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THE HIGH LEVEL ACCESSION DIALOGUE FOR MACEDONIA: ADVANTAGES AND DISADVANTAGES

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Abstract

One of the strategic goals for the Republic of Macedonia is membership in the European Union. At the end of 2011, the Commission launched a so-called High Level Accession Dialogue for Macedonia, with a possibility to start the negotiations after the fulfillment of the Dialogue goals and benchmarks. For these reasons, the main goal of this paper will be to give an answer of the dilemma whether the Accession Dialogue for Macedonia is an accelerator of the entrance in the European Union, or is just a sophisticated tool for delay of the start of the negotiations for final accession. The expected results will correspond with the future EU plans for Macedonia, but also for the other Western Balkan countries, i.e. we will try to examine whether these countries have a realistic perspective for entrance in the European Union, or they are just a "declarative décor" for the vocabulary of the Brussels diplomats and member countries representatives. That will help to determine i.e. to try to predict the next steps of these countries, connected with the European integration, regardless of the actual constellation in the European Union concerning the Enlargement policy. The descriptive method, content analyses method, comparative method, but also the inductive and deductive methods will be used in this paper.

Key words: accession; benchmark; dialogue; negotiations; integration

INTRODUCTION

One of the Western Balkan countries strategic interests and desires is the membership in the European Union. At the beginning of 2014, Croatia is out of the Western Balkan "umbrella", Montenegro and Serbia are moving forward towards EU membership, Albania is having an "integration improvement", Kosovo is at an early stage concerning EU accession, Bosnia and Herzegovina is facing some problems, but what is most interesting, Macedonia, the first Balkan country which has signed the Stabilization and Association Agreement with the European Union in 2001, is in a status quo position almost a decade. This status quo can be divided in two periods: the first one from 2005 – 2009, and the second from 2009 – 2014, still continuing. In the first period, Macedonia gained the status of a candidate country for membership in the European Union, but did not receive a positive recommendation by the European Commission. In the second period, Macedonia has received continuous positive recommendations by the European Commission, but did not manage to start the negotiation process for accession towards the European Union, because the European Council refused the recommendations given by the Commission. The public in Macedonia is tending for a new period, starting from 2014, a period for consideration of the negotiation stops with the European Union. The European

Union possesses a variety of instruments and modalities for observation, evaluation and monitoring of the accession processes towards membership for each of the candidate or potential candidate countries for EU membership, including Macedonia. Usually, these are the annual reports, accession partnerships, short term, mid-term or long term benchmarks, brought by the European Commission and all these have common structure, purpose and time framework, for all candidate and potential candidate countries towards EU membership. Still, a special instrument was launched by the European Commission for Macedonia at the end of 2011 and at the beginning of 2012, named as High Level Accession Dialogue (HLAD). In this paper we will try to examine whether this Dialogue has generated an improvement and progress in the Macedonian accession process towards EU, or is it just a "sophisticated tool" for delay of the start of the negotiations Macedonia – European Union, caused by the unresolved "name issue" with Greece and some other aspects of the Macedonian neighborhood relations. Also, we will try to explain the impact of the High Level Accession Dialogue on the public attitude in Macedonia, but also on the level of support of the Macedonian processes of integration towards the European Union, by the general and expert public in the country.

THE GENESIS OF THE HIGH LEVEL ACCESSION DIALOGUE

High Level Accession Dialogue (also known as HLAD) was first mentioned in April 2011 during the visit to Ohrid of European Commission's President, Jose Manuel Barroso, and EU Enlargement Commissioner, Stefan Fule, when they met with the Prime Minister Gruevski and other government representatives. Goal of the visit was to unlock the deadlocked relations between Macedonia and EU, after two years (at that time) from EC's recommendation to start accession negotiations that could not officially start because of the unresolved name issue with Greece. (HLAD for the deaf, 2012, p.7). The first meeting on the High Level Accession Dialogue was held on 15 March 2012 in Skopje. Actually, this meeting was a constitutive one, where the general principles and guidelines of the HLAD were given. This Dialogue is taking place twice a year: once in Skopje and once in Brussels. The "aim of HLAD is to put the EU integration to the forefront of the domestic agenda and give it a new boost. The Dialogue aims to enhance the support of the European Commission for the accession process of Macedonia by ensuring a structured, high level discussion on the main reform challenges and opportunities. The Dialogue provides support to the accession process of the country by focusing on key reform priorities. It does not replace accession negotiations but it forms a bridge to them". (Fule, 2014)

