



The democratic transformation of the Balkans

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The EPC's Programme on European Politics and Institutions

With the entry into force of the Lisbon Treaty, the new focus of this programme is on adapting the EU's institutional architecture to take account of the changed set-up and on bringing the EU closer to its citizens.

Continuing discussion on governance and policymaking in Brussels is essential to ensure that the European project can move forward and respond to the challenges facing the Union in the 21st century in a democratic and effective manner.

This debate is closely linked to the key questions of how to involve European citizens in the discussions over its future; how to win their support for European integration and what are the prospects for, and consequences of, further enlargement towards the Balkans and Turkey.

This programme focuses on these core themes and brings together all the strands of the debate on a number of key issues, addressing them through various fora, task forces and projects. It also works with other programmes on cross-cutting issues such as the reform of European economic governance or the new EU foreign policy structures.

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Foreword

At the meeting of the European Council in Copenhagen in June 1993 that determined the criteria for membership of the European Union, democracy was given first mention among the conditions that applicant countries must respect. The priority given to democracy by the EU's leaders reflects the fact that it is considered as a core element of European political identity, and an essential characteristic for countries wishing to be admitted to the EU.

The EU's insistence on guarantees of democracy on the part of future members is not based on altruism, but rather on self-interest, for it arises from the belief that the process of European integration cannot function with members who do not subscribe to democratic principles or whose practical application of them is inadequate.

The emphasis on democracy poses a number of problems for the EU's enlargement policy. Problems of interpretation: what do we mean in practice by democracy? Problems of credibility: can the EU demand higher standards of democracy from future members than from existing members? Problems of implementation: what instruments of policy should be used for the promotion of democracy?

These are among the questions that the European Policy Centre has attempted to clarify in its recent work on the countries of the Western Balkans. In this paper Rosa Balfour and Corina Stratulat bring together the main lines of analysis and recommendations that have emerged from discussions in EPC's Balkans Forum. The aim of the paper, drawing on experience of the past and understanding of the present, is to offer lessons for the future conduct of EU policy in the region.

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Executive summary

Enlargement to the Balkans will remain one of the EU's most important projects for generations to come. Yet progress on the dossier has been uneven, marred by the persistence of unsolved statehood problems which affect much of the region. These overshadow the progress that the Balkan states have made in transforming themselves from war-torn countries into new democracies.

At present, the countries in the region are still not fully-effective democracies, as enforcing the rule of law remains problematic and accountability channels (such as the media and organised civil society) are still dysfunctional.

This paper's main argument is that consolidating democracy beyond the creation of formal institutions must be at the heart of EU strategies towards the Balkans, by ensuring that democratic institutions function in practice and that societies are fully able and free to participate in the democratic process.

Democratic aspects have been moving to the forefront of the EU's conditionality, but the focus has mostly been on those areas, such as the judiciary and public administration, which hold the key to fighting organised crime and corruption. This is reflected in continuing negative perceptions of the region despite the positive transformations of the past decade.

More can and should be done to strengthen the rule of law and public demands for substantive democracy throughout the region. The EU must concomitantly deal with both formal and substantive criteria of democracy in assessing progress and in pushing forward the democratisation agenda through its accession and pre-accession processes, but also through the diplomatic tools it exercises in its relations with the countries of the region.

In particular, the EU should pay closer attention to democratic *processes* and not just legislative output. The role of parliaments and political parties, for instance, is crucial for the decision-making and accession processes. The EU is already an actor in domestic politics in the Balkans – it is legitimate for it to pay closer attention to the work of parliaments and the links between politics and society.

At the same time, civil society organisations, non-governmental organisations, and a free and vibrant media are all essential to the consolidation of democracy. A better structure and dissemination of funding, as well as legal provisions for civil society organisations are also needed to contribute to policy formulation and implementation. Strengthening their watchdog function is the best route to ensuring the accountability of political institutions and law enforcement agencies.

Before and during accession negotiations, the EU must focus its attention on the substantive aspects of democracy. Making sure that democratic reforms are implemented and enforced at all levels of society through functioning institutions is the best insurance for the irreversibility of the peace-making efforts that have marked the past two decades.

Democracy is important as an end in itself, reflecting the values the EU has developed through its own integration and enlargement, but also as a means to an end, to overcome the region's predicament and make its countries future 'good' members of the EU.

Abbreviations

| | |
|---------------|--|
| BiH | Bosnia and Herzegovina |
| CARDS | Community Assistance for Reconstruction, Development and Stabilisation |
| CEE | Central and Eastern Europe |
| CEPOL | European Police College |
| CSF | Civil Society Facility |
| CSOs | Civil society organisations |
| DCAF | Democratic Control of Armed Forces |
| DRI | Democratic Rights Index |
| EDI | Effective Democracy Index |
| EP | European Parliament |
| EU | European Union |
| EULEX | European Union Rule of Law Mission |
| FYR Macedonia | Former Yugoslav Republic of Macedonia |
| GRECO | Council of Europe Group of States against Corruption |
| ICTY | International Criminal Tribunal for the Former Yugoslavia |
| IMF | International Monetary Fund |
| IPA | Instrument for Pre-accession Assistance |
| JHA | Justice and Home Affairs |
| NGOs | Non-governmental organisations |
| OLAF | European Anti-fraud Office |
| OSCE | Organisation for Security and Cooperation in Europe |
| PCC | Police Cooperation Convention for South East Europe |
| P2P | People 2 People Programme |
| RCC | Regional Cooperation Council |
| RLI | Rule of Law Index |
| SAA | Stabilisation and Association Agreement |
| SAP | Stabilisation and Association Process |
| SC | Social capital |
| SECI | Southeast European Cooperative Initiative |
| SEECF | Southeast European Cooperation Process |
| SELEC | Southeast European Law Enforcement Centre |
| SEEMO | South East Europe Media Organisation |
| SEPCA | Southeast Europe Police Chiefs Association |
| SIDA | Swedish International Development Agency |
| SNS | Serbian Progressive Party |
| SP | Stability Pact |
| SPAI | Stability Pact's Anticorruption Initiative |
| SPOC | Stability Pact's Initiative to Fight Organised Crime |
| SRS | Serbian Radical Party |
| TAIEX | Technical Assistance Information Exchange Office |
| TASCO | Technical Assistance for Civil Society Organisations |
| UNCAC | United Nation Convention against Corruption |
| UNODC | United Nations Office on Drugs and Crime |
| USAID | United States Agency for International Development |

INTRODUCTION

Since the death of Croatian President Franco Tudjman in 1999 and the fall of Yugoslav President Slobodan Milošević in 2000, the Balkan states have been striving to build democratic governments and societies. Yet dilemmas relating to security and unresolved statehood continue to dominate political life and influence how the European Union (EU) interacts with the region. Fears that discord in one country could spread to the whole region and even the rest of Europe continue to define the EU's engagement policy and the ways in which the accession and pre-accession agenda are articulated. As a result, stability interests are sometimes prioritised over other considerations, including the consolidation of democracy. This approach undervalues a crucial lesson learned from European integration and enlargement: democracies are the most suitable polities to solve security and state-building problems.

Democracy is important as an end in itself, reflecting the values that the EU has developed through its own integration and enlargement, as enshrined by the Lisbon Treaty. Democracy is also a means to an end: it is the best way to overcome the region's security predicament and make the countries future 'good Europeans': that is, constructive EU members committed to making the European project work. In theory, the democratic transformation of the Balkans should be a win-win solution for all; in practice, even if all agree that it is possible, the road ahead is full of political traps and dilemmas about the best approaches and timeframes to be adopted.

Democratic regime-building in the region coincided with state-building and post-war reconstruction. We can speak of a triple transition in the Balkans: from war to peace, from a communist command economy to a liberal market economy, and, from a single-party rule to a pluralist democracy. Resolving statehood issues requires negotiations with neighbouring countries, adding a fourth *volet* to the complex challenges that these countries are facing. At the heart of the problem is the state: its weakness is a major challenge for carrying out the necessary reforms for integration into the EU and for the resolution of internal and neighbourhood problems. At the heart of the solution is democracy: the only insurance for the region to consolidate its states and societies. The Croatian-Slovenian dispute, for instance, was solved through a referendum in which Slovenians agreed to submit the dispute to international arbitration – a concrete example of how democratic processes can be more effective than elite-driven ones.

The EU's experience of enlargement to Central and Eastern Europe (CEE) established that although democracy-building needs to be the outcome of domestic political processes, external actors can play a role in supporting systemic transformation. The Balkan countries were offered the prospect of membership at the Thessaloniki conference in 2003: the enlargement process was considered to be the best anchor to support political and democratic transformation in the region as a whole. In parallel, the EU has developed more coercive means to ensure stability through the presence of protectorate structures in Bosnia-Herzegovina (BiH) and the interim administration in Kosovo, known as the European Union Rule of Law Mission (EULEX).

At a time when the enlargement process is struggling to be effective, it is crucial to reassess the state of EU-Balkan relations. After Croatia's accession in 2013, there is a concrete risk that the pace of accession will slow down, especially if relations between Serbia and Kosovo continue to be tense. And if the pace does decelerate, overshadowed by the economic and political crises within the European Union, Europe might 'lose' the Balkans once more to nationalism, violence and further breakdowns of agreed states and borders, or it might lose its leverage to other actors who may not share similar views and values with the EU.

Brussels is therefore caught in a dilemma: how to keep the countries of the Balkans anchored to the EU when the prospect of accession is not, in many cases, tangible? The temptation to politicise the process of enlargement by cutting a few corners or interfering in domestic politics has occasionally emerged, for instance, when the EU decided to open accession negotiations with Croatia despite the fact that a key war criminal – Ante Gotovina, indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) – had not been handed over to The Hague; or, similarly, when the EU accelerated the signature of the Stabilisation and Association Agreement (SAA) with Serbia just before the country's elections in 2008. In these cases, the gamble paid off: Gotovina was captured soon after the EU's decision, and elections in Serbia produced the country's most pro-European and democratic government yet. Since then, Croatia has offered the most tangible demonstration that the EU is committed to enlargement, and Serbia has made remarkable changes since 2008.

Furthermore, leaving countries in limbo can lead to the deterioration of their fragile democracies. The Former Yugoslav Republic of Macedonia (FYR Macedonia), an EU candidate country since 2005, finds the opening of negotiations blocked by its unsolved name dispute. Over the past year, FYR Macedonia has experienced a re-emergence of inter-ethnic tensions and a marked relapse in media freedom. Although the European Commission confirmed that the country still satisfied the conditions to be a candidate country in the latest of its regular reports on enlargement, published in October 2011, Commissioner Štefan Füle did warn that the status would have to be substantially reviewed if no progress were made on the reform path.¹

This approach of accelerating the process of obtaining candidate status comes at a price. While EU member states may agree on the priority status afforded to Croatia and Serbia, which are seen as strategic for the whole region, similar treatment may not be offered to other smaller countries, some of which have indeed been drifting without robust intervention from the EU, such as FYR Macedonia and Albania.

Also, if the enlargement strategy is to be effective it cannot easily retreat from the principles and conditions it has previously posed (discussed in Chapter 2 of this paper). Conditionality over cooperation with the ICTY, for instance, has led to the capture in Serbia of the two remaining fugitive indicted war criminals, Ratko Mladić and Goran Hadžić, which is one of the most important developments in 2011.

The balance to be reached does not just depend on the rigour with which conditionality is applied: the problem also lies in its credibility. As Chapter 2 shows, the conditions for joining the EU have changed over the years, reflecting internal developments, such as the entry into force of the Lisbon Treaty, as well as growing uneasiness in the EU about enlargement and its potential consequences. This has led to speculation in the region that democratic conditionality is being used as an excuse to keep the Balkan countries at arms' length.

¹ Interview given by Commissioner Füle to Macedonian TV channel A1, during his visit to FYR Macedonia this summer.

The signs suggest that in the case of the Balkans, no exceptions will be made. The EU as a whole cannot formally make Serbia's membership application conditional upon its recognition of Kosovo, given that five EU member states have yet to recognise Kosovo themselves. However, in October 2011, the Commission's Opinion on Serbia's application was positive, provided that the country works constructively towards normalising relations with Kosovo by following a set of recommendations. This shows that the EU as a whole has adopted a tough line towards Serbia and Kosovo, and that the Commission and the External Action Service (which facilitate the dialogue between Belgrade and Prishtina) are working hand in hand.

The consolidation of democracy has not always been the EU's priority as it has often been more preoccupied with simmering tensions. Recently, the Commission placed an emphasis on the causes for concern regarding security and the functioning of democracy, such as fighting organised crime and corruption. Indeed, two chapters of this paper deal with the latter two major challenges faced by the Balkan countries, which relate to the rule of law. They are key issues for the functioning of democracy and the economy, they impinge on EU's own interest and security, and they hugely impact the EU accession process. They also affect, sometimes in a disproportionate manner, public perceptions of enlargement in the EU.

However, the health of parliamentary democracy, press freedom and civil society in the region are equally important indicators of the quality of a democracy. These aspects have received less attention from the EU, and more can and should be done to address pending issues that prevent national parliaments, civil society organisations and the media in the Balkans from contributing to the decision-making process and scrutinising the implementation of policies.

This paper argues that, in the short and long term, the key answers to this dilemma can only be found in supporting the full democratic transformation of the Balkans. This is in the interests of citizens who have opted for democracy, as it remains the best way to overcome divisions in the region. It is also in the EU's interest to make sure that the next rounds of enlargement do not trigger a backlash on EU solidarity, and that any future member states are fully consolidated democracies capable of internalising the rules of a post-sovereign Union.

How has the prospect of EU accession contributed to the democratisation effort in the Balkans? How can the process of enlargement help to consolidate democracy in the region? Does the EU have the right instruments to encourage and monitor democratic practices? How can the EU ensure that democracy is not only legally supported but also properly enforced in practice? Can the EU's current checklist help to properly scrutinise the substance of progress achieved by these countries? Or is the lack of a democratic *acquis* in the Union becoming increasingly problematic for handling and ensuring the success of the EU democratic project? Are the EU's membership prerequisites feasible if the democratic rules of the game have not been fully internalised by these countries? And how can the EU strike the right balance between offering incentives to anchor the Balkans in Europe while at the same time ensuring that their reform is democratic in substantive terms?

ON DEMOCRACY IN THE BALKANS

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2.1 HOW DEMOCRATIC ARE THE BALKAN COUNTRIES?

For over a decade, the survival of peaceful relations – though brittle at times – the continuous organisation of largely free and uncontested elections (except in Albania and Kosovo) and the progressive intensification of regional cooperation in many fields are just some of the signs of progress made by the Balkan countries.

These achievements, however, are often jeopardised by the unresolved status and border issues that still plague the region. The intractable positions of Serbia and Kosovo on the independent status of the latter continue to undermine important transformations in both countries. The name dispute with Greece has been wearing down FYR Macedonia’s democracy and its main inter-ethnic minority relations. Albania’s democratic frailty has resulted in political stalemate for over a year, and Bosnia-Herzegovina remains trapped in war-time rhetoric with a worrying potential for destabilisation.

The Balkan countries are engaged in an extended form of democratic transition with open prospects for eventual consolidation.² This is particularly true given that in a significant number of cases in the region, the state and its boundaries – a recognised precondition for transition – are still contested.³ Indeed, *Freedom House* does not identify any states in the region as “consolidated democracies”. Instead, the study groups Croatia, Serbia, FYR Macedonia, and Montenegro in the category of “semi-consolidated democracies”. The same report then classifies Albania and Bosnia-Herzegovina as “transitional governments” or “hybrid regimes”, and labels Kosovo a “semi-consolidated authoritarian regime”.

Likewise, the results of the *Bertelsmann Transformation Index* for 2010 indicate that only Croatia and Serbia qualify as democracies, whereas all 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.⁴ In other words, despite continuing

² Pridham, Geoffrey (2008), “Securing fragile democracies in the Balkans: the European dimension”, *Romanian Journal of European Affairs*, Volume 8, Number 2, pp.: 56-70.

³ Balfour, Rosa and Dijana, Basic (2010), “A bridge over troubled waters: Europeanising the Balkans”, EPC Policy Brief.

⁴ See Diamond, Linz J. (2002), “Thinking about hybrid regimes”, *Journal of Democracy*, Volume 13, Number 2, pp.: 21-35; O’Donnell, Guillermo (2004), “Why rule of law matters”, *Journal of Democracy*, Volume 15, Number 1, pp.: 5-19; Merkel, Wolfgang (2004), “Embedded and defective democracies”, *Democratisation*, Volume 11, Number 5, pp.: 33-58.

to be ruled by democratically-elected governments, democratic performance throughout the region has not yet acquired a real positive dynamic.

2.2 FORMAL AND SUBSTANTIVE DEMOCRACY

A closer examination of the quality of democracy in these countries can help to understand the political dynamics of the region and the EU's options for successfully influencing developments. To this end, the distinction between formal (procedural) and effective (substantive) democracy is useful, as this allows for a critical assessment of the democratisation process in terms of both formal criteria and substantive features of democracy.⁵ Put differently, it makes it possible to differentiate between the institutional/procedural aspects of democracy and the extent to which they are actually implemented in practice. Indeed, democratic regimes do not work everywhere with the same effectiveness, and deficiencies are particularly likely in new democracies. For this reason, scholars warn against confusing "façade democracies" with "effective democracies", noting that the difference rests in the "rule of law" and its most fundamental manifestation: the people's right to freedom.⁶

The main purpose of democracy is to empower ordinary people with civil and political rights to govern their lives based on their own, mutually agreed, preferences. From this point of view, popular rights that entitle people to make their own choices in individual matters and to have their voice count in collective matters are first-order tools of democracy. Certifying these rights legally (for instance, by means of free speech, religious freedom, freedom of choice in elections and referenda) creates formal democracy, which is a necessary component of effective democracy, as the latter cannot exist without the former.

However, formal rights are not enough to make democracy effective. To make granted freedom rights effective, society's decision-makers must respect and follow these rights. And democratic freedoms are effectively respected only to the extent that elites abide by the rule of law.⁷ Elite corruption or elite closure obstruct people's rights and violate the rule of law.

Thus, law-abiding elite behaviour or 'elite integrity' is an expression of the rule of law. In the sense of law enforcement, rule of law is not 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. Nevertheless, 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.

To assess the extent to which the Balkan countries are effective democracies, an index of effective democracy can be constructed following the methodology developed by Welzel and Alexander⁸, as the interaction between formal democracy (i.e. constitutional freedom) in these countries and the integrity of the elites (i.e. rule of law). In this conceptualisation, rule of law is the weighted factor that determines the extent to which a given scope of constitutional freedom becomes effective. Since the rule of law is a weighting and not compensating factor, it must be multiplied by

⁵ See, for instance, Kaldor, Mary and Vejvoda, Ivan (1997), "Democratisation in Central and East European countries", *International Affairs* (Chatham House), Volume 73, Number 1, pp.: 59-82.

