capacity” (Schimmelfennig, 2014, p. 8). Integration capacity is not a condition for enlargement but it is a criteria for the current member states. Member states together with the Union in general have to set the order before they are able to enlarge. According to Börzel, Dimitrova and Schimmelfennig external integration capacity shows the ability of the EU in preparing the non-members and internal integration capacity shows the ability of the EU in maintaining the functioning of the Union after the countries join it (2017). Integration capacity has three main components which are institutions, budget and common policies (Schimmelfennig, 2014). Yet, these three components only, are not indicative. Factors like public opinion, government preferences and competences and the consolidation of the candidate countries into democracy play an important role when we talk about the capacity to integrate (Börzel, Dimitrova, & Schimmelfennig, 2017; Schimmelfennig, 2014).

Integration capacity is potentially a sensitive subject because there are many interests involved. There are member states that are against enlargement and vice

versa. There are also member states that are both against enlargement and association negotiations and vice versa.

Even though the absorption or integration capacity notions came out with the Copenhagen criteria of 1993, it can be said that those two notions existed even before 1993. According to Alexander Stubb, member of European Parliament from 2004 until 2008 in National Coalition Party, argued that there was in every debate before and after each enlargement about how much EU should deepen. Before enlargements, EU prepared the ground by introducing new Treaties and Acts. He then argued that before first enlargement of 1973, EU prepared the ground with the customs union. Moreover, prior to the third enlargement of 1986, Single European Act (SEA) was established. Before the accession of Austria and Sweden there is the Maastricht Treaty and on top of this before the enlargement of 2004 we have Amsterdam and Nice Treaty (European Parliament, 2006).

3.2. Conditionality, Differentiated Integration and Enlargement

Between EU and non-member states, conditionality is the typical mode of the integration. It is based upon the bargaining power of the non-members and on negotiations (Börzel, Dimitrova, & Schimmelfennig, 2017, p. 163). In this way EU can offer rewards to the non-members that comply with its rule or can withdraw from it when non-members reject it. Therefore the dominant logic here is that conditionality is a bargaining strategy which fortifies by reward and by this way EU offers external incentives for non-members to comply with the conditions set by the EU (Schimmelfennig & Sedelmeier, 2004, p. 662). In this way there are three models of EU's external governance.

The first one is external incentives model (Schimmelfennig & Sedelmeier, 2004). This kind of model is more of a rationalist bargaining model where actors or member states involved in this process are interested in maximization of their power.

According to this model EU have to set the rules (internal governance) as conditions and the non-member states have to comply to them in order to be rewarded (Schimmelfennig & Sedelmeier, 2004, p. 663). These rewards may vary from partnership or assistance to the full membership.

Conditionality may affect non-member states directly or indirectly. A direct form is done through intergovernmental bargaining however the indirect form of conditionality changes the structure of domestic policy on the side of domestic actors to adopt the rules of the EU and fortify the bargaining power (Knill & Lehmkuhl, 1999, pp. 6-8). A non-member state decide to accept the EU rules if and only if the advantage of EU rewards surpasses the domestic adaption costs (Schimmelfennig & Sedelmeier, 2004, p. 664). This issue is determined through the determinacy of the conditions, through the speed and size of the rewards, through the reliability of promises and threats and the adaptation costs (Schimmelfennig & Sedelmeier, 2004). The external incentive model is the first and most dominant form of the external governance of the EU.

The second and the third alternative models of the external governance are social learning model and lesson drawing model (Schimmelfennig & Sedelmeier, 2004). We saw that the external incentives model was based more on a rationalist bargaining type of conditionality. However, social learning model is motivated by the norms, values and identities of EU and thus is based on logic of appropriateness (Schimmelfennig & Sedelmeier, 2004, p. 667). Therefore, non-member states or actors accept the conditions of the EU if those conditions are persuaded by this logic. On the other hand, lesson drawing model is a reaction of non-member states to their own domestic policies and thus, accept the conditionality of the EU at that time where they think that EU rules can solve the domestic issues (Schimmelfennig & Sedelmeier, 2004, p. 668).

These three examples illustrate how EU transfers its rules to the non-member states and in what conditions non-members states accept them. As we have seen the

effectiveness of the EU's conditionality is based on interaction of the EU and domestic factors. Therefore, according to Schimmelfennig, the effectiveness of the conditionality depends on firstly, in the conditional offer of the EU to the non-member state, secondly, to the EU's enlargement decision based on normative uniformity and finally, is based on low conformity costs of the non-member states (Schimmelfennig, 2008, p. 921). These are in compliance with the external incentive model of conditionality. This was the conceptual framework of external governance and conditionality. How these two concepts are related with the Western Balkans region? I am going to focus on conditionality and commitment of the EU in this aspect and see if conditionality used with Central and Eastern European Countries is same with the conditionality used with Western Balkans.

EU's engagement with Western Balkans, in contrast with the CEE countries, lacks the potential to enlarge towards this region. The reason why is that the eastern enlargement was influenced by the narrative of post-Cold War where EU saw as its obligation to bypass the division of Europe. However, such narrative doesn't exist in the case of Western Balkans. It is true that EU cites stability, democratization, peace and security in WB same as in CEEC, but with a lack of urgency and prominence.

From 1993 onwards, there was a clear commitment on eastern enlargement. The Commission had clearly referred that it was the right time for "unification of the whole Europe" (European Commission, 1992, point 5). A following year, Council of the EU, declared the Copenhagen Criteria which provided certain criteria for CEE countries who wanted to be members of the EU (Council of the European Union, 1993). This issue was also strengthened when the Council of the EU in Luxembourg initiated an "accession process" with these countries (Council of the European Union, 1997, point 10). These three examples show the commitment of the EU to enlarge through CEE countries.

In 1999, we also saw that European Council made a direct reference to the possible accession of the Western Balkan countries, however, with much vaguer

language (Keil & Arkan, 2015, p. 34). The European Council in Cologne stated that Western Balkan countries are closer to the full integration with the fulfillment of Copenhagen Criteria. Moreover, Feira European Council in 2000 updated the position of the Western Balkans to the “potential candidates” (Council of the European Union, 2000). Nevertheless, this concept of “potential candidates” was never heard before when comparing with Central and Eastern European countries because they were immediately granted a candidate status. This shows that the EU preferred a looser commitment towards Western Balkans region.

In the following Summits, there is an increase of the EU’s commitment towards Western Balkans. In 2000, the Zagreb Summit came up with a “prospect of accession” for this region “on the basis of the provision of the Treaty on European Union” (in Keil & Arkan, 2015, p. 35). In addition to this, in 2003, European Council stated that “the future of the Western Balkans is within EU” (Council of the European Union, 2003, point 82). Since this declaration of Council of the EU in Brussels, such a conception became common. After a few months, Thessaloniki European Council supported the European perspective of the Western Balkans and stated that “Western Balkan countries will become an integral part of the EU” (Council of the European Union, 2003, point 40). Finally, in 2006, European Council “reconfirmed the European perspective of the Western Balkans” and stated that “EU membership as the ultimate goal” (Council of the European Union, 2006, point 56).

These descriptions like “a whole” or “being a part of” and “having a future in the EU” shows certain proofs of commitment. However, what is interesting is that in these declarations of the Council of the EU, they never mention membership for the Western Balkans, instead, they only put emphasis to the Stabilization and Association Process (SAP) (Keil & Arkan, 2015, p. 35). This is also another issue that EU is finding creative ways so to say of confirming the European perspective but without giving a membership promise in the near future (Delevic, 2007, p. 36). It is worth to note that the Stabilization and Association Process was launched after the Zagreb Summit for

Western Balkans in order to achieve regional cooperation objectives and it is a prerequisite for the membership. Yet, this didn't exist at all in the negotiations for eastern enlargement.

As stated in the beginning of this chapter, the narrative of integration was to bring stability, peace and security in the Western Balkans region. When we look in terms of narrative, it did so. Though, what is absent here is the EU's responsibility and duty to enlarge (Keil & Arkan, 2015, p. 36). The enlargement strategy, according to the European Council in 2006, is based on "consolidation, conditionality and communication" however, the determinant of this enlargement would be the integration capacity of the EU. Moreover, progress towards accession would be based more upon technical considerations than political commitment (Council of the European Union, 2006, point 7). Therefore a rhetorical entrapment (Schimmelfennig, 2001) which was dominant in the eastern enlargement case, as Schimmelfennig calls it, was to be avoided.

Conditionality for Western Balkans, as was for CEEC, is the main determinant for integration and progress towards membership. Yet, different from the CEEC conditions, for Western Balkans the range, compliance and criteria of conditionality has been widened even more. Therefore, it is argued that this way these states will be better prepared for the membership and avoid the enlargement fatigue (in Keil & Arkan, 2015). Although this process was designed to help the state-building of Western Balkans, it also creates room for exploitation (Keil & Arkan, 2015, p. 37).

According to the Council of the EU, Western Balkan states not only have to meet the Copenhagen criteria, but they also have to meet the conditions set by the Stability and Association Process (Council of the European Union, 2006, point 8). Some of these conditions are to cooperate with International Criminal Tribunal for the former Yugoslavia (ICTY), ensure to return of refugees and most importantly to seek a regional cooperation which includes "good neighborly relations" (Delevic, 2007). The first two conditions are not additional demands than those imposed to the CEE

countries but they reflect the necessity in which recent history paved the way to it. But what is different from the eastern enlargement is SAP and “good neighborly relations” and that those existing conditions were way more extensive than ever before. In this aspect, EU asserts that Western Balkan states need to resolve any border disputes in line with the principle of peaceful settlement (Conference on Accession to the European Union – Croatia, 2005: point 13).

As for the compliance with the *acquis*, candidates do not wait until accession as in previous enlargement rounds, but, they need to comply to it before accession negotiations are closed (Strelkov, 2016). Thus, opening of accession negotiations and closing them are way much harder in the Western Balkans case when compared with eastern enlargement.

3.3. Stability and Association Process (SAP) in Western Balkans

It may be argued that for the Western Balkan states albeit falling short of full accession, differentiated integration prevails. Whether it is through conditions set by the EU or different European partnerships, we cannot deny the existence of varying degrees of differentiated integration. However these conditionalities has evolved over time and over different enlargement rounds. One of the most important conditionalities that is peculiar to Western Balkans and a good example of external differentiated integration is Stability and Association Agreement (SAA). It was firstly launched in June 1999, instituted in Zagreb Summit in 2000, but with the Thessaloniki Summit in 2003 was strengthened even more. In Zagreb Summit, there were present heads of the government of the EU, states of the Western Balkans and High Representative of the EU (Economides, 2008, pp. 20-21). The aim of the SAP was to build on the Regional

Approach of the 1997⁴. A similar manner, stabilization and transition to the market economy is considered as important as regional cooperation. It includes economic and trade relations, economic and financial assistance, cooperation in justice and home affairs, humanitarian aid and development of political dialogue (Council of the European Union, 1999). The purpose of SAP was to move beyond reconstruction by establishing specific kind of partnership with the EU in which there will be reciprocal responsibilities (Economides, 2008, p. 21). In this way EU would offer financial and technical assistance and the possibility of the EU accession which is of course non-binding, while in return Western Balkans would commit to fulfil the conditionalities, realize extensive reforms and take place in regional cooperation (Economides, 2008, p. 21). After one year of its establishment, European Council officially recognized the Western Balkan countries as “potential candidates” (Pippan, 2004, p. 219). The contractual agreement of the SAP is Stability and Association Agreement (SAA). FYROM and Croatia were the first two countries who signed SAA in 2001. However, for both cases it took a long time for the SAA to come into a force. The reason why, is that the SAP was mainly seen by Western Balkan states as substitute of the accession process rather than a precondition (Phinnemore, 2003).

Thessaloniki Agenda strengthened the SAP by supporting the “European perspective” of the Western Balkans and fortifying the financial assistance of the Instrument for Pre-Accession Assistance (IPA) (Economides, 2008). Given this enthusiasm about integrating Western Balkans as CEEC, it might be assumed that the former would have the same success as the latter and finally join EU. Nevertheless, even though the integration of Western Balkans has increased after the SAA, membership is less certain than it was ever before. Here we can clearly envisage the process of Differentiated Integration in which some states of Western Balkans signed SAA earlier than the others.

⁴ Regional Approach is the process whereby EU strongly encouraged economic and political ties among Albania, Bosnia and Herzegovina, Croatia, FYROM and FRY. For a detailed discussion see (Delevic, 2007; Pippan, 2004).

According to Kölliker, in SAP there are at least two types of differentiation which are “conditional differentiation” and “directoire differentiation” (in Economides, 2008, p. 29). Conditional differentiation happens when non-members of the EU participate in EU policies if pre-determined conditions are fulfilled (Kölliker, 2010, p. 42). On the other hand, Directoire differentiation is motivated by unwillingness of leading participants to let other states to take part in a policy area (Kölliker, 2010, p. 42). This means that EU membership will be achieved when the conditions are going to be fulfilled and most importantly if the members of the EU find it appropriate for them to agree to the membership. This is also directly linked with the absorption capacity of the EU, or the so called integration capacity.

When SAP was launched, it was simply based on the mechanisms that EU developed in its relations with the CEEC (Friis & Murphy, 2000). For example, the economic and financial assistance which provides assistance and for democratization and civil society was very similar to the PHARE programme (Elbasani, 2013, p. 24). In a nutshell, many of the areas of the SAP were remodeled forms of cooperation of EU with the CEEC.

The most important resemblance between the integration of the Western Balkans and EU’s approach to the eastern enlargement is conditionality (Pippan, 2004). In both cases, demands set by the EU have to be met in order to move forward to the accession negotiations. However, for Western Balkans there are some additional conditions as stated above: on regional cooperation, the return of refugees and cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY). To illustrate, Serbia’s negotiations were suspended for more than a year because it didn’t fully cooperate with the ICTY (Delevic, 2007, p. 7) and the ratification of the SAA didn’t take place until September 2013, four years after it was signed (Keil & Arkan, 2015, p. 38).