This statement by the EU Commissioner for Enlargement was very encouraging for Macedonia in every aspect. It was declared that this Dialogue is a complementary tool for the acceleration of the Macedonian accession processes towards the European Union, besides the regular procedures for accession, which are common for each candidate country. But, the main dilemma is whether EU really needs this supplementary tool for the Macedonian integration path. It can be interpreted as an additional impetus for Macedonia, but also as a justification for the status quo position of Macedonia. The general public in Macedonia is very indifferent concerning the interpretation of the HLAD and does not enter into deeper analyses, but there are many questions raised by the expert community, dealing with these issues. In order to determine the mechanisms through which the established high Level Accession Dialogue takes place, as well as the technical dialogue in Chapter 23 Judiciary and Human Rights and Chapter 24 Justice, freedom and security, the Government

of the 51st session held on 20 March 2012 determined and adopted the necessary structures for the successful conduct of the process, tracking and monitoring activities which have to be implemented at the same pace. According to the established process of monitoring the implementation of the priorities (reform objectives) of accessible high-level dialogue and monitoring the status of implementation of activities arising from operating Roadmap, it will be implemented through the following two mechanisms: Strategic mechanism (accessible high-level dialogue) and Operational (technical) mechanism. Strategic mechanism includes accessible established high-level dialogue within which continuously key priorities identified at the first meeting are monitored. Operational (technical) mechanism is the driving mechanism and the support of high-level dialogue and it simultaneously monitors the progress of actions agreed at the strategic (political) level. At the framework of operational structures for monitoring accessible high-level dialogue and technical dialogue in Chapter 23 Judiciary and Human Rights and Chapter 24 Justice, freedom and security, a Working Group of Ministers was formed to monitor the implementation of the priorities determined at the first meeting of HLAD and implementation of operational activities in the Roadmap. Working structure is composed of Vice President of the Government in charge of European Affairs (Coordinator of WG), Minister of Foreign Affairs (Deputy Coordinator of WG), Vice President of Government responsible for the implementation of the Ohrid Framework Agreement, Vice President of Government and Minister of Finance, Vice President of Government for Economic Affairs, Minister of Interior, Minister of Justice, Minister of Labor and Social Affairs and the Minister of Information Society and Administration (Report to the European Commission 2012, p. 8). First, let's explain the main features and characteristics of the HLAD and determine the areas where the main activities are oriented to. The first area in the HLAD is the Freedom of expression and the media. It is determined as one of the "areas of bigger concern", "problematic areas", "areas with bigger improvement efforts needed", etc., dependent of the vocabulary of the European Commission. After the recommendations given, a few activities were taken by the Macedonian Government.

In November 2012, amendments to the Criminal Code were adopted, decriminalizing defamation and insult. A new Law on Civil Liability for Insult and Defamation was also adopted, among other things setting out maximum levels of damages which could be awarded by civil courts in defamation cases. The Broadcasting Council improved its enforcement record as regards illegal concentration of ownership and conflicts of interest. It also adopted new guidelines on the promotion of pluralism and competition in the media market and on the non-selective imposition of sanctions, as well as a new Broadcasting Strategy 2012-17. Work is on-going to align national legislation with the Audio-visual Media Services Directive. It is essential that the process of adoption of any legislation related to media and freedom of expression is inclusive and involves all stake-holders. No progress has been made as regards increasing the transparency of government advertising, which was also part of the work program of the Media Working Group. There are continued concerns about self-censorship, poor labor rights of journalists and the public's access to objective reporting. Moreover, during the local elections in March 2013, observers noted a lack of balance in coverage by the public broadcaster and private stations. (Report to the European Parliament, 2013, pp. 3 - 4)

The second area is the rule of law and fundamental rights. This segment is emphasized in the HLAD because the connection between the functionality of the state and

the rule of law is very close. The continuity and stability of the law system is very important not only in the pre-accession period, by also after the entrance of the Republic Macedonia in the European Union.

