



# THE EUROPEAN FUTURE OF THE WESTERN BALKANS

## Thessaloniki@10 (2003-2013)

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**Edited by** Eviola Prifti

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Thessaloniki@10 (2003-2013)**

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# Foreword

With the recent launch of the *Yearbook of European Security (YES)*, the Institute intends to offer a regular source of information on EU-related facts and figures in the domain of foreign, security and defence policy. With this volume, in contrast, the EUISS is publishing its ‘book of the year’, so to speak: namely, an in-depth analysis of the one issue deemed most relevant or symbolic for the current year – as a sort of complement to the Yearbook. Its layout and graphic design are meant to be consistent with this approach.

For 2013, the idea of revisiting the Thessaloniki Declaration which, exactly ten years ago, paved the way for the full Europeanisation of the Western Balkans proved difficult to resist – all the more so after the recent breakthrough in relations between Belgrade and Pristina, and right before Croatia’s accession to the EU. And equally irresistible was the idea of carrying out such an evaluation in a ‘gender-*un*balanced’ way, through contributions written only by female authors – be they from the EU or the region, from the world of practitioners or that of experts and academics – and giving their distinctive perspective.

If one looks at the geographical map of Europe, all Western Balkan countries are already ‘within’ the EU, surrounded as they are by member states. Yet their full integration into the Union is still not in sight – for reasons that are well analysed in this book and that are connected to factors both internal to the EU and specific to the region itself. Next year, however, another important historical anniversary (Sarajevo 1914) will help remind us all of where we come from, and give us more reasons to overcome the current hurdles and foster reconciliation across the region – and the continent.

*Antonio Missiroli*

*Paris, June 2013*





# Executive summary

In June 2003, the member states of the European Union together with the leaders of the Western Balkan countries reached an agreement on the Thessaloniki Declaration. In this joint statement, the EU unequivocally confirmed the European perspective of the Western Balkan countries. The language was ambitious and clear: the Western Balkans were promised full membership of the EU once they had met the established criteria. The Thessaloniki Summit also marked a pivotal moment in the EU's approach towards the region, which shifted from post-conflict stabilisation (security) to European integration (enlargement). On the occasion of the tenth anniversary of the Thessaloniki Declaration, this book examines the progress achieved so far and the challenges encountered by both sides in meeting the Thessaloniki Agenda. It also looks ahead, discusses foreseeable prospects and proposes policy-oriented solutions for both sides.

Chapter 1 (*Rosa Balfour and Corina Stratulat*) explains the evolution of the EU's engagement in the region. Since the Thessaloniki Summit in 2003, a combination of internal EU developments, as well as complex and multiple problems in the Western Balkans, have weakened the EU's appetite for doing what it does best: expansion. Improvements to the tools, methods and approaches to enlargement have gone hand-in-hand with the nationalisation of the process and the emergence of contentious bilateral issues between the EU and aspiring member states. This has led to a frontloading of conditionality, to a strategic focus on single issues or specific countries in the Western Balkans rather than on enlargement as a whole, and to occasional departures from existing, equal principles and conditions in the name of domestic considerations in the member states. The challenge for Thessaloniki 2 is to sustain EU credibility and transformative leverage in the region at a time of waning commitment. Debates on the way forward should consider making enlargement a 'people-first' policy and getting the EU to lead by example in the Western Balkans.

In the second chapter the same authors examine the democratic transformation of the Western Balkans, with a particular emphasis on the role of civil society in this process. Already in 2003, the Thessaloniki Agenda for the Western Balkans put a high premium on the democratic development of the region. Ever since, the enlargement process has been increasingly focused on transforming the aspirant Western Balkan countries into democracies, not just in terms of establishing formal institutions and popular rights but also as regards consolidating the rule of law that enforces legally established rights and freedoms. However, ten years later, effective democracy has not taken root in the

Western Balkans as political elites still lack integrity and citizens struggle to hold their leaders accountable. The full democratisation of the region hinges both on the willingness of those in power to respect and implement the rule of law as well as on the ability of the civil society sector, media and parliaments in the Western Balkans to scrutinise and participate in their countries' political processes. The authors conclude that the European Union can support and push for substantive change in both directions.

Chapter 3 (*Alina Mungiu-Pippidi*) deals with the rule of law and the control of corruption, conceptualised in a broader sense as good governance. These issues currently lie at the heart of the EU's enlargement strategy. The chapter argues that the Western Balkans have considerably evolved since the end of the wars of the 1990s in the former Yugoslavia, but that there are limits to how much the governance of this war-torn region can improve in the EU accession framework. Such limits can be observed in Romania and Bulgaria in particular. Given the similarity of problems in the Western and Eastern Balkans, and the fact that the EU pursues an identical strategy in these two regions of Southeastern Europe, the chapter suggests that in order to achieve better results anticorruption should be conceptualised in a broader way, and the underlying causes of corruption should be better targeted by policies. It recommends that action be taken in the areas of fiscal transparency, reduction of discretionary spending, and media and civil society monitoring of good governance. It also recommends that there should be less emphasis on continuously improving the legal framework and more on enforcement of existing legal provisions.

Chapter 4 (*Chloé Brière and Eviola Prifti*) assesses the progress and challenges encountered in the fight against organised crime in the Western Balkans ten years after the Thessaloniki Declaration, with a particular focus on human and drug trafficking. The authors argue that considerable progress has been made regarding the reform of national legislations in line with the EU *acquis*. However, the main challenge lies in the implementation of this legal framework due to limited cooperation among the different stakeholders and frequent inadequacy of resources available on the ground. The authors contend that, to overcome these obstacles, the EU and the Western Balkans might consider investing more in the societal sector, enhancing cooperation between the stakeholders and reinforcing the capabilities of law enforcement bodies.

Chapter 5 (*Isabelle Ioannides*) provides an assessment of the main Common Security and Defence Policy (CSDP) missions deployed to the region in the past decade. It was in the Western Balkans that, in 2003, the EU launched its first peace support operations in an effort initially to restore stability, and later on in the reform process, to bring the region closer to – and eventually inside – the EU. The Western Balkans have therefore constituted fertile ground for the development of the CSDP and have provided ample oppor-

tunity for the EU to learn from experience and to evolve and adapt to its own and local needs. As a result, the CSDP has come to be one of the most potent tools that the EU has available for the transformation of conflict-afflicted areas into zones of stability and order. This chapter demonstrates that, beyond boosting EU capabilities in external action, these missions have played a critical role in reforming security sector institutions and supporting statebuilding in the Western Balkans. However, the ongoing challenges and unresolved political tensions that exist both inside and between the countries of the region point to the limitations that CSDP missions face in consolidating peace.

Chapter 6 (*Lidija Topic*) analyses the progress and the challenges encountered in the field of regional cooperation. The harsh economic and social consequences of the unstable political environment of the 1990s, along with the effects of the economic crisis, have defined the priorities on the regional cooperation agenda in the post-Thessaloniki period. Considerable efforts have been made in the socio-economic, political and security areas of regional cooperation. Initially externally driven, regional cooperation has become more and more regionally owned. However, the main challenges in the region remain the inter-ethnic governance, status and name issues in Bosnia-Herzegovina, Kosovo and the former Yugoslav Republic of Macedonia. The region has recognised the importance for its future of integrating the EU 2020 objectives and adapting them to the regional development agenda, whose cornerstone is ‘job-creating growth’, and drawing all relevant stakeholders together around this common effort: government representatives, the donor community and operating regional platforms.

Chapter 7 (*Milica Uvalic*) focuses specifically on economic development in the Western Balkans since the Thessaloniki Summit. Until 2009 when the effects of the global economic crisis began to be felt, the Western Balkan countries registered high growth rates, declining inflation, rapid expansion of foreign trade and increasing foreign direct investment (FDI). A number of important economic reforms related to the transition to a market economy had been successfully implemented. The announced prospects of EU membership, trade liberalisation, substantial financial assistance and conclusion of Stabilisation and Association Agreements undoubtedly contributed to such positive developments. Since 2003 we have witnessed fast EU-WB economic integration through increasing trade, FDI, banking and financial integration. However, the Western Balkan economies are also facing a number of structural problems, including very high unemployment rates and severe external imbalances, and are handicapped by the slow process of catching up with the more developed parts of Europe. These problems became evident particularly after the global economic crisis hit the region quite severely in late 2008. Although EU policies have greatly facilitated growth and economic development (until 2009), increasing EU-Western Balkan integration has also rendered these econo-

mies more vulnerable to external shocks. The short-term prospects are not bright, given that the eurozone sovereign debt crisis has again had a profound impact on most Western Balkan economies.

Chapter 8 (*Alexandra Stiglmayer*) examines the importance of visa liberalisation for the citizens of the region and the challenges this policy is currently facing. At the 2003 Thessaloniki Summit, EU leaders promised discussions about the necessary reforms to lift the visa requirement for Western Balkan countries. However, there was no serious follow-up. In 2007/2008, when the EU finally decided to tackle the issue, it designed a process based on a 'roadmap' that triggered important reforms in the region such as enhancing border control, replacing old passports with biometric ones, fighting against illegal migration, organised crime and corruption and improving cooperation with EU member states and EU agencies. This was a best-case example of EU conditionality. This policy increased the EU's soft power in the region and strengthened the countries' European perspective. For the people it has arguably been the most concrete benefit of the EU integration process. However, in the wake of visa liberalisation, the number of unfounded asylum claims by Western Balkan citizens in a number of EU member states has increased. Some EU ministers have called for a restoration of the visa requirement. Such a move would damage the EU's image in the region and the EU integration process. There are other solutions: experience shows EU member states can reduce the number of claims by shortening the asylum procedure.

Chapter 9 (*Jelena Obradovic-Wochnik*) explores the legacies of the conflicts of the 1990s and the role of the International Criminal Tribunal for the former Yugoslavia (ICTY) in dealing with the past and promoting reconciliation in the region. Cooperation with the ICTY has been a crucial condition of EU integration for the countries of the Western Balkans. Although all outstanding obligations have been met, and the court is conducting some high-profile trials, the impact of the ICTY has been far-reaching: in particular, it has performed an important role in stepping in to address the failure of local leadership to deal with the issue of war crimes and in supporting civil society's efforts to do so. This chapter outlines the role of the ICTY in encouraging the countries in the region to face up to the crimes committed during the war and suggests ways in which the EU might choose to support domestic efforts at addressing these issues.

Chapter 10 (*Denisa Kostovicova*) adopts a 'bottom-up' perspective and focuses on the role of civil society in advancing transitional justice and reconciliation in the Western Balkans. The perspective of European membership for the countries of the Western Balkans was envisaged by the EU as an incentive for reconciliation in the region. Ten years after Thessaloniki, however, a paradox is evident: approximation of Western Balkan

states to the EU has not been accompanied by reconciliation among states and societies. The different ethnic groups tend to see themselves primarily as victims and not as perpetrators of crimes committed during the wars that accompanied the dissolution of the former Yugoslavia. Likewise, there is no consensus on the causes and nature of the violence, or on the appropriate redress for past wrongs. Civil society has played a key role in putting the question of war crimes and their legacy on the political agenda in the region, although the issue continues to be contested within and among states. But civil society's role also needs to be assessed in relation to its own structural and normative constraints. Furthermore, an assessment of its role should also take account of the EU's belated support to civil society, in general, and to reconciliation activities in particular. Rather than sidelining the dimension of post-conflict state-building in favour of member state-building, the author suggests that the EU might consider how extending more comprehensive and direct support to civil society involved in reconciliation processes can advance Europeanisation.

In her Conclusions, *Heather Grabbe* points out that the Thessaloniki Summit marked the apogee of Greek diplomacy in Europe. The Thessaloniki Declaration was supposed to be just the first step on the road to accession: a declaration of principles and intent that subsequent presidencies could build on and improve. Unfortunately, that never happened. In the intervening years, the member states have become increasingly reluctant to agree to further steps towards enlargement and the bar to meet the conditions for membership has been raised higher and higher. Status issues between Serbia and Kosovo and the Macedonian name dispute have hindered regional cooperation and economic integration, while rule of law, corruption and organised crime remain major challenges in the region. The euro crisis has also deeply affected the region and has greatly diminished the EU's attractiveness as a model of reform and prosperity. Yet the EU has undeniably played a vital role in preventing the reemergence of conflicts in the former Yugoslavia. The historic agreement between Pristina and Belgrade and the reforms undertaken in the framework of visa liberalisation prove the weight of EU leverage, while its promotion of regional cooperation has allowed real progress on some bilateral issues. The region now needs a new political generation to move on from the legacy of conflicts and a healthy civil society able to support democratic transformation, good governance and regional reconciliation. In the long term, the Union is the only option for the region, which is an enclave within the EU's borders. As a new member state Croatia could become a strong advocate for the other countries in the Western Balkans and help to push forward the enlargement process. The stability and security of the region and of the EU would be much better fostered through a reliable accession process than a return to crisis management.



# Introduction: from stabilisation to integration

*Eviola Prifti*

On 21 June 2003, the Heads of State and Government of the European Union (EU) together with the leaders of the Western Balkan countries met in Thessaloniki and reached a consensus on a joint statement, better known as the Thessaloniki Declaration. At the EU-Western Balkans Summit, the Union confirmed its ‘unequivocal support to the European perspective’ of the region and declared that the ‘future of the Western Balkans is within the European Union’. This statement paved the way for a wide range of concrete steps and initiatives aiming at integrating the Western Balkans – Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia<sup>1</sup>, Montenegro, Serbia and Kosovo\* – in the EU. A decade later, the EU is dealing with three different categories of countries in the region. Whereas Albania, Bosnia and Herzegovina and Kosovo are still considered as ‘potential’ candidates for EU membership, the former Yugoslav Republic of Macedonia, Montenegro and Serbia have made a step forward in the enlargement process and have been officially granted candidate status by the European Council. As an acceding country, Croatia is expected to join the EU in July 2013. This country therefore represents the latest example of the EU’s transformative power in the region. Will Croatia become a symbolic bridge between the EU and the other Western Balkan countries?

On the occasion of the tenth anniversary of the Thessaloniki Declaration, the objective of this publication is to take stock of the progress made so far and of the challenges encountered by the Western Balkans in their course towards European integration. It also looks ahead and highlights unfinished business on both sides.

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1. The EUISS follows the EU and UN decision concerning reference to this country: the former Yugoslav Republic of Macedonia (UN Security Council Resolutions 817/93 and 845/93). However, in this publication some external authors may have chosen to use a different wording.

\* For the EUISS, this designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence (hereinafter ‘Kosovo’). However, in this publication some external authors may have a different point of view.

To better grasp the process generated by the Thessaloniki Declaration, it is important to look backwards and to analyse the factors and dynamics underlying the ‘Thessaloniki moment’. Blighted by political and inter-ethnic conflicts resulting from the dissolution of Yugoslavia, the region presented an existential challenge to the Common Foreign and Security Policy (CFSP) in the 1990s. However, the Western Balkans have been – and still remain – a good example of the EU’s comprehensive approach, able to invest in post-conflict stabilisation, peace and security in the long term through the Stabilisation and Association Process (SAP), which was established immediately following the Kosovo crisis in 1999, and in the short term through the Common Security and Defence Policy (CSDP) missions and operations. Before the Thessaloniki Summit took place, the presence of the EU Police Mission (EUPM) in Bosnia and Herzegovina – the first-ever CSDP mission – and the launch of the EU’s first military operation *Concordia* in March 2003 in the former Yugoslav Republic of Macedonia, were tangible illustrations of the Union’s commitment to the region.

In the EU annals, the year 2003 is also known for the preparation of the widening of the EU with the signature of the Treaty of Accession of the Central and Eastern European Countries<sup>2</sup> in Athens in April 2003. With the completion of the biggest enlargement in the history of the Union, the EU shifted its attention to the relations with its new neighbours in order to prevent the isolation (and insulation) of the Western Balkans and the creation of new dividing lines. In parallel with the enlargement process, the European Convention was finalising the draft Treaty establishing a Constitution for Europe, aiming at deepening the future institutions and policies of the enlarged Union.

The fact that Greece took over the rotating Presidency of the Council of the European Union in January 2003 was also a key factor in the adoption of the Declaration. Despite the EU internal reform process and the internal divergences over the US intervention in Iraq, Greece maintained the Western Balkans at the top of the agenda. As an immediate neighbour, Greece’s ambition was to capitalise on its bilateral ties and its knowledge of the region by injecting a new impetus into the EU’s relations with the Western Balkans and a note of optimism regarding the European perspective of the region [Greek Presidency, 2002].

Ahead of the Summit, the Western Balkan leaders also played an active role by convening a meeting on 2 June 2003 in Ohrid. Their objectives were to speak with one voice and to emphasise their expectations with regard to Thessaloniki. They expected an unambiguous accession perspective from the EU and concrete instruments to meet

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2. Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia, Cyprus and Malta.



this end. They also expressed the wish to see the issues related to the Western Balkans gradually transferred from the Directorate-General for External Relations (DG RELEX) to the Directorate-General for Enlargement, created in 1999 to prepare the ‘big bang’ enlargement, and to benefit from additional funding for social and economic development. These last two demands were not taken on board in Thessaloniki [EMA, 2011].

From the EU perspective, the Thessaloniki Summit can be seen as a pivotal moment whereby the EU approach towards the region shifted from post-conflict stabilisation and reconstruction (security) to democratic consolidation and European integration (enlargement). Indeed, the Thessaloniki Declaration highlights the values shared by both sides (democracy, rule of law, respect for human rights, market economy, peaceful resolution of conflicts and regional cooperation) and reiterates unequivocally the European perspective of the Western Balkan countries, bound to become full members once the established criteria are fulfilled. On the basis of this political commitment, the Summit adopted also the *Thessaloniki Agenda for the Western Balkans: Moving towards European integration*. This Agenda stipulates that the accession dimension of the Stabilisation and Association Process – including both country-specific and regional aspects – will be strengthened and enriched by new tools drawn from the experience of the Eastern enlargement (e.g. ‘European Partnerships’ for each country inspired by the Accession Partnerships, the twinning instrument and access to the Technical Assistance Information Exchange Office (TAIEX)). The enhanced Stabilisation and Accession Process, including the Stabilisation and Association Agreements, ‘will constitute the overall framework for the European course of the Western Balkan countries, all the way to their future accession’ [Thessaloniki Agenda, 2003].

The Thessaloniki Declaration emphasises also that the principle of conditionality lies at the heart of the enlargement process. Chris Patten, the Commissioner for External Relations at that moment, stated: ‘We will not regard the map of the Union as complete until you have joined us. We in the European Commission will do all we can to help you succeed. But membership must be earned.’ [EC, Press Release, 2003] This approach implies that, in parallel with the regional dimension, the EU will judge each country according to the principle of ‘own merits’ and provide the opportunity to the ‘laggard’ countries to catch up with the forerunner countries. The pace of progress will depend on the political will and the performance of the Western Balkan countries in meeting the Copenhagen criteria and the criteria set by the SAP conditionality. [Thessaloniki Agenda, 2003]

What progress has been achieved by the Western Balkan countries regarding the fulfilment of these criteria since Thessaloniki? What obstacles remain on their European

course? What are the challenges ahead and how could they be overcome? This publication offers answers to these questions by giving voice exclusively to female authors – academics as well as practitioners – from both the EU and the Western Balkans. This initiative aims also at promoting women’s participation in the assessment of the EU’s peace-building and security efforts and therefore contributes, to some extent, to the objectives of the *Comprehensive approach to the EU implementation of the United Nations Security Council Resolutions 1325 and 1820 on women, peace and security* adopted by the Council of the European Union in 2008 [Council, 2008]. Such a perspective is all the more significant for a traditional and very often male-dominated region which has been influenced by the image of warrior leaders and male nationalists of the 1990s.

The ten chapters that follow will analyse both the country-specific and regional dimensions of the Thessaloniki Declaration. The first part deals with the EU perspective proper and opens with the analysis of the EU engagement and strategies towards the Western Balkans since 2003 (chapter 1). The following chapters address issues that lie at the heart of the EU’s enlargement strategy such as democracy (chapter 2), rule of law, anti-corruption (chapter 3) and the fight against organised crime (chapter 4). Chapter 5 focuses more particularly on the achievements of CSDP missions and operations since 2003. The second part assesses the regional dimension of the enlargement process through the lenses of regional cooperation (chapter 6), the evolution of the local economy since 2003 (chapter 7) and the importance of visa free travel for the region (chapter 8). The issue of regional reconciliation will be addressed both in a ‘top-down’ manner, through the cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) (chapter 9), and in a ‘bottom-up’ way by analysing the role of civil society in this process (chapter 10). All the different chapters follow the same structure: each starts by framing the background, then assesses the current state of play, and finally discusses foreseeable or desirable prospects and policy-oriented solutions.

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**Part One:**  
**The EU perspective**



# 1. Between engagement and cold feet: ten years of the EU in the Western Balkans

*Rosa Balfour and Corina Stratulat*

## Introduction

While the Western Balkans have become progressively more stable, during the past decade the EU has moved from the solemn commitments of Thessaloniki to a more laboured strategy of engagement. So-called enlargement fatigue, some ‘digestion’ difficulties of the 2004-2007 rounds of enlargement, and the economic crisis together have led to a review of the means and tools of EU policy. This chapter analyses how and why the ways in which the EU engages with the region have changed, in terms of its stabilisation and security policies, as well as of its pre-accession and accession policies. The development of more exacting conditionality, often accompanied by *ex ante* demands to meet conditions, coupled with a more haphazard commitment within the member states on the strategic prioritisation of enlargement, have made the enterprise more fragile and exposed to the vagaries of domestic politics. These developments, however, have not altered the EU’s overall commitment, making the whole relationship between the EU and the Balkans a challenging policy area in need of a new lease of life.

## BACKGROUND

Much has happened in Europe during the decade since the Thessaloniki Declaration of 2003 – the ‘decade without a name’, as Timothy Garton Ash [2010] put it. In 2003 the EU experienced deep divisions over the military intervention in Iraq. To mend fences, at the end of the year it coalesced around a European Security Strategy, the first attempt at defining a doctrine for foreign policy. Its emphasis on supporting democratic change in the EU’s neighbourhood as the best means to guarantee Europe’s security was strongly influenced by the EU’s experience in the previous decade with enlargement to Central

and Eastern Europe and in dealing with conflicts in the Balkans. That combination of democracy and security underpinned the strategy and commitment made by the then EU-15 in Thessaloniki: the only way to anchor stability and bring conflict to an end in the Balkans was to open up the doors of the European family, to ensure that the spectres of Srebrenica would not return, as they had done in Kosovo in 1999 and Skopje in 2001, and to irreversibly make them democracies.

The past decade has also seen peace take hold in the Balkans. The consequences of the breakup of Yugoslavia still hang over the region and destabilising events have taken place, but they have occurred peacefully. In 2006 Serbia and Montenegro divorced. In 2008 Kosovo declared its independence from Serbia, and despite the still unsolved statehood of both, the past five years have seen only sporadic and circumscribed episodes of violence. In spring 2013 the two sides reached a political agreement to normalise relations, under the auspices of EU facilitation. These experiences have undoubtedly been helped by the prospect of European integration.

But within the EU, the constitutional process which started in 2003 to match expansion and external ambitions failed. In 2005 the Dutch and French No votes turned the EU's Constitutional Treaty into yet another difficult process of intergovernmental reform. In 2004 and 2007 the EU increased its diversity by welcoming twelve new member states but without bringing political integration to a higher level. Then came the economic crisis, and its unprecedented threat to deal a blow not just to the single currency project but to the European Union as a whole.

The shorthand for capturing the impact of these developments on the Balkans is 'enlargement fatigue', although symptoms and consequences run deeper. During the past ten years the EU has lost its appetite for doing what it does best: expansion. Although the tools, methods and approaches of the enlargement process have been improved, also as a consequence of these developments, the 'unequivocal support to the European perspective of the Western Balkan countries' expressed by the EU in Thessaloniki has been fizzling out. The challenge for Thessaloniki 2 is to sustain the overall strategy at a time of waning commitment.

## STATE OF PLAY

### Not just another enlargement

The criteria formulated by the 1993 European Council in Copenhagen remain the blueprint for accession. Essentially, these require EU hopefuls to have stable democratic institutions, a functioning market economy and the ability to adopt and implement the *acquis*, which has expanded over six decades of deepening and widening to encompass an ever-larger policy universe.<sup>1</sup> This last point makes the Union, by definition, a ‘moving target’ and sets the bar increasingly higher for any future entrant. Article 49 of the Treaty on the European Union (TEU) also allows the European Council to set further ‘conditions of eligibility’ for acceding states.

The second leg of the EU’s overall approach to the region is based on a strong security dimension, with its own repertoire of action, including various peace agreements and political deals (UN Resolution 1244 and the Dayton, Kumanovo, Ohrid and Belgrade Agreements, the normalisation of relations between Serbia and Kosovo); the Stabilisation and Association Process, launched for the entire region in the aftermath of NATO’s war in Kosovo; and the multilateral Stability Pact for Southern Europe – replaced by the Regional Cooperation Council in 2008. These set additional criteria – the ‘Copenhagen Plus’ criteria – for the Balkan states with regard to democratic principles, regional cooperation, refugee return, and the full cooperation with the International Criminal Tribunal for the Former Yugoslavia (ICTY).

The Copenhagen criteria have been further elaborated on the basis of lessons learned from the eastward enlargement. For one, ‘good governance’ criteria – maintenance of the rule of law, an independent judiciary, efficient public administration, the fight against corruption and organised crime, civil society development, and media freedom – have acquired new salience. Following the experience with Croatia’s negotiation process, the Commission now favours an early start on the most difficult areas of reform, such as those in Chapter 23 on Judiciary and Fundamental Rights and Chapter 24 on Justice, Freedom and Security. In June 2012, Montenegro was the first country to have to open precisely these two chapters in the early stages of its EU accession talks and close them last.

The method for applying enhanced conditionality has also become more exacting, by tying any steps forward more closely to actual results. New mechanisms were introduced,

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1. The EU’s capacity to absorb new members while maintaining the momentum of integration is also an important consideration.

for instance: opening, intermediary, equilibrium, and closing benchmarks; safeguard clauses to extend monitoring; more routine procedures to suspend negotiations; and the requirement for countries to demonstrate a solid record in reforms. And the EU is now adamant about dealing with any pending issues prior to accession, when its leverage was most robust.

To keep the process moving while addressing some of the shortcomings of previous accession rounds, the Commission has adopted more ingenious tactics that aim to help the Balkan countries to move forward on the EU track. To counter the limbo in which the former Yugoslav Republic of Macedonia (FYROM) has been since its recognition as a candidate country in 2005, the Commission launched a High Level Accession Dialogue in March 2012; the Structured Dialogue on Justice with Bosnia and Herzegovina kicked off in June 2011 so as to consolidate the independence, effectiveness and professionalism of the country's judicial system even prior to the entry into force of the Stabilisation and Association agreement. At the same time, the Commission is tightening its oversight and pressure on reforms and domestic changes through the early screening process, for instance with Albania to help the country overcome the two-year stalemate due to polarised government-opposition relations [Stratulat and Vurmo, 2012].

## **When the going gets tough, the tough get going**

These strategies have so far kept the process of enlargement rolling, if only on a step-by-step basis rather than through grand initiatives, in an ever more complex political and economic context and in spite of daunting regional and country-specific problems.

