

# **OPEN BALKAN, BERLIN PROCESS AND EU'S ACQUIS**

## **Rapid analysis within the assessing and streamlining potentials of the Open Balkan Initiative**

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**Center for Economic Analyses-CEA**

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## Contents

|   |           |
|---|-----------|
| <b>LIST OF ABBREVIATIONS</b>  | <b>4</b>  |
| <b>ABOUT THE PROJECT</b>  | <b>5</b>  |
| <b>BACKGROUND</b>   | <b>6</b>  |
| <b>OPEN BALKAN INITIATIVE</b>   | <b>7</b>  |
| CHRONOLOGY OF MAIN ACTIVITIES   | 7         |
| OPEN BALKAN INITIATIVE - MEMORANDUMS OF UNDERSTANDING AND AGREEMENTS                | 7         |
| <i>Trade in Goods</i>   | 7         |
| <i>Free Movement of Workers and Services</i>  | 8         |
| <i>Free Movement of Capital</i>   | 10        |
| <i>Other Areas of Trilateral and Bilateral Cooperation</i>                          | 10        |
| <i>Implementation and Monitoring Mechanisms</i>                                     | 11        |
| <b>BERLIN PROCESS - BP</b>  | <b>12</b> |
| CHRONOLOGY OF MAIN ACTIVITIES   | 12        |
| COMMON REGIONAL MARKET PROMOTED BY THE BERLIN PROCESS                               | 12        |
| <b>ANALYSIS OF THE OBI AND THE BP</b>   | <b>13</b> |
| DEFINING THE REGION   | 13        |
| ROLE OF THE EU AND INTERNATIONAL PARTNERS   | 14        |
| GOVERNANCE STRUCTURE AND OWNERSHIP  | 14        |
| PROBLEMS AND MATTERS AT STAKE   | 15        |
| THROUGH THE LENS OF THE BERLIN PROCESS SUMMIT 2022 - A WRAP UP                      | 17        |
| <b>OPEN BALKAN INITIATIVE AND THE EU'S ACQUIS PROCESS</b>                           | <b>19</b> |
| <b>THE PROCESS(ES) OF ADOPTING THE EU ACQUIS</b>                                    | <b>19</b> |
| <b>OBI INTERACTION WITH THE EU</b>  | <b>19</b> |
| <b>ANALYSIS OF THE OBI AND THE EU ACQUIS</b>  | <b>19</b> |
| GENERAL OVERVIEW  | 20        |
| INTERNAL MARKET   | 20        |
| COMPETITIVENESS AND INCLUSIVE GROWTH  | 22        |
| GREEN AGENDA AND SUSTAINABLE CONNECTIVITY   | 23        |
| RESOURCES, AGRICULTURE, AND COHESION  | 23        |
| THE "INVISIBLE CLUSTERS": FUNDAMENTALS AND EXTERNAL RELATIONS                       | 24        |
| <b>CONCLUSION AND MAIN MESSAGES</b>   | <b>24</b> |
| <b>LIST OF ANNEXES</b>  | <b>27</b> |
| ANNEX 1 - OFFICIAL DOCUMENTS ADOPTED BY THE OPEN BALKAN INITIATIVE                  | 27        |
| ANNEX 2 - OFFICIAL DOCUMENTS ADOPTED IN THE SCOPE OF THE BERLIN PROCESS             | 28        |
| ANNEX 3 - STATUS OF RATIFICATION OF SIGNED AGREEMENTS BY THE OPEN BALKAN INITIATIVE | 29        |
| ANNEX 4 - OPEN BALKAN INITIATIVE COMPATIBILITY WITH THE EU ACCESSION PROCESS        | 30        |

## List of abbreviations

|                   |  |
|-------------------|--|
| AEO               | Authorised Economic Operators                                |
| CEFTA Secretariat | Secretariat of the Central European Free Trade Agreement     |
| CRM AP            | Common Regional Market Action Plan                           |
| EC                | European Commission  |
| EU                | European Union   |
| EURES             | European Employment Services                                 |
| FDI               | Foreign Direct Investment                                    |
| HEI               | Higher Education Institutions                                |
| MAP REA           | Multi-annual Action Plan for a Regional Economic Area        |
| MFF               | Multi-annual Financial Framework                             |
| OBI               | Open Balkan Initiative                                       |
| REA               | Regional Economic Area                                       |
| RYCO              | Regional Youth Cooperation Office                            |
| SAA               | Stabilisation and Association Agreement                      |
| SMEs              | Small and Medium-sized Enterprises                           |
| SOEs              | State Owned Enterprises                                      |
| TFEU              | Treaty on the Functioning of the European Union              |
| TENs              | Trans-European networks                                      |
| WB EDIF           | Western Balkans Enterprise Development & Innovation Facility |
| WB6               | Western Balkan 6   |
| WB6 CIF           | Western Balkans 6 Chamber Investment Forum                   |
| WBF               | Western Balkan Fund  |
| WBIF              | Western Balkans Investment Framework                         |

## About the Project

CENTER FOR ECONOMIC ANALYSES-CEA IS CONDUCTING A ONE-YEAR OSF PROJECT TITLED:

### ASSESSING AND STREAMLINING POTENTIALS OF THE OPEN BALKAN INITIATIVE (OBI).

#### BACKGROUND

Recognising the lack of interest of the EU in enlargement in the Western Balkans, Serbian President Aleksandar Vučić, North Macedonian Prime Minister Zoran Zaev, and Albanian Prime Minister Edi Rama decided to “take destiny in their own hands” and launch a “mini-Schengen” in October 2019. In July 2021, this idea evolved into a regional initiative “**Open Balkan**<sup>1</sup>”. The initiative is no substitute for membership in the EU, but a path to accelerated membership and utilization of the existing but insufficiently used potentials in these countries, which might facilitate additional economic growth and development and thus, welfare for their citizens.

#### CHALLENGES TO KEEP THE MOMENTUM

Developing and cultivating neighbourly relations in the Western Balkan in expectation of economic prosperity will require eliminating border controls and other barriers in order to facilitate the movement of people, goods and services, and capital in the region. Regional disparities analyses (for example, coastal vs. internal, NUTS 2 and NUTS 3 regions, urban vs. rural, capital cities vs. other cities) of the Open Balkan countries might offer insights when determining priorities for more accelerated growth and internal convergence of the Open Balkan region. **At the moment, there is a lack of properly elaborated analyses to assess the existing challenges.**

The Covid-19 pandemic, the food and energy crises, and the war in Ukraine illuminate the importance of internal cooperation and coordination and need for mutual understanding and solidarity among Open Balkan countries. Internal coordination and cooperation, exchange of experiences, and solidarity in the region bring value to future EU integration if the Open Balkan countries can speak in one voice.

The region’s external environment, especially now with the war in Ukraine, emphasizes the importance of cooperation and coordination and the need for mutual understanding and solidarity.

#### TOOLS AND INSTRUMENTS FOR ASSESSING THE POTENTIALS FOR ACHIEVING COOPERATION AND COORDINATION

While on the highest political level there is still evidence of political will for Open Balkan, on the administrative level, or “on the ground”, people cannot really sense the benefits of this initiative just yet. **At the very least, what is missing is more evidence-based policy research on the bottlenecks in cooperation and potential of the six countries of the Open Balkan.**

#### ACTIVITIES OF THE PROJECT

**An independent pool of experts from the six countries diagnosing and investigating the bottlenecks for cooperation and coordination among the Open Balkan countries will add**

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<sup>1</sup> By Open Balkan, we will define the territorial space of six countries: Bosnia and Herzegovina, Serbia, Montenegro, North Macedonia, Kosovo, and Albania.

**value to the already demonstrated political will for the Open Balkan initiative, leading to its more structured, priority-focused, and systematic development.**

## **Background**

When one thought that creativity for yet another regional formation could hardly be fruitful, Albania, North Macedonia, and Serbia joined to announce the OBI. What distinguishes this initiative from others is that it is home born, created and led by the countries themselves. Given that the OBI operates in tandem with and in the realm of already established initiatives, it raised the question of its necessity and compatibility with existing formations.

All WB6<sup>2</sup> have already committed to regional economic cooperation within the frameworks of the REA in 2017 and its successor CRM of 2020. A new initiative of similar character begs the question of how different or similar it is; does it bring any novelties or innovations to the regional integration project(s) promoted by the Berlin Process? Is it perhaps redundant to the already existing one(s)?

Regional cooperation goes hand in hand with the WB6's EU membership perspective. However, all countries are at a different stage in the accession process, so the level of preparedness to undertake the obligations of EU membership, and the Single Market in particular, differs. This situation invokes the following questions: Does OBI fit in the accession process? Does it contribute to the fulfilment of the EU's membership requirements?

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<sup>2</sup> Besides Albania, Serbia, and North Macedonia, the WB6 group includes Bosnia and Hercegovina, Kosovo, and Montenegro.

# Open Balkan Initiative and the Berlin Process

## Open Balkan Initiative

### Chronology of Main Activities

The leaders of Albania, Serbia, and North Macedonia announced the OBI, then known as Mini Schengen, in October 2019. Their commitment centred on accelerating the implementation of the EU four freedoms and deepening the REA in the WB through full and free movement of goods, services, capital, and labour throughout the entire region.<sup>3</sup> That same year, the Ohrid<sup>4</sup> and Tirana<sup>5</sup> summits put forward the agenda and priority measures of the OBI. The Covid-19 pandemic has slowed down the progress of the initiative. Beyond the decision to abolish mandatory PCR testing<sup>6</sup> earlier than it was done in other parts of the Europe, there was no significant advancement in the OBI agenda. As vaccinations rolled out throughout the world, OBI was restarted in 2021 and 2022. In less than two years, five OBI summits were held at which six memorandums of cooperation were issued, seven agreements were signed, and two plans were adopted (Annex 1). This rapid progress, coupled with the participation of EU officials at some of the meetings, built a success-in-the-making narrative around OBI, casting a shadow on the other regional cooperation initiatives.

However, the non-participation of three of the WB6 makes for a troubling outlook for the initiative's intention to be an all-Balkan initiative. The heads of Bosnia and Hercegovina and Montenegro did take part in the OBI 2022 Summits after three years of open invitations, yet they did not put pen to paper on any of the initiatives' documents. Additionally, Kosovo remains firmly out of the game.

### Open Balkan Initiative - Memorandums of Understanding and Agreements

#### Trade in Goods

The memorandum of understanding on trade facilitation in goods sets out five objectives: to simplify procedures to the extent possible, to gradually remove barriers to trade in goods, to increase and enhance economic cooperation, to promote development of economic relations, and to exchange data between customs and other competent authorities.<sup>7</sup> A follow-up document established the priority measures that relevant ministries and agencies should undertake in a predefined time framework. What makes this RoadMap original is that it outlines the priorities identified by the Chambers of Commerce<sup>8</sup> in order to speed up the implementation of existing

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<sup>3</sup> President of the Republic of Serbia, Prime Minister of the Republic of Albania, and Prime Minister of the Republic of North Macedonia, 'Joint Declaration on Implementing the EU Four Freedoms in the Western Balkans' (10 October 2019) <<https://api.pks.rs/storage/assets/deklaracija-tri-predsednika.pdf>>.

