Julija Brsakoska-Bazerkoska★

The EU Integration Process of the Western Balkans in the Aftermath of 2015's Refugee Crisis

Abstract

The worst contemporary refugee crisis that occurred during the summer of 2015 challenged the basic values of the European Union. There had never been a time when the need for a consistent approach, both from the individual Member States and the EU as a whole, was more urgent. The Union's response during 2015's refugee crisis was unreliable, fragmented, and it largely affected the Western Balkan countries that are now aspiring to become EU Member States. This paper analyses how the EU's response to the refugee crisis has affected and still affects the countries in the Western Balkans, which are all in different stages of their European integration. The refugee crisis created many challenges for the Western Balkan countries which are all weak democracies and which have unstable institutions. This paper also analyses the numerous domestic costs connected to these countries when faced with the refugee crisis. Finally, the paper argues that, although largely harmonised with the EU *acquis*, the legislative and institutional frameworks for migration management in Western Balkan countries need further adjustment.

Keywords: Refugees, Refugee Crisis, Western Balkan, EU Enlargement, Security

Introduction

The summer of 2015 was a period when EU leaders were facing the worst contemporary refugee crisis that challenged the basic values of the European Union. The crisis required a consistent approach, and called for

★ **Julija Brsakoska-Bazerkoska** – Ss. Cyril and Methodius University, e-mail: j.brsakoskabazerkoska@pf.ukim.edu.mk, ORCID ID: https://orcid.org/0000-0003-3700-3355.

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collective and individual Member States to fulfil their responsibilities to refugees. There was an urgent need for a common European response to refugee arrivals; a response which was needed to meet the EU's collective obligations in international law, as reaffirmed in the EU legal order, in the EU Charter of Fundamental Rights, the EU Treaties, and legislation. Furthermore, the EU's response to the refugees' influx largely affected the countries on the EU borders that are currently aspiring to become EU Member States. This was mainly due to the fact that a record number of migrants who entered the EU via Greece were trying to make their way via the Western Balkan route through North Macedonia, then Serbia, and further on to other EU countries. Because of this, Serbia and North Macedonia were put under enormous pressure to deal with the huge refugee influx. It was further expected from them to make an effort to stop the migrants even before they had entered their territory. Other countries in the region such as Albania, Bosnia and Herzegovina, Kosovo, and Montenegro were not directly affected in the sense that refugees crossed the territories of their states, but they were left vulnerable if the route changed to include them. The paper explores how the EU's response to the refugee crisis has affected all these countries in the Western Balkans, which are all in different stages of their European integration. It also examines the effects the refugee crisis had on the EU integration process of the Western Balkan countries. In this context, the paper considers the migration and security standards imposed on these countries within their EU integration process. It examines the changes to the legal and institutional framework in these countries as a response to the highly complex system for migration management.

The second part of the paper analyses the role of the Western Balkan route during the 2015 refugee crisis and the implications of the Turkey deal. It also focuses on the repercussions that the EU's incoherent action had during the crisis for the countries on this route. The third part focuses on the EU integration process of the Western Balkan countries during and after the 2015 refugee crisis, examining the implications this crisis had on the process, with special emphasis on the way forward for the future. It elaborates on the new Six Flagship initiative that was developed for EU enlargement in the region. Finally, the fourth part explores how the EU standards connected to migration and security have been applied and further strengthened in the pre-accession period in the countries of the Western Balkans.

Setting the Scene: The Role
of the Western Balkan Route

After the end of the Cold War and the break-up of Yugoslavia, the "Western Balkan route" became relevant because of two categories of migrants. On the one hand, numerous migrants coming from the Western Balkan countries were and still are seeking to move to the EU. These are mainly young people that are often disappointed with the political situation in their countries of origin, disappointed with the lack of opportunities and the economic hardship, and are migrating into the EU in a search of a better life. Nevertheless, this kind of migration was not the focus of the 2015 migration and refugee crisis and is not part of the analysis in this paper. On the other hand, largely owing to its strategic geopolitical location, the Western Balkans has become an important hotspot on one of the main migration routes to the EU. An increasing number of refugees and migrants from outside the region – mainly from Afghanistan, Pakistan, Palestine, Syria, Somalia, and North Africa – were arriving from Turkey and Greece and were transiting the region using the Western Balkan route (Milan, 2018; Longinović, 2018; Zaragoza-Cristiani, 2017; Cocco, 2017; Šelo Šabić, Borić, 2016). The route became a popular passageway into the EU in 2012 when Schengen visa restrictions were relaxed for five Balkan countries – Albania, Bosnia and Herzegovina, Montenegro, Serbia, and the Republic of North Macedonia.

