

Biographies and Policy Briefs

**Austrian Presidency of the EU: Regional Approaches to the Balkans, Vienna,
18 November 2005**

Centre for the Study of Global Governance, LSE and Association Bosnia and Herzegovina 2005

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Mr. Fröschl was director of the Dr.-Karl-Renner Institute from 1980 to 1998. He headed the public relations department of the Social Democratic Party of the province of Salzburg between 1975 and 1980. While at university, Mr. Fröschl served as Chairman of the Socialist Students' Union and worked as a journalist for the daily "Salzburger Tagblatt."

Mr. Fröschl holds a doctoral degree in political science and contemporary history from the University of Vienna. He is author and editor of numerous books and articles on political theory and institutions, the Austrian political party system, the creation of democratic structures of government in Eastern Europe, as well as on right-wing extremism and populism in Austria and Europe.

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Christophe Solioz

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Born in Bremen as a Swiss citizen. Studies philosophy, psychology, pedagogy, and Italian and German literature at the Universities of Zurich and Geneva. Visiting professor of sociology, social therapist, and language teacher. Co-ordinator of various projects in the field of civil-society development in the former Yugoslavia since 1992. Director of the Forum for Democratic Alternatives [isn], Sarajevo/Geneva/Brussels and executive director of the Association Bosnia and Herzegovina 2005.

Panel 1: Border and Politics

Chair: Hannes Swoboda, Vienna

Speakers: Tobias K. Vogel, Freiburg i.B.

Enver Hoxhaj, Prishtina

Petar Atanasov, Skopje

Background papers: Senad Slatina, Sarajevo

Tim Judah, London

Rapporteur: Milica Delević Djilas, Belgrade

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Dr. Hannes Swoboda

Vice-chairman of the PSE Group in the European Parliament. Head of the delegation of Austrian Social-democratic members in the EP.

T.K. (Toby) Vogel

Ph.D. Candidate, New School for Social Research

T.K. (Toby) Vogel is a PhD candidate at the New School for Social Research in New York, where he is writing his dissertation on external state-building in Bosnia and Herzegovina after several years in the Balkans. He is an associate editor with Transitions Online (www.tol.org) and has written for the International Herald Tribune, the Wall Street Journal Europe, and the Neue Zürcher Zeitung.

Enver Hoxhaj

Associate Professor, Department of Political Science
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Enver Hoxhaj studied at the Vienna University from 1994 to 2000, where he received his PhD in History, while also serving as Fellow at Ludwig Boltzmann Institute for Human Rights. Since then he is Associate Professor at the Department of Political Science, University of Prishtina. From 2003 to 2004 he has been Visiting Research Fellow of the London School of Economics, Centre for Study of the Global Governance. His publications on Southeast European subjects include studies and papers on history and politics of ethnic conflicts, nationalism, human rights violations, international intervention and governance, which have been published in different western journals and books. Currently he is Member of Kosovo's Parliament (Head of Committee for Education, Culture and Youth) from the Democratic Party of Kosovo

Petar Atanasov

Research Fellow at the Institute for Sociological Political and Legal Research – University 'Ss Cyril and Methodius' – Skopje

Petar Atanasov is Doctor of Sociological Sciences engaged with the topics relevant to the Sociology of ethnic groups. Also he have published papers in the areas of nationalism, multiculturalism, national identity, ethnic conflicts, national security, civil-military relations and others. Currently he is teaching Contemporary Sociological Theories at the Postgraduate course of Sociology at the Institute for Sociological Political and Legal Research.

Senad Slatina

Consultant, former Head of ICG Sarajevo Office.

Policy Brief

The purpose of this paper is to provide a short summary of major security challenges in Bosnia and to offer some ideas as to how to address them.

Most of current analyses on security situation in Bosnia state that the prospect for re-emergence of violent conflicts in the country is minimal. In addition, most of them conclude that situation is still fragile, that many issues remain unresolved and thus the international security presence is still necessary at least at symbolic level.

This paper tries to go beyond these general assessments, it presents current situation with domestic and international security mechanisms on the ground in Bosnia, points to some dilemmas concerning them, and addresses pressing security threats for Bosnia in short term.

The prospect for violence in Bosnia in short term is, indeed, low. With wounds and memories of war still fresh rare are the topics that can invoke passions for renewing ethnic conflicts. People in Bosnia have new priorities that post-war development has brought and new, political ways of addressing and resolving their disputes.

Yet, in a long run there are two worrying phenomenon that affect almost any political problem in the country. If not properly attended they will continue to be sources for renewed anxieties in Bosnia. Both are rather general, but can become basis for concrete, negative developments.

The first one is tolerance of the policy of Radovan Karadzic.

Thanking to indecisiveness of international community even ten years after the war ended we are still dealing with the policy of Radovan Karadzic in Bosnia. As a public figure he has been dethroned. However, his policy – the policy that had resulted with actions for which he was later accused by the Hague Tribunal – that policy is still legitimate and alive. In other words – one political monster has been de-legitimized, but his monstrous policy is still lawful partner in building new Bosnia. That should not have been permitted.

Since Karadzic's policy was an equal partner in developing new Bosnia in past ten years it gave births to dozens, if not hundreds of small Karadzics in Bosnia. In such circumstances, people who were pre-destined to be moderate, non-nationalistic leaders have turned into hard nationalists.

Any reform proposal that comes from anyone, no matter how progressive it may be, needs to anticipate, count on so to say, on resistance that it will face from current proponents of Karadzic's policy.

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If anything substantive is ever to be achieved in Bosnia, international political institutions need to focus on this issue and once and forever de-legitimize the policy of ethnic exclusivities and obstructionisms, thus opening a space for new policies to prevail in the country.

Only after this policy is truly abandoned the conditions will be made for genuine, domestic political development.

Linked to this problem, is the other security challenge in Bosnia - the weakness of its newly formed, state level institutions.

The focus of activities of international community in Bosnia in past years has been shifting key security mechanisms from entity to the state level. Some really fantastic results have been achieved. Let us be aware that these are so sensitive areas that even mentioning the need for reform there were strict taboos only years ago. Intelligence reform, taxation reform, defense reform have established state level institutions that will have prime responsibility for designing policies in these areas. Hopefully something similar will soon be achieved in the police reform as well.

Yet, all these newly established security mechanisms at the state level have one conspicuous joint trait – they are much weaker than entrenched, entity institutions that they were supposed to replace and that still exist in transitional period. If there would come any tense situation – let the God forbid such prospect – these new institutions would not be able to hold together, they would collapse, and situation would within days be reversed to the one we had in Bosnia back in 1995, at the end of war. Furthermore, entity parliaments can easily decide to deny authority of newly created institutions at their territories.

We are probably not likely to see such dramatic development, but the weakness of state level security mechanisms can cause additional problems. We can anticipate the negative competition between entity and state level security agencies, for example, in areas where their competences overlap, and such prospect can allow significant increase in most serious crimes in Bosnia.

In any case, state level security mechanisms need to be better equipped and in all other aspects become superior to all other security agencies in the country. It is of critical importance to build their credibility and efficacy in shortest possible terms. Integrating them into larger Euro or Euro-Atlantic security structure would be a desirable prospect, but that is not going to happen soon. Another possible way forward is to insist that once the new institutions are formed the institutions that they are to replace need to cease to exist in shortest possible time.

These two overarching phenomenon stand to influence any security related development in Bosnia.

A few words on major international security mechanisms currently present in Bosnia.

There are three major international security agencies in Bosnia: 1) relatively small NATO office, 2) European Union military contingent EUFOR, with around 6.000

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soldiers on the ground, and 3) European Union police Mission, EUPM, whose mandate (fortunately) expires by the end of this year, and it is probably going to get tougher, better authority for the follow-up mission.

Although mandates of NATO and EUFOR do overlap, we have been fortunate that in first year of their co-existence in Bosnia there were no visible problems in that regard. Experienced British general at the top of EUFOR, and American commander at the command post in NATO office co-operated successfully. It will be important that NATO and EUFOR in Bosnia keep working in good co-ordination and co-operation. For this it is, of course, important that U.S. and EU remain in good understanding as to how EU security mechanisms are evolving outside NATO and that Bosnia does not become a field in which possible global misunderstandings start reflecting.

In addition to mandates that overlap, two missions have another thing in common. Both are designed to suit interest of their centers - that is of Washington and Brussels - rather than of Bosnia or of Sarajevo.

U.S sees Bosnia primarily as potential front in fight against terrorism. Intelligence gathering operations have thus been devoted disproportionately more on pursuit of alleged Islamic radicals in Bosnia, rather than on persecution of officially indicted war criminals.

EU sees Bosnia as testing ground for its nascent security policy. Thus, they focus on trade in immigrants, drugs and weaponry through Bosnia. Those are key security concerns for EU regarding Bosnia.

Bosnia needs to react to this and try to delegate its own key security concerns for agenda of their mighty partners. For these institutions, remaining classical military tasks:

- arrest of war criminals,
- control of storages of heavy weaponry throughout Bosnia,
- and training of Bosnia's security forces for their smooth acceptance to NATO structures.

Last among international security mechanisms in Bosnia is the EUPM.

EUPM in Bosnia definitely did not make a good service to the image of EU security institutions. It had a weak mandate, but it furthermore interpreted such mandate in narrowest possible fashion. They avoided tough situations and tough measures. They tried to leave everything for locals to agree upon, and if locals failed in that they would simply leave the problem to wait for some better times. Such approach was applied even in situations when it was obvious that only one side from purely obstructionist reasons was blocking process. In other words, EUPM did not want to truly engage. The work is now underway to design a new mandate for a follow-up mission.

It would be in the best EU interests to properly weight security threats in Bosnia and direct international security mechanisms accordingly. Having in mind that the reform

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of police is one of most important outstanding tasks in Bosnia, it will be necessary to equip any follow-up EUPM mission with proper mandate for fully engaging mission.

This was a brief introduction of general security environment in Bosnia.

The most pressing potential threats for Bosnia in short term comes from the combination of the rise of radical nationalism in Serbia and most probable result of negotiations on final status of Kosovo. More and more radical Serb leaders publicly state that if Kosovo becomes independent, Serbia will seek the compensation in parts of the territory of Bosnia.

International analysts and officials tend to dismiss this prospect as an empty threat. Yet, there are a lot of political leaders in RS who listen to these passionate messages with sympathies and who will - in radicalized situation - do their best to have them realized in Bosnia. This is something that we all need to be alert of. Once the nationalistic passions start to reign, simple dismissals of the problem are not enough. We all remember how we were in Sarajevo dismissing prospects of war back in 90's. Yet, it suddenly happened. And it always happens suddenly. Thus, both domestic and international security structures need to be vigilant to what these developments may bring for Bosnia. Mere words of deterrence will certainly not be sufficient.

In addition, these worrying developments coincide with opening of debate on Constitutional changes in Bosnia. Wider regional context and political bargains possibly readied there will have their reflections on this debate.

Having in mind the sensitive nature of constitutional debate it might be prudent to view it as a process rather than one grand event. Incremental changes, as Bosnia has seen in defense, taxation, intelligence, and hopefully policing, are the pattern to be followed. With Bosnia about to start negotiations on a Stabilization and Association Agreement (SAA) with the EU and with the parallel phasing-out of the Office of the High Representative (OHR), the process of entering a contractual relationship with the EU might be the best forum for achieving incremental but substantive changes in this country.

Tim Judah

Journalist.

Tim Judah has covered the Balkans since 1990 for publications including *The Economist* and the *New York Review of Books*. He is the author of two books on the region: *The Serbs: History, Myth and the Destruction of Yugoslavia*, and *Kosovo: War and Revenge*. He lives in London.

