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Constitutional Identity in the European Integration Process: The Case of the Republic of Serbia

ABSTRACT: *Constitutional identity is a complex and multifaceted concept. It encompasses the core values that underpin a constitutional order and defines the unique character and specificity of a particular legal system in relation to others. When it comes to delineating the sovereign constitutional orders of Member States from the supranational legal system of the European Union, this notion has been extensively examined by renowned scholars and addressed by both national constitutional courts and the Court of Justice of the EU.*

In this context, we analyse the transformative power of European integration on the post-communist Western Balkan states going through the EU accession process and, more specifically, on the Republic of Serbia. Europeanisation of the legal and constitutional system became a common trait of the European integration process, especially in the Western Balkan countries.

As a candidate country on the path towards European Union membership, Serbia is engaged in the process of not only shaping its political reality but also undergoing a democratic transition of its political and legal system. The discourse on the constitutional transformation of the Republic of Serbia intensified following the adoption of the 2006 Constitution, which reaffirmed Serbia's territorial integrity amid a looming

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political crisis and firmly established its commitment to European principles and values. The European integration process and the harmonisation of Serbia's legal order have exerted a strong influence on the remodeling of its constitutional identity. However, this should not negate the "noyau dur" or the core constitutional foundations, which have been affirmed in numerous constitutional texts throughout Serbia's constitutional history and constitutional reality.

Thus, this study will explore the relationship between Serbia's constitutional differentia specifica and new constitutional challenges determined by the dynamics of the European integration process.

KEYWORDS: *European Integration, Europeanisation, Western Balkans, Republic of Serbia, Values, Constitutional Identity.*

1.

Introductory Remarks

The European integration process has proven to be a key driving force for political, legal, and constitutional transformation, firstly in the Central and Eastern European countries at the beginning of the XXI century and then in the Western Balkans. Europeanisation, defined as the adoption of European norms, rules, and values by non-EU countries, especially in the context of the Western Balkans, has been both an instrument of change and a goal.¹ This complex and long process, driven by external influences from the European Union (EU), involves constitutional changes and adaptation of political reality. Thus, having in mind the dynamic nature of the constitutional identity that intertwines with the continuity of its constitutional core, we focus on the European integration process as a strong factor that reshapes the identity of the Western Balkan countries, and in this case, the Republic of Serbia.

Furthermore, the process of Europeanisation of the Republic of Serbia necessitates a top-down approach, requiring states to align their legal and political systems with EU norms. This transformation transcends mere legal and technical adjustments, demanding profound political and constitutional reforms. A prime example is the mandate for constitutional amendments to safeguard the rule of law, ensure judicial independence, and meet EU fundamentals, as defined in the recent EU enlargement methodology.² This is particularly apparent during Serbia's accession process, which involves substantial constitutional revisions to satisfy EU benchmarks

1 Anastasakis, 2005, pp. 77–88.

2 A more credible, dynamic, predictable and political EU accession process – Commission lays out its proposals [Online].

concerning the rule of law, democracy, protection of human and minority rights, and will continue in the near future. The implementation of these reforms will be crucial in determining Serbia's progress toward accession to the European Union.

Moreover, the European integration process of Serbia has been significantly shaped by the guidance and recommendations of key European institutions, namely the Venice Commission and the European Commission. These bodies have played a crucial role in steering Serbia's constitutional reform process, ensuring alignment with the EU's accession criteria. The Venice Commission, serving as an advisory body to the Council of Europe, has consistently emphasised the need for substantive reforms that move beyond superficial changes, particularly in areas related to judicial independence and the rule of law. Simultaneously, the European Commission, through its annual progress reports, has closely monitored Serbia's constitutional adaptation, establishing a direct link between advancements in constitutional reforms and progress in EU accession negotiations. Chapters 23 and 24 of the EU acquis,³ focusing on the Judiciary and Fundamental Rights, and Justice, Freedom, and Security respectively, have been central to these reforms. The European Union has consistently insisted on concrete legal and institutional changes that reflect its core constitutional values. However, the success of these reforms depends on their effective implementation, not just on their proclamation in the relevant documents.

Consequently, we cannot deny the transformative impact of the accession process on Serbia's constitutional framework and, therefore, its implications on its constitutional reality. The European integration process, which has been ongoing in Serbia for more than two decades, requires Serbia to make identity compromises, particularly in terms of embracing the common European values depicted as Fundamentals. However, one of the most difficult challenges is the protection of the Republic of Serbia's territorial integrity, as proclaimed by the Constitution. Serbia represents a unique case of a candidate country where a question that has represented a constitutional core and a constitutional identity trait for centuries became a subject of a negotiating chapter with the EU and a subject of political deals and negotiations.

Therefore, this paper aims to closely analyse the profound impact that the European integration process has exerted on the constitutional identity of the Republic of Serbia. We will examine how the ongoing EU accession efforts have significantly reshaped Serbia's constitutional framework, compelling the country to undertake substantial revisions and adaptations to align its constitutional structures and values with the norms and principles upheld by the European Union. Furthermore, we emphasise the issue of territorial integrity protection, i.e. the pivotal role of the

3 Chapter 23 (Judiciary and fundamental rights) and Chapter 24 (Justice, freedom and security) of the EU negotiating framework.

Kosovo^{*4} question in defining and reshaping the constitutional identity of the Republic of Serbia. This challenge is particularly acute given that the status of Kosovo and Metohija is proclaimed as a core fundamental identity trait for Serbia, which now must be reconciled with the demands of the European integration process. This question represents a heavy, but painful burden in Serbia's path towards EU integration, necessitating careful negotiation and compromise.

2.

Europeanisation of the Western Balkans Through the Process of EU Integration

The EU's enlargement strategy has undoubtedly emerged as the strongest foreign policy asset and one of its most successful endeavours in recent European history. Political decision-making and the ideals of unifying the continent have taken precedence over technicalities, specific mechanisms, and carefully formulated standards. As previously noted, the Eastern enlargements introduced novel elements into the legal and political processes of European integration, as well as the requirements, not lacking in complexity, imposed on candidate countries. Both the candidate states and the EU institutions have aligned themselves with a more demanding and comprehensive approach that prioritised political criteria, particularly the obligation to develop and safeguard values such as the rule of law, democracy, and fundamental rights. The Copenhagen Criteria, introduced in 1993,⁵ represented conditionality criteria and since then were widely considered to be means of, firstly, democratic transformation and promotion of legal and economic changes, and secondly, the instrument of Europeanisation. Special emphasis was, as mentioned, on the first criterion that defines the following: *'Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.'*⁶ This required significant changes in the constitutional and overall legal system of each candidate country. This was monitored by the European Commission in its Copenhagen-related documents, such as *Country Reports, Progress Reports, Non-Papers, and others*. Those documents gained specific leverage in the EU integration process as they served as "lignes directrices" for the domestic legal, political, and economic development.