Even though there has been a significant progress with the SAA in terms of integration, there are so many academic analysis, think tanks and scholars who are

skeptical about it. Even if some think tanks argue that SAP has persuaded deepening of ties (European Policy Centre, 2008). On the other hand, Lehne argues that overall there has been a sufficient progress but he is not satisfied with that in the areas of rule of law and fighting corruption (2004, p. 123). While Türkeş and Gökgöz (2006) with a critical voice argue that by this way EU is neither totally excluding nor rapidly integrating Western Balkans, Elbasani (2008) identify only particular contradictions of the SAP.

To conclude, EU's effort to implement a suitable policy framework for the Western Balkans was successful in a way for prospering better and giving appropriate instruments for promoting politics in the region. However, those tools were indeed to stabilize the region which is clearly shown with the SAP but not with a clear and strong aim of membership. This approach to the Western Balkans did bring stabilization and development of relations with the EU. While some countries established better ties with the EU, the others lagged behind. We can also see that there is a difference in emphasis between Western Balkan states and the EU too. The main aim of these states is integration to the EU or so to say membership, whereas the goal of the EU is to transform the politics and economies of Western Balkans into democracies and market economies and to stabilize the region with the "regional cooperation" policy. While explaining the external governance of the EU, my aim was to evaluate in details how this relation of EU-WB prevails and how it is linked to differentiated integration.

3.4. The case of Kosovo

Kosovo's relation with the European Union has been different from the beginning. Although EU has been present in Kosovo even before its declaration of independence or Guerilla War of 1999, the likelihood of Kosovo joining the EU remains low, at least for the time being. However, this burdensome relation between them doesn't necessarily mean that Kosovo's integration path is blocked. In this

section of the thesis, I am going to analyze the process of Kosovo's integration path towards the EU with the system of differentiated integration. The aim of this, is to show that external differentiated integration model is an alternative and feasible mode of integration for Kosovo's relation with the EU. It is worth to mention that this kind of integration into the EU policies is not anomaly or distinct to Kosovo. There are many other European states that are not members of the EU but are at different levels of integration. For example, Switzerland, Ukraine, Iceland etc. are not members of the EU, but they have partnerships, or different agreements with the EU in different levels. However, the case of Kosovo is unique in a sense that how EU relates to a state without recognizing its independence and sovereignty. Before analyzing this, one has to look briefly at the background of Kosovo's history in order to better understand Kosovo-EU relations.

3.4.1. Historical background of Kosovo's statehood

Based on the 1974 constitution, Kosovo was an autonomous province within Serbia, which was one of the six republics under the Socialist Federal Republic of Yugoslavia (SFRY) (van der Borgh, le Roy, & Zweerink, 2016). Kosovo, as an autonomous province of Serbia, was also named as an autonomous province of Yugoslavia, which enjoyed a high degree of autonomy and self-governance.

However, things started to change with the death of the Josip Broz Tito in 1980. In the beginning of the 80s, the tension between Yugoslavian ethnic groups started to increase, which paved the way towards massive student protests and death of the civilians. With the Slobodan Milosevic as the president of the Yugoslavia (1989-1997), Kosovo's autonomous statehood was abolished and discriminatory policies were implemented against Kosovar Albanians. One of the main issues of Yugoslavia's disintegration was seen that communism as an ideology was being replaced with nationalism (Cottey, 2009, p. 594).

In 1991, following Slovenia and Croatia, Kosovo also held a referendum for the independence from Yugoslavia. With the massive participation of approximately 99% of citizens, about 90% of them voted for Kosovo as an independent country (Kallxo, 2016). This was immediately ignored by Serbia and it did not receive international recognition because there was a lack of legitimacy and institutions of a republic (Bieber, 2015, p. 286).

In 1998, conflict in Kosovo turned into a civil war which took place between Serbian forces and Kosovo Liberation Army (KLA). The Kosovars strategy was always to internationalize the Kosovo question, while Serbs were against it and saw it as a domestic issue (Türkeş & Akşit, 2007, p. 89). There were always some attempts from the international arena trying to solve the Kosovo question but the turning point happened in 1998 when Western allies authorized NATO to launch air strikes to the Serbian military. Therefore, on 16 October 1998, OSCE and Federal Republic of Yugoslavia (FRY) agreed to sign the Kosovo Verification Mission. Similar to this, on 23 October 1998, NATO and FRY signed an agreement for ceasefire and peaceful resolution (Türkeş & Akşit, 2007, p. 90). Despite their promises, the fighting between Serbs and Kosovars didn't stop and thus the agreement was not implemented.

The most important peace conference took place in Rambouillet of France between 6-17 February 1999. In this conference, the "Contact Group" including US, Russia, Germany, France, Britain and Italy together with Republic of Yugoslavia and Kosovo were present. However both Kosovars and Serbs were not satisfied from this Rambouillet Plan. For Kosovars it didn't promise a future independence, while Serbs weren't satisfied because of stationing NATO troops in Kosovo (Türkeş & Akşit, 2007). Nevertheless, on 15 March 1999 Kosovo accepted to sign the peace deal, while Serbs tried to avoid it as much as possible. The reason why is the inclusion of the Appendix B in the Rambouillet Plan which stated that:

"NATO personnel shall enjoy, together with their vehicles, vessels, aircraft, and equipment, free and unrestricted passage and unimpeded access throughout the FRY

including associated airspace and territorial waters. This shall include, but not be limited to, the right of bivouac, maneuver, billet, and utilization of any areas or facilities as required for support, training, and operations” (UN Security Council, 1999).

I think this was a predicted outcome because Serbs would have never let extensive rights for NATO over their sovereign territory. Therefore, as the Serb delegation rejected the agreement, NATO began its air strikes on 24 March 1999 which lasted until 9 June of the same year. It is very important to mention that the NATO intervention in Kosovo is considered by some as illegal under international law because it didn't have the authorization of the United Nations⁵. This action was justified in the International Court of Justice on the ground that military actions are acceptable in a case of immense humanitarian need (Greenwood, 2002, p. 157). Even though it wasn't legal, because of the violation of human rights, it was seen as legitimate.

At the end of the Kosovo war in June 1999, UN Security Council launched the Resolution 1244 presented by Marti Ahtisaari, United Nations Special Envoy for Kosovo. With this Resolution 1244, the administration of Kosovo was going to be deployed to United Nations Interim Administration Mission in Kosovo (UNMIK) (Türkeş & Akşit, 2007, p. 99). With this, Kosovo came under UN protectorate. All the civilian tasks were performed by UNMIK and headed by the Special Representative of the Secretary General for Kosovo (SRSG) which was the only source of authority in Kosovo (Elbasani, 2013, p. 125). UNMIK was made up of four pillars: First and second pillars were executed by UNMIK itself and dealt with the issues of police and justice (1st pillar) and civil administration (2nd pillar). Third pillar of UNMIK administration was led by the OSCE which dealt with democratization and institution

⁵ For a detailed discussion on the background and legal discussion on NATO intervention in Kosovo, see (Wheeler, 2000).

building. Finally, the fourth pillar was led by the EU and dealt with the reconstruction and economic development (Elbasani, 2013, pp. 125-126).

UNMIK administration was successful in a way that it set the basic ground for the democratization of Kosovo. It prepared the first municipal elections after the intervention of NATO in 1999. It also created new institutions and offered different projects under the OSCE and UNHCR which helped the local staff and especially the young population to get job offers. However the meaning of democracy for Kosovars was different of what international arena meant. As Türkeş and Akşit argue, for Kosovars, the establishment of the economic, political and administrative institutions meant that they are ready for the declaration of the independence while for the international community meant as the upgrade of the democratic standards or as they call it a representative democracy (2007, pp. 102-103).

The independence of Kosovo was backed up by USA, Britain and France. On the contrary, Russia was the one who rejected the Ahtisaari Plan. Because of this situation, various efforts went on in order to find a way in which Russia would agree on Ahtisaari Plan. In a nutshell, Ahtisaari Plan is a report in which United Nations Special Envoy for Kosovo Marti Ahtisaari explicitly called for the independence of Kosovo. This report was also presented to UN Secretary-General Ban Ki-moon and passed from the UN Security Council (Ker-Lindsay & Economides, 2012, p. 79). On August 2007, the Troika made up of USA, the EU and Russian Federation was formed in order to explore different options for Kosovo. As it was expected, because of Russia they had been unable to find a final agreement. However, Kosovars were determinant about their decision. Finally on 17 February 2008, Kosovo unilaterally declared independence from Serbia.

Immediately after the declaration of independence, the opinion of the international community was sharply divided. While the USA, Canada and Turkey quickly recognized the independence, Russia was the main opponent. These sharp differences were seen also inside the EU. Germany, Italy, Britain and France had

settled for the recognition, while Spain made it clear that an “independent Kosovo” should be removed from any draft statements and demanded the decision from the international law to see if the declaration of independence was legal or not (Ker-Lindsay & Economides, 2012, p. 80). By the end of the same year, 22 out of the 27 members of the EU recognized Kosovo as an independent country. Today this number is 23 out of 28 EU members. In total this number arrives to 113 recognitions all over the world (International recognitions of the Republic of Kosovo, 2017). Five EU members that do not recognize the independence of Kosovo are Spain, Slovakia, Romania, Greece and Cyprus. Since its independence, Kosovo was granted with the status of potential candidate. Today, Kosovo has still the same status and without the recognition of these five member states it is not going to change at least in the near future.

The process of state building in Kosovo by international community and the ongoing negotiations of Kosovo with Serbia with the supervision of EU, has established a “tripartite sovereignty partnership” in Kosovo (Krasniqi & Musaj, 2015, p. 159). This means that, in the case of European Integration and state building, Kosovo depends both on Serbia and on the international community especially the EU.

If the integration of Kosovo is analyzed with traditional community method or any other theory, this integration would have been blocked from the beginning because of the non-recognition of the five EU member states. Therefore my main argument is that differentiated integration as a theory and a model of integration existed from the beginning in relation with Kosovo. In order to depict this, the Kosovo-EU relations should be analyzed from the beginning.

3.4.2. Kosovo – EU relations until Kosovo's independence (1999-2008)

Kosovo during 1999-2008 period tried to reinforce its institutions, administration and its entire internal system with the administration of international institutions especially of the UNMIK. Shortly, during this time period, Kosovo underwent a state-building process from the inception. According to Tansey, this was more of process of trying to democratize Kosovo without the statehood (2007). Therefore we have a kind of a hybrid political system in Kosovo made up from domestic structures and international authority (Tansey, 2007, p. 145).

Kosovo-EU relations started from this point on. Two major roles that EU performed in Kosovo as of 1999 are financial support (reconstruction and economic development under the fourth pillar of UNMIK) and the second role is more of a normative issue which is adoption of EU principles and norms into the Kosovo legislation. Other duties of EU in Kosovo has to do with conducting peace and stability (Research Institute of Development and European Affairs, 2013, p. 15).

EU firmly started to create its own agencies and offices in Kosovo. The first agency that was formed is European Agency for Reconstruction (EAR). This agency was in charge for carrying out the Community assistance in Kosovo (European Agency for Reconstruction, 2000). This was also established by the request of the European Council in order to examine if the programmes regarding reconstruction are implemented productively, efficiently and immediately (European Commission, 2000).

The second instrument that was established in Kosovo in the mid-2000s is European Union Monitoring Mission (EUMM). EUMM monitored the security and political developments of Kosovo, controlled interethnic and border issues and most importantly it paid a great attention to the return of refugees (European Union Monitoring Mission (EUMM) , 2007).

The High Representative of Common Foreign and Security Policy, Javier Solana, in 2004 assigned Mr. Fernando Gentilini (Torbjörn Sohlström in 2005) as a Personal Representative in Pristina. The duty of Personal Representative is to cooperate closely with leaders of Kosovo and establish good collaboration with domestic and international institutions in Kosovo (Consilium, 2005). Additionally, in 2004, European Commission Liaison Office (ECLO) was established. This office assisted the implementation of policy tools of EU in Kosovo and controlled its institutions (Research Institute of Development and European Affairs, 2013, p. 16).

In 2006, European Union Planning Team (EUPT) was formed to buildup and arrange the terrain for future rule of law mission which is EULEX. The purpose of this mission was to monitor and advise the authorities of Kosovo regarding the judiciary, rule of law area, police and investigation of serious crimes (Consilium, 2007). This mission was directly implemented by European Commission.

It is important to mention that, since 2005, European Commission publishes progress reports separately for Kosovo. Before 2005 progress reports were published together with Serbia and Montenegro. This first ever progress report for Kosovo in 2005 was about the European standards, democratic developments and developments in sectoral policies (European Commission, 2005).

The reason why all these agencies are discussed here is to show that EU even before the independence of Kosovo was present in Kosovo. As it is seen, EU in Kosovo wasn't only present through UNMIK Pillar but it had its own agencies too before and after independence. These are also good examples to show that how EU approaches to a region that wasn't independent and sovereign.

Since 1999, the external governance of EU towards Kosovo was carried out with the principles or models of differentiated integration which assisted Kosovo in its European path. With the tools of "stick and carrot" (carrot here being the financial mechanism and stick being shown through progress reports) or governance by

conditionality as Schimmelfennig calls it, peace, stability and European perspective has been preserved in Kosovo.

3.4.3. Zagreb Summit – The first negligence of Kosovo

With the fall of Milosevic and peaceful revolution in Belgrade in October 2000, Federal Republic of Yugoslavia (FRY) has renewed its place in Europe in particular and the world in general. The Final Declaration of Zagreb Summit on 24 November 2000 in which government of EU member states and countries that were covered by SAP were present, endorsed and supported the victory of democracy in FRY and Croatia by stating that

“The recent historic changes are opening the way for regional reconciliation and cooperation. They enable all the countries in the region to establish new relations, beneficial to all of them, for the stability in the region and peace and stability on the European continent” (European Commission, 2000, article 2; Yannis, 2002, p. 173).