Policy Brief

The purpose of this paper is to provide a brief overview of the situation in the western Balkans for the session entitled *Borders and Politics*. In agreement with Senad Slatina, he will write a more detailed paper focusing on the situation in Bosnia & Hercegovina.

Firstly I would like to look at some of the pointers given in the introductory paper sent to us all before the conference. Let us look at the “rationale”. This argues forcefully that: “Despite the expanding involvement and commitment of the EU to the Western Balkans, the EU’s political, financial and security commitment has not been matched by expected political and security dividends in the region. Parts of the region still remain a serious and credible source of instability with a potential to affect the entire region and to reverberate even more widely.”

But is this true? In English there is a phrase, which comes from *Scoop*, a famous satirical book on journalism from the 1930s. Not wishing to offend his powerful boss, the newspaper proprietor who has said something nonsensical, his secretary appears to agree but says: “Up to a point, Lord Copper.”

In this case however I really mean “up to a point”. I would argue that 10 years after the end of the Bosnian and Croatian wars and six years after the Kosovo war the situation in the western Balkans is far less gloomy than some would have us believe. That is not to say however that there are still credible sources of instability but as I will argue essentially they come down to one core issue and its ramifications: Kosovo.

Secondly I think that events of recent weeks have shown that, far from being forgotten, more diplomatic activity has gone into the region of late than at any time in the past few years. This may not generate much international media coverage, but it does not mean it is not happening. This is true both for the EU and for the US, which with under-secretary of state Nicholas Burns, has begun to take an energetic look at the whole region once again.

As for the EU, work has been intense. On November 9, the European Commission adopted an overall enlargement strategy for the Western Balkans. Olli Rehn, the Enlargement Commissioner argued that: “A carefully managed enlargement process is one of the EU’s most powerful and most successful policy tools. The pull of the EU helps the democratic and economic transformation of countries. All European citizens benefit from having neighbours that are stable democracies and prosperous market

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economies. The EU cannot abandon its responsibilities. But the pace of enlargement also has to take into consideration the EU's absorption capacity."

This policy has been summed up by the Commission as one that aims at "consolidating the EU's commitments on enlargement, applying fair and rigorous conditionality and, communicating enlargement better". The latter, of course, is a question above all of communicating to citizens of the existing EU, but with the exception of Croatia, none of the countries of the Western Balkans has a serious hope of accession within a decade, and so there should be ample time to combat so-called enlargement fatigue. I also believe that the question of Turkey and the Western Balkans are fundamentally different and will be seen as such.

Let us look at the activity concerning the region. Each of the individual countries or territories which had seemed stalled in different ways, have in the past few weeks begun to move again in terms of the EU or in different ways, or both.

On October 3, Croatia was given the green light to proceed to the next stage of membership talks. On October 10 talks on an SAA began with Serbia & Montenegro. On October 21, Bosnia & Herzegovina was given the green light to begin talks on an SAA. On November 9 Macedonia was given a positive *avis*, which should lead to candidate status with conditions albeit it without a date to start accession talks on December 15. The Commission also said it believed that Albania, which has been negotiating an SAA since 2003, was ready to complete these talks.

There is no point here in examining the contents of the November 9 enlargement strategy save to say that the accompanying reports and recommendations for each country come to hundreds of pages combined and deal with thousands of individual points. That is to say that the "political, economic and social grievances" of our given "rationale", the "traditional and non-traditional sources of insecurity such as poverty, organised crime and state weakness" that the Borders and Politics section invites us to examine and which it states "are left out of the regional stabilisation package" are, in my view, far from ignored.

Not only that, but, a major and increasingly obvious problem of the last few years, the question of constitutional change in Bosnia & Herzegovina is also being dealt with. The need for reorganisation in Bosnia is obvious to everyone. The aim has to be to increase the functionality of the central state, not only to make for a better run country but precisely to ready it to be able to tackle the necessary reforms and legislation need for the upcoming EU process. At the time of writing Bosnian leaders were about to depart for Brussels where it was hoped, that at the invitation of the Commission, they would complete these talks which could be formally signed in the presence of Condoleeza Rice, the US Secretary of State, in Washington on November 22.

In parallel to all this EU and Bosnia related activity we also have the question of Kosovo. After six years in the freezer the process of future if not final status is beginning. The question is about to be tackled.

This is the "up to a point" bit then. Brussels, Washington and individual capitals are well aware of the problems facing the Balkans and they are, as I have described,

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making a vigorous and renewed effort to deal with the situation and to keep the region moving towards the EU and a better future. That is not say that all is well taken care of though and certain points need underlining.

Let us take Macedonia first. Clearly still a fragile state, but one, which has come so far from the situation of 2001 that few would have believed it possible. The problem now is to keep the recent momentum for change and EU accession going because it is the main factor which unites both Macedonian and ethnic Albanian leaders. The promise of membership and the aid that candidate status should bestow on Macedonia must be seen to make a visible change in people's lives if elements of aggressive nationalism on either side of the domestic divide are not to be given a new opening.

Bosnia and Hercegovina is unrecognisable from ten years ago and, as I have said, Senad Slatina, will examine it in detail but I would like to make one small point here. A process has been underway for sometime now to move powers towards the centre, and it is a process, which as I say, may well be gathering pace. A more rational state structure can only benefit Bosnians. A real problem however, is the dilemma of the international actors involved. Bosnia suffers from a deep rooted political culture which has since the fifteenth century, seen its leaders taking orders from what we might call the High Representative sent in turn from Istanbul, Vienna, (in a different way,) Belgrade and now Brussels. They themselves say that they not yet ready to take full responsibility for their country, and yet without taking responsibility it cannot advance. For the moment then and judging by the decision not to switch now from Bonn Powers to EU conditionality it seems a decision has been made to make the move incrementally, because no other choice seems available.

As for Croatia and Albania, both albeit at very different stages, are moving forward. The problems affecting both are well known and there seems no need to repeat them here. Indeed, Croatia is virtually "out of the woods" and Albania, although still a chronically weak state has made much progress in recent years.

So, to come to the nub of the problems: Serbia, Montenegro and Kosovo. This session has invited us to look at borders. In fact borders as such are not an issue. The question of revising tiny frontier issues between Croatia and Slovenia, Croatia and Serbia or Serbia and Bosnia are hardly insuperable. I suppose therefore that the question of borders relates to the status of existing borders. Since Bosnia's borders are sealed by treaty and mutual recognition this leaves the question of if and how the internal borders of Serbia & Montenegro become international ones.

Let us deal with the easy one first. There seems little doubt that Montenegro will move towards a referendum. Few disagree that appropriate safeguards must be in place to ensure that the referendum's essential fairness cannot be challenged and in this various international actors will have to play their role. If the result is only marginally in favour of independence or for that matter against, then instability could result but no one expects violence. I expect that if, say, the result is 55-60% of those voting in favour of independence then, the question for the EU and others in its wake will be to help the transition and to use its leverage at ensuring cleaner government in a country whose reputation has clearly fallen since the days when its government was championed by the west during the latter Milosevic years.

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In the next few weeks and months however political instability can be expected. The EU demands an internal dialogue in Montenegro, but the opposition says it will not talk to the government. They have a clear aim. They want the referendum postponed until after the Montenegrin elections of October next year at which they could do well and perhaps even win capitalising on the general disgruntlement of the population especially concerning standards of living. If they won of course they could change the rules of the referendum to make sure that independence could not pass, by for example, giving a vote to Montenegrins in Serbia. By contrast premier Milo Djukanovic and his team need to have the referendum in about April so they can go to the October elections as victors saying “we delivered the dream of independence!”

Some have raised the question of whether the secession of Montenegro will lead or contribute to instability in Serbia. I think this will not happen. Montenegro will never be hostile to Serbia and the divorce will be unlike the divorce with the other former Yugoslav republics. Indeed this divorce in particular should pay dividends in the sense that Serbia, a country with a population barely the size of London’s, will have the opportunity to rid itself of a cumbersome and expensive two tier level of government and thus be run on far more efficient lines.

Let us now turn to Kosovo, the real source of instability in the Balkans today. Talks on future status will begin soon and in all likelihood lead to some form of “conditional independence”. What this means remains to be seen. Several options are open. What seems possible is that initially the sovereign link with Serbia will be broken but that Kosovo will not yet be fully independent and that international safeguards, borrowing from the Bosnian model, will be employed in the next few years. Negative consequences or turbulence can be expected. These include violence from both the Albanian and Serbian sides in Kosovo. In recent weeks armed Albanians have again been seen on the roads of Kosovo. Whether this presages something bigger remains to be seen. Albanian leaders are deeply divided amongst themselves and president Ibrahim Rugova is extremely ill with lung cancer. Will some form of Albanian uprising begin if full independence is not the result of talks or will protests from tens of thousands wipe away an already feeble government, leaving a chaotic situation? Probably not, but there is a risk.

On the Serbian side one scenario envisages incidents being staged, or provoked, which would lead to the flight of at least the two thirds of the Serbian population in Kosovo who live in the enclaves to Serbia or northern Kosovo. Although this could not lead to de jure partition it would consolidate de facto partition. One idea being canvassed is that a UN mission similar to the former UNTAES in eastern Slavonia be created for northern Kosovo, but for the moment, that remains in the realms of speculation.

Several things are clear though. De jure, there will be no border changes, nor Greater Kosovo nor Greater Albania. Just as northern Kosovo will, formally, remain in Kosovo, the Presevo valley will remain in Serbia. Thus, although there may be potential for trouble making in the Republika Srpska by Serbia, there is no prospect whatsoever of any “compensation” for Kosovo being given to Serbia and thus I suspect, and given the moves already afoot in Bosnia to revise the constitution, not

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much scope for serious destabilisation in Bosnia thanks to Kosovo, despite what certain politicians in Serbia say.

If there is scope for destabilisation, it is in Serbia if, because of Kosovo, the government resigns or falls and the Radicals come to power. I am not certain that, even despite their high poll figures, this will come to pass, but it is a possibility. However, what could a Radical led government in Serbia do? Serbia has no capacity to launch wars and Serbs have no desire to return to the isolation of the Milosevic years. Economically, and despite a huge expectations gap, the Serbian economy is on the up. Recovery, though geographically patchy, is happening. So, Serbs will face a difficult choice faced with the loss of Kosovo: Resist and fall out of the race for Europe or swallow hard and absorb the shock. One idea now being canvassed is that as Serbia would have no capacity to resist an imposed solution, which would result in eventual independence for Kosovo, it should simply not recognise this solution or the emerging state. Thus the Radicals and the Church have said that, in this case, Kosovo be declared "occupied territory". In this way the current generation of politicians believe they might be able to put off the day when Serbia would need to formally recognise the loss of Kosovo and could argue that one day, if international circumstances change, then maybe Kosovo could be restored to Serbia. In fact this is nonsense. One of the basic rules of EU membership is to have no outstanding such issues with neighbours. Nicholas Burns has also pointed out that Serbia could not be a member of NATO if was involved in a major territorial dispute. So, sooner rather than later, Serbia will have to choose between the EU, NATO and continuing integration or Kosovo and isolation.