⁶ Finer, Samuel E. (1999), "The history of government", Volume 1, Oxford: Oxford University Press; Linz, Juan J. and Alfred Stepan (1996), "Problems of democratic transition and consolidation: Southern Europe, South America and post-communist Europe", Baltimore: Johns Hopkins University Press.

⁷ Rose, Richard (2001), "A divergent Europe", *Journal of Democracy* Volume 12, Number 1, pp.: 93-106.

⁸ Welzel, Christian and Alexander, Amy C. (2008), "Measuring effective democracy: the human empowerment approach", *World Values Research*, Volume 1, Number 1, pp.: 1-34.

constitutional freedom in order to determine the **Effective Democracy Index (EDI)**, which indicates the level of substantive supply of democracy in each country (see Table 2.1).

Table 2.1: Effective Democracy Index for the Balkans

| | Democratic Rights Index (DRI) | Rule of Law Index (RLI) | Effective Democracy Index (EDI) |
|----------------------|-------------------------------|-------------------------|---------------------------------|
| Albania | 66.66 | .197 | 13.13 |
| BiH | 58.33 | .328 | 19.13 |
| Croatia | 83.33 | .891 | 74.25 |
| Kosovo | 25 | .084 | 2.1 |
| FYR Macedonia | 66.66 | .592 | 39.46 |
| Montenegro | 66.66 | .576 | 38.40 |
| Serbia | 75 | .384 | 28.8 |

* The methodology follows Welzel and Alexander (2008) and is described in Appendix 1. The EDI is at a minimum 0 when either democratic rights or the rule of law are absent. Conversely, the EDI is at a maximum of 100 when democratic rights are both fully present as well as made effective by an operational rule of law.

Rule of law alone cannot compensate for a limited scope of constitutional freedom to create effective democracy and it is clear from Table 2.1 that it is more difficult for a country to obtain a high score in terms of effective democracy than constitutional freedom. As Table 2.1 shows, formal rules and procedures for democracy are more or less in place in the Balkans, and the forerunners are, as expected, more advanced in the EU integration process than the laggards. Thus, Croatia stands out with a 74.25% EDI score, which reveals that most democratic rights are guaranteed by the rule of law. Montenegro and FYR Macedonia are behind this number with EDI scores just shy of 40%, suggesting that many democratic rights are still largely ignored. Kosovo, Albania and Bosnia-Herzegovina emerge as the most problematic cases, mainly due to their low RLI scores, which reflect poor implementation of existing democratic rights. Somewhat surprising is the result for Serbia, which attains only 28.8% on the EDI, despite making significant progress in recent years under a liberal-reformist government. However, the scores are for 2009 (as these were the most recent common estimates of the two datasets) and so, to a certain extent, they have been outdated by recent events and developments. Nevertheless, the data sufficiently indicates that apart from Croatia, all of the countries in the region exhibit a clear gap between formal and effective democracy, whereby existing democratic rules are not properly implemented in practice.

This approach underlines the disparity between the formal/procedural/institutional aspects of democracy and their actual enforcement. The result also suggests that governments and international organisations such as the EU must adopt a differentiated strategy in order to ensure the continuation of democratisation in the region. This strategy must concomitantly deal with both formal and substantive criteria of democracy in assessing the success or failure of pushing forward a democratic agenda.

2.3 DEMOCRACY PROMOTION THROUGH INTEGRATION

The process of EU enlargement – from the pressure to conform with the EU’s pre-membership conditions to the accession negotiations in which the aspirant member adopts the *acquis communautaire* – has led to the emergence of a unique model of “democracy promotion through integration”.⁹

This model was developed during the 1990s in preparation for enlargement to Central and Eastern Europe, by formalising the criteria for being able to start accession negotiations at the Copenhagen

⁹ Dimitrova, Antoaneta and Pridham, Geoffrey (2004), “International actors and democracy promotion in Central and Eastern Europe: the integration model and its limits”, *Democratisation*, Volume 11, Number 5, pp.: 91-112.

European Council.¹⁰ The European Commission played – and still plays – a crucial role in monitoring progress through annual reports. Tight monitoring procedures detail the satisfaction of political conditions by candidate states. By linking progress on accession to progress on fulfilling conditions, the EU's increased its leverage. The conditions for joining the EU were further articulated at the 1995 Madrid European Council, which require that the acceding country is able to fully implement EU rules and procedures. The scope was thus expanded beyond the formal democracy criteria to reach areas of substantive democracy (for instance, strengthening state capacity, judicial independence, anticorruption measures, and human and minority rights), though it still did not embrace a full range of democratic consolidation indicators, such as party systems and the strength of civil society.

The EU's enlargement policy towards the Balkans (and Turkey) follows the same pattern as the CEE experience, but also introduces some new aspects to the process of political conditionality. These reflect internal EU anxieties and balances, as well as regional and country-specific contexts. Enlargement has been used as a scapegoat for the failure of the Constitutional Treaty, and the subsequent problems with ratifying the Lisbon Treaty did not help to raise the profile of the enlargement dossier. The difficulties in implementing and adapting some of the institutional innovations brought in by the Lisbon Treaty and questions related to the capacity to manage further internal diversity are likely to prevent the EU from manifesting huge enthusiasm towards enlargement. The growth of populist, Eurosceptic and anti-immigration political parties in Europe does not help either. It suffices to look at some of the recent policies in EU member states targeting migrants, asylum seekers or minorities from the Balkans to understand how enlargement can become a sensitive topic, even if public opinion polls are often less suggestive than the attitudes of governments and political elites.

Difficulties with Romania and Bulgaria's accession and the widespread perception, *ex post facto*, that their accession took place too hastily, led to the adoption of a tougher line on the conditions imposed from 2004 onwards. The combination of this perception, an increased focus on aspects of good governance and the particular situation of the Balkans have led to a more complex mosaic of conditions, benchmarks and expectations to be fulfilled, reflected in the various degrees of integration with the EU that have been achieved so far. A snapshot of the state of relations with the EU, depicted in Table 2.2, shows that the Balkans is a heterogeneous region. Countries there are at different stages of integration with the EU, ranging from frontrunner Croatia, which is set to join the EU in 2013, to Kosovo, whose statehood bid is still blocked and which has no formal relations with the EU whatsoever.

In addition to the Copenhagen criteria and the various peace agreements and political deals which every country is expected to respect (UN Resolution 1244 and the Dayton, Kumanovo, Ohrid and Belgrade Agreements), EU conditionality in the Balkans also comprises the bilateral Stabilisation and Association Process (SAP), launched for the entire region in the aftermath of NATO's war in Kosovo, and the multilateral Stability Pact for Southern Europe (SP) – replaced by the Regional Cooperation Council (RCC) in 2008. Both of these instruments set crucial additional criteria for the Balkan states with regard to democratic principles, human rights, the rule of law, regional cooperation, full cooperation with the International Criminal Tribunal for the Former Yugoslavia and refugee return. A Stabilisation and Association Agreement is the reward for successful fulfilment of all the SAP and SP/RCC provisions. Among the benefits of an SAA are asymmetric trade liberalisation, economic and

¹⁰ These were set out in December 1993 by the European Council in Copenhagen and the political conditions require stable institutions that guarantee democracy, the rule of law, human rights, and respect for and protection of minorities.

Table 2.2: Balkan countries' relations with the EU

| | SAA initialled | SAA signed | Visa liberalisation | Application for membership | Commission Opinion on membership application | Candidate status | Start of accession negotiations | Association negotiations closed |
|---------------------------|----------------|--------------|---------------------|----------------------------|--|------------------|--|---------------------------------|
| Albania | January 2003 | June 2006 | December 2010 | April 2009 | November 2010 | | | |
| Bosnia-Herzegovina | December 2007 | June 2008 | May 2010 | | | | | |
| Croatia | May 2001 | October 2001 | ** | February 2003 | April 2004 | June 2004 | October 2005 | June 2011 |
| FYR Macedonia | November 2000 | April 2001 | December 2009 | March 2004 | November 2005, reiterated in October 2009 and October 2011 | December 2005 | Pending a solution on name dispute with Greece | |
| Kosovo* | | | | | | | | |
| Montenegro | September 2006 | October 2007 | December 2009 | September 2009 | November 2010 | December 2010 | Once membership criteria, particularly Copenhagen condition for stable institutions guaranteeing the rule of law fulfilled | |
| Serbia | November 2007 | April 2008 | December 2009 | December 2009 | October 2011 | December 2011? | Conditional on progress in the normalisation of Serbia-Kosovo relations | |

* A Stabilisation and Association Process Tracking Mechanism was established in August 2006 as the working base between the EU and Kosovo under UNSCR 1244 for EU approximation matters.

** Based on the pre-Schengen bilateral agreements between Croatia and its neighbouring EU countries (Italy, Hungary and Slovenia), Croatian citizens are allowed to cross the border with only an ID card (passport not obligatory). As Croatia is expected to join the EU by 2013, an interim solution, which received permission from the European Commission, was found: every Croatian citizen is allowed to cross the Schengen border into Hungary, Italy or Slovenia with an ID card and a special border card that is issued by Croatian police at border exit control. The police authorities of Hungary, Italy or Slovenia will then stamp the special border card both on entry and exit. Croatian citizens, however, are not allowed to enter any other Schengen agreement countries without a valid passport.

financial assistance (for example, the Community Assistance for Reconstruction, Development and Stabilisation – CARDS), support with budgetary matters, humanitarian aid for refugees, cooperation in justice and home affairs, and the development of political dialogue. Moreover, the EU’s repertoire of action includes country-specific requirements to be met before entering the SAA negotiation phase or the CARDS framework, as well as in connection to individual projects and the granting of EU aid or loans (so-called ‘programme conditionality’ or ‘project level conditionality’).

Over time, the EU has used its leverage to push for police reform in Bosnia-Herzegovina, for example, by tying it to the signing of the SAA. The Commission’s recent Opinion on Serbia’s application for membership also makes Belgrade’s bid conditional on talks regarding the normalisation of relations between Belgrade and Prishtina. In these two cases, the source of EU leverage stemmed not just from the accession ‘carrot’, but also from its role in the Peace Implementation Council for Bosnia and as the facilitator of the Serbia-Kosovo dialogue.

In its 2005 Enlargement Strategy Paper, the Commission declared that it was fully “prepared to recommend the suspension of progress [with accession] in case of a serious breach of the EU’s fundamental principles or if a country fails to meet essential requirements at any stage”.¹¹ In that spirit, to improve implementation and tie any steps forward more closely to conditionality results, the EU also introduced new mechanisms. These include, for instance, benchmarks for opening and provisionally closing negotiation chapters, safeguard clauses to extend monitoring, a more routine procedure for suspending negotiations (see provisions in the negotiating frameworks for Croatia and Turkey), as well as the inclusion of certain issues in the *acquis*, such as human rights (written in chapter 23) or judicial reform (linked to chapter 24).¹² Finally, the Lisbon Treaty (Article 49) gives the European Council the possibility to set additional ‘conditions of eligibility’ to join the EU.

On the one hand, the EU is a moving target due to its continuous integration process, and is setting stronger conditions both through the accession mechanisms and through its action to contribute to peace and state-building in the region. EU conditionality in the Balkans is therefore more demanding than ever before; multi-dimensional as it simultaneously targets reconciliation, reconstruction and reform; regional, sub-regional and country-specific; driven by economic, political, social and security considerations; and positive as well as negative. This can raise the bar for aspiring states, but it can also allow the EU to drag out the process, potentially holding it hostage to considerations which might be of little relevance to the Balkans, such as domestic opinion in one member state on a particular issue.

On the other hand, provided that the accession process is well managed and punctuated by a (more) generous balance of incentives and conditions, the Balkan states have an opportunity to carry out a complex and costly transformation. From a historical perspective, moving from state disintegration and brutal war to peace-making, state-building and consolidating democracy in the space of a generation is an extraordinary achievement.

¹¹ European Commission, “Communication from the Commission: 2005 enlargement strategy paper”, COM(2005)561, Brussels, November 2005, p.: 3.

¹² Pridham (2008), *op. cit.*, p.: 65.

PARLIAMENTARY DEMOCRACY

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In democratic political systems, parliaments have a key role in representing the views of their electors in the legislative process and controlling the executive on behalf of the people. The manner and extent to which parliaments manage to fulfil these important responsibilities is a sensible barometer for the health of any democracy, including those in the Balkans.

Ensuring that the region's parliaments function well is also relevant in the context of these countries' quest for membership of the European Union. The adoption of EU norms and legislation depends greatly on the ability of the political elite to internalise and consistently apply the democratic rules of the decision-making game. Likewise, the dynamics of the domestic party system can determine whether or not Europe plays out as a political issue internally and thus can influence the direction and pace of change required for European integration.

3.1 PARLIAMENTARY DEFICIENCIES

Most of the Balkan states are unicameral parliamentary democracies, in which the executive branch is democratically legitimised by and accountable to the legislature. Bosnia-Herzegovina is the only exception, with its rather more complex system of government along ethnic lines. There, the internationally-appointed High Representative has the authority to effectively bypass the parliamentary assembly or remove elected officials from positions of power. Throughout the region, parliaments are chosen by popular vote in largely free and fair nationwide electoral contests, and function according to constitutionally-ascribed provisions. However, non-respect of existing legal frameworks and rules of procedure, combined with weak administrative capacities, still jeopardise the quality of legislation and the supervisory role of parliaments in the Balkans.

On an operational level, some of the main problems confronting parliaments in the region relate to short timeframes, insufficient human resources and inadequate expertise. To various extents across the Balkans, parliamentary committees work under too strict deadlines to allow for the necessary analysis and discussion of any given piece of legislation. Brief and formal committee meetings also preclude proper consultation with interest groups and civil society organisations, which can face discouraging bureaucratic procedures or legal obstacles to participating in deliberations (for instance,

in Albania, Kosovo, Bosnia-Herzegovina, and Serbia). The European Commission's 2011 progress reports mention positive developments in the partnership between civil society and the state just in Montenegro and FYR Macedonia. In Montenegro in particular, the Commission applauds the now regular involvement of NGOs in policy development, legislative drafting and monitoring processes, including in sensitive fields such as the anti-corruption fight and judicial efficiency.

In countries like Albania, it is not uncommon for the ruling party to schedule urgent parliamentary sittings for arguably no other reason than to satisfy the executive's last-minute political priorities.¹³ In other cases, however, the executive can simply choose not to involve the legislature at all in the adoption of different national strategies and action plans, despite the fact that these can have a significant bearing on a country's European track.

Regarding administrative capacities, a common complaint in Balkan countries like Serbia, Bosnia-Herzegovina, Montenegro, and Kosovo is that the parliaments' services are often understaffed and lack the required expertise to assist parliamentarians with timely and relevant materials on draft laws and incoming reports. In Albania, for instance, the Legal Committee and the EU Integration Committee are the smallest in size even though they are responsible for the largest share of the legislative workload. In addition, throughout the region, human resources are poorly managed insofar as administrators work without clear job descriptions and recruitment continues to be carried out on the basis of political affiliation. Frequent replacements of personnel following changes of government or high-level transfers from political to administrative positions are just a few regional examples that defy the principles of de-politicisation and professionalism of the assembly's administration.

Equally important, parliaments in the Balkans often fall short in their role of monitoring the executive branch. Oversight instruments such as investigative committees, Q&A sessions, motions for debate or of (no) confidence and reporting are only applied in a limited manner and, when used, they often merely serve the purpose of fighting political adversaries. In Montenegro, for example, between 2009 and the first half of 2011, only three parliamentary questions were filed to the Minister of Foreign Affairs and EU Integration.¹⁴ Similarly, the Parliamentary Committee on European Integration in Albania held in two years an average of two meetings per month, reviewing one draft per reunion, and documenting only two hearings in which civil society actors actually participated in the debate.¹⁵ Moreover, the five minutes allowed during control hearings were often misused by parliamentarians in countries like Serbia or Montenegro to depart from the topic on the agenda and start polemics that defeated the purpose of the procedure.

In these countries, as well as in Kosovo, commentators criticise the fact that the questions MPs do address to their governments are usually better than the delayed answers they receive, and complain that Balkan ministers are not yet in the habit of reporting on their activity before the assembly. In fact, governmental officials in Kosovo do not even attend plenary sessions on a regular basis. All of these factors can effectively allow governments in the region to operate unchecked, and even to control the assembly via parliamentary majorities, as is the case in both Albania and Montenegro. The media could persuade institutions to abide by European democratic standards, but journalists in the Balkans still lack the necessary specialisation to be able to keep tabs on their parliaments and governments (see Chapter 6).

¹³ European Movement Albania (EMA), "Which role for the Albanian parliament in the EU integration process? Assessment of the oversight role and administrative capacities", Policy Brief, November 2010, pp.: 4, 5.

¹⁴ Institute Alternativa (2010), "The assessment of legal framework and practice in the implementation of certain control mechanisms of the parliament of Montenegro (consultative hearing, control hearing and parliamentary inquiry)", p.: 24.

¹⁵ Vurmo, Gjergji and Hroni, Elira (2011), "Lost in implementation: Albania's approximation with the EU *acquis*", Policy Brief, Institute for Democracy and Mediation Centre for European and Security Affairs, Tirana.

3.2 EU AND DOMESTIC PARTY POLITICS

Given that all of the Balkan countries aspire to join the European Union, does the EU have the (right) instruments to encourage and monitor democratic practices at the level of party politics in the region? *Prima facie*, since there is no conditionality aimed specifically at this issue, Brussels appears completely extraneous to domestic party politics in the Balkans. However, through the structure of negotiations and the interpretation of the Copenhagen criteria or of the Commission's annual progress reports, the EU *can* indirectly become an intervening factor. Its involvement can occur, for instance, (1) at the level of government-opposition relations, (2) with regard to the boundary between mainstream and radical political parties, and (3) with respect to governing parties' room for manoeuvre in policy formulation.¹⁶

3.2.1 Government-opposition relations

The EU can influence government-opposition dynamics due to the fact that the integration process has an inherent 'executive bias'. Governmental officials and civil servants – rather than politicians – exercise the main role and power in EU membership preparations. For example, the transposition of the *acquis communautaire* during the accession process is presented by Brussels as a largely administrative task: the candidate countries are not expected to debate it since it is non-negotiable and Community law takes precedence over national legislation. This leads to the marginalisation of the elected assembly and to a lack of parliamentary awareness about the details of the legislation being adopted. The effect is compounded when countries all too often try to make rapid progress and introduce fast-track procedures to get EU law through their parliaments.

The mere rubber-stamping of decisions by parliaments hinders learning of democratic processes, erodes public support for the European project and can prove quite expensive when the budgetary aspects of certain legislative acts are overlooked (such as in the environmental field, where costs are very high). The Committee for International Relations and EU Integration in the Montenegrin Parliament, for instance, has submitted only one amendment to a single bill over the past two and a half years, although 253 amendments aligning national legislation to the EU *acquis* were on the agenda between 2009 and 2011.¹⁷ In the long run, these could affect the ability and willingness of the would-be member states to play a constructive role once inside the 'club', which might eventually backfire on the EU's own 'democratic deficit'. This is why Croatia, where no legislative procedure can be completed without the approval of the Committee on European Integration, offers an inspiring example for other parliaments in the region.