This was also the first step of EU and the countries of the Western Balkans that were present in the Summit that approved the Stabilization and Association Process (SAP).

On the other hand, in Kosovo we see the first free and fair municipal elections in which with 58 per cent The Democratic League of Kosovo (Lidhja Demokratike e Kosovoes-LDK) won (Yannis, 2002, p. 173). In 2001, general elections were also held. As in FRY, also in Kosovo we see the first steps of strengthening of democracy with the peaceful and fair elections held after the war (Yannis, 2002). Moreover, elections proved that the Resolution 1244 of UN has been implemented which was a prerequisite for stability in Kosovo. These peaceful and democratic elections strengthened the determination of Kosovars their prospect.

However, despite all these developments in Kosovo after the war, Kosovo was excluded from the Zagreb Summit. Zagreb Summit not only didn't invite the political leaders, but also Kosovo wasn't mentioned at all in the Final Declaration of this

Summit. According to Palokaj, the reason why is because EU didn't want to provoke the newly elected President of Serbia, Vojislav Kostunica by mentioning Kosovo in the Summit (Palokaj, 2013, p. 8). Therefore, the Final Declaration mentions only five countries of the Western Balkans by saying that SAP is in the heart of the EU policy in relation with these five countries (Albania, FYROM, Bosnia and Herzegovina, Croatia and FRY) (European Commission, 2000). Even though this Summit encouraged regional cooperation as a conditionality for further integration, for Kosovo, this was wasted opportunity regarding EU integration.

3.4.4. Thessaloniki Summit – Kosovo's European perspective

In the Thessaloniki Summit that was held in June 2003, for the first time, EU made a proposal for the European perspective of Kosovo. In fact, this Summit was the first big event in which political leaders of Kosovo were invited. President of Kosovo Ibrahim Rugova, Prime Minister of Kosovo Bajram Rexhepi and the former Head of UNMIK Michael Steiner attended the Summit (Palokaj, 2013, p. 9).

In Thessaloniki Summit, European Council promised a place in EU for the Western Balkan countries. The importance of this Summit for Kosovo was in the aspect that it showed a support of Resolution 1244 and added that democratic Kosovo will have place in the EU (Palokaj, 2013, p. 9). It made it clear that when these countries meet the criteria that EU requests, they can apply for the EU membership (Research Institute of Development and European Affairs, 2013, p. 10).

3.4.5. Kosovo – EU relations after Kosovo's independence (2008-2016)

With the declaration of independence in 2008, Kosovo- EU relations has encountered a new inception. Immediately after the declaration, EU Council of General Affairs mentions the European mindset of Kosovo (Research Institute of Development and European Affairs, 2013, p. 18). Besides this, one year later, Kosovo

has become a member of IMF and World Bank (European Commission, 2009, p. 5). What is important, in this Progress Report, the Commission proposed the participation of Kosovo in Stabilization and Association Process (SAP) through Stabilization and Association Process Tracking Mechanism (STM) (European Commission, 2009, p. 5).

The problems noted in the progress report of 2009, like the issues of informal sectors in Kosovo, lack of transparency and weak public administration, organized crime and corruption were similar in the upcoming years too. However, in 2012, two important documents were launched. Firstly, in June 2012, European Commission launched a roadmap on visa liberalization to the government of Kosovo in which it pinpoint the measures that Kosovo should adopt (European Commission, 2012). Secondly, in October 2012, feasibility study for SAP was launched. The Commission approved that Kosovo is ready to start the negotiations for the SAP (European Commission, 2012).

When we analyze Kosovo-EU relations, we always take European integration process as the only dynamic that characterizes this relation. However, the problems that Kosovo faces during this path plays an important role too. For example, the other aspect of Kosovo-EU relation or so to say the obstacle is the non-recognition of the Kosovo independence by five EU member states. This has implications on both sides. In this context, one should focus on unanimity rule. Because as we know EU's enlargement policy and foreign policy require unanimity voting by all the member states in the EU. For this reason, the question "if Kosovo can have a contractual relation with the EU" was highly debatable question and remained ambiguous for a time period. However, Amsterdam Treaty in 1997 brought the possibility of "constructive abstention" (Jokela, 2014). Constructive abstention is an abstention of any member states in CFSP decision that requires unanimity voting (Treaty of Amsterdam, 1997, article J. 13). Or in the other words, member states can abstain from the CFSP issues in order not to impede the decision making process. Nevertheless, if the one third of the votes that represent the one third of the EU's population abstain, then, a decision will not be approved (Jokela, 2014, p. 36). Until now, this procedure

was used only once when CFSP launched European Union Rule of Law Mission (EULEX) in Kosovo.

Another obstacle regarding the non-recognition of five EU member states is the problem of ratifying the SAA. This was a serious problem because all the countries of the Western Balkans signed the SAA with the exception of Kosovo. EU tried to find creative ways by introducing special mechanisms of the SAP in order to prolong the ratification of the SAA itself. But when Serbia started its negotiations for membership, EU didn't want to distance Kosovo from the countries in the region and found a solution. The solution was to sign the SAA in the status neutral way. When other countries of the Western Balkans signed the SAA, all the member states had to ratify this in their parliaments. In the case of Kosovo, this was impossible. Therefore, with the provisions in the Lisbon Treaty, Kosovo signed an EU-only SAA (Jokela, 2014, pp. 52-53). The content of the agreement and everything else was the same. The only difference was that the ratification of the member states wasn't needed. This issue is also an exception in Kosovo-EU relations.

I think that these examples perfectly fit into the framework of external differentiated integration. What is different in the case of Kosovo is that, differentiated integration faces a big challenge because the integration of Kosovo into the EU is not decided by its own choice, rather, it is in the hand of the existing member states. It is governed by the conditionalities of the EU. This means that Kosovo has a really weak bargaining power because of its poor economic and political conditions. It doesn't have the power to rhetorically entrap the actors of the EU as in the case of the eastern enlargement. The EU's relations with Kosovo is also highly politicized due to the major differences among member states on the issue of recognition. Therefore, the strong interdependence and politicization in this aspect makes differentiated integration an indispensable feature. Here we have a strong interdependence in the aspect that Kosovo is depended on EU on reconstruction, economic development, financial assistance and basically in every sphere while EU is depended on Kosovo to prove the success of its "soft power" and/or "civilian power". Moreover, in the case of

Kosovo, the types of variable geometry and a la carte are not available because Kosovo cannot “pick and choose” the policy areas that wants to join, rather, it takes what it is served in the table. Thus, in this case we have a differentiated integration in terms of space and time.

Today, the European Union is present in Kosovo through European Union Rule of Law Mission (EULEX), EU Office which is represented by a Special Representative (EUSR) and through member states’ embassies and liaison offices. All these institutions and offices play an important role in Kosovo-EU relation, therefore it’s necessary to look at them in details.

3.4.6. EULEX

European Rule of Law Mission in Kosovo (EULEX) is the biggest civilian mission in the world that was established by Common Security and Defense Policy (CSDP) in Kosovo. The main goal of EULEX is to assist Kosovo especially in the rule of law enforcement and judicial issues, to be more accountable, transparent, efficient, free from the political intrusion and based on EU acquis (What is EULEX?, 2017). The Ahtisaari Plan, which prepared the ground for the independence of Kosovo in 2008 was also planning to transfer the administrative power from UN to EU (Krasniqi & Musaj, 2015, p. 146). Therefore, for the implementation of the Ahtisaari plan and strengthening the institutions of Kosovo, UNMIK delegated its powers to EULEX. This transfer was supposed to take place in 2008 immediately after the declaration of the independence. Yet, because of some controversies about its mandate, EULEX became operational only by the end of the 2008.

As mentioned above, because the CFSP issues require unanimity voting, EULEX in Kosovo was launched through “constructive abstention”. Five countries that do not recognize the independence of Kosovo, did not vote on EULEX. However, since those five member states do not represent the one third of the EU’s population, the decision was still approved.

The first obstacle here is that EULEX was deployed in Kosovo under the Resolution of 1244 which clearly shows that this mission has adopted a “status neutral” position towards Kosovo (Krasniqi & Musaj, 2015, p. 146). This approach, paved the way to the complications in the relations between Kosovo and EULEX from its inception. According to Ker-Lindsay and Economides, EULEX has a double mission in Kosovo which are state building and Europeanization (2012, p. 83). However, it may be argued that these issues were eroded in two ways: Firstly, because of its “status neutral” approach, EULEX cannot join in the state building process without recognizing it first. Therefore, this makes EULEX a rather technical mission which can only supervise the authorities. Secondly, when we look at the issue of Europeanization and integration, EU showed more improvisations rather than tangible perspectives (Krasniqi & Musaj, 2015, p. 147). EU was constantly speaking about the European perspective of Kosovo but there was nothing tangible when we look at the outcome except some tracking mechanisms. Therefore, the issue of EULEX is argued to be as “constructive ambiguity” which raised the issues of efficiency and legitimacy (Papadimitriou & Petrov, 2012, p. 758).

Considering all these issues, we can say that EULEX has executive and non-executive tasks. Executive tasks that are carried out by EULEX itself are fighting against organized crime and several court rulings by the judges of EULEX (Dijkstra, 2011, p. 205). On the other hand, non-executive tasks has to do with mentoring and monitoring the local authorities in the issues of police, judiciary and customs (Dijkstra, 2011, p. 205). The reason why EULEX is so much criticized by local and international authorities is that its executive task is really weak especially in the area of rule of law and fighting corruption. That’s why many believe that EULEX is mainly a technical mission. Moreover, as Kursani argues, despite the budget of EULEX of 613.8 million Euros (45% higher than IPA funds in Kosovo) and large staff, this mission faces problems in itself in aspect that it is not very well resourced, lack of proper hiring of the staff, lack of accountability and transparency to the local institutions (Kursani, 2013).

Another aspect that EULEX is criticized is on overlapping of jurisdictions of both international and local ones. From the international community we have the EU, NATO and the UN still in same issues while from the local area we have Kosovo itself and Serbia (Krasniqi & Musaj, 2015, p. 148). EU officials through EULEX let this structure of administration to be pertained creating complex structures of institutions and jurisdictions that often overlap with each other. One example of this is the failure of EULEX to establish rule of law in Northern Kosovo which paved the way to other international communities interfering in the situation as well as the Serbia declaring its authority over the area. The criticisms towards EULEX didn't generate only from the local authorities, but from the member states and other international institutions as well. To illustrate, the Secretary General of NATO, Anders Fogh Rasmussen criticized EULEX in 2012 by saying that it wasn't well resourced (Kursani, 2013, p. 4). Similarly, Germany's Defense Minister, Thomas de Maiziere said that the mission was in the wrong track (Kursani, 2013, p. 5) that's why there is a need for a new start and new structures (Krasniqi & Musaj, 2015, p. 148).

The expectations from the EULEX in the beginning were really high, even though it was deployed with some controversies in the beginning. However, at the end the expectations-capabilities gap grew very sharply. This shows that EU legally was experimenting so to say on a state without recognizing its independence by approaching to Kosovo as status neutral. Nevertheless, EULEX is a good illustration of differentiated integration in which despite the legal impediments, with the provisions of Lisbon Treaty which brought "constructive abstention" notion, EULEX was able to be launched in Kosovo.

3.4.7. EU-facilitated dialogue between Kosovo and Serbia

The dialogue process between Kosovo and Serbia started after the UN General Assembly welcomed the ICJ's advisory opinion on the declaration of independence. This dialogue in the beginning was a technical one which started on March, 2011

(Dialogu Kosovë-Serbi, 2017). With the opening of negotiations for the SAA in mid-2013, the EU in a way “rewarded” both Kosovo and Serbia on normalization of their relations by enhancing the technical dialogue to the political one. Since the beginning of the dialogue, nineteen agreements have been reached (mainly on cadastral records, Integrated Border Management (IBM), freedom of movement, civil registry etc.) between Kosovo and Serbia, however, only three of them has been adopted by Assembly of the Republic of Kosovo (Dialogu Kosovë-Serbi, 2017). The High Representative of Common Foreign and Security Policy Catherine Ashton (Federica Mogherini from 2014 onwards) was the one representing the EU and facilitating this dialogue. This political dialogue at national level was represented by prime ministers of Kosovo and Serbia. The main role of the High Representative is to ensure that the agreements taken in Brussels are implemented within the domestic policies. This monitoring so to say was taking place through “carrot and stick” policy of the EU. If the government of Kosovo and/or Serbia are pro normalization of the relations and agree to implement the decisions taken in Brussels then they are rewarded by the EU. This is the perfect example of external incentives model of external governance described by Schimmelfennig. Here EU uses the “reward hypothesis” of external incentives model in which the efficacy of EU’s rule transfer to these regions is increased by the size and quickness of the rewards (Schimmelfennig & Sedelmeier, 2004).

According to Deda and Mustafa, Brussels sees this dialogue as the determinant of the countries progress towards accession (Deda & Qosaj-Mustafa, 2013, p. 4). To be realistic, the accession of Kosovo to the EU is far away and for the moment it is impossible because of the non-recognizers. However, we can say that this political dialogue is governed by EU’s conditionality theory and reward hypothesis as mentioned above. Yet, this reward was never an accession promise for Kosovo, while for Serbia it was the opening of the accession negotiations. Rather, for Kosovo, this dialogue was more of a peace treaty with Serbia.

It is disappointing that for five years of intensive Kosovo-Serbia dialogue with the mediation of the European Union, often the situation escalates with the risk of starting a conflict between Kosovars and Serbs. To illustrate, in December, 2016 local population of Serbs build a wall in north Mitrovica (a city in Northern part of Kosovo which shares its border with Serbia) dividing the city into two parts. A Kosovar analyst Ymer Mushkolaj in his interview to Deutsche Welle (DW) stated that “This dialogue should urgently be redesigned. There is no point in discussing the normalization of relations with Serbia, while Serbia uses any available means for political and legal aggression against Kosovo. Dialogue should focus on the main goal and not on internal legal regulations of Kosovo (Deutsche Welle, 2017).