<sup>4</sup> 'WB6 Ohrid Summit - Accelerating the Implementation of the EU Four Freedoms in the Western Balkans' (10 November 2019) <[https://api.pks.rs/storage/assets/Deklaracija\\_Ohrid1.pdf](https://api.pks.rs/storage/assets/Deklaracija_Ohrid1.pdf)>.

<sup>5</sup> 'Tirana Chair's Conclusions' (21 December 2019) <<https://api.pks.rs/storage/assets/final-tirana-declaration.pdf>>.

<sup>6</sup> Government of the Republic of North Macedonia, President of the Republic of Serbia, and Council of Ministers of the Republic of Albania, 'Memorandum of Understanding on Cooperation on Facilitation of Imports, Exports and Movement of Goods in the Western Balkans' (29 July 2021) <[http://vlada.mk/sites/default/files/dokumenti/Otvoren\\_Balkan/working\\_permits.pdf](http://vlada.mk/sites/default/files/dokumenti/Otvoren_Balkan/working_permits.pdf)>.

<sup>7</sup> *ibid.* article 1

<sup>8</sup> The RoadMap was adopted at the Belgrade Summit in November 2021. The WB CIF supported the development of this RoadMap and was assigned to monitor its implementation. See Government of the Republic of North Macedonia, 'Joint Statement of the Participants in Today's Meeting of the Open Balkans Initiative: The Future of Enlargement - a View from the Region' (<https://vlada.mk/node/26945?ln=en-gb>) <14/11/2021>.

political and legal obligations, but it also stresses that the harmonisation of rules and procedures should be based on the EU acquis.<sup>9</sup>

Two agreements were signed in line with the memorandum and the RoadMap. The first is an agreement on cooperation in the field of veterinary, food and feed safety, and phytosanitary certifications. The second is a bilateral agreement on mutual recognition of AEOs authorisation between Albania and Serbia, and Albania and North Macedonia (Serbia and North Macedonia had already signed such an agreement in 2019<sup>10</sup>). These agreements apply the mutual recognition principle on product testing reports and health certificates on food and non-food products and the AEOs authorisation. Coupled with enhanced digital cooperation, they are an important step towards faster and cheaper trade between the countries. However, border crossing formalities remain in place, and imports, exports, and transits are still subject to physical and document controls. Furthermore, according to the agreements, border controls are to be conducted in line with domestic laws, without a view to harmonise national approaches.

In the wake of disrupted supply chains and food supply, the agreement on food security imposes a ban on exports, quantitative restrictions, and measures with equivalent effect.<sup>11</sup> Even though it applies to specific agri-food products only, it contributes to open trade between the three countries. The countries have committed to jointly addressing shortages and food security issues, including through improving production capacities and supply chains, but the agreement does not establish a strong mechanism to implement these commitments.

## **Free Movement of Workers and Services**

Unlike in the area of goods, OBI does not have a memorandum that sets a comprehensive list of priorities for cooperation in the area of free movement of people and services. The Ohrid declaration from 2019 serves as the only guide and includes five priorities: free movement of people with IDs, equal treatment for residency and employment, harmonisation of social security and employment laws, recognition of professional qualification, as well as cooperation in the field of security.<sup>12</sup>

The memorandum of understanding on cooperation related to free access to the labour market in the Western Balkans<sup>13</sup> sets a framework for the liberalisation of labour markets through the harmonisation of national laws, abolishes work permits, and simplifies resident permit procedures. However, the memorandum does not allow for full and free movement through the OBI countries since it reiterates that citizens of sending countries do need resident permits.<sup>14</sup> As foreseen in the memorandum, the parties signed an agreement that regulates the conditions for free market access.

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<sup>9</sup> 'Draft Roadmap for the Implementation of the Memorandum of Understanding on Cooperation on Facilitation of Imports, Exports, and Movement of Goods in the Western Balkans'.

<sup>10</sup> Official Gazette of the Republic of North Macedonia, Law on the ratification of the Agreement between the Government of the Republic of North Macedonia and the Government of the Republic of Serbia for mutual recognition of approvals for the authorized economic operator – safety and security (AEOs) 2019 [259].

<sup>11</sup> Government of the Republic of North Macedonia, President of the Republic of Serbia, and Council of Ministers of the Republic of Albania, 'Agreement on Food Security Mechanisms in the Western Balkans' (2 September 2022) <[http://vlada.mk/sites/default/files/dokumenti/Otvoren\\_Balkan/id\\_agreement.pdf](http://vlada.mk/sites/default/files/dokumenti/Otvoren_Balkan/id_agreement.pdf)>.

<sup>12</sup> 'WB6 Ohrid Summit - Accelerating the Implementation of the EU Four Freedoms in the Western Balkans' (n 3).

<sup>13</sup> President of the Republic of Serbia, Government of the Republic of North Macedonia, and Council of Ministers of the Republic of Albania, and others, 'Memorandum of Understanding on Cooperation in Relation to Free Access to Labour Markets in the Western Balkans' (26 July 2021) <<https://api.pks.rs/storage/assets/work-permits-final-for-signature.pdf>>.

<sup>14</sup> Relja Radovic, 'Open Balkans Shows No Sign of Delivering Promised Freedoms' (16 June 2022) <<https://balkaninsight.com/2022/06/16/open-balkans-shows-no-sign-of-delivering-promised-freedoms/>>.



The agreement guarantees the right to move, live, and work freely within the territories of the contracting parties and the right to equal access to the labour market in the receiving country.<sup>15</sup> However, it also introduces procedures that do not allow for these rights to be fully operationalised. Rather than granting labour market access automatically, the agreement sets approval procedures in line with legislation of the contracting parties, which currently do not allow for equal access to labour markets;<sup>16</sup> it also grants receiving countries the right to deny access. Moreover, granting access to labour markets does not imply the right to stay. This right and the commitment to regulate the social security of incoming citizens and workers shall be addressed by a separate agreement, which is yet to be signed. Lastly, as mentioned above, the agreement confirms that citizens of “sending” countries should apply for permanent stay, which may be another market access barrier.

What OBI does differently is changing the procedure for granting access to labour markets by introducing an Open Balkan ID number,<sup>17</sup> regulated by a separate agreement.<sup>18</sup> Article 7 stipulates that citizens who have obtained such a number *shall be deemed to have been approved for free access to the labour market* in the territory of the Receiving Party. The approval is temporary and is subject to renewal every two years.

The Agreement on the mutual recognition of diplomas and scientific grades is the last piece of legislation that OBI has produced related to labour market access and the provision of services. This agreement foresees institutional cooperation in this field and shortens procedural deadlines, be the diplomas and degrees issued with or without Apostil stamp.<sup>19</sup> This agreement does not allow for automatic recognition of diplomas and scientific grades, and as such, only provides for easier and freer access to markets.

In the area of free movement of services, three memorandums have been signed of sectoral relevance, particularly culture, arts, and tourism. The Memorandum of understanding on cultural cooperation aims to facilitate, expand, and deepen institutional collaboration through joint actions (exchanges, cultural events) meant to stimulate artists’ and experts’ regional mobility, coordination (cultural calendar), and pulled funds (regional theatre fund has been announced). In a similar vein, the memorandum in the field of cinematography and audio-visual activities aims to create conditions for enhanced and expanded cooperation and co-production in this specific field.<sup>20</sup> When it comes to tourism, OBI countries committed to fostering favourable investment conditions

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<sup>15</sup> Government of the Republic of North Macedonia, President of the Republic of Serbia, and Council of Ministers of the Republic of Albania, ‘Agreement on Conditions for Free Access to the Labour Market in the Western Balkans’ (21 December 2021) <[http://vlada.mk/sites/default/files/dokumenti/Otvoren\\_Balkan/working\\_permits.pdf](http://vlada.mk/sites/default/files/dokumenti/Otvoren_Balkan/working_permits.pdf)>.

<sup>16</sup> For example, North Macedonia has a procedure for granting temporary residence and work permits to foreigners that requires a series of documents and conditions to be fulfilled to access labour markets that are not required for its nationals.

<sup>17</sup> This ID number shall be obtained through national eGovernment/electronic identification portals. It is in addition to the already existing electronic identity of a citizen and grants the rights within the scope of the OBI initiative.

<sup>18</sup> Government of the Republic of North Macedonia, President of the Republic of Serbia, and Council of Ministers of the Republic of Albania, ‘Agreement on Interconnection of Schemes for Electronic Identification of the Citizens of the Western Balkans’ (21 December 2021) <[http://vlada.mk/sites/default/files/dokumenti/Otvoren\\_Balkan/id\\_agreement.pdf](http://vlada.mk/sites/default/files/dokumenti/Otvoren_Balkan/id_agreement.pdf)>.

<sup>19</sup> Government of the Republic of North Macedonia, President of the Republic of Serbia, and Council of Ministers of the Republic of Albania, ‘Agreement on Cooperation in the Western Balkans in the Field of Mutual Recognition of Diplomas and Scientific Grades Issued by Higher Education Institutions and Other Authorized Institutions’ (8 June 2022)

<<https://api.pks.rs/storage/assets/OhridFINAL%20Agreement%20Recognition%20of%20academic%20qualification%20Open%20Balkan%20OHRID.pdf>>.

<sup>20</sup> Ministry of culture and media of the Republic of Serbia, Ministry of culture of the Republic of Albania, and Ministry of culture of the Republic of North Macedonia, ‘Memorandum of Understanding on Cooperation in the Field of Cinematography and Audio-Visual Activities in Western Balkans’ (2 September 2022)

<[https://vlada.mk/sites/default/files/dokumenti/open\\_balkan\\_mou\\_on\\_film.pdf](https://vlada.mk/sites/default/files/dokumenti/open_balkan_mou_on_film.pdf)>.

and encouraging cooperation in order to expand the tourism service sector and as a way to establish equal positioning and mutual benefit as basic principles of cooperation.<sup>21</sup>

While the contracting parties commit to cooperation in these sectors, none of these memorandums outlines the steps the countries would take to address market access barriers and equal treatment of service providers. The exception is the memorandum on tourism with an indistinct commitment to initiate efforts to approximate national laws,<sup>22</sup> rather than harmonisation. As such, it does not offer clarity on how a single market in tourism services with the same rules for all tour operators and tour guides would be achieved in line with EU legislation. For the time being, tourism and travel-related services remain subject to national laws and international agreements.

Nonetheless, these memorandums have an additional value. Actives like joint programmes and exchanges of culture and arts, professional as well as promotional activities, and common tourism products all aim to strengthen and expand regional cooperation and to promote cultural diversity, intercultural dialogue, and mutual understanding.

## **Free Movement of Capital**

In this area, there was the least amount of activity. The respective cooperation aims to increase investment across the region, between the countries and from third parties. Planned activities include a review of bilateral investment treaties compatible with EU standards, a plan for developing investment prospects in the region, and outreach efforts to private investors globally.<sup>23</sup> Most recently, the establishment of a common agency for attracting investments in OBI participating countries was announced.<sup>24</sup>

## **Other Areas of Trilateral and Bilateral Cooperation**

The OBI has produced two documents so far concerning the protection of people and the environment: an Agreement on cooperation in the protection against disasters and an Operational Plan in the field of Civic protection. The former sets a framework for assistance in the case of disasters when one party is not able to respond to the circumstances. The latter provides a general commitment on cooperation and information exchange, as well as coordination for joint project application.