In was during the 2015 when the record number of migrants arriving in Greece had a direct, knock-on effect on the Western Balkan route. The migrants who entered the EU via Greece were trying to make their way through to North Macedonia and Serbia, on to Hungary and then further on mainly to Austria, Germany, and Sweden.[1] Many of the refugees that were using this route lodge asylum claims in one or more of the Western Balkans countries, but very often departed even before getting their claims processed. Another large number of migrants and refugees that were crossing the Western Balkan route were using illegal border crossings. These irregular movements which were very often connected with trafficking in persons and human smuggling, were additional concerns for the states on the migration route (Taleski, 2016; Brunovskis, Surtees, 2019; Pastore, 2018; Zielonka, 2017). These developments only added to the hardship experienced by the Western Balkan countries that

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[1] During all of 2015, the region recorded 764,000 detections of illegal border crossings by migrants, a 16-fold rise from 2014. The top-ranking nationality was Syrian, followed by Iraqis and Afghans. The numbers presented are according a Frontex estimate. The CoE numbers are 100,000 higher than Frontex's estimate for the same period of time.

are, as has already been noted, fragile democracies with weak institutions, and for a very long time have been the countries of origin, transit, and destination of migrants, mostly for the purposes of sexual exploitation and forced labour. The transnational crime connected with the illegal crossing of migrants during the 2015 crisis has put additional strain on the countries' weak institutional systems, posing a great security threat, and negatively affecting access to protection for those in need of it (European Parliament Briefing, 2016).

During the 2015 refugee crisis, with intensifying control on the crossing point between Libya and Italy, and with the building of a fence along the Hungarian-Serbian border, a geographical reorientation of the migrants' route was made (Stojanović, 2015). These events had spill-over effects on the political dynamics in the Western Balkan states (Bačić, Selanec, 2015; Sardelić, 2017). The fence on the Hungarian border diverted the Western Balkan route to Croatia, which put additional pressure on the Western Balkan countries. Serbia and North Macedonia sought to stop migrants even before they had entered their territory. These Western Balkan countries are not part of the European Common Asylum Policy, and therefore were not able to use any of the EU's mechanisms. Nevertheless, they were left to be the external frontier of the Union (Brsakoska Bazerkoska, 2017a). Other countries in the region, such as, Albania, Bosnia and Herzegovina, Kosovo, and Montenegro were not directly affected in the sense that refugees crossed the territories of their states. However, all these countries felt vulnerable if the route changed to include them. The governments there took preventive measures in terms of increasing border control, monitoring possible illegal crossings, taking part in meetings at the European level and forming joint border controls with neighbouring states (Šelo Šabić, 2017). During 2015, when the refugee crisis was in full swing, the situation in the Western Balkans demonstrated that border control is not sufficient to solve a crisis of that magnitude. The reliance of refugees and migrants on smugglers as well as the likelihood that people go underground was further amplified and remains a problem to this day.

The Implications of the Turkey Deal

The refugee deal with Turkey, from March 2016, provided for Turkey to take back all refugees and migrants making their way to Greece in the future, based on the EU designating Turkey as a safe, third country for asylum seekers (Weber, 2017).[2] According to the deal, for each Syr-

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[2] This was agreed despite the fact that the majority of international human and asylum rights organisations rejected this designation for Turkey.

ian returned from the Greek islands, the EU would resettle another one from Turkey to the Union. In addition, once the number of refugees and migrants passing through the Aegean had been lowered substantially, EU Member States would voluntarily resettle a larger number of the 3 million Syrian refugees from Turkey (EU-Turkey Statement, 2016). With the EU-Turkey deal, the number of migrants passing through the Western Balkans has been significantly reduced. According to Frontex data, irregular border detections decreased from around 60,000 in January to less than 2,000 detections in September 2016 (Frontex Risk Analysis, 2017). With the deal, transit along the Western Balkan route was no longer permitted. It should be noted that the closure of the Western Balkan route was not initiated from within the region. It was Austria and the four Visegrad countries - Hungary, Poland, the Czech Republic, and Slovakia that started to actively work towards a closure of the route in early 2016. This was done in close cooperation with Western Balkan governments but against the priorities of the Greek government.

