



Universiteit
Leiden
The Netherlands

Adaptation for autonomy? Candidates for EU membership and the CFSP
Hillion, C.A.P.

Citation

Hillion, C. A. P. (2017). Adaptation for autonomy? Candidates for EU membership and the CFSP. *Global Affairs*, 3(3), 265-275. doi:10.1080/23340460.2017.1415505

Version: Not Applicable (or Unknown)

License: [Leiden University Non-exclusive license](#)

Downloaded from: <https://hdl.handle.net/1887/70680>

Note: To cite this publication please use the final published version (if applicable).

Adaptation for autonomy? Candidates for EU membership and the CFSP

Christophe Hillion

Norwegian Institute of International Affairs (NUPI), Oslo, Norway

ABSTRACT

This paper looks at the specific situation of those European states currently candidates for accession to the European Union. These countries are expected to align their domestic laws and policies with the EU “acquis” to fulfil the admission criteria. Foreign policy is no exception. Indeed, the EU Common Foreign and Security Policy has become an increasingly significant part of the accession conditionality since the countries from south-east Europe embarked on the membership course. Arguably, the obligation to adapt to EU norms in the area of CFSP is stronger for candidates than for existing members of the EU. As a result, candidates might eventually enjoy more foreign policy autonomy once inside the EU than they did before accession. There is a risk that this discrepancy between the requirements of pre-accession adaptation and the relative post-accession autonomy may have a negative impact on integration in the field of foreign policy.

ARTICLE HISTORY

Received 16 August 2017
Accepted 7 December 2017

KEYWORDS

Small states; autonomy;
adaptation; EU; candidate
countries; CFSP

1. Introduction

With the exception of Turkey, all states currently included in the EU accession process [viz. Albania, Bosnia and Herzegovina, Macedonia, Montenegro, Kosovo and Serbia] can be characterized as *small* – hence their inclusion in this special issue (Rieker & Haugevik, 2017). Compared to the small states examined in other contributions, the situation of candidates for EU membership is distinct in terms of adaptation and autonomy, particularly in the field of foreign policy.

In principle, candidates are free to make their own choices and decisions, like any other state. However, once they embarked on the accession course, they became active norm-takers, as the path leading to membership entails an ever-increasing degree of alignment with EU positions (Cremona, 2003; Hillion, 2011). The result is arguably a de facto loss of autonomy, including in foreign policy-making, irrespective of the size of the applicant concerned. By contrast, once they have reached their goal of acceding to the EU, these states will become EU norm makers, thereby retrieving a degree of autonomy in foreign policy, at least as compared to their situation as candidates.

CONTACT Christophe Hillion  christopheh@nupi.no

© 2017 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group
This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

Based on a legal-institutional analysis, this article suggests that the relative *post-accession autonomy* is particularly significant in the field of foreign policy because of the recurrent state-centric nature and procedures of the EU Common Foreign and Security Policy (CFSP). Indeed in recent years, the *problématique* related to adaptation and autonomy has become more prominent for candidate states in foreign policy. On the one hand, the CFSP dimension of the EU enlargement policy has developed substantively and normatively, thus entailing stronger requirements of pre-accession adaptation for the candidates (1). On the other hand, the autonomous position of Member States in relation to the CFSP remains considerable, even if the Lisbon revision of the EU Treaties further embedded that policy field in the EU constitutional framework (2). As a result, the shift from adaptation to autonomy has become starker as countries move from the pre-accession to the post-accession phase. The legal discrepancy between accession conditions and membership obligations in the field of the CFSP then raises the question of its implications on the degree of integration in this field, and consequently on the ability of the CFSP to “shelter” (Bailes, Thayer, & Thorhallsson, 2016) the foreign policy autonomy of small European states (3).

2. Pre-accession adaptation

Since the countries from south-eastern Europe applied for membership, the EU CFSP, including the Common Security and Defence Policy (CSDP), has become an increasingly significant element of the accession process. While this added prominence has not automatically entailed that the candidates’ foreign policies have become *submitted* to that of the EU, it remains that far-reaching adaptation is ultimately required from them to advance on their respective path towards membership.