At the latest summit in Belgrade in November 2022, OBI expanded its scope of work in the energy sector. The countries established a working group on the energy crisis, tasked with preparing joint investment proposals in renewables as well as electricity and gas markets integration.<sup>25</sup> As a follow up, Serbia and Albania signed a memorandum on cooperation in the field of mining and energy with a view to encourage and support investments and joint scientific and technological research, with a particular focus on renewables.<sup>26</sup> According to public announcements, the first tangible

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<sup>21</sup> Ministry of Economy of the Republic of North Macedonia, Ministry of trade, tourism and telecommunications of the Republic of Serbia, and Ministry of tourism of Albania, 'Memorandum of Understanding on Cooperation in the Field of Tourism in the Western Balkans' (8 June 2022) <[https://vlada.mk/sites/default/files/dokumenti/memorandum\\_of\\_understanding\\_on\\_cooperation\\_in\\_the\\_field\\_of\\_tourism\\_in\\_the\\_western\\_balkans.pdf](https://vlada.mk/sites/default/files/dokumenti/memorandum_of_understanding_on_cooperation_in_the_field_of_tourism_in_the_western_balkans.pdf)>.

<sup>22</sup> Working groups are to be created to identify national legislation.

<sup>23</sup> 'WB6 Ohrid Summit - Accelerating the Implementation of the EU Four Freedoms in the Western Balkans' (n 3).

<sup>24</sup> Government of the Republic of North Macedonia, 'Open Balkan' <<https://vlada.mk/node/30372?ln=en-gb>>.

<sup>25</sup> Vladimir Spasić, 'Albania, North Macedonia, Serbia to Set up Working Group for Energy Cooperation' (27 July 2022) <<https://balkangreenenergynews.com/albania-north-macedonia-serbia-to-set-up-working-group-for-energy-cooperation/>>.

<sup>26</sup> Draft text of the Memorandum of Understanding between the Ministry of Mining and Energy of the Republic of Serbia and the Ministry of Infrastructure and Energy of the Republic of Albania on cooperation in the field of mining and energy.

results of cooperation would be the construction of an LNG terminal Albania, LNG and gas interconnections, as well as trade in energy of produced surpluses.<sup>2728</sup>

Most recently, the Council of Ministers of Albania and the Government of North Macedonia signed 21 bilateral acts at their intergovernmental session in Skopje. Unlike the bilateral mining and energy memorandum between Albania and Serbia, these acts have not been attributed to OBI nor positioned under its umbrella, even though some fall under the scope of the initiative.<sup>29</sup> To illustrate, the establishment of Joint Border Crossing Points and joint working teams in the field of security between Serbia and North Macedonia was celebrated as OBI success at the time.<sup>30</sup>

## **Implementation and Monitoring Mechanisms**

The signed agreements and memorandums in the areas of goods and services envision the creation of multilateral bodies, like joint committees, working groups, and commissions. In most cases, they have a coordinative role, and in some cases, that of implementation and oversight. While some of these bodies have a clearly defined structure with regard to country representation, the profile of members, and length of their terms, their competences are generally unclear.

Information exchange plays an important role in each memorandum and agreement. Any disputes that may arise from their implementation shall be resolved on good faith between the parties and through consultations. It is possible for each party at any time to send notification for withdrawal, and the agreement(s) would remain valid for the remaining parties. Amendments are possible upon mutual consent of all contracting parties. In cases when the agreements contradict rights and obligations arising from other international agreements, the latter would prevail.

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<sup>27</sup> Balkan Green Energy News, ‘Albania, Serbia Sign Memorandum to Operate in Energy, Mining Sectors’ (2 September 2022) <<https://balkangreenenergynews.com/albania-serbia-sign-memorandum-to-cooperate-in-energy-mining-sectors/>>.

<sup>28</sup> This paragraph was added after the research cut-off date (14.10.2022).

<sup>29</sup> Government of the Republic of North Macedonia, ‘Kovacevski-Rama: We Brought Concrete Solutions for the Citizens and the Common European Future of North Macedonia and Albania [Ковачевски-Рама: Донесовме Конкретни Решенија За Граѓаните и Заедничката Европска Иднина На Северна Македонија и Албанија]’ (14 November 2022) <<https://vlada.mk/node/30994>>.

<sup>30</sup> This paragraph was added after the research cut-off date (14.10.2022).

# Berlin Process - BP

## Chronology of Main Activities

The Berlin Process was initiated as a support mechanism to the EU accession process where EU institutions and (importantly) member states may engage in high-level dialogue with leaders from the region. The main goals of the initiative are the resolution of outstanding bilateral and internal issues, reconciliation within societies and between the WB6, enhancement of regional economic cooperation, and sustainable growth.<sup>31</sup>

In line with these goals, WB leaders committed on paper to addressing issues related to the region's troubling past (missing persons, war crimes, and illegal possession, misuse, and trafficking of arms), ongoing pressing matters like anti-corruption, and bilateral issues and regional cooperation. Additionally, leaders have also committed to agendas on forward looking topics like digital transformation, greening WB economies, sustainable transport and connectivity, and regional economic cooperation. On the other hand, financial and technical support was streamlined through mechanisms promoted by the Berlin Process - the WBIF for transport and infrastructure projects and the WB EDIF, which mobilizes financial and technical support to SMEs. The WBF and RYCO were established to facilitate cooperation, including financing the civil society sector and youth in the region, while WB6 CIF was founded as a platform for the private sector. At different forums, the Berlin Summits offer a venue for interaction between these actors on an annual basis (Annex 2).

The Berlin Process rolled out mechanisms for cooperation, coordination, and prioritization of key projects, particularly infrastructure, as well as a venue for socialization between the WB6 and with the EU MS, which enabled the latter to better understand the issues at stake in the region.<sup>32</sup> However, the Process did not mature enough to offer sufficient support for the constant growth of the areas that it included. Steering and monitoring mechanisms do not exist, and no significant increases of financial resources were deployed to support the commitments across different agendas, which the WB6 desperately need.<sup>33</sup>

## Common Regional Market Promoted by the Berlin Process

At the Trieste Summit, the WB6 leaders endorsed the **MAP REA**, the first structured agenda of its kind, which aimed to foster regional economic integration through trade integration, the introduction of a regional investment space, facilitated mobility, and an integrated regional digital space.<sup>34</sup> The MAP REA outlined ambitious goals that should have been implemented by 2020, with some deadlines extending to 2023.

Building on the drawbacks and the successes of this plan, WB leaders endorsed the CRM AP in 2021. This plan should serve as a tool to transform the region's markets, to make the region more attractive and competitive, and to bring it closer to EU markets. The plan is organised into four areas: trade, investment, digital, and industry and innovation. The goals incorporated into the plan

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<sup>31</sup> Press and Information Office of the Federal Government, 'Final Declaration by the Chair of the Conference on the Western Balkans' (28 August 2014) <<https://www.bundesregierung.de/breg-en/news/final-declaration-by-the-chair-of-the-conference-on-the-western-balkans-754634>>.

<sup>32</sup> Florent Marciacq, 'The EU and the Western Balkans after the Berlin Process - Reflecting on the EU Enlargement in Times of Uncertainty' (2017) <<https://library.fes.de/pdf-files/bueros/sarajevo/13948.pdf>>.

<sup>33</sup> *ibid.*

<sup>34</sup> RCC, 'Multi-Annual Action Plan for a Regional Economic Area in the Western Balkans Six' (12 July 2017) <[https://www.rcc.int/download/docs/map\\_regional\\_economic\\_area\\_06\\_july\\_2017\\_clean\\_version.pdf/5511a1f61b9f7165f7d539bfd4df5bae.pdf](https://www.rcc.int/download/docs/map_regional_economic_area_06_july_2017_clean_version.pdf/5511a1f61b9f7165f7d539bfd4df5bae.pdf)>.

include the liberalization of markets in goods, services, capital, and people, and crosscutting measures meant to align with EU single market rules and standards, as well as policies that seek to attract investment and integrate industrial sectors into European and global value chains.<sup>35</sup>

## Analysis of the OBI and the BP

Drawing a distinction between the OBI and the BP is a challenging task as both initiatives are continuously evolving. Therefore, setting criteria to analyse both initiatives would be fitting in order to properly assess their similarities, differences and the potential of the two initiatives that have overlapping agendas and similar ideas on how to address the challenges ahead. An earlier study on ownership of regional cooperation in the WB identified five challenges that limit the potential for regional cooperation structures. These criteria include: a clear definition of the scope of the region, the role of international organisations, a definition of problems and interests within the region and those of international partners; governance structures and ownership, and the potential for developing those structures.<sup>36</sup>

### Defining the Region

The study on ownership of regional cooperation finds that the geographic scope of regional integration structures differs, which limits synergies. Both OBI and the Berlin Process seek to promote regional cooperation that includes all countries in the region. OBI struggles to secure participation of all WB6, and its ability to gain support in the future is at best questionable. Critics cite Serbian domination and influence in the initiative, in both economic and political terms, and doubt the sincerity of the participating countries in keeping to the pledge to make the initiative truly inclusive.<sup>37</sup> Its complementary nature to the Berlin Process and the EU accession process has also been questioned. These arguments are not only echoed in Bosnia and Hercegovina, Kosovo, and Montenegro, but in OBI participating countries as well - country leaders, political figures,<sup>38</sup> and civil society<sup>39</sup> have all expressed their reservations. On the other hand, the Berlin Process has offered equal participation of all WB6 since its inception. Even though the EU and its member states are active participants in the process, the agendas and projects developed within it are of primary interest to and implemented by the countries in the region.

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<sup>35</sup> RCC, 'Common Regional Market Action Plan' (9 November 2020)

<<https://www.rcc.int/download/docs/Final.%20CRM%202021-2024%20AP.DOCX/b881f4de43f2753241c8bcb55a6ed8a9.docx>>.

<sup>36</sup> Michael Weichert and others, 'Dialogues Ownership for Regional Cooperation in the Western Balkan Countries' (Friedrich-Ebert-Stiftung, June 2009) <<https://library.fes.de/pdf-files/bueros/sarajevo/06609.pdf>>.

<sup>37</sup> Omer Karabeg, 'Open Balkan - Benefit for All or Serbia before All? [Otvoreni Balkan - Korist Za Sve Ili Pre Svega Za Srbiju?]' (26 June 2022) <<https://www.slobodnaevropa.org/a/most-otvoreni-balkan-srbija-korist/31914852.html?fbclid=IwAR1yVw-wW6llj8TID5hypdpT0DDo0XQMLVXyrw2s8aVTulactJdebsqvPCo>>.

<sup>38</sup> Albanian political parties in North Macedonia as well as the President expressed their reservation when the Open Balkan Initiative was announced in 2021. The Opposition in Albania held anti Open Balkan protests during the Tirana Summit the same year.

<sup>39</sup> Daliborka Uljarević and others, 'Open Balkan - a Tool for Avoiding Principles of Rule of Law as a Roadmap to the EU?' (17 June 2022) <<https://ba.boell.org/en/2022/06/17/statement-open-balkan-tool-avoiding-principles-rule-law-roadmap-eu>>.