As regards the efficiency of the justice system, courts at all levels maintained a positive clearance rate in 2012, meaning that the majority were able to process as many cases as they received, or more. In December, a further 6 judicial vacancies were filled in the Supreme Court and the Administrative Court, improving the ability to handle their caseloads. A long - term strategy to ensure the correct distribution of human resources within the justice system is however still outstanding. The capacity to generate reliable data on the overall length of court proceedings, including the enforcement of judgments, and in particular the number of old cases, needs to be developed.

As regards the prevention of corruption, following the amendment of the legislative framework in 2012 to provide for systematic verification of statements of interest by the State Commission for the Prevention of Corruption (SCPC), 483 statements submitted by MPs, Ministers, Deputy Ministers and officials elected or appointed by Parliament were verified. Several conflicts of interest were identified and the conflict addressed. A full overview of all investigations, indictments, convictions and sentences, including for high level corruption cases, is currently being compiled, together with data on all misdemeanor penalties, tax penalties and disciplinary sanctions imposed in recent years. The exercise brings together multiple bodies, including the police, financial police, Customs Administration, Public Revenue Office, public prosecution and courts, as well as the SCPC. Steps should continue to be taken to strengthen inter-agency cooperation and information flow in order to identify and address any weaknesses in the fight against corruption. (Report to the European Parliament, 2013, pp. 4 - 5)

The third “problematic area” is the public administration reform. This area is a real “headache” since the gaining of the Macedonian independence in 1991, but even before that, during the Former Socialist Republic of Yugoslavia. An updated Strategy on Public Administration Reform was adopted by the Government in October 2012 to take account of the developments in the area since adoption in 2010. Preparatory work continued on advancing the legislative framework for civil and public service and general administrative procedures. Drafting of the respective laws has progressed in consultation with EU experts. Following a public consultation in December 2012, a policy paper was adopted by the government in January 2013 setting out the main objectives of the new law on general administrative procedure. The government tasked the working group with preparing a draft text of the law by end 2013.

As regards decentralization and regional policy, following a review, the government adopted a methodology in March 2013 for monitoring implementation of the Decentralization Program and Action Plan. Funding of capital investment projects in regions has been maintained. Full implementation of the 2008 law and the Strategy for regional development 2009-2019 remains however a challenge, particularly the requirement to provide adequate resources to regional economic development activities through the regional development bodies. Achieving financial sustainability of municipalities is required to ensure that all the transferred/decentralized competencies can be carried out. (Report to the European Parliament, 2013, pp. 6 - 7)

The fourth area, which is a subject of detailed analyzes is electoral reform. Elections can be very subtle issues in the Balkan countries, because of the mentality, but also because

of the enormous inter-connection between the politicians with the other parts of the society, and their huge influence at the people daily lives.

Amendments to the Electoral Code and the Law on Financing of Political Parties were adopted in November 2012, addressing some of the OSCE/ODIHR, Venice Commission and GRECO recommendations. The amendments covered areas such as the separation between party and state and increased transparency of political party and campaign finances. A number of recommendations, especially regarding the discrepancy on thresholds for private and corporate campaign contributions, deadlines for auditing interim campaign finance reports, allocation of mandates for out-of-country voters, as well as an audit of the voter's list were not addressed. In advance of the local elections, the accuracy of the Voters' List was improved mainly by conducting checks of people with and without biometric passports or ID-cards. All major parties supported a change to the legislation that would allow only citizens with a valid biometric document to exercise the right to vote. Election Day was calm and polling well organized in a majority of the polling stations. Voters were able to freely express their choice in a calm atmosphere. There was a high turn-out. OSCE/ODIHR reported, however, that allegations of voter intimidation and misuse of state resources persisted throughout the election campaign, and that separation between state and political party was blurred. Media covered the campaign extensively, but several broadcasters, including the public broadcaster, did not provide a balanced coverage of the campaign. While there was enhanced confidence in the accuracy of voter lists, the procedures for compiling and maintaining the lists can be further improved. (Report to the European Parliament, 2013, pp. 7 - 8)