In conclusion the picture across the region is far more positive than negative, although Kosovo and the consequences of probable eventual independence of Montenegro need to be especially carefully managed. A final point is the question of the EU's planned Instrument for Pre-accession Assistance (IPA) due to begin on 1 January 2007. Under the terms of the proposed draft candidate countries will benefit from much of the available assistance while aid to the potential candidates will drop dramatically. In view of the EU's pledge that all of the Western Balkans should join, is this sensible and perhaps it would be better to treat all the countries as candidates now? As it stands for example EU aid to Bulgaria will rise from €300m in 2003 to €1.6bn in 2009 but aid to Serbia, with the same population could fall from €240m to €17m. Those countries then not officially candidates then will not be able to access funds, for example for agriculture under the SAPARD instrument which are vitally needed now and could well help to keep the region on track to economic recovery and thus dampen the scope for instability. This does not seem rational and adjustment should be made to include these countries. Longer-term strategic thinking in this field is required.

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Milica Delević Djilas

Lecturer of Foreign Policy of Serbia and Montenegro, Faculty of Political Science, Belgrade University.

Studied economics at the University of Belgrade and International Relations and European Studies at the Central European University (MA) and University of Kent at Canterbury (PhD). Worked as Deputy Director of the Diplomatic Academy of the Ministry of Foreign Affairs (March 2002 – August 2003) and Director of the Serbia and Montenegro European Integration Office (August 2003 – August 2004, when resigned). Presently working as a lecturer of Foreign Policy of Serbia and Montenegro at the Faculty of Political Science, University of Belgrade and also coordinating, on behalf the Serbian European Integration Office, the work on the National Strategy of Serbia for Serbia and Montenegro Joining the EU. Member of the Steering Committee of the Standing Group on International Relations. Academic interests include, apart from SMN and the EU, SMN foreign policy, political conditionality as applied by the EU and other international organizations, and EU Common Foreign and Security policy.

Panel 2: From Reconstruction to Development

Chair: Vjekoslav Domljan, Mostar

Speakers: Fikret Čausević, Sarajevo

Claudia Grupe, Frankfurt a.M.

Silvana Mojsovska, Skopje

Background papers: Vladimir Gligorov, Vienna

Vesna Bokičić-Dželilović, London

Rapporteur: Jasmina Husanovic-Pehar, Tuzla

Vjekoslav Domljan

Ph.D. in Economics, currently Director of the Centre for Economic Research (Sarajevo)

He has been Ambassador of Bosnia and Herzegovina to Canada and Cuba, Executive Director of the Investment Bank of Federation of Bosnia and Herzegovina, a member of Securities Commission of the Federation of Bosnia and Herzegovina, and Associate Professor at the University of Sarajevo. He also led the team who prepared the development strategy “Entrepreneurial Society” for the 1999-2001 Council of Ministers of BIH. He was the B-H representative for financial property succession for former SFR Yugoslavia.

Fikret Čausević

Deputy Director, Economic Institute Sarajevo.

Fikret Čausević has been working at the Economics Institute in Sarajevo since 1989, and is currently serving as Deputy Director of the Institute. He has been teaching at the Faculty of Economics, Sarajevo University since 1997, where he is currently Assistant Professor. His training and research on economics of South East Europe involve courses and fellowships held in Tokyo, Warsaw, and London.

Claudia Grupe

Research Assistant, Chair for Economics, esp. Comparison and Transition of Economic Systems, Johann Wolfgang Goethe-University, Frankfurt.

Born in Frankfurt in 1980. Studies in law and economics at Johann Wolfgang Goethe-University, Frankfurt am Main. Graduation in economics in February 2005, major in international economics. Since then doctorate at School of Business and Economics at Goethe-University. Scholarship granted by Frankfurter Graduiertenförderung. Main research on behavioural economics and financial markets, with a focus on Yugoslav successor states.

Silvana Mojsovska

Assistant Professor, Institute of Economics, Department of International Economics University "St.Cyril and Methodius" - Skopje, Macedonia.

Silvana Mojsovska completed her PhD in Economics at University “St.Cyril and Methodius” in Skopje, Macedonia, where she is currently serving as Assistant Professor. She has held visiting fellowships at the London School of Economics and Paris 1 - Sorbonne University. Previously she was Head of Unit for Socio-Economic Issues at the EU Integration Sector of the Macedonian government.

Vladimir Gligorov

Senior Economist, Vienna Institute for International Economic Studies (wiiw).

Policy Brief

Institutions and Policies

The current state of affairs in the Western Balkans (Albania, Bosnia and Herzegovina, Croatia, Macedonia, Serbia and Montenegro, with Kosovo being a special case) is the outcome of the violent conflicts in the post-socialist transition. The international reaction and intervention has aimed to pacify and stabilize the region. In that, it relied on:

- (i) an introduction of a constitutional *provisorium*,
- (ii) the adoption of the politics of ambiguity, and
- (iii) on aid and other financial incentives to steer the development towards more stable and permanent political and economic structures.

Bosnia and Herzegovina provides the most typical case. Constitutional structure was imposed that lacked both legitimacy and functionality. Those were to be substituted for by heavy international involvement with both political and economic powers. Finally, aid was to lead to speedy reconstruction while very fast liberalization and privatization were to bring in incentives for both state building and development. In a nutshell, benevolent international dictatorship and free markets were to lead to spontaneous emergence of democracy and market economy. The latter two would then resolve the constitutional issues.

Similar strategy has been applied to Kosovo and Serbia and Montenegro. Somewhat different approach was applied to Croatia, Macedonia and Albania, at least in the end. There was more explicit reliance on democratic procedures and on the respect for human rights. These experiences lead to the following lesson:

Lesson 1. Legitimate, democratic, authority is needed for institution-building as well as for liberalization and privatization – spontaneous market and political forces will not manage an institutional transformation in political *provisoria*.

This is the general framework. In the rest of this policy brief, the role of aid in reconstruction and development will be discussed in the context of economic policy mix that has been followed in the Balkans.

Aid, conditionality and economic repression

The experience of transition in the Balkans provides for a useful comparison between the countries of Eastern Balkans, Romania and Bulgaria, that did not rely on aid and those in the Western Balkans, that did. There are similarities in the choice of economic policies, but the institutional and international context is rather different. The main difference is that Eastern Balkan countries operated with the European Agreement while the Western Balkan countries lacked the European anchor. Instead, after most of the conflicts have ended, they faced a combination of aid of various kinds and of again various kinds of conditions attached to the financial support. Also, they lacked, for quite some time, firm commitment on the part of the EU on their perspective for integration.

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These conditions led to the development of repressive institutions and repressive policies. Here especially the economic policy issues will be looked into. The general approach was to immobilize monetary policy, constrain fiscal policy and rely on trade liberalization and structural reforms, of which privatization and labor market reforms were thought to be the most important.¹

The key policy question is whether that policy mix – restrictive monetary and fiscal policies and radical structural reforms – is internally consistent? Without going into theoretical considerations, on the Balkan experience the answer is somewhat mixed. In the case of Eastern Balkan countries, this mix has either not been followed strictly, in the case of Romania, or has, in the case of Bulgaria, in fact worked. In the Western Balkans, it has, for the most part, not worked. The main difference between the outcomes in Eastern and Western Balkans arises from the impetus for institution building that the process of EU accession brings in. This policy mix will not, by itself, spur institution building needed for successful structural reforms.

Lesson 2. Restrictive and even repressive economic policies have been followed and those have had consequences for the disappointing institutional development and growth performance.

The main problem with the consistency between restrictive economic policy and fast structural reforms is that restrictiveness tends to require repressive instruments and institutions and that does not sit well with structural reforms based on liberalization and privatization. Importing institutions from the EU may help in that case, but if EU integration is not in sight, repressive institutions may stabilize and even spread.

This can be seen in the development of the Western Balkans. There are several stylized facts about Balkan economic policies. Here, initially, exchange rate, monetary and fiscal policies will be considered. Later on, trade and structural policies will be looked into.

Fixed exchange rates: The bulk of the region is on fixed exchange rates (Romania is an exception). Nominal rigidity is accompanied by diverse real exchange rate movements. It is interesting to see that in the case of some former-Yugoslavia countries, i.e., Slovenia, Croatia and Macedonia, real exchange rates have remained stable over a prolonged period of time, even in cases like Slovenia, where exchange rate was managed and mainly depreciated. Similar developments should be true for Bosnia and Herzegovina and Montenegro, though the disinflation took a bit longer in these countries. Similarly, in Bulgaria, after the introduction of the currency board, real exchange rate has been rather stable.

The reasons for the policy of the stability of the exchange rate, nominal or real or both, that most former-Yugoslavia countries have followed are twofold. They have, on one hand, inherited relatively high price levels as well as relatively higher wages. On the other hand, they were compelled to rely on fixed exchange rates in order not to misuse the flow of financial aid through monetary mismanagement. That exchange rate regime, however, required a rather restrictive monetary and fiscal policies.

Lesson 3. Fixed nominal and real exchange rates require convergence in inflation, which may put undue pressure on monetary and fiscal policies.

Restrictive monetary policy: An advantage of the fixed exchange rate should be that a country pegging the currency can import the monetary policy of the anchor country. Assuming free flow of capital, the elimination of the exchange rate risk should lead to the convergence of the interest rates in the two currencies connected

¹ This is sometimes identified with the Washington consensus, but that is not correct. Macroeconomic stability can be achieved in many ways, not necessarily in the way that was applied to the Balkans.

with the fixed exchange rate. That could have the effect that investments will flow to countries with higher productivity of capital, which should in principle be the less developed countries that are relying on the fixed exchange rates. In that case, significant current account deficit could emerge and persist, but should not lead to problems with the servicing of the foreign debt because the debt to GDP ratio need not increase.

This perhaps works for currency unions, but need not work for fixed exchange rate regimes. The reason is that in the system with fixed exchange rates, it may be necessary to keep the growth of money supply down in order to insure the convergence of the inflation rates. Otherwise, real appreciation of the exchange rate may create problems for the sustainability of the external equilibrium. Thus, it often happens that interest rates stay at a level well above that of the anchor country. This has three unwelcome consequences.

For one, monetary expansion and the expansion of credits are sapped; in other words, monetary policy is persistently restrictive. For another, currency substitution stays high, as the difference between the international and the home interest rates introduces the persistent risk of depreciation or even surprise devaluation. Finally, higher interest rates invite foreign investment inflows that tend to increase the trade and current account deficits and thus may present problems for economic stability.

Lesson 4. Fixed exchange rates do not lead to the adoption of the anchor country's monetary policy through the convergence of interest rates, but rather to the need to implement restrictive monetary policy with sustained higher interest rate, which leads to lower employment and higher unemployment.

Fiscal policies. Unlike monetary and exchange rate policies that do not differ all that much across the Balkan region, fiscal policies have diverged in a number of ways. Perhaps one similarity is the constant preoccupation with fiscal policy mainly because it has to be supportive of fixed exchange rate policy. Thus, in the region as a whole, fiscal adjustment is constantly on the agenda of the policy makers.

In most cases, and especially in the case of the post-Yugoslavia states, high public revenues were collected in order to finance quite high levels of public expenditures. Thus, Serbia, Montenegro and Croatia have large public sectors. Macedonia and Albania, however, have low levels of public expenditures, around or just above 30 per cent of their respective GDPs. In the case of Macedonia, expenditures are decreasing, while in the case of Albania they are rising slowly reflecting slow recovery of public revenues. The intermediate case is Romania, where public expenditures are somewhat lower than in most other transition economies, but that is partly the consequence of its size, Romania being the largest economy in the region. Thus, in general, fiscal policy has been relied on to support macroeconomic stability, public expenditures have tended to be high, except in cases where they have collapsed, and aid for reconstruction has distorted public expenditures towards social welfare and away from development.

Lesson 5. Fiscal adjustment, i.e., low budget deficit or balanced budget, has, as a rule, not led to the decline of public expenditures, except in cases where public revenues have collapsed, and has supported distortions in the structure of budget expenditures and high and distorted tax burden.