For each accession country, the EU Member States adopt a negotiating framework. Typically, such a framework underlines that “accession implies the timely and effective implementation of the *acquis*” (Council of the EU, 2014, pt 31). For the purpose of accession negotiations, the EU foreign policy “*acquis*” is covered by two of the 35 negotiating chapters: Chapter 30 relates to “external relations”, including trade and development policies of the EU, while chapter 31 concerns the Union’s “Foreign, security and Defence Policy” specifically. The latter covers the CFSP, including the CSDP, and comprises legally binding international agreements concluded by the EU, Union’s decisions, and notably restrictive measures, as well as EU political declarations and statements with which the candidate has to adopt or align itself (EEAS, 2013; European Commission, 2017a).

Accession thus means that the candidate is expected to adapt its own foreign policy in line with that of the EU, as articulated in those various instruments. Also, the aspirant state must commit itself to denounce its international agreements in areas of EU competence and in turn accept the international commitments of the EU, covering both “international agreements concluded by the Union, by the Union jointly with its Member States, and those concluded by the MS among themselves with regard to Union activities” (Council of the EU, 2014).

Indeed, enlargement involves the EU projecting its norms (the “*acquis*”) towards the state intending to become member. It entails that the candidate progressively adjusts to EU policies and legal requirements. Such early adaptation is necessary not only for the

state to enter the Union, but also to ascertain that as new Member State, it is able to operate in the EU legal order from the moment of accession. The requirement of ex ante alignment is made clear in one of the so-called *Copenhagen criteria* articulated by the European Council in 1993 (Hillion, 2004a; Schimmelfennig, 2008), whereby to accede a candidate must demonstrate: “The ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union and the administrative capacity to effectively apply and implement the *acquis*.”

It is also one of the key “principles governing the negotiations”. The negotiating framework for Montenegro hence foresees that: “In the period up to accession, Montenegro *will be required to progressively align* its policies towards third countries and its positions within international organisations with the policies and positions adopted by the Union and its Member States” (emphasis added) (Council of the EU, 2012, pt 7). This principle entails that the candidate does not wait until accession to start the process of alignment. Substantive and institutional adaptation must begin earlier.

The EU's expectations as regards early alignment with the EU foreign policy *acquis* are further articulated in the annual “progress reports” of the Commission, in which it monitors each candidate's performance. For example, the 2015 report on Montenegro recalled that “Member States must be able to conduct political dialogue in the framework of the foreign, security and defence policy, to align with EU statements, to take part in EU actions and to apply agreed sanctions and restrictive measures” (European Commission, 2015, p. 73). As regards this principle, the document concluded that Montenegro had a good level of preparation, and listed several elements of the country's foreign policy framework and performance that were under scrutiny, i.e. the adoption of a law on international restrictive measures, participation in civil and military crisis management missions, the country's track records as regards alignment to EU declarations and Council decisions, including restrictive measures, participation in international export control arrangements and instruments concerning non-proliferation, its compliance with international commitments on small arms and light weapons, security sector reform and alignment with EU security rules.

In sum, as the body of CFSP *acquis* has grown, so has the scope of the accession requirements in the field of foreign policy (Baun & Marek, 2013; Marciacq & Sanmartín Jaramillo, 2015). Yet in addition to the basic requirement that candidates progressively align their foreign policy with the Union's CFSP *acquis* (as per chapter 31), the EU has also introduced various foreign policy *conditions* in the so-called “pre-accession strategy”, thereby supplementing the general Copenhagen criterion recalled above. This development of the *contents* of EU accession conditionality has tended to occur following developments “on the ground”.

Thus, in the wake of the Kosovo crisis at the end of the 1990s, the European Council established that candidates ought to settle their bilateral disputes, as a prerequisite for entering the Union, including through the involvement of the International Court of Justice where necessary (Cremona, 2001, p. 231; European Council, 1999, pt 4). The Union's acknowledgment of the “European perspective” of the countries of the Western Balkans further led to the establishment of specific eligibility conditions for the countries concerned (Blockmans, 2007, 2009; Council of the EU, 1997; Council of the EU, 2003). In particular, the process is taking place in, and is subject to the conditions of the wider context of the so-called *Stabilisation and Association Process* which, as its name indicates,

is geared towards regional stability and cooperation. In particular, the EU has insisted on the requirement of *good neighbourliness* among the countries from the region (Basheska, 2014).