The challenge of calibrating the pressure to keep up the momentum of enlargement while maintaining the efficiency of conditionality is, in itself, complicated to manage. But a combination of fickle member states and regional malaise creates further hurdles. The divergence between the member states and the Commission has weakened the latter's strength and authoritativeness on enlargement. The dossier is not exactly a priority for the member states. If anything, it has become easier in the currently difficult economic climate to tap into people's uneasiness about the potential negative consequences of enlargement for electoral gains. And the many and complex problems still confronting the region – from war legacies, statehood issues, political polarisation to ethnic tensions – only foster the member states' 'wait and see' or 'go slow' approach to enlargement.

Indeed, the past few years have witnessed a 'creeping nationalisation' of enlargement [Hillion, 2010], and have shown the risks that bilateral issues can disrupt the accession



process. The Council, rather than the Commission, is increasingly setting the benchmarks and conditions for progress. In 2009, when Albania submitted its application to the EU, Germany waited for the approval of the Bundestag before asking the Commission to formulate an opinion. In December 2011, when the Council needed to respond to Serbia's application for membership, to which the Commission had already given a positive – if conditional – *avis*, the Council delayed the answer to March, requesting Serbia to further demonstrate its fulfilment of the conditions set. These incursions often amount to delaying tactics: before reaching clear decisions, the Council requests additional reports from the Commission or other agencies, such as the Europol for Montenegro.

Existing bilateral issues between EU and aspiring member states have also complicated the process. Slovenia blocked the opening of new negotiating chapters with Croatia for a whole year in 2008 before its citizens decided that its maritime border should be agreed upon through international arbitration. And ratification by the Slovenian parliament of Croatia's accession treaty was dependent on solving the row over the former Ljubljanska Banka earlier this year. The acrimonious name dispute between Greece and FYROM drives this point home. Here, the accession process and the tools deployed by the Union do not seem to have any bearing on the positions of the two countries in their UN-mediated talks. For four consecutive years the member states have ignored the Commission's recommendations to start accession negotiations with Skopje.

The process has also suffered setbacks on less existential disputes. In February 2012 Belgrade's candidature was put in jeopardy by Romania's demand to add a new condition regarding the Vlach minority in Serbia, though it did not succeed in finding a supporting constituency in the EU. Then again, in December 2012, Greece was joined by Bulgaria and France in opposing the Commission's *avis* to open accession talks with FYROM. Such blockages are often of little relevance to the region: the position of the five EU non-recognisers of Kosovo's independence is based on fears of the impact of Kosovo's statehood on their own domestic situation. And the possibility that France may put future accession treaties to referenda further ties the enlargement process to national politics.

The member states are diverging in functional terms, but the strategic logic in favour of EU engagement remains visible, albeit haphazardly. The priority status of Kosovo-Serbia is driven by Germany and supported by the UK, but other Balkan countries do not enjoy similar treatment. On the southern flank of the region, FYROM, Albania and Bosnia and Herzegovina have been stuck for different reasons, and the prospects of overcoming their respective stalemates are not rosy. These cases illustrate how focusing on

security considerations or the concerns of individual member states can have counter-productive effects on the enlargement process as a whole.

In this sense, what was meant to create a virtuous circle between stabilisation and democratisation presents the EU with a conflict of objectives: strategic/security interests can take priority over the democratic promotion agenda and call for a rapid integration of the region. Conversely, the quest for the democratic transformation of the Balkan countries demands a strict application of conditions so as to prevent a premature accession [Solveig, 2012]. How can the EU reconcile its different priorities in the Balkans?

## PROSPECTS

An assessment of the ten years since Thessaloniki should seek to identify a renewed approach towards enlargement. The EU has found creative ways of keeping the process open; the promise towards the Western Balkans is unlikely to be broken. But the when and how are not secondary questions, and this is where more ingenuity is necessary.

### **Make enlargement relevant on the ground**

First, the EU can draw many lessons from the Belgrade–Pristina dialogue it has facilitated to upgrade its regional approach and to support, together with other regional actors, a pan-Balkan reconciliation process which includes settling border disputes, minority rights and bilateral or multilateral good neighbourly agreements. These are necessary for joining the EU and ensuring that the accession process does not fall victim to bilateral issues.

Second, it could engage aspiring countries in policies and/or negotiating chapters (such as environment, consumer protection, energy, infrastructure, student and business mobility) where clear benchmarks can be set and rewards can be offered (*à la* visa liberalisation), with concrete relevance for the lives of people. The EU could also put a premium on measures that assist the region from a socio-economic standpoint, for instance, by extending its Europe 2020 Strategy for growth, jobs and development. The potential of IPA II funds in supplying new incentives for reform in the Balkans could be explored in this regard.

## Leadership begins at home

But in parallel the EU could work to put its house in order. This would allow it to lead by example, thereby boosting its credibility and transformative leverage in the Balkans. The EU could get better equipped to defend its democratic principles and practices. Recent political events in Hungary and Romania made it all too clear that democratic achievements are reversible and that an effective post-accession-type of conditionality to address backlashes might be in order. Developing tools that allow the EU to monitor and influence internal dynamics once countries join could also help to assuage concerns on the side of the member states regarding the potential consequences of further EU enlargement.

In addition, sooner or later the EU will have to deal with its ‘absorption capacity’ if it is to continue growing and functioning effectively. How will its current institutional and decision-making set-up have to change in order to accommodate more and more members? A potential re-opening of the treaties in the context of economic governance reform could offer the opportunity to reflect or even act on proposals on how to address this problem. However, should the pace of enlargement slow down considerably after Croatia (and Iceland?) or break down (with Turkey?), or else should the crisis result in ‘inner’ and ‘outer’ circles of member states, the EU might have to envisage new forms of (a peripheral type of) association for countries wishing to join. What would these arrangements look like? And will anything short of full membership ensure the economic and social modernisation, as well as democratic consolidation, required of new entrants?

Such ideas and questions should spur a debate about the challenges and opportunities of enlargement in the member states and at the EU level. This could not only help to define a Thessaloniki 2 agenda but also the EU’s future character and role as a global actor.



## 2. Democratising the Western Balkans: where does the region stand?

*Rosa Balfour and Corina Stratulat*

### Introduction

One of the most important aspects of the EU's enlargement process is a new focus on the democratic transformation of the Balkans. This is reflected not just in terms of establishing formal institutions and constitutional and legal provisions, but also in the consolidation of substantive democratic processes of checks and balances to ensure inclusion and participation of citizens as well as the irreversibility of the recently established democratic systems. This chapter analyses the state of play of democracy in the Balkans, arguing that gaps remain in the region between formal reforms and their effective implementation, between elites' and citizens' expectations, and also in the EU's approaches towards promoting and supporting democratic change.

### BACKGROUND

The European perspective offered to the region by the member states in Thessaloniki a decade ago has acted as a catalyst for sweeping reforms as the Balkan countries moved from one state to many, reconstructing post-war institutions and societies, building democracies and transforming into functioning market economies.

The EU's political criteria, specified by the Copenhagen European Council in 1993, require the 'stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities', thus asking for the wholesale democratisation of aspiring countries. Over time, new requirements have been added to the democratic agenda, in response to internal EU anxieties as well as to the specificities of the Balkan region/countries. These include *inter alia* demands for political dialogue (within and between government and parliament), the independence of the

judiciary, measures against organised crime and corruption, the development of civil society, media freedom, implementation of peace treaties, regional cooperation and reconciliation, and full cooperation with the International Criminal Court for the former Yugoslavia (ICTY).

## STATE OF PLAY

### How democratic are the Balkan countries?

However much the Balkan countries have transformed themselves over the past ten years, much consolidation still needs to be done. Indeed, even if international indices rely on different definitions, they agree that democracy in the Balkans is still ‘work in progress’.

According to Freedom House, Croatia, Serbia, the former Yugoslav Republic of Macedonia (FYROM) and Montenegro are ‘semi-consolidated democracies’, Albania and Bosnia and Herzegovina are ‘transitional governments’ or ‘hybrid regimes’, and Kosovo is a ‘semi-consolidated authoritarian regime’ [Freedom House, 2012]. All countries except FYROM have maintained the same regime label since 2003.<sup>1</sup> Likewise, the Bertelsmann Stiftung Transformation Index (2012) indicates that only Croatia and Serbia qualify as ‘democracies in consolidation’, whereas the other Balkan states may be collectively described as ‘defective democracies’: they hold relatively free elections but fall short of adequately ensuring political and civil rights or the effective separation of state powers [see also Diamond, 2002; O’Donnell, 2004; and Merkel, 2004]. Here again, the picture is one of relative stability insofar as the democratic status of the countries in the region has remained unchanged since the early 2000s, with the partial exception of Serbia, which moved from a defective to a consolidating democracy.<sup>2</sup> Thus, despite the fact that these countries continue to be ruled by elected governments, democratic performance throughout the region has not yet acquired a real positive dynamic.

### A ‘top-down’ problem...

To understand why this is so, it is useful to distinguish between formal (procedural) and effective (substantive) democracy [see Kaldor and Vejvoda, 1997]. The former certifies the existence of civil and political rights (for instance, free speech, religious

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1. The FYROM advanced from transitional/hybrid government to semi-consolidated democracy.

2. However, this improvement may reflect the fact that in Freedom House’s Democracy Score ratings Serbia has been scored without Montenegro since 2008, and then without Kosovo since 2010.

liberty and freedom of choice in elections and referenda), while the latter entails the implementation of formal democratic rules and procedures in actual practice. Formal democracy is a necessary but insufficient component of effective democracy. To make democracy effective, political elites must respect and uphold the freedoms, rights and procedures granted by law and the constitution. And these are effectively respected if decision-makers abide by the rule of law. Elite corruption or elite closure undermine people's rights, violate the rule of law and lead to deficiencies in the functioning of democratic regimes.

In the sense of law enforcement, rule of law is not in itself a definitional property of democracy because law enforcement is not an exclusive quality of democracies; different degrees of law enforcement are also found among autocracies. However, the rule of law is a substantiating quality of democracy's key definitional property, that is, democratic rights, because rights are meaningful only to the extent to which the rule of law enforces them. By conceptualising effective democracy as the interaction between formal democracy (i.e. constitutional freedom) and the integrity of elites (i.e. rule of law), it is possible to understand why the Balkan democracies do not work well or in the same way throughout the region.

TABLE 1. EFFECTIVE DEMOCRACY INDEX FOR THE BALKANS (2009)

	Democratic rights index	Rule of law index	Effective democracy index
<b>Albania</b>	66.66	.197	13.13
<b>Bosnia and Herzegovina</b>	58.33	.328	19.13
<b>Croatia</b>	83.33	.891	74.25
<b>Kosovo</b>	25	.084	2.1
<b>FYR Macedonia</b>	66.66	.592	39.46
<b>Montenegro</b>	66.66	.576	38.40
<b>Serbia</b>	75	.384	28.8

\*The index of effective democracy is at a minimum 0 when either democratic rights or the rule of law are absent and at a maximum of 100 when democratic rights are both fully present as well as made effective by an operational rule of law.

Source: Rosa Balfour and Corina Stratulat, 'The democratic transformation of the Balkans', EPC Issue Paper no. 66, European Policy Centre, Brussels, 2011. Methodology described in *Appendix*, follows Welzel and Alexander (2008).

As Table 1 indicates, constitutional rights are more or less in place across the Balkans, and the forerunners in the EU integration process (for instance, Croatia, followed by

Montenegro and FYROM) are more advanced in the adoption of democratic legislation than the laggards (i.e., Kosovo or Bosnia-Herzegovina). However, apart from Croatia, in all the other countries of the region the rule of law is not robust enough to make existing democratic rights effective. Consequently, the Balkan countries exhibit a clear gap between formal and effective democracy: Kosovo, Albania and Bosnia-Herzegovina emerge as the most problematic cases,<sup>3</sup> whereas Croatia fares the best in terms of both formal and substantive criteria of democracy.

Deficiencies in the law-abiding behaviour of elites in the Balkans – that is, elite corruption – are also reflected in the well-documented opinion and experience of ordinary people in the region. The Balkan public attributes the main responsibility for the high (and at times growing) incidence of corrupt practices in their countries precisely to national political parties and the judiciary (see Transparency International and Freedom House).

### **... with a 'bottom-up' equivalent**

At least part of the reason why Balkan political elites do not seem to respect formally enacted rights and liberties is that they are able to govern without much public scrutiny. The people of the Western Balkans might be increasingly angry and frustrated with their leaders' performance but they have proven unable to impel politicians to provide adequate levels of effective democracy.

The weak level of civil activism in the Balkans region is concretely linked to a lack of adequate resources and institutions, as well as to a popular culture that still lays emphasis on distrust, prejudice, obedience, and 'bread-and-butter' issues at the expense of self-expression values and aspirations. The problem of resource scarcity – which deprives people of the means to take and sustain collective action – runs deeper than the current economic crisis [Forbrig, 2010]. It has to do, among others, with meagre private and state-budget funding contributions to civil society, which leave civil society organisations (CSOs) in the region largely dependent on assistance from foreign donors. Chief among these is the European Union, which has made a substantial commitment to civil society projects in the Balkans under its Instrument for Pre-accession Assistance (IPA), and has also developed the Civil Society Facility, which focuses on technical assistance (TASCO), exchanges (People 2 People Programme) and Partnership Actions.

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3. The result for Serbia is rather surprising given the country's relatively advanced position. This could be due to the fact that the most recent available data used in creating this index is from 2009 and therefore may be outdated in relation to recent events and developments.



However, the administrative requirements of EU programmes are usually very bureaucratic and difficult to fulfil for all but a handful of organisations. Moreover, the structure of external funding is such that most CSOs are driven by competition (not co-operation) to win projects for which money is available, rather than building up their expertise and identity.

In addition, while all Balkan countries have by now put in place legal frameworks regulating the creation and operation of CSOs, in practice, formal mechanisms for government-civil society consultations or detailed rules facilitating CSOs' registration and participation in decision making at local or state level are still lacking or poorly implemented, and public awareness of civic rights (such as access to information and financial support for CSOs) remains problematic.

Finally, Balkan societies tend to prioritise security and material well-being, and almost not at all self-expression values (for example, trust, liberal views on self-determination, gender equality, autonomy, and expressive orientations that stress the voice of the people [Balfour and Stratulat, 2011]). Research indicates that self-expression values are not only beneficial for the prospects of elite-challenging actions – such as via CSOs – but they also have significant civic consequences in strengthening democratic institutions [Inglehart and Welzel, 2005]. This is because self-expression values enable people to identify 'intrinsic' preferences for democracy, prizing it for the freedoms that it enshrines. In contrast, 'instrumental' preferences value democracy as a means to other ends, such as prosperity. If popular demands for democracy lack substance – as they seem to do in the Balkans – then political elites may supply an equally unsubstantiated democracy, meaning with little or no respect for formally-enacted liberties – which is what transpires across the region.

## **The EU's democracy promotion efforts in the Balkans: levers and traps**

All Balkan governments are aware of the importance of the political criteria for accession and are all committed to the goal of joining the EU. In principle, this is good news as the credibility of a country's membership bid and willingness to undertake reform can only be maintained if commitment to the objective of integration is expressed in a national unified position and lasts over several legislative terms. The case of Croatia, and its National Committee for Monitoring the Accession Negotiations, demonstrates the benefits of rising above political squabbling and turning EU accession into a 'national cause'.

In practice, however, what all too often gets in the way of real commitment to the democratic agenda is the persistence of national sentiment, which tends to clash with sensitive and politically-charged conditions, like that of full cooperation with the ICTY (cf. Croatia's and Serbia's difficulties in delivering key fugitive indicted war criminals), or that of reconciliation in the region (with positive initiatives in this field between the Croatian President Ivo Josipović and his former Serbian counterpart, President Boris Tadic, not really followed up). However, nationalism is increasingly articulated in a European and less exclusive context, as illustrated, for instance, by the fact that the current nationalistic Serbian President Nikolić has shown some willingness to talk and strike agreements with the Kosovo leadership.

A high degree of political polarisation, as witnessed between the two main political parties in Albania, as well as ethnic tensions, particularly salient in the case of FYROM, are further factors that impair the ability of Balkan politicians to meet the political conditionality for accession, and thus to consolidate and complete their countries' democratic transition. Finally, unresolved status and border issues, most notably in Bosnia and Herzegovina or Serbia-Kosovo, represent a further major challenge in carrying out the necessary reforms for democratisation and EU integration.

The EU-government dynamics have a direct impact on public opinion regarding enlargement in the Balkans. Over the years, the popularity of the EU has been declining. This is to be expected as integration moves from a general aspiration to the level of specific experience; the same happened in Central Europe. While this may reflect increased awareness and understanding that entry into the EU also entails costs and obligations, the lack of popular backing could also restrain the preferences of decision-makers for integration, making it difficult for the pro-European elites in the region to press forward and implement the democratic reforms for accession.

## PROSPECTS

At the heart of the solution is support for the full democratic transformation of the Balkans by building congruence between political elites and the people. The linear reading of democratisation – which presumed a cumulative and irreversible progression of democracy from transition to consolidation – was already called into question by recent events which threatened the EU's democratic principles and values both in the young and old member states [Rupnik, 2007]. The best pre-emptive strategy in this regard is to strengthen the substantive aspects of democracy in the Balkans, including civil society, parliaments and the media.

Balkan politicians and societies need to be fully aware of the crucial importance of achieving effective democracy. Those in power need to take ownership of the reform agenda and act responsibly, implementing policies that coincide with and respond to the needs of their electorates. Likewise, CSOs in the region need to hold their leaders accountable for specific policy outcomes and to demand that they respect formally-specified democratic rights and standards. Also, civil society actors in the Balkans need to work towards consolidating their organisations and boosting cooperation on or across projects, thereby avoiding the duplication of efforts and ensuring financial sustainability at a time of growing competition for diminishing resources.

The effective democratisation of the region is also in the EU's strategic interest and power of action. For instance, the Union can help to build social capital in the region by providing education, mobility and training to improve CSOs' professionalism; reforming the structure and distribution of funding in the (pre-)accession phases of integration; and pushing for the adoption of legal frameworks that detail the standards for government-CSOs consultation and which allow civil society to operate freely in the (early stages of the) formulation and implementation of decisions. These issues should be incorporated into the *acquis* and treated like any other formal requirement. Moreover, the EU could do more to address the 'executive bias' of its accession process by demanding and supporting the involvement and input of crucial democratic actors, such as national parliaments, local authorities, the media, and CSOs from the Balkans in their country's membership effort. The participation of the civil society sector in Montenegro's accession negotiations could serve as a positive example to build on and emulate across the region.

Make no mistake: the effective democratisation of the Balkans is the best investment that these countries and the EU can make for the future.



# 3. The widening implementation gap: the impact of EU accession on governance in the Western Balkans

*Alina Mungiu-Pippidi*

## Introduction

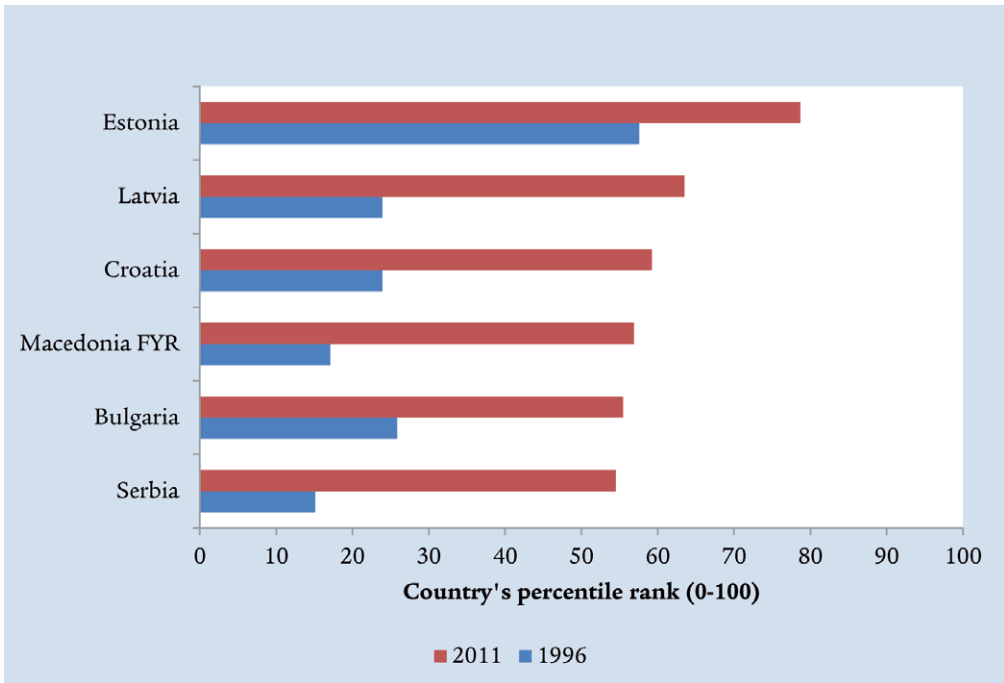
When the promise to enlarge to the Western Balkans was issued by EU leaders at the Thessaloniki Summit in 2003, democracy and rule of law were declared from the very first paragraph to be ‘common values’. This was encouraging, especially given the challenges historically encountered by external ‘civilising’ empires in their attempts to transform the Balkans. Describing such ventures by the ancient Greeks, historian Arnaldo Momigliano wrote: ‘But the Greeks were seldom in a position to check what natives told them: they did not know the languages. The natives, on the other hand, being bilingual, had a shrewd idea of what the Greeks wanted to hear and spoke accordingly. This reciprocal position did not make for sincerity and real understanding’ [Momigliano, 1975].

Strengthening the rule of law and public administration reform are acknowledged as key issues ten years later, after the successful accession of Croatia. The Council showed that it did not underestimate the challenge when stating that these ‘issues should be tackled early in the enlargement process to allow the maximum time to establish the necessary legislation, institutions and solid track records of implementation before the negotiations are closed’ [Council of the European Union, 2011]. This wisdom is grounded in the mixed experience of the big bang enlargement wave, and, in particular, the negative experience of Romania and Bulgaria, which years after accession are still struggling to meet the established criteria in these areas. This chapter briefly examines the progress made from the perspective of control of corruption, applies a general statistical model explaining corruption and assesses the current policies and their chances of success in controlling corruption.

## BACKGROUND

Defining corruption is such a controversial business that the United Nations Convention against Corruption (UNCAC, which entered into force on 14 December 2005) does not even attempt to do so, stating instead in article 1.c that it will ‘promote integrity, accountability and proper management of public affairs and public property’. In the current chapter ‘control of corruption’ is defined as the capacity of a society to constrain corrupt behaviour in order to enforce the norm of individual integrity in public service and politics and to uphold a state which is free from the capture of particular interests and thus able to promote social welfare.

FIGURE 1. THE BALKAN ACHIEVERS – SIGNIFICANT CHANGES IN CONTROL OF CORRUPTION IN EASTERN EUROPE (1996-2011)



Source: World Bank, Control of Corruption from first year of measurement (1996). See: [http://info.worldbank.org/governance/wgi/mc\\_countries.asp](http://info.worldbank.org/governance/wgi/mc_countries.asp).

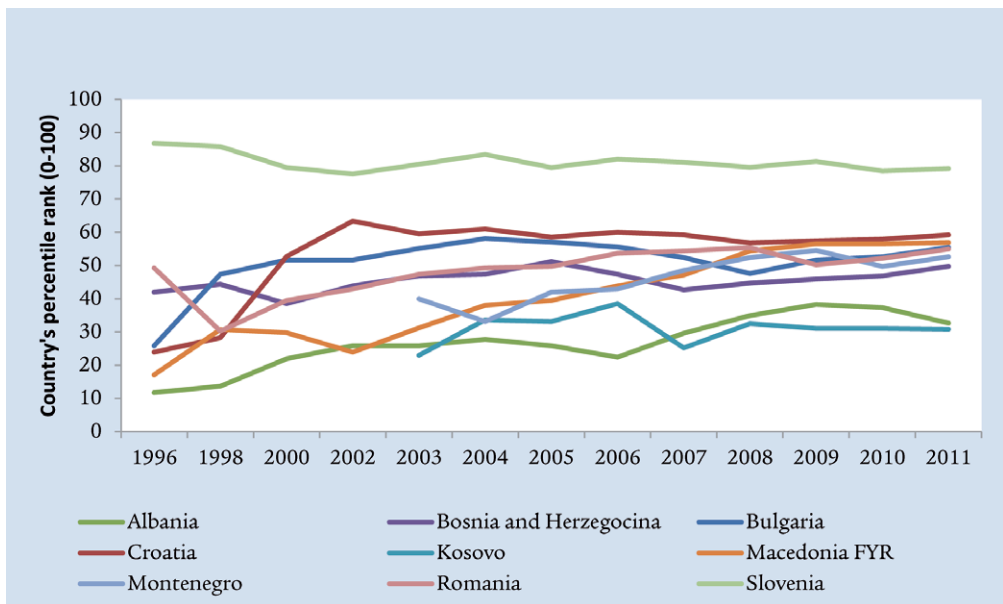
Since they started from so low a point after the wars that accompanied the break-up of the former Yugoslavia, the Balkan countries have actually progressed on average more than other regions in the world (except for the Caribbean) in terms of the World Bank Rule of Law and Control of Corruption index. Figure 1 shows the Western Balkan countries that have made statistically significant progress, compared with the only three

new member countries which have managed the same. On a scale from one to 100, the most advanced, Estonia, is the only one in the upper quarter of good governance, having started from a far better position, but Croatia, Serbia and the former Yugoslav Republic of Macedonia (FYROM) have made significant progress when compared to their 1996 rankings and have come to overshadow Bulgaria and Romania. Croatia, the most advanced, hovers around the rank of sixty, which is where most ‘borderline’ cases in the world are situated. A borderline case is a fairly modern state where the main norm in public resource allocation is still ‘particularism’: in other words, nepotism and corruption are still the norm rather than the exception.

## STATE OF PLAY

So these three Western Balkan countries can be seen as achievers, although they are still far from the good governance zone in Figure 1 (above 70). Montenegro, although the youngest country, has performed similarly to FYROM and Serbia. News is less good concerning the other Western Balkan countries. Albania and Bosnia and Herzegovina have also progressed, but less.

FIGURE 2. CONTROL OF CORRUPTION ACROSS THE EASTERN AND WESTERN BALKANS



Source: D. Kaufmann, A. Kraay, and M. Mastruzzi, *The Worldwide Governance Indicators: Methodology and Analytical Issues* (2010)

Figure 2 (see page 37) shows how close all Balkan countries are. Slovenia is the positive outlier on top and Albania and Kosovo are the negative outliers on the bottom. This mirrors the difference in terms of economic development between the two extremes. The core group of countries presents few differences, and in fact shares the same governance diagnosis. The main governance institutions do not vary from the Eastern to Western Balkans, amounting to regimes based on political pluralism where victory in elections means significant spoiling of the state by the winners, ranging from the allocation of public appointments (even at minor levels) to public contracts, concessions and privatisations. This regime is dominated by clientelism (taking the various forms of patronage, pork barrel spending and networks of influence-peddling). This behaviour is the rule of the game not only in politics, but also in many business areas, where the favouritism shown by the government to certain companies seriously distorts market competition. It also pervades other aspects of public life, for instance in universities. Open and fair competition is rare.

