

## WESTERN BALKANS REGIONAL COMMON MARKET. WHAT LESSON CAN BE TAUGHT FROM EEA? – A CASE STUDY OF PUBLIC PROCUREMENT\*\*

### *Abstract*

*The European Union pursues on the international scene to safeguards its values, support the rule of law, foster the sustainable economic, social and environmental development and support the integration of all countries into the world economy including through the progressive abolition of barriers on international trade.<sup>1</sup> Trade agreements are used as an effective tool to this end. Within its present external action, European Union tries to cover its trade relations regionally homogenously. Through regionally homogenous trade agreements, Union can export its values, principles, and rules easier, which is also a way of strengthening its position geopolitically. This paper analyses trade agreements concluded between the European Union and candidate countries from Western Balkans. All these agreements recognise the accession to the European Union as their final goal. To achieve it, candidate countries need to fulfil various conditions, including the approximation and harmonisation of their legal orders with the EU acquis. Just recently (in November 2020), Western Balkans countries' leaders announced the creation of Regional Common Market which shall serve as a tool for approximation with European Union's Internal Market Rules. To this regard, author analysed the European Economic Area, where the export of European Union's Internal Market Rules was successfully realised, and which might therefore serve as an example for pre-accession cooperation between Western Balkans countries and European Union. Author chose the area of public procurement as a model case study.*

**Keywords:** *integration, Western Balkans countries, common market, European Union law, public procurement.*

---

\* PhD, Comenius University, Bratislava, Slovakia, e-mail: [hana.kovacikova@flaw.uniba.sk](mailto:hana.kovacikova@flaw.uniba.sk),  
ORCID.ID: 0000-0002-4158-0924

\*\* This article was prepared within the projects APVV-17-0641 "Improvement of effectiveness of legal regulation of public procurement and its application within EU law context" and Jean Monnet project No. 600587-EPP-1-2018-1-SK-EPPJMO-MODULE: „Clinical Education in Selected Areas of European Union's Internal Market“.

<sup>1</sup> See in this regard an Article 21 of the Treaty on European Union.

## 1. Introduction

Trade agreements are typical tools used by the European Union (hereinafter EU) for expansion of its values, principles or even legislation. The World Trade Organization currently registers 44 trade agreements concluded by the EU.<sup>2</sup> When analysing all these agreements, we can see, that EU concludes agreements, which are homogenous within the geographic region (e. g. trade agreements with Caribbean countries, Central America countries, South-East African countries, Western Balkans countries, etc.). It brings a greater transparency and helps contracting parties to implement compatible rules regionally which results in increase of mutual trade connected with economic and social development. In Europe, economic prosperity was also seen as primary means for achieving peace: it was felt that a close trade economic dependence would reduce the risk of future hostilities (Arrowsmith, 2010, p. 44).

As said above, European Union conducts its external policy also in Western Balkans countries: Albania, Montenegro, North Macedonia, Serbia, Bosnia and Herzegovina and Kosovo<sup>3</sup> (hereinafter Western Balkans Six). All of them formalized their relations with EU through international trade agreements which final goal is the *accession to EU*. Albania, North Macedonia, Montenegro, and Serbia already applied for EU membership and have been enjoying status of a candidate country<sup>4</sup>. Bosnia and Herzegovina and Kosovo (UNMIK) at this time remain potential candidates for EU accession. The EU strongly supports integration ambitions of Western Balkans Six which was repeatedly confirmed in 2000 Zagreb, 2003 Thessaloniki, 2018 Sofia and 2020 Zagreb summits: “the EU once again reaffirms its unequivocal support for the European perspective of the Western Balkans” (Zagreb Declaration, 2020, par. 1). However, to become a full member of the EU, candidate countries must fulfil the Copenhagen criteria<sup>5</sup> as well as adopt and implement all EU legislation.

To this regard, leaders of Western Balkans Six declared at Sofia summit held on 9 November 2020 a common ambition: “a democratic, prosperous region that promotes

---

<sup>2</sup> All of them are available at WTO website.