In the particular case of Serbia, the EU expects that it “normalise” its relations with Kosovo in a way that comes close, without explicitly mentioning it, to a de facto recognition, at least in the longer term, even if no such expectation has formally been formulated in relation to the Member States (European Commission, 2009). The 2013 Negotiating Framework for Serbia, adopted unanimously by the Member States, mentions that the process of normalization

shall ensure that both *can continue on their respective European paths*, while avoiding that either can block the other in these efforts and should gradually lead to the comprehensive normalisation of relations between Serbia and Kosovo, in the form of a legally binding agreement by the end of Serbia’s accession negotiations, *with the prospect of both being able to fully exercise their rights and fulfil their responsibilities*. (emphasis added) (pt 5)¹

The very *opening* of accession negotiations was thus made subject to the condition that Serbia “achieves further significant progress in meeting the following key priority of [taking] further steps to normalise relations with Kosovo in line with the conditions of the Stabilisation and Association Process”. The Council indeed asked the Commission and the High Representative to produce a special Joint Report “with a view to a possible decision of the European Council to open accession negotiations with Serbia” (European Commission and High Representative, 2013, pt 13).

The process of “normalisation” also has direct influence on the *continuation* of the negotiations, being subject to stricter EU monitoring. Hence

in case 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 [or possibly the High Representative] will on its own initiative or on the request of one third of the Member States 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. The Council will decide by qualified majority on such a proposal and on the conditions for lifting the measures taken. (Council of the EU, 2014, pts 24 & 25; Hillion, 2011)²

In other words, the negotiating framework for Serbia makes it clear that EU institutions may suspend the negotiations, and thus the process of accession, should they feel that Serbia is not “normalising” its relations with Kosovo.

The foregoing makes clear that the process of accession possibly involves far-reaching adjustments in the foreign policy of the candidate states. It entails not only alignment with the EU *acquis* in areas covered by the CFSP (including with respect to restrictive measures) (Hellquist, 2016); it also requires additional, and sometimes politically sensitive adaptation notably to meet the requirement of good neighbourliness and regional cooperation. The pre-accession conditionality thereby provides the EU with significant leverage to press candidates to adapt their foreign policies (Maresceau, 2003) to guarantee ultimate compliance with the CFSP and ensure that they become operational Member States. In this context, the Commission and the High Representative for Foreign Affairs and Security Policy closely and regularly monitor candidates’ adaptation to the pre-accession requirements.³ Progress – or lack thereof – is then recorded in annual reports to the

Council and European Council, which may then use them to adjust the pace of the accession process, including by slowing it down or holding it up, should the level of alignment be deemed unsatisfactory. A case in point is the stalling of the accession process of Macedonia as a result of a persistent disagreement on the name issue with one of its EU neighbours, Greece (European Commission, 2014a).⁴

3. Post-accession autonomy

The CFSP does not entail the same degree of constraints on Member States as it does vis-à-vis the candidates in the pre-accession phase. Rather than adaptation, the CFSP involves a great deal of autonomy for the Member States.

In institutional terms, the classic supranational institutions of the EU, e.g. the Commission, the European Parliament and the European Court of Justice, have limited powers in the development and implementation of the CFSP. Agenda setting and decision-making remain essentially in the hands of inter-governmental institutions, and predominantly rests on unanimity. Mechanically, this means that Member States enjoy a large degree of autonomy in the field of foreign policy. Thus Article 24(1) Treaty on European Union (TEU) foresees that:

The common foreign and security policy is subject to specific rules and procedures. It shall be defined and implemented by the European Council and the Council acting unanimously, except where the Treaties provide otherwise. The adoption of legislative acts shall be excluded. The common foreign and security policy shall be put into effect by the High Representative of the Union for Foreign Affairs and Security Policy and by Member States, in accordance with the Treaties. The specific role of the European Parliament and of the Commission in this area is defined by the Treaties. The Court of Justice of the European Union shall not have jurisdiction with respect to these provisions, with the exception of its jurisdiction to monitor compliance with Article 40 of this Treaty and to review the legality of certain decisions as provided for by the second paragraph of Article 275 of the Treaty on the Functioning of the European Union.