Trade policy. Initially, illiberal trade was the rule in most of the Balkans. That was the consequence of the wars and political disintegration. After 1999 and especially after 2000, trade has been gradually liberalized throughout the region. At the moment, the region as a whole enjoys rather liberal access to the European Union

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market. In addition, all the countries in the region have signed bilateral free-trade agreements with each other and there is an initiative to transform these bilateral agreements into one multilateral free-trade agreement creating a free-trade area in the Balkans.

In the last few years, foreign trade both within and without the Balkan region has increased. That is the consequence of the fact that growth has returned to the region. Indeed, in the last couple of years, this has been one of the fastest growing regions in Europe. In most cases, this has not been an export led growth. As a rule, it has been the growth of domestic demand that has led to growth and to increased foreign trade. Thus, trade liberalization has not, at least so far, been a significant engine of growth. In a number of cases, tourism has contributed to growth significantly, but exports of goods have been recovering only lately and not too convincingly.

Looking at the regional trade in particular, it is clear that exports of the countries of the region to the region have been increasing more than imports. In other words, countries in the region try to sell to other countries in the region, but tend to import from countries outside of the region. In fact, if looked into more closely, the data on regional trade seems to indicate that a number of countries in the region sell goods to Bosnia and Herzegovina and Kosovo, while the rest of the regional trade is not all that significant. It also seems not to react too much to trade liberalization measures.

This, if true, would indicate that non-tariff barriers are probably more important than tariff barriers. It is even perhaps the case that non-trade barriers are still more important than all the trade barriers put together, whether tariff or non-tariff ones. Also, the factors that create trade opportunities may have more to do with the inflow of financial resources than with trade policy as such. Aid, donations and private transfers lead to increased imports and, in some cases, to increased exports too.

Lesson 6. Trade policy has real limitations in the Balkans and may be rather less important than structural and development policy.

Structural policies. Development of market economy is lagging in the Balkans. This is the consequence of the problems with the liberalization of the economic relations, but also of the deficiencies in their institutionalization. The causes of this state of affairs are many and varied. There are problems with corporate governance, due to flawed or slow privatization, there are problems with labor market regulations, there are problems with public governance, the latter fueling especially shadow economy and corruption. Financial markets are also underdeveloped and repressed. Thus, there is a lot of scope for structural reforms.

Some of those are connected with the way state and social property was privatized and how it was not privatized. Privatizations have often been targeting redistribution of assets rather than their efficient allocation. Thus, non-standard corporate structures have emerged and also markets for products have been monopolized. In the region as a whole, competition policy hardly exists. Even if there are laws, they are not implemented. Thus, oligarchic structures have emerged that bring in quite a number of structural problems.

Perhaps main problems, besides privatization, are in the product and labor markets. The former are rather concentrated irrespective of whether they are in domestic or foreign ownership. The same could be said about the financial markets, especially of the banking sector. Labor markets are distorted in a number of ways.

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There are rigidities, especially in the public sector. There are also institutional deficiencies or outright lack of proper regulation and institutionalization. Also, active labor policies are either nonexistent or are not implemented properly.

Without going into details, it is enough to point out that Balkan countries are still among the worst ones on the various rankings of progress in transition, in competitiveness or in economic and overall liberty.

Lesson 7. The deficiencies in privatizations, the nonexistence of competition and active labor policies are the main structural deficiencies in the Balkans.

Conclusion

International political and economic involvement has had negative institutional and developmental consequences in the Balkans. Indeed, unlike with the process of EU integration, which has speeded up institutional transformation, aid based international intervention has supported restrictive and repressive policies and has delayed institutional transformation. Clearly, the latter should be substituted with the former.

Vesna Bojičić- Dželilović

Policy Brief

**Criminalization of the economy as a development problem in
the Western Balkans**

Most accounts of economic problems in Western Balkans tend to focus on the formal economy. In their macroeconomic dimension, these are usually identified as the absence of a robust, broad-based economic growth accompanied by large and unsustainable fiscal and current account deficits, and large (and in some cases) growing unemployment. On a microeconomic level, poor corporate sector restructuring and private sector development on which transition to fully functioning market economy rests is commonly emphasized. Limited institutional development has been pointed out as the foremost factor contributing to the persistence of these weaknesses.

These problems are primarily attributed to the difficult recovery from the disruption of economic activity caused by the combined impact of economic transition, sanctions and wars in the region. The policy response has encompassed instruments of economic reconstruction and transition, aimed at (re)building physical and institutional infrastructure of development, while maintaining macroeconomic stability. There is a consensus in large sections of academic and policy making community that assisting the region to step up the implementation of structural reforms is essential for unlocking its development potential, and moving it onto the path of sustained long term development. The evidence of improved growth performance, price stability, growing exports and increasing inflows of foreign direct investment observed over the last four to five years is taken as a proof that the reform policies have worked, and that the main problem has been in the failure to implement them comprehensively and consistently. The conclusion is that maintaining a stable macroeconomic environment, while pursuing comprehensive price and trade liberalization, and developing strong private sector on the basis of stable legal and regulatory framework are the key policy directions the countries should follow, if the observed initial recovery is to be sustained. Thus, in broad terms, the approach to understanding the region's economic problems and the choice of policies used in tackling them is informed by the same logic of "transition paradigm" as applied elsewhere in former communist countries.

But Western Balkans is in some important aspects different from the group of East European countries that have spearheaded transition process and joined the European Union. Notwithstanding Western Balkans' country variations, the lag in terms of its level of development, and the potential for catching up is much wider than was the case in this group of countries at the start of the transition for the reasons that have to do with historical legacies of backwardness, and the Western Balkans' peripheral position. The difference in the starting conditions is an important element in explaining the contrasting experience in the course of transition such as Western Balkans' more severe and longer lasting transitional recession, which resulted in only Albania having managed to surpass its pre 1989 level of output by 2004. Against this

background, the specific context in which economic transition has taken place, shaped by sanctions, wars and complexity of externally assisted peace building, has determined the particular dynamics, outcomes and problems of transition in the region of which large, criminalized informal economy is of particular significance.

Criminalization of the economy is directly related to the weak institutional framework within which political and economic transition has evolved. The accompanying analysis by Vladimir Gligorov addresses the failure of the policy of aid to Western Balkans in building market institutions; this paper looks at one important (and poorly understood) implication of the weak and/or inadequate institutional context.

How has the character of informal economy in Western Balkan been transformed by the recent wars?

Informal economy, to the extent that it can be measured with any degree of accuracy in view of the region's particular circumstances, appears to be of a much larger magnitude than in advanced transition countries (at least twice the size), and closer to the levels commonly observed in developing countries. It shows no tendency of significant reduction, despite signs of region's economic recovery. In anything, it has become pervasive with lines between formal and informal activity getting profoundly blurred.

The sharp constriction in production capacity of the region's economies, caused by the combination of factors mentioned in the introduction to this paper, and reinforced by the particular economic policy mix which has sapped the potential for more robust economic recovery, has constrained job opportunities in the formal sector. On the other hand slow progress in tax reforms has resulted in the heavy tax burden, which has worked as an incentive for enterprises to engage in tax avoidance. Thus, from this perspective, flourishing informal economy can be explained as a matter of necessity for large sections of the population and firms trying to survive in an unpalatable environment. However, restricting the understanding of informal activity in the Balkans to the notion of survival and marginal activity belies its real character in that recourse to rule breaking in economic exchange has been widespread practice in the region. This refers not only to the scale of non-compliance with market regulations, tax and customs evasion, but also to widespread incidence of the breaches of laws to provide illegal goods such as money laundering, illegal capital flight etc as well as growth in criminal activities such as drugs, arms and human trafficking. This blurring of the lines between formal and informal activity associated with rule breaking as commonly accepted practice in Western Balkans is indicative of increasing criminalization of the economy that has accompanied the process of transition in Western Balkans. This process is manifested in the enlarging zones of extra-legal activity, including outright criminality, compared to strictly legal (formal) economy, which has been decimated in the course of the last fifteen years and recovering only slowly.

The process of economic criminalization in Western Balkans is intimately related to the problem of corruption. The scale and the character of corruption, which has come to be viewed as one of the main impediments to the region's development, is another of the region's prominent features that underlines the degree of difference with

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respect to more advanced transition countries. It is indicative of the widespread involvement of the state actors in rule-breaking, which in turn undermines the legitimacy of the rules and acts as an incentive to others.² The evidence of the involvement of customs, police, military, and judiciary officials in illegal and criminal activity abounds. Moreover, the channels of informal dealings often go all the way to the highest levels of political leadership. Assessments of corruption regularly put most of the region's countries within the top layer in terms of administrative corruption, but also "grand corruption" (state capture).

The existence of large informal economy, organized crime and high incidence of corruption tend to be approached separately when policies aimed at dealing with these problems are designed, implying a particular view of their origins, character and their impact. In doing so, the complex nature of the linkages between these phenomena is overlooked, and the damage this causes to the countries' economies, institutions and societies, underestimated. In turn, policies aimed at fighting corruption, informal economy and combating trafficking produce only limited outcomes. The evolution of these linkages is intrinsically related to the region's particular development context, which has been uniquely defined by the character of recent wars and its political economy.

The impact of the wars through physical destruction, disruption of productive activity, large population movements and the creation of many and porous borders have created an environment conducive to informal activity, including organized crime. The informal enterprise, which formed the core of the Balkan war economy, was fuelled and sustained through the multiple links integrating it into the global chains of informal transborder trade of which criminal trade is a part. It provided a source of living for large number of ordinary people struggling to survive war inflicted destitution, and a source of profit for those within politico-military structures or with a privileged access to them. The main figures of this emerging non-regulated economic space, who grew to wage important political influence, were people close to the politico-military establishment. Often they were bound together by the bonds of ethnicity, kinship or political affiliation. Thus, one of the main legacies of the war and its political economy has been the emergence of strong links between the political elites and criminal groups, which has allowed for the corruption to sift to the very top of the political leadership. The networks of political, military and economic elites with close links to organized crime have in the post-war period become almost the parallel sites of authority, capable of influencing the policy making process. Money that is made through illegal transactions finds its way through these structures into the legal economy; it is also the main source of funding for the extremist nationalist parties. The existence of these networks suggests different character of corruption, in which pursuing personal benefit ceases to be the sole aim; rather it is the interests of particular groups, often linked by ethnicity or political affiliation that takes precedence³.

² In Western Balkans, the acceptance of rule breaking in every day life is reflected in an attitude that "everybody is doing it". This has an important implication in that the weight of non-economic incentives to informality has to be recognised in explaining this phenomenon in Western Balkans.

³ At the conceptual level, this calls into question the applicability of the concept of "state capture" to the Western Balkan context which implies that "captor" and "captives" are clearly distinguished.

The impact of economic criminalization

Large informal economy distorts allocation of human and capital resources, lowers productivity and undermines competitiveness affecting negatively economic outcomes. It restricts the access to public services while at the same time causing deterioration in their quality, which increases the costs of economic activity. It provides misguided signals to policy making and therefore impacts on growth dynamics. It also perpetuates poverty and reinforces inequality, which in turn undercuts economic growth. Its large presence signals the inability of the state to enforce rules governing a functioning market economy, which reflects on the country's attractiveness to foreign investors. This effect is augmented by the decline in the credibility of political institutions caused by the involvement of state elites in informal practices.