## Role of the EU and International Partners

The study on ownership of regional cooperation argues that WB partners' support in terms of policy formulation and implementation can be effective if regional cooperation brings benefits to the WB region beyond fulfilling conditionalities such as human and physical capital endowment and economic growth. In this section, we turn to the role of international partners, while on the tangible benefits of international support in the section below.

The success of the Berlin Process in bringing all WB6 to the same table is associated with the fact that the EU and its member states play an active role in keeping the regional integration agenda alive and in line with the accession framework.<sup>40</sup> OBI, on the other hand, had the EU and its member states confused for a while. The initiative's open-door policy invites EU member states to join the initiative, but their role is not clearly defined.

When it comes to outside support, the US has firmly supported the initiative from its very beginning, both politically and technically.<sup>41</sup> On the other hand, the EU, Brussels, and Brussels-backed regional institutions like the RCC and CEFTA have sent unclear messages over the past three years. If one is to judge based on public appearances alone, all had their officials appear at the Ohrid Summit, signalling their (unconditional) support. More substantially however, besides the reservations concerning the non-participation of all of the WB6, the (in)ability to have a direct say in the OBI agenda setting troubles the EU and its key member states. The new German chancellor has called for the revival of the Berlin Process,<sup>42</sup> as European partners have already been invested for years now, and the CRM remains the main priority for the EC.<sup>43</sup> The Open Balkan Initiative is acceptable for the EC as long as it is inclusive and contributes to the EU accession process of the countries.<sup>44</sup>

To date, the initiative has not been formally endorsed by any EU member state, with the exception of Hungary whose minister of foreign affairs, along with the Turkish chief diplomat, attended the last meeting in Belgrade. Such public appearances may not cause harm in the long run, but do send negative signals. Moreover, having EU member states that were intentionally left out from the Berlin Process<sup>45</sup> suggests that the OBI may indeed establish itself as a competing political platform to the Berlin Process.

## Governance Structure and Ownership

The study on ownership of regional cooperation shows that the involvement of external actors in governance (in management and applied conditionality) is correlated with benefits for the region, but results in a lack of regional ownership. In this context, the novelty of OBI is that it is the first political platform governed solely by the countries of the region. It has great support among the

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<sup>40</sup> 'The Achievements and the Future of the Berlin Process' <<https://www.berlinprocess.de/en/the-achievements-and-the-future-of-the-berlin-process-40>>.

<sup>41</sup> Government of the Republic of North Macedonia, 'Coordinators of "Open Balkan" at a Meeting with Escobar in Washington: Support for "Open Balkan" and Its Expansion, the Initiative Brings Results for Citizens and Companies [Координаторите На „Отворен Балкан“ На Средба Со Ескобар Во Вашингтон: Поддршка За „Отворен Балкан“ и Неговото Проширување, Иницијативата Носи Резултати За Граѓаните и Компаниите]' (4 March 2022) <<https://vlada.mk/node/27984>>.

<sup>42</sup> Press and Information Office of the Federal Government of Germany, 'Federal Chancellor Visits Western Balkans Strategically Vital to Germany' (11 June 2022) <<https://www.bundesregierung.de/breg-en/news/federal-chancellor-scholz-western-balkans-trip-2051514>>.

<sup>43</sup> EWB, 'Pisonero: Common Regional Market Established in 2020 Remains a Priority' (9 June 2022) <<https://europeanwesternbalkans.com/2022/06/09/pisonero-common-regional-market-established-in-2020-remains-a-priority/>>.

<sup>44</sup> *ibid.*

<sup>45</sup> Marciacq, The EU and the Western Balkans after the Berlin Process.

private sector<sup>4647</sup> and citizens from the participating countries,<sup>48</sup> and it is thus a prime example of regional ownership. However, OBI is yet to meet the high expectations when it comes to delivery. Some of the signed agreements have not been ratified by all contracting parties, with North Macedonia lagging significantly (Annex 3). Moreover, the agreements only entered into force quite recently (Annex 3).

With regard to governance, the initiative is yet to provide satisfactory results. The OBI, unlike the CRM, lacks a comprehensive plan that outlines the scope of the initiative and the expected deliverables. The initiatives' mandate has been a moving target as new areas of action are announced ahead of each summit. As such, it remains fragile to the changing priorities of participating countries' leadership. It also does not provide a clear value proposition and predictability for non-participants, which makes it less attractive. Moreover, OBI has announced that it shall establish its own structure; however, the roles and responsibilities of the Implementation Council and the bodies that each agreement and memorandum produced, if all are established, are still unclear, as well as their working procedures and the overall monitoring of the process.<sup>49</sup>

The Berlin Process faces similar issues though. With no specific institution tasked with oversight, strategic development, or monitoring its achievements, it has become a sizeable initiative with too many things on its plate that rely on voluntarily engagement of WB6 leaders.<sup>50</sup> MAP REA may be an exception as it has a clear structure, with the RCC and CEFTA Secretariat being directly involved in the process. This setup enables permanent regional coordination, while progress is monitored and reported, and adjustment measures proposed when needed.<sup>51</sup> While this governance structure provides for management and monitoring support, there are no built in mechanisms to stimulate national institutions to implement the foreseen actions.

## Problems and Matters at Stake

The study on ownership of regional cooperation concludes that the success of regional structures in exploiting potential benefits would depend on the ability to identify national and regional interests that reinforce each other, formulate regional interests, and gain support for implementation. Obviously enough, market liberalisation and economic integration are the areas of overlap between the initiatives. These goals are a way to boost economic growth as well as to prepare the countries for their future participation in the EU single market and EU policies.

When examining the bigger picture, we see that the OBI vision of market liberalisation goes a step further than the Berlin Process CRM. OBI promises open borders and full free movement within the region. Yet, as discussed before, this goal has not resulted in concrete actions on the ground.

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<sup>46</sup> WB CIF, “‘Open Balkan’ for Easier Business in the Region’ (2 August 2021)

<<https://www.wb6cif.eu/2021/08/02/open-balkan-for-easier-business-in-the-region/>>.

<sup>47</sup> Analytica, ‘The perception of export oriented companies in North Macedonia on the “Open Balkan” initiative [Перцепцијата на извозно ориентираните компании во Северна Македонија за Иницијативата „Отворен Балкан“]’ (2022) <[https://www.analyticamk.org/images/Media/2022/\\_Finalen\\_zaklucok\\_WEB.pdf](https://www.analyticamk.org/images/Media/2022/_Finalen_zaklucok_WEB.pdf)>.

<sup>48</sup> IRI, ‘2022 Western Balkans Regional Survey January-February 2022’ (2022)

<<https://www.iri.org/resources/2022-western-balkans-regional-survey-january-february-2022/>>.

<sup>49</sup> Stefan Ristovski, ‘Comparison of the Open Balkan and Common Regional Market: What’s New for the Regional Economic Integration in the Western Balkans?’ (European Policy Institute - Skopje 2022) <[https://epi.org.mk/wp-content/uploads/Comparison-of-the-Open-Balkans-and-Common-Regional-Market\\_What-benefits-are-there-in-two-parallel-initiatives.pdf](https://epi.org.mk/wp-content/uploads/Comparison-of-the-Open-Balkans-and-Common-Regional-Market_What-benefits-are-there-in-two-parallel-initiatives.pdf)>.

<sup>50</sup> Marciacq (n 24).

<sup>51</sup> RCC and CEFTA, ‘Annual Report on Implementation of the Multi-Annual Action Plan for a Regional Economic Area (MAP REA) in Western Balkans (WB)’ (2019)

<[https://www.rcc.int/download/docs/MAP%20REA%20report%202019\\_FINAL.pdf/713506a99e3916b3a1b7ff8cc471eb22.pdf](https://www.rcc.int/download/docs/MAP%20REA%20report%202019_FINAL.pdf/713506a99e3916b3a1b7ff8cc471eb22.pdf)>.

The joint declarations, summit conclusions, memorandums, and agreements do not outline the steps of how this vision should be operationalised in the near future. Furthermore, removing border controls to deliver on a political promise without strong law enforcement and security systems in place could spur illicit trade, adding on to existing problems of organised crime and damaging the images of the countries.<sup>52</sup> The CRM, on the other hand, is labelled as a catalyst for regional economic integration and a stepping-stone towards the EU Single Market, thus avoiding superfluous and unrealistic promises.

A more in-depth examination of the initiatives reveals a clear overlap in the area of the four freedoms. One could rightfully assert that the OBI has cherry picked parts of the CRM actions and set them high on the Initiative's agenda, while omitting others.<sup>53</sup> Such an approach may be explained from three different points of view. Firstly, all WB6 have different levels of preparedness and a different pace of progress in adopting and implementing the relevant EU acquis. This allows the frontrunners in a given area to liberalise markets under EU rules faster than others. For example, only Serbia and North Macedonia,<sup>54</sup> and most recently Albania,<sup>55</sup> have gone through the validation procedure for their AEOs programmes, which to some extent justifies the bilateral agreements (positive validation reports and decisions are yet to be adopted with CEFTA structures). Secondly, progress in some areas has been held back by political obstructions in a multilateral setting due to politically sensitive issues. Such examples are the Agreement on the Freedom of Movement with Identity Cards and the Decision on the recognition of professional qualifications.<sup>56</sup> In these cases, OBI participating countries signed such agreements between themselves, avoiding the politically sensitive issues in question. The third point is related to areas that the OBI avoids addressing. While it predominantly deals with the free movement of goods, services, and workers, it avoids addressing horizontal issues where there has not been significant advancement to reach an agreement within CEFTA, like state aid, dispute settlement, and largely the free movement of capital.<sup>57</sup> It may be the case that political motives, lack of capacities, or economic rationale not observed in this paper are the drivers for such a course of action.

Furthermore, OBI does not have a strong commitment to the connectivity and digital agenda.<sup>58</sup> Here the role of international institutions in providing tangible benefits comes into play. Even though it is in their interest, OBI countries do not have the economic and developmental capacities and knowledge to deliver on such complex and financially demanding projects. The Berlin Process does not offer much support in this regard either. It serves as a venue for cooperation and the streamlining of the connectivity agenda (transport), green agenda (environment), and digital agenda (infrastructure), but does not offer significant financial recourses for projects that arise from these agendas. It is rather the EU's IPA, and to some extent member states donor support, that sustains the implementation of these agendas. This financial support did not significantly increase with the new MFF.

The tangible benefits of greater economic cooperation, with a view to fostering economic growth and development for the region, have been questioned in recent years. Even though the benefits

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<sup>52</sup> Global Initiative Against Transnational Organized Crime, 'Risk Bulletin #11' (2021) <<https://riskbulletins.globalinitiative.net/download/see-obs-011-screen-pdf.pdf>>.

<sup>53</sup> Ristovski (n 42).

<sup>54</sup> CEFTA, 'The CEFTA Joint Committee Reviewed Its Key Achievements in Expectation of the EU-Western Balkans Zagreb Summit' (30 April 2020) <<https://cefta.int/news/cefta-took-stock-of-the-regional-trade-achievements/>> accessed 15 April 2021.

<sup>55</sup> CEFTA, '#AEO Validation Mission in #Albania Has Been Successfully Completed [...] (Facebook, 96 2022) <<https://www.facebook.com/ceftatreaty/posts/571448827835071>>.