And the last area in the HLAD is strengthening the market economy. This commitment should be a long term obligation and should represent a Macedonian economic imperative in the future. Together with the other economic sub-criteria, it should be a permanent and inherent part of the country development strategies and policies. In mid-October 2012, the Government adopted an Action Plan for Youth Employment covering the period from 2012 to 2015 that should help to tackle the problem of high level of youth unemployment by promoting more and better jobs for young people. The plan includes both structural and active measures. Amendments to laws related to the labor market were adopted in December 2012, aimed at improving labor market statistics and better identifying the real number of unemployed. Implementation of the on-going active labor market measures continues but with limited efficiency. In December 2012 the Government adopted the 2013 Operational Action Plan for Active Programs and Employment Measures. The financial allocations for active labor market programs remain low. (Report to the European Parliament, 2013, pp.8 - 9)

DILEMMAS AND COST –BENEFIT ANALYSES OF THE HLAD

The HLAD is widely accepted by the Macedonian institutions and citizens. Still, as a members of the academic community, we must reveal certain dilemmas about the expediency of the High Level Accession Dialogue. Given that the areas highlighted and enumerated in the High Level Accession Dialogue, are also contained in the regular reports of the European Commission, the question and dilemma of the accuracy of the format, i.e. physiognomy of HLAD are raised. The five areas that are determined in the dialogue are just some of the areas that need more attention by the European Commission. Paternalistic

approach of the European Commission is required in all social segments that concerns one or more chapters of acquis communautaire, especially in sensitive political constellation related to a country that is a candidate for membership in the European Union. Certainly the political weight of Chapter 24 - Justice, freedom and security and let's say, Chapter 18 - Statistics is not equal, but the legal meaning is equivalent, i.e., the state that leads negotiations, both can 'persist' and face the challenges with one and the other chapter. If analyzed through the prism of some preparation and prelude to the negotiation process for membership, that Macedonia should start by getting the 'green light' by the European Council, then it can be concluded that the intention of the European Commission is good in terms of mobilizing and equipping the institutions and citizens of the Republic of Macedonia to the obligations ahead. Some of the advantages of the HLAD are:

1. Focus on specific areas that are considered most vulnerable, and where more efforts are needed from the state;
2. Animation of the public in the Republic of Macedonia to the importance of the commencement of the negotiation process for membership in the country;
3. Encouraging the state to stay on the 'European way' despite the many political obstacles and obstructions;
4. Verifying the strategic goal of EU enlargement in the Western Balkans;
5. Maintenance of energy and continuity of institutions and the public in the Republic of Macedonia concerning the accession of the EU;
6. "Justification" of the Commission for the stagnation of Macedonia towards EU, etc. However, HLAD has also many immanent weaknesses that are not visible to the simple Macedonian citizen, yet striking at the academic community in Macedonia. Some of these weaknesses are:

a) Interpretation of HLAD as a substitute for opening the negotiation stops;
b) Making the parallels between the real and associative membership, as well as between HLAD and the start of negotiations;
c) Needless duplication of fields and segments included in regular reports of the European Commission in the Republic of Macedonia which are incorporated in the HLAD;
d) The negative feeling that HLAD is only compensatory mechanism to maintain the high level of public support for the European Union, which can be disrupted by prolonging the start of negotiations, generated by political blockade of Greece;
e) Bureaucracizing the procedure for accession of the Republic of Macedonia to the European Union, through the provision of additional specific obligations which are upgrading the already established obligations under the Stabilisation and Association Agreement and other law - binding acts etc.