Moreover, the integration-related tasks that the parties perform in office and the need to defend the compromises brokered with Brussels against domestic opposition at home tend to have a moderating effect on the parties' European stances, which can either result in the party's adoption of more positive European attitudes or the abandonment of a party's Eurosceptic views entirely.¹⁸ Indeed, actively seeking EU membership seems to have progressively won the commitment of all the Balkan governments to the goal of European integration (at least at the level of rhetoric and although some of the incumbent parties were once vocal antagonists of the EU).

¹⁶ See also Sitter, Nick and Batory, Agnes (2004), "Cleavages, competition, and coalition building: agrarian parties and the European question in Western and Eastern Europe", *European Journal of Political Research*, Volume 43, Number 4, pp.: 523-546.

¹⁷ Institut Alternativa (2011), "The Montenegrin Parliament in the process of EU integration – just watching or taking part?", p.: 7.

¹⁸ Taggart, Paul (1998), "A touchstone of dissent: Euroscepticism in contemporary Western European party systems", *European Journal of Political Research*, Volume 33, Number 3, pp.: 363-388; Taggart, Paul and Szczerbiak, Aleks (2000), "Opposing Europe: party systems and opposition to the Union, the Euro and Europeanisation", Working Paper No. 36, Sussex European Institute.

But while governments in the region might try to downplay the link between the European and national level, the opposition is likely to interpret the membership criteria and the country progress reports more extensively in order to criticise the incumbents. This can target the government's excessive EU drive, like in Serbia, where the Serbian Radical Party has repeatedly condemned the government's efforts to comply with the ICTY or normalise relations with Kosovo. In Kosovo too, Vetëvendosje has frequently accused the leadership of being too soft on the issue of Kosovo's independence from Serbia.

Conversely, opposition parties can also reproach governments for underperformance in meeting the EU's conditions. For example, the Social Democratic Union in FYR Macedonia has assigned the responsibility to the government for the lack of progress in solving the name dispute with Greece or for failing to advance in the integration process. Put differently, the opposition can more easily afford to politicise Europe in the domestic arena except perhaps if governments manage to move closer to the EU during their term in office. In that case, governmental parties, such as the Croatian Democratic Union during the 2007 elections, will seek to capitalise on and boast about their EU successes in order to surpass their political rivals.

One particularly flammable European issue for government-opposition relations in the Balkans has been the requirement of full cooperation with the ICTY. The obligation of aspiring countries to extradite citizens indicted by the ICTY for war crimes to The Hague was often interpreted by certain nationalistic and/or opposition politicians and segments of the public in the Balkans as an unreasonable demand to betray what they considered to be their national heroes. Thus, the ICTY question became the subject of heated debate in electoral campaigns, for example, during the 2003 parliamentary elections in Serbia and Croatia, and, more generally, the focus of strong anti-government propaganda in the region.

For sure, the presence of an actor from outside the political process can generally be expected to induce a 'cooperative mode' of party interaction in the foreign policy domain.¹⁹ This is true in relation to the goal of joining the EU, as the credibility of a country's membership bid can only be maintained if commitment to the strategic objective of integration expressed in a unitary position of the country lasts for several legislative terms. Moreover, negotiating governments have strong incentives to secure a high level of support at home, both from the public and the opposition, in order to save face at the European level and be able to push on with necessary but often costly reforms on the domestic stage. This dual pressure can lead to the simultaneous presence of both party conflict and party cooperation regarding Europe.

A notable example of successful efforts to bridge the government-opposition divide in European integration is the National Committee for Monitoring the Accession Negotiations of the Republic of Croatia, chaired by leader of the opposition Vesna Pusić, and comprising representatives of all the political parties in the country, as well as members of the academic community, employers' associations and trade unions. The Committee's unity in pushing for Croatia's EU membership appears to have paid off.

Conversely, as the Commission's 2011 progress reports also underline, Albania and Bosnia-Herzegovina represent cases of fierce rivalry between domestic political forces that are still confining the two states to the back of the EU membership queue. In Albania, the opposition has been boycotting parliament since the 2009 elections. With a majority vote necessary to pass many legal acts (for instance, on administrative reform and the criminal code), the parliament's work has been largely paralysed and the

¹⁹ Maor, Mosche and Smith, Gordon (1993), "Government-opposition relationships as a systemic property: a theoretical framework", Paper delivered at the ECPR Joint Sessions of Workshops, Leiden.

reform process virtually stalled for the past couple of years. Moreover, anti-government protests organised by the opposition have led to violence and in January 2011 even resulted in fatalities. In a similar vein, politicians in Bosnia-Herzegovina have been unable to agree on the formation of the government at central level and within the Federation since the last elections in October 2010, with obvious negative implications for the already frail development and cohesion of the state and its progress on the path to European integration. Despite harsh criticism from the EU of the lack of political dialogue in these countries, they have yet to overcome acute internal party polarisation.

3.2.2 Mainstream versus radical parties

In addition, the quest for EU membership can impinge on inter-party relations by reinforcing the boundaries between mainstream and radical political parties in a given system. As a rule, most parties in the aspiring countries remain by and large supportive of Europe, and strong opposition is normally documented among actors on the periphery of the political spectrum. Fringe parties tend to use anti-EU discourse as a differentiating method from mainstream parties' approach to European politics in the hope of boosting their electoral fortunes.²⁰ With little or no prospects of an executive role, these parties have little to fear from possible contradictions damaging their long-term relevance if they advocate certain policies during election campaigns and then pursue quite different ones in government. Instead, they stand to gain from attempting to mobilise electorates previously regarded as inaccessible on a nationalistic protectionist platform, or whichever basis of their makeup that also draws on a common distrust for European integration (for instance, neo-fascist, agrarian and 'new populist' parties).

However, the fact that parties resorting to this strategy have usually failed to secure executive power could suggest that the manifestation of Euroscepticism is not only a side-effect but the very cause of a party's position on the periphery of its political system. For this reason, arguably, many extremist parties in the previous EU enlargement to Central and Eastern Europe²¹ learnt to progressively moderate their views on EU integration – with varying degrees of sincerity and success – if determined to realise their ambitions of reaching office.

But such developments have also been documented in the Balkans. For instance, the Serbian Radical Party (SRS) repeatedly won a plurality of votes but was confined to the status of opposition party precisely due to its strong anti-EU rhetoric. Moreover, its antagonistic position on European integration eventually contributed to the SRS's fragmentation, when deputy leaders Tomislav Nikolić and Aleksandar Vučić broke away in 2008 to form the Serbian Progressive Party (SNS) – which is centre-right and pro-EU membership. As a result, the SNS emerged as the main rival to the Democratic Party led by Tadić, while support for the SRS has withered away. Conversely, Koštunica's Democratic Party of Serbia traded its EU-friendly rhetoric for a Eurosceptic one due to recognition by many EU states of Kosovo and, as a consequence, saw a significant drop in opinion polls. It should be noted, however, that seeds of negative sentiment towards the EU are beginning to sprout across the Serbian political spectrum, due to the perception that Brussels has failed to reward Serbia's cooperation with The Hague and is now setting new conditions related to Kosovo. The latest Commission progress report not only links Serbia's candidate status to "the understanding that Serbia is re-engaging in dialogue with Kosovo" but also makes the opening of membership talks conditional upon Serbia making "further steps to normalise relations with Kosovo". The upcoming response of the Council to the Commission's *avis* on Serbia's membership application could thus mark a crucial moment for the direction of the country and its political elites in terms of EU attitudes and commitment.

²⁰ Taggart (1998), *op. cit.*, pp.: 364, 365.

²¹ For instance, the Hungarian Federation of Young Democrats, Independent Smallholders' Party in Hungary, the Movement for a Democratic Slovakia, the Czech Civic Democratic Party, the Greater Romania Party or the Social Democratic Party of Romania, etc.

In multiparty systems, gaining office is not only conditioned by the number of votes won but also by a party's appeal to other political actors as apt for a governmental role – what Sartori coined “coalition potential”.²² The inescapable degree of dependence in the region on other parties to gain office is likely to compel political actors to formulate policies, including on Europe, that are suited to their ideological profile and popular with the electorate, as well as acceptable to potential coalition partners. And since the Copenhagen criteria are often interpreted by mainstream parties in would-be EU member states as excluding the participation of extremist parties in government (even if cooperation with them would have been an option), the coalition-building efforts of fringe parties can be reflected in a toning-down of discourses and stances which might be perceived as anti-democratic by EU standards.

Indeed, while the political criteria of membership does not explicitly formulate conditions regarding parties, the EU's demands for stable democratic institutions and respect for the rule of law, as well as human and minority rights, are generally seen in the aspirant countries as incompatible with the participation of extremist parties in positions of power.

While the current political context in the European Union is arguably different, in view of the rise of nationalistic and populist forces in several new and old member states, there are no reasons to expect that the EU has become more lenient towards radicalism in the states aspiring to membership. After all, the enlargement process gives the Union a voice and leverage vis-à-vis undesirable developments in these countries, which might be greater than in its own member states. Thus, the EU is likely to continue to frown upon and denounce publicly the inclusion of extremist parties in governmental coalitions in the Balkans. In fact, the widespread perception among the Serbian mainstream parties that the SRS is a pariah and impossible to involve in a coalition already suggests that Brussels can also inform the Balkan political parties' definition of what constitutes a feasible or permissible coalition partner. And if ultra-nationalistic political actors appear resilient in Bosnia-Herzegovina (such as the Alliance of Independent Social Democrats), it could be argued that this country is still too far away from EU membership for its political parties to be able to respond to the challenges of European integration under domestic competitive pressures.

3.2.3 The room for manoeuvre of national elites

The EU creates a political environment in which national parties find it ever more challenging to impose their stances or deviate markedly from the *status quo* in their policy options.²³ This is the case in not just its member states, where domestic competence over many policy fields has gradually shifted to the European level, but also in aspiring EU countries, whose role in the process of achieving membership has necessarily remained adaptive to a constantly expanding and largely non-negotiable sphere of conditions. As a result, the direct responsibility of national governments for, and accountability in relation to, specific policy outcomes is to varying degrees across policy areas undermined by the European Union (and other international actors, such as the International Monetary Fund (IMF) or the United States).²⁴

This phenomenon occurs beyond the non-negotiable adoption of the *acquis communautaire*: for instance, in the process of fulfilling various economic and political conditions in exchange for visa

²² Sartori, Giovanni (1976), “Parties and party systems: a framework for analysis”, Cambridge: Cambridge University Press.

²³ Hix, Simon and Raunio, Tapio (2001), “Backbenchers learn to fight back: European integration and parliamentary government”, in Goetz, Klaus and Hix, Simon (2001) (eds.), “Europeanised politics? European integration and national political systems”, London: Frank Cass, p.: 147.

²⁴ Katz, Richard S. (1999), “Parties in Europe and parties of Europe”, Conference paper EUR/7, Conference on “Multi-level party systems: Europeanisation and the reshaping of national political representation”, Florence: European University Institute, p.: 6; Deschouwer, Kris (2000), “The European multi-level party systems: towards a framework for analysis”, Robert Schuman Centre Working Paper No. 2000/47, Florence: European University Institute, pp.: 7, 11.

liberalisation or other forms of support within the SAA framework (trade concessions, economic and financial assistance, assistance for reconstruction, development and stabilisation, advice and twinning, political dialogue, etc.). It is also evident in situations where the international community pushes for constitutional change (for instance, in FYR Macedonia, Bosnia-Herzegovina) or the normalisation of relations, such as between Serbia and Kosovo. Similarly, the external pressure and constraint on national elites is visible in the context of the ongoing economic crisis, where Balkan countries seeking loans or support from abroad must govern on the EU and/or IMF ticket, abiding strictly by their rules, irrespective of their campaign promises at election time. The efforts and intervention of international actors might be justified by necessity in all these cases, but in reality, they tend to look like illegitimate imposition and to feed public distrust in national institutions.²⁵

On the one hand, such constraints may provide governing parties with the opportunity to use Europe as a scapegoat for their own failures or unpopular measures, or else allow them to claim successes at the EU level as their own.²⁶ However, on the other hand, they dent the authority of national elites to process the demands of their voters and can de-legitimise their policy outcomes. If they are unable to understand the rationale behind and source of certain decisions that (might negatively) impact upon their daily lives, people will start growing apathetic and cynical about party politics and Europe. Low levels of trust in politicians and depleted turnout in elections, as well as fluctuating public Euroscepticism throughout the Balkans (and also the EU) make this issue more apparent (see Tables 3.1 and 3.2 below, as well as Chapters 4 and 8).

Table 3.1: Parliamentary elections turnout in the Balkans

| | 2003 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
|---------------------------|-------|-------|-------|-------|-------|-------|-------|
| Albania | | 48.73 | | | | 50.77 | |
| Bosnia-Herzegovina | | | 54.94 | | | | 56.49 |
| Croatia | 61.65 | | | 59.58 | | | |
| FYR Macedonia | | | 55.98 | | 57.99 | | |
| Kosovo | | | | 44.90 | | | 45.62 |
| Montenegro | | | 72.05 | | | 66.19 | |
| Serbia | | | | 60.57 | 61.35 | | |

Source: IDEA (International Institute for Democracy and Electoral Assistance) voter turnout

Table 3.2: Public support for EU membership in the Balkans

| | 2008 | 2009 | 2010 |
|---------------------------|------|------|------|
| Albania | 83.1 | 88.1 | 80 |
| Bosnia-Herzegovina | 48.4 | 66.5 | 68.9 |
| Croatia | 28.5 | 26.2 | 24.8 |
| FYR Macedonia | 66.1 | 62 | 60 |
| Kosovo | 88.8 | 88.4 | 87.4 |
| Montenegro | 57.1 | 67.3 | 73.3 |
| Serbia | 57.4 | 50.3 | 44.1 |

Source: Gallup Balkan Monitor

²⁵ See also Krastev, Ivan (2002), "The Balkans: democracy without choices", *Journal of Democracy*, Volume 13, Number 3, pp.: 39-53.

²⁶ Putnam, Robert E. (1988), "Diplomacy and domestic politics: the logic of two-level games", *International Organisation*, Volume 42, Number 3, pp.: 427-460; Goetz, Klaus H. and Hix, Simon (2000), "Introduction: European integration and national political systems", *West European Politics*, Volume 23, Number 4, pp.: 1-26, especially p.: 10.

In the young and volatile democratic context of the Balkans, such developments – exacerbated by the current economic and financial crises – can obstruct the consolidation and stability of the countries in the region, as well as bring down popular support for Europe. Given that the EU member states are still struggling with ‘enlargement fatigue’, anything short of full commitment from the aspiring countries to the membership conditions is unlikely to open the doors of the Union to new entrants. A loss of momentum in the enlargement process will benefit neither the Balkans nor the EU. Therefore finding a solution to this growing elite legitimacy problem is imperative. Given that governments’ action – that is, the policy options that governments embrace and their outcome – may not be entirely of their own doing, the *how* of the decision-making process becomes important. Thus, finding new ways to improve policymaking procedurally must be given high and overdue priority.

To this end, the EU must assume greater responsibility because its involvement in competition between parties in aspiring members, even if unintentional, is a reality that goes far beyond the adoption of the *acquis*. In order to avoid the “domestication of Europe”²⁷ which occurs to the detriment of democratic practices and against public opinion in the Balkans, the EU should pay closer attention to the parliaments’ work, the link (or lack of it) between politics and civil society, and its own added value to the everyday lives of people in the region.

3.3 LOOKING AHEAD

In the future, the EU’s monitoring and reporting on both the legally afforded and actual contribution of Balkan parliaments to decision-making processes should be intensified (such as everyday policymaking or accession negotiations). The EU must work to develop a more active diplomacy in internal political dynamics in the countries aspiring to join the EU. Dysfunctional parliaments and disrespect for democratic practices in the domestic party-political arenas of the region are far too dangerous for the prospect of the Balkans and their European integration to justify the EU’s ‘policy of neutrality’ with respect to the internal political affairs of aspirant members. The political tensions witnessed in Albania, Bosnia-Herzegovina and FYR Macedonia already raise the question of whether the EU could or should have done more from an early stage, for instance, by naming and shaming or by publicly criticising negative tendencies. The current political stalemate of these countries, including on the EU agenda, is increasingly worrying and may further deteriorate.

The EU should also place more emphasis on democratic *processes* (that is, on the democratic quality and transparency of lawmaking mechanisms and their implementation), and not just outcomes (such as the number of laws adopted). To that end, the EU should promote the role of NGOs *vis-à-vis* the state in the region, by explicitly asking for the involvement of civil society in policy formulation (see Chapter 7). Meaningful cooperation between governments, parliamentary committees, ministries, CSOs, and interest groups should be the goal that the EU endorses and which the Balkan countries strive to achieve. And, in parallel to this, the EU should more realistically communicate enlargement on the ground, promoting a comprehensive understanding among the public of both the pros and cons of the European integration project.

Further consideration should also be given to political parties, to reform their structures and provide training on parliamentary activities. On this point, the EU should promote horizontal contacts among national parliaments within the region, as well as between Balkan parliaments and their counterparts in member states or the European Parliament. These connections could facilitate exchanges of best practices, help to identify trends and to gather comparable data, and to stimulate peer learning and

²⁷ Wallace, Helen (1999), “Whose Europe is it anyway? The 1998 Stein Rokkan lecture”, *European Journal of Political Research*, Volume 35, Number 3, pp.: 287-306.

compliance with democratic principles. In particular, the EP could allocate funds from its budget to organise seminars or information campaigns about problematic issues such as the traditional democratic functions of parliaments, the elaboration of rules of procedure and their use in practice, and the art of and need for political compromise in democratic decision-making processes.

Such efforts are indispensable if the EU is to ensure that these countries keep working towards membership and become fully operational parts of the Union upon accession.

CORRUPTION

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Corruption is supposedly an omnipresent phenomenon in human societies. However, no modern society can tolerate corruption while at the same time safeguarding democracy. The rule of law violations that corruption normally entails, such as financial misappropriation, bribery, patronage, clientelism and nepotism, effectively disable democratic control over public spending and personnel recruitment. As such, corruption takes power away from the people and deprives democracy of its substance. In the contemporary battle against corruption, the European Union is recognised as a dynamic actor and has a direct stake in it, particularly in the context of enlargement.

While corruption is difficult to properly diagnose, it usually involves the use of public office for private gain. This can include petty corruption, for instance bribery or extortion by civil servants; grand corruption, such as major procurement fraud; or embezzlement of public funds at varying levels. A key distinction must be made between countries where corruption refers to individual (and isolated) cases of infringement of the integrity rule, and countries where corruption designates an actual mode of social organisation and interaction defined by the regular distribution of goods on a non-universalistic basis that mirrors the vicious domestic power structure.²⁸ The generalised type of corruption tends to be very difficult to eradicate and must be dealt with in a systematic manner, targeting all levels and aspects of society.