The existence of informal networks operating as parallel sites of authority is one of the main reasons behind a slow progress in institutions building. These networks have no interest in developing functioning state and strong and properly taxed formal economy. On the contrary, they are intent on keeping the state weak in order to extract benefits for particular groups within the society. Their interests are opposed to the type of inclusion promoted by the European integration process which requires certain standards of behavior and sets up norms that have to be upheld. Because these networks are regional in their character (while at the same time linked into global criminal flows), there is a resistance to improved formal regional cooperation, since maintaining borders both physical and those invisible between various ethnic groups is essential for their survival⁴.

The policy challenges

The nexus between informal economy, corruption and organized crime represents strong impediment to the implementation of the reforms aimed at consolidation of market economy and democratic polity in Western Balkans by locking them in inefficient institutions. Thus, institutional weakness in Western Balkans is not simply a side effect of difficult transition, but should also be understood as a deliberate project of predatory elites. This feature of Western Balkan transition has been recognized late into the international community's involvement in assisting the reform processes in the region. The international involvement that has tackled separately the recovery of the formal economy- through macroeconomic stabilization, liberalization and structural reform, and corruption and organized crime via a plethora of country and regional initiatives aimed at introducing new legal frameworks, institutions and structures has had limited effect in that it had not been effective in counteracting the power of the informal networks. The process has been heavily oriented towards introducing appropriate legislation, institutions and structures while the issue of local capacity to implement them has not been sufficiently addressed. This is the case not only with regards to human and financial resources but also the destructive impact that the lingering informal networks have. The scale of political interference in economic sphere is of a much larger magnitude than in the advanced transforming economies.

⁴ While formal cooperation at the level of political elites have evolved slowly, inter-ethnic cooperation between politicians and criminal elements is buoyant.

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Policy advice to Western Balkans countries to continue with liberalization, step up structural reforms and implement specific measures to deal with the problems of corruption and organized crime has to be placed within the region's particular context:

- a) weak state of its economy and diminished production capacity
- b) complex relationship that has developed between the state actors and the informal sector
- c) regional (and global) dimension of the criminalization of the economy.

To counteract widespread informality, creating opportunities in the legal sector of the economy remains the key. Economic consolidation of the region involves structural modernization which the prevailing approach to reconstruction and development has failed to get off the ground. Rebuilding the economy has to be viewed in close connection with rebuilding of the state legitimacy, which requires policies to deconstruct clientelistic frameworks based upon the tenure of political power that has undermined official government structures. These policies can not be confined to legislative process as an end in itself, but should aim at rebuilding social and political consensus behind the reforms and reinforcing respect for the state-sponsored rules.

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Panel 3: Society, Culture, Education

Chair: Denisa Kostovicova, London

Speakers: Vesna Pusić, Zagreb

Sonja Biserko, Belgrade

Jasmina Husanović-Pehar, Tuzla

Background papers: Iavor Rangelov, London

Michael Daxner, Vienna

Rapporteur: Senad Slatina, Sarajevo

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Policy Brief

EU War Crimes Policy in the Western Balkans

1. EU Involvement in War Crimes Issues in the Western Balkans

The interest of the European Union in dealing with the legacy of mass atrocity in the Western Balkans has so far been limited to the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. Pursuant to Commission Communication 235 (26 May 1999), the EU has developed specific association conditionality for the countries in the region within the framework of the Stabilisation and Association process for South East Europe (SAp). SAp conditionality includes, *inter alia*, full cooperation with the ICTY, respect for human and minority rights, the creation of real opportunities for refugees and internally displaced persons to return, and a visible commitment to regional cooperation.

Cooperation with the ICTY proved a difficult issue often dominating EU relations with Croatia, Serbia and Montenegro (SiM) and Bosnia and Herzegovina (BiH). The European Council, while affirming that the future of the Western Balkans is in the EU, has repeatedly insisted that progress towards association and eventual accession to the Union is conditioned on full cooperation with the ICTY. With all three countries seeking to sign Stabilisation and Association Agreements (SAA) and to open accession talks with the EU, the first test for the ICTY conditionality came from Croatia. Croatia has made steady progress in the SAp since 2000, signing an SAA in October 2001 and, pending its ratification, an Interim Agreement which entered into force in March 2002. The European Council in December 2004 noted satisfactory progress and, conditioned on the transfer of General Ante Gotovina to the ICTY, decided to open accession negotiations with Croatia on 17 March 2005. Croatia failed to deliver General Gotovina on time and on 16 March 2005 the Council decided to postpone the opening of negotiations.

While Croatia still hasn't transferred the General to The Hague, the EU decided to open accession talks with the country after ICTY Chief Prosecutor Carla Del Ponte announced that Croatia is cooperating fully with the court in October 2005. Intensified international pressure, as exemplified by the firm EU approach towards Croatia, has resulted in a spate of transfers, often framed as 'surrenders', from SiM and Republika Srpska in the spring of 2005. Both Serbia and Bosnia need to demonstrate full compliance to secure SAAs. Facing a 2010 Completion Strategy, the ICTY insists on securing swiftly the remaining indictees at large, most notably

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Bosnian Serb leaders Ratko Mladic and Radovan Karadzic, as well as Gotovina. It remains to be seen, after Croatia's precedent, whether SiM and BiH will be able to proceed from association to accession talks without having Karadzic and Mladic in the dock.

By focusing exclusively on the return of refugees and full cooperation with the ICTY, the EU has ignored other issues of dealing with the legacy of the recent armed conflicts in the SAp. Excluding domestic transitional justice – e.g. war crimes prosecution in domestic courts, truth/fact-finding commissions, and vetting of complicit military and police officers – from SAp conditionality has resulted in ignoring these issues also with respect to EU assistance to the region. The EU distributes aid in the Western Balkans primarily through the Community Assistance for Reconstruction, Development and Stabilization (CARDS) programme, while civil society has been funded partly through the European Initiative for Democracy and Human Rights (EIDHR).

CARDS assistance for 'Democratic Stabilisation' is focused on minority rights, refugee return and reintegration, the media, and civil society, but ignores the right to justice and reparation for past human rights abuse, missing persons, and vetting of officials complicit in war crimes from state institutions. The CARDS priority sector of 'Good Governance and Institution Building' includes supporting general public administration reform and capacity building (customs and taxation; public finance; health sector; local government) and justice and home affairs (combating corruption, financial and organized crime; border management and police; training and technical assistance to national judiciaries; restructuring ministries of justice). While CARDS has co-funded the establishment of the War Crimes Chamber of the State Court of BiH, support has not been provided for training war crimes police investigators, prosecutors or judges, establishing witness protection and relocation programmes, or funding fact-finding bodies across the region. Similarly missing is assistance in relevant police reform, including vetting of officers complicit in war crimes or ethnically motivated crimes.

EIDHR covers only SiM and BiH in the Balkans. Among the programme priorities are civil society initiatives for strengthening democratisation, good governance and the rule of law; fighting torture and impunity with special emphasis on international criminal courts; and combating discrimination against minorities. The regional focus of civil society initiatives dealing with domestic war crimes trials (e.g. including Croatia and Kosovo) and the failure to spell out the general programmatic areas to include explicitly transitional justice, has *de facto* banned access of NGO war crimes work in Serbia and Bosnia to EIDHR funding. This means that the EU currently does not support the crucially important regional efforts of civil society for facilitating transitional justice in the former Yugoslavia.

2. Reconsidering EU War Crimes Conditionality in the Former Yugoslavia

The exclusive focus of EU conditionality for post-Yugoslav countries on full cooperation with the ICTY should be reconsidered for two reasons. First, disregarding domestic efforts for dealing with war crimes committed in the course of the conflicts has resulted in continuing denial of the 'truth' produced in ICTY

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proceedings and failure to reconcile nations and ethnic communities – the purported goal of the Tribunal, seen as central precondition for deterring future conflict. Second, as Croatia, SiM, BiH, and, eventually, Kosovo, move closer to accession negotiations, the Copenhagen political criteria for candidate countries must take into account justice and reparation for victims, as well as accountability for perpetrators of serious international crimes, when making realistic determination of each country's progress towards establishing stable institutions guaranteeing human rights and the rule of law.

A brief overview of domestic transitional justice in the Western Balkans demonstrates the reluctance of the political class and judiciaries in the region to deal with war crimes, often in response to wide-spread denial of responsibility and persistent ethno-national sentiment among the general public. While Serbia has so far prosecuted only a handful of low-level paramilitary members and rank-and-file soldiers, Croatia has processed an avalanche of cases against Serbs *in absentia*, compromising the rule of law with ethnic bias. Local justice in BiH has been difficult as well – Republika Srpska has so far conducted only one war crimes trial (in 2003), despite a significant concentration of perpetrators within its jurisdiction. Special War Crimes Chambers have been established in Belgrade and Sarajevo recently in order to deal with such shortcomings, but it should be noted that the courts exist because the international community either exerted significant pressure (Serbia) or set up the body itself (Bosnia). In Kosovo, ethnic bias in the administration of justice forced UNMIK to set up 'internationalized courts' and staff them with international prosecutors and majority international judges sitting on each war crimes bench.

Establishing the truth about past atrocities, crucial for ending the ethnic calculus and speculation about who did what to whom during the wars, has proved equally problematic. The Yugoslav Truth and Reconciliation Commission was established in 2001 in Belgrade to address the causes of the conflicts, instead of revealing facts about hostilities and atrocities. It failed to disclose any new information and to represent minorities, and with little resources and key members resigning, collapsed by 2003. While in Croatia no official war crimes inquiry was ever initiated, the Srebrenica Commission in Republika Srpska (2004) remains the only local fact-finding body in BiH, its reports produced with High Representative Paddy Ashdown pressuring and sacking uncooperative officials.

In these circumstances, it is arguable whether the ICTY could achieve its mandate for reconciliation. The Tribunal itself has been perceived as ethnically biased both by local audiences and the political class in the countries of the region. This suggests that the ICTY by itself is unable to contribute to the long-term goals of the EU in the Western Balkans. Ignoring domestic transitional justice processes has allowed ethno-nationalist mobilization and denial of responsibility for war crimes to persist, in this way obstructing both the process of rebuilding the rule of law, and the goal of the ICTY itself – to facilitate lasting peace and reconciliation in the former Yugoslavia. As countries move closer to the Union, and its leverage in the negotiations increases, this lesson must be taken seriously. The Copenhagen political criteria require candidate countries to demonstrate 'stability of institutions guaranteeing democracy, the rule of law, human rights and protection of minorities'. EU conditionality should be interpreted to require ending impunity for war crimes through domestic

prosecution, upholding victims' rights to justice and reparation, reforming the military and police by vetting complicit officers, and establishing the truth about mass atrocities, including with respect to missing persons and mass graves.

3. Regional Approach to War Crimes in the Western Balkans

The cross-border and inter-ethnic nature of the 1990s conflicts in the former Yugoslavia requires a regional approach to dealing with the legacy of the conflicts. With respect to domestic war crimes trials, local judiciaries are facing the reality that perpetrators, victims, witnesses and evidence are often located on different sides of present-day borders. This requires regional cooperation in criminal matters, which is currently regulated by bilateral agreements but obstructed by factors of political, as well as technical and financial, nature. Cooperation both at the investigation and prosecution stages of processing war crimes must be enabled through training and resources allocated to fit current agreements. Similarly, while all countries have now adopted witness protection legislation, lack of funding and programmes for witness relocation and exchange, render the legislative framework dysfunctional.

Addressing these problems will be crucial also for successfully processing cases that will be referred from the ICTY to national jurisdictions pursuant to Rule 11*bis* of the ICTY Statute. The infrastructure for prosecution varies from country to country: international panels in Kosovo (UNMIK), a mixed domestic-international chamber in BiH (Office of the High Representative), a special war crimes chamber in Serbia, and five designated courts in Croatia. A regional approach to supporting war crimes trials should take the involvement of the international community in Kosovo and Bosnia in account, and should develop both a regional strategy for all countries and national strategies for addressing the needs of individual states. These strategies must be targeted specifically to war crimes: the practice to date suggests that the specific and highly idiosyncratic needs of transitional justice become neglected when the EU channels its support to the judicial system as a whole.