<sup>3</sup> According with the provisions of Resolution 1244 (UNSCR 1244), integral part of the Republic of the Serbia - Autonomous Province of Kosovo and Metohija was under the supervision of the administration UN: United Nations Mission in Kosovo (UNMIK). Regarding the using the name of “Kosovo” the European Commission in its 2020 Report explicitly declared that “this designation is without prejudice to positions on status and is in line with UNSCR 1244 (1999) and the ICJ Opinion on the Kosovo declaration of independence.”

<sup>4</sup> EU opened accession negotiations with Albania in 2019, with Montenegro in 2012, with North Macedonia in 2019 and with Serbia in 2014.

<sup>5</sup> Section A (iii) of the Conclusion of the Presidency of the European Council held in Copenhagen (21-22 June 1993): “The European Council agreed that the associated countries in Central and Eastern Europe that so desire shall become member of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required. 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, *the existence of functioning market economy* as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the *candidate’s ability to take on the obligation of membership* including adherence to the aims of political, economic and monetary union.”

open societies based on shared values of pluralism, solidarity and justice, underpinned by a strong rule of law” (Common Regional Market Action Plan, 2020, p. 1) and announced a commitment to develop a Common Regional Market “based on the EU rules and standards with purpose to bring the region closer to EU markets” (Western Balkans Leaders Declaration on Common Regional Market, 2020, p. 1). European integration and regional cooperation are therefore closely intertwined in this case.

Common Regional Market shall be built on the achievements of the Regional Economic Area<sup>6</sup> which follows up on Central European Free Trade Agreement's (hereinafter CEFTA) objectives<sup>7</sup> and expand them. Basically, it shall lead to a CEFTA rules-based and EU compliant free movement of goods, services, capital, and persons, establishment of investment area, integration to pan-European digital market and transformation of industrial and innovation sector by the end of 2024.

European Union has already successfully achieved similar goals within European Economic Area (hereinafter EEA). Author therefore finds it suitable to introduce how EEA works. Surely, a comprehensive analysis of whole EEA market would need much bigger space than is dedicated for this article. Author therefore focused her analysis to a specific part of the market – public procurement.

This selection was realised regarding the fact, that public procurement is already regulated regionally between Western Balkans countries themselves (in CEFTA Agreements) as well as internationally in trade agreements concluded with the EU. This provides solid starting point for comparative analysis.

Methods used in this article comprise mostly of doctrinal analyses, comparison, deduction, and synthesis. Author also refers to relevant case law.

## **2. From Western Balkans towards EU public procurement rules**

The aim of public procurement is to spend effectively public sources when purchasing goods, services and works by public authorities. To confirm it by words of Steinicke & Vesterdorf (2018, p. v), its aim is to obtain the purchases through methods that optimize the cost/benefit value of such procurement to the benefit of the public. To achieve these goals, procurement procedures must comply with principles such as transparency, non-discrimination, equal treatment, proportionality, or fair competition. Various legislations foster various levels of regulations of public procurement. In international context, the minimum standard is set by the Revised Government Procurement Agreement (2012) adopted within the World Trade Organization.

CEFTA (2006) provides such standards, as it (in Article 34) explicitly refers to definitions set out in Article 1 of the Revised Government Procurement Agreement

---

<sup>6</sup> Regional Economic Area is a regional initiative comprised of Western Balkans Six, Austria, France, Germany, Italy, Croatia, and Slovenia. It organised 5 high-level diplomatic summits which supports Western Balkans countries to their path to EU. Currently, Multiannual Action Plan for Regional Economic Area is being implemented.

<sup>7</sup> Trade liberalization (goods, services, public procurement), improvement of conditions for investments, fair competition rules, intellectual rights protection.

(2012), which shall apply to all laws, regulations, procedures or practices regarding any procurement by central or sub-central government entities or other relevant entities. Public procurement under CEFTA must comply with principles of transparency, non-discrimination, proportionality, equal treatment and open and effective competition.

If either Party in the future should grant a third party advantages with regard to access to their respective procurement markets beyond what has been agreed upon CEFTA, it shall offer adequate opportunities to the other Parties to enter into negotiations with a view to extending these advantages to them on a reciprocal basis.