The main question that we should ask here is “when and with what agreement will the dialogue between Kosovo and Serbia should be concluded”? This question is answered differently by political analysts and government representatives. According to analysts, dialogue between Kosovo and Serbia can continue until the conclusion of Serbia’s EU membership process. Meanwhile, according to governmental representatives, this process cannot last until that stage, rather, it should be concluded sooner (Dialogu Kosovë - Serbi, përmbillet me integrim në BE apo njohje reciproke?, 2016). Kosovo’s Minister of Dialogue Edita Tahiri stated to Radio Evropa e Lirë that “Dialogue should be intensified and kept shorter in order to end sooner, rather than, as some think, when both countries join the European Union” (Gashi, 2016) which for Kosovo, in current circumstances, is far far away.

Whether this political dialogue is considered a success or failure depends largely on the expectations of people as well as interpretation of this dialogue by both parties. However, due to the lack of transparency throughout the process, mainly on the agreements reached between the two parties, as well as the highly diplomatic language in the texts of the agreements, have left wide gaps for both parties to interpret the agreements differently.

As we can see from all examples of Kosovo-EU relations, Kosovo’s accession to EU is impossible with current situation of five non-recognizers and its internal

dynamics. Perhaps, Kosovo can hope that its journey for membership could be shortened if eventually the European Union reaches the consensus for including the six remaining Western Balkans (Albania, FYROM, Bosnia-Herzegovina, Montenegro, Serbia and Kosovo) in the EU, which represents an oasis remaining around the border with the European Union. Even if this situation happens, the five non-recognizers of the EU firstly should recognize the independence of Kosovo and then the accession negotiations can start. As we saw in this section, when the agreement was reached by Thaçi-Dačić with the mediation of Baroness Ashton, on the normalization of relations between two parties, Serbia was granted with the right to start the accession negotiations while Kosovo has the only right to start negotiations for a Stabilization and Association Agreement (SAA).

3.4.8. The Stability and Association Process (SAP) in Kosovo

The deteriorating situation in Kosovo in 1990s and in Western Balkans in general, following the failure of the EU to avert the war crimes, member states of the EU approved a planning for the involvement of Western Balkans into the “European unification” process. Moreover, this region was also facing a transition from socialist state to the open market economy and had severe political instability. Thus, EU decided to launch the Stability and Association Process (SAP) to promote stability and security by setting the necessary instruments (Shepherd, 2009, p. 514). It may be argued that the SAP is the revitalization of Regional Approach initiative of 1997 which was insufficient to restore peace and stability in the region. What is new in SAP is the status of “potential candidate” that was given to the Western Balkan countries once they sign the SAA which shows the formal contractual relationship with the EU (Trauner, 2009, p. 779). In Zagreb Summit of 2000, the Commission declared that SAP’s focus is on regional political cooperation and dialogue, cooperation with Justice and Home Affairs (JHA), and a free trade area (European Commission, 2000). The

objective here was to develop and strengthen democracy and to foster cooperation with the Western Balkans with the institutional reforms.

There are three main instruments of the SAP in pursuance of achieving these goals. Firstly, in order to enhance the access of Western Balkan countries into the EU's market, the EU encouraged the model of asymmetric trade liberalization which ensures the access of Western Balkan products in EU's single market (Shepherd, 2009, p. 523). Secondly, the SAP was going to be financed by the Community Assistance for Reconstruction, Democratization and Stabilization (CARDS) which replaced the PHARE and OBNOVA programs and provided €4.65 billion for reconstruction and development between the 2000-2006 periods (Uvalic, 2003, p. 106). The aim of CARDS program was to support financially economic development, regional cooperation and institutional capacity building of the Western Balkans (Research Institute of Development and European Affairs, 2013, p. 9). However, in 2007, CARDS program too was replaced by the Instrument of Pre-accession Assistance (IPA). IPA provided a financial assistance of € 11.5 billion during 2007-2013 period (European Commission, 2017). When we look at the IPA's goal we see that its aim is similar to the CARDS program. Thirdly, bilateral negotiations between Western Balkans and the EU would start once a country signs the contractual agreement which is Stabilization and Association Agreement (SAA) which also offers a status of "potential candidate" (Shepherd, 2009, p. 523). Reaching this agreement is not that easy because a country should fulfill the conditions that EU set and a country should have its own administrative capability to perform. Between 2001 and 2008, all countries of Western Balkans signed the SAA (Shepherd, 2009, p. 523) with the exception of Kosovo.

Compared with the other countries of the Western Balkans, because of its status, Kosovo was totally left behind in Stability Pact for South-Eastern Europe, Regional Cooperation Council and SAP. The reason why Kosovo was left out from all these processes is because EU didn't have the right to incorporate a territory in these processes without its defined status. However, things started to change in November

2002, when EU launched a “magic formula” for Kosovo as Palokaj defines it, which is Tracking Mechanism of Stabilization and Association Process (STM) (Palokaj, 2013, p. 9). This tracking mechanism allowed Kosovo’s administrative actors to take place in meetings through dialogues. Nonetheless, these dialogues cannot be treated or considered as negotiations because Kosovo wasn’t a “real” participant. During this period of time we can say that nothing really important happened in this aspect. Following this, in 2007, an “Enhanced tracking mechanism of Stabilization and Association” was launched which was almost the same with the STM of 2002 (European Commission, 2008, p. 6). The only difference was that some sectoral meetings were held. In addition, in 2009, “The stabilization and association process dialogue (SAPD) was launched (European Commission, 2010, p. 5). In this process also some meetings were held in the areas of security, social policy, internal market and fiscal matters.

All these additional processes of the SAP that were launched specifically for Kosovo, shows that no formal acts were taken along this movement. Even though, EU was trying to find ways into how to include Kosovo into SAP, many people especially the opposition party in Kosovo Levizja Vetevendosje - LVV (Movement for Self-determination) and think tanks criticized the EU in this aspect by saying that EU with these “magic formulas” is only buying time (Palokaj, 2013, p. 9; Telegrafi, 2015). In addition, Delevic also argues that EU is good in finding creative intermediary steps that gives the impression of progress without setting a date for the SAA (2007, p. 36).

This is exactly the model of governance by conditionality in the external governance of EU. In this case we have the external incentive model in which EU follows (Schimmelfennig & Sedelmeier, 2004). Because the inability of the EU to solve the status of Kosovo and have a proper contractual relationship, it reinforces the process by reward. This is a reward hypothesis in which when Kosovo adopts these tracking mechanisms it is rewarded by the EU. On contrary, if it refuses to endorse or ratify them, EU uses the “stick” policy. This clearly shows the one-sided bargaining power of EU in which Kosovo takes what is being served.

These creative in-between steps are the consequence of lack of unity in the EU in the aspect of the status of Kosovo. In 2005, Javier Solana - the High Representative of the EU for Foreign Policy and Security, and Oli Rehn - the Enlargement Commissioner, said that regardless its status, the instruments that are available for the Western Balkans, equally should be available to Kosovo too, including the power to sign treaties and have proper contractual agreements (Joint report, 2006). However, without the independence of Kosovo EU was unable to sign any contract with Kosovo. After the independence of 2008, this issue of signing the treaties with Kosovo was not mentioned at all. After 2008 there was a problem of agreement in EU regarding the independence and therefore this issue paved the way to severe challenges in the long run.

In the end of this creative intermediary steps for the SAP Kosovo has “Feasibility Study for Stabilization and Association Agreement with Kosovo” that was launched in 2012 by the European Commission. For the first time in this process, Commission mentions the possibility of Kosovo to sign the SAA (European Commission, 2012). The feasibility study was not a “Progress Report” like in previous STM processes. The evaluation of the Commission showed the legal capabilities of reaching the agreement. The Commission confirmed that Kosovo in many sectors has settled the legislative framework and necessary administrative capacity (European Commission, 2012). In order to begin the negotiation for the SAA, Kosovo is required to reach the minimum criteria that EU established. Nonetheless, in this feasibility report, it wasn’t mentioned if Kosovo has reached the conditions. Moreover, the additional requests like fighting against corruption and organized crime were mentioned (European Commission, 2012).

This feasibility study is important in the aspect that despite non-recognition of five EU member states, Commission mentions the possibility of signing the SAA. It argues that signing of the agreement with Kosovo regardless the stance of five EU member states is legal and is based on Article 218 of Treaty on the Functioning of the European Union (TFEU) (Palokaj, 2013, p. 14).

After the Commission's approval, the next step was to pass through Council that requires unanimous support. The debates in the Council once again proved the difficulty of how to refer and how to word Kosovo in the legal documents of EU. The main arguments were if Council will "welcome" the feasibility study or "takes note". This debate was really important for Kosovo because if the Council welcomes the feasibility study this means that intense political responsibilities should be taken. On the contrary, if the Council takes note, then, there are no such strict responsibilities (Palokaj, 2013, p. 15). As a result, the Council taking note of the Feasibility Study for Stabilization and Association Agreement between EU and Kosovo (Council of the European Union, 2012). The reason why is that EU wasn't satisfied with the fight against corruption and crime. Moreover, the dialogue between Pristina and Belgrade wasn't showing any positive results. Therefore, the Council decided to evaluate again this process in 2013 about opening the negotiations on Stability and Association Agreement.

Stabilization and Association Agreement is a bilateral agreement with the EU and the Western Balkan countries. Before the agreement of these two parties, the agreement among the member states of the EU should be achieved. When the SAA is agreed by all the member states and supported by the European Parliament, then, it should be ratified by the parliaments of the member states (Palokaj, 2013, p. 19). Based on this framework, we can clearly understand that, Kosovo cannot sign the SAA like other Western Balkan countries because of the five EU member states unable to ratify the agreement in their parliaments. Therefore, EU was searching for other legal precedents for this case in order not to exclude Kosovo from this process.

In June 2013, EU Council released a positive statement that negotiations with Kosovo regarding SAA can start. In this stage of negotiations, the issue of conditionality is important. For example, before signing the SAA, Bosnia and Herzegovina had to prove and fully cooperate with International Criminal Tribunal for the former Yugoslavia (ICTY) in order to deliver the war criminals. Similar to this, we have the case of Serbia too. Moreover, in Serbia, negotiations for SAA has been

stopped in 2006 when Serbia failed to meet this conditionality but reinstalled in 2007 again (Delevic, 2007, p. 27). In the case of Kosovo, cooperation with EULEX which has to do with war crimes and corruption is one of the main conditionality to move forward to the SAA. Other conditions that Kosovo was required to fulfil are enhancing the legislation especially in the judicial sector and reinforcing its capacities (Research Institute of Development and European Affairs, 2013, p. 23).

Finally, on 27 October 2015, Kosovo has signed the SAA with the EU. This first contractual agreement between Kosovo and EU was signed by the High Representative for Foreign Affairs and Security Policy Federica Mogherini and Commissioner for European Neighborhood Policy and Enlargement Negotiations Johannes Hahn representing the EU and for Kosovo was signed by Prime Minister of Kosovo Isa Mustafa and Minister of European Integration Bekim Collaku (European Council, 2015).

This agreement with Kosovo was different in the aspect that it didn't require the ratification of it by the member states of the EU. Even though, the content was the same with other SAAs, with the provisions arranged by the Lisbon Treaty, Kosovo signed an EU-only SAA (Jokela, 2014, pp. 52-53). This was a solution that EU found in order to bypass the deadlock in this aspect because of the non-recognition of Kosovo as an independent state. The agreement signed in this way might be seen as politically less interesting, however, this Association Agreement entered into force more quickly when comparing with other Western Balkan countries. For this reason SAA entered into force six months after its signing, on 1st April 2016 (Doyle, Enache, & Merja, 2016).

Table 2: Chronology of Kosovo-EU relations

Chronology of Kosovo-EU relations	
1999	On March 23, NATO authorized the commencement of air strikes on Serbia
1999	On June 10, the Security Council adopted resolution 1244 establishing UNMIK
2000	European Agency for Reconstruction was established
2000	European Union Monitoring Mission was established
2000	On November 24, the Zagreb Summit was held
2002	The tracking Mechanisms of Stabilization and Association for Kosovo was established
2003	On June 18, the Thessaloniki Summit was held
2004	European Commission Liaison Office was established
2005	On November 1, Martti Ahtisaari was appointed as Special Envoy
2006	European Union Planning Team was established
2007	Status negotiations was facilitated by Martti Ahtisaari
2008	On February 4, EULEX was established in Kosovo through its Council's Joint Action 2008/124/CFSP
2008	On February 17, Kosovo declared independence
2011	In March, technical dialogue between Kosovo and Serbia started
2012	The Feasibility Study for Kosovo is published
2013	European Council proposes to start the negotiations for Stabilization and Association with Kosovo
2013	In April, political dialogue between Kosovo and Serbia started
2014	The SAA negotiations were concluded
2015	On October 27, the SAA is signed between Kosovo and the EU
2016	On April 1, The SAA between Kosovo and the EU entered into force

CHAPTER IV

KOSOVO WITHIN THE CONTEXT OF DIFFERENTIATED INTEGRATION

The aim of this thesis was to study the whole system of differentiated integration of the EU. Firstly, this study has focused on analyzing its internal structure and arrangements and then taking the differentiated integration as a model in Kosovo's integration path into the EU. The study claims that differentiated integration is a possible model that may lead Kosovo towards some forms of integration into the EU. Most studies of differentiated integration are restricted within the internal issues of the EU and focusing on how the relationship between EU institutions and member states is arranged. By using the limited number of discussions, this thesis aims to show how EU approaches to a state within its neighborhood, without fully recognizing its independence and how does this pave the way towards differentiated integration.

While doing my literature review, I have come across that many scholars explain differentiated integration as a temporary feature of the EU and as an accidental one. However, this thesis is based on Schimmelfennig's understanding of differentiated integration where he explains this phenomenon as the most prevailing type of integration in the EU for the last decades. Rather than taking this as an accidental feature of the EU, this study argues that differentiated integration may be the best possible solution to cope with the heterogeneity and the most enduring characteristic of the EU.