The Balkan countries are usually placed precisely among those cases in which corruption is the norm rather than the exception. Several broad observations about the region prompt this claim, including *inter alia* the presence of the same individuals in influential positions regardless of the outcome of elections, high political migration from opposition to governmental parties, mediated access to almost every resource by oligarchic networks, widespread popular perceptions that politicians are above the law and that high-level corruption outlives changes in government, as well as failure to take legal action against even the most notoriously corrupt members of the status groups.²⁹

²⁸ O'Donnell, Guillermo A. (1996), "Illusions about consolidation", *Journal of Democracy*, Volume 7, Number 2, pp.: 34-51.

²⁹ Mungiu-Pippidi, Alina (2006), "Corruption: diagnosis and treatment", *Journal of Democracy*, Volume 17, Number 3, pp.: 86-99.

4.1 CORRUPTION IN FIGURES

Attempts to quantify corruption-related offences and to determine measurable evidence of the situation across countries faces significant difficulties given that reliable and comparable figures on corruption are not available. Yet non-governmental organisations (NGOs) like Transparency International and Freedom House have taken on the challenge of surveying and estimating the overtime state of corruption, as reflected in the opinions and experiences of ordinary people in many countries around the world.³⁰

According to the most recent *2010 Global Corruption Barometer*³¹ by Transparency International, almost six out of 10 people say that corruption levels have increased in their country over the past three years. This perception is prevalent among 73% of respondents in the EU 27 and 57% of those surveyed in the Western Balkans and Turkey. Worldwide, one in four people claim to have paid a bribe during the last year, and 18% of the interviewees in the Western Balkans and Turkey – compared to only 7% in 2006 – consider that the incidence of bribery has risen domestically. Similarly, the *2010 Corruption Perceptions Index*³² by Transparency International shows that nearly three quarters of the 178 countries studied – including all the Balkan states – score below the five-point level on a scale from zero (highly corrupt) to 10 (very clean). These findings clearly indicate that corruption is a serious problem throughout the world, as well as in the Balkan region.

Looking at the individual country cases in Table 4.1, 73% of people in Kosovo questioned by the *Global Corruption Barometer* report an increase in corrupt practices, followed closely by Bosnia-Herzegovina (59%) and by Croatia (57%). Kosovo is also the most corrupt entrant in the *Corruption Perceptions Index*. In the same ranking, Croatia and FYR Macedonia lead the anti-corruption fight. Likewise, a study by Freedom House – *Nations in Transit 2011*³³ – confirms that Kosovo is the laggard in the Balkans. In fact, the 2011 scores of all the Balkan countries covered by Freedom House remain the same as in 2010, with the exception of Croatia and Serbia, both of whose ratings have improved. Croatia's aggressive efforts to target high-level corruption (for instance, the arrest of Prime Minister Ivo Sanader and the sentencing of former Vice Prime Minister Damir Polančec) account for the country's better corruption score. Likewise, Serbia's recent achievements in high-profile operations targeting corruption in areas such as health care and education help to boost its overall mark.

³⁰ While their methodology has been confronted with criticism *a propos* the risk of inaccurate perceptions/answers in countries where corruption has become normalised and/or salient, their efforts provide a unique and invaluable source of transnational data on this complex topic.

³¹ *The Global Corruption Barometer* offers information not only on aggregate rates of corruption victimisation – operationalised as payment of bribes – but also on people's perceptions of the diffusion of corruption in different key public sectors and institutions.

³² *The Corruption Perception Index* ranks some 180 countries according to the perceived level of domestic public-sector corruption on a scale from 0: high corruption to 10: low corruption.

³³ *Nations in Transit* rates countries on a scale from 1 to 7, with 1 representing the highest and 7 the lowest degree of domestic progress on various standards of democracy, including corruption levels. The numeric estimates, agreed in consultation with regional experts and academic advisers, draw on public perceptions of corruption, the business interests of top policy makers, laws on financial disclosure and conflict of interest, and the efficacy of anticorruption initiatives.

Table 4.1: Corruption figures in the Balkans

| | Transparency International, 2010 | | Freedom House, 2011 |
|---------------------------|---|---|---|
| | Global Corruption Barometer - % respondents reporting an increase in corruption levels - | Corruption Perceptions Index | Nations in Transit corruption scores |
| Albania | - | 3.3 | 5.00 |
| Bosnia-Herzegovina | 59 | 3.2 | 4.50 |
| Croatia | 57 | 4.1 | 4.25 |
| FYR Macedonia | 46 | 4.1 | 4.00 |
| Kosovo | 73 | 2.8 | 5.75 |
| Montenegro | - | 3.7 | 5.00 |
| Serbia | 49 | 3.5 | 4.25 |

As the Commission’s 2011 progress reports suggest, the legal framework to fight corruption is in place in most of the countries in the Balkans, with the partial exception of Bosnia-Herzegovina, Kosovo and FYR Macedonia, where some deficiencies have been noted. However, throughout the region, the implementation of existing laws remains uneven and inadequate. Investigation, prosecution and conviction of corruption cases, especially at high level, generally continue to be ineffective. The lack of human resources and technical infrastructure in law-enforcement agencies (especially in Albania and Kosovo), the lack of expertise and low capacity of the judiciary to deal with sensitive corruption cases (in Albania, Bosnia, FYR Macedonia, and Kosovo), as well as the full immunity from prosecution enjoyed by judges (in Albania and Montenegro), prevents the emergence of a more solid track record of effective anticorruption interventions.

The 2010 *Global Corruption Barometer* shows that people around the world identify political parties as most corrupt institution. Eight out of 10 respondents assess political parties as corrupt or extremely corrupt, followed by the civil service, the judiciary, parliaments, and the police. Moreover, public opinion about political parties has deteriorated over time, as have global views about governments’ anticorruption efforts; one in two people consider them to be ineffective. Table 4.2 suggests that the Balkans fit this pattern, as most of the cases surveyed (in Kosovo, Bosnia-Herzegovina and Serbia) place top responsibility for corruption on political parties. In the other countries of the region, such as Croatia and FYR Macedonia, people recognise that the judiciary is first and foremost choked by corrupt practices, and only then political parties. As all of these institutions are crucial for the quality of democracy, the perception that they do not function is widespread.

Table 4.2: Public perceptions of corruption at state level in the Balkans

| | Political parties | Parliament/ legislature | Police | Public officials | Judiciary | Military | Education system |
|---------------------------|--------------------------|--------------------------------|---------------|-------------------------|------------------|-----------------|-------------------------|
| Bosnia-Herzegovina | 4.1 | 3.9 | 3.5 | 3.8 | 3.5 | 2.4 | 3.6 |
| Croatia | 4.0 | 4.0 | 3.7 | 3.8 | 4.1 | 2.7 | 3.4 |
| Kosovo | 4.2 | 3.9 | 2.4 | 3.2 | 4.1 | 1.3 | 2.4 |
| FYR Macedonia | 3.7 | 3.5 | 3.3 | 3.6 | 3.9 | 2.1 | 3.4 |
| Serbia | 4.2 | 3.8 | 3.6 | 3.8 | 3.9 | 2.7 | 3.6 |

Source: *Global Corruption Barometer, 2010*

On the bright side, the 2010 *Global Corruption Barometer* reveals that the general public is very willing to engage in the fight against corruption and, equally importantly, seven out of 10 respondents believe that their involvement can make a difference. In the Balkan region, 60% of people think they can have

an effect in the fight against corruption, 89% would support their friend or colleague if they fought corruption and 71% could imagine themselves getting involved in the anti-corruption effort. EU initiatives should therefore seek to capitalise on and nurture this apparently broad-based and grassroots potential for action against corruption.

4.2 WHY CORRUPTION MATTERS

Corruption thus continues to haunt the Balkans. Although in view of the most recent data provided by Transparency International and Freedom House the region appears to be making encouraging progress – with Croatia and Serbia leading the effort to tackle corruption – the usual suspects (Kosovo, Bosnia-Herzegovina and Albania) are still uncomfortably far behind.

This development contradicts early expectations that democratisation and economic liberalisation would help to constrain and even do away with generalised corrupt behaviour. Instead, the reverse has occurred: the political and market transformations undertaken in the region have provided incentives for those holding power positions in these countries to engage in rent-seeking behaviour outside established legal norms.³⁴ One common scenario, for example, is that Balkan political leaders seized the opportunity to fill the vacuum created at the fall of the communist regime by rewriting the rules of the economy and state to benefit their own interests and status. In such cases, the government acted more as a ‘grabbing hand’ than as an ‘invisible hand’, and deliberately promoted ‘partial reforms’ with the overall goal of state capture.³⁵ The strategy was so successful in some countries that it became difficult to distinguish between politicians, businessmen and magistrates, as the same individuals went from the boards of newly-privatised enterprises into political positions or control agencies, and back again.

But even when adequate (and at times quite progressive) legislation was adopted, the political will to implement and enforce it depended heavily on actual capacity: that is, an adequate state apparatus, economic improvements and general institutionalisation. However, throughout the Balkans, such prerequisites were and to a certain extent remain effectively absent.

Certainly, most Balkan states are still weak (albeit with strong national identities), separated by soft and porous borders, haunted by the legacy of war, soaked in the communist culture of political connections, and composed of dysfunctional institutions (especially judiciaries), inexperienced administrations, feeble civil societies and a high degree of external dependency. All of these (unflattering) traits help to perpetuate rather than eliminate corrupt practices, and to prevent instead of foster democratic scrutiny and prosecution.³⁶

In other words, key institutions in society, which are central to the integrity and accountability of governments and thus to the well-functioning of democracy, turn out to be severely compromised and directly liable for the corruption problem. It is undoubtedly for this reason that Transparency International persistently finds high numbers of people who blame public institutions in the region

³⁴ Vachudova, Milada A. (2009), “Corruption and compliance in the EU’s members and candidates”, *Journal of Common Market Studies*, Volume 47, Annual Review, pp.: 43-62; Moroff, Holger and Schmidt-Pfister, Diana (2010), “Anticorruption for Eastern Europe”, Special issue of *Global Crime*, Volume 11, Number 2, pp.: 237-260.

³⁵ Frye, Timothy and Schleifer, Andrei (1997), “The invisible hand and the grabbing hand”, *National Bureau of Economic Research*, Working Paper Number W5856; Hellman, Joel S. (1998), “Winners take all: the politics of partial reform in post-communist transitions”, *World Politics*, Volume 50, Number 2, pp.: 203-234.

³⁶ See Kornai, János and Rose-Ackerman, Susan (2004), “Building a trustworthy state in post-socialist societies”, New York: Palgrave; Spendzharova, Aneta B. (2008), “For the market or for our friends? The politics of banking sector legal reform in the post-communist region after 1989”, *Comparative European Studies*, Volume 6, Number 4, pp. 432-462.

for corrupt conduct. The fact that the judiciary and the police – the very actors that are supposed to penalise corruption – are so often perceived as beset by it casts serious doubt on the effectiveness of anti-corruption mechanisms, but also on the ability of governments to guarantee the rule of law and the basic democratic rights of citizens. Therefore, corruption undermines liberal democracy and people’s trust in their leaders and institutions. Moreover, as corruption becomes the standard currency for all types of societal exchange, it also takes a heavy toll on economic growth and entrepreneurship, and simultaneously breeds pervasive evils in the region, such as organised crime and terrorism (See Chapter 5).

4.3 THE EU ANGLE

The effects of corruption are clearly detrimental to the consolidation and development of the Balkan countries. The EU is equally vulnerable, as through globalisation and European integration it is poised to import the negative externalities, such as economic and security problems, of the region’s corruption malaise. Therefore, the involvement of the EU in the anti-corruption fight is important and also relevant beyond avoiding some sort of large-scale contamination. The role of the EU is in fact necessary, as the political will to fight corruption requires external assistance and support.

Corruption was put squarely on the EU’s radar by Bulgaria and Romania. Blatant corruption in these countries was a recurrent theme during their accession process, compelling the Union to adopt exceptional measures, such as the “reinforced” or “super” safeguard that could delay these states’ entry if “serious shortcomings” were observed in the fulfilment of obligations with regard to specific items, including the reform of the judiciary and anti-corruption measures in the home affairs chapters.³⁷ However, even upon joining the EU in 2007, the exposure in 2008 of Bulgaria’s illicit disbursement of European funds and the inability even four years after accession to stop their monitoring procedure in the absence of credible progress, as well as the realisation that corruption in both countries was firmly intertwined with political parties, civil society and state agencies, intensified the debate regarding the effectiveness of the EU’s leverage.

The lessons drawn from the Central and Eastern European enlargement round, especially from the cases of Bulgaria and Romania, the EU’s internal anxieties and balances, and also regional and country-specific considerations eventually brought about a change in the conditions applied to Balkan countries knocking on the EU’s door, along the lines described in Chapter 2. More specifically, in contrast to the experience of the CEE states, when the EU would “cut corners” and pursue a “package” approach to enlargement, the emphasis moved on to the “journey” for the Balkan countries, as well as on political rather than economic aspects of conditionality.³⁸

Regarding corruption, although there is not yet an EU-wide anti-corruption strategy that the Commission could enforce in the context of enlargement, the issue is essentially covered – albeit indirectly – by its EU membership conditionality. Broadly speaking, the EU follows a two-track approach to addressing corruption, seeking to ensure that the appropriate legal framework is in place (including whistle-blower legislation, the rights to access information, asset declarations, a sound penal code, etc.) and that an “Action Plan”, describing the priority areas, responsibilities, timeframe, budget and benchmarks, is being pursued.

³⁷ For instance, *Official Journal* 2005: Article 39 (2-3).

³⁸ Anastasakis, Othon (2008), “The EU’s political conditionality in the Western Balkans: towards a more pragmatic approach”, *Southeast European and Black Sea Studies*, Volume 8, Number 4, pp.: 365-377, especially p.: 366.

Moreover, while the monitoring of EU applicants was a paper-led exercise for much of the fifth enlargement round, starting (arguably too late) with Bulgaria and Romania, a case-led procedure was introduced and is now carried out before any given country can achieve association status. The paper-led method naïvely relied on the integrity of the aspirant states to truthfully answer a questionnaire assessing their corruption. In contrast, the case-led approach oversees and seeks to understand the factors that drive progress (or lack thereof) in specific national anticorruption lawsuits. Even if the observers are critical of the EU's lack of a genuine common policy against corruption, they nevertheless argue in favour of building on this case-led method, and possibly developing it into a policy applicable to EU member states too.

To be sure, the EU announced in June 2011 an anti-corruption 'package'³⁹, including an Anti-corruption Report. This will be based on information provided by the governments of the EU 27 but also by a host of other sources, such as NGOs, independent experts and tools already in place at international level, like GRECO and the OECD Group on Bribery and the United Nation Convention against Corruption (UNCAC). The precise shape and implementation of this reporting system remains for now a challenge and the focus of hot debate among the bloc's member states. Their ability to overcome resistance and differences will be a test of the EU's credibility in asking the Balkan countries to fulfil stringent anti-corruption conditions.

Meanwhile, the key to understanding rule adoption in the Balkans, particularly in the field of justice and home affairs, lies in considering that the EU has devised additional avenues of external leverage in the region, which effectively complement its membership conditionality. In particular, by means of short-term incentives in the form of targeted financial support, visa facilitation and liberalisation, student exchanges, academic programmes, and civil society assistance, the EU seems to have managed at times to influence and speed up the process of transferring EU rules to the Balkan countries. Specifically, the offer of a more relaxed visa regime in exchange for signing readmission agreements or tightening boarder controls can have a positive impact on fighting cross-border crime.

4.4 LOOKING AHEAD

Notwithstanding the progress documented by Transparency International and Freedom House, the region as a whole is still engulfed in a pervasive culture of corrupt practices. Political parties, followed closely by judiciaries, are generally perceived as most tainted by corruption, although the phenomenon actually seems to have infiltrated all levels and aspects of society. Against a backdrop of notorious state weakness, inefficient public institutions and feeble civil societies (see Chapter 7), the Balkan states often lack the capacity to implement corruption-fighting methods, even when the appropriate political will and legislative framework are in place.

Given the devastating effects of corruption and the possibility that these states may one day become EU members, the Union has a direct interest in helping the Balkans to clean up their endemic corruption. The experience of Bulgaria and Romania has exemplified the limitations of the EU's leverage, and, most importantly, underscored the effectiveness of conditionality *before* accession. Consequently, the EU has expanded its toolkit, including by pursuing improved anti-corruption methods, and has strengthened its pressure on the Balkan aspirant states, above all in the pre-association and pre-candidacy stages of the integration process. However, the anti-corruption effort

³⁹ This includes an update of the Commission's Communication (COM(2003) 317) on "A comprehensive EU anticorruption policy", an implementation report of the Framework decision (2003/568/JHA) on "Combating corruption in the private sector", a roadmap for the accession of the EU to the Council of Europe Group of States against Corruption (GRECO – of which all the Balkan countries are also members), and a new mechanism – the EU Anti-corruption Report – to monitor and assess every two years beginning with 2013 the performance of the member states in the field of corruption.

is pursued within the framework of the membership conditionality, and does not amount to a concrete policy either at national or EU level. This is a shortcoming that the EU must overcome, building on recent initiatives by the Commission and relying upon the Parliament's political support.⁴⁰ To motivate and sustain an effective fight against corruption, the EU needs to lead by example, adopting a common position and improving implementation of legal instruments in this area.

This takes on even more resonance given that the credibility of the EU's enhanced conditionality often tends to come under fire as a result of the less tangible incentive of membership in the current enlargement. Short-term incentives provided by the EU, most notably visa concessions, have managed so far to prompt rule adoption in various policy fields across the region, including with respect to curbing corruption and implementing the rule of law. While this policy-related conditionality cannot and should not substitute indefinitely for the lack of a clear anti-corruption strategy, its documented merits/results should encourage further use and refining.

Generally speaking, among the key priorities of an effective anticorruption strategy is ensuring that law enforcement agencies function well. To this end, the Commission should work closely with EU agencies such as EUROPOL, EUROJUST, the European Police College (CEPOL), and the European Anti-Fraud Office (OLAF) in order to step up judicial and police cooperation, as well as to improve training of law enforcement officials. An independent and impartial judiciary and prosecutors specialised in the fight against corruption and related crimes is essential, as is a depoliticised and professional police and administration. The recent experience of Croatia in fulfilling the benchmarks of Chapter 23 on Judiciary and Fundamental Rights suggests that reform of these structures needs time to become effective and should therefore start as early as possible. It also hints at the importance of measuring the results of any effective anticorruption initiative rather than relying on vague and non-measurable targets.

In addition, it is important for the EU to focus more attention and resources on the grassroots of the anti-corruption effort in the domestic arenas of the Balkan states: that is, civil society and the media. While the cooperation of governments is ideal if possible, the war against corruption is likely to fail if it relies exclusively, or even mostly, on the willingness of status groups and predatory elites. The 'losers' in these countries must be organised against the roots of corruption, which as discussed, often lie in the distribution of power itself.⁴¹ While Chapter 6 looks in more detail at the role of the mass media in the region, it is perhaps worth touching here upon one dilemma that the civil society faces in the Balkans.