From the present perspective, the fact is that the Balkan route has not been entirely sealed off. There are an estimated 41,000 migrants (DW, 2019) waiting at the infamous camps on islands such as Moria on Lesbos and Vathy on Samos, in Greece. Many of these migrants are keen to move on to other EU Member States and they, once again and when able, will use the Western Balkan route. Considering these developments, it is understandable that human smuggling has become a booming business. Back in 2017, the estimate was that the smuggling business was worth around €2 billion a year (Trauner, Neelsen, 2017). Even today, and despite the COVID-19 pandemic, there are numerous reports that the smuggling operations are still ongoing on the Western Balkan route (Balkan Insight, 2020). The official "closure" of the Western Balkan route had created another situation that is a burden to the countries in the Western Balkans. Namely, it left a number of migrants trapped, especially in Serbia and North Macedonia. According to the estimates from the EU and UNHCR, in 2017 there were around 8,000 migrants stranded in Serbia (Le Blond, 2017). In reality, the numbers differ because many migrants hide and refrain from starting asylum procedures in the Western Balkan countries.

This paper will further explore how these developments and the exposure of the Western Balkan countries during the 2015 refugee crisis have influenced the process of EU integration in the region.

The EU Integration Process in the Western Balkans Under the Influence of the Refugee Crisis

The context of EU integration in the Western Balkans is different, mainly because the region is characterised by legacies of war and a political climate that enabled the flourishing of organised crime, corruption, and illegal migration. The EU had firstly to stabilise the region after the dissolution of SFRY and then associate the newly-emerged countries. The Stabilization and Association Process was launched in 1999 and granted the countries from the Western Balkans the status of potential candidate countries. In 2003, the Thessaloniki Agenda promoted political dialogue and cooperation in the area of the Common Foreign and Security Policy (CFSP), the strengthening of parliamentary cooperation and institution building (Council of the European Union, 2003). Therefore, the EU conditionality policy in the Balkans was designed as a multi-dimensional instrument directed towards reconciliation, reconstruction, and reform. The six Western Balkan countries that are moving towards EU membership are all in different stages of their integration. Serbia and Montenegro have already opened their negotiations with the Union, specifically in 2014 and 2012 respectively, while to North Macedonia and Albania the draft negotiating framework was presented in July 2020 following the decision of the Council in March 2020. Due to political reasons the opening of the accession talks with these two countries has been delayed and it materialized in July 2022. It is Bosnia and Herzegovina and Kosovo that are in the very early stages of their Euro-integration path as potential candidates – having the Stabilisation and Association Agreements only entered into force in 2015 and 2016 respectively.

In the context of the EU integration process of the Western Balkan countries, and also outside that context, the 2015 refugee crisis was a completely new situation for the region. Traditionally, the Western Balkan countries had a very limited view of migration. As Šelo Šabić explains, this is the case because migration in the region was mainly intra-regional for economic reasons, or it was towards third countries for both economic and political reasons (Šelo Šabić, op.cit.). The break-up of the former Yugoslavia and the wars that raged through the newly established countries during the 1990s produced hundreds of thousands of refugees and internally displaced persons who found shelter either in neighbouring countries or across the world (Šelo Šabić, op.cit.). During the 2015 refugee crisis, the circumstances were rather different. The majority of the migrants passing on the Western Balkan route had Europe in mind as their final destination. Nevertheless, the countries on their route were in no way equipped with the appropriate

mechanisms to provide them with the necessary protection while passing through. A huge burden has been put on the countries' infrastructure, their social structure, and their health structure.