This is the standard portrait of all countries ranked under the threshold of 60, with the exception of Bosnia and Herzegovina, where the dividing lines of client groups are of an ethnic rather than political party nature. This also means that law enforcement agencies and the judiciary are only partly effective, with a significant number of the powerful and privileged escaping their control. Nearly all elected politicians belong to the sphere of the privileged, many of whom feel threatened by the EU's stress on the rule of law and anticorruption measures, since this is how politics works. In other words, it is rather difficult to entrust political elites with the task of ridding their countries of corruption when it is mostly they who profit from the current arrangements: hence the low voter turnout in elections and disenchantment with all politicians in both the Eastern and Western Balkans. Successful prosecutions in Romania and Croatia have not managed so far to have a deterrent effect, although securing the convictions of former prime ministers in these two countries is remarkable in itself.

If we compare corruption across the group of countries belonging to the same income group (using World Bank indicators), none of the Western Balkan countries fare worse than the average of their income group. The individual country's level of development matters significantly. Poverty and an informal economy are major drivers of corruption before themselves becoming impediments to development. Any country where claimants are in poverty, court clerks discontented and income disparities great has difficulty establishing a judiciary capable of enforcing the law impartially and controlling corruption.



## PROSPECTS

### How to control corruption in the Western Balkans?

But how can effective control of corruption be achieved? Using the World Bank's Control of Corruption index as a dependent variable, an explanatory model of corruption can be built using regression analysis. A school of thought in corruption literature has always conceptualised corruption as equilibrium. The World Bank's Robert Klitgaard considered that when monopoly of power and administrative discretion are not checked by accountability the result is corruption [Klitgaard, 1988]. A statistical explanatory model of corruption at national level is best described as the equilibrium reached when opportunities (resources) for corruption can be checked by deterrents (constraints) imposed by the state and society as follows [on the methodology, see Mungiu-Pippidi et al., 2011]:

$$\text{Corruption/control of corruption} = \text{Opportunities (Power discretion + material resources)} - \text{Deterrents (legal + normative)}$$

Opportunities can be categorised as:

- Power resources – this refers to discretionary power opportunities due not only to monopoly/oligopoly, but also due to privileged access that can take the form of collusive arrangements, deliberately poor regulation resulting in few constraints on administrative discretion, lack of transparency, etc.
- Material resources – these include state assets, concessions and unconstrained discretionary budget spending, foreign aid, state ownership of natural resources, public sector appointments, and any other resources which can be abused, turned into spoils or used to generate rents.

Deterrents can be detailed as:

- Legal constraints – these comprise an autonomous, accountable and effective judiciary, corresponding audit and control agencies, as well as effective and comprehensive laws and regulations covering conflict of interest and enforcing a clear separation of public and private interests.
- Normative constraints – these imply that existing societal norms endorse public integrity and government impartiality, and monitor deviations from such norms through public opinion, the media, civil society, and a critical electorate.

This equilibrium formula was tested empirically on a large number of countries [see Mungiu-Pippidi et al., 2011]. This chapter reviews only the main significant determinants of corruption and is restricted only to the Western Balkans. The statistical tests employed (based on OLS regressions) essentially use a comparative method that makes it possible to evaluate whether countries which perform better are more or less associated with a certain determinant: the observations are either global (N=191) or European (N=27-40, if Southeastern European and European ex-Soviet Union countries are included).

The following factors have a high impact and influence corruption greatly in the Western Balkans.

### Resources and opportunities:

- **'Red tape'**. There is a very strong association between red tape and corruption, as excessive regulation is the main instrument used to increase administrative discretion and through it corruption. Streamlining regulation is not an objective during accession negotiations, so this issue is generally sidelined. On the contrary, regulations multiply without being properly implemented, thus magnifying the distance between norms and practice.
- **Transparency and e-government**. Transparency, in a variety of areas (fiscal expenditure; information regarding public officials' assets and decision-making processes) is a key instrument for reducing administrative discretion. The more states offer their services electronically, the more corruption decreases. This all however depends on the extent to which the population is able to use such services, in other words has free and generalised access to the internet. New member countries like Estonia have curtailed corruption dramatically by cutting red tape and advancing e-government, practically eliminating most opportunities for corruption. Even in the absence of mass internet usage, transparency works due to mass media, NGOs or directly interested parties (for instance in procurement). Unfortunately this issue is not addressed during the accession process. Only e-procurement is sometimes discussed, when transparency should be the cornerstone of all civil service, public administration and fiscal management reforms.
- **High spending with discretionary potential (projects)**. On the European continent, the more leeway a government has for discretionary spending, the more it tends to be corrupt. It is not general spending which is correlated with corruption, but the funds that a government has the freedom to allocate discretionarily and that are not tied to some clear objective like social entitlements. Funds from foreign aid

and state-owned natural resources also enter this category. This explains cases such as Kosovo, praised by the European Commission (EC) in its 2011 Progress Report for having introduced improvements in its procurement legislation. But further improvements would not help strengthen control of corruption in Kosovo as long as the value of public procurement contracts awarded yearly remains at around 20 percent of Kosovo's GDP, about €482 million (US\$645 million for 2009, according to estimates by Global Integrity Report). The EU accession process here unwittingly introduces new opportunities for corruption due to the influx of EU funds, which can be discretionarily spent by the governments, either directly or by manipulating national matching funds.

### Constraints and deterrents:

- **Quality of public sector audits process.** Although no objective indicator of public sector audits exists as such, a measure of their effectiveness is provided by the Global Competitiveness Report 2010-2011 of the World Economic Forum (WEF). This measure correlates very well with control of corruption. The quality of control and preventive measures in general is under-emphasised during the EU accession process and in the Mechanism for Cooperation and Verification (MCV) for Romania and Bulgaria, a safeguard clause allowing the European Commission to check on the status of their prior commitments in the field of rule of law even after accession.
- **Civil society and the capacity for collective action.** Regression analysis shows that control of corruption is significantly better in countries with a larger number of NGOs and with more citizens engaged in voluntary activities. The correlation is so strong that its reverse is self-evident: in the absence of public oversight, it is quite impossible to achieve effective control of corruption. During the accession process some funds are earmarked to help civil society in general, but no systematic effort has been made to create a civil society watchdog and mechanism for monitoring spending of EU funds, for instance, although this would prevent waste, provide a timely alert regarding incidents of corruption and contribute to the more effective use of such funds.
- **Free media and well-informed critical citizens.** Freedom of the media and the presence of a large number of well-informed citizens with regular access to newspapers or access to the internet explain in considerable part the successful control of corruption. Knowledge of the levels of newspaper readership and use of the internet enables us to predict the corruption score in over three quarters of European countries showing the extent to which a society's control of corruption is dependent on

public scrutiny and the society's capacity for monitoring its own government. The European Commission and Council both noticed that problems affecting freedom of expression and the media remain a particular concern but except for monitoring developments no real remedies have been found. These might include encouraging local governments to support the new media, which are less prone to capture by vested interests, and invest in developing the media's capacity to play the role of good governance watchdog.

The following factors seem to make less significant statistical impact:

- **Party funding restrictions.** In Europe, leaving aside the countries which fund parties exclusively from the national budget, the more restrictions a country has on party funding, the more corrupt it seems to be according to regression analysis. It may be because these countries adopted restrictions in recent years to fight political corruption, but the evidence also shows that countries which have achieved good control of corruption have managed it with different party funding arrangements. In short, the only existing statistical evidence available so far shows that transparency of sources of party funding has some deterrent effect on political corruption. It is more useful to constrain the capacity of political parties to favour companies with public contracts, which are easy to monitor, than to be continually endeavouring to improve party funding legislation, where more restrictions frequently result in more illegal or intricately arranged transfers. If parties cannot deliver to their sponsors, the latter will freeze the money themselves.
- **Existence of a dedicated anticorruption agency.** Countries in Europe with special prosecuting anticorruption agencies do not perform significantly better than countries which deal with corruption through their normal judiciary. In other words, if the judiciary is independent from government, corruption can be controlled through normal prosecution procedures and the law courts (prosecutors can in any case undergo specialised training in this field). If the judiciary is not independent, then an 'autonomous' anticorruption agency risks becoming a target for political control, as has already occurred in Slovenia, Latvia or Romania. However, the EC has taken the line that corruption can be controlled through these special agencies, despite evidence that agencies alone cannot cope with the problem if all other policy factors are not addressed. The result is a situation as in Romania in 2009-2012 when corruption worsened while the anticorruption agency performed better and better and received high praise in EU reports.
- **Existence of a Judicial Council.** Neither globally nor in Europe is the existence of a Judicial Council entrusted with the self-regulation of magistrates associated with

a more effective control of corruption. EU countries which have historically succeeded in achieving effective control of corruption in Europe have done so by means of different institutional arrangements for their systems of prosecution and Courts. Since their adoption the judiciary has indeed been less subject to direct political intervention, but indirect influence, and especially corruption, remain rife. In many countries the judiciary has become plainly unaccountable since judges have started to rule themselves. Global Integrity reports for instance that, in Albania, Court positions at different levels have in recent years acquired a price tag.

TABLE 1. THE WESTERN BALKANS GOVERNANCE INDICATORS

	Albania	Bosnia	Croatia	Kosovo	FYROM	Mon-tenegro	Serbia
WEF bribery rank (144 countries)	84	63	91		53	54	86
WEF government favouritism rank (144 countries)	84	70	97		77	31	132
WEF judicial independence rank (144 countries)	121	78	106		105	65	129
Press freedom (1-7 worst)	4.00	4.75	4.00	5.75	4.75	4.00	4.25
	(0)	(-0.5)	(-0.25)	(-9.25)	(0.75)	(-0.5)	(-1)
Global Integrity implementation gap index (1-100)	21	-	-	31	30	-	30
Open Budget Index (1-100)	47	50	61	-	35	-	39
Size of shadow economy as % of GDP (2007)	37.7	35.4	36.5	-	38.8	-	-
Ease of doing business rank (132 countries)	85	126	84	98	23	51	86

Source: Author's compilation. All figures are from 2012 unless otherwise indicated.

The evidence that the EU enlargement process, despite the stress on anticorruption, is having a hard time delivering can be explained by an indicator developed by Global Integrity which reports on both the 'legal framework' and 'implementation' separately, allowing a measurement of the 'implementation gap'. The results available for the past

couple of years show that all Western Balkan countries have improved to reach either a very strong (e.g. Kosovo) or strong legal framework, with weak or very weak (e.g. Serbia) implementation. This shows that the gap between formal rules and their actual implementation only grew, with little impact on corruption so far and suggests that rather than new improvements of laws better enforcement of existing legislation should be stressed.

Table 1 (see previous page) shows the most important factors determining control of corruption. Freedom House's Nations in Transit project evaluates that the judiciary has not evolved in any country except for a small improvement in Kosovo (0.25, the smallest unit of progress) in the last five years. The media, which plays an essential role, has weakened in the last few years, ending up captured by vested interests, and thus becoming useless as an accountability tool. Civil society is still numerically reduced and demoralised, with scarce funds for the monitoring of good governance. These three areas – empowerment of the media and civil society and promotion of fiscal transparency (with, as the Open Budget Index shows, poor performance across countries) – might be the best investment for the EU, at least to diminish the risk induced by the accession process itself, if not to radically change the governance regime of the region.

The EU could also consider the cases of Romania and Bulgaria alongside that of Croatia. The EU tried to rise to the challenge in these two countries, by using to an unprecedented degree the Mechanism of Cooperation and Verification (MCV), tied to progress on corruption in both countries, and the temporary freezing of EU funds until better governance arrangements were also put in place. These negative experiences of the unfinished Eastern Balkans governance transformations weigh heavily on the forecast for the Western Balkans accession process. All parties concerned would do well to draw lessons learned from this experience – in particular the EU, which seems sometimes to be pursuing a strategy in the Western Balkans that is not so different from that which it previously experimented in Romania and Bulgaria.

## 4. Human and drug trafficking: the fight against organised crime

*Chloé Brière and Eviola Prifti*

### Introduction

Drawing on his experience as a reporter in the Western Balkans, Misha Glenny has highlighted the dark side of international organised crime. ‘Organised crime is such a rewarding industry in the Balkans’, he has written, ‘because ordinary West Europeans spend an ever-burgeoning amount of their spare time and money sleeping with prostitutes, smoking untaxed cigarettes; sticking €50 notes up their noses, employing illegal untaxed immigrant labour on subsistence wages, [...] or purchasing the liver and kidneys of the desperately poor in the developing world.’ [Glenny, 2008]

This phenomenon has been identified in the Thessaloniki Declaration as a ‘real obstacle to democratic stability, the rule of law, economic development and development of the civil society in the region’. Due to the cross-border nature of crime, the European Union perceives it as ‘a source of grave concern’ for the health, safety and security of EU citizens. At the EU-Western Balkan Summit in 2003 the fight against organised crime became a key priority and both sides committed to implementing concrete and specific measures to combat it in line with the Thessaloniki Agenda. A decade later, this chapter assesses the progress and challenges encountered in fighting organised crime in the Western Balkans.

As suggested by Glenny, the term ‘organised crime’ encompasses a wide range of criminal activities. The UN Transnational Organised Crime Convention provides a large definition which includes all serious crimes or offences committed by structured organised crime groups (OCGs), composed of three or more persons, in order to obtain a financial or other material benefit by improper means. This chapter focuses more particularly on trafficking of human beings (THB), explicitly mentioned in the Thessaloniki Declaration, and drug trafficking: the latter is among the most lucrative types of organised crime in the Western Balkans. Trafficking of human beings consists in the recruitment,

transportation and receipt of persons, by improper means such as force, fraud or deception, with the aim of exploiting them [UN Trafficking Protocol, Article 3]. Drug trafficking in the region includes activities ranging from the production and the importation of legally prohibited narcotic drugs or psychotropic substances, to their transport and exportation.

The EU's long-term objective is the eradication of these activities, but the short and medium-term priorities are to control and contain them. Most of the measures intend to build institutions and reinforce capacities of law enforcement bodies and judicial authorities to detect, prosecute and adjudicate the perpetrators. But, according to the EU comprehensive approach, combating criminal activities implies also acting both upstream (prevention) and downstream (protection of witnesses and victims).

## BACKGROUND

### Causes, actors and instruments<sup>1</sup>

The vulnerability of the countries of the Western Balkans to organised crime can be explained by various factors. Firstly, criminal activities have been greatly influenced by the political events of the 1990s, the post-conflict situation and the transition from communist regimes to democracy, which engendered a legal vacuum and weak law enforcement bodies. Secondly, the geographical position of the Western Balkans, its widely spread diaspora and the porosity of borders facilitate the expansion of the illegal drug and human trafficking activities which affect EU member states. Finally, the socio-economic situation of the region provides a fertile ground for the emergence and expansion of the OCGs as trafficking remains one of the most lucrative – illegal – businesses in the region.

Europol estimates that 3,600 OCGs are active in the EU [Europol, 2013]. These moving targets are dynamic, innovative and adapt quickly to new environments and to counter-measures. Originating from the Western Balkan countries, the Albanian-speaking OCGs have since the 1990s built up a wide network in the region and established logistical centres within the EU such as in Germany, the United Kingdom, the Nordic countries and the Central and Eastern European countries. They present a particular threat to the EU because they are engaged in 'poly-drugs' trafficking (heroin, cocaine, cannabis and synthetic drugs) and involved in various forms of criminal activities including trafficking of human beings.

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1. The information in the first two paragraphs of this section and most of the data in the section 'State of Play' (see below) come from UNODC, *Crime and its Impact on the Balkans and Affected Countries*, 2008, unless otherwise indicated.



As a ‘soft security’ threat, organised crime has been a source of concern not only to the EU, but also to various international players such as the UN (more particularly the UNODC), NATO, the OSCE, the Council of Europe (CoE), Interpol and the US. Over the last ten years, the EU has deployed its diversified toolbox of strategies, policies and instruments to meet the ambitious goal of the Thessaloniki Declaration.

Indeed, since 2003 organised crime has been singled out as one of the main challenges in the European Security Strategy, the Stockholm Programme (2010) and the EU Internal Security Strategy (2010). Regarding drug and human trafficking, the EU has adopted a comprehensive and balanced approach, which aims at reducing both supply and demand dimensions through prevention, identification and protection of victims, enhancement of law enforcement and judicial capabilities and cooperation among key actors. This rationale is reflected in the EU Drugs Strategy (2005-2012 and 2013-2020) and the anti-trafficking strategy (2012-2016), for example.

Since the transnational nature of organised crime has blurred the traditional divide between external and internal security, this phenomenon has become increasingly related to the external dimension of the Area of Freedom, Justice and Security. To protect itself against the negative externalities of organised crime, the EU exports to the Western Balkans the policies and instruments used internally to ensure its own security. In other terms, the Union assists its member states – and the Western Balkan countries – in strengthening law enforcement and border control capacities, collecting reliable crime statistics and supporting cross-border investigations [Strazzari and Coticchia, 2012]. Furthermore, the work of the EU agencies such as Europol, Eurojust and Frontex contributes to containing organised crime, mainly by concluding agreements with the Western Balkan countries in their respective field of competences.

This internal-external security nexus is also salient in the SAP, which was strengthened at the Thessaloniki Summit. The SAA, on which it relies, includes a section on ‘Justice, Freedom and Security’ emphasising the importance of an independent judiciary, the effective functioning of law enforcement bodies and the management of borders in the fight against organised crime. This approach has also been confirmed by the new method adopted by the European Commission and applied for the first time to Montenegro in 2012, which consists in opening the negotiating chapters 23 (on ‘Judiciary and Fundamental Rights’) and 24 (on ‘Justice, Freedom and Security’) early on in the accession process and closing them at the end. This method allows more time for candidate countries to undertake necessary reforms to align with the EU *acquis*. The IPA also supports the fight against organised crime by providing assistance for reforming the above-mentioned areas and by financing specific regional projects such as ‘Police

cooperation: fight against organised crime, in particular illicit drug trafficking and the prevention of terrorism' and 'Fight against organised crime and corruption: strengthening the Prosecutors' Network'.

Finally, the Common Security and Defence Policy (CSDP) missions and operations deployed by the EU in the region complement these policies by maintaining, in the short-term, a secure environment, by reforming and strengthening the capacities of judicial and law enforcement authorities. These objectives are/were pursued by military operations (EUFOR *Althea* in BiH and *Concordia* in FYROM), but more particularly by the civilian missions, i.e. the EU Police Mission (EUPM) in BiH, the EU Rule of Law Mission (EULEX) in Kosovo, EUPOL Proxima and the EU Police Advisory Team (EUPAT) in FYROM.

For their part, the Western Balkan countries have also developed their own regional cooperation mechanisms in this field. The Regional Cooperation Council (RCC), for example, aims at encouraging collaboration between law enforcement bodies, and the exchange of information and coordination among regional, EU and international actors. Additional multilateral and regional initiatives have been established with EU support such as the Southeast European Law Enforcement Center (SELEC) and the Police Cooperation Convention for Southeast Europe (PCC SEE). The Western Balkan countries have also signed bilateral agreements on police cooperation both with the EU member states (e.g. Croatia-Poland, FYROM-Bulgaria) and with the other countries in the region (e.g. Albania-Montenegro, FYROM-Kosovo).

## STATE OF PLAY

### Progress and challenges since 2003

Drug and human trafficking can be explained in terms of supply, demand and trafficking routes. Trafficking of human beings in the Western Balkans has been primarily manifested in the trafficking of women and girls for sexual exploitation. However, indications show the importance of other forms of trafficking (labour, begging and delinquency) and types of victims (men and children). In the 1990s the 'South East hub' functioned primarily as a transit zone between the greatest sources of supply (the CIS countries) and demand (Western Europe). The Western Balkans have also been reported as source countries for exploitation in Western Europe. However, in recent years changes have occurred and reports highlight that the Western Balkans are no longer an important source of or transit corridor for trafficked human beings into the EU. It appears that the majority of victims in the Union are currently both EU citizens and

non-EU citizens (from Nigeria and China) [Eurostat, *THB*]. To a lesser extent, the Western Balkan countries have also become destination countries (*demand*) for victims from Ukraine and Russia for example [IOM, 2005].

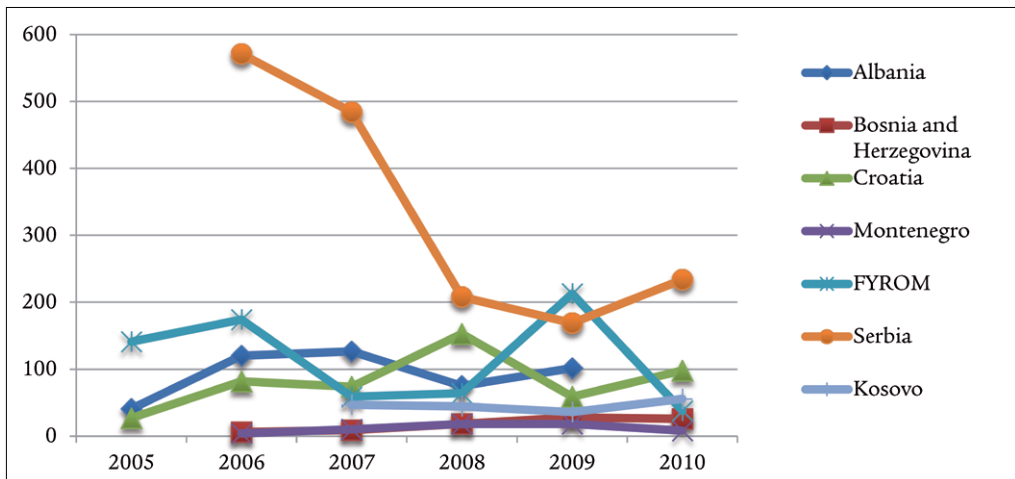
Concerning drug trafficking, the region is mostly a transit area and, to some extent, a warehouse for drugs intended to be sent to the EU. Heroin produced in Afghanistan (*supplier*) transits through Pakistan, Iran, Turkey and Bulgaria before joining the 'Balkan route'. The main destinations (*demand*) are Greece and Italy, and very small quantities are destined for other European countries. The 'Balkan route' functions also in the opposite direction for the trafficking of synthetic drugs and precursor chemicals manufactured in the EU. Furthermore, Europol points out that an increasing amount of cocaine from Latin America arrives via large shipments at ports on the Adriatic and Black Sea, transits via the 'Balkan route' and South East Europe before entering the EU [Europol, OCTA, 2011]. The region has also become a source of supply of cannabis, which is cultivated illegally in Albania and in Kosovo. This drug is partly destined for domestic and regional consumption, but mainly to be exported to the countries of the EU.

Since 2003, considerable progress has been made by the Western Balkan countries in the adoption of a *new legal framework* and in the establishment of new institutions aiming at combating organised crime. In this regard, EU conditionality played a catalyst role in providing impetus for reform since visa-free travel for the citizens of the Western Balkans included prerequisites concerning the fight against organised crime (see Alexandra Stiglmayer's chapter in this volume).

Indeed, over the last ten years, national legal frameworks have been adopted to control human trafficking, in line with the EU *acquis* and with the CoE Convention (see Table 1). The Western Balkan countries have fulfilled on paper their international obligations to criminalise trafficking of human beings, to grant protection and assistance to the victims and to develop cross-border cooperation in criminal investigations. In practice, efforts have been made to prevent trafficking (public awareness campaigns, school education, training of relevant officials), to protect victims (funding of shelters) and to prosecute perpetrators. But as regards the latter aspect, these efforts sometimes have not gone beyond the mere insertion of the offence of trafficking in national criminal legislations, and this has not been followed by an effective proactive prosecution policy. Furthermore, progress has also been made in collecting data, but a remarkably small number of victims come to the attention of authorities (250 cases in the region per year). However, the number of convicted traffickers has increased slightly in Montenegro, Croatia and Serbia [Eurostat, 2013].

Concerning drug trafficking, the Western Balkan countries have also reformed their national anti-drug and anti-trafficking legislations, as well as their institutional capabilities in order to arrest, investigate, prosecute and sentence suspects more effectively (see Table 1). Furthermore, in line with the EU strategy on drugs, they have adopted national anti-drugs strategies and action plans, which include measures aiming at reducing not only cross-border trafficking, but also the supply of and demand for drugs. In practice, drug seizures represent an indirect indicator of the efficiency of law enforcement capabilities. The strengthening of the judicial and law enforcement measures, and their deterrence effect, could explain partly the downward trend in seized quantities of heroin in the region (see Graph 1). But this general trend may also be ascribed to a moderate decline of heroin consumption in the EU.

GRAPH 1. QUANTITIES OF HEROIN SEIZURES (IN KG) IN THE WESTERN BALKANS FROM 2005-2010.



Source: UNODC, Paris Pact, *Drug Situation Analysis Report. South Eastern Europe*, November 2011

Despite these encouraging developments, the main challenge in fighting human and drug trafficking lies in the consolidation and concrete implementation of the existing legal framework. This is due to two main obstacles.

The first hurdle is related to the dilution of efforts and the duplication of roles (and tasks) among the different actors. This results mainly from the *limited cooperation* between law enforcement and judicial bodies at the national, regional, EU and international levels in terms of exchange of information and joint operational activities. The degree of coordination among these actors is inferior to the degree of cooperation achieved by the OCGs in the region and abroad [Montanaro-Jankovski, 2005].

The second obstacle is related to the lack of adequate *resources*, in terms of human resources, equipment, training and use of modern investigation tools. The detection and investigation methods do not seem to be commensurate either with the highly networked structures of the OCGs, or with their dynamic and innovative *modus operandi*. Indeed, internet and mobile communication amplify their actions as they facilitate access to information and communication among groups and extend the scope of human and drug trafficking (sexual exploitation online and e-commerce of drugs). Finally, the issue of measurement of human and drug trafficking coupled with the lack of reliable and complete statistics from the local law enforcement bodies hamper the prevention of criminal activities and the evaluation of the efficiency of the policies implemented in the region.

## PROSPECTS

### Common solutions to common challenges?

Although the prospects for the fight against organised crime might not seem bright in times of economic crisis, the outlook might become more auspicious if efforts were made to invest more (and more judiciously) in the societal sector, to enhance cooperation and to reinforce capabilities on the ground.

The economic crisis has led to a deterioration in the economic and social conditions of the Western Balkan countries (rising unemployment and poverty) and increased the economic disparities between the Western Balkans and the EU. Given the financial constraints, vulnerable individuals are more likely to turn to more lucrative businesses such as trafficking in drugs and in human beings. To prevent and combat organised crime in the long term, the EU and the Western Balkan countries might consider concentrating, not only on security issues and institution-building solutions, but also on the *societal sector*. Upstream, prevention of organised crime offers the most cost-effective long-term strategy. Therefore, the comprehensive and balanced approach favoured by the EU could be pursued and strengthened by investing more in job creation, education and awareness campaigns. Furthermore, bottom-up solutions, which empower civil society, could be considered in order to improve the exchange of information, and the detection and investigation of the activities of the OCGs. For instance, closer partnerships could be established with businesses whose activities in the transportation, pharmaceutical and communication sectors are instrumentalised by OCGs. Finally, downstream, greater attention could be given to the protection of the witnesses and victims of the different types of trafficking.

*Cooperation and coordination* at the national, regional, EU and international levels could be intensified. Much more could be done at all levels to better share information on OCGs through common databases for example and to coordinate law enforcement operations.