In particular, the supranational infringement mechanism whereby the Commission may enforce Member States compliance with EU rules, with the potential assistance of the European Court of Justice, has no equivalent in the CFSP/CSDP contexts. Observance of the CFSP rests on good will, rather than legal and judicial enforcement. Declarations attached to the EU Treaties indeed limit the *normative* effects of CFSP, thereby preserving Member States' autonomy in foreign policy. In this sense, Declaration 13 concerning the CFSP stipulates the following:

The Conference underlines that the provisions in the Treaty on European Union covering the Common Foreign and Security Policy, including the creation of the office of High Representative of the Union for Foreign Affairs and Security Policy and the establishment of an External Action Service, *do not affect the responsibilities of the Member States, as they currently exist, for the formulation and conduct of their foreign policy* nor of their national representation in third countries and international organisations. (emphasis added)

While Declaration 14 also “concerning the common foreign and security policy” foresees that:

In addition to the specific rules and procedures referred to in paragraph 1 of Article 24 of the Treaty on European Union, the Conference underlines that the provisions covering the

Common Foreign and Security Policy including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and the External Action Service *will not affect the existing legal basis, responsibilities, and powers of each Member State in relation to the formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including a Member State's membership of the Security Council of the United Nations.*

Even if admittedly the principle of sincere cooperation enshrined in the Common Provisions of the TEU⁵ buttresses the normative content and effect of the CFSP (Hillion & Wessel, 2008), the leverage the EU has in relation to its Member States to ensure compliance remains limited, at least compared to the one it enjoys vis-à-vis the candidates. While the EU Council may decide to hold up the accession process as a result of a failure to align with an EU foreign policy position, the EU institutions have no equivalent enforcement mechanism to bring a Member State into CFSP line.

In substantive terms, while the CFSP is now formally envisaged as an EU competence,⁶ the Union in effect only takes the position that its Member States have in common. Thus, the EU does not have a position of its own as regards the status of Kosovo because the Member States do not have one single posture on the matter but several.⁷ Similarly, apart from the general terms of Article 8 TEU the Union has not set out elaborate good neighbourliness standards which the Member States have to follow when interacting inter se or with third states. Hence, EU institutions have been unable to address Member States' bilateral issues with candidates (e.g. Greece and Macedonia, Croatia and Serbia, Cyprus and Turkey, and Slovenia and Croatia before the latter's accession), and the ensuing holding up of the accession process (Hillion, 2010).

Legally speaking and compared to most other policies of the EU, the CFSP therefore involves fewer substantive and institutional constraints on the policies of Member States (Koutrakos, 2017). The development of the CFSP continues to be contingent on their consensual support, while its existence does not involve the classic imperative of compliance associated with the functioning of the EU legal order in general.

4. Implications for EU foreign policy

Comparing the pre-accession conditions with the main membership obligations, it becomes apparent that in the field of CFSP, the former entails more constraints than the latter. The EU thus enjoys a substantive and institutional leverage vis-à-vis the candidates which is legally lacking, at least partly, in relation to the Member States.

This, in turn, entails that when they become Member States, countries from south-eastern Europe will in effect enjoy more autonomy than they presently do as candidates, regaining a degree of freedom in foreign policy-making which was, voluntarily, diminished the moment they embarked on an accession course and the adaptation it involves.⁸ Whatever their size, they will indeed acquire the national veto power associated with the policy-making in the field of CFSP, while no longer running the risk of EU reprisal in case of non-compliance.

If this basic observation is true, what impact could that phenomenon have on integration in the field of foreign policy, and ultimately on the autonomy of small European states in this area?

The documented experience of discrepancy in pre-/post-accession obligations in other fields such as the protection of human and minority rights, or the rule of law (Editorial Comments, 2012; Hillion, 2004b, 2013), suggests that setbacks in compliance and loyalty may well ensue after entry (Kochenov, Magen, & Pech, 2016; Sedelmeier, 2014). The regained exercise of autonomy in those fields may affect internal cohesion, and impede policy-making in related fields, with destabilizing effects within the EU as a whole, particularly given the sensitivity of the fields involved for the functioning of the EU (European Commission, 2017b; Foreign Ministers of Denmark, Finland, Germany and the Netherlands, 2013). Recent experience in these fields has indeed shown that strict conditionality does not secure irreversible pre-accession reforms, an assumption that seems to have underpinned the EU enlargement strategy. On the contrary, the sustainability of candidates' transformation cannot be presumed, particularly in areas affected by the discrepancy observed earlier, and especially if, as candidates, the countries concerned have been asked to take positions that politically have been particularly costly, and without Member States being subject to equivalent requirements.⁹

The observed "backsliding" (Müller, 2015), i.e. post-accession regression in fields where pre-accession conditions are more articulate and constraining than membership requirements, has indeed triggered protracted discussions within the EU about ways to safeguard post-accession compliance and loyalty (Closa & Kochenov, 2016). New mechanisms have thereby been envisaged to secure substantive and institutional coherence between pre-accession conditions and post-accession obligations, e.g. the mechanisms of Article 7 TEU, and additional ad hoc arrangements (European Commission, 2014b) thus far without significant success (Besselink, 2017; De Witte, 2003; Hoffmeister, 2015; Kochenov & Pech, 2016; Müller, 2015; Sadurski, 2010).