<sup>56</sup> RCC, 'Common Regional Market Report on Implementation for 2021' (2022)

<<https://www.rcc.int/pubs/145/common-regional-market-report-on-implementation-for-2021>>.

<sup>57</sup> Ristovski (n 42).

<sup>58</sup> *ibid.*



have been well acknowledged in terms of increased volume of trade, critics challenge these efforts on two fronts – the rationale of the regional economic cooperation project and the low amount of financial support it gets. With regard to the former, it is argued that the neighbouring countries with troubling pasts and still small fragmented markets, with a combined GDP less than that of Slovakia, cannot bring about a significant increase in trade.<sup>59</sup> With the two initiatives running in parallel, both the participating and non-participating countries would be worse off if market liberalisation remains fragmented. It makes more sense to further liberalise the market with the countries’ major trade partner, which in all cases but that of Kosovo is the EU.<sup>60</sup> Taking into account the low amount of financial support mentioned above, the argument goes that market liberalisation between the countries would inevitably result in winners and losers in the region.<sup>61</sup> Neither of the initiatives have mechanisms to compensate the countries on the losing side. The region cannot financially support a built in mechanism that would transfer wealth to less developed countries and lagging regions in the “developed” countries, like is the case of the structural funds in the EU. On the other hand, the funds offered by the EU, streamlined directly to the countries or through the Berlin Process born mechanisms, are not sufficient to address the gaps and challenges in infrastructure development and connectivity.<sup>62</sup>

Regardless, regional economic integration was not initiated as just an economic project. It serves as an instrument to overcome bilateral issues and address legacies from the past. To some extent, both initiatives’ scopes overlap on this matter. Even though the primary objective of the memorandums on films and arts and tourism is to strengthen and stimulate growth in these sectors, the planned actions have a social dimension as well. These activities would be complementary to the Berlin Process initiatives like RYCO, WBF, and Berlin Summits and forums. Cooperation in these sectors would (in)directly stimulate intraregional dialogue and cultural exchanges that would promote reconciliation and mutual understanding. Without all countries in the region being on board, the effects of these efforts would be limited though. The bilateral relations both on a political and people-to-people level that most urgently need to be improved are the ones between OBI participating and non-participating countries.<sup>63</sup> In its current formation, the initiative simply cannot address these issues. If anything, it buries them in the ground, allowing for nationalistic rhetoric and further divisions. The Berlin Process cannot be celebrated in this regard either. It indeed facilitated interpersonal contacts between citizens,<sup>64</sup> but the political dialogue and signed memorandums did not make much of a difference, be that on bilateral issues between countries in the region (Kosovo-Serbia dialogue) or disputes between EU member states and candidates (Bulgarian veto on North Macedonia).<sup>65</sup>

## **Through the Lens of the Berlin Process Summit 2022 - A Wrap Up<sup>66</sup>**

As already mentioned, Germany under Chancellor Scholz seeks to revive the Berlin Process. The 2022 November Summit resulted in two major outputs – one for the regional economic integration process and one in relation to the energy crisis. With regard to the former, the CRM agreements on the freedom of movement with identity cards, on the recognition of higher education

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<sup>59</sup> Weiss (n 52).

<sup>60</sup> *ibid.*

<sup>61</sup> G. Djurovic and others, ‘Regional Economic Cooperation in V4 and WB6: Sharing Experience and Knowledge in the Context of the Common Regional Market and Post-Covid Recovery’ (Montenegrin Pan-European Union 2000).

<sup>62</sup> Weiss (n 52).

<sup>63</sup> Beáta = Huszka, ‘The Power of Perspective: Why EU Membership Still Matters in the Western Balkans’ (7 January 2020)

[<https://ecfr.eu/publication/the\\_power\\_of\\_perspective\\_why\\_eu\\_membership\\_still\\_matters\\_in\\_western\\_balkans/>](https://ecfr.eu/publication/the_power_of_perspective_why_eu_membership_still_matters_in_western_balkans/).

<sup>64</sup> Christina Griessler, ‘The Berlin Process. Bringing the Western Balkan Region Closer to the European Union’ (Südosteuropa 2020).

<sup>65</sup> Marciacq (n 24).

<sup>66</sup> This section was added after the research cut-off date (14.10.2022).

qualifications, and on the recognition of professional qualifications were signed.<sup>67</sup> Furthermore, when it comes to the energy crisis, the EU announced its 1 billion euro package for the WB, while the WB countries committed to enhancing their green transition and regional cooperation on energy security.<sup>68</sup> The summit allows us to draw several conclusions on the interplay between the OBI and BP, but also on the deficiency of both processes.

One could rightfully claim that both initiatives have (re)energised each other. OBI could even be credited for reviving the CRM. The EU and regional institutions were pressured to invest themselves to overcome the politically sensitive aspects of mobility agreements.<sup>69</sup> On the other hand, the BP summit showed that political involvement from EU member states, the RCC, and CEFTA could improve issues that OBI failed to address or knowledgeably circumvent.

The mobility agreements signed in Berlin stress the advantage of a region wide approach over bilateral or trilateral approaches. The agreement on the freedom of movement with identity cards should do away with the last visa regimes in the region, while the signature of all three agreements suggests that the issue of Kosovo's designation blocking the process has been overcome.<sup>70</sup> Moreover, opportunities for citizens and professionals, as well as the benefit for national labour markets, would be much greater if freer mobility of individuals is ensured for five rather than two countries. In any case, with or without the support from third parties, the implementation of these agreements is the sole responsibility of the signatories. As argued previously, neither OBI nor BP has the mechanisms in place to compel the WB6 to swiftly ratify and implement the obligations under the signed agreements. There is no guarantee that the three agreements signed in Berlin will not face the same unfortunate scenario as the ones signed at the Tirana and Ohrid OBI summits in 2021 and 2022, respectively.

The EU energy package for the WB emphasises the role of external actors' involvement in regional projects, particularly with regard to securing finances. However, new labels of already reallocated IPA funds would not be sufficient to address energy security risks in the short or long term, just as a focus on gas infrastructure projects would not support the region's green transition.<sup>71</sup> Only more EU funds coupled with strong conditions attached to the adoption and implementation of national energy and decarbonisation strategies could make the WB leaders stay true to their declarative promises.

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<sup>67</sup> RCC, 'Bregu: It's Done - the Three RCC-Coordinated Centrepiece Mobility Agreements Finally See the Light of Day to Reach Those Intended for - Our Citizens' (3 November 2022) <<https://www.rcc.int/news/786/bregu-its-done-the-three-rcc-coordinated-centrepiece-mobility-agreements-finally-see-the-light-of-day-to-reach-those-intended-for-our-citizens>>.

<sup>68</sup> European Commission, 'Statement by President von Der Leyen at the Berlin Process Summit for the Western Balkans' (3 November 2022) <[https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_22\\_6527](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_22_6527)>.

<sup>69</sup> RCC (n 64).

<sup>70</sup> The authors do not have access to the full text of the agreements at the moment of writing this analysis.

<sup>71</sup> Pippa Gallop, 'Western Balkans: EUR 1 Billion in EU Funds to Tackle the Energy Crisis – with Gas?!' (7 November 2022) <<https://bankwatch.org/blog/western-balkans-eur-1-billion-in-eu-funds-to-tackle-the-energy-crisis-with-gas>>.

# Open Balkan Initiative and the EU's Acquis Process

## The Process(es) of Adopting the EU Acquis

The framework of relations between the EU and the WB6 is governed by the SAAs signed with each of the countries on a bilateral level. This framework set the constellation for political dialogue and economic relations between the countries, in particular the establishment of a free trade area (with preferential treatment for the WB6) and alignment with EU acquis in relation to the four freedoms and cooperation in other policy areas like justice and home affairs, competition policy, intellectual, industrial, and commercial property, and public procurement. As a result, countries kept in the waiting room for long enough, like North Macedonia, are aligned with the EU acquis more than some of the negotiating countries.<sup>72</sup> As regional cooperation is an integral part of this process, CEFTA and CRM streamline regional market integration under EU rules in even more areas.

Unlike previous enlargements, this accession process is moving at a discouragingly slow pace. It came to the point that EU reinvented its approach, adopting a new enlargement methodology. Some things are expected to change. The focus on the “Fundamentals” is reiterated – a cluster that in most cases does not have strong acquis – and respect for EU values is expected to dictate the pace of membership negotiations. In order to reinforce the conditionality mechanism, the EU would give and revoke granted benefits. The obligation to align with the EU acquis organised in 33 negotiating chapters stays the same. Candidates still need to fulfil the Copenhagen criteria (political, economic, administrative, and institutional capacities to implement the EU acquis). Arguably, regional cooperation and neighbourly relations are unique criteria against which the WB6 are being evaluated and conditioned.<sup>73</sup>

## OBI Interaction with the EU

OBI relations with the EU accession are not well defined. Beyond the Summit to Summit interaction with the EU officials, the Union and the member states do not have a direct say in the initiative agenda or implementation. Consequently, the countries have the freedom to set the priorities by themselves. The OBI general commitment is to be complementary to the EU accession process. It is directed at accelerating European integration of the WB countries and aims to reinforce each of the participating countries' efforts of becoming an EU member state.<sup>74</sup>

## Analysis of the OBI and the EU Acquis

OBI does not have a roadmap. Summit by summit, the initiative introduces new areas for joint cooperation and activities that were not even considered before. Many of the areas are not yet clearly defined (memorandums are quite broad) or are yet to be implemented (the agreements are not ratified, announced actions are to be implemented). Hence, answering if and in which areas the OBI complies with the EU acquis is a challenging task. The signed agreements, memorandums, and plans are clear enough though to assess where the OBI fits in the EU accession process, and if it contributes to the EU accession process of the countries of the region. This assessment is based on a qualitative analysis of the scope of the OBI documents, including implemented and announced

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<sup>72</sup> EPI, ‘Knocking on EU’s Door – 10 Years of Recommendations and “no” decisions for North Macedonia’ (December 2019) <<https://epi.org.mk/post/14552?lang=en>>.

<sup>73</sup> The enlargement strategy explicitly says that “The EU will not import bilateral issues”, so resolving them remains a priority. The negotiation frameworks, particularly those of North Macedonia and Serbia, condition progress in accession talks on the countries resolving bilateral disputes.

<sup>74</sup> Government of the Republic of North Macedonia (n 22).

actions, in comparison to the EC Country reports for Albania, North Macedonia, and Albania 2021 (Annex 4).

## General Overview

The OBI directly touches upon 15 of the 33 negotiating chapters of the EU acquis and one of the “new” criteria in the Fundamentals. Its actions are of relevance in five of the six clusters as per the revised enlargement methodology. The most, five out of nine chapters, are in the cluster Internal Market (Free movement of goods, Freedom of movement for workers, Right of establishment and freedom to provide services, Free movement of capital, Consumer and health protection). Four out of eight chapters in the cluster Competitiveness and Inclusive Growth are addressed through OBI activities (Information society and media, Taxation, Enterprise and industrial policy, Education and culture, and Customs union), while OBI actions are somewhat relevant for two out of four chapters in the Green Agenda and Sustainable Connectivity (Energy and Environment and climate change). In the cluster Resources, Agriculture, and Cohesion and Fundamentals, OBI actions are relevant for the chapter on Food safety, veterinary, and phytosanitary policy only. In the cluster Fundamentals, Public Administration Reform, and the chapter on Justice, freedom and security are touched upon. This finding shows that OBI has a broader scope and can be of relevance for the countries’ accession process beyond just the four freedoms. The chapters Intellectual property law, Competition policy, and Financial services in the cluster Internal Market, and the chapter Science and Research in the cluster Competitiveness and Inclusive Growth may be relevant for the initiative, but OBI has not introduced actions covering these areas. Furthermore, the initiative does not have any actions in the cluster External Relations, even though it is relevant for the accession process.