Differentiated integration can be internally and externally differentiated. Internal differentiated integration results from the integration of those policy areas that are mostly politicized like security and defense policies, fiscal and monetary policies and migration policies, in which Euro-sceptic member states are concerned about their

state autonomy and national identity (Schimmelfennig, Leuffen, & Rittberger, 2015). Because they don't want to centralize these issues in EU level, these member states opt-out from those policy areas. Maastricht Treaty is very important when analyzing differentiated integration because it paved a way for the legal form of it. After Maastricht Treaty, all the treaties have formally extended the possibility of differentiation.

On the other hand, external differentiation results from the states that want but are unable to join the EU or that are unwilling to do so. Mostly, these states are strongly interdependent to EU and thus adopt EU's policies (Schimmelfennig, Leuffen, & Rittberger, 2015). To illustrate, Switzerland, Norway, Iceland and Liechtenstein aren't members of the EU, but they are part of the Schengen area.

Here again we see how interdependence triggers the integration, while politicization is the one that shapes it. Like is it going to be a linear integration, or is it going to fail or to be differentiated.

When we look at the cases of the Balkans and even Turkey we see that even though they are far from the EU membership because of unwillingness to meet the conditions or in some cases unable to do so, they are associated with the internal market of the EU. This is because of the strong economic interdependence of these states with the internal market of the EU.

Yet, in the case of Kosovo, we see that differentiated integration takes another form. As we know, EU's enlargement policy and foreign policy require unanimity voting of the member states. However, because Kosovo wasn't recognized by five EU countries of the EU, it was very difficult to have contractual relationship with the EU. For that reason when all countries of Western Balkans were granted a candidate status, EU was unable to do the same for Kosovo too. Differentiated integration enters the picture when EU didn't want to leave Kosovo in the back while all its neighbors moved faster in terms of integration. Therefore, it introduced SAP tracking mechanisms, in which Kosovo participated through dialogues. When European Commission launched Feasibility Study for the SAA, for the first time it confirmed that Kosovo was ready to

open negotiations for the SAA. Because of positive role of both Serbia and Kosovo in political dialogue, EU promised membership negotiations to Serbia while SAA for Kosovo which was going to be an EU-only SAA. When the other countries of Western Balkans signed SAA, it was also signed by all the member states of the EU and ratified in their national parliaments. Since the Kosovo case is different, in 2015, this was signed by Federica Mogherini High Representative for Foreign Affairs and Security Policy and Johannes Hahn, Commissioner for European Neighborhood Policy and Enlargement Negotiations representing the EU (European Council, 2015). Thanks to the provisions in Lisbon Treaty, the SAA with Kosovo didn't require the ratification of it in the member states' parliaments. Therefore, this is the first example of differentiated integration.

The second example of differentiated integration in Kosovo is in the area of CFSP. Because of the non-recognizers, EU faced and still faces the problem of speaking with one voice. In order to solve this problem, EU tried to develop a "one" foreign policy for Kosovo. Amsterdam Treaty introduced a concept of "constructive abstention" in order not to block the decision making process. Five countries that do not recognize the independence of Kosovo, did not vote on EULEX. However, since those five member states do not represent the one third of the EU's population, the decision was approved. Thanks to this provision of "enhanced cooperation" which paves the way for differentiated integration, in 2008, the biggest ESDP mission was launched in Kosovo called EULEX.

Another example of differentiated integration that is different from the others is the fact that Kosovo (and Montenegro) uses euro as a currency. Other countries that aren't members of the EU like Monaco, Vatican and San Marino use euro as their currency too, but what is different in the case of Kosovo is the fact that Kosovo is not part of the Eurozone (for further details see Tyrbedari, 2006). This means that, even though Kosovo couldn't fulfil the convergence criteria, still uses euro.

There are three important differences that one should look at when analyzing the distinction between internal and external differentiation in relation with the case of Kosovo.

Firstly, differentiated integration is the process in which different states of the EU, tend to move in different speeds towards the same goal (Dyson & Sepos, 2010, p. 4). This means that some member states with their own will are excluded/included in the policy areas of the EU, while the others are waiting in line until they fulfil the convergence criteria for that policy. To illustrate, Denmark and Ireland, with their own will were excluded from CSDP area, while Rumania, Bulgaria, Hungary and some other states were being excluded by the EU from Euro area because they didn't fulfil the convergence criteria. This situation is not the same for any other Balkans countries. Differentiated integration in Kosovo is based on the interests and policy choices of the EU's member states. Therefore, for the case of Kosovo we can say that differentiated integration is the process in which EU itself or member states choose for Kosovo in what speed to move towards the integration. Here when we mention speed, one can say that speed on this integration path is based on internal dynamics of Kosovo. However, what I argue is that, because the types of differentiated integration like variable geometry and a la carte are not available for the Balkans (Economides, 2008), those states pick the policies that EU served to them. This is the case with Kosovo too. Kosovo's fate is decided by the EU institutions and member states and not by its own choice. That's why the speed and the direction of the Kosovo's integration path is based on EU.

Secondly, in the discussion about how does the differentiated integration occur, it has been seen that if there is strong interdependence and strong politicization about a policy, integration will fail or become differentiated (Schimmelfennig, Leuffen, & Rittberger, 2015). Here interdependence is seen as the driver of the integration, while politicization as an obstacle to it (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 765). Therefore, we can say that interdependence is the one that demands integration, yet, if this is going to be achieved, depends on the level of politicization. This shapes

the preferences of the member states. Member states can pick and choose the policy areas that they want to be a part of or can opt out from the policies or on the contrary EU itself can exclude some member states from the policy areas. This also depends on their bargaining power. However, when we analyze the system of differentiated integration outside the EU borders or so to say towards Balkans we see that this system is a direct demonstration of political strategies to handle the Balkan problems like war, institution building process, democratization process, the issues of nationality and ethnicity (Economides, 2008). Problems in the Balkans combined with the interests of the member states and the lack of EU to speak with one voice when it comes to the issue of Kosovo, makes differentiated integration in this region a necessity.

Thirdly, Schimmelfennig argues that differentiated integration has moved beyond the multi-speed model, a la carte and concentric circles. The reason is that differentiated integration differs also across countries and policies of the EU (Schimmelfennig & Winzen, 2014, pp. 10-11). Therefore, this shows that differentiated integration is “itself differentiated” by policy areas, time and countries (Schimmelfennig & Winzen, 2014, p. 10). This phenomenon occurs within the borders of the EU. When it comes to the case of the Balkans we see a different reality. EU treats Balkans as a region (Delevic, 2007). This is mostly because they share a similar historical background. Differentiated integration has two meanings here. Firstly, when comparing with other states and regions, even with the latest enlargement of CEEC, we see that the Balkans region is being treated differently in this process. Secondly, even though EU treats Balkans as a region, it also differentiates between the Balkan countries regarding integration. For example, several tracking mechanisms for the SAA were special for Kosovo’s integration. The other Balkan states didn’t have these kind of intermediary mechanisms. Moreover, besides general conditions for all the Balkans, each and every country have its particular conditions that they have to fulfil, depending on current circumstances or from the more distant past. Therefore, this situation, according to Economides, is called double differentiation (2008, p. 2). Even though, regional cooperation between Balkan countries is one of the main conditions,

EU still differentiates between these states when it comes to membership negotiations or integration in EU in general.

Taking the current circumstances in Kosovo and the legal obstacles to apply for the membership into consideration, the accession of Kosovo into the EU seems impossible, at least for the near future. Nevertheless, there is not a straight line of an EU integration which shows that if you are in the back of this line you are out of the integration process and if you pass the line, you become a member of the EU. This study argues that, even though five member states of the EU do not recognize Kosovo as an independent country, Kosovo still can integrate thanks to differentiated integration. For example, Kosovo is a part of the SAA and a partner country of ErasmusPlus Programme (SALTO-YOUTH, 2017). Kosovo also has a free trade agreement with EU established with the SAA (European Council, 2015). On the other hand, European Commission proposed a visa-free travel for Kosovars in 2015, once requirements are fulfilled (European Commission, 2015).

Kosovo is the last country from the Western Balkans that signed the SAA with the European Union and now is the only country in the region that has not made the formal application to become a member of the EU. In other countries of the Western Balkans, after the entry into force of the SAA, the step that followed was precisely the application for membership and the provision of the candidate status (Palokaj & Tuhina, 2016, p. 11). But this is not expected to happen in Kosovo because of the legal obstacles related to its status. What is important to mention here is the fact that SAA made it clear that even if EU found a solution to sign the SAA with Kosovo, this agreement does not prejudice member states' stance on Kosovo's status. Moreover, it made it clear that Kosovo cannot apply for a membership too. This is clearly seen in Article 49 of the EU Treaty, which states that every "state" within Europe may apply for EU membership. This term "state" for the case of Kosovo puts an insurmountable legal impediment for the moment (Palokaj & Tuhina, 2016, p. 11). Even though, both EU and Kosovo know this fact, they attempt to leave the impression that the process of European integration is more important than the application for membership.

In order to better understand the issue of differentiated integration in Kosovo, one also has to look at public debates, local think tanks and parliamentary speeches in Kosovo.

The more statements that are made about Kosovo's approximation with European values and integration towards EU in general, the farther it seems to be the viewpoint of experts and people from civil society. Kosovo's progress towards the EU regarding the political dialogue with Serbia, remains another area in which the government of Kosovo has stalled. Despite major compromises, ranging from changing the Constitution of Kosovo to the creation of Special Court which will prosecute alleged KLA crimes and political agreement with Serbia, didn't change much. Most of the public debates about European Union generates from this issue. An influential civil society organization called Kosovar Civil Society Foundation (KCSF) argue that that even though Kosovo had an internal political struggle to pass the constitutional amendments to Special Court, Kosovo didn't get anything practical from the European Union that would guarantee the removal of visas for Kosovo citizens, as the only ones in the Western Balkans who cannot move without visas (Gazeta Zëri, 2016). According to Fisnik Korenica from this organization, there are at least three moments in which the European Union has overlooked Kosovo. The signing of the SAA which is assessed as the main achievement by the government of Kosovo, does not guarantee a clear European path when it comes to Kosovo's application for EU membership. Secondly, Korenica argues that, visa liberalization is another issue for which the European Commission has been very rigorous with Kosovo. Last but not least, Kosovo has several extra conditions to meet when compared with other Western Balkan countries (Gazeta Zëri, 2016). While Korenica's main proposition is a legitimate one, what I argue is that this is exactly the same point that leads to the path of differentiated integration. First of all, signing of SAA cannot guarantee Kosovo the membership application because of the legal obstacles. Rather than that it facilitates

trade relations with the EU and the region and also areas related to regional cooperation, political dialogue, justice and domestic affairs. These reforms achieved through the SAA contribute to the easing of the membership process but without the recognition of Kosovo as an independent country by the five member states, membership application is not the case. Secondly, the case of visa liberalization is also governed by conditionalities. Many of these conditionalities are unique to Kosovo like demarcation of the borders with Montenegro. The biggest political decisions in the case of Kosovo are made by member states of the EU and according to their interests. Moreover, because of the weak bargaining power of Kosovo, Kosovo is governed by “carrot and stick” policy. In this case if Kosovo fulfils all the requirements of the EU than it is rewarded with visa liberalization. Here again I refer to the external incentive model of EU external governance (Schimmelfennig & Sedelmeier, 2004). The stagnation of demarcation process in Kosovo depends on its internal issues but mostly on this incentive model. How much is EU effective and determinate in this aspect (determinacy hypothesis), what is the size and speed of reward if demarcation passes (reward hypothesis), and are these promises credible (credibility hypothesis) has to do with the successful rule transfer and adaptation of Kosovo not only in visa liberalization conditionalities but in all spheres (Schimmelfennig & Sedelmeier, 2004).

Many young people in Kosovo have been surveyed about what they think regarding the issue of visa liberalization. Almost every answer was in a way that they have lost their hope for visa liberalization because since 2010 they have only heard promises but the situation has remained the same (Telegrafi, 2017). Therefore as we can see from the public debates, the current issue that dominates the Kosovo-EU relation is visa liberalization. No one is talking or debating about the membership of Kosovo. The main aim for the Kosovar political social circles is to meet the conditions and fulfil the intermediary steps that EU presents to Kosovo.

When we look at parliamentary speeches in Kosovo in relation with the EU integration, we see similar results as of the public debates. According to them, the signing of the SAA is seen as the greatest accomplishment of Kosovo in its European path. President of the Assembly of Kosovo and at the same time President of Democratic Party of Kosovo (PDK) Kadri Veseli, in honor of the 9th anniversary of independence, said that, the achievement of the SAA with the European Union and the fulfillment of the technical criteria for obtaining visa liberalization are clear indicators of positive integration of Kosovo in EU. He then added that the Republic of Kosovo has a secure development perspective and integration into the European Union (Kuvendi i Kosovës, 2017). On the other hand, the biggest opposition party in Kosovo called Self-Determination (Lëvizja VetëVendosje-LVV), mainly criticizes the EU on the aspect of conditionalities. For the issue of demarcation with Montenegro, Frashër Krasniqi, spokesman of the political party said that, when this agreement comes to the agenda in the Kosovo Assembly, they are going to use different forms of blockage to prevent its ratification (Krasniqi-Veseli, 2016).

Similarly, another opposition party Alliance for the Future of Kosovo (Aleanca për Ardhmerinë e Kosovës – AAK) argues that the demarcation of Kosovo with Montenegro has been done so badly. This agreement should be corrected, otherwise AAK is going to reject it (Krasniqi-Veseli, 2016).

On the same line, local think tanks argue that, the EU has overestimated the progress Serbia has made in the dialogue with Kosovo by offering accession negotiations, while Kosovo wasn't rewarded at all (Gashi, 2013). According to KIPRED, EU is always trying to introduce intermediary steps (conditions) to Kosovo that gives an impression that Kosovo is moving forward but in fact it is lagging behind. It is argued that those "magic formulas" as Palokaj calls them, aren't formal at all and they only serve to buy time (Palokaj, 2013, p. 9). Likewise, another think tank called GAP Institute and Group for Legal and Political Studies (GLPS) defend the position that EU's reform processes towards Kosovo are in a slow pace and that's why Kosovo

lags behind when compared with other Western Balkan countries (GAP Institute & Group for Legal and Political Studies, 2013).