To implement the existing legal framework more effectively, the *capabilities* of law enforcement and judicial bodies could be enhanced in terms of expertise, financial and human resources. On the EU side, responses to OCGs could be more proactive and forward-looking. And more resources could be invested in anticipating changing trends in human and drug trafficking and the future illicit markets that the OCGs might exploit in times of economic austerity.

TABLE 1. EXAMPLES OF NATIONAL LEGISLATIONS AND NATIONAL STRATEGIES AGAINST DRUG AND HUMAN TRAFFICKING SINCE 2003<sup>2</sup>

<b>Western Balkans</b>	<b>National laws prohibiting drug and human trafficking</b>	<b>National strategies against drug and human trafficking</b>
<b>Croatia</b>	UN Convention on Transnational Organised Crime. Law on Combating Drug Abuse (2001 and updated since 2003); Penal Code (Chapter 13, Article 173) updated in 2006.	National strategy on combating narcotic drug abuse in the Republic of Croatia for the periods 1996-2005 and 2006-2012.
	Council of Europe Convention against THB. Article 175 of the Criminal Code entitled 'trafficking in human beings and slavery'. Articles 43 to 47 of the new Criminal Procedure Act (rights of victims of criminal offences).	National Plan for Combating Trafficking In Human Beings (2009-11), (2005-8). National Plan for Combating Trafficking in Children (2005-7).

2. Source: Authors' compilation. On human trafficking: GRETA countries reports ([http://www.coe.int/t/dghl/monitoring/trafficking/docs/monitoring/country\\_reports\\_EN.asp](http://www.coe.int/t/dghl/monitoring/trafficking/docs/monitoring/country_reports_EN.asp)) and OSCE (<http://www.osce.org/odihr/14135>) (retrieved on 19 April 2013). On drug trafficking: EMCDDA, <http://www.emcdda.europa.eu/countries> (retrieved on 17 April 2013)

Western Balkans	National laws prohibiting drug and human trafficking	National strategies against drug and human trafficking
<b>FYROM</b>	UN Convention on Transnational Organised Crime. The law for narcotic drugs; Criminal Code (Articles 215 and 216).	National Drug Strategy 2006-12.
	Council of Europe Convention against THB.	National Action Plan, 2002. Draft National Action Plan for combating trafficking in children, 2004.
<b>Montenegro</b>	UN Convention on Transnational Organised Crime. Penal Code (Chapter XXIV, article 300).	National Strategic Response to Drugs 2008-12.
	Council of Europe Convention against THB. Criminal Code (2002, amended and supplemented in 2004, 2006, 2008 and 2010).	National Strategy for the Fight against Human Trafficking, 2003. Action Plans (latest for 2010-2011).
<b>Serbia</b>	UN Convention on Transnational Organised Crime. Law on Psychoactive Controlled Substances (2010). Criminal Code (2009).	Serbia's national drug strategy 2009-13.
<b>Albania</b>	UN Convention on Transnational Organised Crime. Law 'On narcotic and psychotropic substances' (1995, amended in 2004 and 2006) Law 'On the Penal Code of the Republic of Albania' (1995, amended in 1998, 2001 and 2004).	National Strategy Against Drugs 2004-10 and 2012-16.
	Council of Europe Convention against THB. Criminal Code (Law No. 9188 of 12 February 2004): Article 110 (a) ('trafficking in persons'), Article 114 (b) ('trafficking in women'), Article 128 (b) ('trafficking in minors').	National Anti-Trafficking Strategies for the periods 2001-4, 2005-7, 2008-10. National action plan against trafficking in persons for 2011-2013.

<b>Western Balkans</b>	<b>National laws prohibiting drug and human trafficking</b>	<b>National strategies against drug and human trafficking</b>
<b>Bosnia and Herzegovina</b>	UN Convention on Transnational Organised Crime. Law on Prevention and Combat against the Abuse of Narcotics in Bosnia-Herzegovina (2006).	National Anti-Drug Strategy 2009-13.
	Council of Europe Convention against THB.	Action Plan for Prevention of Human Trafficking, October 2001. Plan of Activities for Implementation of the Action Plan for the Prevention of Trafficking in Human Beings (2004).
<b>Kosovo*</b>	Law on Narcotic Drugs, Psychotropic Substances and Precursors (2008). Criminal Code of Kosovo.	National Anti-Drug Strategy 2009-12.



# 5. EU peace support operations in the Western Balkans since 2003

*Isabelle Ioannides<sup>1</sup>*

## Introduction

The Western Balkans is the birthplace of the Common Security and Defence Policy (CSDP), and is thus a region where the EU evolved significantly as a security actor and substantially developed its crisis management capabilities. Since 2003, EU peace support operations – CSDP missions – have become one of the most potent instruments at the EU’s disposal for facilitating the transition of post-conflict zones from violence to stability, and the transformation of divided societies where illicit practices abound to societies where the rule of law and good governance are respected. EU civilian and military operations – including either or both ‘strengthening’ (support) and ‘substitution’ (executive) components – were deployed in the former Yugoslav Republic of Macedonia (EUFOR *Concordia* 2003, EUPOL *Proxima* 2004-2005, EUPAT 2006), in Bosnia and Herzegovina (EU Police Mission 2003-2012, EUFOR *Althea* 2004 - present), and in Kosovo (EULEX 2008-present).

The CSDP missions have also been instrumental in the development of the Western Balkans, increasingly moving the region from stabilisation and security (linked to the war legacies) to an agenda focused on the countries’ EU accession process. Indeed, the operations were deployed in support of the long-term EU membership perspective offered by the Stabilisation and Association Process (SAP), which constitutes the general framework for cooperation between the EU and the Western Balkan countries. The endorsed Thessaloniki Agenda (June 2003), in particular, but also the European Partnerships (March 2004), represented a crucial EU political signal for the Western Balkans, inviting the governments in the region to launch an ‘adaptation’ process in line with other potential candidate countries. This process implies the alignment of their institutions with the normative anchors of the SAP – the Copenhagen criteria and condi-

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1. The author writes here strictly in a personal capacity, engaging herself and not the EU institutions.

tionality principles – which refer to compliance with democratic principles, respect for human rights and the rule of law, protection of minorities, market economy reforms, regional cooperation and the implementation of obligations laid out in international peace agreements.

This chapter assesses the CSDP missions deployed in the Western Balkans over the past 10 years and demonstrates that not only have they boosted EU ‘actorness’ in external action and on the global scene, but they have also substantially contributed to reforming security sector institutions and supporting statebuilding in the region. What transpires is that the CSDP has evolved and was able to adapt to the operational needs in the field through a process of ‘learning by doing’. However, ongoing challenges and political constraints in the Western Balkan countries point to the limits of CSDP missions alone as instruments for consolidating peace.

## BACKGROUND

### Planting the seeds of the CSDP

The former Yugoslav Republic of Macedonia (FYROM) was the arena in which a number of ‘first-ever’ cases for EU crisis management operations were deployed: it was the first time that NATO and the EU worked together at an operational level; it was the first time an EU military operation was launched. EUFOR *Concordia* was also the first CSDP military mission to put into practice the ‘Berlin Plus’ agreements; EUPOL *Proxima* was the first EU police mission to be launched from concept to implementation, i.e. a mission that did not take over from another international organisation; and it was also the first-ever mission to be extended with a new mandate, therefore carrying out a major overhaul of its activities and procedures while in the field.

EUFOR *Concordia* in FYROM (March-December 2003) represents a good example of effective and timely intervention. It followed NATO’s Operation *Allied Harmony* and was mandated to further contribute to a stable, secure environment which would allow the implementation of the August 2001 EU-brokered Ohrid Framework Agreement. The mission was an important test case for the EU’s crisis management capabilities in carrying out operations at the high end of the spectrum of the Petersberg tasks. With *Concordia*, the EU assumed the tactical-operational part of *Allied Harmony*, while NATO retained an advisory role, under the ‘Berlin Plus’ agreements. These agreements defined the EU working relationship with NATO, providing EU operations with access to NATO’s military assets at SHAPE, NATO’s operational HQ, including planning capabilities. *Concordia* was positively perceived by the local population and was overall con-

sidered a successful test of the EU's ability to undertake a military mission and develop operating procedures – an important point considering the EU's subsequent takeover of NATO's Stabilisation Force (SFOR) in Bosnia-Herzegovina (BiH). The presence of a military mission enabled the Macedonian government to concentrate on the necessary reforms, while also demonstrating international/EU support for the political process and democratic institutions in the country [Mace, 2004].

In order to appease Macedonian concerns that a heavy-handed military mission might jeopardise the country's applications for NATO/EU membership, to respond to EU assessments of the continuing fragile political but less violence-prone situation in FYROM, and to meet ethnic Albanian requests for a continued security presence, the Council deployed EUPOL *Proxima* in December 2003. The mission sought to address the inequitable representation of minorities in the police and provide technical assistance for structural changes in the public security institutions, in line with the Ohrid Framework Agreement. The visibility of the *Proxima* police officers among the population, especially during year one when the traffic police programme was active, played to the mission's advantage. Yet EU evaluations also pointed to the need to reduce the number of staff, focus the reform process on specific challenges in the police (border management, counter-terrorism and the fight against organised crime) and expand the field of operation to the entire country – a change that came about with the extension of the mission in December 2005. With the end of *Proxima*, the EU Police Advisory Team (EUPAT) was launched to tackle concerns about possible instability resulting from the opening of Kosovo status negotiations and to ensure that reforms are sustainable. At the same time, acknowledging the progress made but also the reluctance of the Macedonian government to accept another CSDP mission, this small six-month mission focused on preparing the ground for impending European Commission assistance programmes and acted to a great extent as an 'exit mission' [Ioannides, 2010].

The EU Police Mission (EUPM), launched in BiH in January 2003 to take over from the UN International Police Task Force (IPTF), was the first police mission to be deployed under the CSDP framework. EUPM was initially mandated (2003-2005) to support the creation of a sustainable, professional and multi-ethnic police service in the country, operating in line with European and international standards. The mission had, however, effectively inherited the ongoing political and security problems in the country and, by 2004, it became increasingly linked to – and constrained by – the political process of police restructuring.

## STATE OF PLAY

### CSDP in the Western Balkans – bearing fruit and adapting

Criticism of EUPM increased as demands for the EU to deliver concrete results (i.e. arrests, seizures etc.) in the fight against organised crime became stronger, while the trust of domestic partners, EU credibility and member state support decreased. In response, EUFOR *Althea* was launched in December 2004 to provide a more robust and result-oriented intervention and to complement EUPM's 'softer' standards-driven approach. This moment visibly marks the EU's leading role in the entire reconstruction process of BiH, although both practitioners and experts have criticised the late EU reaction to tackling organised crime [Friesendorf, 2010]. Following on from NATO's SFOR operation, the EU military mission was, *inter alia*, tasked with supporting the fight against organised crime and the International Criminal Tribunal for the former Yugoslavia (ICTY) and relevant authorities, to ensure continued compliance with the Dayton Agreement and to contribute to a safe and secure environment in the country. Similarly to *Concordia* in FYROM, *Althea* is conducted with recourse to NATO assets and capabilities, under the 'Berlin Plus' arrangements. Because of its executive mandate under chapter VII of the UN Charter, *Althea*'s leadership interpreted the task in a proactive way: as of 2005, the mission began undertaking its own operations targeting suspected criminal groups – not least because EUPM's initial mandate did not cover organised crime and, at the time, the police mission was still largely ineffective.

The absence of a clear division of labour between EUPM and *Althea*, and the ensuing discordance between them, required a better delineation of their work. With the extension of EUPM in 2006, its mandate was refocused on two main tasks: support to the police reform process; and the fight against organised crime and corruption. The mandate was also strengthened: EUPM would *coordinate* policing aspects of the ESDP efforts in the fight against organised crime, while EUFOR *Althea* would *support* them. For the first time, the guidelines required that military assistance to local authorities be authorised by EUPM, a condition that remained in place until the end of the police mission in June 2012. *Althea*'s more restrained role prevented the shaping of the police doctrine; EUPM, despite the absence of executive competencies, was now clearly the most dominant international actor in law enforcement in BiH [Flessenkemper, 2013].

As with *Concordia* in FYROM, domestic support for EUFOR *Althea* has been important for progress. This support stemmed as much from the fact that *Althea*'s mandate is annexed to the Dayton Agreement – thus institutionalised through the constitutional arrangements for BiH – limiting the potential for political obstruction, as from the mission's focus on fostering a good relationship with the local population. Today, the

mission supports the implementation of numerous tasks that have been transferred to local authorities: countermines activities; the control of military and civilian movement of weapons and ammunition; the management of weapons, ammunition and storage sites; and the responsibility for full cooperation with the ICTY in the pursuit of persons indicted for war crimes.

## The Kosovo conundrum

To date, EULEX Kosovo, launched in July 2008 after the Kosovo Constitution came into force and following on the EU Planning Team for Kosovo (EUPT) launched in April 2006 to prepare the groundwork, is the largest EU civilian mission. EULEX aims to support Kosovo's entire spectrum of rule-of-law institutions (the judicial authorities and law enforcement agencies) in developing and strengthening an independent multi-ethnic justice system, police force and customs service, responsibilities that were transferred from the UN Mission in Kosovo (UNMIK). It attests to the ability of CSDP operations to learn from past shortcomings: in this case, to learn from the experience of EUPOL *Proxima* which had highlighted the need to link the three components of rule of law – police, justice and penal systems – to ensure the sustainability of reforms. Alongside a Strengthening Division that supports the Kosovo rule-of-law institutions, the Executive Division investigates, prosecutes and adjudicates – where appropriate – cases relating to war crimes, terrorism, organised crime and corruption, property and privatisation cases, and other serious crimes. The recent reconfiguration of EULEX provides tangible evidence of a new momentum for Kosovo. Following on progress made in the areas of police and customs (and the consequent reduction of staff by about one third), EULEX is focusing its operational 'centre of gravity' to Pristina and the north of Kosovo, where it has substantially increased its executive mandate, while maintaining mobile capacities across the rest of Kosovo.

Despite progress achieved in the Kosovo Police, corruption at the political level has compromised the efficiency of reforms – a recurrent situation for CSDP missions in the region. Political parties – especially the ruling ones – are largely perceived to benefit from non-transparent funding, to have links to organised crime and to be involved in rampant corruption. The weakest link, however, remains north Kosovo where EULEX maintains executive powers, but where the unresolved status question has posed multiple legal hurdles for the smooth conduct of EULEX. The 'status neutral' deployment of EULEX has sent conflicting signals to Kosovo's highly polarised ethnic constituencies and compromised EU capabilities on the ground [Papadimitriou and Petrov, 2012]. While the recent 'First agreement of principles governing the normalisation of relations'

provides answers to open questions, such as which law is applicable in north Kosovo and under which circumstances the court in Mitrovica could be re-opened, the debate that has followed on how the provisions of the agreement could be interpreted casts a cloud of doubt over its quick implementation. Civil society and independent media in Kosovo have publicly called on EULEX to use its executive authority more aggressively to fully implement its mandate in fighting crime and corruption [Deda, 2010].

## PROSPECTS

The region has made strides since the wars that tore apart the former Yugoslavia, especially since the deployment of the CSDP missions in 2003. The progress made in reconstructing the country, reforming the institutions and adopting the necessary legal frameworks is manifest. Nonetheless, important lapses persist in the implementation of the laws, in the sustainability of reforms and in the political will to leave the past behind.

### What next for the Western Balkans?

The Western Balkans are still struggling with challenges inherited from historical disputes – the dissolution of the former Yugoslavia and the war legacies of the 1990s – and which persist against the backdrop of a changing international agenda. While still significant for the EU, the region is slipping down the list of immediate international priorities. At the same time, as CSDP missions move out of the region, it is expected that national authorities will step in and take on more responsibility. With the economies in the region struggling to survive the current crisis, keeping the EU enlargement momentum is a key prerequisite to stability.

Furthermore, lack of sovereignty not only limits the capacity of the potential candidates to negotiate or to enter into agreements with the EU, but it also undermines their readiness to undertake serious reforms. In BiH, the failure of the constituent entities of the state to agree on a common political vision, with the resultant fragmented structure governing police and the politicisation of security matters, is the biggest obstacle to making progress towards accession to the EU. Important changes in the EU engagement in Kosovo in a number of core processes that relate to the rule of law – the Structured Dialogue on the Rule of Law, the Visa Liberalisation Roadmap and the Feasibility Study – have laid the groundwork for a more strategic and tailored contribution by EULEX Kosovo. Nevertheless, corruption continues to prevail in many areas: the judiciary continues to suffer from political interference, inefficiency and a lack of transpar-

ency and enforcement; and there has been almost no progress in establishing the rule of law in the north of Kosovo [European Court of Auditors, 2012].

## Shaping EU external action

The CSDP has evolved within the context of a rapidly changing world. In an interconnected world characterised by multi-levelled governance, risks and threats have become increasingly complex and internal and external security concerns are more closely linked. Due to its geographic position, the Western Balkan region is perceived as impacting on EU security: refugee flows, immigration, drug smuggling and human trafficking and, nowadays, the deleterious effects of the economic crisis [Ioannides and Collantes Celador, 2011]. In CSDP terms this has meant developing broader mandates: today's conflicts demonstrate more clearly that during the process of stabilisation, it is crucial that the desired outside intervention goes far beyond a military presence. Moreover, the EU has moved from carrying out police reform (in FYROM and BiH) to tackling the entire spectrum of rule-of-law activities (in Kosovo), which offers a better formula for ensuring the sustainability of good governance reforms. The Western Balkans has been and is a good example of the increasing move towards addressing conflicts comprehensively. Arguably the right path for EU crisis management is to promote a culture and relevant capabilities for planning and conducting civ-mil operations, adapted to purpose, time-limited and with clear mandates.

CSDP missions in the Western Balkans have sought to move from a 'top-down' to a 'bottom up' approach (or a combination of both). In the case of EUPM, for example, the EU acknowledged that issues related to the constitutional structure in BiH could not be imposed but needed to be endorsed by local authorities and society. Equally, EULEX Kosovo, unlike all previous CSDP missions in the region, has actively engaged with local civil society as equal partners, thus sharing with them the watchdog function. Moreover, co-location in security sector institutions has allowed EU police officers to have an in-depth and fairly broad picture of local security challenges (especially in isolated areas), as well as to forge relations of trust with local police officers, which is highly valuable for crime prevention (especially organised crime).

The analysis of CSDP missions in the region points to the need to be innovative and open to new ideas on a needs basis. Besides the refocusing of the *Proxima* mandate and the review of the EUPM mandate to tackle an unclear division of tasks with *Althea*, the recently established Special Investigative Task Force (dependent on EULEX Kosovo) is

an interesting example of a small and highly specialised team that was created for a very specific purpose.

Security sector and rule-of-law reform missions, however, are not simply ‘technical’ operations – a lesson that has yet to be learned. Technical solutions can be used (ideally as early and as much as possible), but they need to be bolstered by political action to properly address political issues. They require political consensus (and therefore compromise) among the EU institutions, EU member states and other international stakeholders, especially in a context that some describe as the renationalisation of foreign policy in Europe. They also require a political strategy for implementation and the political will and agreement of host political authorities. While the technical agreements (on modalities for policing, administrative boundaries, the representation of Kosovo and the latest agreement on normalisation of relations) concluded between Belgrade and Pristina have the potential to overcome some of the fallout from Kosovo’s diplomatic isolation, they do not resolve the status question. Nor will technical solutions resolve the constitutional disputes in Bosnia and Herzegovina.



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**Part Two:**  
**The regional perspective**



## 6. Regional cooperation

*Lidija Topic<sup>1</sup>*

### Introduction

‘Regional cooperation is, no doubt, one of the buzzwords in Southeast Europe (SEE). One comes across it in every official speech, policy paper and media piece dealing with the politics and economics of the area. The growth of different schemes has been a defining feature of the Balkan political landscape since Dayton peace. Local diplomatic jargon abounds with barely pronounceable acronyms such as SEECP, SECI [...]. Regional cooperation, to a large degree, is a process driven by powerful extra-Balkan actors such as the EU, NATO, USA and the international financial institutions (IFIs)’ [Bechev, 2006].

Ten years after the EU-Western Balkans Summit in Thessaloniki, regional cooperation is still the buzzword in South East Europe. But the buzzword is beginning to signify an opportunity to find and deliver not only stability and security but also a regional development agenda. At the same time the local actors are developing an awareness of the importance of regional cooperation. This chapter analyses the progress made by the Western Balkans, and by South East Europe more broadly, as well as the challenges encountered in the field of regional cooperation since the Thessaloniki Declaration.

### BACKGROUND

Regional cooperation as an element of EU policies towards the Western Balkans was introduced in 1996, when the Regional Approach was launched with the purpose of underpinning the Dayton Peace Agreement. It was clear that the new Dayton constitutional framework for Bosnia and Herzegovina (BiH) was dependent on the relationship between Sarajevo, Belgrade and Zagreb [Delevic, 2007]. Soon afterwards, the EU introduced another comprehensive strategy towards the region, the Stabilisation and Association Process (SAP) launched in June 1999 and strengthened at the Thessaloniki

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1. The views expressed in this chapter are those of the author and do not necessarily reflect the official position of the Regional Cooperation Council and its Secretariat.

Summit in June 2003 when it took over elements of the accession process. Regional cooperation became part of the EU's conditionality towards the countries in the context of the EU accession criteria. The European Union promotes regional cooperation because this is an essential part of its DNA; the cooperation in coal and steel production between the six neighbouring countries led gradually to further cooperation – and integration – in other policy areas. This 'spillover effect' lies at the heart of the rationale exported by the Union to the Western Balkans, whereby interdependence and *de facto* cooperation between neighbouring countries in one area (e.g. infrastructure, transport, energy, free trade) could lead step by step to further cooperation in a broader range of areas, to regional stability, reconciliation and ultimately to European integration. The Instrument for Pre-Accession Assistance (IPA) I (2007 – 2013) supports this objective by providing financial assistance to all beneficiary countries through the Multi-Beneficiary programmes under component I (Transition Assistance and Institution Building) and through its component II (Cross-Border Cooperation). The support is planned to continue in the IPA II (2014 – 2020) and will consist of five policy areas: (1) the transition process towards Union membership and capacity building, (2) regional development, (3) employment, social policies and human resources development, (4) agriculture and rural development and (5) regional and territorial cooperation. It is planned to replace the component structure by comprehensive regional and national strategies addressing policy areas, through multi-annual country and multi-beneficiary strategy papers [EC, 2011]. The Commission also jointly initiated with the international financial institutions (IFIs), bilateral donors and the governments of the Western Balkans, the Western Balkans Investment Framework (WBIF) which was launched in 2009 in order to boost infrastructure projects and socio-economic development in the region.

To start with, the Stability Pact (SP) for South Eastern Europe was initiated by the EU and launched in 1999, in Sarajevo, as a coordinated attempt by the international community to address the growing needs in the Western Balkans and to support regional cooperation. The closing down of the Stability Pact and its transformation into its successor organisation, the Regional Cooperation Council (RCC), took place in 2008, with the commitment and support from the South Eastern European countries, donor community, European Union, NATO, OSCE and international financial institutions. The RCC mandate was amalgamated from the Stability Pact's role to oversee cooperation processes in SEE and to support European and Euro-Atlantic integration of the region. However, a new element was introduced: the regional ownership dimension. This implies not only providing expertise and funds from the region and representing SEE, but also providing guidance and leadership in regional cooperation [Minic, 2009].

This regional ownership dimension of an externally driven regional cooperation process has been institutionalised through the operational links between the RCC and the South East European Cooperation Process (SEECP)<sup>2</sup>. Indeed, in parallel to the Stability Pact and the SAP developments, internal impetus in this direction came originally from Bulgaria in 1996 when the Ministers of Foreign Affairs of the Balkan countries launched the SEECP and commenced the structured cooperation at high political level. The first SEECP summits sent messages that reconciliation at the highest political level was starting to become reality and that by working together the region could make faster progress towards not only reconciliation but also economic prosperity and European integration. Since 1997, the Heads of State and Government of the countries participating in the SEECP meet annually to review the overall process of regional cooperation and to offer guidance and recommendations for future activities [SEECP Bucharest Charter, 2000]. Since 2007, the RCC has provided the SEECP with operational capabilities as well as with a forum for the continued involvement of the members of the international donor community engaged in the region. Therefore, the RCC's regional ownership has been ensured by its role as the 'operational arm' of SEECP. In practice, regional ownership of RCC activities is strengthened by the cooperation with regional partners and initiatives, and is guided by the highest level political meetings in SEE, the SEECP Meetings of Foreign Ministers, followed by SEECP summits, which endorse the RCC strategic documents as well as the annual reports and multi-annual strategies.

## STATE OF PLAY

Ten years after the Thessaloniki Summit, regional cooperation has come to encompass a plethora of political, economic, security and other thematic areas of cooperation, a variety of participating countries or regions, various levels of government representation, and involvement of civil society and donor support. Since the beginning of the last decade, more than 40 different regional task forces and initiatives have emerged, active in a broad range of areas, from free trade to disaster preparedness to cooperation in transport, energy or gender issues. The relevance of regional cooperation activities can be measured by the number of task forces and initiatives in which the countries participate. Of the analysed 42 task forces and initiatives, Albania, Bosnia and Herzegovina, Croatia, Montenegro, Serbia and the former Yugoslav Republic of Macedonia participate in almost all of them. [RCC, 2011] The RCC has developed partnership relations with more than 40 regional initiatives, which have been a relevant source of information

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2. SEECP membership includes Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, Turkey, Bulgaria, Greece, Romania, Slovenia and Moldova. With Croatia's accession to the EU, the number of EU member states in the SEECP has increased to five.

and analysis in the wider process of identifying gaps and opportunities in regional cooperation [RCC, *Strategy and Work Programme 2014-2016*].

With the support of the EU and of the RCC, considerable progress has been achieved in the socio-economic area of regional cooperation. In this regard, the Central European Free Trade Agreement (CEFTA) signed in 2006 is a key achievement as it facilitates trade liberalisation, improvement of the investment climate, competitiveness and industrial policy. Furthermore, regional cooperation structures have been established in the energy, transport and environmental sectors such as the Energy Community, the European Common Aviation Area (ECAA) and the South East Europe Transport Observatory (SEETO), and the Transport Community Treaty has been negotiated. Development of human capital through education, culture and research is an objective that is also pursued at the regional level through initiatives and networks such as the Regional School of Public Administration (ReSPA), the Education Reform Initiative of South Eastern Europe (ERI SEE) and RCC Task Force for Culture and Society (TFCS).

Since 2003, efforts have also been made in the political and security dimensions of regional cooperation. As the rule of law, the fight against corruption and organised crime are high priorities for the EU, cooperation in justice and home affairs has been developed through various regional activities and structures including the Regional Strategy in the area of Justice and Home Affairs, the Southeast European Cooperative Initiative Regional Centre for Combatting Trans-border Crime, the Southeast European Law Enforcement Centre (SELEC), the Regional Anti-Corruption Initiative (RAI), the regional mechanism of cooperation among the Chiefs of Military Intelligence (SEEMIC), among the Heads of the SEE National Security Authorities (SEENSA) and the South East European Counter-Intelligence Chiefs Forum (SEECIC). [RCC, *Strategy and Work Programme 2011-2013*]. Moreover, regional initiatives in parliamentary cooperation such as the Regional Secretariat for Parliamentary Cooperation in SEE (RSPC SEE), Conference of the European Integration Parliamentary Committees participating in the SAP (Western Balkans COSAP) and Cetinje Parliamentary Forum (CPF) have been established in order to strengthen political cooperation and parliamentary dialogue in the region.