Countless international and local non-governmental organisations in the region continue to operate in a financially and politically challenging environment. Limited resources and political pressure hinders these actors' ability to make use of additional rights, money and networks, and leaves them in dire need of EU support to build capacity. However, the opportunities offered by enlargement (EU funding or implementation of EU policies) often require partnerships with state actors, which many civil society actors are not willing to consider. NGOs in particular see themselves as independent watchdogs rather than agents of the state, not least due to past attempts by the state to use 'multi-stakeholder fora', such as civil and social dialogues, in order to circumvent transparent and democratic channels. The EU's anti-corruption strategy in the Balkans should therefore duly reflect these sensitivities, as well as differences between countries.

⁴⁰ See also the SPEECH/10/444 of Cecilia Malmström, European Commissioner for Home Affairs, "Anticorruption policy in the EU: the way ahead", given at a Public Hearing in the European Parliament: "EU anticorruption policy for sustainable future", Brussels, 15 September 2010.

⁴¹ See Mungiu-Pippidi (2006), *op. cit.*

The global economic crisis, past experience and current data suggest that the Balkan trends could intensify and also become more pertinent in future cases as the EU reaches out to its eastern and southern periphery. As such, the struggle against corruption is not likely to relax and strongly calls for a coherent and systematic policy solution, applicable both to prospective as well as full EU member states.

ORGANISED CRIME

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Corruption is intimately related to organised crime, being both a cause and a consequence of it. Under the UN Organised Crime Convention, organised crime is defined as any serious transnational offence committed by three or more people with the aim of material gain. A multi-faceted phenomenon, organised crime includes both violent types of activity (human trafficking and smuggling of drugs, weapons and cigarettes) as well as economic or “white-collar” criminal offences (counterfeiting, fraud and money laundering). Although the term “organised crime” would seem to involve hierarchical structuring and logistical coordination, present-day organised crime operates along rather flexible lines. Loose networks of criminals have replaced traditionally rigid forms of organised crime groups. Without any real specialisation according to the type of criminal activity or country of origin, organised crime gangs now cooperate on regional and international levels much more effectively than the governments and agencies that try to suppress them. Uninhibited by ethnic prejudices, political differences or bureaucratic procedures, they are solely driven by the overriding goal of making a profit.⁴²

Like corruption, organised crime is not unique to the Balkan countries, but it constitutes a severe problem in the region. The existence of organised crime in the Balkans is generally understood as a rational response to a very specific set of challenging historic circumstances, namely armed conflict and political transition. In this line of argumentation, organised crime is the by-product of intense vulnerability generated simultaneously by the Yugoslav wars and the democratisation process in the region. On the one hand, the proliferation of fire weapons, the establishment of cross-border smuggling routes to evade sanctions, the rise of local strongmen to positions of power through militia or paramilitary structures, and the existence of porous borders are just a few of the factors that have led to criminality during and after the wars. The incomplete and disoriented law enforcement institutions, high political uncertainty and widespread economic hardship which has characterised the region during its political transition has made the Balkan countries more susceptible to corruption, privatisation fraud, the rise of criminals with high-level political and commercial linkages, and many other forms of illegal conduct.

⁴² Stojarová, Věra (2006), “Organised crime in the Western Balkans”, *HUMSEC Journal*, Issue 1, p.: 112; Anastasijevic, Dejan (2006), “Organised crime in the Western Balkans”, *HUMSEC Journal*, Issue 1, p.: 13.

By the same logic, the (continuing) stabilisation and development of the region is expected to progressively weaken the incentives and opportunities for criminality. In reality, however, organised crime may impede the latent benefits of introducing democracy and market discipline before they get the chance to materialise and consolidate. The amount of money controlled by organised criminals has the capacity to corrupt political elites and law enforcement officers, as indicated by the numerous high-level corruption cases throughout the region. In turn, foreign investors are not likely to risk their capital in markets plagued by crime, just as citizens living amid criminality cannot be expected to learn to respect the rule of law or trust their political leaders and democratic institutions.

Since organised crime transcends national borders by moving westwards for commercial purposes, it brings with it the threat of violence, conflict and terrorist activities, and poses a relevant security threat to the European Union. Thus organised crime is a problem that the Balkans shares with all of Europe.

5.1 THE SCOPE OF ORGANISED CRIME IN THE BALKANS

Analysing the scope and characteristics of organised crime in the Balkans is crucial to developing any prevention and control strategies. Yet the seriousness of the phenomenon is difficult to grasp, especially since the frequency of organised criminal activities cannot be properly assessed with administrative statistics. Unlike “conventional” crimes, organised criminal offences are “victimless”, because none of the participants have any interest in bringing the matter to the attention of the police. Instead, detecting and recording organised crime relies almost entirely on the efforts of the state and local law enforcement agencies.⁴³ As such, the criminal response data risk being at best an incomplete source and at worst misleading as regards the information they provide. For instance, rather than signalling its absence, a failure to act can indicate either the lack of capacity or the metastasis of organised crime throughout societies. Conversely, any organised crime-related arrest or contraband seizure can speak less of the extent of crime in a country and more about the good work that the police carry out in combating organised criminal activity. In other words, caution is paramount when interpreting the data reported.

At a general level, statistics on cases of organised crime, arrests, convictions, and seizures made within the region would suggest that extensive resources are dedicated to criminal investigations. The Council of Europe’s 2004 *Situation Report* claims that the governments of the Balkan states identified over 2,500 organised crime operations in 2003, with just under 9,000 suspects identified or prosecuted. Albania, for instance, a country with limited capacity to fight organised crime, had more investigations per capita in 2003 than any other country in the region, and this number increased by 50% in 2004. The growing efficiency of the Albanian law enforcement authorities with regard to curbing criminal gangs is also confirmed by the *Regional Report on the Western Balkans* issued by the Council of the European Union in 2009. These figures demonstrate that although organised crime is a reality in the Balkans, the region is actively trying to cope with it.

Then again, in order to be able to access more recent and detailed information on the situation of organised crime in the Balkans, it is perhaps useful to look at the different categories of offence. Although recent analyses reveal that organised crime groups are increasingly involved in more than one type of crime⁴⁴, two particularly prevalent and frustrating crime sectors emerge: trafficking drugs and trafficking human beings.

⁴³ UNODC (2010), “The globalisation of crime: a transnational organised crime threat assessment”, p.: 1.

⁴⁴ UNODC (2008), “Crime and its impact on the Balkans and affected countries”, p.: 58.

5.1.1 Trafficking drugs

Drug trafficking is the most important source of income generation for Balkan organised crime, although the exact profit collected by local organised crime structures and corrupt officials is unknown. Still, in 2009 the Council of the European Union identified the region as the main warehouse for stockpiling and smuggling opiates and heroin imported from Afghanistan and *en route* to the most lucrative consumer market – Western Europe. The *UNODC 2010 Report* states that Afghanistan supplies some 90% the world's heroin and 37% of that amount is annually trafficked via the “Balkan route”⁴⁵ into Europe. Various reports also cite the “Balkan route” as an increasingly frequent passage point for cocaine from South America into the EU.

Overall, the Western Balkan region serves first and foremost as a transit and storage area for drugs and not as a hot spot in terms of drug production or demand-related issues. Although in 2009 the Council's *Regional Report* shows a slight increase in the domestic use of drugs in the Balkans, especially in Kosovo, Montenegro and FYR Macedonia, levels of substance consumption in the region are still lower than Western Europe in every drug category, and often by quite a significant margin.

Of the wide variety of illicit drugs, the heroin trade is the most profitable and problematic, not least due to the human costs it inflicts on the productive strata of society (where the average age of a heroin addict is 25) and by means of AIDS dissemination. UNODC estimates that each year about 100 tons of heroin crosses South Eastern Europe on its way to Western Europe, of which 85 tons eventually makes it to the consumer, ensuring a flow valued at some 25-30 billion US dollars annually.⁴⁶ In 2009, an estimated 65 tons of heroin reached the Balkan countries, of which some 60 tons were trafficked onwards to Western and Central Europe, mainly to the United Kingdom, Italy, the Netherlands, Germany, France, and Belgium.⁴⁷

The data suggest that heroin seizures in Western and Central Europe declined by approximately 30% during the period 2000-2005.⁴⁸ This may be due to the fading popularity of heroin in Western Europe, as addicts switch to synthetic opiates and youngsters seem to prefer cocaine, or it could be due to improved security. Yet across the Balkans, the reported levels of heroin seizures in 2008 varied significantly among the countries directly straddling the main heroin trafficking routes, ranging from very low in Montenegro (18 kg), Bosnia-Herzegovina (24 kg), FYR Macedonia (26 kg) and Albania (75 kg) to higher in Croatia (153 kg) and Serbia (207 kg).⁴⁹ The amount of cocaine seized in Kosovo in the first half of 2011 is even lower at 2.5 kg, according to this year's Commission progress report.

Additionally, statistics reveal that the number of South East Europeans arrested for heroin trafficking in key countries like Italy, Germany and Switzerland has been falling as well. In particular, heroin trafficking by ethnic Albanians – the single most notorious Balkan crime phenomenon – has apparently diminished in scale based on the information provided by Western European law enforcement agencies.⁵⁰ While small numbers of people can still be responsible for a large share of heroin trafficking, in most cases (with the notable exception of Switzerland), the majority of those arrested turn out to be citizens of that country and not consistently representative of any specific foreign group or cartel. Thus, the heroin trafficking situation is complex and many challenges, including inadequate judicial follow-up, persist in the region and beyond.

⁴⁵ The Balkan route originates in Afghanistan, passes through the Islamic Republic of Iran and Turkey, and reaches the Balkans via Bulgaria, with a smaller flow through Greece.

⁴⁶ UNODC (2008), *op. cit.*, p.: 59.

⁴⁷ UNODC (2011), “World drug report”, p.: 72.

⁴⁸ UNODC (2008), *op. cit.*, p.: 60.

⁴⁹ UNODC (2010), “World Drug Report”, p.: 21.

⁵⁰ UNODC (2008), *op. cit.*, p.: 19.

5.1.2 Trafficking human beings

While drug trafficking may generate the most profit, human trafficking draws the most opprobrium for the Balkans. According to the 2006 Europol report, the Balkans can be labelled the epicentre of human trafficking in Europe. The essence of human trafficking is the coercion of individuals into forced labour by those in a position to exert power over them: organised criminal groups. The phenomenon involves trafficking of women, especially for sexual exploitation; men, usually poor migrants for illegal labour markets; and children, mostly ethnically Roma, for begging and stealing. All of these groups are essentially deprived of their human rights in the process. The profits earned by organised crime from human trafficking and exploiting are vast, globally estimated at 32 billion US dollars annually.

Data on the size and characteristics of human trafficking are scarce and divergent, varying according to the source. This underlines not only the secretive nature of this criminal activity but also the absence of a collective system for monitoring and analysing developments in this field. According to the *Forced Labour Statistics Factsheet* (2007) from the International Labour Organisation, some 2.5 million people are forced into work (including sexual exploitation) at any given time as a result of trafficking. The favoured targets are women and children, and the majority of victims are between 18-24 years of age.⁵¹ Children make up 50% or 1.2 million of the total number of victims trafficked each year.⁵² About 95% of all trafficked people experience physical or sexual violence, 43% are used for forced commercial sexual exploitation (of whom 98% are women and girls) and 32% are coerced for economic exploitation (again mostly women and girls).⁵³

The Balkan region is predominantly reported to be the origin of victims destined for exploitation in Western Europe (99%), and to a lesser extent as a transit or destination hub (about 50% in each of these last two cases). At the country level, within South Eastern Europe, Albania, Bulgaria, Lithuania, and Romania are also ranked very high as countries of origin.⁵⁴ According to EUROPOL, the top destination countries for trafficked victims in Europe are: Austria, Belgium, France, Germany, Greece, Italy, the Netherlands, Spain, and the United Kingdom. Notwithstanding international pressure on the Balkans to stop the trade, only a remarkably small number of victims in the region come to the attention of authorities: about 250 cases of trafficking each year.⁵⁵

After a peak in the 1990s, human trafficking appears to be currently in decline. The overall number of victims and traffickers from the Balkans detected in Western Europe has also been greatly reduced from previous estimates, and the main nationalities are Romanian and Bulgarian rather than Albanian and Moldavian, as used to be the case.⁵⁶ While these observations cannot rule out the possibility that human traffickers have found new ways of evading detection, the data and social dynamics in the Balkan region suggest that the crime situation is actually getting better. However, prosecution and convictions are rare, even if the efficiency and capacity of police forces might be improving.

The United Nations Office on Drugs and Crime provided in 2008 at least four reasons why the Balkans no longer represent a favourable environment for criminality. First, the demographics of the region are not conducive to the development of crime, as in most countries only 7-8% of the population are males between ages of 15 and 25, which is the most common age bracket involved in felonies. This is not likely to change in view of the low birth rates in the region and the large emigration of young males in

⁵¹ International Organisation for Migration, Counter-Trafficking database, 78 Countries, 1999-2006 (1999).

⁵² UNICEF (2003), "UK child trafficking information sheet".

⁵³ International Organisation for Migration, Counter-Trafficking database, 78 Countries, 1999-2006 (1999).

⁵⁴ UNODC (2006), *op. cit.*

⁵⁵ UNODC (2008), *op. cit.*, p.: 75.

⁵⁶ See UNODC (2008), *op. cit.*, p.: 75.

search of work abroad. Second, from a global perspective, the Balkan countries are well developed in terms of poverty and education levels, reducing many of the social stresses that could fuel crime. Third, income inequality, regarded as the most robust quantitative correlation of crime rates, is not pronounced in the Balkans. Last but not least, while urbanisation can be seen as a risk factor for crime, the region is highly rural compared to Western Europe, and the pace of urban growth is only moderate.

Clearly, there are several exceptions to these positive generalisations, including Albania, which is younger than the rest of the region and experiencing rapid urbanisation, or FYR Macedonia, which has more uneven income distribution and higher unemployment levels than the other Balkan states. Finally, significant challenges still lie ahead with regard to strengthening capacity for border control and the rule of law throughout the region, particularly in cases such as Kosovo.

5.2 FIGHTING ORGANISED CRIME IN THE REGION

In recent years, most Balkan countries have made efforts, to various degrees, to improve their security systems, their legislative framework and law enforcement agencies. Moreover, they acknowledged that purely national responses to organised crime did not resolve but simply displaced the problem from one country to another, and so began to foster a multi-disciplinary and collective strategy to fight the phenomenon. As a result, cooperation among most countries of the Balkans has been upgraded, both on a bilateral and multilateral level.

Several important events in the realm of regional cooperation have put a more positive light on the organised crime situation in the Balkans. For instance, in June 2010, Serbia and Croatia signed a defence cooperation agreement, only a month after the two countries announced plans for a regional centre to fight organised crime. Soon after, Serbia-Croatia police cooperation already bore fruit when on 10 June 2010 Miloš Simović, a member of Serbia's notorious Zemun gang, was arrested while trying to flee from Croatia to Serbia. Likewise, Croatia and Serbia have signed agreements with Montenegro and Bosnia-Herzegovina on establishing common border patrols, arranging meetings between border police representatives on a regular basis, and exchanging border police liaison officers.⁵⁷ Cooperation between the Montenegrin and Croatian police in operation 'Ekvador' led to charges against one suspect from Germany and one from Montenegro on the basis of evidence that they were smuggling cocaine from South America and were involved with organised crime in the manufacturing of drugs and corruption. Cooperation between some 250 Montenegrin and Albanian police officers between 2008 and 2009 as part of the intervention "Golub" was equally successful. The operation resulted in the arrest of more than 30 suspects for large-scale criminal activities during the last one-and-a-half decades, as well as the confiscation of 588 kg of 'skunk' – weapons, money and vehicles.

Albania then sought to reinforce ties with Kosovo, even though the status of this UN-administered province remains uncertain. In 2006, the two neighbours signed a memorandum of understanding on the prevention of money laundering, thereby facilitating communication and information exchanges to combat the financial infrastructures of organised crime and terrorism linked to financial activities. In contrast, virtually no cooperation exists between authorities in Kosovo and Serbia.

At the same time, the regionally owned Southeast European Cooperation Process (SEEC) and the Regional Cooperation Council (RCC) have been working hard to upgrade and streamline the institutional dimension of regional cooperation. In joint efforts, six regional organisations and initiatives were set up to counter trans-border organised crime, corruption and illegal migration,

⁵⁷ Council of the European Union, "Regional report on the Western Balkans", 11153/09, 19 June 2009, Brussels, p.: 35.

including the Southeast European Cooperative Initiative's Regional Centre for Combating Trans-border Crime (SECI), the Southeast European Law Enforcement Centre (SELEC – operational police and customs cooperation), the Police Cooperation Convention for South East Europe (PCC – addressing the security of borders), and the Southeast Europe Police Chiefs Association (SEPCA – creating a framework for strategic cooperation at the highest levels of police).

These instruments contribute to the adoption and implementation of the *acquis* by the Balkan aspirants to EU membership and also make the monitoring and uprooting of criminal activities more efficient. Operation 'Mirage', which was launched by SECI as early as 2000 to crack down on human traffickers, is particularly evocative. As a result, law enforcement authorities from the region identified around 600 traffickers, freed about 500 victims, and applied administrative sanctions (consisting of fees, interdictions, temporary imprisonment, and deportation) in 2,175 cases. Yet even this success story exposed institutional limitations and weaknesses, as only 50% of those arrested in the SECI cooperation effort had been tried by 2004 and only five cases resulted in convictions. The rate of convictions remains low, according to the Commission's 2011 progress reports (for Serbia and Kosovo).

The situation is further compounded by the lack of coordination within some Balkan countries. This is the case in (northern) Kosovo and especially in Bosnia-Herzegovina, where efforts to harmonise the laws of the two entities that comprise it – Republika Srpska and the Muslim-Croat Federation – have failed so far.⁵⁸ In addition, persistent shortages of human resources, infrastructure, technical advice, equipment, and training overshadow the encouraging steps made in relaxing regional relations. Last but not least, the poor, understaffed, corrupt, and dysfunctional justice systems of the Balkan states remain a serious, outstanding problem that renders regional efforts to combat organised crime still inadequate.

5.3 THE ROLE OF THE EU

While local and regional efforts are crucial, the need for a coordinated approach at European level and even internationally is indispensable. This should occur within the framework of the competent international and European institutions. From the international perspective, the activities of the United Nations Office on Drugs and Crime (UNODC), the Organisation for Security and Cooperation in Europe (OSCE) and Interpol; the programmes of the Geneva Centre for the Democratic Control of Armed Forces (DCAF); donors from EU countries; United Nations agencies; as well as other partners and development agencies are addressing the region's main strategic priorities. All of the potential or current candidate countries from the Balkans (except Kosovo) have ratified the United Nations Convention against Organised Crime and all are members of Interpol, the OSCE and DFAC.