4 This designation is without prejudice to positions on status and is in line with UN Security Council resolution 1244 and the International Court of Justice Opinion on the Kosovo declaration of independence.

5 Accession criteria (Copenhagen criteria) [Online].

6 Ibid.

The aforementioned processes and fulfilment of conditions set in the Criteria are all part of Europeanisation, a core phase of the European integration process. Europeanisation encompasses the process of changes in national and political practices during European integration. The transformative power of the EU integration, and therefore of the Europeanisation, is perceived through a “twinning exercise”, described by Papadimitrou and Phinnemore as encompassing instruments for adoption of the EU *acquis* but also for the introduction and enforcement of the “EU-isation” to be part of national legal and political systems.⁷ The European Union thus becomes an active and sometimes decisive participant in legal harmonisation and modern constitutional engineering. However, mitigating the risks of implementing Europeanisation without deeper, substantive transformation is the *rationale* behind the complexity of the Western Balkans’ saga of approaching and joining the EU. The European integration of the Western Balkans is therefore the outcome of a complex Europeanisation process closely tied to, and conditioned by, democratisation and democratic consolidation. The European perspective has played a significant role in the transformation processes of these states and remains a strong motivator for numerous reforms or changes in their legal systems. The process for this region is also unique, as these countries were (and still are) a part of the Stabilisation and Association process, which represented the pre-EU integration phase. As Theodor Tudoroiu describes in his analysis of identity changes prompted by EU enlargement, “democratic identity change was closely associated with regional stability”, guaranteed by the Stabilisation process.⁸ This included political stabilisation and democratic transition on the one hand and forming or adapting their constitutional orders to comply with the liberal democratic constitutional traditions on the other. In that regard, Keil and Nikolić rightly notice: ‘...introducing European standards in national constitutions becomes therefore a contest of ideas, a conflict between revitalised traditions of national identity and pre-constitutional identities and the adoption of values that praise the European project as an inspirational goal’.⁹

Even though the EU’s approach during the “Big Bang” enlargement was marked by an idealistic belief that this geopolitically driven expansion would comprehensively transform the former socialist states into democracies, other Western Balkan countries were no exception to the same expectations. The Union also operated under the assumption that this process would foster a unified understanding and application of shared values, thereby promoting the acceptance of the EU’s overarching identity built on common European values and shared constitutional traditions. The process of European integration, and thus the candidacy procedure for membership, can

7 Papadimitrou and Phinnemore, 2004, pp. 619–639.

8 Tudoroiu, 2004, p. 59.

9 Keil and Nikolic, 2014, p. 96.

only begin if the state establishes a democratic political order based on the system of values that underpin the EU. For the Western Balkan states, this has been achieved through conditionality instruments and new criteria aimed at advancing towards candidacy and eventual full membership. As Jano argues, 'reinforcement by reward' appeared to be the best model for Europeanisation and the development of values in the Western Balkans.¹⁰ However, this also involved additional interrelated processes, as the challenges to establishing democratisation often stemmed from the "ongoing challenges of statehood, sovereignty, and independence in the newly formed states,"¹¹ which raised questions of regional stability and compliance with additional political criteria. Thus, regional cooperation and cooperation with the Hague Tribunal, in the case of the Western Balkans, and especially the ex-Yugoslav states, supplemented the Copenhagen Criteria and extended the political and legal framework within which Europeanisation of these states is conducted. The EU's accession negotiations with Croatia, the last country that entered the EU in 2013, established a novel approach, revealing that the process entailed not just formal alignment with the EU *acquis*, but rather necessitated comprehensive substantive harmonisation based on values and principles that are enshrined in the requirements of negotiating Chapters 23 and 24. Similarly, the negotiations with the Western Balkan countries introduced new conditions, arising from insights gained and mistakes made during prior enlargement rounds and adjustments made to account for the unique legal and political backgrounds of the transforming nations, fitting them into an EU complex constitutional and legal framework. The European Union took steps to prevent the recurrence of mistakes from previous rounds of enlargement, which had caused lasting "damage" to the concept of European integration and, consequently, to the development of unity regarding the shared values at the heart of the European (constitutional) identity. Therefore, the integration and adaptation of the legal systems of candidate countries, with Croatia being the first, had to be grounded from the very beginning in the advancement of the rule of law and other European values. This implies that the negotiation chapters (Chapters 23 and 24) must be the first to be opened and the last to be closed, and they should not be subject to political pressure. The aim of this change was to provide member states with sufficient time to implement reforms that should be substantive and fundamental, rather than a mere "window dressing". A new mechanism has been introduced that enables the suspension of negotiations if there are serious and persistent breaches of the principles of democracy, human rights,

10 Jano, 2004, p. 59.

11 Polović, 2013, p. 18.

and the rule of law, i.e. the fundamental values.¹² Thus, the introduction of these two components demonstrated that the focus of the European negotiation process was on creating a commonality of European constitutional bases – the values, with the aim of integration and adaptation into a new political and legal system, and consequently, its identity. This was further strengthened in the Revised Methodology in 2020,¹³ accepted by the Republic of Serbia, as well as Montenegro, Albania, and Bosnia and Herzegovina. The revised enlargement methodology applied to Western Balkan candidate countries should be viewed as a domestic legislative process with both qualitative and quantitative outcomes of legal harmonisation. It explicitly prioritises the primacy of fundamental principles over overall progress in dictating the opening or closing of negotiation chapters during the future talks. Furthermore, it undoubtedly exerts significant influence on constitutional adaptations, including changes that have been introduced and must still be introduced to meet the conditions outlined in the revised methodology, with particular emphasis on Cluster 1-Fundamentals.¹⁴

The Revised Methodology for the Western Balkans is expected to contribute to the stability of the states' adherence to the common values proclaimed by the EU, presenting the constitutional basis of the EU identity. The focus points in this process should be the political will of the involved countries and the EU institutions, as well as a substantially deeper level of engagement that involves changing the legal and constitutional culture, which significantly influences the reshaping of national constitutional identity.