## Internal Market

As explained above, the OBI is “committed to securing conditions for *practicing the four European freedoms* for as many citizens and companies in the Balkans as possible”.<sup>75</sup> In this cluster, the initiative has actions that correspond to the free movement of goods, workers, and capital, the right to the establishment and provision of services, and health protection.

In Chapter 1 - Free movement of goods, the EU acquis sets common rules and procedures for some products, while it prevents other products from being the subject of unjustified barriers to trade. OBI has indeed produced the most results in facilitating trade in goods and eased market access, particularly through the mutual recognition of certificates for food and non-food products and commitments to address non-tariff barriers to trade. OBI participating countries, particularly Albania and Serbia, still need to improve quality infrastructure<sup>76</sup> capacities and, in some areas, align national legislation with the acquis. The agreement on food security, which forbids a ban on export, is also a relevant achievement in the area of the free movement of goods. EU rules, however, forbid any export and import bans and quantitative restrictions within the internal market, not just on some food products as in the case of the OBI agreement. In this regard, OBI participating countries have to adopt (Albania) and implement (North Macedonia and Serbia) national plans to comply with non-tariff barriers provisions of the TFEU. Furthermore, each country needs to align with EU technical legislation for a variety of products that are not planned as an OBI joint action. This would be essential for further liberalisation of OBI/WB markets and improving the level of preparedness, as progress across the region changes pace each year.

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<sup>75</sup> *ibid.*

<sup>76</sup> Quality infrastructure refers to the public and private institutional framework needed to implement standardisation, accreditation, and conformity assessment services including inspection, testing, laboratory, and product certification.

The Free movement of workers is the chapter where OBI has the most in common with the EU acquis. The signed memorandum and agreement regulate the right to free access to the labour market, and the countries are also committed to signing social security agreements. As it stands at the moment, however, third country nationals need work permits to access the labour market in Serbia, as well as in North Macedonia, where they are also subject to quotas. Albania is a notable exception where work permits are not required for EU nationals. Removal of these barriers is an essential step to fully operationalising the commitments within OBI, but also to opening labour markets to EU nationals. With regard to social security, all OBI participating countries have to sign bilateral agreements with the majority of member states. Social security agreements other than the intra-regional ones are not relevant for the Initiative itself, as they do not necessarily require joint action.

In the third chapter on the Right of establishment and freedom to provide services, the Agreement on the mutual recognition of diplomas and scientific grades is a notable example that follows the EU framework in this area. The agreement on labour market access is also relevant for this chapter. Beyond the rights of natural persons, this chapter also regulates the rights of legal persons to establish and provide services. A step further would be the mutual recognition of professional qualifications, but the countries are at different points of adopting the EU framework. Albania needs to align its framework, while North Macedonia and Serbia need to adopt and review sectoral laws, respectively, in order to be compliant in this area. Both within OBI and CRM, the three countries committed to implementing protocol 6, which provides the framework for the removal of restrictions on trade in services between CEFTA parties, but Albania and North Macedonia in particular still lag behind on their promises. Moreover, all three countries need to further align with the EU Service directive.

In Chapter 4 - Free movement of capital, the planned activities are related to increasing investment across the region, including a common agency for attracting investments in the Open Balkan, and eventual revisions of bilateral investment treaties following EU standards. These activities do not necessarily mean aligning national legislation with the EU acquis in this area. In the EU accession process, but also as an obligation under the SAA, the countries should adopt or amend existing national laws on investments to remove restrictions on the acquisition of land (Albania), and agricultural land specifically (North Macedonia and Serbia), which continues to discourage FDI. All OBI countries should increase their efforts in improving payment systems and fight against money laundering, thus joint actions, where relevant, would be beneficial for the Initiative itself and the countries' EU accession aspirations.

Even though the EU acquis in Chapter 28 - Consumer and health protection is relevant for the Initiative, it has been barely touched by the OBI. The abolition of PCR tests and support in the vaccination campaign against Covid-19 are the only examples of tangible benefits the OBI has produced in this negotiating chapter. Issues related to the (non)alignment with EU legislation on patients' rights in cross-border healthcare, consumer protection, and tobacco control, as well as weak public healthcare and a lack of medical staff, are common for all countries in this area. Yet, these issues are not being addressed with joint actions, and there is no joint commitment to address them on a country level. A common market for goods and services, particularly healthcare services, would offer direct benefit if progress is made in line with the relevant acquis.

Lastly, the analysis finds that Chapter 7 - Intellectual property law, Chapter 8 - Competition policy, and Chapter 9 - Financial services are not addressed by the OBI, but are nonetheless relevant for the Initiative. Protection of copyrights and related rights, industry property rights, protection against unfair competitive practices, and state aid control are important in order to promote trade and ensure a level playing field for all companies active in the countries' markets. Some of these aspects are addressed in the CRM and need to be implemented. The chapter on Company Law is

not addressed, but is also not pertinent for the OBI participating countries as alignment with accounting and auditing *acquis* would be beneficial for multinationals in particular, and relevant for later phases of the accession process.

## **Competitiveness and Inclusive Growth**

In this area, five out of eight chapters are somewhat addressed within OBI, particularly Chapter 10 - Information society and media, Chapter 16 - Taxation, Chapter 20 - Enterprise and industrial policy, Chapter 26 - Education and culture, and with the most focus on Chapter 29 - Customs union.

OBI countries have the highest level of preparation and are broadly aligned with the EU *acquis* in Chapter 28 - Customs union, mainly as a result of cooperation under the SAAs and due to extensive trade with the EU. The Agreement on the mutual recognition of AEOs and the launch of the Green lanes and the OB lanes at the borders are examples of how EU customs rules and procedures are being implemented in local (regional) context. These achievements, as well as other commitments to trade facilitation, can be found within both the OBI RoadMap and the CRM. As a result, there is competition among narratives as both platforms celebrate these achievements as their own.

In the area of taxation, the memorandum of cooperation between tax authorities foresees the exchange of experience and transfer of knowledge, the stimulation of voluntary tax compliance, and combating of tax evasion. These activities are in line with the EU competences in this area. Streamlining cooperation in a way that supports the countries in addressing their country-specific EU recommendations in this area would maximise the potential of this memorandum.

The role of the EU in the area of education and culture is to support coordination and provide funding for (improving) educational programmes. In this area, the OBI does not have a strong commitment to taking advantage of the opportunities the EU provides. The memorandums on cultural cooperation and on filmography and audio-visuals outline, among other things, educational and training activities for professionals in these sectors, with a view to creating a common fund and applying for EU funds. Nonetheless, EU funds and programmes like Erasmus+ and Creative Europe offer many more venues for collaboration than these narrowly defined sectors do. Cooperation between schools and HEI are such examples.

The same logic may be applied to the chapter on Science and research, which is not included in the OBI. Unlike in the OBI, innovation is one of the building pillars of the CRM. Smart Specialisation Strategies and Horizon 2020 offer strategic guidance and finance to spur the commercialisation of research and innovation across borders.

The chapter on Enterprise and industrial policy does not contain strong EU *acquis*, but rather guides the countries' strategic efforts in building competitiveness and implementing structural changes to their economies and business-friendly environments. Cooperation in specific sectors (tourism, culture, arts) and joint activities to attract FDI are relevant for this chapter. Opening markets to competition (and cooperation) is instrumental to building competitiveness and stimulating growth. However, accession countries are expected to deliver much more in this area. A strategic approach needs to be implemented to support the restructuring of the economies, including more financial resources and better targeted support for SMEs (Albania and North Macedonia), as well as change in SOEs governance structures (Serbia). Moreover, tolerance of informal economy, corruption, and (non)functional judiciaries are common problems of all three countries that hinder a positive business environment.

The remaining two chapters in this area, on Social policy and employment and Economic and monetary policy, are not addressed or of significant relevance for OBI. However, the improvement

of employment and social policies and of capacities for their implementation should benefit the countries' nationals and foreigners equally.

## **Green Agenda and Sustainable Connectivity**

The OBI has activities in the cluster on the Green agenda and sustainable connectivity, particularly in Chapter 15 - Energy and Chapter 27 - Environment and climate change. Yet, the overlap is marginal and does not necessarily bring the countries closer to EU standards in these areas.

The OBI plans of action in the area of the Environment and climate change are not well targeted to address the underpinning causes of the respective issues. The OBI builds reactive mechanisms for cooperation like cooperation in the case of natural disasters, rather than proactive mechanisms like climate proofing, resilience building, prevention, and preparedness, as foreseen in the Green agenda for the WB. Furthermore, even in the areas of cooperation, support in cases of natural disasters, and civil protection, the EC reports suggest that all the countries need to improve their capacities and coordination internally. In this chapter, the EU has one of the most complex regulatory frameworks in the world. As the Union tries to establish itself as a global Green Champion, the environmental acquis is evolving and becoming more complex. The OBI does not have any activities when it comes to addressing climate change, water and air quality, waste management, the protection of nature, industrial pollution, chemicals, noise, and civil protection. It should be noted that aligning with EU acquis in some of these areas could be a costly and lengthy endeavour.

Activities in the area of energy are quite similar. In the wake of energy shortages, OBI participating countries announced they would support each other during the winter of 2022. Given that the EU aims to extend its internal energy policy to the WB6 and Eastern partnership countries through the Energy Community, it may not even make sense for OBI to expand in this area.<sup>77</sup> Thus, OBI activities in this sector would be beneficial as long as they contribute to the Energy Community commitments. New infrastructure projects agreed to in the framework of the OBI should be complementary to those of the EU Economic and Investment Plan for the Western Balkans. Moreover, participating countries should not attribute this success to OBI only.

There are no joint activities in relation to the chapters on Transport policy and on TENs. Given that these areas are addressed within the Transport community, they may not be decisive for OBI. However, the liberalisation of transport markets and the adoption of EU standards in these areas would benefit the OBI countries, as opening transport markets to competition would deliver better services for the transport of goods and people and attract investment in these sector(s).

## **Resources, Agriculture, and Cohesion**

Chapter 12 - Food safety, veterinary, and phytosanitary policy is one of two chapters in this cluster where there is some overlap with the OBI. The agreement on veterinary, food and feed safety, and phytosanitary policy is the notable example of cooperation in this area. It is important to note that the agreement regulates the oversight of trade in food and non-food products and the documents accompanying their export and import under national legislation. The EU acquis in this area is technical and aims to ensure food safety quality, protection against health hazards, and nature preservation. As such, a rush to liberalise the market through mutual recognition if a country does not meet international standards may be counterproductive and dangerous.

The second chapter is on Agriculture and rural development. As the Agreement on food security foresees some coordination with regard to production, production and farming should follow the

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<sup>77</sup> The following sentences in this paragraph were added after the research cut-off date (14.10.2022).