For its part, the EU offers full support to these endeavours and continuously seeks to reinforce efforts to set up structures that can combat organised crime in the Balkans. However, the EU has no plans to build a comprehensive system of its own, but instead aims to fill in gaps rather than duplicate existing (international) instruments. Therefore, the European Commission works closely with the UN and the Council of Europe in this field.

By far the most important advance in EU law-enforcement cooperation in recent years was the development of Europol – the EU's own law-enforcement agency. The purpose of Europol is to coordinate action by the bloc's national police forces combating a wide variety of criminal activities, including illegal trafficking in drugs and human beings, smuggling stolen vehicles and radioactive or nuclear materials, and tackling illegal immigration networks, money laundering and euro

⁵⁸ Anastasijevic, Dejan (2006), *op. cit.*, p.: 3.

counterfeiting. Europol has operational agreements with Croatia and strategic agreements with all other Balkan states except Kosovo. Furthermore, in April 2010, the European Commission published a Directive⁵⁹ on trafficking in human beings aimed at further approximating legislation and penalties, and ensuring successful prevention and prosecution of trafficking, as well as offering victims enhanced protection and assistance.

The enlargement process in itself and the progressive adoption of the EU *acquis* inevitably encourages the countries of the region to undertake major reforms in the area of rule of law, particularly the fight against organised crime and corruption. The SAA includes a thick Justice and Home Affairs (JHA) chapter, which covers the reinforcement of institutions and the rule of law; cooperation in the area of border control, visa processing, asylum, migration and readmission; as well as cooperation to combat crime, money laundering, illicit drugs, and issues relating to personal data processing. Chapter 23 on the Judiciary and Fundamental Rights proved a challenge and delayed the conclusion of EU accession negotiations with Croatia until the fulfilment of specific benchmarks.

In addition, the EU is providing assistance to all the states of the region via the CARDS programme. The justice, freedom and security areas represent a priority for CARDS support. This aid targets primarily the police, public order and organised crime, integrated border management, and judicial reform, asylum, and migration. Furthermore, the use of twinning with member-state administrations as an instrument to implement CARDS has been introduced in all the countries of the region. Many of the planned twinning projects in the Balkans are in the justice, freedom and security domain, such as organised crime and border management. Finally, under the Technical Assistance Information Exchange Office (Taixex) programme, the Commission is organising various justice and home affairs seminars for the Balkans on a broad range of topics.

5.4 LOOKING AHEAD

Efforts to combat organised crime in the Balkans have taken a promising turn as they have intensified both at the international and EU level, as well as across the region. But much remains to be done before criminality can be declared defeated in the region.

Legislation as a starting point is essential but needs to be anticipatory rather than reactive and must be actually implemented. Here, the judicial systems and law enforcement agencies in the countries of the region are in dire need of restructuring to become more efficient, independent and consistent with EU laws and principles. The persistent problem of high-level corruption is a major impediment to any progress in this regard and anti-corruption measures should therefore be boosted.

Moreover, national capacities to discover and prosecute criminal activities must be strengthened. To this end, more technical and financial assistance is needed to enhance the performance of domestic anti-crime strategies and bodies, and to adapt them to European standards.

Furthermore, because organised crime does not stop at borders, cooperation at all levels is essential for responding to crime effectively. Cooperation between the police forces and the judiciaries of the region, border management projects, intelligence-sharing, and joint operations should be further intensified. However, on this point, efforts should be made to reinforce existing instruments that have demonstrated added value (for instance SECI), rather than creating new mechanisms, which

⁵⁹ Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, 5 April 2011.

produce overlapping competences and waste resources. In this sense, a review and overhaul of existing but less competent bodies might be in order.

In addition, the EU should step up to the plate with a more forceful strategy by pressing harder for reform of security systems in these countries and by upgrading its assistance to specialised enforcement units, department and agencies that fight organised crime in the region, so as to allow them to perform better and independent of political interference. Equally important, the EU should make sure that the security reforms in the Balkans go hand in hand with the imperative of restructuring their judicial systems.⁶⁰ Moreover, as organised crime thrives on the corruption that is still pervasive in the region, it is arguably advisable for the EU not to put all its faith in the political will of these countries' elites to fight organised crime, but also to seek allies among individuals and civil society in the Balkans (Chapter 7 returns to this idea).

⁶⁰ See also Anastasijevic, Dejan (2006), *op. cit.*, p.: 14.

PRESS FREEDOM

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Media freedom epitomises the basic right to free expression and is an essential tool for defending all other fundamental rights. As such, freedom of the media is essential for protecting democracy and peace. Without the ability to access and exchange information, without fearless fact-finding or exposure of potentially uncomfortable truths, and without debates that accommodate critical and divergent points of views, democracy is merely an empty shell. Media freedom is particularly significant in the fragile democracies and volatile economic contexts of the Balkan states. In this environment, the media are an easy target for corruption and control. Incidentally, the media can also serve as a potent weapon to fight and uproot undemocratic and illegal practices in the region.

6.1 THE MAIN TRENDS

The authoritative source of information on the status of the media around the world is Freedom House's annual index on *Freedom of the Press*, published since 1980.⁶¹ According to *Freedom of the Press 2010: A Global Survey of Media Independence*, global press freedom once again declined in 2009, with setbacks registered in nearly every region of the world. This marks the eighth year of overall deterioration, including a worrying trend in which societies previously identified as *free* have been downgraded to *partly free*, and a climate in which only one in six people on the planet can be said to be living in states with a free press. Of the 196 countries and territories considered in 2009, 69 (35%) were rated *free*, 64 (33%) were evaluated *partly free*, and 63 (32%) were regarded *not free*. In Central and Eastern Europe, including the Balkan states, the regional scores indicate a modest decline, with improvements in the political category partly offsetting a drop in the economic criteria. With scores between 31 and 60, all the Balkan countries rank as *partly free* (see Table 6.1). The

⁶¹ This assesses the degree of print, broadcast and internet freedom in every country on the globe, based on developments during each year. Ratings are determined through an examination of three broad categories: the legal environment in which media operate; political influences on reporting and access to information; and economic pressures on the content and dissemination of news. Ratings reflect not just government actions and policies, but also the behaviour of the press itself in testing boundaries, even in restrictive regimes. Each country receives a numerical rating from 0 (the most free) to 100 (the least free), which serves as the basis for a press-freedom status designation of *Free*, *Partly Free*, or *Not Free*.

Freedom of the Press Country Reports for 2011 reveal a stable situation overall compared to the previous year. Among the most notable changes were those recorded by Croatia and FYR Macedonia, whose scores worsened, and by Serbia, whose score improved again for the second consecutive year since it began to be considered separately from Kosovo in the survey.

Table 6.1: Press freedom scores in the Balkans

| | 2010 | 2011 |
|---------------|------|------|
| Albania | 50 | 50 |
| BiH | 48 | 48 |
| Croatia | 40 | 41 |
| FYR Macedonia | 46 | 48 |
| Kosovo | 53 | 53 |
| Montenegro | 37 | 37 |
| Serbia | 35 | 33 |

Source: Freedom House

6.2 THE BIG CHALLENGES

6.2.1 Political and economic pressure on media

While the specifics of the media situation might differ from one country to the other, several common and dysfunctional threads run through the entire region. First, the adoption of progressive legislation does not seem to have deterred the meddling of state institutions and business interests in the media affairs of the Balkans. The local public media are particularly vulnerable to political interference in Albania, Serbia, Bosnia-Herzegovina, Kosovo, and FYR Macedonia, despite extensive reforms of the legal framework regulating media work. In Serbia, for instance, local officials in the town of Pirot withdrew in February 2011 contractual support for the weekly *Pirotske Novine* after the newspaper had published a critique of the mayor's financial activities, and the following month, the authorities in Novi Pazar used the threat of terminating a contract with the local station *TV Jedinstvo* as a means of influencing its editorial policy.

Additionally, state agencies often try to manipulate media content through advertising purchases. For instance, select media in FYR Macedonia receive massive amounts of cash for government-friendly promotion, whilst state-owned companies in Bosnia-Herzegovina at times withhold advertising benefits for media outlets that speak negatively of the authorities. Alternative means of imposing financial constraints are illustrated by Albania, where the government of Prime Minister Sali Berisha has repeatedly used administrative mechanisms, including tax investigations and arbitrary evictions from state-owned buildings, to disrupt the operations of media perceived as hostile. This was also the case with the newspaper *Tema*, which was evicted in January 2009 despite a court order to halt the action. A wave of closures of anti-government media outlets occurred this summer in FYR Macedonia, including three dailies: *Vreme*, *Spic* and *Koha e Re*, as well as the country's most popular TV station, *A1* – all owned by mogul Velija Ramkovski, who is on trial for tax evasion. Amnesty International, the OSCE, the South East Europe Media Organisation (SEEMO), Reporters without Borders, and most recently the Commission's 2011 progress report on FYR Macedonia have duly condemned these actions for being politically motivated. Even in Croatia, many media outlets avoid discussing the government's fiscal policy because they fear repercussions against their inability to pay taxes and the threat of having to file for bankruptcy.

The region offers various examples of how sharp political polarisation is reflected in the media environment, which remains highly fragmented along political and/or ethnic lines. Many media outlets in Serbia, FYR Macedonia, Albania, Bosnia-Herzegovina, and Kosovo are said to be aligned to specific political parties, which exchange financial backing for favourable media coverage. In Albania, this influence can be exerted by the two main rival political forces in the country by means of “ready-made news” produced in the party headquarters and sent to media outlets, where it is simply published or aired without editorial changes. It can also be evident in the actions of the three pro-government Macedonian reporters who disrupted a public hearing held this September in the European Parliament on the subject of press freedom in FYR Macedonia, by aggressively calling their fellow colleagues on the speaker’s panel “traitors” and accusing the event organisers of seeking to trash FYR Macedonia. The incident was published in FYR Macedonia even before the debate had started in Brussels, strengthening suspicions that it was simply ‘engineered’ to manipulate the Macedonian public.

These situations clearly erode public trust, harm the quality of media coverage, encourage self-censorship, and inhibit the development of independent journalism. Moreover, the dependence of journalists on economic and political patronage essentially deprives them of any real employment rights or security. Most journalists work without employment contracts and, to make matters worse, high national unemployment rates and low salaries tend to push independent media in the region to sideline reporting on municipal affairs in favour of more lucrative commercial entertainment.

6.2.2 Laws criminalising journalistic errors

Most governments have been slow to reform or eliminate the array of laws that punish journalists and news outlets. Both governments and business actors continue to restrict media freedom through the broad and disproportionate application of laws on libel and defamation or of rules that forbid “inciting hatred”, commenting on sensitive topics such as religion or ethnicity or “endangering national security”.⁶² Although such legal constraints are no longer punishable with imprisonment, the threat of high fines, civil lawsuits, and other types of penalty remains genuine, forcing journalists to engage in self-censorship. In Croatia, journalist Zeljko Peratovic, who writes about the war crimes of the 1990s, was sentenced in January 2009 to one year in prison and possible fines demanded by the Minister of the Interior as a result of his choice of topic and arguments.⁶³ Fines for libel in countries like Serbia or Montenegro can rise to a staggering €14,000 and in August 2009 the Serbian parliament passed a new media law reinforcing retribution for journalistic errors. However, one positive legal development in Serbia in 2010 was the case against journalist Dragana Kocić and editor Timošenko Milosavljević of the daily *Národniq*, which ended in favour of the defendants, who were initially sentenced to heavy fines for having published quotes from official documents.⁶⁴

6.2.3 Violence against journalists

Enduring incidences of violence and physical harassment directed at journalists by government and non-state actors confirm these restrictive conditions, with cases of intimidation or (brutal) attacks against journalists common in most Balkan countries. In Croatia, two journalists from radio and television station *HRT* were trying to cover a nationalistic celebration of a Croatian victory during the Yugoslav war, and were threatened and stoned last August by participants in the event. In October 2010, staff members at Croatian weekly *Novosti* received death threats in response to the publication of an article about a collision between two national military planes. In Serbia, a reporter

⁶² Freedom House, Press Freedom in 2009.

⁶³ Freedom House report on Croatia, 2008.

⁶⁴ Freedom House report on Serbia, 2011.

for the weekly *Vreme* was attacked last July by two men, who were later sentenced to three months in prison, despite the fact that the law stipulates a minimum of six months for violent assaults. And in Kosovo, explosives were detonated outside the home of the editor of *Radio Kosovska Mitrovica*, Caslav Milisavljevic. Unsolved incidents have also occurred in Montenegro, where several vehicles belonging to a daily newspaper were set on fire.

Incitement of violence against journalists remains a widespread and highly disconcerting tactic. For example, in February 2009, a pro-Berisha Albanian daily – *Koha Jone* – called for the murder of Mero Baze, the publisher of *Tema*. In November 2009, Baze was allegedly beaten severely by oil magnate Rezart Taçi and his bodyguards, after the journalist accused Taçi of tax evasion. Taçi, who has close ties to Berisha, was acquitted in December 2010, while his bodyguards were each fined about \$3,500. Likewise, in May 2010, Macedonian TV host Milenko Nedelkovski issued a list of journalists who he considered to be traitors and asked for their “liquidation”. Although various NGOs and the association of journalists in FYR Macedonia condemned the act as hate speech, no official action was taken against the presenter. Also in Kosovo, the newspaper *Infopress*, heavily funded by the state, called in 2009 for the murder of prominent journalist Jeta Xharra, who has reported government corruption without incurring any repercussions.

There has been little progress in the prosecution of such cases, and investigations into murders of journalists often date back several years. In a modest boost to media freedom, three suspects who were arrested in 2009 for their involvement in a 2008 car bombing that had killed the owner and director of Zagreb weekly *Nacional* went on trial this past April. In the same month, three out of six people accused of threatening a Serbian journalist at *B92*, Brankica Stanković, in late 2009 were sentenced to prison terms of between three and six months. However, many cases are still pending and abuse of journalists continues, often with the participation or at least the knowledge of the government.

6.2.4 Media ownership

Media ownership that is concentrated in just a few or anonymous hands does not support press freedom. Foreign investment in the media can bring money, technology, knowledge, and a Western way of thinking to the region.⁶⁵ Moreover, large-scale foreign investment can help strengthen the position of publishers or broadcasters faced with pressure from politicians.⁶⁶ But control of various media outlets by one single foreign company can lead to problems in the young and still developing media markets of Balkan countries.

Large foreign companies in control of a large share of the media market can create unfair competition for smaller actors who cannot afford to keep prices down. They can also skew public discourse by excluding or under-representing certain viewpoints, and can ignore the need to ensure proper working conditions for journalists. Moreover, as they are often primarily interested in so-called ‘yellow journalism’, they encourage lower standards and harm the quality of media content. Furthermore, hidden concentration or sleeping partners – a problem signalled in Serbia, for instance – can reduce the pluralism of the media market and undermine democratic principles.⁶⁷

One of the most controversial foreign investors in the media in the Balkans is the *Westdeutsche Allgemeine Zeitung*, which owns several print media in Serbia and Croatia, as well as a daily in

⁶⁵ Oliver Vujovic, SEEMO Secretary General, cited in South East Europe Media Organisation (2005), “Independent Media? Ownership and Editorial Freedom in South Eastern Europe”, *deScripto* No. 2, p.: 5.

⁶⁶ Beata Klimkiewicz, Assistant Professor at the Institute of Journalism and Social Communication in Krakow, cited in South East Europe Media Organisation (2005), *op. cit.*, p.: 6.

⁶⁷ Horst Pirker, CEO Austrian Styria Media Group, cited in South East Europe Media Organisation (2005), *op. cit.*, p.: 6.

Montenegro. In FYR Macedonia, this German company holds a monopoly⁶⁸ given that it controls three major daily newspapers with a huge market share of almost 90%. These investments also target printing houses in addition to newspapers and magazines, as Austrian firm Styria demonstrates in Croatia. The 2011 Commission progress reports on Serbia and FYR Macedonia clearly identify opaque and highly concentrated media ownership as a major problem in both countries.

Consequently, it seems quite obvious that the Balkans still face enormous challenges in implementing the adopted legislation and giving full effect to the right to freedom of expression. In particular, a lot of room for improvement is noted in regard to restrictive legal regimes, political and economic pressures, lack of tolerance of criticism on the part of the powerful, and violence against journalists. National efforts must intensify to address these issues.

6.3 THE EU AND MEDIA FREEDOM

Media freedom is assessed in the Commission's annual reports on the progress achieved by current and potential candidate countries in the Balkans. However, so far the EU's strategy has been mainly reactive, particularly to escalating events, rather than reflecting a policy. In order to advance media freedom and enhance the watchdog function of the media, various EU initiatives have provided training, as well as legal and technical support to independent media outlets in the region. For instance, the Commission provided financial support to projects striving to raise journalistic standards in Kosovo, and offered training assistance to a Macedonian initiative for judges and prosecutors. The EU recognised the need for better education by creating the TEMPUS programme, which includes media projects, such as the Journalism Education and Training in Croatia, and seminars that seek to raise public awareness of quality in journalism and to train media staff in the Balkans.

In addition, organisations such as UNESCO and the OSCE alongside the EU help to disseminate and anchor ideas of media freedom and the right to access information. The OSCE Representative on Freedom of the Media collects information on the media situation in the OSCE participating states and seeks to provide an early warning function as well as a rapid response to serious non-compliance with stated OSCE principles and commitments to the freedom of expression. Likewise, UNESCO fosters media independence and pluralism as a prerequisite of democratisation by providing advisory services of media legislation and sensitising governments, parliaments and decision-makers. In a similar vein, with support from the United Nations Development Program, the US government set up a regional network of investigative journalists in South Eastern Europe via the Crime and Corruption Reporting Project, while the International Centre for Education of Journalists in collaboration with the Society of Croatian Journalists has been organising since 1998 workshops and seminars for media professionals. In such seminars, international and local experts can simulate press conferences or share knowledge of the technical, legal and ethical aspects of journalism worldwide.

While supporting efforts are well-intentioned and sound impressive, they remain fragmented and limited in their effectiveness to communicate and implement democratic values and standards in the Balkans. Moreover, sceptics question the likelihood of securing freedom for the media in a region that is still plagued by corruption at the highest level and in view of the EU's heavy reliance on the political will of elites to carry out the democratic reform agenda. The EU is therefore encouraged to develop a more inclusive strategy in assisting the fight for media freedom in the Balkans, one that can target the corruption problems, the implementation of the legal framework, the need to foster a

⁶⁸ Aidan White, General Secretary of the International Federation of Journalists, cited in South East Europe Media Organisation (2005), *op. cit.*, p.: 8.

democratic culture, regional cooperation, and to educate and support financially aspiring journalists, professionals and civil society in the region.

6.4 LOOKING AHEAD

Overall, although freedom of the media in the Balkans is formally stipulated, in practice it is insufficiently enforced. Persistently high levels of corruption and illegal activities in connection with organised crime weaken the voice of the media. The trends documented by Freedom House are all negative and declining. The problems experienced by Croatia should signal red alarm bells for the EU. While the legislative framework is largely in place throughout the region, urgent steps include the need to ensure implementation, restore the independence of public service broadcasters and improve media pluralism and transparency of ownership. On this last point, media legislation should include provisions stipulating restrictions on concentration and media ownership should be publicly accessible. The EU should draw on its experience and competences in the domain of competition law in order to assist the Balkans in disbanding media monopolies in the region. In addition, pressure on governments to loosen their grip on the media should come from Brussels as well as from professional associations and media outlets in the region. Regional information exchange between independent media experts, sharing know-how and alerting problems to Brussels could help with this process.