3.

European Integration of the Republic of Serbia: Adaptation to EU Values

The Europeanisation of Serbia's legal system is not limited solely to the adoption of legal norms but involves the embedding of EU values into the country's political

12 This mechanism reflects the evolving priorities of the EU in the negotiation process. Regarding the fundamental principles that define the constitutional identities shared by all member states, including those in the process of accession, the Commission can, on its own initiative or at the request of one-third of the member states, recommend the suspension of negotiations and propose conditions for their resumption. The Council then adopts such a decision by a qualified majority, after informing the European Parliament, and provides the candidate state with an opportunity to respond. Pejović, 2023, p. 197.

13 Revised enlargement methodology: Questions and Answers [Online].

14 Cluster 1 is titled Fundamentals and encompasses Chapters 23 and 24.

and legal culture.¹⁵ The reforms required under Chapters 23 and 24 are part of a broader effort to transform Serbia into a country that not only adopts EU laws but also internalises the values that underpin the European Union. The said chapters are central to Serbia's EU accession negotiations, focusing on the judiciary, fundamental rights, justice, freedom, and security. These chapters require candidate countries to undertake substantial legal and institutional reforms to align with the EU's legal order and core values. For Serbia, these chapters represent not only a legal obligation but also a roadmap for transforming its judicial system to meet European standards of independence and accountability (3.1.). The constitutional amendments, widely recognised as necessary for advancing the accession process, were introduced and adopted in 2022. The necessity of constitutional amendments in the process of EU accession has not only guided the direction of constitutional changes but has also internationalised the amendment process,¹⁶ or, more accurately, Europeanised it, considering the European institutions involved from the beginning until the end of the process. These constitutional changes represent crucial steps toward harmonising Serbia's legal and constitutional framework with the values and principles upheld by the European Union, thereby shaping the dynamics of Serbia's evolving constitutional identity (3.2.).

3.1. Aligning the Serbian Legal System with the Foundations of European Identity – Chapters 23 and 24 and EU Values

The return to Europe and European values of the Republic of Serbia after the dissolution of Yugoslavia primarily entailed the establishment of democracy in its fullest sense, the rule of law, which required complex reforms in every sphere of state functioning. As an independent state, the Republic of Serbia did not follow the distinct path of Europeanisation experienced by other post-socialist states, which were obligated to meet the political criteria on the European enlargement agenda.

15 This deeper, legal and value-based dimension of Europeanisation does not unfold in a political vacuum. Its long-term effectiveness is also influenced by the level of public support for EU membership, which has fluctuated significantly in the previous decades. Since 2002, public support for Serbia's accession to the EU has generally remained around 40 and 60 per cent. The highest recorded level was in December 2003, when 72 per cent of respondents expressed support. In 2014, following the opening of accession negotiations with the EU, 59 per cent of citizens were in favour of EU membership, believing it would bring a better future and greater prosperity. More than a decade later, in 2025, however, support had declined to around 39 per cent. What remains positive, nonetheless, is that for many years a consistently high share of respondents, over 60 per cent, have maintained the view that the reforms required for Serbia's EU accession should be carried out regardless. Proširenje EU – Percepcija u Srbiji i državama članicama EU [Online].

16 Simović, 2018, pp. 15–29.

The process that preceded Serbia's application for EU membership was largely shaped by internal crises, regional instability, and new challenges and tensions, which appeared to complete the fragmentation of the region. Furthermore, like other former Yugoslav states, the Republic of Serbia had to navigate the legacy of prolonged conflicts and internal political upheavals in order to fully implement the stabilisation process. These unique factors became integral components of Serbia's negotiation process and were established as mandatory prerequisites for further progress, thereby constituting a substantive precedent compared to previous membership negotiations. The adoption of the 2006 "Mitrovdan" Constitution was primarily driven by Serbia's transition to statehood, which necessitated a redefinition of its constitutional and legal framework as an independent nation, a topic that will be explored in the subsequent section dealing with the identity of the Serbian constitution.

Before the analytical review of legislation and the substantive phase of negotiations, the central legal point of harmonisation with the EU *acquis* was the Stabilisation and Association Agreement (SAA), signed in 2008 and entered into force in 2013,¹⁷ which regulates the rights and obligations of a state that has begun the process of EU accession. By concluding this agreement, the Republic of Serbia was confirmed as a potential candidate for EU membership, thereby altering both the form and scope of its obligations to the EU. The SAA, in its preamble, starts from the assumption that there are values shared by both contracting parties. Article 1 of the SAA establishes the legal and formal association as follows: "An association is established between the Community and its Member States, on the one hand, and the Republic of Serbia, on the other", with one of the main objectives of this association, being "to support Serbia's efforts to strengthen democracy and the rule of law."¹⁸ Article 2, in the first part of the Agreement concerning general principles, states that the essential elements of this agreement are "respect for democratic principles and human rights". Moreover, Title VII, named Justice, Freedom, and Security, under which Article 80 is titled Strengthening Institutions and the Rule of Law, specifies:

In their cooperation on justice, freedom and security, the Parties shall attach particular importance to the consolidation of the rule of law, and the reinforcement of institutions at all levels in the areas of administration in general and law enforcement and the administration of justice in particular. Cooperation shall notably aim at strengthening the independence of the judiciary and improving its efficiency, improving the functioning of

17 Stabilisation and Association Agreement between the European Communities and the Republic of Serbia, OJ L 278, 18.10.2013, pp. 16–473.

18 Article 1, SAA.

*the police and other law enforcement bodies, providing adequate training and fighting corruption and organised crime.*¹⁹

Furthermore, the granting of candidate status to Serbia by the European Union in 2012 marked a significant milestone in the country's negotiation process towards accession to the EU, followed by the official opening of the negotiation process in 2014.²⁰ Given the new approach to negotiations, established with Croatia, which places the values enshrined in Article 2 of the Treaty of the EU, at the centre of the process, the Republic of Serbia needed to achieve a high level of compliance with the criteria in Chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom, and Security). These criteria are being judged by EU member states to ensure alignment with existing EU standards. These chapters have been part of the European Commission's annual reports on Serbia's progress since 2006 and are exceptionally complex because the criteria set in them require substantial qualitative improvements to Serbia's entire constitutional and legal framework. Those chapters were opened during the Third Intergovernmental Conference held on July 18, 2016.²¹ At this meeting between representatives of the Serbian Government and EU institutions, the official version of the EU's Common Position was presented.²² The Republic of Serbia regularly submitted reports on the implementation of the action plans for the aforementioned chapters in 2016, 2017, and 2018, outlining both ongoing activities and their status. Since 2017, the EU has introduced an additional document compiled and published twice a year, called "Non-paper on the state of play regarding chapters 23 and 24,"²³ which monitors Serbia's progress in implementing the action plans for these chapters. This assessment is based on the reports submitted by Serbia as well as the committee and subcommittee meetings attended by representatives of both parties.