EU acquis, particularly on quality schemes and organic farming, in order to increase export potential.

The chapters on Regional policy and coordination of structural instruments and on Financial and budgetary provisions are not pertinent for the OBI. However, progress in these areas on a national level should in no way be undermined. This cluster comprises policies relevant for building up capacities to implement European structural funds, ensure sustainable food systems, and help rural communities develop and diversify economically.

### **The “Invisible Clusters”: Fundamentals and External Relations**

The Open Balkan Initiative does not help participating countries advance in the cluster Fundamentals. The exception may be Chapter 24 - Justice, freedom, and security, where the OBI participating countries have agreed to strengthen cross-border cooperation, but this is marginal to what is expected from the countries in view of their accession process and fulfilling the obligations under this chapter. Improvements in the government services e-portals are a by-product of the agreements on access to labour markets and identification. The exchange of statistical data among the contracting parties as per the agreement does not improve the preparedness of these countries according to the chapter on Statistics. If anything, their preparedness is dependent of the capacity of each country’s statistical office to gather, analyse, and distribute data. Nonetheless, the cluster Fundamentals is the most important cluster in the EU accession process as it dictates the overall progress of the accession talks. The revised methodology only stresses that. Improvement in this cluster would only be beneficial for the countries in the Initiative. Democratic institutions and service-oriented public administration, rule of law and functional judiciary, and transparent and non-discriminatory public procurement would support any regional initiative that seeks to attract foreign investments.

The Initiative does not contribute to meeting the EU requirements in the cluster External relations either. In response to the war in Ukraine, the EU has imposed a series of sanctions against Russia. The obligations that arise from the chapter on Foreign policy and security require candidate countries to apply agreed sanctions and restrictive measures. To date, Albania and North Macedonia have been compliant and have aligned their foreign policy with that of the EU. On the other hand, Serbia has decided not to align. This decision may reflect on the stability of the Initiative. The President of the Parliament and the Foreign Minister of North Macedonia have already expressed their concerns and called for the government to reconsider its decision to participate in this Initiative. However, the OBI has survived its first test of internal stability, and for that one could credit the EU’s non-responsiveness regarding the Serbian decision to not side with the EU.

## **Conclusion and Main Messages**

The OBI originates from the countries in the region, which makes it an innovative initiative. It has put forward solutions that are of interest for the stakeholders in the participating countries. The realisation of proposed actions with regard to market liberalisation for goods, services, and workers should lower costs and waiting times for businesses and people that are crossing borders and trading in partnering countries. Moreover, it has laid the foundation to extend regional cooperation through joint actions that encourage the mobility of citizens and professionals in sectoral areas like tourism and audio-visuals. Beyond providing economic benefits to the participating countries, these activities may support building trust and understanding between the citizens of the contracting parties.



The OBI scope, seen in the documents and activities produced to date, did not reveal original ideas for the regional economic integration project. It draws on the activities set within the framework of the CRM and the achievements within CEFTA, at least on a technical level. As such, whether there is a need for a new platform to streamline the same scope of work is a valid question. The Open Balkan Initiative has produced its own structures, which may increase coordination costs, and it has opened a venue for political opportunism that would otherwise be avoided. In a wider framework, this regional economic cooperation project has been facing political obstruction, giving reason to (non)concerned parties to seek other methods of cooperation.

The current setup of the OBI with only three countries decreases the (already limited) economic potential of this regional economic integration project. When it comes to regional cooperation and good neighbourly relations, the OBI, in its current constellation, does not address these issues. Not having all WB6 countries as active members does not serve reconciliation and the resolution of bilateral issues. Hence, full potential would only be reaped by an initiative that incorporates all WB6 in an inclusive manner, with feasible objectives and a well-defined roadmap, owned and controlled by regional actors and supported by international partners, particularly the EU.<sup>78</sup> The regional cooperation platform should recognise and incorporate mechanisms to address the different levels of preparedness and progress among the countries in a given area, as well as the sensitive issues holding back overall progress. Political involvement of third parties could be the wind in the OBI sails, but it would have to be the WB6 that would navigate the implementation of the regional integration project.<sup>79</sup>

Nonetheless, the OBI enjoys strong support in the participating countries. With the support from the US and the prudent support from the EU, it seems the Initiative is here to stay. However, one should not undermine the stability of a partnership of three presidents. It is hard to assess if the OBI can sustainably navigate internally (changes of leadership in the participating countries and OBI “enlargements”) and externally (change of positions of international partners due to a worsening geo-political environment). The ever-changing agenda and the lack of overall transparency do not provide for stability of the Initiative. As OBI and the Berlin Process continue to exist in tandem, the OBI needs to clearly define its vision and mandate, develop at least a medium-term roadmap, and explain where it fits and how it interacts with other already established processes, the CRM in particular. In this way, it would outline its boundaries and clarify the value proposition for the parties directly and indirectly involved. Moreover, avoiding unrealistic promises would allow the OBI to handle stakeholder expectations and any disappointment due to a lack of overall progress.<sup>80</sup>

When examining the interaction between the OBI and the EU accession process, two main conclusions may be drawn. OBI activities are directly or indirectly related to 15 of the 33 negotiating chapters and relevant in five of the six clusters. These findings show that the OBI has a broader scope beyond just the four freedoms. Most of the scope falls in the clusters Internal Market and Competitiveness and Inclusive Growth. Some of the OBI agreements correspond to the Resources, Agriculture, and Cohesion cluster, while other OBI activities touch upon, but do not necessarily address, the acquis in the cluster Green Agenda and Sustainable Connectivity. The countries’ issues concerning the cluster Fundamentals are addressed quite narrowly, while the cluster External Relations has no relevance for the Initiative, even though these clusters are very relevant for the EU accession process. Moreover, there are many areas of the EU acquis, i.e., negotiating chapters, that are not addressed, but they could (in)directly benefit the Initiative in

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<sup>78</sup> Ferenc Németh, ‘Western Balkans. From the Berlin Process to the Open Balkan Initiative. Prospects for the Accession Process’ (2022) <<https://www.iemed.org/publication/western-balkans-from-the-berlin-process-to-the-open-balkan-initiative-prospects-for-the-accession-process/>>.

<sup>79</sup> This sentence was added after the research cut-off date (14.10.2022).

<sup>80</sup> Radovic (n 12).

terms of facilitating the movement of goods, services, and capital. This includes alignment with *acquis* in the chapters on Intellectual property rights, implementation of the EU Competition policy, and Agriculture as a way to deepen the “OBI” market. With regard to some chapters, the OBI has not announced any actions, while EU policies and programmes offer opportunities that could be further exploited. Making use of EU programmes as per chapters Science and research and Education and culture could foster existing and create new collaborations. Overall improvement in the cluster Fundamentals is essential for the countries in the EU accession process. Advancement in judiciary, in particular, would contribute to a better economic climate and a more investment-friendly environment.

The second conclusion is that in the chapters of relevance, the OBI contribution to the EU accession process is still tentative and marginal. The countries have to align with a significant number of EU regulations and directives so that they can enable the free movement of *all* goods and services, the free movement of workers from OBI participating countries and of EU nationals, the cross-border provision of services, and capital mobility. The level of OBI participating countries’ preparedness in each of the corresponding chapters differs. In areas where one OBI participating country is well prepared, other(s) are not. Therefore, it could only be productive if the OBI moves forward with market liberalisation and sectoral cooperation in the areas where the countries are aligned with the EU rules and are able to deliver on their implementation.

## List of Annexes

### Annex 1 - Official Documents Adopted by the Open Balkan Initiative

| Year   | 2019 – Mini Schengen announced |                          |                           | 2020                  | 2021 – Open Balkan announced                     |                                 |   | 2022   |  |
|--|--------------------------------|--------------------------|---------------------------|-----------------------|--|---------------------------------|---|--|--|
| Month  | October                        | November                 | December                  | October               | July   | November                        | December                                      | June   | September  |
| <b>Declarations</b>                          | <u>Novi Sad Declaration</u>    | <u>Ohrid Declaration</u> | <u>Tirana Conclusions</u> | <u>Online meeting</u> | <u>Skopje Joint Statement</u>                    | <u>Belgrade Joint Statement</u> | Tirana  | Ohrid Summit   | Belgrade Summit, Foods and wine festival, Independence party           |
| <b>Free movement of foods</b>                |                                |                          |                           |                       | <u>MoU goods</u>                                 |                                 | <u>FSVP agreement, AEOs agreements</u>        | <u>MoU Tourism</u><br><u>MoU Culture</u><br><u>MoU Tax</u> | <u>Agreement on food security, MoU filmography &amp; audio-visuals</u> |
| <b>Free movement of workers and services</b> |                                |                          |                           |                       | <u>MoU labour markets</u>                        |                                 | <u>ID agreement, Labour markets agreement</u> | <u>Agreement on academic qualifications</u>                |  |
| <b>Other areas</b>                           |                                |                          |                           |                       | <u>Agreement on protection against disasters</u> |                                 |   |  | <u>Civil protection OP, MoU energy ALB-SRB</u>                         |

Source: Authors' own elaboration, based on <https://pks.rs/open-balkan-sporazumi/razvoj-inicijative> and <https://vlada.mk/Otvoren-Balkan>.

## Annex 2 - Official Documents Adopted in the Scope of the Berlin Process

| Year                                 | 2014   | 2015   | 2016  | 2017  | 2018   | 2019   | 2020  | 2021                              |
|--------------------------------------|--|--|---|---|--|--|---|-----------------------------------|
| <b>Summit Conclusions</b>            | <u>Berlin Final Declaration by the Chair</u> | <u>Vienna Final Declaration by the Chair</u>                           | <u>Paris Final Declaration by the Chair</u> | <u>Trieste Declaration by the Italian Chair</u>                   | <u>Chairs' Conclusions Economy Ministers, Ministers for Foreign Affairs, and Heads of State</u>  | <u>Poznań Chair's conclusions</u>                    | <u>Sofia Chair's conclusions</u>            | <u>Berlin Chair's conclusions</u> |
| <b>Regional economic integration</b> |  |  |   | <u>Multi-Annual Action Plan for a Regional Economic Area</u>      |  | <u>Regional roaming agreement</u>                    | <u>Common regional market Action Plan</u>   |                                   |
| <b>Agendas</b>                       |  | <u>Connectivity agenda for the Western Balkans</u>                     | <u>WB Sustainable Charter</u>               |   | <u>Digital agenda for the Western Balkans</u>  |  | <u>Green Agenda for the Western Balkans</u> |                                   |
| <b>Institutions</b>                  |  | <u>Agreement on WBF</u>  | <u>Agreement on RYCO</u>                    | <u>WB EDIF launched, Transport Community, WB6 CIF Secretariat</u> |  |  |   |                                   |
| <b>Declarations</b>                  |  | Declaration on regional cooperation and resolution of bilateral issues |   | Joint Declaration Against Corruption                              | <u>Joint declarations on regional cooperation and good neighbourly relations, on missing persons, on war crimes, on law enforcement</u><br><u>WB governments' Declarations on anti-corruption agenda</u> | <u>Declaration on HEI qualifications recognition</u> |   |                                   |

Source: Authors' own elaboration, based on <https://www.berlinprocess.de/>.