However, a number of issues which already or potentially hamper regional cooperation and delay the accession process of individual countries remain. The constitutional setup and inter-ethnic governance issues in BiH, the name dispute between the former Yugoslav Republic of Macedonia and Greece and Kosovo's status are serious issues, which continue to need external, creative, coherent and targeted approaches and support. Kosovo was accepted in February 2013 as a participant in the RCC under an agreed appellation formula: Kosovo\* with the footnote 'This designation is without prejudice

to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence'. This decision is the result of joint political efforts of Serbia and Kosovo, of the EU High Representative mediated dialogue between the Prime Ministers of the two sides and of the RCC Secretary General's active engagement to implement the agreement on regional representation to ensure the inclusiveness of the process. On 19 April 2013, an agreement was reached in order to normalise relations between Pristina and Belgrade regarding northern Kosovo, which specifies that neither side will block or encourage the other side to block progress on the path to EU accession. Following this deal, the European Commission recommended opening negotiations for an SAA with Kosovo and accession negotiations with Serbia.

## PROSPECTS

Considering the effects of the economic crisis, the next phase in consolidating regional cooperation is the implementation of the SEE 2020 Strategy, which aligns regional economic development in the Western Balkans with the Europe 2020 Strategy. In 2010 the EU launched its Europe 2020 Strategy, which promotes smart, sustainable and inclusive growth through five main objectives: (i) employment; (ii) innovation; (iii) climate change and energy; (iv) education, and (v) poverty reduction and social inclusion. This strategy is also relevant for the Western Balkan countries in view of their preparation for future EU membership, as it offers the enlargement countries an anchor for reforms. The Commission welcomed the fact that the countries of the region adopted regional and national targets in line with Europe 2020. To implement and design the SEE 2020 Strategy, the external *push factors* were counterpointed by visible regional *pull factors*. In the region, the RCC launched the idea of borrowing elements of the Europe 2020 Strategy in SEE in order to deliver a common regional approach in dealing with the consequences of the economic crisis.

An initial set of key priority themes for what was initially the Western Balkans 2020 project idea was identified during 2010, at the meetings of representatives from the countries in the Western Balkans, the public and private sectors, academia and non-governmental organisations. Defining the focus of the Western Balkans in 2020 took into account the already existing complex network of various regional cooperation programmes, initiatives, structures and task forces [RCC, Background Note]. In November 2011 SEE Ministers of the Economy endorsed a '2020 Vision for SEE', targeting 'consistent implementation of economic reforms to foster integrated, smart, sustainable and inclusive growth underpinned by good governance and the rule of law' ['Building a 2020 Vision for SEE']. To deliver the 2020 Vision, regional targets were agreed upon and

adopted at a Ministerial Meeting in Tirana on 9 November 2012. The Council of the EU recalled the role of the RCC, welcoming the RCC's focus on the growth targets in the context of the SEE 2020 strategy, which aimed to adapt the Europe 2020 process to the regional needs and realities [Council, 2012].

The RCC together with national administrations, the donor community, specialised agencies and regional platforms has developed the SEE 2020 governance structure to operationalise five pillars: three pillars comprising integrated, smart and sustainable growth (Europe 2020) and two additional pillars specific for SEE, inclusive growth and good governance for growth. The comprehensive regional competitiveness and job creating growth strategy presents a challenging opportunity to hammer out and implement the regional development agenda. Within all five pillars of SEE 2020, regional platforms were associated, identifying 14 dimensions for policy intervention and appointing regional structures to take on the role of dimension coordinators in the SEE 2020 development and implementation. For example, the RCC Secretariat and CEFTA agreed on integrating CEFTA achievements into the SEE 2020 strategy primarily in relation to trade liberalisation, trade facilitation, a positive investment climate and competitiveness as important components of the integrated and sustainable growth pillars.

The governance structure of SEE 2020 includes national governments, regional structures and the RCC. The SEE 2020 targets, particularly the national ones, adopted by the countries in the policy areas of trade, investment, employment, energy, social development and governance will be pertinent for the Stabilisation and Association Process, especially given the envisioned close link between the SEE 2020 and IPA II support. The SEE 2020 governance structure would thus provide the opportunity to take an in-depth look at these policy areas and provide clear recommendations at the national level that will not only support the SEE 2020 implementation, but the overall accession process [RCC, *SEE 2020*].

In addition to economic development, security, stability and the 'deep democratisation process' will remain high on the regional cooperation agenda. The core of the enlargement agenda is designed around conditionality, with the rule of law at its centre. The new approach of the EU favours getting an early start on the toughest negotiation chapters – such as Chapter 23 on Judiciary and Fundamental Rights and Chapter 24 on Justice, Freedom and Security [Balfour and Stratulat, 2012]. 'Tackling these areas early in the negotiations gives maximum time to enlargement countries to establish the necessary legislation, institutions, and solid track records of implementation before the negotiations are closed. This ensures that reforms are deeply rooted and irrevers-



ible, fostering stability and reducing the risks of illegal immigration and infiltration of criminality' [Commissioner Füle, 2013].

These developments indicate that the new regional cooperation landscape has been constituted with the strong support of external forces but that the process also encompasses the growing impact of operating principles of regional ownership and leadership. It has been a long journey towards stability and the growing European integration agenda of the region since the Dayton Agreement and the EU-Western Balkans Thessaloniki Summit.



# 7. The economic development of the Western Balkans since Thessaloniki

*Milica Uvalic*

## Introduction

After a decade of high political and economic instability in the Western Balkan region, the 2000s brought a number of positive developments, including improved economic performance and acceleration of economic reforms required by the transition to a market economy. The new course was sustained by the European Union (EU) Stabilisation and Association Process (SAP) which offered the Western Balkan countries trade preferences, financial assistance (CARDS, IPA), contractual relations through the signing of Stabilisation and Association Agreements (SAAs) and prospects of EU membership.

What has been the economic situation in the Western Balkans – Albania, Bosnia and Herzegovina, Croatia, Kosovo, the former Yugoslav Republic of Macedonia (FYROM), Montenegro and Serbia – since the Thessaloniki Summit confirmed their prospects of EU membership? This chapter assesses the main successes and the key policy failures of the development of Western Balkan economies since 2003.

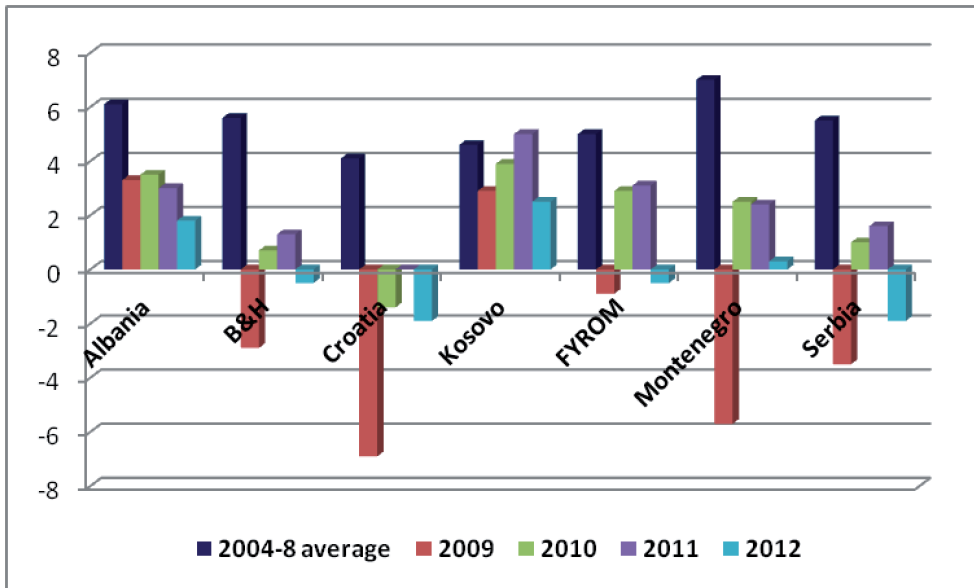
## BACKGROUND

### Economic developments in the Western Balkans

Until 2009, the Western Balkan countries experienced substantial improvements in many macroeconomic indicators [see Uvalic, 2012]. During 2004-2008, countries in the region registered high real GDP growth rates, on average for the five-year period ranging from 4 percent in Croatia to 7 percent in Montenegro. The positive trend was interrupted by the global economic crisis which began to be felt in most Western Balkan countries in the last quarter of 2008 (see Figure 1). As a result, there was a notable slowdown

in economic growth thereafter, and all Western Balkan countries except Albania and Kosovo had negative GDP growth in 2009, particularly Montenegro (-6%) and Croatia (-6.9%). There was a mild economic recovery in most countries in 2010-11, following similar trends in the EU, but it was short-lived. Given the increasing integration of the Western Balkan countries with the EU economy and the high degree of ‘euroisation’ (see below), the sovereign debt crisis in the eurozone pushed most Western Balkan countries into a second round of recession in 2012 (Figure 1). The present situation therefore remains extremely fragile.

FIGURE 1. GROWTH IN REAL GDP (%), 2004-2012

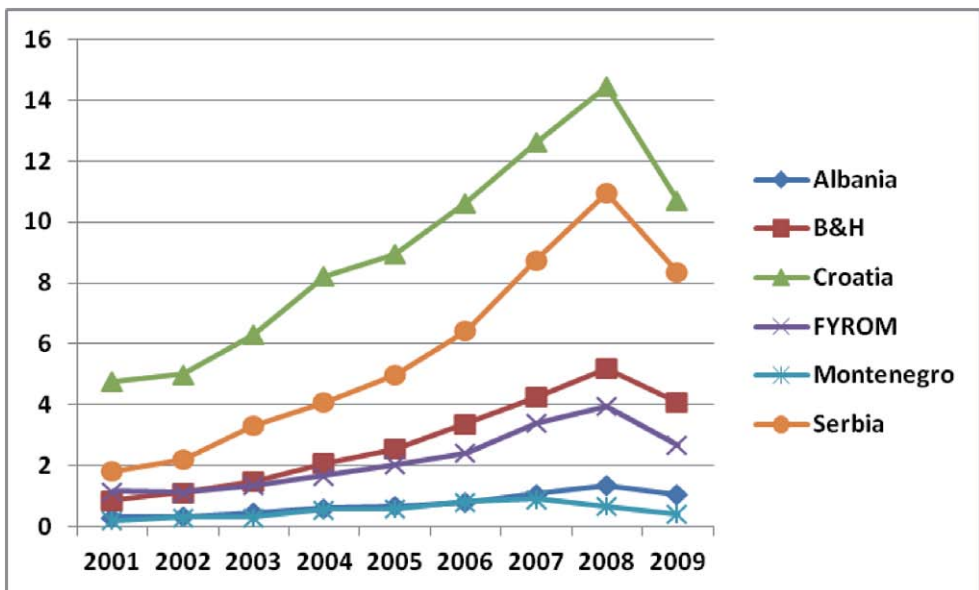


Source: Author’s elaboration based on IMF, World Economic Outlook, October 2012, except for 2012: EBRD, January 2013.

Over the past decade the Western Balkan economies have achieved increasing macroeconomic stability – particularly important after many episodes of hyperinflation in the 1990s. Inflation rates have gradually been reduced to one-digit figures, also in those countries that previously experienced extreme monetary instability (e.g. Serbia). There was also some fiscal consolidation thanks to cuts in public expenditure, reforms of the taxation system and stricter fiscal rules. The level of public debt in 2011 was still below 60 percent of GDP in all Western Balkan countries, thus lower than in a number of EU member states.

Trade liberalisation with the EU and other countries in the region after 2001 has contributed to a remarkable increase in the volume of foreign trade, which in some cases has increased fourfold or even fivefold. The revival of trade brought an even faster increase in imports, leading to increasing trade deficits. This positive trend was reversed in 2009, when both exports and imports registered a decline due to the global economic crisis. Interestingly, most Western Balkan countries have not succeeded in reorienting an increasing proportion of their exports towards the EU. The EU share in total exports in 2011 ranged from 40 percent in Kosovo to 50-60 percent in the other Western Balkan countries, except for Albania (74 percent). For most Western Balkan countries, intra-regional trade links inherited from the former Yugoslavia have remained an important part of their overall trade.

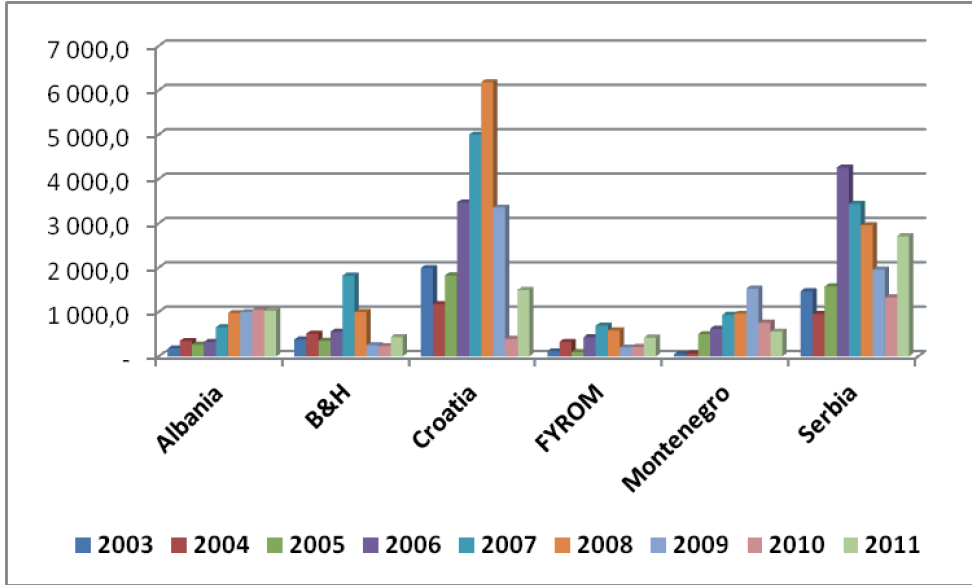
FIGURE 2. WESTERN BALKAN COUNTRIES MERCHANDISE EXPORTS, 2001-09 (BILLION US\$)



Source: Author's elaboration based on data from the EBRD online database.

After a decade of extremely low Foreign Direct Investment (FDI), the Western Balkan countries have finally seen the arrival of foreign investors, mainly from the EU countries but also from Russia, Turkey, Norway and Canada, a phenomenon which was prompted by privatisations of enterprises and banks and improved economic prospects. However, around two thirds of FDI has gone into non-tradable services (banking, telecommunications, retail trade, real estate) rather than manufacturing, so FDI has only marginally contributed to industrial restructuring and to export-led growth [Uvalic, 2010]. Since 2007, there has been a decline of FDI by some 40-60 percent in most Western Balkan countries (see Figure 3).

FIGURE 3. ANNUAL FDI INFLOWS IN THE WESTERN BALKAN COUNTRIES, 2003-2011 (IN MILLION US\$)



Source: Author's elaboration based on UNCTAD data (World Investment Report).

The Western Balkan countries have also converged towards the 'ideal' model of a market economy over the past ten years, as confirmed by the most recent transition indicators of the European Bank for Reconstruction and Development (EBRD).<sup>1</sup> Croatia has achieved the best results so far, but the other Western Balkan countries have also caught up in the meantime. By 2011, there were no longer large differences in various areas of economic reforms between the 'early' reformers (Albania, Croatia and FYROM) and the 'late' reformers (Bosnia and Herzegovina, Montenegro and Serbia), as was the case in 2001 [Bartlett, 2008] (see Table 1). Reforms in the area of price liberalisation, trade and foreign exchange systems and small-scale privatisation have been practically completed, while progress has been slower regarding governance and firm restructuring and competition policy. Enterprise privatisation has contributed to the gradual expansion of the private sector which today accounts for 60-75 percent of the Western Balkan countries' GDP. However, privatisation has often not led to improved corporate governance or to deep enterprise restructuring, since apart from foreign investors the new owners often lacked the resources and skills to successfully modernise their firms. Many bureaucratic procedures for doing business have been abolished, with large cross-country differen-

1. These EBRD indicators estimate progress in various areas of economic reform in all 29 countries in transition, on the basis of scores which go from 1 (no or limited reform) to 4+ (comparable to a developed market economy).

ces: in the World Bank's 2013 *Doing Business* report that ranks 183 countries, FYROM occupies the best position (23<sup>rd</sup>), while Bosnia and Herzegovina the worst (126<sup>th</sup>).

The privatisation of the Western Balkan countries' banking sector has greatly contributed to strong financial and capital markets' integration with the EU: major EU banks today own 75-95 percent of banking assets. The foreign ownership of banks, though a welcome feature in the initial process of bank restructuring and privatisation, was also an important channel for contagion by the global financial crisis. Today, the Western Balkans are especially vulnerable to the effects of the eurozone crisis because of the high degree of 'euroisation' [Bartlett and Uvalic, 2013]. Montenegro and Kosovo have adopted the euro as legal tender without the approval of the European Central Bank, Bosnia and Herzegovina has a currency board which ties its currency to the euro, while the other Western Balkan countries have pegged their currencies to the euro (all except Serbia and Albania) and have little room for manoeuvre as a large proportion of domestic liabilities are denominated in euro.

TABLE 1. EBRD TRANSITION INDICATORS, 2012

	Enterprises				Markets & Trade		
	Private sector share in GDP	Large-scale privatisation	Small scale privatisation	Governance & firm restructuring	Price liberalisation	Trade & foreign exchange	Competition Policy
Albania	75	4-	4	2+	4+	4+	2+
B&H	60	3	3	2	4	4	2+
Croatia	70	3+	4+	3+	4	4+	3
FYROM	70	3+	4	3-	4+	4+	3-
Montenegro	65	3+	4-	2+	4	4+	2
Serbia	60	3-	4-	2+	4	4	2+

Source: EBRD, *Transition Report* (2012).

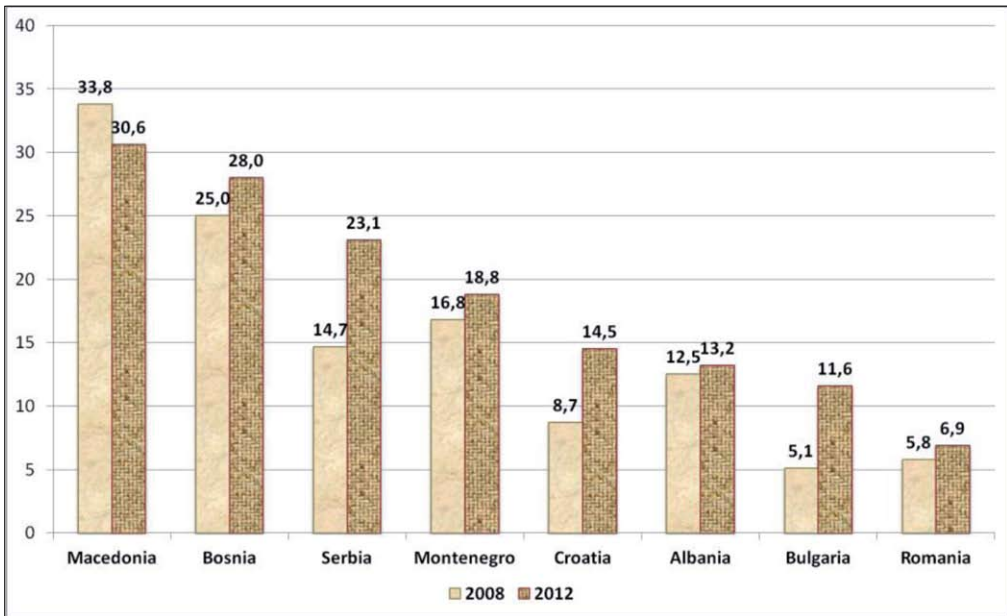
## STATE OF PLAY

### Main policy failures

Despite many positive developments since 2003, the Western Balkan countries have also had persistent structural problems that became evident particularly in recent years. By late 2008, many problems had become unsustainable – increasing trade and current account deficits, huge unemployment, limited enterprise restructuring, inadequate structural changes that have favoured primarily the fast expansion of services. The transition strategy throughout the Western Balkan region was based on the prescriptions of the

‘Washington consensus’ which placed emphasis on liberalisation, macroeconomic stabilisation and privatisation, while other important areas of reform at the microeconomic level were neglected (such as improving the business environment, firm restructuring and competition policy, as indicated earlier). The growth model based on fast trade and financial opening, rapid credit expansion and increasing dependence on foreign capital has been much less successful in the Western Balkans than in Central Eastern Europe [Uvalic, 2012]. Three policy failures should particularly be stressed: problems on the labour market, external imbalances, and the slow process of catching up.

FIGURE 4. UNEMPLOYMENT RATES IN SOUTH EASTERN EUROPE, 2008 AND 2012 (%)



Source: Bartlett and Uvalic (2013), p. 5, based on national Labour Force Surveys.

The *labour market* in the Western Balkans has been badly hit by the phenomenon of ‘job-less growth’. The restructuring of the Western Balkan economies led to the closure of many firms and loss of jobs, but economic growth was not accompanied by an equally dynamic process of job creation. Although this phenomenon was also characteristic of the Central and Eastern European countries in the 1990s, it hit the Western Balkans much more severely, since these countries have been experiencing the highest unemployment rates in Europe, higher than in neighbouring Bulgaria and Romania (Figure 4). Employment rates are also much lower than in the EU, recently falling well below 50 percent. Western Balkan countries are experiencing a deteriorating social climate as a result of austerity measures undertaken in response to the crisis which have led to



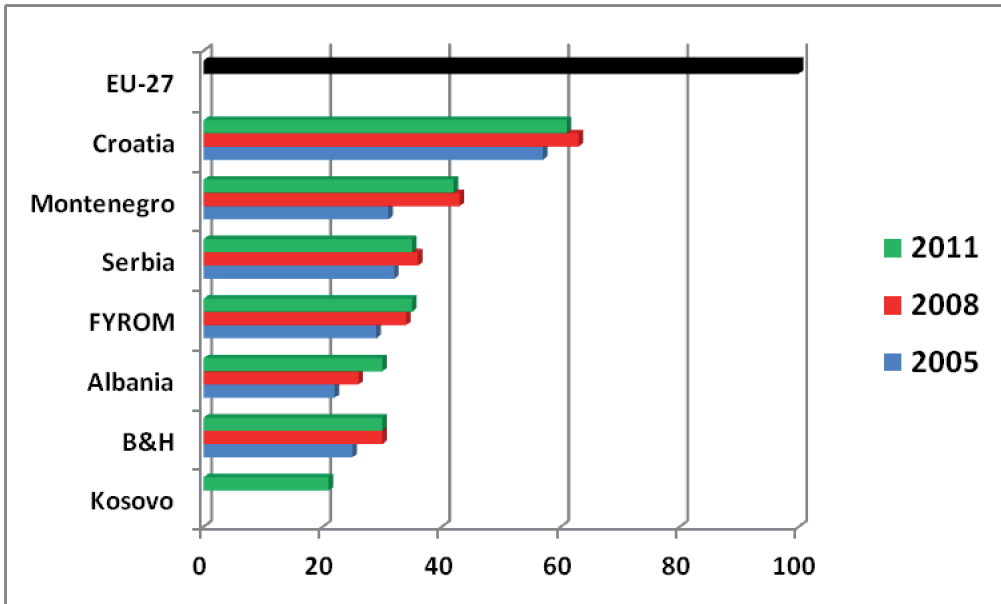
further increases in poverty and inequality [Bartlett and Uvalic, 2013]. A substantial part of the workforce is still employed in the more flexible informal sector: according to some estimates, the level of informal activity, measured as a share of household income, is highest in Albania (52 percent), Kosovo (45 percent) and FYROM (39 percent), while the Bosnian Federation, Serbia and Croatia have lower levels of around 18-19 percent [Bartlett, 2008].

The Western Balkan countries have also suffered from severe *external imbalances*. Limited restructuring of the real sector of the Western Balkan economies, along with policies of strong national currencies, has rendered these economies insufficiently competitive on EU/world markets and their export/GDP ratios remain low in comparison with the Central and Eastern European countries. Large trade deficits have contributed to increasing current account deficits, which in late 2008 were among the highest in the transition region. For years, these current account deficits have been covered by increasing capital inflows from abroad – donors' assistance, FDI, remittances, foreign borrowing – which rendered the Western Balkan countries particularly vulnerable to the global financial and economic crisis. Although there were some adjustments in the meantime, most countries have had to resort to additional borrowing (some also to currency depreciation), which contributed to a rapid increase in external debt, particularly in Montenegro, Serbia and Croatia, amounting to over 80 percent of their GDP.

The process of *economic recovery and catching up* with the more developed countries has been slow. Strong growth in the Western Balkan countries during 2001-08 has not been sufficient to compensate for the very substantial output fall in the 1990s. Only Albania, Croatia and FYROM have recently surpassed their 1989 GDP level, while in 2008 Montenegro was still at 92 percent, Bosnia and Herzegovina at 84 percent, and Serbia at 72 percent of GDP produced in 1989 [see Uvalic, 2010]. After the recent recession, most countries have experienced a further setback.

Over the past ten years some catching up has taken place with respect to the EU average GDP *per capita*, thanks primarily to higher growth rates in the Western Balkan countries (but also the lowering of the EU average after the EU 2004-07 enlargement). Nevertheless, in 2011, GDP *per capita* in most WB countries was still at about one third (or lower) of the EU-27 average, Croatia being the only exception. During 2009-11, the GDP *per capita* gap between the EU-27 and three Western Balkan countries – Croatia, Montenegro and Serbia – has even widened further (see Figure 5).

FIGURE 5. GDP PER CAPITA AT PURCHASING POWER STANDARDS (PPS), EU-27 = 100



Source: Author's elaboration based on Eurostat, November 2012.

## PROSPECTS

In terms of the ultimate goal – EU membership – too much time has passed and too little has been achieved, considering that only one country (Croatia) is set to join the EU in July 2013. From the economic perspective, however, the change in EU policies towards the Western Balkans region has been fundamental, as it has undoubtedly facilitated transition, integration and economic development. The EU has provided a strong anchor for the process of economic and institutional reforms in Western Balkan countries even before the signing of a Stabilisation and Association Agreement, since many new laws have been adopted in conformity with EU norms. The announced prospects of EU membership, financial assistance, trade liberalisation and the conclusion of SAAs have greatly facilitated integration of the Western Balkan economies into the EU. Increasing Balkan-EU foreign trade, FDI inflows, banking and financial integration has, until recently, contributed to much faster economic development of the Western Balkan countries than otherwise would have been the case. But increasing economic integration of the Western Balkans with the EU economy has also rendered them more vulnerable to external shocks. For the Western Balkans integration proved to be a double-edged sword:

in good times, the European core exported its prosperity towards its south-eastern periphery; but now, at a time of crisis, it is exporting instability [Bechev, 2012].

Given the high dependence of the Western Balkan economies on the EU, factors that have made them vulnerable to the global economic crisis – including trade openness, economic, financial and banking integration – are precisely the factors that will reinforce growth once the EU economy recovers. For the moment, however, economic recovery in the Western Balkans looks extremely fragile, in view of the unfavourable short-term economic prospects in the core EU member states. While overcoming the eurozone crisis is important for achieving faster growth also in the Western Balkans, it will not be sufficient to resolve some of the structural problems that already affected these countries before the onset of the economic crisis. Considering the large development gap between most Western Balkan countries and the EU-27, new mechanisms will need to be devised to assist their faster economic development.