In the 2017 Non-paper, the European Union acknowledged that Serbia has adopted the action plans and corresponding strategies but notes that the implementation of measures remains in its initial stages for most areas. Furthermore, the document emphasises that significant efforts are required across all necessary reforms, particularly in judicial reform, which necessitates constitutional amendments.²⁴

19 Article 80, SAA.

20 Serbia and EU. History [Online].

21 Ibid.

22 European Union Common Position, Accession negotiations with Serbia Chapter 23: Judiciary and fundamental rights Brussels, 5 July 2016 (OR. en) 10074/16 ELARG 78.

23 EU Documents [Online].

24 Non-paper on the state of play regarding chapters 23 and 24 for Serbia, May 2017.

3.2. Constitutional Amendments: Aligning With European Standards as Part of Reshaping the Constitutional Identity

The complexity of adopting constitutional changes in a country undergoing Europeanisation, i.e., the European integration process, is evident through the indispensable involvement and oversight of the Venice Commission and EU institutions. Opinions and recommendations of the Venice Commission are regularly incorporated by the European Commission when assessing progress regarding constitutional reforms and the judiciary. The constitutionalising of judicial independence is the cornerstone of any legal system based on values such as the rule of law. The constitutional provisions of the Serbian 2006 Constitution²⁵ did not provide adequate normative or substantive guarantees of judicial independence, particularly in relation to the separation of powers. This was noted by the Venice Commission in its 2007 opinion²⁶ shortly after the Constitution was adopted. The constitutional shortcomings identified became a key part of the requirements introduced by the European Union in Chapter 23, relating primarily to the independence and proper functioning of the judiciary, in line with the rule of law as a European meta-value embedded in all European constitutions.

In particular, the method for selecting judges and the composition of the High Judicial Council and the High Prosecutorial Council were criticised. The European Commission, in its annual report, adopted the Venice Commission's opinion, specifically raising concerns about the reappointment of judges and the constitutional law governing it. Another of the main criticisms, not only of the European actors involved but also constitutional experts,²⁷ focused on the definition of the separation of powers, particularly the wording of Article 4 of the 2006 Constitution, which was at least ambiguous and contradictory. Article 4(2) stated that "the system of government is based on the separation of powers into legislative, executive, and judicial branches," but in Article 4(3) it asserted that "the relationship between the three branches of government is based on balance and mutual control." Finally, Article 4(4) provided that "the judiciary is independent," rendering the inclusion of Article 4(3) unnecessary.²⁸ Vladan Petrov concluded that Serbia's constitutional definition of the separation of powers "is not in line with the European constitutional identity, which permits cooperation between political authorities but not interference between

25 Constitution of the Republic of Serbia, "Official Journal of the Republic of Serbia", Nos. 98/2006 and 115/2021).

26 European Commission For Democracy Through Law (Venice Commission) Opinion On The Constitution Of Serbia, Opinion No. 405/2006, CDL-AD(2007)004, Strasbourg, 19 March 2007.

27 Marković, 2006, p. 5.

28 Article 4, Constitution of the Republic of Serbia.

the political and judicial branches.”²⁹ The 2006 Constitution faced criticism for its approach to judicial appointments, which failed to ensure the necessary depoliticisation required for judicial independence and the rule of law. Unlike the previous 1990 Constitution, the new charter introduced a three-year probationary period before judges could receive permanent appointments. This “probationary mandate” outlined in Article 146 deviated from European standards and was at odds with the principle of judicial permanence, a key aspect of judicial independence. The High Judicial Council, which was granted constitutional status, was intended to ensure judicial independence. However, the Council’s composition and selection process undermined this goal. The Council included *ex officio* members, such as the Minister of Justice and a National Assembly committee chair, suggesting it was vulnerable to political influence. Additionally, the inclusion of a “prominent lawyer” member, who could be a law professor or attorney, was a controversial aspect of the Council’s structure. Candidates for appointments to the Constitutional Court were nominated by the High Judicial Council and the State Prosecutorial Council, and the Supreme Court of Cassation makes the final selection. The 2006 Constitution made significant changes to the prosecutorial system. It abandoned the principle of prosecutorial permanence and introduced a new legal framework for the selection, tenure, and dismissal of public prosecutors and deputy public prosecutors. Public prosecutors were appointed by the National Assembly based on a proposal from the Government, as stipulated in Article 159, which reflected direct political influence over the judiciary. Furthermore, the appointment of the Republic’s Public Prosecutor, who has jurisdiction over Serbia, required the opinion of the relevant National Assembly committee. The dismissal of prosecutors was also highly politicised, as it was contrary to the principle of prosecutorial independence, which required that prosecutors be subject only to the Constitution and the law. The National Assembly, following a proposal by the Government, decides to dismiss a public prosecutor. The prosecutor could appeal to the Constitutional Court, but once the appeal is filed, no further constitutional complaints may be submitted.³⁰

Although the first step towards constitutional reform was taken in preparations for the opening of Chapter 23, as part of the Action Plan of the Republic of Serbia³¹ and the National Judicial Reform Strategy in 2013,³² the first draft amendments were not produced until five years later. The Ministry of Justice drafted amendments in 2018, which were reviewed by the legal community and the Venice Commission. Legal and professional associations, such as the Judges’ Association of Serbia, and other

29 Petrov, 2017, pp. 17–18.

30 Due to the length of this contribution, this part of the Section represents solely a brief overview of the most important constitutional changes that needed to be introduced.