Surveillance and administration of this agreement is realised by the Joint Committee, which is composed of representatives of contracting parties. It holds consultations if any divergence with respect to the interpretation or application of CEFTA arises. If satisfactory solution was not achieved through consultation, party may request for arbitration in front of the arbitral tribunal.

As there are not available any decisions or recommendations of Joint Committee or arbitral tribunal relating to public procurement, effectiveness of such regulation might be questionable.

However, European Union went far beyond the WTO and CEFTA public procurement standards and followed the best practices introduced by the OECD (2015 OECD Recommendation of the Council on Public Procurement). Under EU public procurement law,<sup>8</sup> public procurement is a key market-based instrument to be used to achieve smart, sustainable and inclusive growth while ensuring the most effective use of public funds (Public Procurement Directive, 2014, Recital - par. 2). Contracting authority shall obtain best value for paid money. This concept is not reduced just to the purchase of the cheapest items, but considers also other factors as are life-cycle costs, post-warranty care, environmental issues, social inclusion, etc.<sup>9</sup>

To achieve these goals, contracting authorities may procure goods, services or works through procurement methods such as open procedure, restricted procedure, competitive procedure with negotiation, competitive dialogue, innovative partnership or even negotiated procedure without prior publication. Procurement must be realised electronically, which contributes to the transparency of procurement process.

Applicable principles of procurement origin from legislation (principle of non-discrimination, principle of transparency, principle of integrity, principle of competition, principle of proportionality, principle of equal treatment, best value for money, accountability, balancing principle), but also from the case law of the Court of Justice of the EU - principle of effectivity (*Orizzonte Salute* C-61/14), principle of sound administration (*Vakakis kai Synergates*, T-292/15) or principle of effective judicial protection (*Cooperativa Animazione Valdocco*, C-54/18).

---

<sup>8</sup> The basic legal framework of EU public procurement rules is contained in Public Procurement Directive 2014/24/EU, Utilities Directive 2014/25/EU, Concessions Directive 2014/23/EU and Remedies Directive 89/665/EEC.

<sup>9</sup> See e. g. Shakya (2019) or Sjäfel & Wiesbrock (2016) to this regard.

Contracting authorities must apply the EU public procurement rules when minimal thresholds set by the Commission<sup>10</sup> are met. During the procurement process, contracting authorities use Common Procurement Vocabulary (Regulation 2195/2002), which simplifies cross-country access of tenderers to published calls for tenders.

Contracting authorities use qualification registration systems as well as European single procurement document. It is a self-declaration form, which frees tenderers from physical submission of proofs of certain facts (e.g. on having paid taxes, on not having been convicted of criminal activity) until they win the tender.

European Commission controls the compliance of the Member States with EU law. If the Commission considers that a Member State has failed to fulfil an obligation under the EU law, it shall deliver a reasoned opinion on the matter after giving the State concerned the opportunity to submit its observations. If the State concerned does not comply with the opinion within the period laid down by the Commission, the latter may bring the matter before the Court of Justice of the European Union. If the Court of Justice of the European Union finds that a Member State has failed to fulfil an obligation under the Treaties, the State shall be required to take the necessary measures to comply with the judgment of the Court. If the Commission considers that the Member State concerned has not taken the necessary measures to comply with the judgment of the Court, it may bring the case before the Court after giving that State the opportunity to submit its observations. It shall specify the amount of the lump sum or penalty payment to be paid by the Member State concerned which it considers appropriate in the circumstances. Besides, Court of Justice of the EU has the exclusive jurisdiction to give preliminary rulings concerning the validity and interpretation of EU law. Where such a question is raised before any court or tribunal of a Member State, that court may (and if it's a court against whose decisions there is no judicial remedy under national law then must) request the Court to give a ruling thereon. At national level, Member States are obliged to establish at least one control authority responsible for precise and effective implementation of EU public procurement rules.

### *2.1. How will the EU transpose its public procurement rules to Western Balkans laws?*

The EU negotiated public procurement rules bilaterally with every Western Balkans country through the Stabilisation and Association Agreements (hereinafter SAA). All these agreements have the character of economic integration agreements. To achieve economic integration, a compliance of laws must be realised. To this regard, every single SAA contains the explicit commitment of associating country to approximate its existing legislation to that of European Union 's and of its effective implementation.