One very important, but also very overlooked issue following the 2015 refugee crisis and the closure of the Western Balkan route, is the impact of this crisis on the EU integration process of the Western Balkan countries (Bieber, 2015; Cocco, op.cit.). It has been argued in existing literature that, following the refugee crisis of 2015, the process of securitisation of migration is ongoing in the Western Balkans (Šelo Šabić, op.cit.; Gatta, 2019; Hyndman, 2008; Huysmans, 2000; Léonard, 2010). However, the dynamic is not the same in each country, as the securitisation of the crisis led to policy changes within the countries. It also led to changes in their relationship with the EU. It has to be taken into account that the basis for the securitisation of migration in the Western Balkan countries is not necessarily driven by the same concerns. Nevertheless, this crisis put the Western Balkans back on the political map of Europe. It underlined the strategic importance of the region for the EU's stability and security (Wunsch, Dimitrov, 2016). In 2015, the EU convened a mini-summit that included Balkan countries and which produced not only promises of greater coordination and information sharing, but also financial and technical assistance. Although there was no effort to include the countries of the Western Balkans in institutional mechanisms to deal with the crisis – in exchange for their cooperation with the EU to address the crisis – the Western Balkans governments extracted significant political concessions from the EU.

In the cases of North Macedonia and Serbia, the EU was ready to overshadow the growing violations of the basic human rights of refugee seekers and, moreover, to turn a blind eye to the developing authoritarian tendencies by the political elites in both countries in the name of political stability (Benedetti, 2017). This was especially self-evident in North Macedonia's case, where the Prime Minister at that time, Nikola Gruevski, was indicted for a number of violations of human rights in the country. The 2015 wire-tapping scandal in the country exposed massive scale electoral fraud, corruption, abuse of power, and a raft of other economic and violent offences committed by the PM and his closest allies from the then-ruling VMRO–DPMNE (Brsakoska Bazerkoska, 2015; Brsakoska Bazerkoska 2017b). Despite a huge popular movement going on in the country against the then PM and his policy, the EU Commissioner for Enlargement - Johannes Hahn, during his visit of the country in January 2016, said that "despite all the talk about new elections, we should not forget that there is a very serious refugee crisis in Europe…

it is also about the European, Euro Atlantic perspective, where I believe a strong, decisive government, which can take decisions, is important" (YouTube, 2016). It was evident that the country was slipping into authoritarianism, but the EU kept supporting the government in order to contain the unfolding refugee crisis. On the other hand, Serbian Prime Minister Vučić has been accused of systematically violating the rights of freedom of expression and the media's freedom in general (Benedetti, op.cit.; Freedom of the Press, 2016). Despite these developments, Vučić insisted that Serbia is more European than the EU Member States considering the way it dealt with the refugee crisis (Avramović, Jovanović, 2015). In this context one very important issue emerged – whether the progress of EU integration can be materialised in exchange for maintaining stability when it comes to the refugee crisis. Benedetti correctly points out that the EU made a big mistake by relying on corrupted and authoritarian leaders to contain the refugee crisis instead of using the strong political and economic leverage and the tools of the EU enlargement policy to seriously face both the internal and the external dimensions of the crisis in a concrete way (Benedetti, op.cit.).

After the formal closure of the Western Balkan route with the signing of the EU-Turkey deal, the Western Balkan region slipped back once again into the background of EU interests. The Western Balkans' brief moment in the public eye of the refugee crisis has done very little to foster more strategic thinking and to develop more long-term solutions on how to stabilise the countries in the region, and ensure their sustainable democratic transformation and economic development (Wunsch, Dimitrov, 2016). The EU's response during the refugee crisis in Western Balkans was centered on fighting the symptoms. The insistence from the EU on the need for strong leaders dealing with the situation has intensified the tendency of bad actors to undermine fundamental European values in exchange for geopolitical interests and stability (Brsakoska Bazerkoska 2017b).

The promises from the EU of greater coordination and information sharing along with financial and technical assistance during the crisis came with no effort to include the countries of the Western Balkans in institutional mechanisms to deal with the crisis (Brsakoska Bazerkoska 2017a). Political cooperation has been under the microscope, while the issues connected with smuggling and human trafficking have received very little attention. Also, there was very little interest about the substance and impact of sharing information and cooperation when it comes to organised crime in connection to the refugee crisis.

If the future brings a reactivation of the Western Balkan route, the EU might be in a position to come up with a better response if the coordina-

tion mechanisms between EU and non EU Members function properly. There needs to be a specific focus and support on concrete registration and reception capabilities on the ground.