In state-controlled areas of EU competence like the CFSP, regained autonomy could well find similar expressions as in fields evoked above. Indeed, whether and how much the pre-accession conditionality genuinely influences the foreign policies of the candidates in the longer term, in the sense of engraining adjustments in the foreign policy fabric of the future Member States, remains to be seen (Sedelmeier, 2014). To be sure, one of the lessons to be drawn from the experience of other fields where the phenomenon of pre/post-accession substantive and institutional discrepancy has been observed, is that possible remedies are more difficult to establish after the situation they are deemed to address has occurred, particularly if their establishment requires the support of all Member States. Anticipating possible post-accession setbacks in foreign policy requires securing more institutional and substantive coherence between accession conditions and membership obligations in the field, e.g. by envisaging further convergence of the CFSP with mainstream EU constitutional law. At one level, this development would admittedly lead to an erosion of Member States' autonomy in foreign policy-making. At the same time, however, the failure to forge a common EU foreign policy, and the negative effects this could have on the integration process more generally, could ultimately be detrimental to the very regained autonomy of small states.

Notes

1. Pt 38 of the framework further underlines that

In all areas of the *acquis*, Serbia must ensure that its position on the status of Kosovo does not create any obstacle nor interfere with Serbia's implementation of the *acquis*. Any such obstacles will be addressed in the course of the negotiations in the context of the chapter of the *acquis* concerned. As part of its efforts to align with the EU *acquis*, Serbia shall in particular ensure that adopted legislation, including its geographical scope, does not run counter to the comprehensive normalisation of relations with Kosovo.

2. This is the so-called "new approach" proposed by the Commission as regards the chapters of negotiations on judiciary and fundamental rights, and on justice, freedom and security, which was extended to the issue of normalisation of relations between Serbia and Kosovo.
3. It is noticeable that the negotiating frameworks with Montenegro and Serbia stipulate that: "In the field of CFSP, the High Representative is responsible, in close liaison with the Member States, and the Commission where appropriate, for screening, making proposals in the negotiations and reporting regularly to the Council". Such HR involvement is new, and comes in addition to the role that the Commission has traditionally played in monitoring the candidates. It entails a distinct control of candidates' CFSP adaptation which the HR does not exercise in relation to the Member States.
4. In its 2014 Progress Report, the European Commission thus declared:

The EU accession process for the former Yugoslav Republic of Macedonia is at an impasse. Failure to act on the Commission's recommendation to the Council means that accession negotiations have still not been opened (...) It remains essential that decisive steps are taken towards resolving the "name issue" with Greece. The failure of the parties to this dispute to reach a compromise after 19 years of UN-mediated talks is having a direct and adverse impact on the country's European aspirations. Resolute action is required, as well as proactive support from EU leaders. The Commission recalls its view that, if the screening and the Council discussions on the negotiating framework were under way, the necessary momentum could have been created which would have supported finding a negotiated and mutually accepted solution to the name issue even before negotiating chapters were opened.

5. According to Article 4(3) TEU: pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties. The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.
6. Article 2 (4) of the Treaty of the Functioning of the EU (TFEU) stipulates that "The Union shall have competence, in accordance with the provisions of the Treaty on European Union, to define and implement a common foreign and security policy, including the progressive framing of a common defence policy", but this CFSP competence is not included in the basic catalogue of exclusive, shared, complementary competences set out in Articles 3 to 6 TFEU, thus illustrating its specificity in the EU constitutional order.
7. In this sense, the Stabilisation and Association Agreement between the EU and Kosovo* recalls in its Article 2 that

None of the terms, wording or definitions used in this Agreement, including the Annexes and Protocols thereto, constitute recognition of Kosovo by the EU as an independent State nor does it constitute recognition by individual Member States of Kosovo in that capacity where they have not taken such a step. (OJEU 2016 L71/ 3)

8. Admittedly, candidates have not been totally submissive in the pre-accession phase; Serbia's reluctance to support EU sanctions against Russia is a case in point. The regional competition for influence involving Russia and Turkey may have allowed some leverage for the candidates

vis-à-vis the EU: <https://www.theguardian.com/world/2017/mar/08/top-mep-says-eu-must-do-more-to-stop-russia-destabilising-balkans>

9. Admittedly, new Member States' administrations may have got more used to interacting with active EU institutions, given the experience of pre-accession. In particular, the perception that e.g. Commission played a benevolent role towards the candidates in the pre-accession process might have generated a lasting degree of loyalty (Schimmelfennig & Trauner, 2009). Whether that could extend to the role of the High Representative, and to the field of high politics remains to be seen.