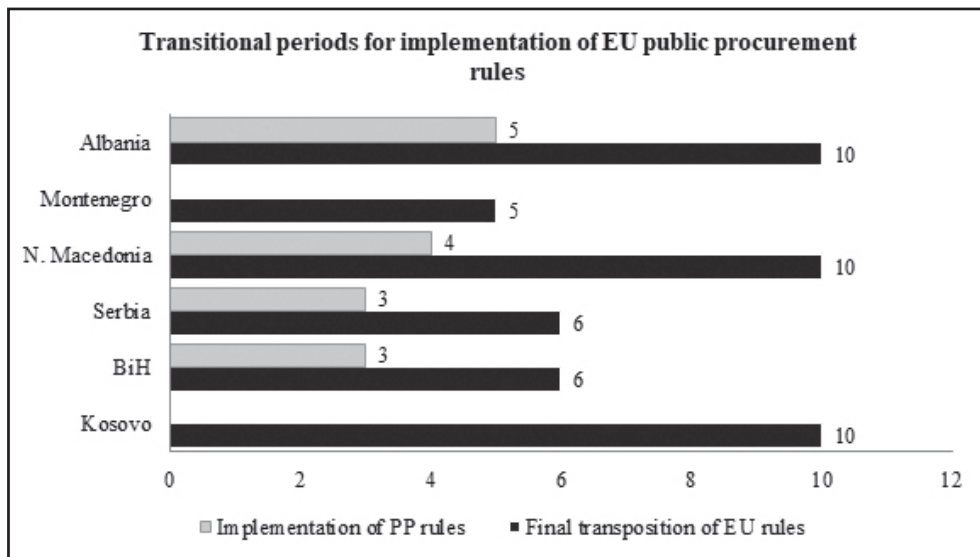
Transitional period for approximation then started from the date, when the agreement enters into legal force<sup>11</sup> and varies from 5 years (Montenegro), 6 years (Serbia, Bosnia and Herzegovina) to 10 years (Albania, North Macedonia, Kosovo (UNMIK)). If

<sup>10</sup> Current thresholds are available at: European Commission. n.d.

<sup>11</sup> SAA with Albania (2006) came into legal force on 1 April 2009, SAA with Montenegro (2008) on 1 May 2010, SAA with North Macedonia (2001) on 1 April 2004, SAA with Serbia (2008) on 1 September 2013, SAA with Bosna and Herzegovina (2008) on 1 June 2015 and SAA with Kosovo (UNMIK) (2015) on 1 April 2016.

the agreement counts with phasing of transposition, public procurement law was supposed to be always part of the first phase (see the Graph 1 below to this regard).

*De lege lata*, except Kosovo (UNMIK), whose transitional period ends in 2026, all other countries should already comply with EU law in question (Albania in 2019, Montenegro in 2015, North Macedonia in 2014, Serbia in 2013 and Bosnia and Herzegovina in 2014).



Graph 1: Time periods for implementation of EU public procurement rules by Western Balkans Six  
(Source: author, SAAs with Western Balkans countries)

To verify the progress and level of compliance, the European Commission provides on yearly basis a monitoring of the implementation of approximation of legislation and law enforcement action to be taken.

As we can conclude from European Commission's 2020 country reports, any of Western Balkans countries has fully implemented the EU public procurement rules. Despite the fact, that most of the countries already broadly align their legislation with 2014 Public Procurement Directive and Utility Directive, and surely made some progress towards effective and transparent public procurement, some issues remained open. Electronic procurement was not completed yet (except Montenegro). Further efforts are needed to improve compliance with procedures and prevent corruption in the procurement cycle. The capacities of the main bodies that implement public procurement needs to be strengthened and countries need to increase efforts that prevent irregularities during the procurement cycle. Commission also pointed out, that even if the national legislation complies with the Union's the application practice of contracting authorities may contravene to the practice assumed by the CJEU case law. Besides, in every report Commission noted that none of the countries fully implemented Commission's previous recommendations. Achieved progress of every country is shown in the Table 1 below:

Country	Level of preparedness	Alignment with 2014 PP Directives	Electronic procurement	Institutional capacities	Anti-corruption measure	Efficient remedy system	Independence of regulatory bodies
Albania	moderate	not yet, but widely aligned to 2004 PP Directive	partially/ need for strengthening	weak	ineffective	not yet/ only procurement information portal	weak
Montenegro	moderate	yes	ready for use	weak	ineffective	aligned with Remedy Directive	sufficient
North Macedonia	moderate	yes, but the practice with excluding tenderer is not in line with the CJ EU case law	not completed	weak	ineffective	formally aligned with Remedy Directive but need staff professionalization	weak
Serbia	moderate/ limited progress	not yet/ partially	ready for use	weak	ineffective	aligned with Remedy Directive	weak
Bosnia and Herzegovina	low	not yet/ partially	no (just documents to be downloaded from PP portal)	weak	ineffective	formally aligned with Remedy Directive but need staff professionalization	weak
Kosovo (UNMIK)	low/ moderate	not yet, but widely aligned to 2004 PP Directive	not yet/ only procurement information portal	weak	ineffective	formally aligned with Remedy Directive but decision-making lacks consistency and the quality needs to be improved	weak

Table 1: Achieved progress of Western Balkans Six (Source: author, Commission's 2020 country reports)

To conclude this part, we must say, that despite the delay, Western Balkans countries are undoubtedly on the way to approach the set partial goal – approximate their national public procurement legislation with the Union's one.

However, even if they fully comply with Union's legislation, public procurement presents only one of thirty-three negotiation chapters to be completed. Public procurement regime within European Economic Area might therefore represent model, which would be suitable to trade relations between EU and Western Balkans Six after the completion public procurement chapter (and/or other market-based chapters as well) and before their accession to EU.

### 3. European Economic Area model

EEA is an excellent example of trade liberalization and export of Union's law and principles into EU non-members legislations. EEA Agreement<sup>12</sup> was signed between the European Community and its Member States of the one part and Iceland, Liechtenstein and Norway (EFTA States<sup>13</sup>) of the other part. The aim of this Agreement (Article 1) is to promote a continuous and balanced strengthening of trade and economic relations between the Contracting Parties with equal conditions of competition, and the respect of the same rules, with a view to creating a homogeneous European Economic Area.

EEA Agreement therefore includes provisions on incorporation of EU legislation (Protocol 1) and case-law of the CJEU (Article 6) to EFTA States legislation. The gradual incorporation of the Union's law takes place through activities of various working groups and is legally expressed in annexes to the EEA Agreement. These annexes are regularly updated.

EEA creates a single market, where, within EU-EFTA territory (except Switzerland) a free movement of goods, persons, services, and capital is realized. Legal framework for public procurement can be found in Article 65 and Annex XVI of the EEA Agreement. Through the Annex XIV, 15 EU public procurement sectorial directives, implementation regulations and decision were implemented fully or with partial derogations to EEA law. Public contracts market within EEA is therefore fully liberalised and substantive public procurement law identical with the EU law is applicable.

Compliance with the rules by contracting parties is controlled in dual way: EFTA Surveillance Authority monitors the fulfilment of the obligations by EFTA States and European Commission controls EU Member States. In order to ensure a uniform surveillance throughout the EEA, the EFTA Surveillance Authority and the European Commission cooperate, exchange information and consult each other on surveillance policy issues and individual cases.

Decisions of EFTA Surveillance Authority may be revised by the EFTA Court, which is competent to decide on actions concerning the surveillance procedure regarding the EFTA States, on appeals concerning decisions in the field of competition taken by the EFTA Surveillance Authority; or provide advisory opinions on interpretation of EEA Agreement to national courts of EFTA States.

Besides that, EFTA Court in its judgement *Ski Taxi* (E-3/16, para. 27) established that:

“where domestic legislation, in regulating purely internal situations, adopts the same or similar solutions as those adopted in EEA law in order to avoid any distortion of competition, it is in the interest of the EEA to forestall future differences of interpretation. Provisions or concepts taken from EEA law should thus be interpreted uniformly, irrespective of the circumstances

---

<sup>12</sup> Agreement on the European Economic Area was signed on 2 May 1992 and entered in force on 1 January 1994.