Journalists within and across the region should strive for better organisation and coordination of efforts to improve the conditions and quality of media in the Balkans. In this sense, a recent example of a comprehensive story on asylum seekers covered by the joint efforts of journalists from different countries in the region (including FYR Macedonia, Bosnia and Serbia), who took turns to travel by bus on stretches of the road to Brussels (because none could have financed the entire journey alone), should be emulated in future. Training for journalists (and also government officials) on ethical journalism, media accountability and the ‘watchdog of democracy’ function should be considered. Funds could also be set up at European level to help investigative journalism in the region and strengthen associations of journalists that seek to defend the standards and role of the profession.

In addition, the EU should better monitor the situation on the ground and take a more hands-on approach to securing reform and results. In particular, two areas must be prioritised. The first concerns the judicial system, which is still not independent from political or economic pressures, and as a result has so far failed to solve cases involving attacks on journalists or other infringements of media freedom. The second concerns civil society, which must be further trained and financially supported in its fight against undemocratic practices (see also Chapter 7). Civil society is arguably a more effective auditor and more credible ombudsman than any other public institution.⁶⁹

⁶⁹ See also Mungiu-Pippidi (2006), *op. cit.*, p.: 97, 98.

CIVIL SOCIETY

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The notion of civil society is inextricably linked to democracy: “a robust civil society, with the capacity to generate political alternatives and to monitor government and state, can help start transitions, help resist reversals, help push transitions to their completion, and help consolidate and deepen democracy”.⁷⁰ Indeed, scholars have long ascribed various civic benefits to independent and voluntary associations – like those that comprise civil society – seeing them as ‘schools of democracy’ where people learn to socialise, cooperate, debate, and develop a sense of community, expectations of regular and honest behaviour, civic skills and civic orientations, such as trust and tolerance.⁷¹ For the same reason, membership of civil society organisations (CSOs) has been said to foster the capacity for collective action that makes institutions more ‘civic’ – that is, more responsive and accountable to citizens⁷².

The instrumental role that dissident groups played in the overthrow of communism in the early 1990s endorsed this viewpoint and strengthened the conviction that an active civil society fortifies civil liberties and human rights, promotes economic prosperity, dislodges corrupt and incompetent governments, and stabilises the young democracies of the region.⁷³ Yet despite the high initial expectations, it soon became obvious that the communist legacy of ethnic nationalism⁷⁴ and mistrust of organisations⁷⁵ had a lasting and debilitating effect on post-communist civil society, hampering its development and its impact on the democratic project.

⁷⁰ Linz, Juan J. and Stepan, Alfred (1996), “Toward consolidated democracies”, *Journal of Democracy*, Volume 7, Number 2, pp.: 14-33, citation from p.: 18.

⁷¹ See, for instance, Almond, Gabriel A. and Verba, Sidney (1963), “The civic culture: political attitudes in five western democracies”, Princeton: Princeton University Press, p.: 322; Uslaner, Eric M. (2002), “Volunteering and social capital”, in Dekker, Paul and Uslaner, Erik M. (eds.), “Social capital and participation in everyday life”, London: Routledge.

⁷² Putnam, Robert (1993), “Making democracy work: civic traditions in modern Italy”, Princeton: Princeton University Press.

⁷³ For example, Ash, Timothy G. (1990), “The magic lantern: the revolution of '89 witnessed in Warsaw, Budapest, Berlin, and Prague”, New York: Vintage Press; Keck, Margaret E. and Sikkink, Kathryn (1998), “Activists beyond borders: advocacy networks in international politics”, Ithaca: Cornell University Press.

⁷⁴ Lovell, David W. (1999), “Nationalism, civil society and the prospects for freedom in Eastern Europe”, *Australian Journal of Politics and History*, Volume 45, Number 1, pp.: 65-77, especially p.: 74.

⁷⁵ Lagerspetz, Mikko (2001), “From “parallel polis” to “the time of the tribes”: post-socialism, social self-organisation and post-modernity”, *Journal of Communist Studies and Transition Politics*, Volume 17, Number 2, pp.: 1-18, especially pp.: 5-9.

For instance, the average level of organisational membership in post-communist countries is significantly lower than in older democracies, and the previous regime has had the most powerful influence on this high degree of demobilisation, even when controlling for various country- and individual-level factors.⁷⁶ Indeed, the number of civil society organisations – particularly NGOs – documented in different Balkan countries might be considered respectable in some cases (see Table 7.1). Yet quantity is not synonymous with quality, where the latter is understood as the ability of civil society to contribute to the policymaking process and to hold public officials accountable. If anything, low levels of citizens’ engagement in CSOs throughout post-communist Europe seems to have only translated into a feeble popular leverage on the political process, doing no justice to the concept of democracy as ‘rule by the people’.

Table 7.1: Number of CSOs in the Balkans

| | | |
|---------------------------|--------|--|
| Bosnia-Herzegovina | 12,198 | Estimated # of NGOs in 2008 |
| Croatia | 37,000 | Estimated # of CSOs, including NGOs, sports and religious organisations, in 2009 |
| FYR Macedonia | 9,830 | Registered citizens’ associations and foundations, 2009 |
| Kosovo | 5,000 | Estimated # of NGOs in 2009 |
| Montenegro | 4,500 | Estimated # of NGOs in 2009 |
| Serbia* | 2,100 | Estimated # of active NGOs in 2009 |

Source: USAID 2009 NGO Sustainability Index for Central and Eastern Europe and Eurasia.

* The European Commission’s 2011 progress report on Serbia cites a total of 8,500 registered organisations.

A widespread perception of high-level corruption, acute popular dissatisfaction with government performance and the prevalent impression that the elites’ agenda does not reflect that of the population in the Balkans have been discussed at some length in the previous chapters of this paper and seem to indicate that civil society in the region has fallen short in its social accountability function. Nevertheless, as all the previous chapters have concluded, the civil society sector is a crucial part of the solution to the problems discussed so far (namely corruption, organised crime, parliamentary weakness and lack of media freedom), which are all simultaneously a cause and a symptom of the democratic malaise afflicting the region. Put differently: a healthy civil society is an indispensable ingredient of the project of building democracy in the Balkans and therefore of the goal of integrating the region into the EU.

7.1 SOCIAL CAPITAL IN THE BALKANS

To get to the root of the problem and understand the main challenges which still confront civil society in the Balkans – in view of finding possible solutions – it is perhaps important to move beyond generic path-dependency explanations that simply invoke the communist past of these countries and focus instead on the role of social capital in the region. This is because collective actions, including elite-challenging activities⁷⁷, invariably reflect social capital. In other words, it is social capital that ‘translates’ community ties into action for the collective good, so any deficiencies on the output side – that is, low association levels and poor elite performance – could actually signal flaws in the ‘transmission belt’.

⁷⁶ Howard, Marc Morjé (2002), “The weakness of post-communist civil society”, *Journal of Democracy*, Volume 13, Number 1, pp.: 157-169, especially p.: 160.

⁷⁷ That is, non-institutionalised forms of community involvement such as boycotts, strikes, demonstrations, petitions, etc. (see Welzel, Christian, Inglehart, Ronald and Deutsch, Franziska (2005), “Social capital, voluntary associations and collective action: which aspects of social capital have the greatest ‘civic’ payoff?”, *Journal of Civil Society*, Volume 1, Number 2, pp.: 121-146)

As shown in Table 7.2, *social capital* (SC) can be broken down into three constituent elements: (1) resource-based capabilities; (2) institution-based incentives; and (3) value-based motivations, and needs a *communal basis*, made up of all possible ties that glue people into a society, in order to promote *collective activities* that have a *civic effect*: getting institutions to be transparent, reliable, accountable, responsive, open and efficient. The more productive the social capital in its key aspects, the more frequent and extensive the collective actions that impact upon the performance of institutions are likely to be.⁷⁸ However, a quick look at the case of the Balkans reveals shortcomings in all three dimensions of social capital, which might go some way towards explaining the weakness of civil society in the region. The short analysis below is not intended to be exhaustive but merely to identify a few gaps that could have a bearing on the potential for collective action, including via CSOs, in the Balkans.

Table 7.2: Dimensions of social capital

| What SC needs | What SC is | What SC does | What follows from SC |
|--|--|--|---|
| ↓ | ↓ | ↓ | ↓ |
| BASIS: community ties | TRANSLATORS: capabilities, incentives, motivations | PRODUCT: collective action | CONSEQUENCE: performance of institutions |
| ↓ | ↓ | ↓ | ↓ |
| Social connections, civic networks, group identities, territorial identities | Resources (material, intellectual) Norms and institutions Trust (interpersonal, institutional) Value orientations | All kinds of voluntary communal activities | <div style="border: 1px solid black; padding: 2px; display: inline-block; margin-bottom: 5px;">The civic effect</div> Transparency Reliability Accountability Responsiveness Openness Efficiency |

Source: Welzel et al. (2005: 141)

7.1.1 Resources and CSOs

The availability of material and intellectual resources provides people with the *means* to take collective action. One possible way to scrutinise this aspect in the Balkans is to consider the financial viability and operational capacity of civil society organisations, like NGOs, in the region.

Traditionally, Balkan CSOs have relied on a mixture of international and domestic forms of support for their activities. The latter includes *corporate donations*, primarily to sports, cultural, and social activities, *individual contributions*, mainly to humanitarian initiatives and the protection of marginalised groups (such as women, children, sick persons, etc.), and limited *government funding*. With the exception of Croatia, where the state provides significant support to the civil society sector, other countries in the region are largely dependent on assistance from Western European and US development programmes, like USAID, the Swedish International Development Agency (SIDA) and especially the European Union. In particular, the Commission’s 2011 progress reports single out Bosnia-Herzegovina and FYR Macedonia for their insufficient financial resources and overreliance of their civil society sector on foreign funding.

The EU has made a substantial financial commitment to civil society projects in the Balkans under its Instrument for Pre-accession Assistance (IPA), and it has also developed the Civil Society Facility (CSF), which focuses on three strands of intervention in order to strengthen civil society development and dialogue in the region:

- (1) Technical Assistance (TACSO) to civic and capacity-building initiatives, for instance, training, e-learning, info events, etc.;

⁷⁸ Welzel et al. (2005), *op. cit.*, p.: 141.

- (2) People 2 People Programme (P2P) – supporting visits to EU institutions in order to exchange experience, know-how and good practices, and;
- (3) Partnership Actions to facilitate the transfer of knowledge and the realisation of innovative cross-national projects between civil society organisations in the beneficiary countries and the EU.

The central role played by foreign donors in sustaining civil society in the Balkans is not without drawbacks. Above all, problems with the availability and management of funds have repeatedly been cited as detrimental to the organisational growth and performance of CSOs in the Balkans. For instance, NGOs across the region complain that the administrative requirements of EU programmes are overly bureaucratic and difficult to access by all but a handful of very well-established organisations. Moreover, the grants often demand pre-financing by the implementers, which is not feasible in light of the weak capacity of the applicants.⁷⁹ Furthermore, the majority of the funding is distributed through national and local governments, which can result in a conflict of interest if CSOs must simultaneously act as a public spending auditor and watchdog. In this case, the critical censorship role of civil society vis-à-vis the state is likely to be compromised and a client-patron relationship will instead emerge.⁸⁰

Additionally, the structure of the external assistance is such that NGOs are effectively encouraged to focus on themes for which money is available at any given moment rather than on longer-term research (of their choice) that could build up their expertise and identity. Finally, poor coordination among donors in the region can lead to overlapping projects, the duplication of efforts and increased competition rather than cooperation between organisations competing for available funds. The problem of excessive competition for funds is also underlined by the European Commission in its 2011 progress report for Albania.

A mechanism called the International Financial Institutions Advisory Group – chaired by the European Commission – was set up in 2007 to improve coordination between donors, particularly towards the development and upgrading of regional infrastructure in key areas such as energy, transport, the environment, human development, and social protection, all of which require large investments and are crucial for the future of the beneficiary countries. Likewise, sectoral networking among several partner organisations, pooling their otherwise insufficient resources, has begun to emerge in the region (such as the Human Rights House in Croatia, which shelters six NGOs), and the effects of the economic crisis seem to have reinforced this trend. Faced with the decline of donor funding and weak governmental support in the context of the global economic crunch, NGOs in the Balkans have started to form working coalitions and cooperate thematically on topics like corruption, election observation and media support.

This positive development across the region indicates more effective use of resources, but it must continue if NGOs in the Balkans wish to remain financially viable in times of recession. After all, while some assistance agencies have committed additional help as a result of the downturn (for instance, the Open Society Institute established a \$100 million emergency fund for the Balkans), others had begun to scale down their engagement in the region prior to the crisis (for example, SIDA or the Dutch Matra programme), and some have now reduced their contributions due to financial difficulties (such as Charles Stuart Mott). CSOs in Albania and Kosovo have been dealt a particularly severe blow by the recent falls in external and domestic support. But the problem of scarcity of

⁷⁹ Forbrig, Joerg (2010), “Never waste a good crisis: the 2008 economic downturn and post-communist civil society”, 2009 NGO Sustainability Index for Central and Eastern Europe and Eurasia, Section 4, USAID, 13th edition, p.: 28.

⁸⁰ Mungiu-Pippidi, Alina (2010), “The experience of civil society as an anticorruption actor in East Central Europe”, Romanian Academic Society and Hertie School of Governance 2010, pp.: 27, 28.

resources in the Balkans runs deeper than the current economic crisis and if left unresolved, it will keep inhibiting the region's potential for collective action.

7.1.2 Institutions and CSOs

The presence and effective functioning of CSOs in society matters: they can create permissive *opportunities* for people to engage in collective action. In the Balkans, the legal frameworks regulating the creation and operation of CSOs (especially with regard to the dynamics of government-civil society relations) offer valuable clues as to the potential for collective action embedded in the institutional context of the region.

All of the Balkan countries aspiring to join the EU have now adopted legal acts stipulating the freedom of association and setting minimum standards for access to public information, as well as the participation of CSOs in policymaking. However, in practice, these rules are often insufficient or poorly implemented, leading to the perpetual marginalisation of the civil society sector. Thus, governmental consultation and cooperation with NGOs is still the exception rather than the norm, and it is often from the local level that timid interactions start to evolve. This is the case in Kosovo, for instance, where local NGOs have been particularly well-coordinated and persevering, despite the general reluctance of their political leaders to consider the views of civil society.⁸¹ Conversely, according to the Commission's 2011 progress reports, NGOs in FYR Macedonia and Montenegro are making modest to good progress in influencing the content of legislation or voicing independent opinions on policy issues.

But undue political pressure and intimidation of CSOs remains a problem, which this year's progress reports underlined in Serbia, Bosnia-Herzegovina and Kosovo. As the Commission reveals, NGOs that deal with sensitive issues such as war crimes, human rights and the fight against corruption or organised crime are especially at risk of being subjected to threats, verbal abuse and even physical attacks in these countries.

At least in part, responsibility for poor cooperation between civil society and the state falls on the governments of the region, since they have long considered themselves to be the only legitimate advocates of the public interest, and so had largely ignored the need to provide regulatory frameworks and financial resources to enable NGOs to function as their equal partners. Croatia again stands out as the first Balkan country to have established a comprehensive and solid civil society dialogue framework that guarantees the substantive involvement of CSOs in policymaking and defines their role in Croatia's development, as well as the government's own responsibilities towards civil society. FYR Macedonia, Bosnia-Herzegovina and Montenegro followed the Croatian model of infrastructure for NGO development, while Albania, Kosovo and Serbia opted for a combination of approaches (such as strategies and bilateral agreements) which has stopped short of a systematic framework so far. Overall, the latest USAID *2009 NGO Sustainability Index* reveals progress only in Croatia, and to a lesser extent also in Serbia. For the rest of the Balkans, the same report highlights the huge amount of work that is still necessary to legally define the government-CSO relationship.

Without the adoption and implementation of legal frameworks that institutionalise the rules of interaction between governments and civil society, the region cannot be said to provide suitable democratic opportunities for collective action. Certainly, as many Third Wave transitions have shown (for example, in Argentina, the Philippines and South Korea), participation in elite-challenging actions that seek to enforce democratisation can occur even without such openings. However, for that to happen, the masses must emphasise political self-expression – the topic of the next section.

⁸¹ USAID (2009), "NGO sustainability index for Central and Eastern Europe and Eurasia", p.: 7.

7.1.3 Values and CSOs

Adequate value orientations in a society are paramount because they provide people with the intrinsic *motivations* to invest their ties in collective action. Such values include, for instance: trust; a liberal orientation that espouses self-determination; an egalitarian orientation that supports gender parity; an autonomous orientation that emphasises in education ‘independence’ and ‘imagination’ over ‘faith’ and ‘obedience’; and an expressive orientation that stresses the voice of the people. Together, these form an emancipative belief that individuals are equal and autonomous beings, with the right to make their voices heard and be counted. Such orientations are commonly viewed as essential elements of a *civic culture*. Their emancipative thrust makes them *civic*, and only civic orientations can give collective action a civic direction. Research clearly indicates that these self-expression values are positively linked to community involvement as well as strongly and significantly correlated with participation in elite-challenging actions (including via CSOs) across a global sample of more than 70 nations, including post-industrial democracies, developing societies, ex-communist states, and low-income countries.⁸²

While a systematic investigation of the orientations that can foster elite-challenging actions in the Balkans is beyond the scope of this paper, data from the World Value Survey (1998, 2001) and the Gallup Balkan Monitor (2010) shown below in Table 7.3 can still offer an edifying glimpse into where the countries of the region stand with respect to these desirable values.