European Union and its representatives are explicit in supporting HLAD, as well as categorical in persuading the Macedonian public that this tool is no substitute for negotiations, but that is some prelude and preparation for them. On the other hand, Macedonian politicians are also seeing positively on the HLAD, and thus, they accept and intensively work on the content and implementation of the recommendations contained in it. The media in Macedonia treat HLAD with great attention and closely monitor the events associated with it. Macedonian public, in the broadest sense, has minor knowledge of formal and contextual features of the High Level Accession Dialogue, so their eventual amorphous attitude which it owns is irrelevant for academic analysis and debate. High

Level Accession Dialogue in the academic community in Macedonia is analyzed from different aspects, i.e. multidimensional. One of those aspects is legal - formal aspect, i.e. whether HLAD originates from some 'enlargement acquis' or this aspect is abstracted from this instrument. Another aspect is the political aspect and the level of relevance of the HLAD is much greater as it is mostly political - declarative act which is a specific tool aimed at specific candidate country. In value terms, however, it can be analyzed through the prism of classification of the HLAD as standard or non-standard model for bilateral cooperation in the Western Balkans, including Macedonia. Cost-benefit aspects will be perceived by some time since after the establishment of HLAD, i.e. after quantitively and qualitively will be measured its effects on the process of accession of the Republic of Macedonia towards the European Union, especially in terms of progress in areas that are highlighted and underlined in the HLAD. Finally, from a purely academic perspective, High Level Accession Dialogue is nothing else but closer and precise explanation of the required reforms, decisions and activities of the Macedonian institutions, already noted in the regular annual reports of the European Commission for the Republic of Macedonia. The difference is that in HLAD these recommendations are much more specific, clearer and more pronounced, in order to be achieved more explicit and more tangible results. Regardless of the angle of perception of High Level Accession Dialogue, the general conclusion is that through its promotion, HLAD focuses the public attention on the process of accession of the Republic of Macedonia to the European Union, confirms the continued support for this strategic priority of Macedonia, animate the institutions for effective and efficient action in the implementation of reforms and projects, and that means acceleration of the process of accession of the Republic of Macedonia to the European Union.

CONCLUSION

The High Level Accession Dialogue (HLAD) for Macedonia has very ambiguous conceptual basis and intention, in the academic sense of the word. Namely, we should pose and answer some questions: Is this Dialogue essential for Macedonia? Is it a *conditio sine qua non* for the Macedonian accession process towards the European Union? Could this Dialogue be a complementary measure for improvement of the regular “road to membership”? We can have different attitude about the “costs and benefits” of the HLAD for Macedonia, but we have to emphasize several explicit and obvious implications: first, the High Level Accession dialogue can not be a substitution for the standard procedures which candidate countries should fulfill before entering EU, which procedures are written in the Union legal acts; second, HLAD is very useful for Macedonia if we understand it as a toll for improvement of the “problematic areas” in the country; third, it should be treated as an additional help for Macedonia in concentration of the “state efforts and activities” in certain segments, which are important both for the country and the European Union; etc. Actually, the concrete political constellation around Macedonia initiated the High Level Accession Dialogue, and one of the EU goals with this instrument is to show that Macedonia is still on the EU accession track, and that the reforms should continue with an intensive dynamics, regardless of the name issue with Greece and the other bilateral problems and misunderstandings with the neighbors. The connection of the good neighborhood relations with the High Level Accession Dialogue, as a kind of “informally inherent” part of the HLAD is only a confirmation and verification of the importance of this

element, regarding the Macedonian accession towards the European Union. As a conclusion we can note that the High Level Accession Dialogue (HLAD) can be interpreted dependent on the approach of the researcher, but one thing is for sure: it will help to animate the public in Macedonia and to emphasize the great importance of the Macedonian entrance towards the European Union, as sooner as possible, because every single delay can generate additional obligations, additional efforts, and of course, loss of productive energy, time and, lost of patience at the general public and citizens.

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