Analyzing all these public debates, parliamentary speeches and what local think tanks think about Kosovo-EU relations, we see that most of them criticize the EU for not treating Kosovo similarly with other Western Balkan countries. And the second thing that one notices is that from the beginning of 2010, visa liberalization issue is dominating the agenda of Kosovo-EU relations. Therefore we can say that in Kosovo there is a reality of differentiated integration, but they don't name it as such. They criticize the EU for not treating Kosovo as other countries, when in fact this is what makes differentiated integration. Even though EU tries to treat the Balkans as a region there is a differentiation when it comes to one to one relations.

The reason why for almost one decade visa liberalization, SAA and dialogue between Kosovo and Serbia issues dominate the agenda is because people are aware that Kosovo's accession to EU is impossible for now. To illustrate, there is an analysis in politico.eu where it shows the possible membership years of candidate and potential countries. For Kosovo the author estimates that there is a 30% chance of joining the EU by the year of 2027 (Heath, 2016). Therefore, rather than talking about how can Kosovo become a member of the EU, the main goal is to accomplish these steps of the integration into the EU.

To sum up, although Kosovo has some legal obstacles to apply for membership, it doesn't mean that these impediments block the integration path of Kosovo. Therefore, EU is trying to find solutions how to integrate Kosovo while avoiding promising membership or even the prospects of applying for membership. This is done through the model of differentiated integration.

CHAPTER V

CONCLUSION

Uniform integration is about a territorial extension that includes only the member states and all of the member states. On the contrary, the outcome of the differentiated integration results from horizontal and vertical differentiation. Horizontal differentiation is a territorial dimension and alludes to the fact that many policies are not uniformly valid in the member states (Schimmelfennig, Leuffen, & Rittberger, 2015). On the other hand, vertical differentiation has to do with the policy areas which have been integrated in different levels and speeds of centralization (Schimmelfennig, Leuffen, & Rittberger, 2015).

In this study, differentiated integration is defined as a major instrument that the EU has to accommodate heterogeneity among its members, preferences and capacity (Schimmelfennig & Winzen, 2016, p. 7). What is important here is the fact that not only EU members are part of this kind of integration, but also European states that are not members of the EU can be part of differentiated integration. Internal differentiation occurs when at least one member state does not participate in a policy area. Yet, external differentiation occurs when at least one non-member state participates in a policy area of the European Union. To illustrate, rules of the monetary policy can be applied to the group of EU's member states while the other members can opt-out from it. Rules of the internal market can be adopted by non-member states too (opt-ins). On the other hand, in the Schengen area, while some member states opted-out from it, non-members can join this area (both opt-outs and opt-ins). Thus, there are four types of territorial extensions which are 1). The uniform integration where all member states

participate in a policy area (free movement of goods and services), 2). Internal differentiation (Monetary policy), 3). External differentiation (Internal market) and 4). The combination of internal and external differentiation (Schengen area) (Rittberger, Leuffen, & Schimmelfennig, 2013).

When analyzing the system of differentiated integration, one has to look at two important concepts: interdependence and politicization. These two concepts are the main factors of integration and they are essential to understand how differentiated integration works. Briefly, Interdependence is a factor which drives the integration, whereas politicization is a factor that acts as an obstacle for an integration (Schimmelfennig, Leuffen, & Rittberger, 2015, p. 765). Therefore, interdependence is the one who creates the first demand for the integration, however, if this demand is going to be achieved depends on politicization. It is argued that if interdependence is combined with strong politicization, integration will become differentiated (Schimmelfennig, Leuffen, & Rittberger, 2015).

In the three policy areas of European Union mainly on Security and Defense Policy, European Monetary Policy and Area of Freedom, Security and Justice – Schengen Treaty we have seen differentiated integration in practice and it has been argued that these areas are characterized by interdependence (not necessarily high) and high politicization.

At different times, different countries have enrolled into contractual relations with the EU eventually leading to a membership. However, the case of Kosovo differs from the other countries. Firstly, since Kosovo is not member of the EU, variable geometry and a la carte types of differentiated integration are not available. Secondly, Kosovo is a weak country both institutionally and economically. It doesn't have a bargaining power. Therefore, practically it takes what is being served in the menu. Finally, because Kosovo is not recognized by five EU countries, it faces greater challenges when it comes to the policies where unanimity voting is required. However, thanks to the differentiated integration and to the legal provisions, those challenges

(even though not all) have been reduced. Constructive abstention and enhanced cooperation which have been introduced by Amsterdam Treaty (Müftüleri-Baç, 2017, p. 4) made possible the establishment of EULEX in Kosovo, despite the fact that five member states of the EU didn't vote. Another prominent example is about first contractual relation of Kosovo with EU which is SAA. For the Kosovo case, European Commission proposed an "EU only" SAA which was approved by European Council and all the member states of the EU because of enhanced cooperation and positive consequences of the political dialogue between Pristina and Belgrade.

This study focused on the whole system of differentiated integration and particularly analyzed integration of Kosovo with this model of integration. Since Maastricht Treaty, differentiated integration is at play inside the European Union in order to accommodate the diversity and also between the EU and the Balkans, especially with Kosovo. Considering the situation of Kosovo, while formal membership of Kosovo into the EU is increasingly less likely, the model of differentiated integration is seen as the possible solution for the integration of Kosovo into the EU

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APPENDICES

APPENDIX A: TURKISH SUMMARY/ TÜRKÇE ÖZET

1950'lerin ortasında Avrupa entegrasyon sürecinin başlangıcından bu yana, Avrupa Topluluğu/Avrupa Birliği'nin hangi şartlarda ve hangi koşullarda genişleyeceği konusunda tartışmalar vardı. 1973, 1981, 1986 ve 1995 genişlemelerinde aday ülkeler topluluk yönteminin yakınsama kriterlerini yerine getirerek AT/AB üyesi oldular. Genişleme süreçleri birbirlerine benzer kaldı. Ancak, 2004'ün büyük patlama (big bang) genişlemesi ile işler değişmeye başladı. AB'de artan heterojenlik ve üye ülkeler arasında herhangi bir politika üzerinde pozisyonların farklılaşması ve ayrışmalar birlikte ilerlemeyi zorlu hale getirmiştir. Bu nedenle, klasik topluluk yöntemi, Birlik içindeki çeşitliliğin giderek artması ile yetersiz sayıldı. Böylece, yeni bir bütünleşme modeline ihtiyaç duyuldu.

Christopher Preston'a göre, klasik topluluk genişleme yöntemleri beş prensibe dayanmaktadır. Her şeyden önce, başvuru sahipleri AB'nin tüm müktesebatını kabul etmelidir. İkinci olarak, katılım müzakereleri, müktesebatı alan başvuranların pratiklerine odaklanmaktadır. Üçüncüsü, genişleyen bir Topluluğun çeşitliliğinin artması nedeniyle ortaya çıkan sorunlar, mevcut yetersizliklerin üstünde yer alan yeni politika belgelerinin oluşturulmasıyla ortaya çıkmaktadır ve bu reformların yetersizliklerine ilişkin temel reformlar yapılmamaktadır. Genişlemenin klasik "topluluk yönteminin" dördüncü ilkesi, yeni üyelerin Topluluğun kurumsal yapısına sınırlı bir artan adaptasyon temelinde entegre olmasıdır. Son ilke ise, Topluluğun birbiriyle yakın ilişkileri olan devletlerle müzakere yapma eğiliminde olmasıdır.

Klasik topluluk yönteminin sınırlamaları ile ilgili tartışmalar, Birliğin Orta ve Doğu Avrupa Ülkelerine doğru genişleme olasılığının tartışılmaya başlandığı

1994'den bu yana ön plana çıktı. Avrupa Komisyonu, Gündem 2000 raporunu yayınladığında durum değişmeye başladı. Bu raporda yaklaşan genişlemenin klasik toplum yöntemi ile devam edemediği ve hem kurumlarda hem de karar verme prosedürlerinde önemli değişiklikler yapılması gerektiği savunuldu. Bu zaman sürecinde, farklılaştırılmış bütünleşme olanakları vurgulanmış ve kısa bir süre içinde ilgi odağı olmaya başlamış.

Farklılaştırılmış bütünleşme konusundaki tartışmalar 1990'lı yıllardan önce gerçekleşmiş ancak Maastricht Antlaşması ile kurumsallaştırma yoluyla farklılaştırılmış bütünleşmeden yararlanmak için bir girişim yapılmıştır. Maastricht Antlaşması'nda bu anlayış "esneklik" kavramı ile ele alınmış, Amsterdam Antlaşması'nda ise "daha yakın işbirliği" olarak nitelendirilmiş ve son olarak Nice Antlaşması'nda "gelişmiş işbirliği" olarak tanımlanmıştır. Ancak, Maastricht Antlaşması öncesinde esneklik olmadığı anlamına gelmiyor. Yukarıda da belirtildiği gibi, dört genişleme turunun geçiş dönemleri bu açıdan esneklikle ilgisi vardı. Yine de, bu esneklik örneği üye ülkeler arasında itiraz edilmedi ve müktesebata kademeli olarak uyum sağlanacaktı. Cini, bu esnekliği "tek düzelik paradigma" olarak adlandırdı; mevcut politika sorunu en iyi Avrupa düzeyinde yürütülmekte ve tüm ülkeler bağlayıcı yasama anlaşmalarına girmeli. Maastricht Antlaşmasından sonra bu esneklik, tekdüzelik paradigmasından kaymaya başladı ve başka bir form aldı.

Cini, farklılaştırılmış bütünleşme kavramını üç bölüme ayırmaktadır: çok vitesli Avrupa, alakart ve tek merkezli iç içe geçen halkalar (konsentrik halkalar). Çok vitesli model zamana göre, alakart model politikaya göre, konsentrik halkalar ise alana göre farklılaşmaktadır.

Tüm bu farklı hızlar ve halkalar, daha fazla entegrasyona ilişkin pazarlığın geçici yan etkileri olarak görüldü. Bununla birlikte, Schimmelfennig, Leuffen ve Rittberger Avrupa entegrasyonundaki bu gelişmelerin entegrasyonun geçici derogasyonu olmayabileceğini ve bunun AB'nin en kalıcı özelliği olduğunu savunuyorlar. Buna "farklılaştırılmış bütünleşme sistemi" diyor. Bu sistemle, farklı

yargı yetkisine sahip birçok Avrupa anlamına gelmez. Aslında, anlatmaya çalışılan, üye devletlerle, örgütsel ve bölgesel genişlemeyle işlevini değiştiren tek bir Avrupa Birliği'nin olmasıdır. Bu çalışma, Avrupa Birliği'nin bu perspektiften farklılaştırılmış bütünleşme ve işleyişini incelemektedir. AB'nin tüm üye ülkelerinin bir gün bir havuzda toplanacağını ve bunu bir geçiş dönemi olarak görmesini ummak yerine, bu çalışma farklılaşmış bütünleşmeyi AB'de geçerli olan bir sistem olarak detaylı olarak inceleyecek ve analiz edecektir.

Farklılaştırılmış bütünleşme yatay ve düşey olmak üzere ikiye ayrılır. Yatay farklılaşma, bölgesel boyut ile ilgilidir ve pek çok politikanın üye ülkelere her zaman uygun olmadığı anlamına gelmektedir. Öte yandan, dikey farklılaşma, merkezileşmenin farklı seviyelerine ve hızlarına entegre edilmiş politika alanları ile ilgilidir. AB'deki her bir politikanın merkezileştirme seviyesi ve bunun bölgesel uzantısı vardır. Bir politika alanı eşit olarak entegre ediliyorsa ve bütün üyeler bu politika alanına katılırsa, yatay ve düşey entegrasyon olur, ancak farklılaşma meydana gelmez.

Biri yatay farklılaşmaya baktığında, bu tür farklılaşmanın iç ve dış ayırım tarafından oluşturulduğu görülür. Bir veya daha fazla üye devlet bir politikaya katılmazsa buna içsel farklılaşma denir. Örneğin, Danimarka'nın Ortak Dış ve Güvenlik Politikası'ndan çıkarılması. Öte yandan, üye olmayan bir devlet AB'nin herhangi bir politika alanına katılırsa buna dışsal farklılaşma denir. İzlanda, İsviçre, Norveç ve Lihtenştayn AB üyesi değil ancak Schengen bölgesi ile ilgili anlaşmalar imzaladılar.

Farklılaştırılmış bütünleşmenin ne anlama geldiğini anlamak için siyasallaştırma ve karşılıklı bağımlılık olmak üzere iki önemli kavrama bakmak gerekir. Karşılıklılık, bütünleşmeyi yönlendiren bir faktör iken, siyasallaştırma, entegrasyon için engel oluşturan bir faktördür. Hükümetler ya da politikalar arasında karşılıklı bağımlılık düşükse, ilk etapta bütünleşme talebi olmayacağı için hiçbir siyasallaştırma söz konusu olmayacaktır. Bununla birlikte, eğer güçlü bir karşılıklı

bağımlılık varsa ve zayıf ya da hiç siyasallaştırma yoksa, bütünleşme talebi olacaktır ve muhtemelen bu tür bütünleşme meydana gelecektir. Son olarak, eğer güçlü karşılıklı bağımlılık güçlü politikayla birleştirilirse, bütünleşme için yüksek talep olacaktır, ancak güçlü siyasallaştırma nedeniyle bütünleşme başarısız olacak veya öbür taraftan farklılaşacaktır. Bu şekilde bütünleşme farklılaşır. Dolayısıyla, dikey ve yatay farklılaşmayı karşılıklı bağımlılık ve siyasallaştırmayla birleştirmek durumunda kalırsak, AB'de, bağımlılık ve siyasallaştırma politikalar arasında değişiklik gösterdiğinden dikey farklılaşma artar diyebiliriz. Aynı çizgide, karşılıklı bağımlılık ve politikleşme ülkelere göre farklılaştığında, yatay farklılaşma artmaktadır. Buna ek olarak, dikey ve yatay farklılaşma ölçeği Moravcsik'in dediği gibi ülkeler arasındaki karşılıklı bağımlılığın, siyasallaştırmanın ve siyasallaştırma asimetrisinin derecesine bağlıdır. Dolayısıyla, dikey farklılaşma, karşılıklı bağımlılıktaki değişime dayanmaktadır; buna karşın, yatay farklılaşma ağırlıklı olarak politika ile tetiklenir. Böylece, en kapsamlı olan entegrasyonun bu şekilde farklılaşması gerçekleşiyor. Bu çalışmanın Schimmelfennig, Leuffen ve Rittberger'ın farklılaştırılmış bütünleşme anlayışına dayanmasının nedeni, daha kapsamlı bir analiz seviyesine sahip olması, daha karmaşık ancak aynı zamanda kapsayıcı ve uygulanabilir olmasıdır. Bu farklılaştırılmış bütünleşme modeli sadece AB sınırları içinde geçerli değildir, ancak üye olmayanlar için de uygulanabilir.