Table 7.3: Values conducive to elite-challenging actions in the Balkans

| | Albania | Bosnia-Herzegovina | Croatia | FYR Macedonia | Kosovo | Montenegro | Serbia |
|--|---------|--------------------|---------|---------------|--------|------------|--------|
| TRUST¹ | | | | | | | |
| (% population with “a lot” of trust in...) | | | | | | | |
| ...other people | 5.3 | 4.5 | 12.8 | 15.8 | 5.5 | 6.9 | 4.6 |
| ...political parties | 5.3 | 1.7 | 1.3 | 3.9 | 6.1 | 7.4 | 0.7 |
| ...the government | 10 | 1 | 4.2 | 6 | 8.2 | 23.2 | 2.9 |
| ...the judicial system | 6.2 | 2.8 | 6.1 | 6.4 | 4 | 12.7 | 3.4 |
| LIBERTY¹ | | | | | | | |
| (% population “strongly agree” that...) | | | | | | | |
| Homosexual relations – always wrong | 38.9 | 64.1 | 16 | 57.5 | 61.4 | 53.3 | 70.2 |
| Homosexuals – no public posts | 40 | 54.6 | 16.8 | 31.4 | 55.2 | 42.6 | 63.1 |
| EQUALITY¹ | | | | | | | |
| (% population “strongly agree” that...) | | | | | | | |
| Women – not treated with respect and dignity | 44.3 | 51.5 | 35.4 | 43.5 | 41.4 | 32.9 | 53.9 |
| AUTONOMY² | | | | | | | |
| (% population that emphasise...) | | | | | | | |
| Imagination as important child quality | 19.8 | 25.2 | 16.7 | 12.6 | N/A | 12 | 12 |
| Obedience as important child quality | 56 | 42.2 | 21.3 | 14.7 | N/A | 39 | 39 |
| EXPRESSION² | | | | | | | |
| (% population that emphasise...) | | | | | | | |
| Freedom of speech protection | 4 | 5 | 9 | 4.6 | N/A | 6.5 | 6.5 |
| Giving people more say | 3.6 | 6.5 | 15 | 6.3 | N/A | 11.1 | 11.1 |
| Fear to express political views ¹ | 76 | 77.6 | 80 | 61.2 | 84.7 | 88.5 | 76.2 |

¹ Gallup Balkan Monitor (2010)

² World Values Survey (1998, 2001)

⁸² Welzel *et al.* (2005), *op. cit.*, p.: 137.

Regarding trust, the latest Gallup figures in Table 7.3 reveal a general mistrust in the Balkans, both in relation to state institutions as well as to other individuals. Across the region, less than 10% of the population in each country has confidence in the national government or the judicial system, and almost no one trusts political parties. While these findings can signal a malfunctioning of important democratic institutions and could provide the rationale for collective action, low levels of interpersonal trust (less than 10% in most cases) throughout the region are unlikely to persuade the people to stand *together* against their predatory elites and engage in *joint* ventures to achieve common goals, such as by setting up CSOs which fulfil their watchdog function.

In terms of liberty aspirations, which prioritise sexual freedom over restriction, more than 60% of people in every Balkan country think that homosexuality is always wrong. Additionally, more than 30% of the population in different Balkan countries – except Croatia (16.8%) – “strongly agree” that homosexuals should not hold public posts, such as teaching. And with regard to egalitarian orientations that stress gender parity over patriarchy, over 30% of respondents in each case still consider that women in their country are not treated with dignity and respect.

Concerning belief in the autonomy of individuals, as conveyed by an emphasis on self-determination rather than submission, for an average of 83.2% of people in the region, “imagination” does not figure among the qualities deemed important for a child’s education, while 36.4% of them do mention the significance of teaching kids “obedience”. Finally, if aspirations for freedom of expression acclaim the voice of the people, only in 6% of the cases in the region is “protecting freedom of speech” a first-choice aim for Balkan individuals, far behind the priority given to “maintaining order in the nation” (60.2%) or “fighting rising prices” (18%) surveyed in the same study. In fact, over 60% of the population are to various extents still *afraid* to openly express their political views. The most apprehensive in the region are residents of Montenegro, where the sense of fear has actually worsened sharply in recent years, according to Gallup. Such sentiments are unlikely to hearten Balkan people to take action and defend their rights vis-à-vis their elites.

Also, when asked about the goals for their country in the next decade, an average of just 8.3% of the population in the region gives precedence to people having more say in decision-making, against a huge 78.7% who opt for “a high level of economic growth” as the main objective. These findings touch again on the problem of resources in the Balkans, as individuals tend to place the greatest value on those things which are in relatively short supply. In other words, if people in the Balkans seem to prioritise security and economic well-being, and almost not at all self-expression values, then this is because their most immediate and pressing concerns are the basic needs of safety and welfare. Until these physical and materialistic anxieties are resolved – for instance, by removing the potential for conflict and improving living standards – people in the Balkans are unlikely to embrace, or consider, emancipative orientations and actions.⁸³ This situation could actually stagnate given that the economic crisis has hit several countries in the region hard, and that the EU is yet to update its enlargement strategy in order to preserve stability and the momentum of reform in the Balkans.

Consequently, grassroots initiatives for the common good in the Balkans, including by means of establishing fully operational CSOs, are inhibited not only by a lack of adequate resources and institutions, but also a popular culture that still lays emphasis on distrust, prejudice, obedience, and everyday ‘bread-and-butter’ materialistic preoccupations at the expense of self-expression values and aspirations.

⁸³ According to Maslow’s hierarchy of needs, only the satisfaction of primary needs (for instance, nutrition, shelter) allows people to aspire for secondary-type of needs (for example, belonging, enjoyment, recognition), and only when the latter had been fulfilled, can people find the motivation to seek the realisation of the highest-ordered kind of needs related to self-expression (Maslow, Abraham (1970), “Motivation and personality”, New York: Harper & Row).

Self-expression values are not only remarkably beneficial for the prospects of elite-challenging actions – such as via CSOs – but they also have significant civic consequences in strengthening democratic institutions.⁸⁴ This is because self-expression values enable people to identify ‘intrinsic’ preferences for democracy⁸⁵, prizing it for the freedoms that define it. This contrasts with ‘instrumental’ preferences, where democracy is valued as a means to other ends, such as prosperity. If mass demands for democracy lack substance, that is, they do not value democracy first and foremost for its freedoms, then elites may supply an equally unsubstantiated democracy, meaning with no respect for practicing formally-enacted liberties. Thus, the shortcomings exposed in the catalogue of self-expression values in the Balkans could account both for the paucity of expressive actions (by way of CSOs or otherwise) in the name of substantive democratic demands, as well as for the failure of most politicians across the region to supply adequate levels of effective democracy (see the Balkan scores on the **Effective Democracy Index** in Chapter 2).

7.2 LOOKING AHEAD

Many of the problems mentioned above, especially the deficiencies in civic culture or the availability of (state) support and resources across the region, require long-term solutions. But there is also room for improvement in the short term. In any case, it is essential for countries to take ownership of these issues and assume responsibility for their reform agenda, in order to ensure the sustainability of CSOs after EU accession.

Bearing in mind the financial and economic crises, an effective grassroots check on political leaders should try to strengthen regional and national cross-sector cooperation among CSOs and coordinate sectoral initiatives across the Balkans on joint issues of concern. Moreover, civil society should join forces with the media to expose cases of democratic *faux-pas* at the highest level, reporting achievements, raising awareness about different ongoing initiatives, and creating an “integrity market”⁸⁶ – where actors must work to achieve a good reputation.

Likewise, regional synergies between national governments to develop and implement civil dialogue mechanisms should be identified and linked to regional inter-governmental cooperation forums that share best practices and enable peer- and institutional learning. Governments should also resolve any pending legal issues that prevent civil society from contributing to policymaking, including by means of more transparent state budget support and greater incentives for corporate and individual donating to CSOs.

Moreover, the European Union should do more to assist civil society in the countries of the region. Beginning with the EU’s 2007 Enlargement Strategy paper⁸⁷, civil society development and dialogue has been acknowledged as a key reform priority and full-fledged condition for the accession of the Balkans to the Union. As part of the Copenhagen political criteria, benchmarks were introduced to assess civil society dialogue, such as the existence of channels of communication with the government and the transparency of information and financial support, as well as the development of CSOs in the region, for instance, their operational environment (legal and financial) and their capacity, especially for advocacy or networking.

⁸⁴ Inglehart, Ronald and Welzel, Christian (2005), “Modernisation, cultural change and democracy: the human development sequence”, New York: Cambridge University Press, p.: 270.

⁸⁵ Bratton, Michael and Mattes, Robert (2001), “Support for democracy in Africa”, *British Journal of Political Science*, Volume 31, Number 2, pp.: 447-474.

⁸⁶ Mungiu-Pippidi (2010), *op. cit.*, p. 25.

⁸⁷ European Commission, “Communication from the Commission: enlargement strategy and main challenges 2007-2008”, COM(2007)663, Brussels, November 2007.

Before 2007 only Serbia had a specific benchmark, but since then, benchmarks have also been introduced for FYR Macedonia (2007), Kosovo (2007) and Albania (2009), with overall positive – albeit weak and uneven – effects on the civil society sector in these countries. The development and functioning of civil society dialogue, as well as state funding of CSOs, has also become an important focus of the Commission’s annual progress reports for all the aspirant EU members. However, comparing progress reports from 2006 to the following ones, it seems that the new priorities of the EU have not been consistently applied and scrutinised across the region. For instance, while the introduction of civil society dialogue mechanisms in FYR Macedonia, Montenegro and Bosnia-Herzegovina received appropriate coverage, the lack of such instruments in Albania, Kosovo and Serbia has hardly been mentioned in the Commission’s reviews, including this year.

To reinforce the EU’s strategy vis-à-vis civil society in the Balkans, the following three recommendations are particularly important:

First, closer attention should be paid to the adoption and implementation of legal frameworks detailing the standards for government consultation with civil society in decision-making. The aim should be to involve CSOs from the early stages of the policy-formulation process and not just in the oversight of law enforcement. The existence of such legal structures should be mandatory and treated just like any other EU *acquis* issue, while their operation should be monitored in the Commission’s progress reports as a key test of a government’s commitment to an equal partnership with the civil society sector.⁸⁸

Second, the EU should seek to remove the majority of funds from the grip of domestic governments and establish more direct channels of funding, or entrust some of the (smaller) donor agencies with a good track record in EU member states (such as the Netherlands or Scandinavia) with the management of financial resources. Finding a better structure of funding distribution could also be important for the handling of structural funds, as in some of the Balkan countries, new organisations with no reputation whatsoever have already begun to emerge and enter into partnership with governments in spending the millions available for ‘good governance’ programmes.⁸⁹

And third, IPA assistance should be used more coherently and strategically to fund areas of civil dialogue identified as weak, such as the development and implementation of state frameworks; the capacity of CSOs, especially at local level, to develop policy responses and advocate their enforcement; and synergy initiatives for exchange practices and information between (pre-)accession as well as EU countries (also made possible by better and more extensive use of the EU’s Twinning and Taixex programmes).⁹⁰

⁸⁸ Balkan Civil Society Development Network (2010), “The missing link? Development and functioning of civil dialogue in the Western Balkans”, *Balkan Civic Practices*, Number 7, p.: 27.

⁸⁹ Mungiu-Pippidi (2010), *op. cit.*, p.: 39.

⁹⁰ Balkan Civil Society Development Network (2010), *op. cit.*

CONCLUSIONS

Consolidating democracy is the best short and long-term approach to simultaneously create favourable conditions to end outstanding disputes – the *sine qua non* for progress on enlargement; making the accession process move forward; and ensuring that aspiring members will be able to take on the principles and obligations of EU membership. The EU has increasingly focused on problems relating to the rule of law and the strength of the judiciary in the region, mainly in response to fears that organised crime and corruption-related problems could spill into the rest of Europe. But a democracy is much more than that.

This paper has argued that while corruption and organised crime are key problems for both the citizens of the Balkans and their institutions, the EU and the region would benefit from an approach that is at the same time broader and deeper in promoting *substantive* democracy. Broader, in the sense that the full spectrum of formal rights is necessary to achieve effective democracy; and that democracy cannot function without, among other things, freedom of expression and association. And deeper: in the sense that effective democracy requires the actual enforcement of legally-certified rules and practices. Only law-abiding behaviour and the implementation of rights can make democracy meaningful in substantive terms. Therefore, the EU needs to focus both on formal and substantive criteria in assessing and pushing for democracy in the Balkans.

Accession should not be only – or even mostly – about ticking boxes on reforms and passing laws. It should also be about the process of decision-making (ensuring it is both inclusive and transparent) and the extent to which the principles entailed by conditionality are internalised and applied in practice. This means using the full toolbox of diplomatic and political pressures on the Balkan countries, beyond the monitoring of the media freedom situation, for instance.

This could also provide a more positive narrative for enlargement, which the EU badly needs. Enlargement seems to be the dossier that the bloc *must* deliver on due to commitments made in Thessaloniki in 2003. From the rejection of the Constitutional Treaty and via the cold feet following the 2007 expansion to today's economic crisis, the rhetoric has moved away from a grand strategy to bring peace and prosperity to the whole of Europe. A new narrative should focus on the positive fact that the democratic transformations in the region over the past decade are an achievement that must be consolidated. Making the Balkans irreversibly democratic states is the major

Democracy is important

EU should focus more on substantive democracy

Democracy as a more positive narrative for enlargement

challenge for the EU and the governments and citizens of the region – as well as the crown jewel of the European Union’s enlargement policy.

Of all the topics addressed in this paper, the role of civil society emerges as the constant feature that brings together all other issues. Civil society, through its organisations, is a key actor in fighting corruption and organised crime, in defending and demanding a free press or in monitoring and censoring government and parliamentary activities. The mobilisation of civil society can breed civic values that motivate people to act in the name of substantive democratic demands, putting pressure on their elites to supply adequate levels of effective democracy. For that reason, the civil society sector is an integral part of the solution to the outstanding problems in the region, and the only way in which the Balkans can push their democratic transitions to completion. Thus, civil society needs to be seen as a subject of politics, not as an object of policies.

For far too long, accession has been considered an elite-driven process. The 2007 Strategy Paper was a first step in focusing on the importance of civil society, but the EU needs to cast its net wider. It can do so by providing education, mobility and training to improve the sector’s professionalism, and by reforming the structure and distribution of funding – to reduce administrative requirements, remove the majority of the financial support from the grip of domestic governments and insist on a better national system of state and corporate donations to CSOs. Equally importantly, the EU can help by putting pressure on Balkan countries to create the appropriate legal frameworks that allow civil society to operate freely and detail the standards for government consultation with CSOs in the formulation and implementation of decisions. These issues should be incorporated into the *acquis* and treated like any other formal requirement.

For their part, CSOs and NGOs need to work towards consolidating their organisation 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.

EU leverage in the region rests on its attraction; its attraction rests on its credibility. This is becoming increasingly evanescent, especially since the beginning of the financial, economic and euro crises. The best practices expected from the Balkan countries need to be followed in the EU, including by its older as well as its newer member states. The Commission’s drive for an EU-wide anti-corruption strategy would greatly boost efforts to fight corruption in aspiring EU members too. It is also the only way to effectively address the main concerns of member states regarding the capacity of these countries to maintain their commitment during all the phases of the accession process, as well as upon joining the EU. It would also help to avoid an anti-enlargement backlash, as was the case after 2007. This is particularly important given the likelihood that, as things stand now, the next round of enlargement to the Balkans following Croatia’s imminent accession will take a long time to complete. Beyond specific issues such as corruption, the manner in which the member states

***It all comes down
to the people***

Lead by example

deal with their shared sovereignty and manifest intra-EU cooperation and solidarity goes a long way to demonstrating what integration is about.

One lesson to be learnt from Croatia's negotiation process is to start early with the most difficult areas of reform. Chapter 23 on the Judiciary and Fundamental Rights (and the kind of benchmarks that the Commission set for Croatia in this field) cannot be effectively addressed in just a few months. Balkan states should therefore intensify their efforts to reform law enforcement and security agencies, strengthen the independence and accountability of the judiciary, upgrade the efficiency of courts to establish a credible track record of solved cases, and improve the quality of public administrations – all crucial for a functioning rule of law. This could have positive spill-over effects in other important sectors, such as delivering services to citizens, improving the protection of democratic rights, fighting corruption and organised crime, and making institutions more trustworthy. An early start on addressing these issues could also give these countries time to make any progress sustainable and credible in the long run.

Regional cooperation was a condition placed by the EU on the Balkan countries in the Stabilisation and Association Process, but could be difficult to maintain given the bilateral nature of the accession process. Although Croatia has been showing the right commitment towards the region, given the proximity of its accession, more can be done.

Regional cooperation in the Balkans remains fundamental, as demonstrated by the successes achieved in fighting organised crime or the pan-regional truth and reconciliation committee (RECOM): one of the most promising grassroots approaches to dealing with the past. Unilateral responses to common transnational problems are bound to fail and must duly be replaced with multi-disciplinary and collective strategies. Fostering contacts between people, and building networks across countries and among NGOs, citizens' associations, political parties, and business groups, would be the best way to bring together societies in the democratic spirit.

And these initiatives need not be limited to the region. Barriers must be broken down within the Balkans and with the EU. There is plenty of scope for expanding cross-border cooperation between the Balkans and the EU at all levels. In particular, horizontal cooperation between sub-state institutions, through successful initiatives like twinning, can help to expand and strengthen local administrations. Such forms of cooperation could also be adopted by other organisations. Parliaments could twin with one another and carry out exchanges; the European Parliament could also play a much more active role.

Start early

***Cross-border
cooperation, also
between people***

Appendix

To measure democratic rights, Freedom House ratings are used for “civil liberties” (roughly equivalent to autonomous rights and private freedoms) and “political rights” (corresponding to public freedoms and participatory rights). The scores from Freedom House are expert judgements that estimate the scope of given rights in a society on a scale from one to seven, with one indicating the highest and seven the lowest level of freedom (either civil rights or political rights). Following Welzel and Alexander (2008), this scale is reversed so that higher figures indicate a broader scope of freedom rights and the scores are transformed into percentages on a scale from zero (for the complete absence of democratic rights) to 100 (for their full presence). The following formula is used to this end:

$$\text{DRI} = (12 - ((\text{PRR} + \text{CLR}) - 2)) / 12$$

DRI: Democratic Rights Index

PRR: Freedom House political rights rating (1 to 7, 1 is widest political rights)

CLR: Freedom House civil liberties rating (1 to 7, 1 is widest civil liberties)

The resulting scores of the **DRI** for the scope of constitutional freedom in the Balkan states are shown in Table 2.1.

To measure rule of law, the World Bank’s rule of law index is considered to be the most encompassing indicator. By using expert judgements and population surveys, “this index measures how strictly government agents abide by the rule of law”. In addition, the Control of Corruption Index also provided by the World Bank is used, given that it strongly overlaps with the rule of law indicator. Following Welzel and Alexander (2008), the two indicators are averaged in order to obtain an overall **Rule of Law Index (RLI)**. Since this index is meant to be used as a substantiating factor to weigh granted democratic rights for how effectively they are enforced, it is transformed into a scale from 0 (weakest rule of law) to 1.0 (strongest rule of law). To tie the World Bank’s rule of law scores between a minimum of 0 to a maximum of 1, the following formula is used:

$$\text{RLI} = (\text{COS} - \text{LOS}) / (\text{HOS} - \text{LOS})$$

RLI: Rule of Law Index

COS: Country’s observed score

LOS: Lowest ever observed score

HOS: Highest ever observed score

The ensuing **RLI** scores for the Balkans are shown in Table 2.1.

By multiplying the 0-to-100 base **DRI** by the 0-to-1 qualifying **RLI**, the **Effective Democracy Index (EDI)** is obtained and shown in Table 2.1. This produces an EDI with a minimum of 0, when democratic rights are missing or minimal rule of law renders them ineffective, and a maximum of 100, when democratic rights and the rule of law are fully in place and functional. A conceptual justification and validity test of this index of effective democracy is provided by Welzel and Alexander (2008).