The gaps in the prosecution of war crimes, and the need for a regional approach to addressing them, are demonstrated by the Special War Crimes Chamber in Belgrade. In the *Ovcara* case for the massacre of 290 Croatian prisoners of war near Vukovar in 1991, currently before the court, only two forensic expert witnesses have been provided by Croatian authorities. Upon a request from the War Crimes Prosecutor, the Humanitarian Law Centre (HLC), a Belgrade-based NGO, has facilitated the testimony of six other Croat witnesses, who simply wouldn't trust or approach the Serbian authorities. The HLC represents the victims in court as Victims Advocate Council, and facilitates the travel of family members to Belgrade for court hearings. The need for Kosovo witnesses to come to Belgrade has previously been met by the HLC as well, and it is likely to emerge again as most recently the Serbian authorities arrested nine individuals for mass killings in Suva Reka during the Kosovo crises. It should be noted that out of the nine, six were active policemen in Serbia, while three were former policemen, which demonstrates the importance of a future vetting process to release complicit police and military personnel from office.

The need for a regional approach is even more evident in the case of missing persons and mass graves. Here, again, only civil society has proved committed to overcome

national divides – the associations of missing persons from different countries, without great success. A host of NGOs from SiM, Kosovo, BiH and Croatia joined forces to establish a regional initiative for dealing with the past in the former Yugoslavia in 2004 (known as the ‘Vukovar Process’). So far, their activities involve setting up databases for war crimes documentation in Belgrade, Sarajevo and Zagreb; joint actions for truth-telling; and regional monitoring of war crimes trials. Currently, they are involved in international consultations and preparations for regional lobbying for establishing an International Victims Commission for the Former Yugoslavia, a fact-finding body to produce a report on human rights and humanitarian law violations during the conflicts and to recommend a comprehensive reparation programme. Civil society has become an agent of change both driving the process of transitional justice and filling gaps in states’ ability or willingness to deal with war crimes, efforts that should be supported.

4. Recommendations to the EU

1. Interpret the Copenhagen political criteria to incorporate, generally, ending the culture of illegality associated with war crimes, and, specifically, a) ending impunity for war crimes; b) enforcing victims’ rights to justice and reparation; c) reforming the military and police by vetting complicit officers; and d) establishing the truth about mass atrocities.
2. Provide support to local judiciaries *specifically* for adjudicating war crimes, including: a) training of police investigators, prosecutors and judges; b) technical assistance for deepening regional cooperation in criminal matters; and c) support for setting up witness protection, relocation and exchange programmes.
3. Provide assistance, through designated project funding, to civil society organisations working on: a) obtaining and preserving war crimes documentation; b) truth-telling initiatives; c) facilitating and monitoring war crimes trials; d) missing persons; and e) public education and advocacy. Funding should be provided both for national and regional actions.
4. Provide political support and assistance for the establishment of an International Victims Commission for the Former Yugoslavia, which will produce a report on human rights abuse during the conflicts and suggest a comprehensive reparations scheme.

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Policy Brief

1.

South-East Europe (SEE), or, if you will, the Balkans, is a region, where the crossroads of the European fabric meet. The only fact we are certain about is that the region definitely is Europe. There are doubts about what belongs to the Balkans, about whether the Christian heritage is rivalled by the Islamic one, whether the Orthodox or the catholic influence should be seen as dominant, whether the societies have met the standards of western enlightenment or still follow more the less enlightened secular paths of Vienna and St. Petersburg. Bosnia-Herzegovina is a good example for an over-complexity, which cannot be reduced by the mere simplification of the facts. Kosovo is another example.

Most of the Balkan conflicts do not fit in to the dominant patterns of conflict theory, which either focus on economic or cultural frictions mainly. Of course, both fields are co-responsible for many conflicts, but after all, there is a strange mixture of ingredients, which makes one of Europe's oldest civilisations incomprehensible to the mainstream analysts.

Perhaps, the present is a good moment to get rid of so much coating and tarnishing the reality, which has been a main occupation both of the people in SEE and their keen or disinterested observers. After the fall of Socialism, after the wars of independence and ethnic re-organisation, after the traumas of war and intervention, after the public disorder there might be a time for rethinking the potentialities and the future.

Politically, the surface of the envisaged development seems to be clear: a democratic market-oriented society with utmost freedom of expression, tolerance and multi-ethnic conviviality should be attained, with a strong integration into the European Union and, perhaps, NATO, and good neighbourhood with all people surrounding. Economically, the attempts to speed up the liberalisation of markets and to create wealth through privatisation have not proved too successfully. Thus, it is more likely that all states in SEE will, to a certain degree, suffer from the deficient patterns of new states as described as anaemic or aborted or collapsed or simply failed⁵.

In order to prevent this outcome, we should reconsider the priorities of our joint policies to assist in the transition process. The role of culture has been underestimated by all governments and intervention forces. While the sources of conflicts are never

⁵ Cf. Kalevi Holsti: *The state, war and the state of war*. Cambridge 1997; Ulrich K. Preuss: *Krieg, Verbrechen, Blasphemie*. Berlin 2003 (Wagenbach).

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entirely cultural or identity crises, the conflicts themselves are never outside the life-world and the cultural spheres. The reduction of priorities to security, economy and administration is simply too simple. The people are traumatised, tired of conflicts and in search of sustainable collective identities which need not necessarily follow the old patterns, - nationalistic, ethnocentric, clan-focused or simply routines of survival. In order to establish new cultural traditions and rules, there are a few sectors needed which should be strengthened immediately: education, public health, social protection of the aged, - to name the three most significant “soft sectors”, which are the necessary, if not sufficient, fundament of something like “future”. If they are neglected, there will be brain drain, social dissociation and frustration as a collective consequence. The soft sector theory can be adapted according to the very special needs of each region⁶.

The battles in the field of culture need not create clashes of civilisations, as Huntington is seeing them. Instead, they are catalysts for frictions and conflicts rooted much deeper. In the Balkans, the widening gap between systems and life-world has created a situation even more difficult than with conflicts between nation states. Disarmament of history is not enough. It is necessary to build peace and understanding on some basic assumptions, which will affect also the policies by the West or the supra-national key players like the EU. People in the Balkans know more about the West than the West knows about them; the effects and side-effects on the region from the European enlightenment should be reconsidered; not all political affairs can be justified or legitimised by the historical approach, which is very often a mythological one; social control by outdated institutions and the barriers against any effective cultural and social capitals by the intellectuals, artists and scientists themselves should be attacked in a better organised way than until now; the rhetoric of identity should be replaced by the ideas of restructuring, even rebuilding societies; the reconstruction of the *public* space as an agora for free minds and the expression of incomplete, experimental ideas on society could be improved etc. In one word, the conditions of societies to perceive and rethink themselves better within a realistic look on their environment shall be reformed, otherwise all financial and political support will not meet the tasks of transition into republicanism, civil society and eventually well grounded democracy.

All this starts in school, or even pre-school, and will find one central centre in teacher training. Education and higher education shall be the leading institutions for all peace-building through development. And the social protection of the aged is a condition for the emergence of future itself. Arts and public media are no ornaments, but forces and powers at the heart of a new civil society. This may be true for any society in Europe, but the Balkans are certainly one region, where these changes are needed more than elsewhere, and certainly, before the new economy has steered the boat into corruption and immobility again. There will be multi-ethnic and multi-cultural institutions, but only as a result from civil development, not as an imposed prerequisite.

There will be a resurfacing of European values and orientations only if the Balkans are not permanently invited to join a Europe, which is represented by others, and not including them from the beginning. The coping with a recent past can only lead towards reconciliation and mutual understanding if there are enough reasons to want

⁶ Cf. Michael Daxner: A coherent policy for South-East Europe, Vienna 2004, BMBWK (Federal Ministry of Science).

such bitter and painful insights. Closing the gap between systems and life-world means also to attempt the creation of a new line of civic traditions, and of rules which should not end in a new dictatorship by parties or ideological warlords, neither by unregulated markets or external imposture.

2.

What can be done? The usual answers void themselves by repeating the old formulae, which by no means are trigger-points: Multi-culturality, integration, tolerance, etc. My approach would be different in some ways, but, of course, not neglecting good practice in many single cases. It is based on a few assumptions and recommendations, foremost that *time* plays a crucial role, and all developments should be slowed down as they concern cultural and ideological issues. Traumas and deeply rooted identity crises cannot be treated by quick-impact therapy. Secondly, the *soft-sector* integration must happen much faster and better co-ordinated. And last not least, formal democracy as a necessary ingredient of any developed modern society is an end, but certainly there are more procedures and ways to attain it than the premature election rituals as a proof for progress.

- One of the main cultural provocations seems to be to follow a culture policy which does not point at the newly attained national sovereignty as its centre, but insists in rather non-national life-world based attitudes: these can be cosmopolitan, simply neighbourly or both, but do not receive their recognition through the political system, but through the networks of appreciation and critique, which then formulate another political layer.
- The cultural elite in the Balkans has a very distinct history of migration, return and a loss of real locations from which impact and recognition can be stimulated; the imaginary world of the Balkans (as an anamnestic process) is a strong antidote to the imaginary Balkans themselves. (Cf. the recollection of Jewish or Muslim life, which is always “Jewish” or “Muslim”). This elite is permanently confronted with the other “elite”, who resemble very much the old *nomenclature* or the second layer of corrupt local peers – cultural *warlordism*? The function of cultural dynamism for the exchange of elite is important.
- A systematic process of teaching “the West” what the Balkans are about. We know that the Balkanese know much better what is going on in the West, and have always known, than the West knows about the Balkans. This is not an issue of simple cultural exchange or of cultural *foreign* policy, but a *complex didactical* process. It could be best based upon the creation of *public space* for cultural expressions and production, i.e. combined with the creation of a specific *public*.
- The resurfacing (of) *Islam* is a special issue which has been neglected too long by reducing its heritage to a cultural one within the European history. But Balkans Islam has never been given the chance to dispose of the nasty religious Christian past (crusades, wars of religion etc.). Only if the thematising of Islam occupies also a share of the public space, it can be resistant against penetration and infiltration by external *Islamistic* forces (Wahabism, Jihadism). Popular religion and high “church” denomination shall both be challenged by the quest for a secularised (and enlightened)

building of civil society, where religion does not play a role in fortifying the *national* paradigm.

- In this context we shall see the contribution to the European Heritage as a challenge, which should not automatically become reduced to a *musealisation* of the de-politicised past.
- The disarmament of curricula shall not remain focused on History and European Studies syllabi, but include all subjects, including technical and science-oriented. The hidden nationalist curriculum of practically all education has had a long term effect. This can be seen when an unexpected nostalgia recalls the “good previous education”, which had its pros, quite sure, but also this less pleasant dimension.
- *Language* education should also become disarmed. It is not necessary that English becomes the first language, but it is also important that dialects and local idioms do not attain the status of fully developed unique languages, because then linguistics are tortured into newly and highly ideological genealogies.
- *Movies and local theatre* shall challenge the imperialist TV culture, which has replaced the educational and cultural function of the medium into a 24-hrs-occupation of time and speechless homogenisation.

I would always recommend to place cultural policy into the core of mutual cooperation and neighbourhood. The life-world must mend the gap between the system and the people, and new traditions, rituals and habits can only grow with a sensitive farewell to a history, which has become a myth.