Farklılaştırılmış bütünleşme müzakere edilmesi gereken bir şey olduğu için pazarlık gücü önemli bir faktördür. Katılım müzakerelerinde farklılaşmış bütünleşme müzakere edildiğinden katılımcı aktörlerin göreceli pazarlık gücüne ilişkin bu teorik perspektife göre değişir. Farklılaştırılmış bütünleşmenin iki farklı kaynağı olan istisnai ve ayrımcı farklılaşma vardır. İstisnai farklılaşma, yeni üye devletlerin bazı üyelik yükümlülüklerinden muaf tutulduğu ve en azından bir süre bazı kurallardan muaf olduğu anlamına gelir. Öte yandan, ayrımcı farklılaşma, eski üye devletlerin yeni üye devletleri çıkarları sebebiyle dışlaması anlamına geliyor. Yeni üye ülkeler çoğunlukla bütünleşmenin uyum maliyetlerini azaltmak için bazı politika alanlarından muaf olmaya ve ayrımcılığa maruz kalmamaya çalışmaktadır; çünkü asıl önemli olan unsur

üyelik faydalarıdır. Bu yüzden farklılaştırılmış bütünleşme, AB'nin dağılım, yetersizlik ve özerklik etkileri konusundaki anlaşmazlığı ele alması gereken bir araçtır. Üyelikte heterojenliği barındırmak ve potansiyel genişleme kaybedenleri yatıştırmak için bir araçtır.

Avrupa Birliği oldukça farklılaşmıştır. Farklılaştırılmış bütünleşme modları ve modelleri, politika alanına bağlı olarak değişir. Bu, üç politika alanına kısa bir bakış yoluyla resimlenecek: Güvenlik ve Savunma Politikası, Ekonomik ve Parasal Birlik ve Özgürlük Alanı, Güvenlik ve Adalet - Schengen Antlaşması.

Güvenlik ve Savunma politikası, üye devletler arasındaki en bölücü politik alanlarından biridir, çünkü Fransa ve Belçika gibi "Avrupalı" olarak bilinen ülkeler, Avrupa ülkeleri ile sınırlı olan artan işbirliğini desteklemektedir. Diğer tarafta İngiltere, Hollanda, Almanya, Portekiz ve bazı Orta ve Doğu Avrupa Ülkeleri "Atlantik" olarak bilinen ülkelerdir ve NATO ile ilişkilendirilmek isterler. Danimarka ise herhangi bir Avrupa savunma politikasındaki işbirliğinden dışında kalmaktadır. Son olarak İsveç, Finlandiya, Avusturya ve İrlanda kendilerini tarafsız ülkeler olarak tanımlanmışlardır.

Para politikası aynı zamanda AB'nin en farklılaşmış alanlarından biridir. Yatay farklılaştırmayı içeren "konsantrik halkaların" farklılaştırılmış bütünleşme türünün mükemmel bir örneğidir. Konsantrik halkaların iç köşesinde Avrupa Merkez Bankaları Sistemi vardır. İç merkezin yakınında bulunan diğer halkaya, avro bölgesinin bir parçası olan AB'nin 19 üye ülkesi dahildir. "Dış halkada", Avro bölgesine katılabilecek durumda olan ancak bunu yapma istekleri olmayan devletler vardır. Bu ülkeler Danimarka, İsveç ve Birleşik Krallık'tan oluşuyor. Diğer halka, Avro bölgesine katılma iradesine sahip olan ve yakınsama kriterlerini yerine getirene kadar bekleyen üye devletlerden oluşmaktadır. Bu ülkeler Romanya, Bulgaristan, Hırvatistan, Macaristan, Çek Cumhuriyeti ve Polonya'dır. Son dış halka, Ekonomik ve Parasal Birlik (EPB) ile parasal anlaşmalara giren fakat Monaco, San Marino ve Vatikan gibi AB üyesi olmayan ülkeleri içermektedir. Ayrıca, Avro'yu para birimi

olarak kullanan Kosova ve Karadağ gibi ülkeler de var ancak bunlar EPB ile parasal anlaşmalara sahip olmadığı için çevrelere dahil değildir.

Özgürlük, Güvenlik ve Adalet Alanı, farklılaştırılmış entegrasyonun tartışıldığı ve gerçekleştiği bir diğer önemli politika alanı olarak görülüyor. Schengen bölgesinde 26 ülkeden 400 milyondan fazla insan vardır, ancak tüm AB üyesi ülkeler Schengen alanının bir parçası değildir. Schengen bölgesi, dışsal farklılaşmanın en belirgin örneği olduğu için incelenmesi özellikle önemlidir. Başlangıçta, Schengen 'in yalnızca AB üyelerine açık olması düşünülmüştür. Ancak, AB sınırları içerisinde farklılaşmaya başlayınca, bazı ülkelerde Schengen'e katılma hakkı tanıyan AB dışındaki farklılaşmaya da yol açtı. Böylece, Schengen alanında hem dikey hem de yatay farklılaşmayı görebiliriz. Schengen bölgesi aynı zamanda içsel ve dışsal farklılaştırılmış bütünleşmenin iyi bir örneğidir. Schengen bölgesinde beş farklı bütünleşme türü vardır. Birincisi "devre dışı bırakma" dır. Buna, Birleşik Krallık, İrlanda ve Danimarka gibi üye ülkeler dahildir. Schengen bölgesinde farklılaştırılmış bütünleşmenin ikinci türü ise "dahil olmak" dır. Kısacası, bu ilke, Konseyin aldığı kararların bazılarını seçip yerli yasalarıyla bütünleştirmek için daha önce seçtikleri ülkelere hak kazandırmaktadır. Bunun iyi bir örneği, İngiltere ve İrlanda'nın adli işbirliği sığınma ve gönüllü meselelerine ilişkin konulara dahil olmasıdır. Karardan anlayabileceğimiz gibi, bu, Avrupa'nın alakart tipinde farklılaştırılmış bütünleşmenin tipik şeklidir. Üçüncüsü, çok vitesli Avrupa'nın farklılaşmış bütünleşme tipine iyi bir örnek olan "gelişmiş işbirliğinin" ilkesidir. Dublin Yönetmeliği (2003), Prüm Sözleşmesi (2005), Hague Programı (2004) ve Stockholm Programı (2009) Özgürlük, Güvenlik ve Adalet alanındaki gelişmiş işbirliğinin örneklerinden bazılarıdır. Örneğin, Prüm Sözleşmesi, Schengen modeli üzerine kuruldu ancak AB'nin yargı alanının dışındadır. Bu, suç ve terörle mücadele için artan bilgi alışverişiyle polis işbirliğini amaçladığı için, gelişmiş işbirliğinin en güzel örneklerinden biridir. Dördüncü kategori "Schengen birlik statüsü" dür (Jokela, 2014, sayfa 76). Bu kategori, AB üyesi olmayan Schengen Anlaşması üyeleri ile ilgilidir: Örneğin İsviçre, Norveç ve İzlanda. Son kategori, Schengen Anlaşması'na üye olmayı bekleyen AB üyeleri hakkındadır.

Bu ülkeler Romanya, Hırvatistan, Kıbrıs ve Bulgaristan'dır. Bu ülkelerin Schengen Antlaşması'na dahil edilmemesinin başlıca nedeni, sınır kontrol problemleri olmasıdır. Bu üç politika alanları farklılaştırılmış bütünleşmenin en iyi örneklerindendir.

Farklılaştırılmış bütünleşme, yalnızca AB sınırları içerisinde gerçekleşen bir olgu değildir. Yukarıdaki farklı bütünleşmeye ilişkin üç örnekte, bu olgunun AB'nin dış ilişkilerinde de bulunduğu görülmektedir. Üçüncü ülkelerle dışsal farklılaşmanın pek çok örneğinin yanı sıra, bu çalışma, Kosova örneğini daha iyi anlamak için esas olarak Batı Balkanlara yönelik dış yönetime odaklanmaktadır. Kosova örneğini, Balkanlar'ın diğer ülkelerinden farklı olduğu ve bağımsızlığını tanımaya yönelik yasal engeller açısından sorunlu olduğu için incelenmesi önemlidir.

AB'nin dış yönetimi hakkında konuşurken, üç şeyi göz önüne almalıyız. Birincisi, her genişleme ile potansiyel adaylar giderek azalıyor ve böylece Avrupa'nın sınırı ya da Avrupa'nın nerede başladığı ve bittiği konusundaki tartışmalar daha muğlak ve bölücü hale geliyor. İkincisi, büyük patlama (big bang) genişlemesinden sonra, AB'nin entegrasyon kapasitesi ile ilgili soruların ışığı yer alıyor. "AB, Batı Balkanlar'a doğru genişlemeye hazır mı?" sorusu yapılan ana sorulardan biri. Son olarak, kalan adaylar ve potansiyel adaylar, savaşlar yaşayan ve çoğunlukla yoksul ülkelerdir. Dolayısıyla, liberal demokrasilere geçiş süreci, yolsuzlukla mücadele, ekonomik kalkınma vb. süreçler yavaşlamakta ve zorlaşmaktadır.

Bu üç önemli mesele göz önüne alındığında, esas olarak komşusu olan üçüncü dünya ülkeleri ile olan AB ilişkilerinin karşılıklı bağımlılığı hakimdir. Günümüzdeki akademisyenlerin potansiyel ve aday ülkelerin katılım sürecine odaklanmaktan çok AB yönetimine daha fazla önem vermelerinin nedeni budur. AB üyesi olmayan ülkeler arasında koşulluluk, bütünleşmenin tipik modudur. Bu, üye olmayanların pazarlık gücüne ve müzakerelere dayanmaktadır. Buradaki egemen mantık, şartlılığın ödül ile güçlendirildiği bir pazarlık stratejisidir ve bu yolla AB üyesi olmayan ülkelere AB tarafından belirlenen koşullara uymak için harici teşvikler sunar. Böylelikle, AB'nin dış yönetim modelleri vardır.

İlki, dış teşvik modelidir. Bu tür bir model, aktörlerin veya bu sürece katılan üye devletlerin güçlerini en üst düzeye çıkarmakla ilgilendiği daha rasyonalist bir pazarlık modelidir. Bu modele göre, AB kuralları (iç yönetim) koşullar olarak koyulmalı ve üye olmayan devletler ödüllendirilmek için onlara uymak zorunda olmalıdır. Bu ödüller ortaklığa veya yardımdan tam üyeliğe değişebilir. Dış yönetişime ilişkin ikinci ve üçüncü alternatif modeller, sosyal öğrenme modeli ve ders çizim modelidir. Sosyal öğrenme modeli, AB normları, değerleri ve kimlikleri tarafından motive edilir ve uygunluğun mantığına dayanır. Bu nedenle, üye olmayan devletler veya aktörler, ikna edildiyse, AB koşullarını kabul eder. Öte yandan, ders çizim modeli, üye olmayan devletlerin kendi iç politikalarına tepkisidir ve bu nedenle, AB kurallarının yerli meseleleri çözebileceğini düşündükleri zaman AB koşullarını kabul ederler. Bu üç örnek, AB'nin kurallarını üye olmayan ülkelere nasıl aktardığını ve üye olmayan devletlerin hangi şartlar altında kabul ettiklerini göstermektedir. AB koşullarının etkinliği AB ve iç faktörlerin etkileşimine dayanmaktadır. Bu nedenle, Schimmelfennig'e göre, koşulların etkinliği öncelikle AB'nin üye olmayan devlete koşullu teklifinde, ikinci olarak AB'nin normatif teklik temelli genişleme kararına bağlıdır ve nihayetinde düşük uygunluk maliyetlerine dayanmaktadır.

AB'nin Batı Balkanlarla olan taahhüdü, Orta ve Doğu Avrupa ülkelerinin aksine, bu bölgeye doğru genişleme potansiyelinden yoksundur. Doğunun genişlemesinin, AB'nin Avrupa bölünmesini atlamak yükümlülüğü olarak gördüğü Soğuk Savaş sonrası anlatıdan etkilenmesi nedenidir. Ancak, Batı Balkanlar'da böyle bir anlatım mevcut değil. AB'nin Orta ve Doğu Avrupa ülkelerinde olduğu gibi Batı Balkanlar'da da istikrar, demokratikleşme, barış ve güvenlikten bahsettiği doğru ama aciliyet ve öneme sahip değildir. AB Konseyine göre, Batı Balkan ülkeleri sadece Kopenhag kriterlerini karşılamak zorunda değildirler, aynı zamanda İstikrar ve Ortaklık Süreci tarafından belirlenen şartları yerine getirmek zorundadırlar. Bu koşullardan bazıları eski Yugoslavya Uluslararası Ceza Mahkemesi ile işbirliği yapmak, mültecilerin geri dönmesini sağlamak ve en önemlisi "iyi komşuluk ilişkileri" içeren bir bölgesel işbirliği aramaktır.