EU financial assistance ought to be directed much more towards growth-enhancing projects. Present budgetary constraints in the Western Balkan countries are such that they cannot easily finance costly infrastructure projects or investment in human capital and R&D. A major provision of EU funds for these purposes, possibly co-financed by international financial institutions, could substantially contribute to the economic development of the whole Western Balkans region. As stressed by Bechev [2012], ‘The EU needs to deploy its existent resources ... to bolster growth, competitiveness and employment in order to beef up its power of attraction, encourage pro-reform actors and avoid squandering the political capital already invested in the region ... shift its focus from a narrative based on security to one based on the economy’.

For the small and underdeveloped Western Balkan countries regional economic cooperation could be an answer to some of the challenges. Concrete regional projects need to be worked out that could contribute to growth – in the area of science, R&D, technology, environment, energy, transport, specific industries. The benefits of regional economic cooperation have long been emphasised [see Uvalic, 2001] and many projects have been successfully undertaken from 2001 onwards. Yet there are some areas of regional cooperation which ought to be explored further, as they promise to potentially bring substantial benefits. Due to the recent strong decline in FDI, these countries will have to rely much more on their own resources to finance investment and growth. To do so, they will need a more focused industrial policy to encourage investment and the faster transformation of key industries. In-

dustrial policy ought to be considered at the regional level, through the creation of trans-national networks and supply chains that could be mutually beneficial: multinational companies created by enterprises from several Western Balkan countries are bound to be more competitive on EU markets than small national firms.

## 8. Tearing down the Schengen Wall

*Alexandra Stiglmayer*

### Introduction

When the EU lifted the Schengen tourist visa requirement for Macedonians, Montenegrins and Serbians on 19 December 2009, street parties and celebrations erupted across all three countries. ‘Now I feel like a fully-fledged European,’ many people declared. The same jubilant mood was on show a year later when the EU lifted the visa barrier for nationals of Albania and Bosnia and Herzegovina.

The end of the visa requirement was greeted as evidence that the EU considered the Western Balkans part of Europe, as future members of the Union. At a time when the launch of accession talks with the EU looked very distant for these countries, it was a decision that strengthened the EU’s soft power in the region.

Yet EU interior ministers did not lift the visa requirement for political reasons only. They did so in exchange for a series of demanding reforms concerning border control, passport security and the fight against illegal migration, organised crime and corruption. These reforms have increased the EU’s internal security. The process that triggered them was a best-case example of EU conditionality at work. The EU subsequently made the same offer to its Eastern Partner Countries, Kosovo and Turkey.

This chapter tells the story of visa liberalisation in return for reforms – a new EU policy that was first tried in the Western Balkans and has become a foreign policy tool in its own right. It analyses the success of this policy and the challenges it has faced, and it presents possible solutions.

## BACKGROUND

### The origin of the EU's visa liberalisation policy

Western Balkan citizens who used to be nationals of Yugoslavia knew the value of the freedom of movement. They could travel freely to most countries in the world. This ended when Yugoslavia descended into war. The citizens of Croatia and Slovenia faced a visa requirement only briefly, but for all others – the citizens of Bosnia and Herzegovina, Serbia, the former Yugoslav Republic of Macedonia (FYROM), Montenegro and Kosovo – the visa requirement imposed by European countries was to remain in place for decades. Albanians had never known visa-free travel and longed for it as much as their ex-Yugoslav neighbours, having experienced decades of confinement during Communism. However, even after all the Balkan wars had ended with the 1999 Kosovo war, EU interior ministers did not want to hear of visa liberalisation. For them, the Western Balkans remained synonymous with conflict, refugees and organised crime.

A first, vague promise was made at the Thessaloniki Summit in June 2003 when EU leaders acknowledged 'the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them' [Thessaloniki Declaration, 2003]. They held out the prospect of discussions with the European Commission on the necessary reforms. However, there was no serious follow-up.

A parallel development helped the Western Balkans inch closer towards visa-free travel. The EU had problems negotiating readmission agreements with other states. Such an agreement obliges a country to take back its citizens if they are detected in EU member states as irregular migrants. The country also has to accept irregular third-country nationals if there is evidence that they transited through it on their way to the EU.

In 2004, the EU decided to sweeten readmission agreements by offering visa facilitation in return [Council, The Hague Programme]. While visa facilitation does not eliminate the need for an entry visa, it makes the application procedure easier. This includes, among other things, simplified document requirements, a quicker decision-making procedure, a reduced Schengen visa fee of 35 euro instead of 60 euro, and long-term multiple-entry visas for reliable travellers.

Friends of the Western Balkans across the EU seized the moment. They demanded that the Western Balkans be among the first to benefit from visa facilitation. While this was agreed to in principle with relative ease [COREPER, 2005], it took lengthy discussions to convince the Council to actually authorise the Commission to negotiate the visa facilita-

tion and readmission agreements with Western Balkan states. The visa issue was still a touchy subject. The member states finally agreed in November 2006. This broke the ice.

During the negotiations of the visa facilitation and readmission agreements in 2006-2007, more and more member states realised that it was absurd to keep emphasising the Western Balkan countries' European vocation while making travel to the EU difficult for their citizens, with or without visa facilitation. Enlargement Commissioner Olli Rehn and Franco Frattini, the Commissioner for Justice, Freedom and Security, became supporters of visa liberalisation for the region. EU interior ministers also saw that the threat of migration and organised crime was diminishing [UNODC, 2008]. Eventually, Slovenia decided to champion the cause. Due to take over the EU Presidency in the first half of 2008, Slovenia negotiated Council conclusions in June 2007 that backed concrete efforts to achieve visa-free travel [GAERC, 2007]. This was followed by a Commission proposal in November 2007 to open 'visa dialogues' based on 'roadmaps' that would outline the conditions to be met [EC, 2007]. This move obtained the support of EU interior ministries.

The first dialogue, with Serbia, was opened on 30 January 2008. That it happened so quickly was due to early presidential elections in Serbia. The EU wanted to reach out to Serbians to help the incumbent pro-European reformer Boris Tadic remain in office. On 28 January 2008, the Council issued Conclusions welcoming 'the intention of the European Commission to launch soon a visa dialogue with all the countries in the region.' [GAERC, 2008.] It expressed its readiness to further discuss the issue 'to define detailed roadmaps setting clear benchmarks to be met by all the countries in the region in order to gradually advance towards visa liberalisation.' [GAERC, 2008] Two days later the dialogue with Serbia was opened. (Six days later Tadic won the elections.) At that stage, Kosovo had not yet declared independence and was excluded from the process.

## STATE OF PLAY

### Progress: conditionality at work

Even though politics and timing played a role in the launch of the process, the process itself was a merit-based and technical endeavour. It was a best-case example of EU conditionality.

First, there were clear criteria: during the first few months of 2008, the Commission opened 'visa dialogues' with all the Western Balkan countries. It presented each with a

roadmap. The roadmaps were almost identical, listing nearly 50 individual benchmarks. These were divided into four ‘blocks’: (1) document security (biometric passports, secure personalisation and distribution process, secure civil registries); (2) illegal migration and readmission (including Integrated Border Management, improved border surveillance, functioning asylum systems); (3) public order and security (fight against all forms of organised crime and corruption); and (4) fundamental rights (anti-discrimination and minority policies). In all areas, the countries had to establish close cooperation with EU member states and EU agencies such as Frontex, Europol and Eurojust. (A summary of the roadmap can be found in Table 1 below.) The requirements listed under blocks 1 to 3 were part of the Justice and Home Affairs *acquis*. Block 4, on access to personal documents, prevention of discrimination and protection of minorities, was created with the situation in the Western Balkans in mind.

TABLE 1: THE BENCHMARKS LISTED IN THE VISA ROADMAPS FOR THE WESTERN BALKANS

**Block 1: Document security** – Machine-readable biometric passports in accordance with EU and ICAO standards; secure personalisation and distribution process; anti-corruption training programmes for officials; reporting to Interpol’s Lost/Stolen Passports Database; secure breeder documents and ID cards .

**Block 2: Illegal migration including readmission** – Integrated Border Management; appropriate legal framework; fully equipped borders; anti-corruption training programmes for officials; working agreement with Frontex; legislation on carriers’ responsibility; appropriate asylum legislation and related procedures and facilities; monitoring of migration flows; returnee reintegration strategy; measures against illegal migration; law on foreigners; expulsion of illegal foreigners.

**Block 3: Public order and security** – Strategies and action plans to fight organised crime, corruption, human trafficking, money laundering, terrorism and the financing of terrorism; anti-drug policy; implementation of UN and Council of Europe Conventions and GRECO recommendations; judicial cooperation in criminal matters at international, EU and regional levels; working relations with Eurojust; law enforcement cooperation and exchange of information nationally and at regional and EU levels; use of operational and investigative measures to fight cross-border crime; operational cooperation agreement with Europol; personal data protection legislation.

**Block 4: External relations and fundamental rights** – Freedom of movement for all citizens; access to travel and ID documents for all citizens, IDPs and refugees; anti-discrimination legislation; law on citizenship/specified conditions for acquiring citizenship; investigation of ethnically motivated incidents in the area of freedom of movement; protection of minorities.



In addition, the visa roadmaps require:

- full implementation of the readmission agreement;
- full implementation of the visa facilitation agreement.

Source: Author's compilation based on the roadmaps for the Western Balkan countries. They can be found at: <http://www.esiweb.org/index.php?lang=en&id=352>.

Second, the reward was attractive: once the requirements were met, the Commission would propose lifting the visa requirement. In the meantime, the Commission stood by, providing explanations and helping identify financial support from the Instrument for Pre-Accession (IPA).

Third, the process was dynamic and hands-on: by 1 September 2008, each country had to provide a 'readiness report', outlining the state of implementation and plans concerning each of the roadmap requirements. On 24 November 2008, the Commission issued assessments. It pinpointed progress, shortcomings and the necessary next steps, and asked for further clarifications. Between January and March 2009, it organised assessment missions on the ground – seven for each country, to look at border crossing points, passport production and distribution, reception centres for asylum seekers, newly created police units and a lot more. So as to appease the anxieties of EU governments, the field missions included experts nominated by the EU member states.

On 18 May 2009, the Commission issued updated assessments that included findings from the expert missions. In its view, FYROM had met the conditions, Serbia and Montenegro had to do a little more work, while Albania and Bosnia and Herzegovina were still far behind. Based on these assessments, the Commission proposed in July visa-free travel for the citizens of FYROM, as well as Serbia and Montenegro, provided that each of these two countries would meet three pending benchmarks in the coming months. They did; and in November 2009 the Justice and Home Affairs Council voted to lift the visa requirement for FYROM, Montenegro and Serbia.

The EU's approach to visa liberalisation had proved successful. The first three countries had fulfilled the conditions faster than anyone had expected. The governments had made roadmap implementation the national top priority. The 'regatta principle' in combination with transparency established by NGOs such as the European Stability Initiative (ESI), which systematically collected and published all documents from the roadmaps to the Commission assessments, also proved useful. When it became known in Albania and Bosnia and Herzegovina that the governments had done little to im-

plement the roadmaps, and that the EU would abolish the visa requirement for the other three countries, but not for Albania and Bosnia and Herzegovina, public pressure forced the governments to change course. In June 2009, Bosnia and Herzegovina quickly adopted several outstanding laws, set up a plethora of working groups to meet all the other roadmap requirements, and even cut the summer holidays of the concerned officials. The Albanian government began to work on roadmap implementation seriously following the June 2009 elections. In September 2010, the Commission declared that both countries had met the requirements for visa-free travel.

Initially the European Commission had intended to conduct the visa liberalisation process behind closed doors. It did not even publish the roadmaps and asked the Balkan governments to do the same. Such secrecy, however, would have excluded civil society in the region from monitoring the process, even though visa-free travel was an issue of keen public interest. It would have allowed the Balkan governments to make little effort and blame Brussels for the lack of reward. It would have made it possible for member states to make decisions based on political considerations and not on implementation records.

### **The challenge: the increase in asylum claims**

In 2009, before visa liberalisation, the number of EU asylum claims submitted by citizens of the five Western Balkan countries was 10,000, according to Eurostat. In 2010, when Macedonians, Montenegrins and Serbians were able to enter the EU without a visa, it rose to 30,000. After a small dip in 2011, it reached 43,000 in 2012 (see Table 2 opposite). In Germany, Serbians made up the largest group of asylum seekers in 2012, ahead of Syrians and Afghans.

Almost all the claims from citizens of the five countries have been rejected. Germany granted refugee status or subsidiary protection (which is similar) only to 0.2 percent of the claimants during the 2009 to 2011 period. The overall EU recognition rate was 2.1 percent in 2011.

Almost all the asylum seekers are members of the Roma community and other marginalised groups such as Albanians in southern Serbia and northwest FYROM. They cite discrimination, unemployment, poverty and lack of healthcare as reasons for their claims. However, these are not considered sufficient grounds for asylum.

TABLE 2: ASYLUM CLAIMS BY WESTERN BALKANS CITIZENS IN THE EU

	2009	2010	2011	2012*
	(No visa-free travel for the five WB states)	(Serbia, FY-ROM, Montenegro visa-free)	(All five WB states visa-free)	(All five WB states visa-free)
<b>Serbia</b>	5,290	17,715	13,980	18,915
<b>the Former Yugoslav Republic of Macedonia</b>	940	7,550	5,545	9,565
<b>Albania</b>	2,060	1,905	3,060	7,445
<b>Bosnia and Herzegovina</b>	1,320	2,105	2,595	5,765
<b>Montenegro</b>	250	405	630	1,260
<b>Total of the 5 WB countries</b>	9,860	29,680	25,810	42,950
<b>All asylum seekers in the EU</b>	266,395	260,835	303,105	322,275
<b>Share of WB citizens</b>	3.7%	11.4%	8.5%	13.3%

\* As of 27 May 2013, the Netherlands had not yet provided any data for 2012.

Source: Eurostat interactive database, Asylum and new asylum applicants by citizenship, age and sex, Annual aggregated data (rounded) [migr\_asyappctza], retrieved on 27 May 2013. See: [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr\\_asyappctza&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=migr_asyappctza&lang=en).

In response to the rise in unfounded applications, EU interior ministers have suggested restoring the visa requirement. ‘The increasing abuse of our asylum system is not acceptable,’ declared Germany’s interior minister Hans-Peter Friedrich in October 2012. ‘The massive influx of Serbian and Macedonian citizens must be stopped immediately. For this, it must be possible that the EU suspends visa-free travel with these countries as quickly as possible.’ [Federal Interior Ministry, 2008]

Interior Minister Friedrich was referring to a May 2010 legislative proposal to introduce the possibility of suspending visa-free travel under a fast-track procedure. This is one of several proposed amendments of the Visa Regulation. It has not yet been adopted. The envisaged mechanism presents a greater chance to arrive at a visa requirement than a process to move the countries back onto the ‘black list’ of the Visa Regulation. There might not be a majority in the Council for such a move, and the European Parliament, which is traditionally in favour of visa liberalisation, might also reject it.

## PROSPECTS

Any suspension or termination of visa-free travel would have very negative repercussions in the Western Balkans. It would make people angry, damage the EU's image and undermine the accession process. It would also increase resentment against Roma, who would be considered scapegoats.

The Commission has put the responsibility for resolving the problem on the Western Balkan governments. It has advocated a series of measures, which, however, are either ineffective or controversial. They include information campaigns and investigations into whether travel agents or bus companies mislead people (ineffective), an improvement of the living conditions of Roma (necessary, but long-term) and exit controls (controversial since they target members of the Roma community).

A closer look at the available data shows that there is a better solution. Western Balkan asylum seekers have overwhelmingly chosen EU member states where the first-instance asylum procedure takes 3 months or longer. During this time asylum seekers are entitled to benefits including housing, food, medical care and some cash payments. Up until mid-2012, the main target countries were Germany, Sweden, Belgium and Luxembourg.

Member states like Austria, France, and the Netherlands, all of which processed Western Balkan claims within 3 to 4 weeks, experienced a much smaller increase in claims or no increase at all.

At the end of 2012, Germany could decrease the volume of applications by shortening the decision-making time. Between October and December 2012, the asylum office tasked its case workers to focus on Western Balkan claims, bringing the average processing time from 3 months down to 9 days. Claims dropped from 6,600 in October to 1,000 in December.

A shorter procedure does not infringe on the right to asylum. Both France and Austria, which have short procedures for Western Balkan citizens, have higher recognition rates for Western Balkan claims (5.9 and 7.4 percent, respectively) than Germany and Sweden (both 0.2 percent). A short procedure should always include a full interview with the claimant to identify those who are in need of protection.

The EU could also proactively encourage member states to shorten procedures by declaring all third countries that have successfully passed a visa liberalisation process – including all the human rights requirements in Block 4 – ‘safe countries of origin’ at the

EU level. EU member states regard each other as safe countries of origin, and Bulgaria and Romania were declared as such in 2005, two years before they joined the EU.

Visa-free travel for the Western Balkan countries is an important achievement. For the people of the region, it has arguably been the most concrete benefit of the EU integration process. The visa liberalisation process itself has been an excellent example of conditionality. The regatta principle and the transparency of the process (even if not initially intended) could be elements to improve accession negotiations in the future. Reform efforts in the field of justice and home affairs in the Western Balkans have continued, increasing security both across the region and in the EU.

Kosovo was finally given a visa roadmap in 2012. Moldova and Ukraine are currently also involved in visa liberalisation processes. Georgia will soon receive its own action plan, and the EU has held out the prospect of a new visa regime for Turkey. Europe is slowly becoming less of a 'fortress'. Visa-free travel for citizens of neighbouring countries is complementing the freedom of movement in the Schengen area. Given that the volume of asylum claims can be controlled, abandoning visa liberalisation would be a great loss for the EU and the Western Balkans alike.



## 9. The role of the ICTY in promoting reconciliation

*Jelena Obradovic-Wochnik*

### Introduction

For the Western Balkans – specifically, Croatia, Serbia, Bosnia and Herzegovina and Kosovo – cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) has always been seen as a crucial aspect of transition towards European integration. This was the view held by most external observers, including the EU, but the view from the countries’ political elites did not always cohere with this. The EU and other international actors saw cooperation with the court as important for prosecution of those responsible for atrocities in the 1991-1999 conflicts, the delivery of justice, the ICTY’s stated aim of reconciliation, and eventually, democratisation. However, the political leadership of the four countries often diverged from this view or worked to undermine cooperation with the ICTY.

In fact, the degree to which the countries’ leadership stalled cooperation with the ICTY in the 1990s prompted the EU to make cooperation with the ICTY a condition of membership. With Croatia becoming a full member on 1 July 2013, and Serbia – consistently ranked ‘bottom of the class’ with regard to cooperation with the ICTY – finally delivering up Radovan Karadzic in 2008 and Ratko Mladic and Goran Hadzic in July 2011, it may seem as though the ICTY story is over. However, cooperation with the court – and the initial lack of it – has left deep political and social divisions, some of which continue to be exploited by the nationalist political leadership across all four countries. How will the political elites in these countries approach this issue now that formal compliance has taken place? How have domestic debates about the past and war crimes been shaped by the ICTY? Ten years after the Thessaloniki Declaration, it is time to explore and revisit some of the tangible and less immediately obvious legacies of the ICTY in the region.

## BACKGROUND

The framework for EU integration of the Western Balkans, the Stabilisation and Association Process (SAP), was established in 1999 and included full cooperation with the ICTY as one of the political conditions set for the countries' EU integration. Another important condition was regional reconciliation. Both points were reinforced by the 2003 Thessaloniki Declaration in which Western Balkan countries are required to offer 'full and unequivocal co-operation' with the ICTY, in addition to promotion of ethnic tolerance and refugee return, which is to be taken as an 'index of democratic maturity'. The countries' progress and compliance with set criteria is monitored annually, and noted in progress reports.

This came about partly as a result of, in particular, Croatia and Serbia's non-compliance with the ICTY, but also as a result of the EU's strategy of easing the Western Balkans away from the legacies of the war-torn past and onto the road to democratisation and integration. This in turn was partly the result of a recognition that the Western Balkans – unlike any previous candidates – faced several transitions, including post-Communism and post-conflict [Kostovicova, 2013]. However, cooperation with the ICTY was slow and at times non-existent. When the SAP commenced, and by the time of the Thessaloniki Declaration, little satisfactory cooperation had actually taken place.

The ICTY, an *ad hoc* tribunal set up through a UN Security Council resolution, issued its first indictment in 1993. The aim was to prosecute those responsible for atrocities and grave human rights abuses, and to deter others from committing such crimes. But the court did not act as a deterrent, and such abuses, war crimes and atrocities were committed right up until the end-point of the court's jurisdiction, in 1999.

Responsibility for handing over the indicted war criminals fell to each country – Croatia, Serbia, Bosnia-Herzegovina, and later Kosovo – which were expected to cooperate based on the notion of states' obligations to honour international agreements. As many have observed, the Tribunal's lack of enforcement powers meant that no country could be held accountable for not cooperating. As a result, indicted persons, including former Serbian president Slobodan Milosevic (indicted initially in 1999 for crimes against humanity and violations of the laws and customs of war, in Kosovo) and Croatia's Ante Gotovina (later acquitted on appeal), either carried on with their political careers or lived as fugitives. The most infamous and troubling of the fugitive cases were those of Radovan Karadzic (indicted in 1995) and Ratko Mladic (also indicted in 1995). As the fugitives were always suspected of being on Serbian territory, Serbia was obliged to transfer them to the ICTY; this did not take place for some ten years.



Serbia and Croatia were especially problematic when it came to cooperation. Although the SAP and Thessaloniki Declaration highlighted the need for cooperation and conditionality was meant to push countries towards compliance, it was not until years later – in 2011 – that the final fugitive was transferred to the ICTY. Certainly, there are differences between countries, and Croatia complied fully much earlier than Serbia (although, admittedly, it also had fewer outstanding fugitives and thus fewer indictments to honour). Serbia, in fact, was complying so poorly that its Stabilisation and Association Agreement (SAA) was suspended in 2006, having failed repeatedly to deliver Ratko Mladic and Radovan Karadzic by the set deadlines.

Explanations abound for this slow cooperation. The fact that both Serbia and Croatia would have benefited in very tangible ways and sped up accession had they cooperated sooner – but did not – puzzled academics and policy-makers. For instance, it was mooted that the countries were being asked to do ‘too much too soon’ and that they lacked the structural capacity to do so. Some of the explanations put forward for this included suggestions that ideas about national identity and the past were incompatible – at the elite level – with ideas of European integration [Spoerri and Freyberg-Innan, 2008]. It was also suggested that many of the indicted individuals were seen as heroes in their home countries [Jovic, 2009]. Furthermore, in Croatia, Kosovo and some parts of Bosnia and Herzegovina, the wars of the 1990s were seen as wars of liberation, a time when the local populations defended their territory against the occupying forces. Arresting the indicted leaders would have been politically unpopular. This is shifting, however, and in Serbia for instance, support for Radovan Karadzic, Ratko Mladic and Slobodan Milosevic has largely dissipated and is predominantly concentrated among the marginal political or activist groups.

However this slow cooperation is interpreted, one aspect must also be taken into account. Across the region, men and women who held political power during the 1990s have largely remained in influential positions right up until the 2000s and today. This does not make for an easy ‘break with the past’ and it also helps explain why there is virtually no dialogue about the ICTY led by the political leadership. For instance, Serbian President Tomislav Nikolic was a former deputy leader of the anti-ICTY Serbian Radical Party, whose leader, the far right nationalist Vojislav Seselj, is currently on trial at the ICTY. Likewise, the Prime Minister of Kosovo, Hashim Thaci, was one of the key leaders of the Kosovo Liberation Army of the 1990s. To be clear, Thaci was not indicted by the Tribunal, but he nevertheless comes from a wartime elite whose influence permeates Kosovo politics and society and thus is unlikely to open a debate on the past. This, and the view that many of those connected to that era are seen as heroes, does not bode well for future discussions.

## STATE OF PLAY

On a practical level, all countries have now discharged the major outstanding obligations, such as the transfer of indicted persons to The Hague. This has enabled the ICTY to pursue its major cases. For instance, in a 2004 landmark case, the court sentenced Radislav Krstic to 35 years imprisonment for aiding and abetting genocide. Currently, Radovan Karadzic and Ratko Mladic are the two most high-profile cases and the most symbolic – they are indicted for, among other crimes, the siege of Sarajevo and the genocide in Srebrenica, respectively. The ICTY has also transferred 13 individuals to domestic courts, which is a largely positive sign, indicating that domestic capacities for such prosecutions are improving.

But the ICTY has recently overturned a number of convictions on appeal, acquitting previously sentenced individuals. These included Croatian Ante Gotovina and Mladen Mrakac, acquitted on 16 November 2012, and Serb Momcilo Perisic, acquitted on 28 February 2013. Acquittals and appeals are a part of the court's legal architecture and follow prescribed legal codes. However, they are always interpreted contentiously in each country. For instance, while Serbia condemned the acquittal of Gotovina and Mrakac, it welcomed the acquittal of Perisic – and the opposite was true for Croatia. This demonstrates that there is still little critical reflection on the past among the key leaders of the region.

This also taps into broader issues and less tangible legacies. In much of the former Yugoslavia, the public tends to view the ICTY either ambivalently or negatively, or has little knowledge of it. This is in large part due to the public's misunderstanding of the basic legal premises of the court (despite the ICTY's outreach programmes) and the domestic political instrumentalisation of significant ICTY cases. Serbia's example illustrates this wider problem: public discourse on the past is largely dominated by nationalists or conservative political figures, intellectuals and far-right activists, who form a relatively small group, but nevertheless manage to monopolise the public debate on the issue. This, in turn, is caused by a lack of counter-discourses or engagement with the past by more moderate or democratic politicians. This trend is also easily visible in Croatia, Bosnia and Herzegovina and Kosovo.

While linking EU conditionality with ICTY cooperation clearly bore fruit after some time, there is a danger that domestic debates about the past have been 'Europeanised' [Subotic, 2009] to the point at which Serbia and Croatia only dealt with the court because they were forced to do so. For instance, Serbia's key mechanism for dealing with the past, a declaration condemning war crimes committed in Srebrenica, a watered-

down and rather ineffectual legislative act, is criticised for being a move designed primarily to appease the EU and show progress being made [Dragovic-Soso, 2012]. Therefore, linking EU to ICTY conditionality proved convenient for conservative or politicians such as Nikolic, since dealing with the past could be 'blamed' on the EU and the ICTY. Furthermore, cooperation with the ICTY and broader issues it encompasses – the past, responsibility for war crimes, state-level involvement – has not been mainstreamed into any major domestic policy in any of the four countries.

The issues facing the Western Balkans now go beyond the ICTY: the countries face less clearly defined political, social and cultural issues related to the conflicts and war crimes. For instance, the ICTY has concluded proceedings for 136 persons, out of which 69 were sentenced. Of those, a significant proportion – 42 – have, at the time of writing, already served their sentence. At least some of these individuals would have returned to their hometowns, where the community are aware of their wartime activities. This can only make for a tense co-existence. This part of the ICTY legacy – i.e., in a context where conflicts are still in living memory of a large number of people, indicted criminals have already served their sentences and are returning to civilian life – has not yet emerged as a significant subject of discussion. Whereas in parts of sub-Saharan Africa, post-conflict settlements and transitional justice have placed a significant emphasis on reintegration or rehabilitation of former combatants, this – or simply, the issue of what to do with the returned war criminals – still remains to be addressed in the former Yugoslav space.