**Panel 4: EU Working Methods – Assessments, Potentials and Lessons
for the Austrian Presidency of the EU**

- Chair:** Tihomir Loza, London
- Speakers:** Milica Delević Djilas, Belgrade
Marie Janine Calic, München
Vedran Džihić, Vienna
- Background papers:** Denisa Kostovicova, London
Dimitri Bechev, Oxford
- Rapporteur:** Iavor Rangelov, London

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Policy Brief

EU Against and the Challenges of the Weak State in the Balkans

The fall of the Milosevic regime in Belgrade in October 2000 created political space for the European Union to engage in the Western Balkans in a qualitatively different way. The Stabilisation and Association process (SAp), inaugurated in 1999, offered a European perspective to the Western Balkans, the term encompassing the former Yugoslav republics except for Slovenia but including Albania. The democratic change in Serbia provided a symbolic break with the 'Balkanisation' associated with war and state fragmentation, while ushering the prospect of 'Europeanisation' for the entire region. The region's European integration was to determine the direction and substance of post-Communist and post-conflict transition.

Indeed, with its legacy of Communism and conflict, the European integration of the Western Balkans has posed a unique policy challenge to the EU. Transition and stabilisation have been set as two explicit aims for the process of European integration of the region. The European project has been conceptualised as a 'peace project' since the founding of the European Coal and Steel Community in 1951. This dimension has been particularly prominent in the Western Balkans, where Europe has failed to prevent a slide into a series of bloody and devastating conflicts in the 1990s.

Since then the Western Balkans and the EU have undergone a profound change. The region's transition is shaped not just by the Communist legacy, but also by a decade of bloody conflict that transformed the politics, societies and economies. At the same time, the EU has developed the strategic enlargement as well as security concept for the Balkans, along with the corresponding instruments. Additionally, the EU's leading role as an external promoter of democracy and stability in the Balkans rests on the transatlantic consensus, after the United States has begun to scale down its involvement in the region in response to global commitments in the Middle East and elsewhere in the wake of 9/11. Increasingly, the EU is taking on the role of a leader and even 'custodian' of the Balkans' stabilisation. The following sections will outline

the SAp's origins and points of criticism. These can be summed up in terms of prospects and process.

Stabilisation and Association process: Its Origins and its Critique

The introduction of the Stabilisation and Association process (SAp) in the aftermath of the Kosovo war in 1999 marked a turnabout in the EU's approach to the Balkans. It offered a prospect of European future to all countries and entities of the Western Balkans through a contractual relationship in a form of the Stabilisation and Association Agreement (SAA) accompanied by a programme of assistance and asymmetrical trade liberalisation. Both the objective and the impact of the SAp have come under criticism for their ambiguous effect on furthering the stabilisation of the region.

The European Council in Feira in 2000 recognised the countries in the Western Balkans as 'potential candidates for EU membership'. The EU's policy shift marked a departure from the 1997 Regional Approach, which set out the principles and conditions for accords with the EU and access to the EU aid, but bypassed the issue of candidacy. The SAp with its contractual character followed in 1999. Nonetheless, the SAA remained only a stepping stone to candidacy, and its implementation 'a prerequisite for any further assessment by the EU of the country's prospects of accession'.

At the same time, the SAp cast doubt on the EU's commitment to full integration of the Western Balkans. This doubt was not dispelled even after the European Council in Thessaloniki in June 2003, when Greece, concluding its presidency, sought to reinforce the European perspective. Although the SAp was enriched after Thessaloniki, the countries still remain potential candidates rather than candidates. 'Integration' in the term 'European Integration Partnership' proposed by the Commission was dropped in the Thessaloniki Agenda. The launch of the European Partnership (EP), modelled on a Accession Partnerships employed in Central and Eastern Europe, reflected the recognition that the EU has to be an anchor of the Balkans' transformation. Yet a number of analysts have pointed out EP's half-way character, combining elements of the pre-accession process, but skirting a full institutional and financial commitment.

In sum, the SAp has essentially remained distinct from pre-accession, with all political and financial implications of the separation of the two. In addition, the EU aspirants in the Western Balkans have become wary of a possible impact of the enlargement fatigue in the EU, or, indeed, of alternative strategies towards this part of the region. An introduction of the notion of a ring of well-governed countries along the EU borders in the EU security strategy has created uncertainty about the EU's commitment to full integration of the Balkans.

Arguably, even Croatia's start of the accession talks, Croatia being the first Western Balkan state to 'graduate' from SAp to Accession, fails to dispel the lingering doubts about the end destination of the SAp for the remaining aspirants in the region. While Croatia's success may inspire the neighbours, it is worth reflecting on how pertinent it is to draw lessons from Croatia's experience. Unlike any other former Yugoslav

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country and entity in Western Balkans, Croatia has not had to cope with the issue of legitimacy and cohesion of state parallel with democratisation and Europeanisation. The operation 'Storm' in 1995 reduced the Serb minority in Croatia from some 12.6 percent of the total population in 1991 to less than 5 percent at present. Arguably, from the perspective of the state cohesion, Croatia's road to the EU has been more akin to the ethnically homogeneous Slovenia than to that of Macedonia, Serbia and Montenegro including Kosovo, Bosnia and Herzegovina, as well as Albania.⁷ Indeed, it is these Balkan 'five', till recently referred to by EU officials themselves as 'Balkan ghetto' or an 'EU enclave', and, in particular, the challenges they encountered on their European path so far, that make a strong case for a review of the EU's approach to the Balkans.

Herein lies the paradox of the EU policy and its commitment to full integration of the Balkans. Its long-term framing, itself inevitable given the complexity of the Balkan situation, lessens the possible impact of the European integration process. Hence, a rethinking of the EU's short-term commitment is necessary, though much work has gone into 'reforming' the SAP so that it has come to approximate the Accession process yet still remaining distinct from it in crucial ways. Another trap lurking here is a possibility of the SAP becoming a substitute for the Accession, with all its implications.

In order to prepare the Western Balkans for the accession, the SAP has been defined by the 'enhanced' conditionality and regional dimension. These instruments evolved from the model applied towards the post-Communist countries in Central and Eastern Europe, itself characterised by stricter conditions for accession than the previous newcomers to the EU. While these instruments were shaped by an imperative to deal with the political, economic and security fallout of ethnic conflict in the Balkans, both showed their serious shortcomings. This paper focuses on the EU's larger framework characterised by the EU's simultaneous Enlargement and CFSP strategies, as well as the state-centred nature of its approach, while the accompanying brief by Bechev looks at the issues of conditionality and regionalism.

Enlargement and CFSP or Enlargement vs. CFSP

The EU's involvement in the Balkans has been at the forefront of its intensified operationalisation of the Common Foreign and Security Policy (CFSP), and within it of the evolving European Security and Defence Policy (ESDP). Indeed, EU's first military and police missions were set up in the Balkans. They were not only a ESDP's test-case, but also reinforced the EU's credibility and ability to deliver its global commitments. However, the simultaneity of the EU's involvement in the Balkans within its Enlargement portfolio and its CFSP portfolio has thus far eluded systematic analysis, even though scholars have noted that the accession-oriented instruments are ill-fitted to tackle the region's key problems of state-building, conflict resolution and economic growth. Others noted that a twin approach to the Western Balkans by the EU, embodied by the SAP and the ESDP mechanisms is as a demonstration of the EU's growing strength in projecting stability into the region, yet without strong evidence to back it save for the obvious but also fallacious claim that multiplication of instruments is a sign of strength. By contrast, I argue that it has introduced another

⁷ Note that Albania's cohesion is undermined by strong regional-*cum*-ethnic-*cum*-religious divisions between the North and South, Ghegs and Tosks, Muslims, Catholics and Orthodox.

level of separation of the EU's policy instruments, often with an unintended consequence of slowing the region's advance towards Europe. The research into the compatibility of the two instruments has revealed the following weaknesses:

i. structure and proliferation the EU actors

The pursuit of the Enlargement and CFSP policy in the region has led to the proliferation of the representations of the EU in the Balkan aspirants. For example, the EU is represented in Macedonia through the EU Commission, the European Agency for Reconstruction (EAR), the Office of the Special Representative of the EU (EUSR), Proxima Police Mission, and the European Union Monitoring Mission (EUMM). The structure of the EU presence in Macedonia has itself undermined the stabilisation potential of the integration process. For example, the presence of the EUSG and Proxima has been perceived by ethnic Macedonian political elites as an actual impediment in the Euro-integration process. These 'external' missions are taken as an indication Macedonia is not ready to make progress independently within the SAp. However, it is precisely these missions that the members of the ethnic Albanian community found most assuring in terms of furthering their sense of security.

ii. coordination

The proliferation of the EU representations in the aspirants is closely related to the problem of coordination of policy among the different 'branches' of the EU, directly affecting the EU's projection of credibility to the Balkan partners. For example, in Kosovo, the proliferation and lack of coordination among the EU actors has undermined the projection of EU's effectiveness among ethnic Albanians, resulting in calls that the US takes a lead in the Kosovo status negotiation process.

iii. conflicting impact of Enlargement and CFSP policies

Although both the EU's Enlargement and CFSP approach aim to further the stabilisation of the region within the process of European integration, Serbia and Montenegro's example best illustrates the unintended impact their simultaneous pursuit can cause. The EU's insistence of the full economic harmonisation between the two units of the new state of Serbia and Montenegro brokered by the EU's foreign policy chief Javier Solana, and the their inability to see it though, has deadlocked Serbia and Montenegro's integration process, until the policy of the economic harmonisation spearheaded by the Commission was reversed my means of the introduction of the 'twin track' approach.

EU actors in the Balkans have different preferences with Solana's office having security as its uppermost concern and the Commission favouring a classical functionalist approach, despite their common overall goal of stabilisation of the Balkans. While the simultaneity and separation of the Enlargement and CFSP instruments has created challenges for the SAp process by means of the spill-over and unintended impact of policy issues from one area to another, it is important to note that the regions legacy of Communism and conflict in the context of state- and nation-building in their aftermath does not call for their abandonment, but rather for a refinement and closer integration of these two approaches.

The Balkan partner: weak state and weak civil society

Lastly, the SAp's overall state-centred approach is yet another critical point calling for re-examination. The EU's focus on institutional reform is necessary considering complex political, economic, social and security challenges in a post-Communist and post-conflict in the Balkan context ranging from state weakness to high poverty levels. All these problems require a strong, democratic and accountable state. However, the institutional reform is a time-consuming process. Time necessary to attain state effectiveness contrasts starkly with a potential for instant deterioration of security situation, as demonstrated by the flare-up of ethnic violence in Kosovo in March 2004. Meanwhile, the weak, unreformed and corrupt state in the Balkans itself remains a cause of insecurity conceptualised here in the broadest of terms. The type of existential insecurity further undermines the support for reform, and, with it, may yet affect the support for the European integration.

Arguably, a conceptual rethink is needed for dealing and approaching the situation, such as that in the Balkans of a double weakness: weak state vs. weak civil society. While EU's state-centred approach begins to ameliorate the weakness at the state level, it largely leaves out the civil society outside the policy net. Indeed, while the EU considers consolidation of civil society 'fundamental to achieving a more accountable and accessible government' in the region, the EU's assistance directed at civil society both in the SAp or the Stability Pact framework indicates that non-state centred investment has been neither considered strategic nor integral to comprehensive democratisation and security efforts. One area where funding has gone is the promotion of ethnic reconciliation initiatives. However, a reconceptualisation of the role of civil society to underpin the goals of democratisation and stabilisation of the European project in Western Balkans requires a recognition of civil society as a strategic actor in this respect, with the area of good governance particularly calling for a systemic approach. Just like state capacity so does civil society's own good governance capacity need to be developed both at a local and national level, along with the encouragement for the cooperation of the two sectors, in other to help counteract the double weakness characteristic of Balkan aspirants.