<sup>13</sup> Switzerland as the fourth EFTA State is not a party to EEA Agreement as it declined accession in 1992 referendum. Switzerland rather concluded separate trade agreement with the EU. Public procurement is not a part of that agreement.



in which they are to apply. However, as the jurisdiction of the Court is confined to considering and interpreting provisions of EEA law only, it is for the national court to assess the precise scope of that reference to EEA law in national law“.

By saying that, EFTA Court found its competence to give preliminary rulings even in purely national cases, if the national court decides to request for such action and the national law is identical with those of EEA.

Up to this date, there are only four decisions of EFTA Court relating to public procurement (*Ski Taxi*, *EFTA Surveillance Authority v Norway*, *Fosen Linjen and AtB and Fagtún*). However, it is still a proof that EU public procurement law is being applied within EEA. Moreover, in all these judgements, EFTA court referred to the case law of the Court of Justice of the EU, which shows how effectively two jurisdictions may be interlinked and cope.

#### 4. Conclusion

Western Balkans Six are facing difficult tasks on their way to European Union. However, if they succeed to create functioning Regional Common Market, it will jump them much closer to the final goals than anything else. Even if they would not complete other chapters, until the time they do so, they can cooperate with European Union upon similar platform as most of EFTA States do. European Economic Area is such platform, which might be duplicated.

Functionality of CEFTA public procurement market, which is regulated only by basic procurement principles and enforcement of this law is practically non-existing, is highly doubtful. On the other side stands the EEA procurement market with harmonised procurement law, which is effectively enforced either by EFTA or EU authorities. Judicial continuity is ensured by the acceptance of case law of the CJEU from pre-contracting period and EFTA Court does not hesitate to refer to it. Activity of these authorities ensures fulfilment of obligations by contracting parties, which enables system to be functional and effective.

Deep trade liberalization, application of the highest market legal and procedural EU standards, creation of a permanent surveillance authority with strong competences, as well as permanent court therefore provides a positive answer to the question whether there is a lesson to be taught from EEA while creating the Regional Common Market.

#### References

- Arrowsmith, S. *et al.* 2010. *EU Public Procurement Law: An introduction*. [eBook]. Nottingham: University of Nottingham. Available at: <https://www.nottingham.ac.uk/pprg/documentsarchive/asialinkmaterials/eupublicprocurementlawintroduction.pdf>.
- Baudenbacher, C. 2017. *The Fundamental Principles of EEA Law*. Springer International Publishing.

- Blažo, O. 2018. Europeizácia verejného obstarávania. In: *Zborník z konferencie "Obstarávanie po novom"*. Bratislava: Úrad pre verejné obstarávanie, pp. 19-29.
- Blažo, O. & Kováčiková, H. 2018. Access to the market and the transparency as principles of public procurement in the legal environment of the EU neighborhood policy. *International and Comparative Law Review*, 18(2), pp. 218-236.
- Georgopoulos, A., Hoekman, B. & Mavroidis, P. C. 2017. *The Internationalization of Government Procurement Regulation*. Oxford: Oxford University Press.
- Shakya, R. K. 2019. *Green Public Procurement Strategies for Environmental Sustainability*. Hersey PA: IGI Global.
- Sjåfjell, B. & Wiesbrock, A. 2016. *Sustainable Public Procurement Under EU Law: New Perspectives on the State as Stakeholder*. Cambridge: Cambridge University Press.
- Steinicke, M. & Vestendorf, P. L. 2018. *EU Public Procurement Law: Brussels Commentary*. 1<sup>st</sup> Edition. Baden-Baden: Nomos Verlagsgesellschaft – C.H. Beck – Hart Publishing.