There are other problematic legacies too. The ICTY has not been able to counter some of the prevailing, widely-held perceptions. For instance, the former Kosovo Prime Minister, Ramush Haradinaj, was acquitted, following a retrial, on 29 November 2012. This has led to Serbian accusations of court bias and alleged witness intimidation. That such statements are still being made by the leadership, demonstrates that domestic political elites continue to undermine the credibility of the ICTY in their respective countries.

## PROSPECTS

Given that a larger debate on the ICTY and its legacies has not been introduced or taken seriously by the leadership of Croatia, Serbia, Bosnia and Herzegovina and Kosovo, it is unlikely that this will change in the near future. Furthermore, issues such as Kosovo-Serbia relations are likely to dominate the political agenda of those two countries, displacing any debate about the past. However, Serbia and Kosovo have, on 19 April 2013, signed an agreement – the 'First Agreement of Principles Governing the Normalisation of Relations' – following many rounds of talks facilitated by HR/VP Catherine Ashton.

The agreement is certainly a major step towards normalising relations between the two, not least because it is the only agreement of its kind. The agreement deals with issues such as the setting up of a 'Community/Association' of Serb municipalities and the recognition of the single Kosovo Police Force. In the agreement, both sides also promise not to block each other's EU membership. Significantly however, the agreement does not tackle issues related to 'the past' such as missing persons. This is problematic since, out of all countries in the Western Balkans, Serbia and Kosovo have done the least work on their mutual reconciliation, as compared to, for instance, Serbia and Croatia whose relations are now comparatively normalised.

Questions of 'the past', especially those that the ICTY has not managed to deal with, will continue to be of concern to local populations, especially in terms of missing persons, minorities, refugees and the veterans (who are becoming increasingly vocal). One emerging instance of this concern is the 2013 campaign by women's organisations in Kosovo, pushing for a legal amendment which would see raped women as victims of the 1999 war – this was not well received by the major political parties.

The Western Balkans have developed lively civil societies and smaller, less organised social movements who have often diverged from their governments on crucial issues, such as the wartime past. While problems still remain, civil society across the region has been, and is likely to continue to be, the key agent of reconciliation and bridge-building between different societies.

The EU might consider continuing to support such initiatives, especially given that support from governments is unlikely to be forthcoming. Even more importantly, the EU could recognise that in seeking to understand these countries we need to make a distinction between society at large and the political leadership in each case as the latter does not always represent the former. Election turnouts continue to be low, and the Gallup Monitor continues to demonstrate extremely low trust figures in the government and state institutions such as the police and judiciary, across the region. Claims that these politicians make, on behalf of 'the people', must be understood critically, especially when it comes to the past in which many are still deeply entangled.

The EU and other international donors could also recognise that one of the biggest ICTY legacies – reconciliation – often takes place outside of the framework of the court or indeed, the concept and official narrative of 'reconciliation'. This is clearly demonstrated by the large numbers of people who continue to travel between the former Yugoslav countries or by cultural collaborations and events such as the Exit Music festival [Judah, 2009]. Such initiatives are much more likely to be effective in erasing ethnic divi-

sions, as envisaged by the Thessaloniki Declaration, than any formal initiative such as a trial. Therefore, the EU could support programmes such as, for instance, Erasmus-type exchanges between Serbia and Kosovo, or Croatia and Bosnia and Herzegovina. Many of these initiatives would be more successful if they benefited from the support of the local political elites. Even in cases where they lack legitimacy among their population, the initiatives on the ground, or civil society conversations about the ICTY and its legacies, need broader frames within which to function, and they need to be made to feel supported, rather than isolated. While the EU cannot do much to change that particular aspect of Western Balkan politics, it can make significant contributions to social and cultural aspects of reconciliation.



# 10. Civil society and reconciliation in the Western Balkans: great expectations?

*Denisa Kostovicova*

## Introduction

The perspective of European membership for the countries of the Western Balkans was envisaged by the EU as an incentive for reconciliation in the region. Transitional justice, denoting the response of states and societies to the legacy of war crimes, provides an insight into the nature of political transformation in a post-conflict context. Ten years after the Thessaloniki Declaration, however, a paradox is evident. Approximation of Western Balkan states to the EU through deepening of contractual relations has not been accompanied by reconciliation among states and societies in the region.

In the decade that has passed since Thessaloniki, the question of accountability for war crimes has featured prominently in the public debate. This debate has taken place both within and between Western Balkan states owing to civil society groups that have spearheaded societal reconciliation efforts. Their advocacy has paved the way for official initiatives aimed at addressing war crimes, such as apologies by some countries' leaders. Nonetheless, accountability for mass atrocities remains one of the most fiercely contested issues, nationally and regionally.

There is no consensus on the causes and nature of the violence committed on the territory of the former Yugoslavia, or on the appropriate redress for past wrongs. Consequently, all ethnic groups tend to see themselves primarily as victims and not as perpetrators, while war crimes continue to be politicised and instrumentalised. Since the cessation of hostilities these attitudes have been perpetuated by the unintended effects of various international and domestic transitional justice mechanisms, rather than by the absence of such mechanisms. These include both retributive justice, which is focused on trials and punishment of perpetrators, as well as restorative justice, which encompasses non-

judicial victim-centred mechanisms, such as truth commissions, lustration, apologies and compensations, while aiming to restore social relations.

Post-conflict reconciliation in the Western Balkans remains an aspiration that is key for meaningful democratisation and Europeanisation. Adopting a bottom-up perspective, this chapter assesses civil society's role in advancing transitional justice in the region in the ten years that have passed since the Thessaloniki Declaration. It considers the EU's belated support to civil society's reconciliation efforts, as well as civil society's contribution to transitional justice alongside internal constraints on its ability to promote accountability for the crimes and abuse committed in the past.

## BACKGROUND

The decade since the Thessaloniki Declaration has been marked by the EU's increasing focus on civil society in the Western Balkans. This trend has been reflected in the EU's strategic approach to the Stabilisation and Association Process (SAP), the policy framework for the EU's pre-accession engagement with the region, and in its financial instruments supporting the SAP goals. The EU's aim to address 'weak civil society', noted at the beginning of the SAP, was driven by anticipated dividends for democratisation, Europeanisation and reconciliation.

The EU's initial approach, through the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) programme, the EU's financial instrument for the Western Balkans from 2002 to 2006, was that of enabling civil society through strengthening its capacities, rather than positioning it as a partner in the mutual project of approximation to the EU. Accordingly, civil society received a fraction of the total assistance allocation, which was spread thinly over competing priorities. With some variation across different states, the necessity of tackling direct consequences of conflict, such as refugee integration, was balanced with projects aimed at supporting democratisation and approximation.

The change from the CARDS to the Instrument for Pre-accession Assistance (IPA), which has channeled EU financial assistance to the SAP since 2007, signalled the EU's changed understanding of the role of civil society in facilitating comprehensive transformation en route to the EU.

The 2007 Enlargement Strategy recognised the continued weakness of civil society in the countries of the region, making its development a policy priority in its own right. Civil society was accordingly repositioned as a partner in delivering policy goals of de-



mocratisation, as an agent in cross-border collaboration and dialogue, and as a mediator bringing the EU project closer to the people. This approach was reflected in the increased allocation for civil society development under the IPA as compared to the CARDS. The establishment of the Civil Society Facility (CSF) in 2008, under the IPA, further streamlined funding for civil society development, specifically focusing on three strands: capacity-building, direct exposure of civil society to EU institutions through ‘People 2 People’ programmes, and development of civil society networks. Also, the EU-funded project Technical Assistance for Civil Society Organisations (TACSO) was set up, targeting the deficient capacity of civil society organisations in order to better enable them to participate in political processes.

Nonetheless, the shift in the EU’s policy emphasis on civil society did not manage to resolve the tension between civil society development as an end in itself as opposed to civil society development as a means of approximation to the EU. The tension was ultimately resolved in favour of the latter, with civil society development guided by immediate priorities of European integration. Such resolution has a practical and operational rationale. The SAP, with its comprehensive reformist political and economic agenda, has served as the anchor of reforms enacted in the Western Balkan states. However, it also reflects the EU’s prioritisation of *member state-building*, which was applied to Central and East European candidates, as opposed to *post-conflict state-building*, which would entail a much broader reconstruction agenda for states and societies emerging from war.

The resulting weaknesses of the narrowly-focused EU member-state building approach are illustrated by the EU’s belated support to civil society. The EU’s delay in reaching out to civil society in the Western Balkans was particularly evident in the case of civil society initiatives aimed at furthering transitional justice and reconciliation. According to the EU’s logic, reconciliation would occur alongside the transformation of the Western Balkan countries as they moved towards EU membership, but the flaw in this logic was revealed by the persistent reluctance of the states and societies to confront their own nation’s role in the conflicts.

## STATE OF PLAY

Civil society’s contribution to reconciliation in the Western Balkans exemplifies the ambiguous impact that the non-state sector has had on broader transitional processes, such as democratisation and Europeanisation, in the region. Civil society has been pivotal in putting the issues of the past mass atrocities and human rights violations on the

political agenda. Yet, at the same time, limited post-conflict reconciliation can also be understood in terms of the weaknesses of civil society itself.

## **Progress: civil society's contribution to post-conflict reconciliation**

Since the opening up of the European perspective, civil society in the region has played several important roles. It has sought to promote public discussion of the accountability for war crimes, influenced policy, and became an agent of transitional justice in its own right, both implicitly and explicitly.

In its deliberative role, civil society throughout the region ought to be credited with putting the issue of accountability for war crimes on the political agenda in the Western Balkans states where continuity between wartime and post-war authorities was conducive to the 'let's forget and move on' approach. Furthermore, the states and societies overwhelmingly used international criminal prosecutions to reassert their own sense of victimisation rather than accept culpability in conflicts where victims belonged to all ethnic groups. While exposing the responsibility of their own nations in the mass atrocities, civil society groups were critical in delegitimising collective assumptions about victimhood that stood in the way of facing up to war crimes. However, deliberation and discussion have not produced a consensus on how to address the legacy of mass atrocities. Civil society in the Western Balkans has emerged as a vibrant space of dialogue and disagreement on a range of issues, such as the appropriateness of retributive vs. restorative transitional justice mechanisms or whether national transitional justice initiatives should precede regional ones.

In terms of influence on policy, civil society has simultaneously played an important role in compensating for state weakness. In the past decade, a growing number of domestic prosecutions, including the transfer of cases from the International Criminal Tribunal for the former Yugoslavia (ICTY) in line with the ICTY's planned closure, was accompanied by a number of challenges: politicisation and political interference, selectivity based on the ethnicity of those indicted, alongside capacity-related problems, resulting in the slow processing of cases and the build-up of a backlog of cases, as well as an inadequate framework for witness protection. Accordingly, civil society has stepped in where the institutional capacity of states was lacking while continuing to perform a watchdog function in relation to policies awarding impunity, avoiding accountability and marginalising the victims of mass atrocities.

Lastly, civil society in the region has become an agent in transitional justice and reconciliation in its own right, implicitly and explicitly. In the post-conflict context characterised

by fractured inter-ethnic relations, it became a bridge for establishing old and forging new contacts across the ethnic divide, whether inside countries or between countries. Particularly important in this respect have been civil society organisations working with young people, such as the Youth Initiative for Human Rights. Similarly, the emergence of regional civil society networks, like the Regional Women’s Lobby for Peace, Security and Justice in Southeastern Europe (RWL SEE), that cross national boundaries have – irrespective of their specific mandates and activities – been significant for the creation of a transnational social capital, as an aspect of reconciliation.

In summary, civil society has ensured that the question of accountability for war crimes and mass human rights violations was put – and has remained – on the political agenda in the region. It has played an essential role in compensating for weak state capacity in the pursuit of post-conflict justice. Lastly, civil society has provided an alternative way of addressing past culpability. It emerged as a local response to the war crimes legacy as opposed to internationally-driven ones and as an answer to weaknesses of the top-down trial-oriented mechanisms of transitional justice, and as a transnational instrument overcoming the limitations of nationally-defined approaches.

### **Challenges: constraints on civil society’s contribution to post-conflict reconciliation**

Elusive reconciliation in the Western Balkans is also related to civil society’s weakness in terms of its own capacity, its relationship *vis-à-vis* the state and external donors, and its coherence as an actor. Furthermore, the impact of liberal civil society ought to be viewed in relation to illiberal political agendas of non-state actors and their activism.

The emergence of prominent NGOs throughout the region, such as Documenta – Centre for Dealing with the Past in Croatia, as torchbearers of activism in the area of transitional justice and reconciliation, is actually, paradoxically though it may seem, an indicator of the weakness of the sector. An increase in registered civil society organisations in the Western Balkans, including those whose remit is directly related to advancing transitional justice, gives a misleading picture of civil society capacity. Not only are many organisations inactive, but also their weak capacity limits their impact. The latter is related to their lack of fundraising ability and expertise on complex policy issues, such as those related to criminal prosecutions, for example. However, even the most capable and active civil society organisations have been constrained to various degrees by the legal framework set out by Western Balkan states.

Furthermore, civil society's lack of financial autonomy in a context where a state-society consensus on accounting for past crimes is lacking has shaped the activism of civil society organisations and affected how their activism resonates with broader society. On the one hand, those NGOs which depend solely on the state, have in a number of cases become agents of the state's rather than their own agendas. For example, some victims' associations have ended up overlooking victims' interests. On the other, those NGOs who turned to external sources of funding were open to criticism of not only rent-seeking on the back of war crimes, but also of furthering agendas that were not seen to be 'authentic'. Such public perceptions affected their standing as a legitimate actor in a policy dialogue with the state.

Despite efforts to bridge ethnic divisions, civil society in the Western Balkans is, by and large, a fragmented sphere, characterised both by ethnic segmentation and by prioritising national over transnational modes of activism. Therefore, the relative vibrancy of civil society activism as evidence of democratisation is offset by its ethnic nature. At the same time, many smaller grassroots projects, which question the mono-ethnic orthodoxy, such as the work of Future without Fear in Kosovo and the Macedonian Women's Lobby, are often ignored by the media. A lack of opportunity for wider dissemination of cross-ethnic initiatives is another illustration of the contested, competitive and fragmented nature of civil society. Lastly, the national states have remained the primary framework for civil society activism, while a regional civil society initiative such as the Coalition for the Regional Commission for Establishing the Facts about War Crimes and other Serious Human Rights Violations in former Yugoslavia (RECOM) is an exception. The necessity of a regional approach to the transnational character of the Balkan wars is obvious given that perpetrators and victims often belonged to different states.

Lastly, a range of civil society organisations and movements in the region, such as the Dveri Movement in Serbia, have emerged as purveyors of an exclusive ethnic nationalism, combined with an anti-EU message. By and large, they are run by and attract the youth cohort. 'New media savvy', they repudiate their nation's culpability with regard to war crimes and thus dismiss the criminal legacy of the past. Such public narratives that reject the criminal legacy and, with it, the notion of reconciliation, and that emanate from civil society, represent an additional constraint on the liberally-minded civil society groups. Thus, civil society and its contribution to justice and reconciliation cannot be assessed separately from the broader environment in which it operates. It has faced an 'illiberal alliance' where segments of illiberal civil society have reinforced the reluctance or resistance at the state level to address the issue of culpability.

## PROSPECTS

Direct engagement with and support of civil society organisations in the field of transitional justice and reconciliation in the Western Balkans has signalled a long-needed change in the EU's policies. This suggests that the EU is beginning to accept civil society as a transitional justice actor in its own right. It also indicates that the EU may have come to appreciate the relevance of restorative mechanisms of transitional justice, which prioritise reconciliation and recognition of victims, as opposed to retributive judicial mechanisms, that have been criticised for their top-down and technocratic approach to post-conflict justice. Ten years after Thessaloniki, the debate about war crimes initially prompted by the ICTY, has been internalised in the Western Balkans, albeit without any consensus on either the cause(s), nature and consequences of violence, or the redress for past wrongs, within nations or regionally.

Spurred by the EU's recent policy approach, progress in cooperation between states and civil societies in the Western Balkans has advanced in many policy areas, but not in those that deal with the legacy of mass atrocities. Policies that lead to the recognition of the victims, whether related to war crimes trials, social policy such as welfare benefits, or even the issue of the missing, may be considered as an area where collaboration between the state and civil society should be actively promoted.

Furthermore, the EU needs to focus on fostering a transnational dialogue in the divided region through civil society support. This could be a strategy to ameliorate the structural weakness of civil society, i.e. its internal capacity, but also address exclusive ethnic viewpoints originating in the non-state sphere and fuelled by ethnic fragmentation. Therefore, reconciliation, in terms of creating opportunities for debate, for example through work on school textbooks and student exchanges, might be considered.

The EU's origins are historically tied to the idea of peace through integration. The European project in the Western Balkans is also a response to the violence that accompanied the dissolution of the former Yugoslavia and a deterrence strategy against its future recurrence. Rather than sidelining the dimension of post-conflict state-building in favour of member state-building, the EU might consider how a more comprehensive support of reconciliation processes may advance approximation to the EU. The strengthening of civil society to deal with past atrocities is an investment in reconciliation, and, thus in the Europeanisation of the Western Balkans.



# Conclusions

## *Heather Grabbe*

The Thessaloniki Summit in 2003 was the apogee of Greek diplomacy in Europe. Amid today's economic depression and political chaos in Athens, it is difficult to remember that only ten years ago the Greek government impressed Europe with a productive summit that crowned a successful presidency. As the foreign minister who drove the Presidency, George Papandreou was highly respected by his peers – indeed, he was talked of as a possible successor to Javier Solana as High Representative for Foreign and Security Policy. Papandreou's powers of persuasion – and the diplomatic work of Alex Rundos and Stefan Lehne – were crucial to get agreement on the text of the Thessaloniki Declaration, in which the EU gave an unambiguous promise of future membership to the Balkans.

That text now looks very bold, and the EU has never exceeded this level of commitment. But at the time, there was bitter disappointment in the region following the Greek Presidency's sky-high ambitions to mobilise money and political will. The Thessaloniki Declaration was supposed to be just the first step on the road to accession: a declaration of principles and intent that subsequent presidencies could build on and improve. Unfortunately, that never happened. Over the following years, several EU member states became more and more reluctant to agree to steps towards further enlargement, while reform efforts in the region stalled, making it harder for the countries to meet the conditions for membership. The 2003 text is still cited – and volumes like this one are still based around it – because the EU never subsequently agreed more ambitious language, despite efforts like the EU Balkans summit organised by the Austrian Presidency at Salzburg in 2006.

For the region, the declaration has served as a touchstone for hopes of European integration, even though many had hoped for more at the time. The political theatre mattered too: at the beautiful summit venue by the sea, Balkan leaders were treated on a par with their EU counterparts. Papandreou gained much political credit for repeating clearly and often: 'I am proud to be a citizen of the Balkans.' Heads of state and government from the region signed the declaration alongside EU prime ministers and presi-

dents, rather than being kept in a waiting room. They felt treated with respect, which did much to foster trust and hope at a vital moment.

The June 2003 summit was also a high point of hope for resolution of the unfinished business of the break-up of Yugoslavia. With the Ohrid peace agreement still in the early stages of implementation, the security stakes were high. Many critical issues seemed on the verge of resolution: Papandreou worked hard to forge agreement on the UN-brokered Cyprus deal (subsequently scuppered by Cypriot President Papadopoulos); resolution of the Macedonian name issue seemed within reach; and Russia was then in favour of finding a final status for Kosovo through a UN process. With the first EU enlargement to post-Communist Central Europe scheduled for a year later, the absorption of South-Eastern Europe not long after seemed historically inevitable.

Resolution of status issues took much longer than seemed likely at Thessaloniki. Only a decade later has Pristina gained effective control of the whole of Kosovo's territory, thanks to an agreement with Belgrade brokered by High Representative Catherine Ashton. And there is still no deal on the Macedonian name issue. Regional cooperation continues to be hampered by what some diplomats call 'the country that cannot be named and the name that cannot be called a country.' The chapters in this volume illustrate clearly how protracted status problems have hindered regional cooperation and economic integration, while organised crime thrives where the rule of law is absent or weak.

Yet EU diplomacy achieved vital successes in preventing further conflict in the former Yugoslavia, from the Ohrid deal to the peaceful separation of Serbia and Montenegro. The Kosovo-Serbia deal proves the huge weight of EU leverage, while its fostering of regional cooperation has allowed real progress on some bilateral relationships, for example between Serbia and Croatia.

The region now badly needs a new political generation to emerge that can move on from the legacy of conflict. Status problems have helped many political leaders of the older generation to maintain their grip on power by playing identity politics. It is easier to gain public support and votes by focusing on threats – both real and imagined – to one or another ethnic group or their new nation than to tackle the huge challenges of unemployment, budget deficits or corrupt institutions. Civil society in the region is a vital counterweight to the power of political elites in the region, and pays a crucial role in making publics aware of governance problems such as those described by Alina Mungiu-Pippidi.



EU support is vital to maintain healthy civil society that supports democratic transformation and regional reconciliation, as discussed in several chapters in this volume. The EU does not always get it right, as Denisa Kostovicova points out, but its financial support keeps many watchdog organisations alive and the Commission's annual progress reports are the key external reference point for journalists and citizens to call their governments to account for failed or delayed reforms.

On the EU side, a new political generation has yet to rediscover the importance of the region. Few of the foreign ministers who negotiated the Thessaloniki text are still in office, and many of those who worked to bring peace to the region – Javier Solana, Joschka Fischer, George Robertson and, of course, Papandreu himself – are gone from the political scene. In the crisis-ridden Union, obsessed with saving the euro, the sense of historical duty to reunite Europe and overcome the legacies of war has been overtaken by a rush to *sauve qui peut*. With the Union increasingly divided between north and south and dominated by creditor versus debtor politics, it is hard to imagine today's prime ministers now committing their countries to 'unequivocal support to the European perspective' of a neighbouring region, and boldly stating that its future lies 'within the European Union', as their forebears did at Thessaloniki.

Yet as much as there are reasons for pessimism in the short term, there is room for optimism about the long-term outlook for the Western Balkans and the EU. The Balkans is an enclave within the EU's borders which neither foreign nor interior ministries can ignore for long, given its potential both to be a help and hindrance to the EU's security. For the region, the EU is the only option. Turkey and Russia offer diplomatic flattery from time to time but not the size of markets, aid or political clout that the EU offers. Croatia's accession this year will bring in another member who could be a strong advocate for the region and help to push forward the enlargement process – provided the many potential bilateral disputes between former Yugoslav countries do not spiral out of control. As Alexandra Stiglmeier's chapter in this volume shows, the EU can still use its conditionality to good effect when it offers a major incentive with clear criteria, as it did with visa liberalisation.

The question is how long the accession process might take. After Croatia joins this year, there is likely to be a long gap before any other country is ready. Montenegro and Serbia will be in negotiations for years yet, with membership before 2020 unlikely. Albania is far from meeting the conditions on governance or economic reform, while Bosnia and Herzegovina still has severe problems with rule of law that will hold up the start of negotiations. Until the name issue is solved between the former Yugoslav Republic of Macedonia and Greece, there is no hope of moving to the next stage. Kosovo is still at

the stage of starting talks on a Stabilisation and Association Agreement, and hopes also to gain visa liberalisation.

Each little step remains important, but will the region be able to gain momentum? The leverage of EU membership prospects always depends on how close a country feels it is to joining. If it seems only a couple of elections away, then governments can use it effectively to motivate domestic reforms. But if the accession process gets repeatedly blocked, by new conditions from the EU side or bilateral disputes, it becomes impossible to overcome domestic resistance to the major efforts needed to meet the conditions for economic and political reforms, as well as massive investments in improving the public administration and the judiciary. As Milica Delevic, head of Serbia's European Integration Office, wrote in 2007: 'What is crucially important is to keep the governments of the Western Balkans countries "busy" achieving smaller steps leading towards the ultimate big goal – EU membership. It is better to help them be successful in making a series of small steps rather than to leave them wait in frustration to make one bigger step.' [Delevic, 2007]

Timing matters for economic development too. The Balkans is a region where people have often had the misfortune of being on 'the wrong side of history' at the wrong time. The 2000s have seen a series of missed opportunities. The wave of international capital that helped Central Europe with foreign direct investment through the darkest days of its transition had dried up by the time the Balkan economies were ready to make use of it. As Milica Uvalic points out, the Balkans achieved increasing economic integration with EU economies just when the eurozone went into recession. The EU's willingness to accept new members had waned by the time the countries beyond Slovenia and Croatia had met the conditions for starting negotiations. And the EU's own attractiveness as a model to inspire reform and a source of hope of future prosperity and good governance has been greatly diminished since the euro crisis began.

The euro crisis has deeply affected South-Eastern Europe, both economically and politically. But the region will also influence how well the EU can recover in future. It will be difficult to heal the North-South divisions and improve governance and trade if the Balkans becomes an isolated enclave ridden with crime and corruption on the borders of the least politically stable members of the Union.

The Balkans is a worthy agenda for Greece's next EU Presidency in 2014. Greece has many useful lessons for the region on the need for sustained reform to close the gap on governance standards, and the risk of efforts to catch up with EU standards stalling after accession. Can the Greek Presidency of 2014 bring a renewed commitment from a

crisis-torn EU? And can the region make use of the EU's offer? Political will is a scarce commodity in Europe now. Where are the leaders who will show that the EU's own interests lie in integrating the Balkans with Greece and Bulgaria into a stable regional system? The security and stability of the Balkans and the rest of Europe remain mutually dependent. This interdependence would be much better fostered through a reliable and well-managed accession process than a return to crisis management.



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# **Annexes**

## **Annexes**

1. Map of the Western Balkans
2. The Thessaloniki Declaration
3. The Western Balkans and the accession process
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## 1. Map of the Western Balkans



Source: *The University of Texas at Austin, Library website (modified)*

## 2. The Thessaloniki Declaration

Thessaloniki, 21 June 2003

10229/03 [Presse 63]

### EU-Western Balkans Summit

(Thessaloniki, 21 June 2003)

### Declaration

*We the Heads of State or Government of the member States of the European Union, the acceding and candidate states, Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Serbia and Montenegro, as potential candidates, and the President of the European Commission, in the presence of the President of the European Parliament, the Secretary General of the Council/High Representative, the Special Representative of the UN Secretary General in Kosovo, the Special Co-ordinator of the Stability Pact for South-Eastern Europe and the High Representative for Bosnia and Herzegovina, meeting in Thessaloniki, agreed today on the following:*

1. We all share the values of democracy, the rule of law, respect for human and minority rights, solidarity and a market economy, fully aware that they constitute the very foundations of the European Union. Respect of international law, inviolability of international borders, peaceful resolution of conflicts and regional co-operation are principles of the highest importance, to which we are all committed. We vigorously condemn extremism, terrorism and violence, be it ethnically, politically or criminally motivated.
2. The EU reiterates its unequivocal support to the European perspective of the Western Balkan countries. The future of the Balkans is within the European Union. The ongoing enlargement and the signing of the Treaty of Athens in April 2003 inspire and encourage the countries of the Western Balkans to follow the same successful path. Preparation for integration into European structures and ultimate membership into the European Union, through adoption of European standards, is now the big challenge ahead. The Croatian application for EU membership is currently under examination by the Commission. The speed of movement ahead lies in the hands of the countries of the region.