The Path Forward: The Six Flagship Initiative

The securitisation approach to the crisis on the EU level was manifested in the creation of the European Border and Coast Guard (EBCG) in 2016 (Carrera, Den Hertog, 2017). The time-frame in which the EBCG was established and put into operation was less than one year and is now operating with significantly increased resources and capacities. In this manner, the transformation of Frontex into a new agency has been rapidly carried out. With the establishment of the new Commission in 2019, this trend towards greater security and enhanced border control has been reinforced and reaffirmed. Building strong external borders is the centrepiece of the EU strategy for assessing the refugee flow to the bloc (Zielonka, 2017). There is also a strong impetus to cooperate with the Western Balkan countries which were at the forefront of the 2015 refugee crisis. In May 2019, the EBCG launched the first ever joint operation outside the EU, on the basis of an *ad hoc* status agreement concluded between the EU and Albania (Consilium). Similar initiatives have also been launched with Bosnia and Herzegovina, Montenegro, North Macedonia, and Serbia.

Despite these developments, one burning question remains – are strong borders the only way to address a possible future refugee crisis? Moreover, connected to the Western Balkan countries, when emphasis is shifted from the rule of law towards security, it might require a significant change of the substance of EU integration. If a future refugee crisis arises and Western Balkan countries once again find themselves expected to be guardians of the EU, the EU would have to offer tangible gains and benefits. In this sense, it would mean that the EU integration once again risks being perceived by the public as something which has zero transformative aims.

For that reason, the EU needed to reassess its enlargement policy in the Western Balkans, towards building strong democratic countries, paying more attention to the respect of the rule of law as one of the main pillars of the conditionality policy, but also including the issues connected with migration and security. The six flagship initiatives were introduced as a way forward in EU integration for the Western Balkans. The initiatives identify the main areas of common interest for the EU and the Western Balkans in the process of future integration of the countries in the region. The initiative to reinforce engagement on security and migration is one of the six pillars. With this initiative, one of the cornerstones

of the new EU-Western Balkans strategy is the strengthening of the cooperation on security and migration through joint investigating teams and cooperation with the European Border and Coast Guard (Communication COM, 2018). The initiative on security and migration was deemed necessary in order to further step up strategic and operational cooperation with the Western Balkans on migration and border management. These initiatives are aimed at increasing the effectiveness of EU conditionality and the credibility of the EU in the hope of bringing more security to the Union. As the former President of the European Commission Jean-Claude Juncker once stated: "investing in the stability and prosperity of the Western Balkans means investing in the security and future of our Union" (EEAS).

In this context, the EU's conditionality needs to be exploited in its full complexity in order to close the gap between the need for stability and security on one hand, and the rule of law on the other. In the event of another refugee crisis, there must be a response based on a genuine acceptance of certain basic principles, such as the respect of human rights and the rule of law. With an approach that is based on solidarity, collective action, and a sharing of responsibility not only within the Union but also with the countries on their path to the EU membership, future challenges can be overcome. (Kirchner, Nechev, 2020; Nechev, 2020).

The following part of this paper will look into the level of the Western Balkan countries' preparedness in terms of their legal and institutional framework to cope with the challenges connected to migration and security issues.

Migration and Security Standards: The Legislative and Institutional Framework of the Western Balkans

The Western Balkan countries are in different stages of their EU integration and their status differs significantly. Nevertheless, they are all largely harmonised with the EU *acquis*. What presents itself as a challenge is the need to further adjust and improve the legal and institutional framework to the highly complex system for migration management. This is the case because, despite the fact the Western Balkan countries have relevant laws and migration management systems in place, the high number of crossings during the 2015 refugee crisis have put a strain on their legislative system. The main challenges these countries faced comprised of how to ensure consistent implementation of the relevant legislation without having the sufficient capacity to receive migrants and to comply with international standards (Brsakoska Bazerkoska, 2017a).

At present, the delicate balance between refugee arrivals and the institutional capacities to address their needs is still tainted by a noticeable increase of the entries in the countries on the Western Balkan route. The COVID-19 pandemic has had an unprecedented impact on mobility, on border and migration management systems, and also on the prevention and control of the spread of the virus. The pandemic has affected around 21,000 migrants, refugees, and asylum seekers who are currently present in the region (Save the Children, 2020). These developments have put additional pressure on reception and protection systems. The issues connected with the conditions at the reception and transit centres cause continuous difficulties in the Western Balkan countries. The transit centres are not suitable for long-term stays, and the authorities in the Western Balkan countries continue to be reluctant to provide anything more than a temporary stay. This is a product of the consistent use of the anti-refugee and anti-migration rhetoric in everyday political life. A poorly informed public is very prone to nationalism and xenophobia which, in turn, creates additional troubles in implementing standards (IOM). Also, arbitrary detentions and the smuggling of migrants are the most burning issues that need to be addressed throughout the constant improvement of the legislative and institutional capacities of the Western Balkan countries.