### Legal sources

- Agreement on Amendment of and Accession to the Central European Free Trade Agreement. 2006. Available at: <https://cefta.int/legal-documents/#1463498231136-8f9d234f-15f9>.
- Agreement on the European Economic Area. 1992. OJ L 1, 3. 1. 1994, pp. 3-522. Consolidated version is available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01994A0103\(01\)-20191214&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01994A0103(01)-20191214&from=EN).
- Common Regional Market Action Plan. 2020. Available at: <https://www.rcc.int/docs/543/common-regional-market-action-plan>.
- Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts, OJ L 94, 28. 3.2014, pp. 1-64.
- Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC, OJ L 94, 28. 3.2014, pp. 65-242.
- Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC, OJ L 94, 28. 3. 2014, pp. 243-374.
- European Commission. n.d. Thresholds. Available at: [https://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/thresholds\\_en](https://ec.europa.eu/growth/single-market/public-procurement/rules-implementation/thresholds_en)
- European Commission: Albania 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020, SWD (2020) 354 final. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/albania_report_2020.pdf).
- European Commission: Montenegro 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020, SWD (2020) 353 final. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/montenegro\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/montenegro_report_2020.pdf).
- European Commission: North Macedonia 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020, SWD (2020) 351 final. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north\\_macedonia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/north_macedonia_report_2020.pdf).

- European Commission: Serbia 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020, SWD (2020) 352 final. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/serbia\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/serbia_report_2020.pdf).
- European Commission: Bosna and Herzegovina 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020, SWD (2020) 350 final. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/bosnia\\_and\\_herzegovina\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/bosnia_and_herzegovina_report_2020.pdf).
- European Commission: Kosovo 2020 Report. Commission Staff Working Document. Brussels, 6.10.2020, SWD (2020) 350 final. Available at: [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo\\_report\\_2020.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo_report_2020.pdf).
- Judgement of the Court (EU) of 6 October 2015 in *Orizzonte Salute – Studio Infermieristico Associato v Azienda Pubblica di Servizi alla persona San Valentino – Città di Levico Terme*, Ministero della Giustizia, Ministero dell'Economia e delle Finanze, Presidenza del Consiglio dei Ministri, Segretario Generale del Tribunale regionale di giustizia amministrativa di Trento, C-61/14, ECLI:EU:C:2015:655.
- Judgement of the General Court (EU) of 28 February 2018 in *Vakakis kai Synergates – Symvouloi gia Agrotiki Anaptixi AE Meleton*, predtým *Vakakis International – Symvouloi gia Agrotiki Anaptixi AE*, T-292/15, ECLI:EU: T:2019:84.
- Judgement of the Court (EFTA) of 22 December 2014 in *Ski Taxi SA, Follo Taxi SA and Ski Follo Taxidrift AS a The Norwegian Government*, E-3/16. Available at: <https://eftacourt.int/download/3-16-judgment/?wpdmdl=1525>.
- Judgement of the Court (EFTA) of 21 March 2016 in *EFTA Surveillance Authority v The Kingdom of Norway*, E-4/17. Available at: <https://eftacourt.int/download/4-17-judgment/?wpdmdl=1612>.
- Judgement of the Court (EFTA) of 31 October 2017 in *Fosen-Linjen AS a AtB AS*, E-16/16. Available at: <https://eftacourt.int/download/16-16-judgment/?wpdmdl=1271>.
- Judgement of the Court (EFTA) of 12 May 1999 in *Fagtún ehf. A Byggingarnefnd Borgarholtsskóla*, the Government of Iceland, the City of Reykjavík and the Municipality of Mosfellsbær, E-5/98. Available at: <https://eftacourt.int/download/5-98-advisory-opinion/?wpdmdl=1661>.
- Order of the Court of Justice (EU) of 14 February 2019 in *Cooperativa Animazione Valdocco Soc. coop. soc. Impresa Sociale Onlus proti Consorzio Intercomunale Servizi Sociali di Pinerolo, Azienda Sanitaria Locale To3 di Collegno e Pinerolo*, C-54/18, ECLI: EU:C:2019:118.
- Organisation on Economic Cooperation and Development – Directorate for Public Governance and Territorial Development: *OECD Recommendation of the Council on Public Procurement*. 2015. Available at: <https://www.oecd.org/gov/public-procurement/OECD-Recommendation-on-Public-Procurement.pdf>.
- Regulation (EC) No 2195/2002 of the European Parliament and of the Council of 5 November 2002 on the Common Procurement Vocabulary (CPV) (OJ L 340, 16. 12. 2002, p. 1-562).
- Revised Agreement on Government Procurement. 2012. Available at: [https://www.wto.org/english/docs\\_e/legal\\_e/rev-gpr-94\\_01\\_e.htm](https://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm).

- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Albania, of the other part Protocols Declarations, OJ L 107, 28.4.2009, pp. 166-502.
- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Montenegro, of the other part, OJ L 108, 29.4.2010, pp. 3-354.
- Stabilisation and Association Agreement between the European Communities and their Member States of the one part, and the Republic of Serbia, of the other part, OJ L 278, 18.10.2013, pp. 16-473.
- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the former Yugoslav Republic of Macedonia, of the other part, OJ L 84, 20.3.2004, pp. 13-197.
- Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part, OJ L 164, 30.6.2015, pp. 2-547.
- Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo\*, of the other part, OJ L 71, 16.3.2016, pp. 3-321.
- Treaty on European Union. Consolidated version. OJ C 326, 26. 10. 2012, pp. 13-390.
- Treaty on the Functioning of the European Union. Consolidated version. OJ C 326, 26. 10. 2012, pp. 47-390.
- Western Balkans Leaders Declaration on Common Regional Market – Sofia. 2020. Available at: [https://www.rcc.int/download/docs/Final.%20Political%20Declaration\\_CRM%202021-2024.docx/f3cc2257065067cd8e2abadf9d43281d.docx](https://www.rcc.int/download/docs/Final.%20Political%20Declaration_CRM%202021-2024.docx/f3cc2257065067cd8e2abadf9d43281d.docx).
- Zagreb Declaration (6 May 2020). 2020. Available at: <https://www.consilium.europa.eu/media/43776/zagreb-declaration-en-06052020.pdf>.

**Dr Hana Kovačikova**

Pravni fakultet, Komenuis univerzitet, Bratislava, Slovačka

e-mail: [hana.kovackikova@flaw.uniba.sk](mailto:hana.kovackikova@flaw.uniba.sk)

**REGIONALNO ZAJEDNIČKO TRŽIŠTE NA ZAPADNOM BALKANU. KOJE LEKCIJE MOŽEMO DA NAUČIMO OD EEP? – STUDIJA JAVNIH NABAVKI**

Sažetak

Evropska unija na međunarodnoj sceni teži da očuva svoje vrednost, da podrži vladavinu prava, neguje održiv ekonomski, društveni i ekološki razvoj i da podrži integraciju svih država u svetsku ekonomiju i kroz progresivno ukidanje barijera za međunarodnu trgovinu. Trgovinski sporazumi se koriste kao efikasno sredstvo za postizanje tog cilja.

U okviru svog trenutnog spoljno(političkog) delovanja, Evropska unija pokušava da na homogen način reguliše svoje trgovinske odnose u regionu. Kroz regionalno homogene trgovinske sporazume Unija može lakše da širi svoje vrednosti, principe i pravila, što takođe predstavlja način jačanja njenog geopolitičkog položaja. Rad analizira trgovinske sporazume zaključene između Evropske unije i država kandidata sa zapadnog Balkana. Svi ovi sporazumi prepoznaju pristupanje EU kao svoj glavni cilj. Kako bi se on postigao, države kandidati treba da ispune različite uslove, uključujući i usklađivanje svog pravnog poretka sa zajedničkim vrednostima EU. Nedavno (u novembru 2020. godine), lideri zemalja zapadnog Balkana su najavili stvaranje regionalnog zajedničkog tržišta koje će poslužiti kao sredstvo približavanja pravilima unutrašnjeg tržišta Evropske unije. U tom smislu, autorka analizira Evropski ekonomski prostor (EEP) gde se uspešno realizuju ideje unutrašnjeg tržišta EU i koji može da posluži kao primer predpristupne saradnje između država zapadnog Balkana i Evropske unije. Autorka je odabrala oblast javnih nabavki za studiju slučaja.

**Ključne reči:** integracija, zajedničko tržište, Evropska unija, javne nabavke.

**Article history:**

**Received: 30 November 2020**

**Revised: 1 January 2021**

**Accepted: 20 January 2021**