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Policy Brief

EU Conditionality and Regionalism

The power and limits of EU conditionality

The EU deals with the Western Balkans through its conditionality instrumentarium. It seeks to induce deep-running political, economic and institutional reforms by using the carrot of membership. In the short-term, meeting the conditions specified in the European Partnerships is tied to improved market access to EU markets, financial resources as well as the social prestige of moving closer to accession via interim stages such as signing SAAs, granting of candidate status, and opening membership negotiations. The principle of conditionality is also important because it ensures that everyone gets a fair and equal treatment, and the EU is not in the business of favouring some countries at the expense of others.

The application of conditionality, however, is more difficult in practice. The instrument works where a minimum of public support and state capacity to implement reforms. Both are often lacking in the Western Balkans. Publics react negatively to conditions specific to the post-Yugoslav context such as cooperation with ICTY, which in turn boosts anti-reformist and populist political actors such as the Serbian Radical Party. State weakness makes the implementation of economic and institutional reforms related to the second and third Copenhagen criterion for membership. In places like Bosnia transformations are carried out by decree of the Special Representative, ironically representing also the EU which pushed for those reforms in the first place. Conditionality policy is not enough and has to be supplemented with strategies to build-up state and public support.

In addition, one has to take the notion of fairness with a grain of salt. Conditionality punishes laggards, rather than incentivising them to do better and catch up with the frontrunners. The EU has made on several occasions compromises to tackle this shortcoming. Its Member States decided to open membership talks with Bulgaria and Romania after the war in Kosovo overriding the negative opinion of the European Commission. With the benefit of hindsight, one can now claim that this was a step in the right direction as it helped the two countries make considerable progress over the following years. Observers now expect the EU to act strategically vis-a-vis Serbia and relax its conditionality as a 'sweetener' for the imminent loss of Kosovo.

However, the need to remain credible and uphold its standards sets limits on how much generous the EU might be. Especially in the context of enlargement fatigue inside the EU, conditionality policy is actually likely to be toughened and implemented more meticulously.

Regional Approaches vs. Bilateralism in the EU's Balkan Strategy

In South East Europe (SEE), the EU has long tried to strike a difficult balance between regional strategies and the standard enlargement policy based on bilateralism and individual merit. On the one hand, common developmental and political challenges in the Balkans have called for collective responses on behalf of the local actors and the EU. On the other, SEE countries differ in terms of domestic conditions, their pace of socio-economic reforms and, ultimately, preparedness to comply with the EU accession criteria. Indeed the variable speed in meeting the EU requirements has resulted in a hub-and-spoke relationship between the countries of the region and Brussels. This, in turn, has made the design and implementation of regional strategies more difficult for international policymakers.

Diversity in institutional links with the EU does matter as it draws multiple dividing lines across SEE. The wider region is now populated by one EU Member State (Greece), two acceding countries (Bulgaria and Romania), two negotiating and one non-negotiating candidates (Turkey, Croatia and Macedonia), and three potential candidates (Albania, Bosnia-Herzegovina and Serbia-Montenegro). If one adds Kosovo, a proto-state entity which is partly run by the EU, and Montenegro, the picture gets even more complex. Differentiation dates back to the early 1990s when the EU offered a membership perspective to Bulgaria and Romania but kept at arm's length post-Yugoslav republics (Slovenia excluded) and Albania. Unlike their eastern and northern neighbours, the Western Balkans had first to prove their political maturity and overcome the legacy of the 1990s conflicts in order to make it to the enlargement track. The gap grew wider after 1999 when Sofia and Bucharest started accession negotiations with the EU while the Western Balkans were declared 'potential candidates' and included in the so-called Stabilisation and Association process (SAp) described as a 'pre-pre-accession' platform. However, with Croatia embarking on EU membership talks, the Western Balkans itself has now becoming less of a political whole.

Parallel to enlargement and SAp, however, the EU has been in the business of promoting policies which target SEE *as a whole*. Thus its overwhelming power of attraction has given it considerable leverage to push for regional cooperation. Over time the Union has initiated or supported a host of multilateral initiatives. Below is a brief inventory list:

- *South East European Cooperation Process*. In place since 1996, SEECP brings together the seven post-communist Balkan countries (SEE-7) plus Greece and Turkey. It features regular meetings of top national leaders as well as ad hoc conferences of sectoral ministers. Although it did not set up the SEECP the EU backs it as a way to promote 'local ownership' of the cooperation process.

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- *Stability Pact for SEE*. Launched by the German EU Presidency in the wake of the Kosovo war in 1999, the SP involves a plethora of initiatives bundled in three worktables: reconciliation, economics, and security. Alongside the World Bank, the EU is the chief stakeholder in the worktable on economics dealing with trade liberalisation, transport infrastructure, and energy. Another key area is corruption and organised crime falling into the third worktable.
- *Stabilisation and Association process*. Although the SAP is primarily a country-by-country instrument, it contains multilateral elements such as political dialogue at the Western Balkan as well as Western Balkan-EU level, financial assistance for regional projects in areas like border management and infrastructure via the CARDS programme.
- *SEE Energy Community*. Inaugurated in 2002, SEEEC works for the establishment of a common market in electricity in wider SEE, including Greece and Turkey.

Problems with the EU policy on regional cooperation in SEE

While regional initiatives have, no doubt, improved the political climate in the Balkans, practitioners and analysts have argued against making them a cornerstone of the EU policy, on a par with the country-specific programmes. There are manifold reasons:

- The proliferation of overlapping schemes creates confusion as to who does what and hampers effectiveness;
- Regional cooperation is opposed by frontrunners in the race to the EU as they fear being slowed down by the 'laggards';
- Balkan countries have little to gain from economic integration at the regional level relative to integration into the EU;
- Cooperation schemes divert scarce institutional and administrative resources but offer comparatively few returns;
- The initiatives in question reflect external stakeholders' agenda rather than regional demand.

To be sure, these criticisms are not specific to the Balkans and were commonly heard in Central Europe throughout the 1990s. Still it is clear that in earlier periods the uncertain accession prospects of SEE rendered the dilemma between regionalism and single-track progress towards EU membership starker and more politicised, particularly for countries like Croatia and Bulgaria. Offering a clearer membership perspective to the region the EU has largely dealt with these fears. Yet it might have gone a bit far. It has now all but dropped regional cooperation from its list of priorities, particularly where the SEE-7 grouping is concerned. Even in the Western Balkans, where it was inserted as legal obligation under the Stabilisation and Association Agreements (SAAs), regionalism is marginalised by the bilateral European Partnerships focusing on political and economic reforms and harmonisation with the *acquis*.

Bringing regionalism back on the agenda

Despite the constraint posed by the heterogeneity of the Balkans and the different speeds of integration into the EU, there is a strong argument to keep regional cooperation on the agenda. This applies particularly to the Western Balkans which are characterised by multiple transnational linkages. However more advanced Macedonia is in its efforts to join the EU, it remains dependent on events and processes in neighbouring Kosovo and Serbia. The EU has to re-examine its successes and failures over the last decade and draw the necessary conclusions. There are several points worth taking into account:

Linking regionalism and EU integration

Regional cooperation has worked in areas where it has directly contributed to the countries' capacity to be part of the EU. One example is the energy sector where Balkan countries, including Greece and Turkey, negotiated the establishment of a regional electricity market which paved the way to the SEEC. Originally proposed by the European Commission, the agreement foresees the interconnection of transmission grids within the region and between the region and the EU together with the adoption of the relevant *acquis* and liberalisation of national markets. Another issue-area is transport infrastructure. To access the EU's markets the Balkans should also become better interconnected internally. Infrastructure development is a lengthy process but has taken off the ground thanks to contributions by the CARDS, PHARE and ISPA programmes.

The challenge is for the EU to get its instruments right. For instance, it has to make sure that its new Instrument for Pre-accession (IPA) which will channel financial assistance to the Western Balkans in 2007-2013 is coordinated with the structural funds for Romania and Bulgaria. The EU has also to expand its attention to new areas such as the horizontal transfer of expertise related in SEE. Over the last years, the Macedonian government benefited from policy advice given by Slovenia and Croatia. The European Commission should encourage more actively the establishment and institutionalisation of such cooperation arrangements, particularly in the Western Balkans, as they will undoubtedly boost the bilateral integration agenda.

Streamlining regional institutions

As a catalyst of multilateral cooperation, the EU has often acted through intermediaries like the Stability Pact. With the 'deepening' of the SAp in 2001-2002, however, the Pact's relevance as a policy instrument is at best questionable. Most of the practical cooperation for which it gets credit occurs, in fact, outside its framework, largely thanks to the EU assistance programmes and the policy leadership of the European Commission and the International Financial Institutions. Once Bulgaria and Romania join the EU in 2007-2008 there will be a very strong argument to hand over its monitoring and clearinghouse functions to the European Commission and SEECP as well as NATO (concerning security-sector reforms implemented under the third working table).

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Decentralisation

One lesson from a decade of regional cooperation in SEE is that neighbour-to-neighbour projects are superior to multilateral frameworks. As evidenced by the Stability Pact's demise, grand regional institutions are now largely *passé*. As a matter of principle, immediate neighbours are more likely to experience common pressures to coordinate policies than a wider group of countries. The EU as well as the other external donors have scored well when pushing for cross-border initiatives in specific sectors, an approach embraced by the SAP as well. A good example is provided by the Sava Commission, a regulatory body set up in December 2002 by Bosnia, Croatia, Serbia and Montenegro, and Slovenia. Decentralised sectoral cooperation is the most direct way to circumvent the inhibitions that has characterised many Balkan politicians' attitude to regionalism.

Taking local demand into account

In 2001-2003, the EU pushed the SEE-7 to liberalise their trade in industrial goods through a network of bilateral agreements. The move had a political rather than an economic rationale and predictably was not greeted with a great deal of enthusiasm in the region. Unilateral priority-setting works better in the context of the European Partnerships because of the payoffs in terms of financial assistance and, in the long run, EU membership. It is less effective in regional cooperation where benefits are not easy to perceive. Rather than promoting full-blown regional integration based on trade, the EU has to concentrate in specific domains like infrastructure or the promotion of FDI on which Balkan policymakers put a greater premium. To assess the nature and intensity of local demand the EU has to consult actors at the local, rather than national, level, including municipalities and businesses.

EU after the 2007 watershed

There is a malign and a benign scenario for what will happen to SEE once Bulgaria and Romania (and later Croatia) join the EU. According to the former, this will isolate further the remains of the Western Balkans, notably through the introduction of visa regimes. The latter scenario predicts that SEE accessions will create additional momentum for EU expansion into the region as it will motivate political elites and bureaucrats in non-members to work harder for meeting entry conditions. Even more important could be the developmental impact of enlargement. It is imaginable that the inflow of cohesion funds and FDI could spill over into the Western Balkans. It is here that regional cooperation initiatives across the new EU borders will find a new role. As the incoming SEE member states have limited capacity to plan and steer this process, however, much depends as in the past on policy entrepreneurship by the European Commission and old member states interested in the Balkans. A core challenge is to go beyond intergovernmental cooperation and provide incentives and resources for networking at the subnational level.

Summary Session: Lessons for the Austrian Presidency of the EU

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Speakers: Hannes Swoboda, Vienna

Vladimir Gligorov, Vienna

Tihomir Loza, Prague

Denisa Kostovicova, London

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