Disclosure statement

No potential conflict of interest was reported by the author.

Notes on contributor

Christophe Hillion, Research professor, Norwegian Institute of International Affairs (NUPI, Oslo); Professor of European Law, Universities of Leiden and Oslo.

References

- Bailes, A. J. K., Thayer, B. A., & Thorhallsson, B. (2016). Alliance theory and alliance “shelter”: The complexities of small state alliance behaviour. *Third World Thematics: A TWQ Journal*, 1(1), 9–26.
- Basheska, E. (2014). The good neighbourliness condition in the EU enlargement. *Contemporary Southeastern Europe*, 1(1), 92–111.
- Baun, M., & Marek, D. (2013). *The new member states and the European Union: Foreign policy and Europeanization*. London: Routledge.
- Besselink, L. (2017). The bite, the bark and the howl: Article 7 and the rule of law initiatives. In A. Jakáb, & D. Kochenov (Eds.), *The enforcement of EU Law against the member states: Methods against defiance* (pp. 128–144). Oxford: Oxford University Press.
- Blockmans, S. (2007). *Tough love – the European Union’s relations with the Western Balkans*. The Hague: TMC Asser Press.
- Blockmans, S. (2009). Raising the threshold for further EU enlargement: Process and problems and prospects. In A. Ott, & E. Vos (Eds.), *50 years of European integration: Foundations and perspectives* (pp. 203–220). The Hague: TMC Asser Press.
- Closa, C., & Kochenov, D. (Eds.) (2016). *Reinforcing rule of law oversight in the European Union*. Cambridge: Cambridge University Press.
- Council of the EU. (1997). *Conclusions of the General Affairs Council, 29 April 1997*.
- Council of the EU. (2003). *Thessaloniki agenda for the Western Balkans: Moving towards European integration, doc. 10369/03 (Press 166), 16 June 2003*.
- Council of the EU. (2012). *Negotiating framework – Montenegro, 8339/12; Brussels. SWD(2015) 210 final*.
- Council of the EU. (2014). *Negotiating framework for Serbia; CONF–RS*. Retrieved from <http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gsc=true&sc=false&f=AD201202014%20INIT>
- Council of the EU. (2016). *Stabilisation and association agreement between the EU and Kosovo**. OJEU 2016 L71/ 3.
- Cremona, M. (2001). Accession to the European Union: Membership conditionality and accession criteria. *Polish Yearbook of International Law*, 25, 219–240.
- Cremona, M. (2003). *EU enlargement*. Oxford: Oxford University Press.
- De Witte, B. (2003). The impact of enlargement on the constitution of the European Union. In M. Cremona (Ed.), *The enlargement of the European Union* (pp. 209–228). Oxford: Oxford University Press.