The legislative and institutional framework connected to migration and security and its improvement, along with further development needs, will be examined. Initially, the main framework, both legislative and institutional, in the Western Balkans connected to the countries' asylum policies is laid out in the tables below:

Table 1. Key Laws That Regulate International Protection in Western Balkan Countries (the data in the table is according to IOM)

Republic of North Macedonia	Law on asylum and temporary protection
Albania	Law on asylum, on the integration and family reunion of persons granted asylum in the Republic of Albania
Serbia	Law on asylum of the Republic of Serbia
Montenegro	Law on asylum of Montenegro
BiH	Law on the movement and stay of foreigners and on asylum
Kosovo	Law on asylum

Source: European Parliamentary Research Service, 2016a

Table 2. First-instance Institutions Deciding on Asylum Requests (the data in the table is according to IOM)

Republic of North Macedonia	Asylum Department at the Ministry of Interior
Albania	Directorate for Nationality and Refugees at the Ministry of Interior
Serbia	Office for Asylum at the Ministry of Interior
Montenegro	Office for Asylum at the Ministry of Interior
BiH	Asylum Department at the Ministry of Security
Kosovo	Department of Citizenship, Asylum and Migration at the Ministry of Interior

Source: European Parliamentary Research Service, 2016b

During and after the 2015 refugee crisis, many Western Balkan countries adjusted their legislation on asylum in order to reduce the inhuman treatment in the reception centres; to improve the asylum procedure (in terms of allowing people to register their intention to seek asylum at the border and granting them a 72-hour legal stay before formally seeking asylum); and also to define those which are the safe countries. Additionally, connected with the legislation regulating asylum, the Laws on Foreigners in the Western Balkan countries play a very important role. Amendments to the Laws on Foreigners in the region were related mainly to visa policy issues, and the issuance of electronic visas and residence permits for some special categories of foreigners. Moreover, most Western Balkan countries adopted different types of by-laws for the implementation of relevant laws on foreigners and asylum (Unijat, 2019).

Another ongoing trend in the region was the establishment of special reception centres near the borders so that migrants could be profiled and registered immediately upon their arrival. This trend was most visible in Serbia, Montenegro, and Albania, especially during 2019 and 2020. Similarly, the structural and organisational changes in the organisation of relevant national institutions were addressed during that period (Unijat, op.cit.).

Despite the abovementioned changes in the legislative and institutional framework in the Western Balkan countries, there are numerous challenges these countries are facing in connection to the greater refugee and migrant flow that was detected during 2019 and 2020. The lack of border staff and relevant equipment is still present, and these issues need to be tackled further. Fighting against trafficking in human beings and strengthening police capacities for border management are also a chronic pain in the side of Western Balkan countries. The underlying message of the Zagreb Declaration from 6 May 2020 was that cooperation in ad-

dressing migration challenges, including combating migrant smuggling, has demonstrated its value and will further develop and profit from tools such as cooperation with Frontex, EASO, and Europol (Zagreb Declaration, 2020).

Conclusions

The paper has explored how, as a result of the refugee crisis, Western Balkan countries have come under serious strain which, to some extent, has made them victims of the EU's handling of the situation. The refugees transiting through these countries on the Western Balkan route, have strained already-overstretched institutional capacities to their breaking points. The early response to the crisis highlighted an absence of effective channels of communication and coordination within the EU and also between EU and non-EU countries. The domino effect of closed borders also caused bilateral tensions in the region. Subsequently, these developments have influenced the core of the EU integration process in the Western Balkan countries. The EU was ready to overshadow the developing authoritarian tendencies in the Western Balkan countries in exchange for the provision of political stability. In this context, the paper has explored how the rule of law has been chronically under-enforced, especially because of the need to maintain stability during the refugee crisis at the expense of democracy. It has considered how the EU needs to keep democracy and the rule of law principles at the heart of the EU accession process, merging them with a new approach towards migration and security, and working further on the coordination mechanisms that can be swiftly triggered in order to synchronise responses and exchange information should they be needed in the future.

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