31 Republic of Serbia Negotiation Group for Chapter 23 Action Plan for Chapter 23 [Online].

32 National Judicial Reform Strategy 2013–2018. [Online].

professional judicial bodies, argued that the proposed changes undermined existing constitutional provisions. This led to further revisions of the draft amendments to ensure progress in the revised Action Plan and the new Judicial Reform Strategy 2020–2025.³³ During this subsequent period, the dialogue began with professional associations, legal experts, and civil society representatives. The involvement of European entities, such as the Venice Commission and the European Commission, from the initial stages of the constitutional amendment process in Serbia highlights the externalisation of an inherently domestic undertaking. Nevertheless, both legal experts and government representatives perceived the constitutional reform procedure as a crucial step in Serbia's European integration efforts and as an indication of progress in harmonising the country's constitutional framework with European standards.

The proposal to amend the Constitution of the Republic of Serbia was submitted to the National Assembly in December 2020 and, six months later, the Assembly adopted the proposal. The Committee for Constitutional and Legislative Affairs of the National Assembly initiated the constitutional amendment process on April 16, 2021, and after public hearings, the National Assembly adopted the final proposal to amend the Constitution on June 7, 2021.³⁴ The drafts of the constitutional amendments, containing 29 amendments related to the judiciary and the public prosecution system, were submitted to the Venice Commission for its opinion. The Venice Commission welcomed the amendments as qualitatively better than previous proposals.³⁵ The changes included the introduction of the principle of the non-transferability of judges, the functional immunity of judges and prosecutors, the abolition of the probationary period, the elimination of the rule that the High Judicial Council would be dissolved if it did not render a decision within 30 days, and the removal of the National Assembly's authority to elect court presidents, the Republic's prosecutor, and prosecutors, as well as to decide on their dismissal and elect judges and deputy prosecutors. However, the Venice Commission highlighted the need for further improvements regarding the judiciary's independence, noting that "certain points of the proposed amendments may still raise concerns."³⁶ The recommendations focused on the anti-blocking mechanism for the election of eminent lawyers to the High Judicial Council and the High Prosecutorial Council, the eligibility criteria to reduce the risk of politicisation, and the composition of the High Prosecutorial

33 Judicial Development Strategy for the period of 2020–2025.

34 11th Public Hearing on Changes to Constitution in Field of Judiciary [Online].

35 European Commission for Democracy Through Law (Venice Commission) Serbia, Opinion On The Draft Constitutional Amendments on the Judiciary and the Draft Constitutional Law For The Implementation Of The Constitutional Amendments, Opinion No. 1027 / 2021 Opinion No. 1047/2021, CDL-AD(2021)032, Strasbourg, 18 October 2021.

36 Parliament promulgates constitutional amendments on justice [Online].

Council. The Commission also emphasised that the amendments were adopted in a political environment characterised by practical one-party rule, with the ruling party holding a two-thirds majority and urged an inclusive approach in the further development of the amendments. The drafts of the constitutional amendments were revised, followed by a new cycle of public hearings. On January 16, 2022, citizens voted in a referendum to adopt the constitutional amendments. The National Assembly declared the Act on Amending the 2006 Constitution on February 9, 2022.³⁷

The Venice Commission's opinion held crucial political significance for the continuation of the constitutional reform process in Serbia, despite some criticism from legal experts, who likened its role to that of an "absolute constitutional censor approving the constitutional provisions."³⁸ Nevertheless, it is undeniable that the Venice Commission played a pivotal part in providing guidance to ensure the amended Constitution was aligned with the constitutional traditions and standards of European states. Similarly, the European Union has consistently relied on the Venice Commission's assessment to evaluate Serbia's progress regarding the rule of law, as reflected in Chapter 23. In its 2022 and 2023 Progress Report, the EU commended Serbia for maintaining continuous consultations with the Venice Commission throughout the drafting of the amendments and noted that most of the Commission's recommendations were incorporated. However, following the adoption of the amendments before the accompanying laws were enacted, the EU acknowledged that while "some progress in the implementation of the EU *acquis* and European standards" had been made within Chapter 23, it was limited due to the lack of necessary implementing legislation.³⁹ On February 9, 2023, the National Assembly of the Republic of Serbia adopted the judicial laws, which had been reviewed twice by the Venice Commission in 2022. Thus, creating a legal environment where the judiciary is free from political influence has proven more challenging in practice than initially proclaimed in the amendments. In 2023, the Ministry of Justice of the Republic of Serbia announced

37 It is important to emphasise that voter turnout was exceptionally low, at 29.6% of the electorate, and the amendments themselves were passed with a slim majority of 57.4%. [Online],

38 Orlović, 23. 12. 2021.

39 Commission Staff Working Document Serbia 2022 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2022 Communication on EU Enlargement policy Brussels, 12.10.2022 SWD(2022) 338 final, p. 19. See also: Serbia 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU Enlargement policy.

that 20 more secondary regulations were needed for the full implementation of the judicial laws.⁴⁰

It is crucial that Serbia properly implement the constitutional changes and that the country's institutions be ready to apply the provisions in line with European constitutional norms and the rule of law. Serbia is not alone in facing such challenges, many Eastern European states have gone through judicial reforms during EU integration, and some have encountered issues with the separation of powers after joining the EU. The task is very demanding for candidate states, as the EU places the Fundamentals as central in the negotiation process, due to internal constitutional crisis and future goals of deepening the integration process. Stricter oversight is needed during accession to prevent repeating past mistakes. Failures to uphold European values in a candidate state, such as Serbia, could undermine the European constitutional identity, which is defined by shared national constitutional values. Thus, *'the European integration process not only necessitates constitutional changes but also dictates their content.'*⁴¹

4.

Unresolved Identity Issues in Adapting the Foundations of the Serbian Legal System to the European Union Legal Order

In the final part of this paper, we examine the identity-forming elements of Serbia's 2006 Constitution, analysing it not merely as a formal legal document but also as one significantly influenced by the dominant process of Europeanisation that has marked the initial phase of European integration. The aim is to provide a concise overview of the current constitutional provisions that shape Serbia's constitutional identity, which is dynamic and evolving. The analysis of specific constitutional provisions aims to define the essence of the Constitution, explored within the political context and the constitutional reality that reshapes this identity. It is crucial for Serbia to evaluate its constitutional characteristics within the overarching processes of Europeanisation of the legal and constitutional order, as both significantly influence the adaptation of the constitutional legal framework, both formally and substantively (4.1.).