- Editorial Comments. (2012). Fundamental rights and EU membership: Do as I say not as I do!. *Common Market Law Review*, 49, 481–488.
- European Commission. (2009). *Communication to the European Parliament and the Council, Kosovo* – Fulfilling its European Perspective*, COM(2009) 5343.
- European Commission. (2014a). *Progress report on the former Yugoslav Republic of Macedonia*. COM(2014)700 final.
- European Commission. (2014b). *A new EU framework to strengthen the rule of law*, COM(2014)158 final.
- European Commission. (2015). *Progress report on Montenegro*. SWD(2015) 210 final.
- European Commission. (2017a). *Accession chapters*. Retrieved from https://ec.europa.eu/neighbourhood-enlargement/policy/conditions-membership/chapters-of-the-acquis_en
- European Commission. (2017b). *Opening and closing remarks of First Vice-President Frans Timmermans on the Rule of Law in Poland at the European Parliament's Committee on Civil Liberties, Justice and Home Affairs*. Retrieved from http://europa.eu/rapid/press-release_SPEECH-17-3042_en.htm
- European Commission and High Representative. (2013). *Joint report to the European Parliament and the Council of the EU on Serbia's progress in achieving the necessary degree of compliance with the membership criteria and notably the key priority of taking steps towards a visible and sustainable improvement of relations with Kosovo**, JOIN(2013) 7 final.
- European Council. (1999). *Presidency conclusions, Helsinki*.
- European External Action Service. (2013). *Screening report – Montenegro on chapter 31 foreign, security and defence policy*, MD 244/13.
- Foreign Ministers of Denmark, Finland, Germany and the Netherlands. (2013). Retrieved from http://www.rijksoverheid.nl/bestanden/documenten-en-publicaties/brieven/2013/03/13/brief-aaneuropese-commissie-over-opzettenrechtsstatelijkheidsmechanisme/brief-aan-europese-commissieover-opzetten_rechtsstatelijkheidsmechanisme.pdf
- Hellquist, E. (2016). Either with us or against us? Third-country alignment with EU sanctions against Russia/Ukraine. *Cambridge Review of International Affairs*, 29, 997–1021.
- Hillion, C. (2004a). The Copenhagen criteria and their progeny. In C. Hillion (Ed.), *EU enlargement: A legal approach* (pp. 1–22). Oxford: Hart.
- Hillion, C. (2004b). Enlargement of the European Union: The discrepancy between accession conditionality and membership obligations as regards the protection of minorities. *Fordham International Law Journal*, 27, 715–740.
- Hillion, C. (2010). *The creeping nationalisation of the EU enlargement policy* (p. 6). Stockholm: SIEPS.
- Hillion, C. (2011). EU enlargement. In P. Craig, & G. de Búrca (Eds.), *The evolution of EU Law* (pp. 187–216). Oxford: Oxford University Press.
- Hillion, C. (2013). Enlarging the European Union and its fundamental rights protection. In P. van Elsuwege, I. Govaere, & E. Lannon (Eds.), *The European Union in the world* (pp. 557–574). Leiden: Brill.
- Hillion, C., & Wessel, R. A. (2008). Restraining external competences of EU member states under CFSP. In M. Cremona, & B. de Witte (Eds.), *EU foreign relations law – constitutional fundamentals* (pp. 79–121). Oxford: Hart.
- Hoffmeister, F. (2015). Enforcing the EU charter of fundamental rights in member states: How Far are Rome, Budapest and Bucharest from Brussels? In A. von Bogdandy, & P. Sonnevend (Eds.), *Constitutional crisis in the European constitutional area: Theory, law and politics in Hungary and Romania* (pp. 204–247). Oxford: Hart.
- Kochenov, D., Magen, A., & Pech, L. (2016). Introduction: The great rule of law debate in the EU. *Journal of Common Market Studies*, 54, 1045–1049.
- Kochenov, D., & Pech, L. (2016). Better late than never? European commissions rule of Law framework and its first activation. *Journal of Common Market Studies*, 54, 1062–1074.
- Koutrakos, P. (2017). *The European Union's common foreign and security policy after the treaty of Lisbon* (p. 3). Stockholm: SIEPS.

- Marciacq, F., & Sanmartín Jaramillo, N. (2015). When the European Union speaks on behalf of non-European Union states: A critical appraisal of the European Unions alignment mechanism in multilateral fora. *European Security*, 24, 203–220.
- Maresceau, M. (2003). Pre-accession. In M. Cremona (Ed.), *The enlargement of the European Union* (pp. 9–42). Oxford: Oxford University Press.
- Müller, J.-W. (2015). Should the EU protect democracy and the rule of law inside member states. *European Law Journal*, 21, 141–160.
- Rieker, P., & Haugevik, K. M. (2017). Autonomy or integration? Small-states responses to a changing European security landscape. *Global Affairs*.
- Sadurski, W. (2010). Adding a bite to a bark? A story of article 7, the EU enlargement, and Jörg Haider. *Columbia Journal of European Law*, 16, 385–426.
- Schimmelfennig, F. (2008). EU political conditionality after the 2004 enlargement: Consistency and effectiveness. *Journal of European Public Policy*, 15, 918–937.
- Schimmelfennig, F., & Trauner, F. (Eds.) (2009). *Post-accession compliance in the EUs new member states*. *European Integration online Papers (EIoP)* 13 (Special Issue 2).
- Sedelmeier, U. (2014). Anchoring democracy from above? The European Union and democratic backsliding in Hungary and Romania after accession. *Journal of Common Market Studies*, 52, 105–121.