### Annex 3 - Status of Ratification of Signed Agreements by the Open Balkan Initiative<sup>81</sup>

| Year                                      | Albania  | Serbia   | North Macedonia   |
|---|--|--|---|
| Agreement on protection against disasters | <u>Signed, approved with Decision by Council of Ministers</u>    | <u>Signed and ratified</u>   | <u>Signed, in legislative procedure</u>   |
| FSVP agreement                            | <u>Signed, approved with Decision by Council of Ministers</u>    | <u>Signed and ratified</u>   | <u>Signed, in legislative procedure</u>   |
| AEOs agreements                           | Signed   | With Albania – Signed<br>With North Macedonia – <u>Signed and ratified</u> | With Albania – <u>Signed and ratified</u><br>With Serbia – <u>Signed and ratified</u> |
| ID agreement                              | <u>Signed and approved with Decision by Council of Ministers</u> | <u>Signed and ratified</u>   | <u>Signed, in legislative procedure</u>   |
| Labour markets agreement                  | <u>Signed and approved with Decision by Council of Ministers</u> | <u>Signed and ratified</u>   | <u>Signed, in legislative procedure</u>   |
| Agreement on academic qualifications      | <u>Signed and approved with Decision by Council of Ministers</u> | Signed   | <u>Signed, in legislative procedure</u>   |
| Agreement on food security                | <u>Signed and approved with Decision by Council of Ministers</u> | Signed   | <u>Signed, legal text adopted by the government</u>                                   |

Source: Authors' own elaboration, based on: <http://www.parlament.gov.rs>; <https://sobranie.mk/>; the Decisions by the Council of Ministers for Albania were acquired through personal contact.

<sup>81</sup> This annex was added after the research cut-off date (14.10.2022) and reflects the status of ratification as of 30.11.2022.

#### Annex 4 - Open Balkan Initiative Compatibility with the EU Accession Process

| Cluster         | Negotiation chapter   | Relevance / Number of actions | Preparedness / Progress <sup>82</sup> |                 |        | Implemented or announced actions  |
|-----------------|---|-------------------------------|---------------------------------------|-----------------|--------|---|
|                 |   |                               | Albania                               | North Macedonia | Serbia |   |
| 1. Fundamentals | <b>Public administration reform</b>   | <b>Relevant, some action</b>  | 3 / 1                                 | 3 / 1           | 3 / 1  | <b>E-portals for services in ID agreement</b>                                   |
|                 | 23 - Judiciary and fundamental rights   | Relevant, no action           |                                       |                 |        |   |
|                 | Functioning of the judiciary  | Relevant, no action           |                                       |                 |        |   |
|                 | <b>24 - Justice, freedom and security</b>   | <b>Relevant, some actions</b> | 2.5 / 2                               | 3 / 2           | 2 / 2  | <b>Strengthen cross border cooperation in the field of security (announced)</b> |
|                 | Economic criteria - The existence of a functioning market economy                                     | Not decisive                  |                                       |                 |        |   |
|                 | Economic criteria - The capacity to cope with competitive pressure and market forces within the Union | Not decisive                  |                                       |                 |        | All actions contribute indirectly   |

<sup>82</sup> The numerical assessments on the level of preparation, which express the degree of preparation in view of EU membership requirements, correspond to the EC assessment for each chapter, as follows: Early stage = 1; Some level of preparation = 2; Moderately prepared = 3; Good level of preparation = 4; Well advanced = 5.

The numerical assessments for progress, which express the progress from the previous report, correspond to the EC assessment for each chapter, as follows:

Backsliding = (-5):(-1); No progress = 0; Limited progress = 1; Some progress = 2; Good progress = 3; Very good progress = 4.

| Cluster            | Negotiation chapter   | Relevance / Number of actions                  | Preparedness / Progress <sup>82</sup> |                 |              | Implemented or announced actions  |
|--------------------|---|--|---------------------------------------|-----------------|--------------|---|
|                    |   |  | Albania                               | North Macedonia | Serbia       |   |
|                    | 5 - Public procurement  | Not decisive                                   |                                       |                 |              |   |
|                    | <b>18 - Statistics</b>  | <b>Relevant, some actions</b>                  | <b>3 / 1</b>                          | <b>3 / 3</b>    | <b>3 / 2</b> | <b>Exchange of statistical data as per agreement</b>  |
|                    | 32 - Financial control  | Not decisive                                   |                                       |                 |              |   |
| 2. Internal Market | 1 - Free movement of goods  | <b>Relevant, some actions</b>                  | <b>2.5 / 1</b>                        | <b>3 / 0</b>    | <b>3 / 2</b> | <b>Road map on Memorandum, implementation of memorandum on trade in goods</b>                 |
|                    | <b>2 - Freedom of movement for workers</b>                        | <b>Relevant, substantial number of actions</b> | <b>2 / 2</b>                          | <b>1 / 0</b>    | <b>3 / 2</b> | <b>ID agreement<br/>Labour market agreement<br/>Agreements on social security (planned)</b>   |
|                    | <b>3 - Right of establishment and freedom to provide services</b> | <b>Relevant, some actions</b>                  | <b>3 / 2</b>                          | <b>3 / 1</b>    | <b>3 / 1</b> | <b>Agreement on the mutual recognition of diplomas and scientific grades</b>                  |
|                    | <b>4 - Free movement of capital</b>                               | <b>Relevant, some actions</b>                  | <b>3 / 2</b>                          | <b>3 / 3</b>    | <b>3 / 1</b> | <b>Revision of bilateral investment treaties (announced)<br/>Common agency for attracting</b> |

| Cluster  | Negotiation chapter                          | Relevance / Number of actions | Preparedness / Progress <sup>82</sup> |                 |              | Implemented or announced actions   |
|--|--|-------------------------------|---------------------------------------|-----------------|--------------|--|
|  |  |                               | Albania                               | North Macedonia | Serbia       |  |
|  |  |                               |                                       |                 |              | <b>investments (announced)</b>   |
|  | 6 - Company law                              | Not decisive                  |                                       |                 |              |  |
|  | 7 - Intellectual property law                | Relevant, no action           |                                       |                 |              |  |
|  | 8 - Competition policy                       | Relevant, no action           |                                       |                 |              |  |
|  | 9 - Financial services                       | Relevant, no action           |                                       |                 |              |  |
|  | <b>28 - Consumer and health protection</b>   | <b>Relevant, some actions</b> | <b>1 / 1</b>                          | <b>3 / 1</b>    | <b>3 / 1</b> | <b>Abolished PCR tests during pandemic</b>                                     |
| <b>3. Competitiveness and Inclusive Growth</b> | <b>10 - Information society and media</b>    | <b>Relevant, some actions</b> | <b>3 / 1</b>                          | <b>3 / 1</b>    | <b>3 / 1</b> | <b>Memorandum on cooperation in cinematography and audio-visual activities</b> |
|  | <b>16 - Taxation</b>                         | <b>Relevant, some actions</b> | <b>3 / 1</b>                          | <b>3 / 2</b>    | <b>3 / 1</b> | <b>Memorandum on cooperation between tax authorities</b>                       |
|  | 17 - Economic and monetary policy            | Not decisive                  |                                       |                 |              |  |
|  | 19 - Social policy and employment            | Relevant/Not decisive         |                                       |                 |              |  |
|  | <b>20 - Enterprise and industrial policy</b> | <b>Relevant, some actions</b> | <b>3 / 2</b>                          | <b>3 / 2</b>    | <b>3 / 2</b> | <b>Joint actions in specific sectors</b>                                       |



| Cluster                                      | Negotiation chapter               | Relevance / Number of actions                  | Preparedness / Progress <sup>82</sup> |                 |              | Implemented or announced actions   |
|--|-----------------------------------|--|---------------------------------------|-----------------|--------------|--|
|  |                                   |  | Albania                               | North Macedonia | Serbia       |  |
|  |                                   |  |                                       |                 |              | (culture, tourism, audio visuals)  |
|  | 25 - Science and research         | Relevant, no action                            |                                       |                 |              |  |
|  | <b>26 - Education and culture</b> | <b>Relevant, some actions</b>                  | <b>3 / 2</b>                          | <b>3 / 1</b>    | <b>4 / 2</b> | <b>Memorandums on cultural cooperation Exchanges and educational programmes</b>  |
|  | <b>29 - Customs union</b>         | <b>Relevant, substantial number of actions</b> | <b>3 / 1</b>                          | <b>4 / 2</b>    | <b>4 / 1</b> | <b>Agreement on AEOs mutual recognition Agreement on food security Agreement on veterinary, food and feed safety, and phytosanitary policy</b> |
| 4. Green Agenda and Sustainable Connectivity | 14 - Transport                    | Relevant/Not decisive                          |                                       |                 |              |  |
|  | <b>15 - Energy</b>                | <b>Relevant, some actions</b>                  | <b>3 / 1</b>                          | <b>3 / 1</b>    | <b>3 / 1</b> | <b>Cooperation on energy security (announced)</b>  |
|  | 21 - Trans-European networks      | Relevant/Not decisive                          |                                       |                 |              |  |
|  |                                   |  |                                       |                 |              |  |

| Cluster  | Negotiation chapter   | Relevance / Number of actions | Preparedness / Progress <sup>82</sup> |                 |        | Implemented or announced actions   |
|--|---|-------------------------------|---------------------------------------|-----------------|--------|--|
|  |   |                               | Albania                               | North Macedonia | Serbia |  |
|  | <b>27 - Environment and climate change</b>                      | <b>Relevant, some actions</b> | 2 / 1                                 | 2 / 2           | 2 / 1  | <b>Agreement on protection against disasters</b><br><b>Operational plan for civil protection</b>                   |
| <b>5. Resources, Agriculture, and Cohesion</b> | 11 - Agriculture and rural development                          | Not decisive                  |                                       |                 |        |  |
|  | <b>12 - Food safety, veterinary, and phytosanitary policy</b>   | <b>Relevant, some actions</b> | 2 / 1                                 | 4 / 2           | 3 / 1  | <b>Agreement on veterinary, food and feed safety and phytosanitary policy</b><br><b>Agreement on food security</b> |
|  | 13 - Fisheries  | Not decisive                  |                                       |                 |        |  |
|  | 22 - Regional policy and coordination of structural instruments | Not decisive                  |                                       |                 |        |  |
|  | 33 - Financial and budgetary provisions                         | Not decisive                  |                                       |                 |        |  |
| <b>6. External Relations</b>                   | 30 - External relations   | Relevant, no action           |                                       |                 |        | Normalisation of Serbia – Kosovo relations   |
|  | 31 - Foreign, security and defence policy                       | Not decisive                  |                                       |                 |        |  |

| Cluster           | Negotiation chapter | Relevance / Number of actions | Preparedness / Progress <sup>82</sup> |                 |        | Implemented or announced actions |
|-------------------|---------------------|-------------------------------|---------------------------------------|-----------------|--------|----------------------------------|
|                   |                     |                               | Albania                               | North Macedonia | Serbia |                                  |
| Separate Chapters | 34 - Institutions   | Not decisive                  |                                       |                 |        |                                  |
|                   | 35 - Other issues   | Not decisive                  |                                       |                 |        |                                  |

Source: Authors' own elaboration.