The countries of the region fully share the objectives of economic and political union and look forward to joining a EU that is stronger in the pursuit of its essential objectives and more present in the world.

3. The endorsement yesterday by the European Council of *The Thessaloniki agenda for the Western Balkans: Moving towards European Integration*. represents a new important step in the privileged relationship between the EU and the Western Balkans. Its content shall be considered as our shared agenda, and we all commit to its implementation. The countries of the region will focus their efforts on meeting the recommendations this agenda refers to.
4. We acknowledge that the Stabilisation and Association process (SAP) will remain the framework for the European course of the Western Balkan countries, all the way to their future accession. The process and the prospects it offers serve as the anchor for reform in the Western Balkans, in the same way the accession process has done in Central and Eastern Europe. Progress of each country towards the EU will depend on its own merits in meeting the Copenhagen criteria and the conditions set for the SAP and confirmed in the final declaration of the November 2000 Zagreb summit. The Western Balkan countries highly value the annual review mechanism of the SAP, based on the Commission's reports, and commit themselves to implement its recommendations.

The Western Balkan countries welcome the decisions by the EU to strengthen its Stabilisation and Association policy towards the region and to enrich it with elements from the experience of enlargement. They welcome in particular the launching of the European Partnerships, as well as the decisions for enhanced co-operation in the areas of political dialogue and the Common Foreign and Security Policy, parliamentary co-operation, support for institution building, opening of Community programmes. They take note of the ongoing discussions for an increase in the budgeted Community financial support to the region through the CARDS programme.

5. We support the full implementation of Resolution 1244 of the UN Security Council on Kosovo and the 'standards before status' policy of UNMIK; we remain committed to the Dayton/Paris Agreements and we encourage full implementation of the Ohrid and Belgrade agreements. The EU and the SAP countries fully support the International Criminal Court, recalling relevant EU decisions. The Western Balkan countries pledge full and unequivocal co-operation with the International Criminal Tribunal for the former Yugoslavia.

Its work, on all open issues, including the transfer to The Hague of all remaining indictees, should be allowed to progress without delays. Providing justice for war crimes is a legal, political and moral imperative to which we are all committed.

Sustainable return of refugees and internally displaced persons is critical for ethnic reconciliation and an index of democratic maturity; it remains high on our priority agenda. We stress the role of education, culture and youth in promoting tolerance, ensuring ethnic and religious coexistence and shaping modern democratic societies.

Fragmentation and divisions along ethnic lines are incompatible with the European perspective, which should act as a catalyst for addressing problems in the region.

The recent launching of the EU police Mission in Bosnia and Herzegovina and of the operation 'Concordia' in the former Yugoslav Republic of Macedonia are tangible proofs of the EU's commitment to the region.

While the EU is strengthening its commitment in Southeast Europe, notably in police and security operations, continued engagement of other international actors is necessary. We all highly value the close co-operation between the EU and the US and NATO in the region, within the framework of UN Resolutions, as well as the role of other international organisations and financial institutions operating in the area. We encourage close coordination of their activities.

6. Organised crime and corruption is a real obstacle to democratic stability, the rule of law, economic development and development of civil society in the region and is a source of grave concern to the EU. Combating it constitutes a major priority. The SAP countries commit themselves to define and implement the measures foreseen in the follow up process to the London conference of November 2002 and described in the *Thessaloniki Agenda*. Particular attention will be given in combating trafficking in human beings. The countries of the region also commit to concrete measures, in accordance with the *Thessaloniki Agenda* and the documents of the Ohrid May 2003 conference, respectively, in order to cope effectively with illegal immigration and improving border security and management, aiming at achieving European standards.
7. We acknowledge the importance the peoples of the Western Balkans attach to the perspective of liberalisation of the EU's visa regime towards them. We

recognise that progress is dependent on implementing major reforms in areas such as the strengthening of the rule of law, combating organised crime, corruption and illegal migration, and strengthening administrative capacity in border control and security of documents. The Western Balkan countries welcome the intention of the Commission to hold discussions, within the framework of the Stabilisation and Association Process, with each of them, regarding the requirements for how to take these issues forward in concrete terms.

8. Economic prosperity is essential to long term stability and democracy in the region. Persistent efforts and structural reforms are required to establish functioning market economies and to achieve sustainable development and to ensure employment.

We recognise the importance of developing modern networks and infrastructures in energy, transport and telecommunications in the region, consistent with the Trans-European Networks. We encourage further mobilisation of international support in these areas, notably through the European Investment Bank and other International Financial Institutions, and private investment.

The SAP countries welcome the decisions by the EU to consider further measures for enhancing its trade with them, to extend the Internal Energy Market to the region as a whole and to establish a regular economic dialogue with each country of the region.

Considering that small and medium-sized enterprises are a key source of jobs, innovation and wealth and are essential for the functioning of competitive market economies, the SAP countries hereby commit to the policy principles enshrined in the European Charter for Small Enterprises, as well as to participate in its implementation.

9. We reiterate that rapprochement with the EU will go hand in hand with the development of regional co-operation. The countries of the Western Balkans and, where applicable, other regional participant countries, commit to promote concrete objectives and initiatives, along the lines prescribed by the *Thessaloniki Agenda*, in the areas of regional free trade, visa-free movement within the region, collection of small arms, creation of regional markets for electricity and gas, development of transport, energy and telecommunication infrastructures, environment and water management, research technology and development, cross-border cooperation and parliamentary co-operation.

We reconfirm our support to the Stability Pact for South-Eastern Europe in its complementary role to the Stabilisation and Association Process and in implementing its agreed core objectives. We invite it to focus in particular on the tasks suggested in the *Thessaloniki Agenda*. We support regional co-operation initiatives such as the South-East European Cooperation Process (SEECP), the Adriatic-Ionian Initiative, and the Central European Initiative. We encourage further co-operation between the European Commission, the Stability Pact and the SEECP, which is gradually becoming the voice of the region.

10. Since our Zagreb meeting in November 2000, considerable progress was made towards stability, democracy and economic recovery in all countries of the Western Balkans, as well as in regional co-operation and good neighbourly relations between them, to the benefit of their peoples and of Europe as a whole. All the countries of the region have also made good progress in advancing towards the EU. A comparison with three years ago reveals the road that has been covered. At the same time, the Western Balkan countries, aware that there is much and hard work ahead, commit themselves to intensify the pace of reforms. The European Union pledges full support to their endeavours.

\* \* \*

We have agreed to meet periodically at our level, within the framework of a EU-Western Balkan forum, in order to discuss issues of common concern, to review progress of the countries of the region in their road to Europe, and to exchange views on major developments in the EU. Annual meetings of foreign ministers and ministers responsible for Justice and Home Affairs will be held as appropriate. Acceding and candidate countries will be fully involved. We welcome the intention of the incoming EU Italian Presidency to organise the first meetings of this kind, by the end of the year. Other ministers can also meet when appropriate.

### 3. The Western Balkans and the accession process

#### 1. Conditions for accession

##### 1.1. Conditions laid down in the Treaty

*Article 2* of the Treaty on European Union (TEU) states that ‘the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.’

*Article 49* of the Treaty on European Union foresees that ‘[a]ny European State which respects the values referred to in Article 2 and is committed to promoting them may apply to become a member of the Union.’

##### 1.2. The Copenhagen criteria

The conditions of eligibility, better known as the Copenhagen criteria, were set by the European Council in Copenhagen in June 1993.<sup>1</sup>

‘Accession will take place as soon as a country is able to assume the obligations of membership by satisfying the economic and political conditions required.’ Four criteria for EU membership were defined:

- *Political criteria*: ‘stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities’;
- *Economic criteria*: ‘the existence of a functioning market economy, as well as the capacity to cope with competitive pressure and market forces within the Union’;
- *EU acquis*: ‘the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union’;
- *Absorption capacity*: the ‘Union’s capacity to absorb new members, while maintaining the momentum of European integration’.

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1. European Council, *Conclusions of the Presidency*, Copenhagen, 21-22 June 1993. Available at: [http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/en/ec/72921.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/72921.pdf) (retrieved on 20 April 2013).

### 1.3. Conditions of the Stabilisation and Association Process

In 1999, the Council set out the Stabilisation and Association Process (SAP) conditionality for the countries of the Western Balkans, which includes co-operation with the International Criminal Tribunal for the Former Yugoslavia (ICTY) and regional co-operation. These conditions are also integrated into the Stabilisation and Association Agreements (SAA).

In June 2000, the Feira European Council acknowledged that the Western Balkan countries participating in the SAP were 'potential candidates' for EU membership. The European perspective of the Western Balkans was reiterated by the Thessaloniki European Council on 19-20 June 2003 which endorsed the draft of the 'Thessaloniki Declaration' and the 'Thessaloniki Agenda for the Western Balkans: moving towards European integration'. These documents were adopted at the EU-Western Balkans Summit on 21 June 2003 in Thessaloniki. The SAP is confirmed as being the cornerstone of the EU policy towards the region and was strengthened by elements drawn from the experience of the eastern enlargement.

## 2. Accession process

### 2.1. Procedure laid down in the Treaty

*Article 49* of the Treaty on European Union states that once the potential candidate presents its application for membership of the European Union the 'European Parliament and national Parliaments shall be notified of this application. The applicant State shall address its application to the Council, which shall act unanimously after consulting the Commission and after receiving the consent of the European Parliament, which shall act by a majority of its component members. The conditions of eligibility agreed upon by the European Council shall be taken into account.

The conditions of admission and the adjustments to the Treaties on which the Union is founded, which such admission entails, shall be the subject of an agreement between the Member States and the applicant State. This agreement shall be submitted for ratification by all the contracting States in accordance with their respective constitutional requirements.'

## 2.2. The accession process in practice<sup>2</sup>

In practice, the accession process includes different stages:

- *Application for membership.* The potential candidate submits its application to the rotating presidency of the Council of the European Union. The European Parliament and the national parliaments are notified about this application.
- *Candidate status.* The European Commission sends its Opinion on the application to the Council. If the Opinion of the European Commission is favorable, the Council may consider to grant candidate status to the applicant country.
- *Opening of negotiations.* The Council may decide through an unanimous vote to open the accession negotiations. The negotiations take place at the level of ministers and ambassadors of the member states and of the candidate country. For the purpose of the negotiations, the *acquis* of the Union is divided into 35 chapters which correspond to specific policy fields.
- *Negotiations.* The negotiations are preceded by the ‘screening process’, where the Commission, together with the candidate country, examines each chapter and identifies the degree of harmonisation of the national legislation with the EU *acquis*. The Commission presents its findings on each chapter to the Member States in the form of screening report and recommends to either open negotiations or to require the fulfillment of certain conditions (opening benchmarks) first. The screening process is also the basis for the preparation of the negotiating position of the candidate country and for the EU’s common position, which sets closing benchmarks for most chapters. The individual chapters are closed when the candidate country fulfills the criteria set in the negotiating chapters. Once every chapter has been closed, the whole negotiation process comes to an end.
- *Accession.* The agreements reached are laid down in the Accession Treaty which is signed by the candidate country and the EU member states. The Accession Treaty should also be supported by the Council, the Commission and the European Parliament. The candidate country becomes then an “acceding country”. To become a full EU member, the acceding country and the EU member states should ratify the Accession Treaty in accordance with their respective constitutional requirements (e.g. referendum, parliamentary vote).

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2. European Commission, DG Enlargement: *Steps towards joining*, Available at: [http://ec.europa.eu/enlargement/policy/steps-towards-joining/index\\_en.htm](http://ec.europa.eu/enlargement/policy/steps-towards-joining/index_en.htm), retrieved on 15 February 2013

3. RELATIONS BETWEEN THE EU AND THE WESTERN BALKANS<sup>3</sup>

	Signature of the Stabilisation and Association Agreement	Starting date of the visa-free regime	Submission of the application for EU membership	Commission Opinion on application for membership of the EU	Candidate status granted	Opening of the accession negotiations	Accession negotiations closed	Accession foreseen
<b>Albania</b>	12 June 2006	15 December 2010	28 April 2009	9 November 2010	/	/	/	/
<b>Bosnia and Herzegovina</b>	16 June 2008	15 December 2010	/	/	/	/	/	/
<b>Croatia</b>	29 October 2001	Croatian nationals were not subject to visa requirements.	21 February 2003	20 April 2004	17-18 June 2004	3 October 2005	30 June 2011	1 July 2013
<b>FYROM</b>	9 April 2001	19 December 2009	22 March 2004	9 November 2005	15-16 December 2005	/	/	/
<b>Kosovo*</b>	/	/	/	/	/	/	/	/
<b>Montenegro</b>	15 October 2007	19 December 2009	15 December 2008	9 November 2010	16-17 December 2010	29 June 2012	/	/
<b>Serbia</b>	29 April 2008	19 December 2009	22 December 2009	12 October 2011	1-2 March 2012	/	/	/

3. Source: editor's compilation based on European Commission's data (DG Enlargement)



## 4. Instrument for Pre-Accession Assistance (IPA)<sup>1</sup>

### Background

On 1 January 2007, the previous EU programmes for pre-accession such as CARDS, Phare, SAPARD, ISPA and the pre-accession instrument for Turkey were replaced by a single framework, the Instrument for Pre-accession Assistance (IPA).

### General provisions

IPA provides financial and technical assistance to the countries engaged in the accession process for the period 2007-2013, over which IPA funding amounts to €11.5 billion. This flexible instrument assists the beneficiary countries in their progressive alignment with the EU *acquis*.

IPA includes five ‘components’, which support the beneficiary countries in different areas:

Component I – ‘Transition Assistance and Institution Building’ supports institution building measures and the transition to democracy and the market economy. Under this component, the ‘Multi-Beneficiary Programmes’ provide assistance for regional projects and promotes cooperation between the beneficiary countries.

Component II – ‘Cross-Border Cooperation’ promotes good neighbourly relations and regional cooperation between the beneficiary countries, as well as between them and the EU member states. This component prepares also the countries for the management of the Structural Funds, once they become members of the EU.

If components I and II are accessible to all beneficiary countries, i.e. potential and candidate countries, the other three components are available to the candidate countries only:

Component III – ‘Regional Development’ supports investments in transport, environment and economic cohesion. It aims also at preparing candidate countries for the implementation of EU regional funding, once they become member states.

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1. European Commission, *Overview-Instrument for pre-Accession Assistance*, DG Enlargement, [http://ec.europa.eu/enlargement/instruments/overview/index\\_en.htm](http://ec.europa.eu/enlargement/instruments/overview/index_en.htm) (retrieved on 23 April 2013)

Component IV – ‘Human Resources Development’ supports the development of human capital and contributes to combating exclusion. It prepares also the countries for their participation in the cohesion policy and the European Social Fund.

Component V – ‘Rural Development’ aims at preparing the beneficiary countries for the management and the implementation of the common agricultural policy and the European Agricultural Fund for Rural Development.

### **Legal basis:**

Council Regulation (EC) No 1085/2006 of 17 July 2006 establishing an Instrument for Pre-Accession Assistance (IPA), as amended by Regulation (EU) No 540/2010 and Regulation (EU) No 153/2012.

As the current IPA Regulation expires on 31 December 2013, the Commission proposed in December 2011 a new IPA II regulation<sup>2</sup> which will apply for the period 2014-2020.

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2. For further information, see: European Commission, Proposal for a Regulation of the European Parliament and of the Council on the Instrument for Pre-accession Assistance (IPA II), COM(2011) 838 final, 2011/0404 (COD), Brussels, 7 December 2011.

## 5. Chronology of EU-Western Balkans relations (1999-2013)

### 1999

26 May 1999 The Commission Communication [COM (1999) 235 final] sets out the main principles of the Stabilisation and Association Process (SAP) for the countries of South-Eastern Europe (Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia, the former Yugoslav Republic of Macedonia and Albania). The SAP develops further the Regional Approach, which was established in 1996 to support the implementation of the Dayton/Paris and Erdut peace agreements and the promotion of political stability and economic prosperity in the region.

10 June 1999 The adoption of the resolution 1244 by the UN Security Council marks the end of NATO intervention and establishes also the United Nations Interim Administration Mission in Kosovo (UNMIK).

Initiated by the EU, the Stability Pact for South-Eastern Europe is adopted in Cologne in cooperation with the international community. The Stability Pact aims at ensuring long-term conflict prevention and peace-building through the promotion of democracy, human rights, economic and social development, regional security and cooperation in South Eastern Europe. It also supports the integration of the SEE countries into European and Euro-Atlantic structures.

### 2000

19-20 June 2000 The Feira European Council affirms that the countries participating in the SAP have a European perspective and are 'potential candidates' for EU membership.

24 November 2000 This message is further reinforced at the Zagreb Summit, which brings together the EU member states and the Western Balkan countries for the first time. The Summit confirms also that the Stabilisation and Association Process (SAP), which includes both

regional and country-specific aspects, is at the heart of the Union's policy towards the five countries of South-Eastern Europe.

5 December 2000 The new CARDS (Community Assistance for Reconstruction, Development and Stabilisation) programme provides assistance to the countries of South-Eastern Europe participating in the SAP for the period 2000-2006.

## 2001

9 April 2001 FYROM signs the SAA.

13 August 2001 The Ohrid Framework Agreement is signed between FYROM and ethnic Albanian representatives. This peace agreement marks the end of the conflict between the National Liberation Army and the Macedonian security forces.

29 October 2001 Croatia signs the SAA.

## 2002

28 February 2002 First meeting of the Convention on the Future of Europe under the presidency of Valéry Giscard d'Estaing.

12-13 December 2002 The Copenhagen European Council reaffirms the European perspective of the countries of the Western Balkans.

## 2003

1 January 2003 Greece takes over the Presidency of the Council of the EU.

The EU launches the first CSDP mission: the European Union Police Mission (EUPM) in Bosnia and Herzegovina.

1 February 2003 The Nice Treaty enters into force.

21 February 2003 Croatia submits its application for EU membership.

- 31 March 2003 The first-ever military operation undertaken by the EU, EUFOR *Concordia*, is launched in the former Yugoslav Republic of Macedonia under the ‘Berlin Plus’ agreement.
- 16 April 2003 Signature of the Treaty of Accession of the Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia in Athens.
- 2 June 2003 The Western Balkans countries convene a meeting in Ohrid in order to prepare the Thessaloniki Summit.
- 19 -20 June 2003 The Thessaloniki European Council endorses the ‘*The Thessaloniki agenda for the Western Balkans: Moving towards European integration*’, which was included in the annex of the Council conclusions of 16 June 2003. The Stabilisation and Association Process is confirmed as the EU’s framework for the Western Balkans and is enriched by elements drawing from the experience of the eastern enlargement.
- 21 June 2003 EU-Western Balkans Summit in Thessaloniki. The Heads of State and Government of the EU member states and the leaders of the Western Balkans adopt the Thessaloniki Declaration and Agenda.
- 18 July 2003 Valéry Giscard d’Estaing, chairman of the Convention on the Future of Europe, officially hands over the Draft Treaty establishing a Constitution for Europe.
- 12 December 2003 The Brussels European Council adopts the European Security Strategy.
- 15 December 2003 Completion of Operation *Concordia* and launch of the EU police mission, EUPOL *Proxima*, in FYROM.

## 2004

- 22 March 2004 FYROM submits its application for EU membership.
- 20 April 2004 The Commission submits its positive Opinion on Croatia’s application for EU membership.

- 1 May 2004 Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia join the EU (entry into force of the Treaty of Athens)
- 17-18 June 2004 Croatia is granted the status of ‘candidate country’ for EU membership.
- 2 December 2004 The EU launches the military operation EUFOR *Althea* in Bosnia and Herzegovina under the ‘Berlin-Plus’ agreement.

## 2005

- 25 April 2005 Signature of the Treaty of Accession of Bulgaria and Romania in Luxembourg.
- 3 October 2005 After having demonstrated its full cooperation with the ICTY, Croatia officially starts the accession negotiations.  
Accession negotiations are also opened with Turkey.
- 9 November 2005 The Commission submits its Opinion on FYROM’s application for EU membership.
- 14 December 2005 Completion of the police mission EUPOL *Proxima* in FYROM.
- 15 December 2005 The EU launches an EU Police Advisory Team (EUPAT) in FYROM.
- 15-16 December 2005 FYROM is granted the status of ‘candidate country’ for EU membership.

## 2006

- 3 June 2006 As a result of the referendum held in May 2006, Montenegro declares its independence.
- 12 June 2006 Albania signs the SAA.
- 14 June 2006 Completion of the mandate of the EU Police Advisory Team (EUPAT) in FYROM.

14-15  
December 2006

The European Council renews its consensus on enlargement. The EU's re-affirms 'that the future of the Western Balkans lies in the European Union' and restates that 'each country's progress towards the European Union depends on its individual efforts to comply with the Copenhagen criteria and the conditionality of the Stabilisation and Association Process'.

## 2007

1 January 2007

Bulgaria and Romania join the EU.

Entry into force of the new Instrument for Pre-Accession Assistance (IPA) for the period 2007-2013.

15 October 2007

Montenegro signs the SAA.

## 2008

16 February 2008

The Council decides to launch the European Union Rule of Law Mission (EULEX) in Kosovo.

17 February 2008

Kosovo declares unilaterally its independence from Serbia.

27 February 2008

The Regional Cooperation Council (RCC) replaces the Stability Pact for South-Eastern Europe and offers a regionally owned framework for cooperation.

29 April 2008

Serbia signs the SAA.

16 June 2008

Bosnia and Herzegovina signs the SAA.

21 July 2008

Serbian authorities announce that Radovan Karadžić has been arrested in Belgrade and transferred to the ICTY.

15 December 2008

Montenegro submits its application for EU membership.

## 2009

28 April 2009

Albania submits its application for EU membership.

- 1 December 2009 The Lisbon Treaty enters into force.
- 19 December 2009 Visa free-regime applies to citizens of FYROM, Montenegro and Serbia. The holders of a biometric passport issued by each of these countries are allowed to travel to and throughout the Schengen area without visas.
- 22 December 2009 Serbia submits its application for EU membership.

## 2010

- 2 June 2010 Organised by the Spanish Presidency of the EU, the EU-Western Balkans ministerial meeting in Sarajevo marks the 10<sup>th</sup> anniversary of the Zagreb Summit. The European Council clearly re-affirms its unequivocal commitment to the European perspective of the Western Balkan countries and confirms their future lies in the European Union.
- 22 July 2010 The International Court of Justice issues an advisory opinion on the declaration of independence of Kosovo.
- 9 November 2010 The Commission submits its Opinion on the applications of Albania and Montenegro for EU membership.
- 15 December 2010 Visa-free regime applies to citizens of Albania and Bosnia and Herzegovina. The holders of biometric passports issued by these two countries are exempt of visa requirements when travelling to and throughout the Schengen area.
- 16-17 December 2010 Montenegro is granted the status of 'candidate country' for EU membership.

## 2011

- 26 May 2011 Ratko Mladić, one of the fugitives indicted by the ICTY, is arrested in Serbia.
- 30 June 2011 Accession negotiations with Croatia are closed.



- 20 July 2011 Goran Hadžić, the last remaining fugitive indicted by the ICTY, is arrested by Serbian authorities.
- 12 October 2011 The Commission submits its Opinion on Serbia's application for EU membership.
- 9 December 2011 Croatia signs the Accession Treaty with the EU.

## 2012

- 1-2 March 2012 Serbia is granted the status of 'candidate country' for membership.
- 9 March 2012 The Croatian Parliament ratifies the Accession Treaty following the referendum held on 22 January 2012 in which 66.27% of the Croatian participants voted in favour of Croatia's accession.
- 29 March 2012 The European Commission launches a High Level Accession Dialogue with the former Yugoslav Republic of Macedonia in order to accelerate reforms in a number of key policy areas.
- 14 June 2012 The European Commission delivers the visa liberalisation roadmap to the Kosovo government.
- 27 June 2012 The EU and Bosnia and Herzegovina hold the first meeting of the High Level Dialogue on the Accession Process, which aims at facilitating the preparations for submitting its EU application.
- 29 June 2012 Opening of the accession negotiations with Montenegro. The Commission applies for the first time its new approach which consists in opening the negotiating chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security) early on in the accession process and closing them at the end.
- 30 June 2012 Completion of the European Union Police Mission (EUPM) in Bosnia and Herzegovina
- 10 October 2012 The Commission recommends that Albania be granted the status of 'candidate country', subject to completion of measures in key areas.

The Commission issues its Feasibility Study for a Stabilisation and Association Agreement between the European Union and Kosovo.

19 October 2012 Beginning of the High-level dialogue between Kosovo and Serbia facilitated by the HR/VP Ashton.

## 2013

19 April 2013 The 'First agreement of principles governing the normalisation of relations' is initialled by the Prime Ministers of Serbia and Kosovo.

1 July 2013 Foreseen date for Croatia's accession.

31 December 2013 Expiry date of the IPA I.

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## 7. Abbreviations

BiH	Bosnia and Herzegovina
CARDS	Community Assistance for Reconstruction, Development and Stabilisation
CIS	Commonwealth of Independent States
CEFTA	Central European Free Trade Agreement
CoE	Council of Europe
CSDP	Common Security and Defence Policy
CSO	Civil Society Organisation
EBRD	European Bank for Reconstruction and Development
EC	European Commission
ESI	European Stability Initiative
FDI	Foreign Direct Investment
FYROM	former Yugoslav Republic of Macedonia
GDP	Gross Domestic Product
HQ	Headquarters
ICJ	International Court of Justice
ICTY	International Criminal Tribunal for the former Yugoslavia
IPA	Instrument for Pre-Accession Assistance
MCV	Mechanism of Cooperation and Verification
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OCG	Organised Crime Group
OSCE	Organisation for Security and Cooperation in Europe
R&D	Research and Development
RCC	Regional Cooperation Council
SAA	Stabilisation and Association Agreement
SAP	Stabilisation and Association Process
SEE	South-Eastern Europe
SEECF	South-East European Cooperation Process
SFOR	Stabilisation Force in Bosnia and Herzegovina
SHAPE	Supreme Headquarters Allied Powers Europe
TEU	Treaty on European Union
THB	Trafficking of Human Beings
UN	United Nations
UNODC	United Nations Office on Drugs and Crime
WB	Western Balkans
WBIF	Western Balkans Investment Framework
WEF	World Economic Forum

## 8. About the authors

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In June 2003 the EU-Western Balkans summit resulted in the Thessaloniki Declaration, affirming unequivocally that ‘the future of the Balkans is within the European Union’.

On the occasion of the tenth anniversary of the declaration, and on the eve of Croatia’s accession to the EU, this publication assesses the progress that the countries of the Western Balkans have made on the path to European integration in the past decade. It notes the positive momentum generated by the Thessaloniki Agenda but highlights the various challenges faced by both the EU and the countries of the region, ranging from security issues, the consolidation of democracy and the rule of law to economic development and regional cooperation. It also looks ahead and discusses foreseeable or desirable prospects for both sides.

This book offers an illuminating and distinctive perspective by featuring contributions from exclusively female authors – academics as well as policy practitioners – from both the EU and the Western Balkans.