The primary reason for the Constitution's adoption was Serbia's change in state status, necessitating a redefinition of its constitutional legal framework as an independent state. According to Ratko Marković, two additional significant motivations

40 However, the EU Commission noted: "Relevant by-laws will need to be adopted by May 2024. The High Judicial Council (HJC) and High Prosecutorial Council (HPC) were established on 8 May, following the election of the lay members, which gave practical effect to the implementing legislation". Ibid., p. 4.

41 Simović, 2018, p. 24.

led to the adoption of this Constitution. The first one was the desire to “permanently preserve Kosovo and Metohija within the sovereign state as an integral part,” a point the constitution-makers emphasised in multiple constitutional provisions. The second reason reflects political and social motivations, namely a departure from the political past associated with the Milošević era⁴² (4.2.).

4.1. The Europeanisation of the Constitutional Foundations

Unlike the Constitutional Charter of the State Union of Serbia and Montenegro, which was explicitly committed to European integration,⁴³ the 2006 Constitution of the Republic of Serbia retains a general commitment to being part of Europe, including the European Union. In the first part of the Constitution, which addresses fundamental constitutional principles, Article 1 defines the state as follows: *‘Republic of Serbia is a state of Serbian people and all citizens who live in it, based on the rule of law and social justice, principles of civil democracy, human and minority rights and freedoms, and commitment to European principles and values.’*⁴⁴ In this definition, it is evident that the Republic of Serbia is founded on universally accepted principles inherent in all constitutional traditions, such as democracy, the rule of law, and human and minority rights. Additionally, the constitution-makers clearly express the state’s commitment to “European” principles and values, thereby determining its position within the European constitutional framework.

Constitutional Europeanisation is part of the broader internationalisation process, which “implies the constitutionalising of international treaties, rules, and principles of international public law, which become an integral part of national constitutions and are directly applicable.”⁴⁵ For Serbia, this is of particular importance due to the extensive catalogue of human and minority rights guaranteed in the Constitution. As a state that needed to make a clear democratic break with its communist and later authoritarian past, Serbia, in shaping its liberal-democratic system, embraced European values and incorporated European standards into its constitutional provisions, particularly regarding democracy and the protection of human and minority rights. The transition to constitutional democracy was “delayed” compared to the states of Eastern Europe. However, with the 2006 Constitution, Serbia “caught up” and, according to many, even entered a phase of over-regulation concerning the number and content of provisions. The normative Europeanisation of

42 Marković, 2006, p. 6.

43 A short-lived constitutional document after the dissolution of Yugoslavia and prior to the Montenegrin referendum for independence in 2006.

44 Article 1 of the Constitution of the Republic of Serbia.

45 Simović, 2018, p. 24.

Serbia's constitutional law is evident in the provisions of Title II of the 2006 Constitution under the heading "Human and Minority Rights and Freedoms", which contains nearly one-third of the total constitutional provisions (Articles 18–83). Moreover, the guarantees of specific rights and freedoms are also enshrined in other parts of the Constitution, starting from the Constitutional Principles, where Article 14 particularly guarantees minority rights.⁴⁶ Article 18 of the Constitution guarantees the direct application of human and minority rights. Paragraph 3 of this article is particularly relevant for understanding the Europeanisation of the Constitution, as it states that the provisions on human and minority rights shall be interpreted in a manner that promotes the values of a democratic society, in accordance with the applicable international standards on human and minority rights, as well as the practices of the international institutions responsible for overseeing their implementation. Darko Simović highlighted that the international protection standards set by this paragraph are broader than the "generally accepted rules of international law and ratified international treaties" referenced in Article 16, paragraph 2 of the Serbian Constitution, as they may encompass international agreements that Serbia has not yet ratified.⁴⁷

Moreover, Article 20 of the Serbian Constitution requires Serbian institutions, when protecting human and minority rights, to consider not only the domestic legal framework but also the European Convention on Human Rights, the case law of the European Court of Human Rights, as well as EU law and the jurisprudence of the Court of Justice of the European Union.⁴⁸ The Serbian Constitution establishes a comprehensive set of personal, political, socio-economic, and cultural-educational rights in Articles 23–74.⁴⁹ Section 3 is dedicated to the rights of national minority members, emphasising their ability to freely express, preserve, foster, develop, and publicly manifest their national, ethnic, cultural, and religious identities. Additionally, the Constitution introduces a new right prohibiting measures that would artificially alter the ethnic composition of areas traditionally inhabited by national minorities. According to Miodrag Jovanović, this indicates that the Serbian Constitution is paradigmatic in building its constitutional identity on the recognition of pre-constitutional collective identities of both the majority and minority populations, by enshrining vital individual and collective rights of minorities.⁵⁰ Applying Rosenfeld's typology,⁵¹ the Serbian constitutional model shares similarities with

46 Article 14: "The Republic of Serbia shall protect the rights of national minorities. The State shall guarantee special protection to national minorities for the purpose of exercising full equality and preserving their identity."

47 Simović, 2018, p. 23.

48 Nenadić, 2007, p. 16.

49 Constitution of the Republic of Serbia, Section Two Human and Minority Rights and Freedoms.

50 Jovanović, 2016, p. 27.

51 Rosenfeld, 2010.

the Spanish model, functioning as a framework for a multi-ethnic polity while also incorporating transnational norms. In addition, Serbia's constitutional framework also emphasises other important principles. These include the principle of party pluralism, the prohibition of conflicts of interest, the principle of secularism,⁵² and the constitutional principle directly related to the state's territory, which is central to Serbia's identity issues. Specifically, Article 8 of the Constitution upholds the principle of the unity and integrity of the state's territory, which has been carried over from previous constitutions. Furthermore, the 2006 Constitution, mirroring the approach of French constitutions, explicitly declares the territory as "indivisible" to affirm its internal territorial integrity.⁵³

4.2. The Constitutional Principle of the Protection of the Territorial Integrity of the Republic of Serbia and European Integration

As indicated above, the constitutional guarantee of territorial integrity is one of the central reasons for adopting the 2006 Constitution.⁵⁴ This is most evident in the Constitution's Preamble. As Ratko Marković explains, the Preamble was intended to serve as a "patriotic overture to the Constitution",⁵⁵ emphasising that "the Province of Kosovo and Metohija is an integral part of the territory of Serbia, that it has the status of a substantial autonomy within the sovereign state of Serbia and that from such status of the Province of Kosovo and Metohija follow constitutional obligations of all state bodies to uphold and protect the state interests of Serbia in Kosovo and Metohija in all internal and foreign political relations".⁵⁶ The Preamble signals the constitution-makers' political aim to prevent the potential declaration of Kosovo's independence, albeit to an excessive degree. Vladan Petrov defines the Preamble as "anti-identity",⁵⁷ arguing that "by constitutionalising the term 'substantial autonomy,'

52 Articles 5, 6 and 11 of the Constitution of the Republic of Serbia

53 Article 8 of the Constitution of the Republic of Serbia – Territory and Border: "The territory of the Republic of Serbia is inseparable and indivisible. The border of the Republic of Serbia is inviolable and may be altered in a procedure applied to amend the Constitution."

54 Moreover, public support for EU membership in Serbia is also intertwined with the question of Serbia's territorial integrity and the issue of Kosovo*. The shifts and fluctuations in public support for EU accession are closely linked to the political salience of the Belgrade–Pristina dialogue, with support tending to decline during periods when questions of territorial integrity become central to the accession agenda. According to the latest Annual Survey on Serbia, regarding perceptions towards the European Union, unresolved territorial disputes are perceived as one of the three main obstacles to Serbia's EU accession, with nearly 30% of respondents identifying it as the main barrier. Annual Survey 2025 – Serbia [Online].

55 Marković, 2006, p. 8.

56 Preamble of the Constitution of the Republic of Serbia.

57 Petrov, 2016, pp. 22–23.

the principle of territorial integrity was further weakened,” creating a political platform for negotiations. From our perspective, when examining constitutional identity issues in the Republic of Serbia, an analysis of the Preamble cannot be overlooked, as it is fundamental for understanding the constitutional core, reflected in the constitutional spirit, purpose, and ideological foundations. In the case of Serbia, it also defines the country’s territorial boundaries. However, the provisions that have constitutionalised the concept of substantial autonomy for Kosovo and Metohija are even more significant than the symbolic introduction to the Constitution. Specifically, Article 8 stipulates that “the territory of the Republic of Serbia is indivisible and inalienable” and that “the borders of the Republic of Serbia are inviolable; they may only be altered in accordance with the procedure for amending the Constitution.” Concurrently, state authority is constrained by the citizens’ right to provincial and local autonomy. At the same time, state authority is limited by the citizens’ right to provincial and local autonomy. In addition, the rights of the citizens of the Republic of Serbia concerning the autonomous province were emphasised in the general principles of the Constitution, particularly in Article 12, which states that “the right of citizens to provincial autonomy and local self-government shall be subject only to supervision of constitutionality and legality”.⁵⁸

Less than two years after the recognition of Kosovo and Metohija’s substantial autonomy in the Serbian Constitution, it unilaterally declared independence, a status the Republic of Serbia has never recognised. Despite the fact that this Constitution formally represented a continuity of the previous Constitution of the Republic of Serbia, Miodrag Jovanović argues that the contemporary redefinition of the Serbian constitutional identity “is inevitably linked to the issue of resolving the question of Kosovo”.⁵⁹ Considering the historical and spiritual significance of Kosovo in preserving the Serbian nation and national identity, the status of Kosovo is inherently complex and should be the subject of an extensive study. Our aim was to provide a basic framework for understanding its significance for Serbia’s constitutional identity. The political, symbolic, pre-identity history and the “constitutional cementing of Kosovo and Metohija’s status within the independent Serbian state”⁶⁰ have become

58 The provisions of the Constitution found in Part VII (Articles 176-193) pertain to the territorial organisation of the Republic. We draw attention to Article 182: Autonomous Provinces Concept, Establishment and Territory of Autonomous Province: “Autonomous provinces shall be autonomous territorial communities established by the Constitution, in which citizens exercise the right to the provincial autonomy. In the Republic of Serbia, there are the Autonomous Province of Vojvodina and the Autonomous Province of Kosovo and Metohija. The substantial autonomy of the Autonomous province of Kosovo and Metohija shall be regulated by the special law that shall be adopted in compliance with the proceedings envisaged for amending the Constitution.”

59 Jovanović, 2016, p. 13.

60 *Ibid.*, p. 15.

dominant arguments in elevating the Kosovo issue to the level of an ultimate identity question.

Furthermore, in 2015, the European Union, through its Common Position, defined the content of Chapter 35 in Serbia's accession negotiations, titled "Other Issues," limiting it to a single topic: the Normalisation of Relations between Serbia and Kosovo*.⁶¹ This meant that the dialogue between Belgrade and Pristina officially became part of the negotiation framework for Serbia. Notably, this chapter does not require alignment with the EU *acquis*, and it was the only one opened without Serbia submitting a Negotiating Position. This makes Serbia's negotiation process unique but more complex, as the rules applied to Chapters 23 and 24, under the new methodology, also apply to Chapter 35.⁶² Consequently, a lack of progress in meeting the standards of this chapter can halt the negotiation process in other chapters. Thus, Serbia is the sole case where the so-called "imbalance clause" applies not only to harmonising its constitutional legal order with the fundamental rights and values of the EU but also to balancing progress in this highly politically driven chapter, which goes beyond the Copenhagen Criteria and the typical adaptation of the legal order in the European integration process. This obligation is also stipulated in the EU's General Position, which opened Serbia's negotiations with the Union in 2014. Chapter 35 does not supersede the dialogue between Belgrade and Pristina,⁶³ which is conducted under the auspices of the High Representative for Foreign Affairs. Instead, it serves as a link between the dialogue and Serbia's accession negotiations. This represents a distinctive characteristic of this Chapter and overall, of the whole EU integration process compared to previous candidate countries. The general obligation imposed on Serbia by the EU's position states that Serbia must ensure it fulfils its commitments regarding the implementation of the agreements from August 25, 2015, particularly concerning the establishment of the Association/Community of Serbian-majority municipalities in Kosovo, as well as other elements of the April 2013

61 European Union Common Position Chapter 35: Other issues Item 1: Normalisation of relations between Serbia and Kosovo* Brussels, 30 November 2015 (OR. en), AD 12/15.

62 "If "progress in the normalisation of relations with Kosovo, significantly lags behind progress in the negotiations overall, due to Serbia failing to act in good faith, in particular in the implementation of agreements reached between Serbia and Kosovo", the Commission will on its own initiative or on the request of one third of the Member States, in accordance with point 25 of the negotiating framework, propose to withhold its recommendations to open and/or close other negotiating chapters, and adapt the associated preparatory work, as appropriate, until this imbalance is addressed., European Union Common Position *Ibid.*, p. 2

63 An EU facilitated dialogue, as it was stipulated in the UN General Assembly Resolution 64/298 (2010) that stipulates that: "[The General Assembly] welcomes the readiness of the European Union to facilitate a process of dialogue between the parties; the process of dialogue in itself would be a factor for peace, security and stability in the region, and that dialogue would be to promote cooperation, achieve progress on the path to the European Union and improve the lives of the people".

Brussels agreement.⁶⁴ Finally, the most important points concerned the inclusion of this Agreement in Chapter 35, as well as the final provision stating that: *‘Kosovo and Serbia acknowledge that any failure to meet their obligations under the Agreement, its Annex, or previous dialogue agreements may have direct negative consequences for their EU accession processes and regarding EU financial assistance.’*⁶⁵ *While the political success of signed agreements between Serbia and Kosovo* and the lack of tangible results, both legally and politically, are notable, it would be unrealistic to expect Serbia’s overall progress in the European integration process to hinge significantly on the advancement of the Belgrade-Pristina dialogue. This is particularly true given the highly politicised nature of the dialogue, its disconnection from the EU acquis, and the absence of a clear end goal.*

To summarise, this context raises significant questions: To what extent can Serbia’s national identity and constitutional character survive the nation’s path toward European integration, given the European Union’s stance on the Kosovo issue? Is Chapter 35, which focuses on the normalisation of relations between Serbia and Kosovo*, truly the decisive factor for Serbia’s EU membership, or is it equally balanced with Chapters 23 and 24, which shape Serbia’s legal system in alignment with the values upon which the European Union is founded and which are reflected in the country’s constitutional definition? Finally, the fundamental question emerges: What should be done when, in the process of European integration, the constitutional identity of Serbia exists in parallel with that of Kosovo?⁶⁶

5. Conclusion

The most important external factor in the Europeanisation process is the EU and the promise of prospective membership in the Union. In this sense, we speak of the internationalisation, or Europeanisation of democratisation, whose stimulus comes from the outside and is presented as the desired political outcome of the EU’s enlargement policy.⁶⁷ The Western Balkans’ delayed Europeanisation, coupled with the legacies of conflict and political instability of post-Yugoslav states, means that the process of legal and constitutional transformation will continue to be a long and arduous one. The EU integration process is a predominant process determining the recent

64 Brussels Agreement. First Agreement of Principles Governing the Normalisation of Relations [Online].

65 European Union Common Position Chapter 35.

66 Jovanović, 2016, p. 22.

67 Lutovac, 2020, p. 206.

legal and political evolution of each Western Balkans country, such as the Republic of Serbia.

One of the most significant aspects of Europeanisation in the Western Balkans is the emphasis on constitutional reforms and the rule of law. The EU has made it clear that for any country to join the Union, it must demonstrate a firm commitment to upholding democratic values, particularly in the areas of judicial independence, anti-corruption measures, and fundamental rights. Serbia's European integration process has involved significant constitutional and legal reforms aimed at aligning its legal system with the EU's core values. The European integration process presents a range of constitutional and identity challenges for the Republic of Serbia. As Serbia continues its accession negotiations, it must balance the protection of its national constitutional identity and the demands of the EU's legal and political framework. The process of Europeanisation requires Serbia to adapt its legal system in ways that may challenge the core principles of its constitutional identity.

What distinguishes the 2006 Constitution is its deliberate combination of constitutional continuity and innovations due to political dynamics and European future, but also as a result of political tensions surrounding Serbian territory. While it retains the emphasis on territorial integrity and national identity seen in earlier constitutions, it also introduces elements of modern constitutionalism, such as democratic governance, the rule of law, and commitments to international human rights standards. The identity of the constitution of the Republic of Serbia could be described as a complex and multilayered interplay between historical legacies and pre-constitutional identities, a multi-ethnic polity with predominance of ethno-national identity with emphasis on the Serbian people, and modern democratic principles and European values.

The involvement of the Venice Commission and the European Commission in the constitutional processes of the Republic of Serbia from the very beginning to the implementation phase defines the Europeanisation of the constitutional identity of the Republic of Serbia. The 2006 Constitution and 2022 constitutional amendments reflect these external influences, particularly in their provisions on the rule of law, judicial independence, and the protection of minority rights. The adoption of constitutional amendments and the implementation of judicial reforms under Chapters 23 and 24 reflect Serbia's commitment to meeting the EU's accession criteria. However, the success of these reforms will depend on their effective implementation and the development of a legal and political culture that truly embodies European values. The reforms required under Chapters 23 and 24 are part of a broader effort to transform Serbia into a country that not only adopts EU laws but also internalises the values that underpin the European Union.

Correspondingly, by concretising the fundamental and enduring principles and constitutional characteristics, our aim was to identify the immutable elements of

Serbia's identity within the evolving political context. The issue of territorial integrity, particularly the status of Kosovo and Metohija, represents a distinctive feature of Serbia's Constitution. However, it is by no means the sole specificity of Serbia's constitutional framework. Various factors contribute to the evolution of constitutional identity, but it is crucial to delineate what is fundamental in the spirit, tradition, and values underpinning our constitutional objectives. This is essential in shaping the narrative of identity within the constitutional dynamics driven by the process of European integration. While the political ramifications of this dialogue, alongside the strategic aspirations and commitments of both sides toward a prosperous European future, warrant consideration, the resolution of the Kosovo issue is of paramount importance for Serbia's constitutional legal framework, as evidenced during the adoption of the 2006 Constitution.

Hence, the legal and political challenge posed by the status of Kosovo and Metohija in the context of Serbia's EU accession is, therefore, not just a matter of diplomatic negotiation; it is a confrontation between Serbia's constitutional sovereignty and the demands of supranational integration. Resolving this challenge will require a careful balancing act, where Serbia must either adapt its constitutional identity to accommodate its European ambitions or find a diplomatic solution that preserves its territorial integrity while satisfying the EU's requirements for regional stability and normalisation. The future of Serbia's constitutional identity will depend on its ability to navigate these challenges while maintaining the core principles of its national identity. As Serbia moves closer to EU membership, it will need to find a balance between preserving its constitutional sovereignty and adapting to the supranational legal order of the European Union.

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