Batı Balkanlar bölgesinde bütünleşme istikrar, barış ve güvenlik getirmek demektir. Anlatı açısından baktığımızda öyleydi. Burada bulunmayan şey, AB'nin genişlemesi sorumluluğu ve görevidir. 2006 yılında Avrupa Konseyi'ne göre genişleme stratejisi "konsolidasyon, şartlılık ve iletişim" üzerine kurulu olmasıdır. Ancak bu genişlemenin belirleyicisi AB'nin entegrasyon kapasitesi olmaya başladı. Ayrıca, üyelik yolunda ilerleme, siyasi taahhütten ziyade teknik kaygılar üzerine kurulacaktır. Bu nedenle Schimmelfennig'in dediği gibi doğu genişleme örneğinde hakim olan tuzak retoriği Batı Balkanlar'da mevcut değildir.

Kosova'nın Avrupa Birliği ile olan ilişkisi, baştan farklıydı. AB, Kosova'da bağımsızlık ilanı veya 1999 Savaşı öncesinde bile mevcut olmasına rağmen, Kosova'nın AB'ye katılma olasılığı en azından şu an için düşük kaldı. Bununla birlikte, aralarındaki bu ilişki, Kosova'nın bütünleşme yolunun engellendiği anlamına gelmiyor. Bunun tezin amacı, dışsal farklılaşmış entegrasyon modelinin, Kosova'nın AB ile olan ilişkisi için alternatif ve uygulanabilir bütünleşme modeli olduğunu göstermektir. Bu tür AB politikalarına bütünleşmenin Kosova için bir anormallik ya da farklılık olmadığını belirtmek gerekir. AB üyesi olmayan fakat bütünleşmenin farklı düzeylerinde olan diğer birçok Avrupa devleti vardır. Örneğin, İsviçre, Ukrayna, İzlanda vb. AB üyesi değildirler, ancak ortaklıklar ya da AB ile farklı seviyelerde farklı anlaşmaları bulunmaktadır. Ancak Kosova örneği, AB'nin Kosova'nın bağımsızlığını ve egemenliğini tanımayan bir devletle nasıl ilgili olduğunu anlamada benzersizdir.

2008'de bağımsızlık ilanı ile Kosova-AB ilişkileri yeni bir başlangıç ile karşılaştı. Bildirgeden hemen sonra, AB Genel Konseyi, Kosova'nın Avrupa zihniyetine çok yakın olduğunu açıkladı. Bir yıl sonra Kosova, IMF ve Dünya Bankası'na üye oldu. Önemli olan bu İlerleme Raporu'nda Komisyon, İstikrar ve Ortaklık Süreci İzleme Mekanizmasının Kosova'nın İstikrar ve Ortaklık Süreci'ne katılımını önerdi. Öncelikle, Haziran 2012'de Avrupa Komisyonu, Kosova hükümetine vize serbestliği konulu bir yol haritası hazırladı ve Kosova'nın önlem alması gereken alanları belirledi. İkincisi, Ekim 2012'de İstikrar ve Ortaklık Süreci

için fizibilite çalışması başlatıldı. Komisyon, Kosova'nın İstikrar ve Ortaklık Süreci için müzakereleri başlatmaya hazır olduğunu onayladı.

Kosova-AB ilişkilerini analiz ettiğimizde, Avrupa bütünleşme sürecini daima bu ilişkiyi karakterize eden tek dinamik olarak alıyoruz. Ancak Kosova'nın bu yolda karşılaştığı sorunlar da önemli bir rol oynamaktadır. Örneğin, Kosova-AB ilişkisinin diğer bir yönü, beş AB üyesi Kosova'nın bağımsızlığını tanımamış olmasıdır. Bunun her iki taraf için de sonuçları vardır. Bu bağlamda, oybirliği kuralına odaklanılmalıdır. Çünkü AB'nin genişleme politikası ve dış politikası, AB'deki bütün üye ülkeler tarafından oybirliği oyu gerektiriyor. Bu nedenle "Kosova, AB ile sözleşme ilişkisi kurulabilir mi?" sorusu oldukça tartışılabilir bir sorudur ve belirsiz kalmaktadır. Bununla birlikte, 1997'de Amsterdam Antlaşması "yapıcı çekimserlik" olasılığını getirdi (Jokela, 2014). Yapıcı çekimser oy birliği oyu gerektiren herhangi bir üye ülkenin Ortak Dış ve Güvenlik Politikası kararı için çekimser kalmasıdır. Veya başka bir deyişle, üye ülkeler karar verme sürecini engellemek için Ortak Dış ve Güvenlik Politikası konularından çekinirler. Bununla birlikte, eğer AB nüfusunun üçte birini temsil eden oyların üçte biri çekimser ise, bir karar onaylanmaz. Şimdiye kadar bu prosedür, Avrupa Birliği Hukuk Misyon Kuralını (EULEX) Kosova'da başlattığında sadece bir kez kullanıldı.

Beş AB üyesi ülkenin tanınmamasına ilişkin bir diğer engel, İstikrar ve Ortaklık Anlaşması'nın onaylanması sorunudur. Bu ciddi bir sorundu, çünkü Batı Balkanlar'ın tüm ülkeleri Kosova dışında İstikrar ve Ortaklık Anlaşması'nı imzaladılar. AB, İstikrar ve Ortaklık Anlaşması'nın onaylanmasını uzatmak için SAP'nin özel mekanizmalarını sunarak yaratıcı yollar bulmaya çalıştı. Ancak Sırbistan üyelik müzakerelerine başladığında, AB Kosova'yı bölgedeki ülkelere uzak tutmak istememiş ve bir çözüm bulmuştu. Çözüm İstikrar ve Ortaklık Süreci'nin nötr biçimde imzalanmasıydı. Batı Balkanlar'ın diğer ülkeleri İstikrar ve Ortaklık Anlaşması'nı imzaladığında, bütün üye devletler bunu parlamentolarında onaylamak zorunda kaldılar. Kosova örneğinde bu mümkün değildi. Bu nedenle, Lizbon Antlaşması'nda

yer alan hükümlerle Kosova, yalnızca AB ile İstikrar ve Ortaklık Anlaşması imzaladı (Jokela, 2014, s. 52-53). Anlaşmanın içeriği aynıydı. Tek fark, üye devletlerin onaylanmasına ihtiyaç olmamasıydı. Bu mesele Kosova-AB ilişkilerinde de bir istisna oluşturmaktadır.

Bu örnekler dışsal farklılaşmış bütünleşme çerçevesine mükemmel biçimde uymaktadır. Kosova örneğinde farklı olan, farklılaşan bütünleşmenin büyük bir sorunla karşı karşıya olmasıdır. Çünkü Kosova'nın AB'ye bütünleşmesi kendi seçimi ile değil, mevcut üye devletlerin elindedir. Bu, AB koşullarına tabi tutulur. Kosova'nın yoksul ekonomik ve siyasi koşulları nedeniyle gerçekten zayıf bir pazarlık gücüne sahip olduğu anlamına geliyor. AB'nin Kosova ile olan ilişkileri, üye ülkeler arasındaki tanınırlık konusundaki büyük farklılıkları nedeniyle de oldukça siyasallaştırılmaktadır. Dolayısıyla, bu açıdan güçlü karşılıklı bağımlılık ve siyasallaşma, farklılaştırılmış entegrasyonu vazgeçilmez bir özellik haline getirmektedir. Burada, Kosova'nın yeniden yapılanma, ekonomik kalkınma, mali yardım ve temel olarak her alanda AB'ye bağımlı olduğu yönünde güçlü bir karşılıklı bağımlılık vardır. AB, "yumuşak gücün" ve / veya "sivil güçcn" başarısını kanıtlamak için Kosova'ya bağımlıdır. Ayrıca, Kosova örneğinde, değişken geometri ve alakart çeşitleri mevcut değildir; çünkü Kosova, katılmak istediği politika alanlarını "seçemez", aksine, masaya sunulan şeyi alır. Dolayısıyla, bu durumda, alan ve zaman açısından farklılaşmış bir bütünleşmeye sahiptir.

Kosova'da farklılaşan bütünleşme konusunu daha iyi anlamak için, Kosova'daki kamu tartışmaları, yerel düşünce kuruluşları ve parlamento konuşmalarına bakmak gerekiyor. Kosova Sivil Toplum Örgütü'nden Fisnik Korenica'ya göre, Avrupa Birliği'nin Kosova'yı görmezden geldiği en az üç an var. Kosova hükümeti tarafından ana başarı olarak değerlendirilen İstikrar ve Ortaklık Anlaşması'nın imzalanması, Kosova'nın AB üyeliği başvurusunda belirgin bir Avrupa yolunu garanti etmiyor. İkincisi, Korenica, vize uygulamasının serbestleştirilmesinin, Avrupa Komisyonu'nun Kosova için çok titiz olduğu bir diğer konu olduğunu

savunuyor. Son olarak, Kosova'nın, diğer Batı Balkan ülkeleriyle karşılaştırıldığında karşılaması gereken ek şartlar var. Kosova'daki gençlerin vize serbestisi ile ilgili düşünceleri incelendi. Neredeyse her cevap vize serbestisi umutlarını kaybetmiş olduklarını göstermekteydi. Çünkü 2010'dan bu yana yalnızca sözler duydukları halde durum aynı kaldı. Bu nedenle, halk arasında yapılan tartışmalardan da anlaşılacağı üzere, Kosova-AB ilişkisine hâkim olan güncel konu vize serbestisidir. Kimse Kosova'nın tam üyeliğinden bahsetmemektedir. Kosovalı siyasi çevrelerin başlıca amacı, koşulları yerine getirerek AB'nin Kosova'ya sunduğu aracı adımları yerine getirmektir.

Kosova'da AB üyeliği ile ilgili parlamento konuşmalarına baktığımızda, kamuya açık tartışmalarda olduğu gibi benzer sonuçlar görüyoruz. Onlara göre, İstikrar ve Ortaklık Anlaşması'nın imzalanması Kosova'nın Avrupa yolunda en büyük başarısı olarak görülmektedir. Aynı konuda yerel düşünce kuruluşları, AB'nin üyelik müzakereleri sunarak Kosova ile diyalogda Sırbistan'ın kaydettiği ilerlemeyi fazla göz önüne serdiğini ve Kosova'ya hiç ödül verilmediğini iddia ediyorlar. KIPRED'e göre AB, Kosova'ya her zaman ara adımlar (koşullar) getirmeye çalışıyor ve bu da Kosova'nın ileriye doğru ilerlediği yönünde bir izlenim bırakıyor ancak Kosova diğer komşu ülkelerle karşılaştığında hep daha geride kalıyor. Palokaj'ın dediği gibi "sihirli formüllerin" hiç resmi olmadığı ve sadece zaman kazanmaya hizmet ettiği savunulmaktadır.

Bütün bu kamuoyu tartışmalarını, parlamento konuşmalarını ve yerel düşünce kuruluşlarının Kosova-AB ilişkileri hakkında ne düşündüklerini analiz ederek, çoğunun AB'yi diğer Batı Balkan ülkelerinde olduğu gibi Kosova'ya da aynı muamele etmemekle eleştirdiklerini görüyoruz. İkincisi, 2010 yılının başından itibaren vize serbestisi meselesinin Kosova-AB ilişkilerinin gündemine hakim olması. Bu nedenle, Kosova'da farklılaşmış bir bütünleşme gerçekliği olduğunu söyleyebiliriz ancak bunu bir gerçek olarak adlandırmamaktadırlar. AB, Balkanlar'ı bir bölge olarak ele almaya

alıřsa da, bire bir iliřkiler sz konusu olduėunda farklılařmanın var olduėunu gryoruz.

zetlemek gerekirse, Kosova'nın yelik bařvurusunda bulunması iin bazı yasal engeller bulunmasına karřın, bu engellerin Kosova'nın btnleřme yolunu bloke ettiėi anlamına gelmiyor. Bu nedenle AB, yelikten ve hatta Kosova'nın yelik iin bařvurma ihtimalinden kaınırken, Kosova'yı nasıl entegre edecekleri konusunda zm bulmaya alıřmaktadır. Bunu, farklılařtırılmıř btnleřme modeliyle yapmaktadır.

Bu alıřma, farklılařtırılmıř btnleřmenin zerinde yoğunlařmıř ve zellikle bu btnleřme modeliyle Kosova'nın AB ile btnleřmesini incelemiřtir. Maastricht Antlařması'ndan bu yana, AB'nin Balkanlar ve zellikle Kosova ile iliřkilerinde farklılařmıř btnleřmenin varlıėı grlmektedir. Kosova'nın durumu gz nne alındıėında, Kosova'nın AB'ye resmi yeliėi giderek daha az olası iken, farklılařtırılmıř btnleřme modeli, Kosova'nın AB'ye btnleřmesi iin olası bir zm olarak grlmektedir.

APPENDIX B: TEZ FOTOKOPİSİ İZİN FORMU

ENSTİTÜ

Fen Bilimleri Enstitüsü

☐

Sosyal Bilimler Enstitüsü

☒

Uygulamalı Matematik Enstitüsü

☐

Enformatik Enstitüsü

☐

Deniz Bilimleri Enstitüsü

☐

YAZARIN

Soyadı : Sharri

Adı : Berrina

Bölümü : Avrupa Çalışmaları

TEZİN ADI (İngilizce) : Debating the Differentiated Integration: The case of Kosovo

TEZİN TÜRÜ : Yüksek Lisans

☒

Doktora

☐

1. Tezimin tamamından kaynak gösterilmek şartıyla fotokopi alınabilir.

☐

2. Tezimin içindekiler sayfası, özet, indeks sayfalarından ve/veya bir bölümünden kaynak gösterilmek şartıyla fotokopi alınabilir.

☐

3. Tezimden bir (1) yıl süreyle fotokopi alınamaz.

☒

TEZİN KÜTÜPHANEYE TESLİM TARİHİ: