HEINRICH BÖLL STIFTUNG
PRAHA

Issue Paper on EU policy toward the Western Balkans – Regional Perspective

Case studies – Bosnia and Herzegovina, Serbia, Croatia, Kosovo

June 2009

HEINRICH-BÖLL-STIFTUNG

Issue Paper on EU policy toward the Western Balkans – Regional Perspective

Case studies – Bosnia and Herzegovina, Serbia, Croatia, Kosovo

June 2009

CONTENT

Case studies – Bosnia and Herzegovina, Serbia, Croatia, Kosovo

Introduction

There is no doubt that the states of the Western Balkans belong to the European Union. However, their road to the EU is by no means an easy one. The entire Western Balkan region is not only encumbered by the maladies related to its communist past, but also by the problems the region has more recently experienced due to the horrors of war. Many of the ethnic tensions have not yet cooled down.

The EU is more sceptical of further enlargement now than it was prior to the large-scale enlargements that brought in the states of Central and Eastern Europe in 2004 and 2007. The current EU-27 finds consensus more difficult to reach among states that are more different politically, economically and culturally than ever before. The EU, therefore, is not hastening the next wave of enlargement.

It would be a big mistake, however, for the EU to close its doors to the states of the Western Balkans. The promise of EU accession is the most reliable driver of reform and stabilization for these potential new members. One of the foreign policy priorities of the Czech EU presidency was indeed continuing accession talks with the Western Balkan states.

In this publication we offer you an overview of the situation from the perspective of experts from four Western Balkan countries: Bosnia and Herzegovina, Croatia, Kosovo and Serbia. You are about to read a text which is in many ways significantly critical both towards domestic conditions in these countries and towards EU policy on the Western Balkan region, thanks to which you will have the opportunity to probe deeper into the problems of this region, which decidedly should not remain in the background of our interest. We hope this publication will promote further discussion on this issue.

We would like to thank the authors for their efforts and Gwendolyn Albert for editing the texts.

June 2009

Eva van de Rakt, *Heinrich-Böll-Stiftung Prague*
Wolfgang Klotz, *Heinrich-Böll-Stiftung Belgrade*

European Union and Ethno-politics in Bosnia and Herzegovina

Eldar Sarajlić

The Indispensable EU

The international community, and especially the European Union, represents one of the most important variables of the Bosnian political system. The international community, as the guarantor of the Dayton Peace Accord and the EU as the bearer of the wider political framework which Bosnia and Herzegovina aspires to, play a constitutive role in the Bosnian political equation. Therefore, no assessments of politics in Bosnia and Herzegovina can be made without a direct or indirect reference to their roles. This is especially true regarding the EU, as it has been progressively taking over from the United States, which was responsible for ending the conflict, more and more roles in securing Bosnia's political transition, bringing Dayton to life and spearheading the immediate efforts in its application on the ground. The clear perspective of the country's EU membership has additionally broadened and strengthened the bonds between Bosnia and Herzegovina and the EU, providing more ground for a relational analysis. In that sense, this paper aims to raise the question of the functional relation between the political practices put forward by the EU through its representatives in Bosnia and Herzegovina, and the status, character and strength of the existing ethnic claims and policies. How does the EU actually relate to ethno-politics in Bosnia and Herzegovina?

Levels of Relation: Lack of Consistency?

There are two levels at which this relation is manifested. The first level is the programmatic one, encompassing values outlined in strategic EU documents related to Bosnia and Herzegovina or the Western Balkans in general. At this level, the Bosnian ethno-nationalisms and the constitutional framework determined by their ultimate rule are recognized as obstacles to democratic transition and hence to the country's integration into EU. This has been discernible, for example, in statements outlined in documents such as that of the *Venice Commission* in 2006, clearly stating[1] the inefficiency and "lack of democratic content" of the existing constitutional arrangements, or in the European Commission's recent *Progress Report* 2008, which suggested that the constitutional framework "… still prevents swift decision making and therefore hinders reform and the capacity to make rapid progress towards the EU". The latter went even further, saying that during the year in review, the "… nationalist rhetoric has prevailed and Bosnia and Herzegovina's leaders have made no progress towards creating, through the reform of the constitutional framework, more functional and affordable State structures which support the process of European integration".[2] Furthermore, the document acknowledges the main cause of the stalemate: "The role played by ethnic identity in politics hampers the functioning of the democratic institutions and the country's overall governance".[3]

At the programmatic level of EU involvement with Bosnia and Herzegovina, the fact that the majority of the country's social and political problems are generated through exclusive adherence to ethnic iden-

---

1   European Commission for Democracy Through Law (Venice Commission), Preliminary Opinion On The Draft Amendments to the Constitution of Bosnia And Herzegovina, Strasbourg, 7 April 2006. More available at: http://www.venice.coe.int/docs/2006/CDL(2006)027-e.asp
2   Bosnia and Herzegovina Progress Report 2008, Commission of the European Communities, Brussels; November 5, 2008, p. 7-8. The documents is available online at http://ec.europa.eu/enlargement/pdf/press_corner/key-documents/reports_nov_2008/bosnia_herzegovina_progress_report_en.pdf
3   Ibid.

tity in public affairs seems to be widely recognized. This fact frequently serves as a backdrop to various political statements aiming to streamline reform efforts in the country or to put an end to objectionable political rhetoric.[4] Of course, a reasonable response to such a challenge would be to put efforts toward deconstructing rather than sustaining a political framework that enables such ethno-politics to thrive. However, this does not seem to be the case with the second level of the EU's relations towards Bosnia and Herzegovina: the level of political practice.

Analysis at the level of practice is of great importance, mainly because this level has the largest effect on the ways political debates and decisions *are framed* and represented. This notion is grounded in the principle that context determines the substance of politics, which means the way the outcomes are framed affects their character. What is at stake in interpreting the practical level of the EU's political involvement in Bosnia and Herzegovina is the issue of the reference to those points of power that ultimately frame political ends. The frames that determine the political outcomes endorsed by the EU in Bosnia and Herzegovina are firmly set within ethnic boundaries and almost never transcend the limitations set by the ethno-political elite. This can be discerned to some extent at the programmatic level, which endorses consociationalism as the value emanated from the Dayton constitution[5], but in practical terms it has been given even more extensive proportions that determine the overall profile of political debates and agreements. Though highly disapproved from within the programmatic domain, ethno-politics is actually supported at the level of political practice put forward by the EU representatives in Bosnia and Herzegovina. This is manifested mainly through public references highlighting the ultimate responsibility of the "people's representatives" for the country's political future, as well as through endorsements of negotiation practices that take place between ethnic party leaders out of public sight, such as in cafés, restaurants or politicians' private mansions.[6] It even goes further, towards direct support for issues frequently used by "ethnic entrepreneurs" to spur ethnic tensions and additionally homogenise the population, such as the recent claim made by the High Representative about "ethnic security" as one of the priority areas of his concern.[7] The framing of political outcomes also occurs on the occasions of various political visits and meetings in which ethnic leaders as such are preferred over the heads of state institutions and other non-ethnic public officials.

In other words, while rebuking ethno-politics at programmatic level, the EU at the same time reinforces it through its endorsement of consociational political practices that produce exclusively ethnic outcomes. Through supporting the method of political decision-making in which the leading party officials, as *ethnic leaders* and not as heads of institutions, play the major role, the EU (through its various representatives) directly deconstructs the institutions of the state it is aiming to develop and contributes to the perpetuation of ethno-politics, surrendering even more power to the members of ethno-political elites. Additionally, this practice bestows ethnic leaders with political legitimacy and immense social and political power, reducing the chances of a political transition potent enough to transcend the principle of ethnicity.

EU and Ethno-politics in Bosnia and Herzegovina: The Rationale and its Consequences

There are several reasons for the given behaviour of the European Union towards Bosnia and Herzegovina. The first refers to adherence to principles of group-differentiated rights, which provides grounds for the recognition and accommodation of ethnic claims as cultural claims, positioning them within the domain of human rights. Basically, ethnic policies in Bosnia and Herzegovina have been granted the legitimacy to extend their assertions deeply into the public and political sphere, not just through the mil-

---

4   This is the case with one of the recent Communiqués issued by the Peace Implementation Council, on March 26, 2009. More info available at: http://www.ohr.int/pic/default.asp?content_id=43264.

5   For example, the Venice Commission underlines that the outcome of the debate on constitutional reforms needs to be based "... on consensus among the representatives of the three constituent peoples." European Commission for Democracy through Law (Venice Commission), Preliminary Opinion On The Draft Amendments to the Constitution of Bosnia And Herzegovina, Strasbourg, 7 April 2006. More available at: http://www.venice.coe.int/docs/2006/CDL(2006)027-e.asp.

6   Miroslav Lajčak frequently supported such practices in his public statements. See for example Oslobođenje, November 22, 2008; p. 2 and February 5, 2009; p. 5. Even some analysts have picked up this rhetoric, see Gerald Knaus in Dnevni Avaz, December 22, 2008; p. 5.

7   Cited in Oslobođenje, April 2, 2009; p. 10.

itary power they partnered with during the conflict period, but through values that determine the broader framework of their political existence and provide their claims with a democratic facade. As essentially a liberal political organization, the EU seems to acknowledge such assertions as legitimate claims for group-political rights, rather than as violations of the democratic public sphere. Hence, the EU is unable to recognize at which point the ethnic entrepreneurs' actions infringe upon democracy and reduce the prospects for the country's liberal and democratic development. Consociationalism, as a political practice founded on group-differentiated rights is understood as primarily a democratic political framework under which conflicting ethnic claims can find appropriate and just accommodation. Secondly, the EU seems to rely on consociationalism in Bosnia and Herzegovina for the sake of much needed stability. Namely, as it is a pattern that has been present in the country informally for ages and formally for more than a decade, the consociational social and political arrangement is perceived to be the most convenient form of politics for securing a stable social, economic and political environment in Bosnia and Herzegovina. Ethno-political leaders, as the cornerstones of such a political system, are seen as key players capable of delivering political outcomes conducive to the broader principles of regional (or even continental) stability. Paradoxically, this type of leader was responsible for spurring ethnic uprisings in the 1990s; nevertheless, they represent the main guarantors of peace and stability to the EU today. In that sense, consociational Bosnia and Herzegovina is perceived to be much easier to handle, as its delineations and cleavages are controllable and clear-cut... This has actually been reinforced by many representatives of the EU in Bosnia and Herzegovina through their statements and their public support for consociational practices taking place on the ground.[8]

By framing the political outcomes in the country through such practices, the EU actually enforces the cleavages that peace building efforts have been put in place to resolve. This is definitely one of the main reasons politics in Bosnia and Herzegovina is, 15 years after the end of the war, intrinsically tied to ethnicity and ethno-politics. No true reform can take place if political outcomes are framed in such a way as to prevent transcending ethnic boundaries, sustaining the practices that created the problem in the first place. In that sense, the behaviour of the EU and the entire international community in Bosnia and Herzegovina is very often beneficial to those forces aiming to deconstruct rather than nurture democracy.

The EU does not seem to realize that ethnic claims in the country are built around fundamentalist values shaped in a group-differentiated fashion and thus detrimental to the true development of democracy. Moreover, these claims are hardly legitimate from the democratic point of view; they do not represent mechanisms for fine-tuning liberal principles and accommodating claims deriving from cultural uniqueness, but confine individuals within group boundaries. The wholesale exclusion of ideologically disobedient individuals, women, minorities, disabled and others lies at the core of the system of political legitimacy that sustains consociationalism in this country. Many empirical facts from Bosnia and Herzegovina support this notion. It is because of the strong adherence to ethnicity and ethnically-generated social practices that levels of trust in Bosnia and Herzegovina are so low. Therefore, the EU needs to acknowledge the fact that consociationalism frames political outcomes in ethnic terms and disables the political transition of the country. It needs to jettison such principles in political practice and put forward a new vision of politics. Otherwise, no democratic transformation of Bosnia and Herzegovina will be able to take place.

The Alternative: Re-framing Politics

Basically, what the EU needs to do is to *re-frame* political outcomes in Bosnia and Herzegovina in a way that will enable the institutions of the state to exercise authority in securing the rule of law and the rule of democracy. What does this mean in practice?

Essentially, it means new frames for generating political outcomes need to be put in place. First, the long-term, sustainable development of democracy in a transitional country necessitates strong institu-

---

8   See for example Oslobođenje, November 22, 2008; p. 2 and February 5, 2009; p. 5. High representatives, EU countries' Ambassadors and others have been frequently praising consociational practices as democratic models of reaching political decisions in Bosnia and Herzegovina.

tions able to secure respect and adherence to democratic principles. Such institutions cannot be built through political practices relying on consociationalism, which frames politics exclusively in ethnic terms. In other words, if political reforms are negotiated through consociational practices in which ethno-political elites get together in a covert location and decide on matters of public interest, it is very likely that the outcome of such negotiations will have an ethnic banner. If the EU supports such practices of decision-making in the country, it is directly deconstructing the process of democratic development. However, given the formative role of the EU in Bosnian politics, exercised mainly through the explicit prospect of Bosnia and Herzegovina's EU integration, the EU can also contribute to the reframing of such politics through a focus on and reference to the institutions of state as points of political power. In other words, if political negotiations are located in state institutions involving state officials, rather than in informal settings involving ethnic leaders, the frames of political outcome will have the potential to transcend exclusive boundaries and anchor themselves in institutional, democratic authority. Of course, having a political discussion moved from a restaurant to the Parliament does not necessarily produce a democratic or liberal outcome, but in the long run it develops the democratic capacities of the state and contributes to a successful political transition. This is of crucial importance for post-socialist states such as Bosnia and Herzegovina, where detachment of the political elite from the social base it ought to represent has been a traditional way of doing politics.

The key role in this process is to be played by the EU officials both from Bosnia and Herzegovina, such as the EUSR office, particularly the Special Representative himself and the ambassadors of EU countries, and from Brussels, including executives for enlargement and parliamentarians alike. They need to establish new frames under which new decisions and practices can be taken. This includes integrating what I see as the three key steps into the existing political approach:

a) *Streamline and strengthen efforts at building state institutions in Bosnia and Herzegovina* through endowing leaders in institutions rather than exclusive party elites with authority. The political leaders of Bosnia and Herzegovina need to be regarded as elected *public*, not *ethnic* leaders. In other words, discussions involving different subjects must be organized around their institutional capacity, not their ethnic or party capacity. The existing officials at state institutions must be granted with both symbolic and real power and thus detached from the ethnic party centres where true power in the current constellation lies. They must be held more accountable for the political course of the country, and the EU must serve as the anchor for this accountability. This can be achieved through development of more intensive and systematic relations between the EU executives, such as the EU Commissioner for Enlargement and the High Representative for the Common Foreign and Security Policy, with the elected officials of Bosnia and Herzegovina. Bringing the Chair of the Council of Ministers, different Ministers within the Council, Speaker of the Parliament and members of the Presidency closer to the integration process in terms of accountability and responsibility might have some effect on their institutional authority and political capacity for delivering more democratic reform decisions.

b) This needs to be accompanied by strong, explicit efforts aimed at *delegitimising the existing decision-making matrix* in the country through references to the values of democratic participation and transparency rather than to "consensus" and "stability". The EUSR has to play the most important role here. Instead of referring to "ethnic security" and "stability" as the area of concern or emphasising that "consensus" between ethnic elites is the ultimate political value, the EUSR needs to explicitly say that the existing method for generating political decisions is undemocratic and does not comply with European values of participative and transparent political governance. The practices of covert negotiations at private mansions, restaurants and ranches must end and the EU needs to make this stand public. With the help of the EUSR, discussions on the political outlook of the country need to be brought to the fore through public events, round tables with civil society and academia and subsequent parliamentary discussions with detailed media coverage. These can also be accompanied by serious social research aiming to check the pulse of public with respect to certain models of political organization.

c) *Foster a greater role of civil society in the political processes.* The recent example of MEP Doris Pack's visit to the country could serve as a model that could be integrated and systematised. Namely, instead of granting public authority to party leaders by paying political visits to them, visiting and talking to members of civil society can also help detach power from exclusive ethnic elite ownership, distributing it throughout the social spectrum and encouraging wider democratic participation. Decisions on the political future of BiH do not rely exclusively upon the political elite but are a franchise the entire society is entitled to. This needs to be recognised and acted upon by the EU representatives, both from inside and outside the country. The reliance of the EU so far on civil society in BiH in the processes of political negotiations and reform discussions has been rather weak and this needs to change. Ambassadors of EU countries in BiH play an important role in this regard. Instead of discussing politics with ethnic party elites in BiH, the ambassadors should organize regular talks with members of civil society and academia in order to support the translation of their suggestions to concrete political reform agendas.

The shift in political reference from a particularised, ethnic setting to a common institutional setting is, however, the most important segment of the new frames that need to be put around Bosnian politics. This would have a long-term potential to change the forces and processes in the country responsible for halting the reform and integration process. It would grant the institutions of state with the political power the state currently lacks. It would focus the attention of political stakeholders on these institutions and prevent them from diverting power to other places concealed from public oversight. It would provide ethnic leaders with incentives to compete for state office and render the party structures less relevant than they currently are. Additionally, it would also result in higher public trust in state institutions and democracy as a value and provide prospects for the establishment of deliberative mechanisms for political governance.

Given the formative position the EU occupies towards Bosnia and Herzegovina, much of the responsibility and prospects for such a shift rely on it. This does not mean the EU needs to take over full political responsibility for Bosnia and Herzegovina's future. It still falls mostly under the responsibility of local political agents and the democratic processes by which they are being brought to power. However, what the EU can do and needs to do is to introduce new frames for generating political outcomes by streamlining negotiation processes in this direction, building institutions of the state as key reference points of democracy in the country. With such a policy attitude, exclusive ethnic ideologies will be dissolved by the inexorable processes of both the internal and external integrations of Bosnia and Herzegovina. The state will then become stronger, more accountable and more efficient in bringing essential values of democracy to life. It will also become able to take full responsibility for securing the respect for the human rights of all its citizens regardless of their cultural or other identities. At last, it will become fully equipped to meet all of the challenges that posed by the processes of integrating into the EU.

The Western Balkans and the EU: Revising EU policies towards Serbia

Vladimir Pavicevic

The fall of the Berlin Wall in 1989 in the states of the Central and Eastern Europe marked the beginning of the transformations of their economies and their legal and political systems into modern communities based on the market economy, the rule of law and political pluralism. The focus these countries put on European values was clearly determined and inspired by the idea of membership in the European Community (EC), which was supposed to secure the final unification of the two parts of the European continent that had for half a century been firmly separated by the Iron Curtain.

In the second half of 2003 a clear European prospect was opened for the countries of the Western Balkans. at the Summit of the Heads of State or Government of the Member States of the European Union and Heads of State or Government of the State or Governments of the Western Balkans held in Thessalonica on 21 June 2003, according to which the states of the Western Balkans may receive EU member status after meeting the requirements. The official attitude of the EU towards the European prospects of these states was intended to encourage their citizens as well as their political elites to work more efficiently on establishing stability in the region, the rule of law, and an operative market economy in each state.

The Parliament of Serbia, in compliance with the conditions defined for the EU association, adopted a Resolution on the EU Association which states that the Parliament of Serbia expresses its readiness to meet the political conditions for joining the EU and is determined to bring to justice those suspected of war crimes during the armed conflicts on the territory of the former SFRY in accordance with legal regulations and international obligations. The Council of the EU adopted a positive evaluation of its Feasibility Study on 25 April 2005, and this was followed by the beginning of negotiations on the Stabilization and Association Agreement (SAA).

Soon afterward, the process of EU integration met substantial obstacles. Despite the declarative intentions of the Serbian Government to fully cooperate with The Hague Tribunal, the government's actual incapacity or reluctance to locate and extradite Ratko Mladić brought a halt to the Stabilization and Association Process negotiations. These negotiations continued in the summer of 2007, and the SAA was signed only in May 2008. An additional encumbrance to the process of integration was the decision of the Parliament of Kosovo to declare independence on 17 February 2008. The question of Serbia's reaction to the declaration of independence obscured the debate on its EU prospects and raised considerable doubts about its integration into the European Union.

In this paper I will try to suggest the best policy options for the EU to take toward Serbia in the coming period. I would also like to suggest some guidelines regarding one of the most contentious issues in the Western Balkans, i.e., that the status of Kosovo and Serbia's integration are intertwined.

1. Failure to define state boundaries

Serbia has been in territorial turmoil since 1988, both inside the country, as seen through the shrinking autonomy of the provinces, and outside through the actions of patronising Serbs living outside Serbia. The Republic of Serbia is still transitioning towards further territorial changes. The issue of its southern border has been open and burning, while there has also been potential for opening the issue of

its southwestern or western borders as well. The inability to instate and secure the borders of the country is an irremovable obstacle to Serbia`s European integration.

The core of this obstacle lies in the attempt by a considerable number of political stakeholders to prolong the crisis caused by the dissolution of Yugoslavia, as well as to keep the border issues either actually or potentially open. This attitude has been clearly demonstrated not only through Serbian policies concerning Bosnia and Herzegovina, but above all through the way the Kosovo issue has been dealt with. It has been shown by making the status of Kosovo inviolable in the new Constitution of Serbia, by placing maximalistic demands during negotiations, and by the rising tensions that occurred with independence. *Prioritising the Kosovo issue, both in domestic and foreign policy, has reduced the issue of European integration to a secondary level, even bringing it to a standstill, while the Serbian public has been presented with a false dilemma: ''Either Europe or Kosovo'' – or else the unconvincing compromise solution, ''both Europe and Kosovo''.*

2. Incomplete cooperation with the International Criminal Tribunal for Former Yugoslavia

In Serbia, the issue of non-cooperation with The Hague Tribunal lasted as long as the Tribunal itself. Even though Slobodan Milošević, by signing on to the Dayton Agreement agreed with the foundation of the ICTY, Serbia remained a safe haven for Hague indictees throughout his era, while the activities of the Tribunal were systematically undermined by state propaganda. After his ousting from power, and especially after his extradition to the Tribunal, the situation became more complex. Even though cooperation improved and was eventually even legally regulated, it remained a disputable subject. Refraining from cooperation with the Tribunal became an excuse to slow down reforms of the state institutions, especially those of the security structures or judicial bodies.

Meanwhile, cooperation became an important issue for EU policies towards Serbia, which were being promoted as a litmus test of Serbia`s readiness to transform its own value system. The European integration of Serbia is blocked for the moment due to the incompetence of the Serbian Government in arresting indicted war criminal Ratko Mladić. In spite of that, *EU officials and policy makers should continue their energetic activities concerning Serbia's cooperation with The Hague Tribunal and should seek a way to have the Council of Ministers of the EU unfreeze the Temporary Trade Agreement between Serbia and the EU, following that with the Stabilisation and Association Agreement.*

3. Improving cooperation with neighbours

During the last decade of the 20th century, Serbia held mostly irrational policies towards its neighbours that had great consequences for relations. After Croatia, Macedonia and Montenegro acknowledged the independence of Kosovo, diplomatic relations between Serbia and its three neighbours became extremely gloomy. In an irrationally harsh, emotional reaction, the Macedonian and Montenegrin ambassadors were expelled from Belgrade, a dramatic setback to diplomatic relations with the two states which provoked the concern of the European Union.

The European Commission, the Council of Ministers and the European Parliament should stress regional cooperation as one of the key indicators of Serbian progress toward the EU. All disputes in the region are to be solved either bilaterally or multilaterally. The obligation of Serbia to foster neighbourly relations in the region is emphasized in the Stabilization and Association Agreement.

This means normalization of relations with Macedonia and Montenegro is indispensible. Croatia has to be Serbia's main partner on its way to the EU in spite of the growing intolerance in their mutual communication subsequent to Croatia's recognition of the independence of Kosovo. When it comes to Bosnia and Herzegovina, Serbia as the guarantor of the Dayton Peace Treaty should support all of the international community's efforts to redefine and make Bosnia and Herzegovina more efficient by means of constitutional reforms.

4. White Schengen for Serbia

The visa issue is not only important, but also extremely sensitive to the citizens of Serbia. With the break-up of Yugoslavia and the isolation of Serbia because of the policies of the then-administration, Serbian citizens unexpectedly found themselves in a very difficult situation. The freedom of movement they once enjoyed with the famous SFRY red passport , which enabled them to travel without a visa virtually anywhere except the USA and the USSR, was transformed overnight into an invisible, but impenetrable, wall.

Late January 2008 saw the beginning of negotiations for the abolition of visas for Serbian citizens travelling to the member countries of the Schengen Agreement. Serbia was the first state in the Western Balkans to receive a Road Map from the European Commission which, if implemented, will lead to the abolition of visas for Serbian citizens. The commitments Serbia agreed to have been defined clearly and precisely and they are yet to be fully implemented.

Since there are no political conditions for the abolition of visas by Brussels, we can say the EU has done its part. The responsibility for the abolition of visas lies entirely with the Serbian government, which, in addition to its asserted desire, must also show efficiency for this extensive job to be finished by the end of 2009.

5. Trade liberalization

The SAA stipulates the gradual abolition of all customs and trade barriers between Serbia and the Member States. When the Transitional Trade-Agreement takes effect, the EU will abolish all limitations on the import of goods from Serbia, whereas Serbia is going to do the same in phases over a six-year period. The Agreement foresees the possibility that Serbia may lower its duties faster should overall economic development allow it. (SAA, Article 23).

There is a consensus among Serbian economists advocating for a formidable liberalization of trade with the EU that the SAA sets too long of a period of trade liberalization, bearing in mind that its benefits would first be felt by consumers via the lowering of EU products' prices. *In the process of negotiations on this chapter, EU representatives should bear in mind that any postponement of the abolition of customs barriers, i.e., making the most of the whole six-year period, actually sets back the final goal, which is Serbia's EU membership. For example, if the SSA is finally put into effect in 2009, it would mean in practice that Serbia could count on full EU membership by the year 2017, taking into account the above-mentioned six-year period.*

6. Constitutional challenges

Soon after the expiry of the three-year duration of the State Union of Serbia and Montenegro, the Montenegrin authorities called a referendum for independence on 21 May 2006. The majority of voters (55.5%) supported the creation of an independent Montenegro, and Parliament declared independence on 3rd of June 2006. This event set Serbia a new challenge – adopting a new Constitution.

The Parliament of Serbia adopted the new Constitution in an extraordinary session on 20 September 2006. The text was composed in a very short space of time, with a group of political leaders and experts managing to negotiate the acceptable variant in only two weeks. The content and the way the Constitution was adopted indicate its considerable shortcomings, the most important one being its temporariness. The Constitution contains several references to Kosovo, and Serbia's focus on European integration renders it questionable.

The EU officials should make it clear to their Serbian counterparts that constitutional changes are necessary if Serbia sees itself as a full member of the EU. While doing this, Serbia should work more efficiently on crucial reforms of the constitutional system and the development of democratic institutions in accordance with European standards.

7. Serbia's new policy toward Kosovo

The policy to be suggested for the purpose of offering some guidelines to the relevant policy makers in Serbia and Kosovo has several steps. To begin with, Serbia needs to view the international situation objectively and rationally, and in that context to send a clear signal to the EU that an agreement by which Serbia would accept the factual situation in Kosovo is possible. *Not being in the position to prevent the EU from recognizing independent Kosovo, the only rational option for Serbia would be to open and not close the gateway to Europe.*

Serbia should initiate an agreement with the EU and the Albanian representatives in Kosovo which would define the status of the remaining Serbs in Kosovo, their citizenship, their unfettered access to cultural monuments and freedom of movement between Kosovo and Serbia. On the other hand, candidate status should be clearly guaranteed to Serbia by the EU, and the precise time of the beginning of the negotiations should be determined. In the context of regional cooperation, Serbia should establish diplomatic relations with Kosovo, which would constitute a prerequisite for joining the EU.

This suggested policy toward resolving the status of Kosovo and speeding up Serbia's intergration into Europe would contribute to defining new relations between the countries of the region after 20 years of conflicts and wars. It would greatly benefit Serbia, and it would set the scene for establishing stability and mutual trust in the Western Balkans.

8. Coordinating Serbia's foreign policy with the EU

Coordination of Serbia's foreign policy with the EU is one of the major demands in the association process. Article 10 of the SAA obliges Serbia to work actively on approximating the standpoints on international issues of both sides (EU and Serbia). Having that in mind, the current Serbian policy of persistent confrontation with the Member States about the status of Kosovo, as well as its strategic change of course toward Russia, presents a radical turning away from and opposition to the Serbian government's proclaimed pro-European policies .

The EU should insist that coordinating the fundamental guidelines of Serbian foreign policy with the principles of the EU CommonForeign and Security Policy doctrine is not only a necessary condition for membership in the organization, but is also in the best interest of Serbian citizens.

Croatia and the EU: frozen in accession?

Vedran Horvat

It goes without saying that during the last decade the EU has been one of the most important agents of the democratisation process in Croatia. Primarily it has been used as the source of support and legitimacy for numerous political and civil actions which aimed to increase democratic standards and improve the quality of governance, thus pushing the country closer to European Union membership. After the dark period in the 1990s, during the past few mandates governments have initiated reforms at the institutional and legislative levels in order to comply with the EU *acquis* and Copenhagen criteria. Most of these reforms are still predominantly reduced to legislative adjustments, while substantive shifts in their implementation will apparently be measured in the decades to come, rather than in years, as the EU "wishfu thinking" list originally envisioned. While reforms mostly occur at the institutional and legislative levels, their implementation is far from being efficient in achieving the criteria of "the rule of law" and "good governance" , enabling informal networks of organised crime and corruption to continue their illegal activities within deeply politicised public institutions. Though some countries like Croatia have experienced a severe watering-down of the reforms initially pushed by the coveted EU membership, others are not even able to start the institution-building that would bring them closer to democratic consolidation, stability, and thus full compliance with the Copenhagen criteria. Besides, the irreversibility of democracy is far from being achieved in the Western Balkan countries, and stability is still very fragile, as it is constantly threatened by regressive, nationalist, anti-European forces whose scope of action will be narrowed down, if not lost, once their countries become new stars on the EU flag. Even recent developments in the EU itself – after EP elections in June 2009 – demonstrate how detrimental diverse nationalisms can be for European project.

Zoom in/zoom out policy and uncompleted work in the region

The lack of EU interest in the Western Balkans is apparent. Interest rapidly decreased once Kosovo declared independence, and now appears to be a "soft" and often inconsistent policy without direction. Moreover, as the policy itself is burdened with the notion of enlargement, it immediately reminds us of the failures of the Lisbon Treaty process, being unattractive to most EU citizens, who do not benefit from enlargement (or so they think). However, there are risks that should not be underestimated, as ignoring the region could once again prove to be detrimental. So far, "carrot and stick" techniques have been only partially efficient in demanding results from the WB countries. This "zoom in – zoom out" policy is far from a consistent approach to the region and requires substantial change in order to re-establish credibility which eroded in past few years.

The answer to a question recently posed in Brussels policy circles on "how the EU can sustain the positive momentum of developments in the region, even while the EU's enlargement process seems likely to remain at best on 'slow' or at worst on 'stop', for some time"[1] is more than needed. It can even be made more precise by asking "could the EU go further than a current SAA process with the integration of Western Balkan states into the functioning of EU policies before membership?"[2] The common sense underlying this notion is certainly "buying some time" for the brains in Brussels, but it could also provide an indicative roadmap for the completion of unfinished work and for a gradual accession of the

---

1   CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008
2   CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

Western Balkans countries.[3] This paper would also favour a proposal introducing "functional membership" as a temporary category which would expose the Western Balkan countries to diverse EU policies[4] even before they actually comply with the Copenhagen criteria.[5]

On the side of the EU, regional cooperation among the Balkan countries has been perceived as one of the logical, necessary moves towards full European integration. Yet nowadays, various drawbacks exist to the next step of Balkan integration into the EU which display clear signs of lack of clarity and fatigue regarding further enlargement. This uncertainty, as a part of this prolonged, or second "reflection period" *(Denkpause)* related to the crisis of the political constitutionalisation of the European Union, actually promotes euro-skepticism. It also gives the green light to anti-European forces in the Western Balkan societies, thus making any EU foreign and security policy ineffective in its efforts to promote sustainable stability in the region. Moreover, demands related to the satisfying of benchmarks within the EU accession process are very often used by domestic governments to justify or mask their failures or unpopular moves, which also demonstrates a lack of transparency of the EU accession process 'at home' and potentially leads to a lack of public support among the citizens of the respective states.

Therefore, there is an evident and urgent need for "recalibrating" EU policy[6] establishing a focus on the Western Balkans which could return the region back to the EU political landscape and reverse the fading of support for EU accession in Croatia (with other countries in the region to probably follow suit soon). A significant part of this is certainly a substantial change to the communication strategy regarding enlargement to EU citizens. This would primarily consist of treating Western Balkan accession more as the completion of EU foreign policy efforts, rather than as the next wave of enlargement.[7] The EU has already been present in the region for almost two decades[8] and the final accession of the Western Balkan countries can be presented more as an effort encompassing this engagement[9] than as an enlargement which brings new risks and exports instability to the rest of the EU. Such a distrustful attitude toward the Southeastern neighbours is sometimes detrimental, as it directly neglects the European perspective shared by some of the citizens of Western Balkans countries[10]. Lately, together with a lack of leadership, EU policy on Western Balkans has done little to advance its own efficiency and scope of action. It has been merely reduced to legislative and financial adjustments, and an evident lack of interest and substantial engagement can be detected. The fact that the region has been left on its own during these critical moments of a multifaceted crisis, at least on the political level, creates room for regressive forces while demonstrating that integration is not an EU priority. *The integration of the Western Balkans countries should not be viewed as a potential exporter of insecurity and risk to the rest of the European Union. Such a view of the accession process must be immediately stopped, as the Western Balkan region should be considered an equal partner, not a burden to the rest of Europe.* The direction proposed here should also include the thorough re-consideration of what the EU calls "absorption" or

---

3   "Overall the case is made for significant moves towards 'functional membership' of the whole of the region with the EU, which would be a highly useful advance, irrespective of how or when the EU overcomes its Lisbon Treaty hiatus"., CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

4   "This overall recalibration of EU policies towards the WB would see an adjustment in the sequencing of conditionality and incentive structures. Today access to EU policies is largely conditioned on full accession and the associated political conditionality of the Copenhagen criteria, even if some exceptions are being introduces (e.g. for energy and transport). The foregoing proposals favour increased participation in EU policies before accession, with increased regional multilateralism in theis process, and more clearly defined functional conditionality. This still leaves, however, the final test of conformity with the all the Copenhagen criteria before accession.", CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

5   "Pure political conditionality, relating to the quality of democratic governance, should be essentially reserved for the final decision on the whether the country is to be admitted as a full member state", CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

6   CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

7   "Enlargement is usually portrayed as a form of temporary external governance – or a means of asserting control over less-stable European regions as the candidates are called to implement reforms and apply rules that have been determined by the Union".

8   DPC also notes that "there is an increasing risk that the international community's investment in the Western Balkans could unravel". "Rethinking US policy towards WB", DPC, 2009.

9   "The time is not only ripe but pressing for the EU and the states of the Western Balkans to recalibrate and reinforce the current pre-accession strategy", CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

10 "There is also a high political cost attached to this policy for pro-EU reformer in the region and for Europeans interested in stabilising and integrating the whole Balkan region. Politicaly it is absurd that the EU has promised the Western Balkans countries a European future, but continues to make it difficult for their 20 million citizens to visit the EU and learn what constitutes Europe.", The White List Project, EU policies for the visa-free travel for the Western Balkans, ESI, 2008.

"integration capacity", which was introduced into the debate before the last wave of enlargement (2004). With respect to the WB region, this term is nothing more than a "buzzword", but as such it does reflect the notion that enlargement will not lead to the export of security.[11] The opposite is rather the case: Fearful voices are raised suggesting new security threats will be imported from the Western Balkan countries, and these certainly pose relevant questions about the depth of European stability and the limitations of its neighbourhood policy.[12]

Enlargement takes a back seat, region in the EU by 2015

A number of countries in the region, headed by Croatia, are now frozen in their accession and negotiation processes. Enlargement has taken a back seat, firstly to the Lisbon Treaty process, and second to the economic crisis, which is now the number one priority. The lack of multi-tasking competences at EU governance level is evident, and this prioritising serves as a legitimate excuse. Now countries are stuck in the waiting room, somewhere in the grey zone between the "enlargement" and "neighbourhood" policies, facing a "red light" even though they were expecting a much more dynamic accesssion when they first declared their EU membership aspirations. This can partly certainly be affiliated to the slow, if not superficial, reforms conducted by their own governments, but some of it can certainly be attributed to the results of the EU's own irresponsible, inefficient policy. One would be naive to claim that nothing is happening in the background of this "frozen scene". On the contrary, forces that were once defeated are now buying some time to flesh out their counter-arguments against EU membership and move countries backward, closer to isolation.

From the point of view of an efficient EU foreign and security policy, and also because of its two-decade investment and engagement in the region, the European Union needs to complete this accession process in the next five years. Otherwise, waiting for reforms in some countries to correspond with the benchmarks would certainly forever remove prospective EU membership from the horizon of these countries. The recent difficulties with Sofia and Bucharest have indeed opened up room for scepticism[13], leading to the introduction of additional criteria which have a knock-on effect on the WB countries aspiring to become EU Member States. Consequently, if the Western Balkans has not yet been engaged as part of EU or Euro-Atlantic policy[14], "fresh meat" or institutional innovation in this regard are definitely needed. Therefore, an engaged, pragmatic and functional trans-atlantic policy for the Western Balkans now seems a logical step that could provide results, putting aside the language of never-ending political conditionality. *Consistency, or even more scrutiny, in demanding reforms from national governments should be a core, non-negotiable element of the new EU policy towards the Western Balkans that will return some of the credibility the EU has lost.*

Negotiations hijacked, no "help" from Brussels

Those who once hoped that Croatia would become an EU member country in 2011 are now deeply disillusioned, if not disappointed. The mere fact that one EU member country can successfully block the path to EU membership for a candidate country – due to a bilateral dispute over borders – sufficiently demonstrates that not much attention is being paid to the enlargement process.[15] Although well along in the negotiation process and closer than ever to the European Union, Croatia is now "zoomed away"

---

11 Moreover, ESI also claims that concerns about illegal work migration are exeggareted, as most of those who aimed to emigrate due to economic reasons, already reside within the EU boarders. Migration potential from all countries in SEE including Albania is also relatively small (1 million) what is quite managable figure for community of 500 000 000 inhabitants.

12 See also "EU policy in WB has often been driven more by security concerns rather than internal norms and rules of governance", CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

13 "Drawing on the EU's recent experiences of gross corruption in the use of EU funds in these member states there should be conditions for major increases in the volume of aid in the WB, including programmes to improve judiciaries and the implementation of anti-corruption standards"., CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

14 "Euro-Atlantic policy must focus on halting the backward slide, stabilising the region, and finding the new ways to move it forward. This requires robust US engagement in support of a credible and strategically coherent EU policy to bolster EU's soft power.", in 'Rethinking US policy toward the Western Balkans', James Lyon, DPC, February 2009.

15 In its Resolution on Croatia's progress, (March, 2009) European Parliament "deeply regrets that accesssion negotiations have been effectively blocked for a considerable time because of bilateral issues"' and states "that they should not be an obstacle to accession".

from its European prospects, which now unfortunately appears to be a "second-class objective" in the domestic debate. During the last six months, Slovenia has been successful in maintaining a blockade over the multilateral accession process due to its bilateral dispute over the border issue. It has virtually hijacked the negotiation process, which ought to be separated from a single bilateral dispute that might last for years, if not decades. Now the whole strategic concept towards the Western Balkans has been taken hostage by one of the newest and smallest EU Member States, which is apparently the spokeperson for that part of the European Union resistant to the idea of further enlargement. The blockade is threatening to delay the EU timetable targeted by Croatia and the negotiations as the core instrument in the accession process. *Moreover, this blockade is highly detrimental for another reason: If any new EU member country can use its membership as Slovenia does now to block future negotiations by flexing its muscles at its eastern neighbours in order to preserve dominance in the region, the negotiations will become the object of nationalist competitions. This case also serves as an example of the EU's failure to separate multilateral processes from bilateral conflicts unrelated to the accession.* In any case, EU policy should regulate this distinction and avoid situations where negotiations can be obstructed by irrelevant criteria.

With the fading of EU stimulus for reforms in Western Balkan countries, these aspirations and efforts remain mostly in the progressively more narrow camp of pro-European social forces. However, linkage between the EU (EC) and domestic actors of change (namely civil society organisations) has lately been substantially changed and weakened, as EC bodies are far more supportive of the state/government than of civil society groups, which are now addressing the European Parliament in order to internationalise particular issues or produce necessary pressure. There is an urgent need to reverse this process, as civil society actions are, together with most of the other propulsive sectors (culture, science, innovation), the most crucial for the creation of the transnational social spaces that underlie any possible regional cooperation and are beyond the sphere of elite political influence which is inclined to slow down accession.

Green light for the Western Balkans – Waiting for Godot?

However, "positive momentum needs to be visibly reinforced, and there are possibilities to do so at the EU and the regional level"[16]. The proposals provided here aim to suggest the scope and the approach of a new EU policy which would be able to give the green light to the rapid, but nevertheless high-quality accession of the Western Balkan countries to the EU. These are divided into two separate chapters, first addressing the issues shared by all countries in the region, and second, presenting specific proposals for the continuation of the accession process in Croatia, which is already advanced in comparison to the rest of the Western Balkans.

Seven steps for the SEE region

1. Full EU membership of the Western Balkan countries by 2015 – to achieve this objective, a separate EU/Western Balkans meeting would have to be organised during the upcoming Swedish EU Presidency to accelarate the pace of structural reforms and advance the accession process. It would serve to achieve agreement on joint endeavours and cooperation mechanisms in favour of rapid accession to the European Union through institutional innovation. Although this proposal might sound too optimistic, it provides a timeline which is both feasible and possible if the Western Balkans is about to maintain forward movement towards prospective EU membership. With further delays, the risk that the Western Balkans will remain Europe's "black hole" are rapidly increasing.

2. Functional membership[17] – a proposal which serves as a bridge to full membership and deserves wider application. It also enables countries to participate in EU policies even before complying with

---

16 CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008
17 Proposal has been developed and advocated by Michael Emerson from Center for European Policy Studies based in Brussels.

the political Copenhagen criteria. This proposal is very pragmatic as it is focused on what is currently possible and does not maintain political obstructions that can cause delays in the process itself. There are already solid examples in the field of transport and energy (initiated by the signing of the Energy Community Treaty back in 2005.)[18]

3. Euro-Atlantic working group for WB – the objective is to establish a high-level working group by the end of 2009 that would be able to coordinate actions between Washington and Brussels and to ensure a creative, decisive and efficient trans-atlantic policy toward the WB countries. The group would also consist of a few persons from the region providing not only an impetus for full accession, but also presenting a nucleus for regional ownership, as most important decisions lie in the region's grasp. However, a mix of soft European diplomacy and decisive US policy could bring more efficiency to the process.

4. Visa-free travel is one of the politically most sensitive issues, particularly in relation to the support of EU citizens for EU enlargement. On the other hand, this issue is also surprisingly (!) relevant for gaining more support for EU membership in the respective Western Balkan countries. However, it faces the widespread myths of the Balkan region as a source of crime, insecurity and poverty. Therefore, Croatia itself should, as the most advanced country which already fully enjoys free movement of people (and respecting solidarity as one of the EU core constitutional values) lead an initiative to remove the obstacles to visa-free travel in the rest of the region.[19] Fears that the region holds significant migration potential which would overflow into EU countries at a time of economic crisis (or even without it) are exagerrated and unjustifiable, as the migration potential is a maximum of 1 million persons what is still a manageable figure for a community of 500 million of EU citizens. Hence, the political achievement of the final consolidation of the EU territory would be much higher in comparison to potential risks that can be imported with maximum of 1 million of immigrants. That would lead to re-framing of the Schengen project itself, which now, unfortunately, still appears to defend the 'fortress Europe' concept. Therefore, the rapid – if not immediate – lifting of visa restrictions (or scrapping of visas) is "a must", as it does not involve considerable risks but will have a great impact, since it communicates the European Union as something accessible. On the other side, it narrows the room for illegal migration and organised criminal which are partially a result of such restrictive policies.

5. Customs union – A proposal which has been rumoured for quite some time, on the basis of a common market and common languages. It also significantly corresponds with the notion of "functional membership"[20] as it introduces an EU policy scheme into the Balkan region. Although still politically sensitive, this proposal should have a coherent action plan behind it, as well as strong political will among the EU and US policy makers in the region.

6. Energy Security – As previously mentioned, energy is already a sector where the region is exposed to EU policy around the terms of functional membership and as such it holds high importance. However, the region is still extremely vulnerable when it comes to security of energy supply and dependence on a variety of energy sources due to its low level of diversification (which became evident during the natural gas crisis in early 2009). Moreover, state-owned energy companies (that have

---

18 "The ECC was signed on 25.10.2005. by the EU and all the WB, including Kosovo. It represents significant systemic development for EU policy in the Balkans in two respects. Multilateral + legaly binding compliance with the acquis – for the sectors in question. A key feature of the Treaty is the accession of all the WB to the EU's electricity grid system organised under the UCTE, with the physical connection of SEE to the EU's grid achieved already in October, 2004....Unlike the one in the energy and transport sector, "EU's trade and monetary policies towards the region lag behind, depriving the region's economies of synergetic benefits between the whole set of economic policies", CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

19 For country like Croatia, which is already enjoying freedom of free movement it is much more comfortable to lobby for the visa liberalisation than for the rest of Balkans which is deeply deprived in regards to this right.

20 "The second option would be for all the WB to enter into the customs union (of the EU, Turkey and Andorra), requiring that the WB adopt the EU's common external tariff with third countries in addition to complying with various standards for customs procedures... The benefit from scrapping the rules of origin procedures for trade between the EU and the WB would be especially important for the region given that it is a cluster of small states virtually surrounded by EU, and where complex structures of 'producer-driven supply chains' across these countries should develop.", CEPS, Policy Brief, Michael Emerson, 'Recalibrating EU policy toward Western Balkans', October, 2008

not yet been privatised) are being used as a playground for national elites to exercise resource nationalism . Still, the region itself has evident transit potential,as projected oil and gas pipeline routes pass through most of the Western Balkan countries. However, these gross infrastructural projects should not collide neither with the enjoyment of human rights in the respective countries, nor with the objectives of ecological energy policy. Even more,they should make a difference by adding to diversification in energy supply. As the region possess both strong hydropotential (Bosnia and Herzegovina) and renewable sources (solar and wind energy at the Dalmatian coast), room is provided for investments into cooperation and energy exchange projects, rather than investing in new nuclear or coal projects planned to cover increased energy consumption in the WB countries or even to export it to other countries.

7. Shaping the European *demos* in Balkans – any overarching strategic concept that is to be part of EU communication strategy toward the Balkan region should contain the inherent, explicit notion of European political identity as deeply rooted in an affiliation to constitutional values and direct civic participation. As the Balkans per se has a strong records of transnational history, European identity is something that can successfully work to the detriment of nationalist sentiments in the respective countries. Through enhancement of the cooperation with civil society actors in the region, the EU can actively participate in the development of the European demos in the candidate countries and help to integrate them into the European public sphere.

<u>Six steps for Croatia</u>

1. Lifting the blockade on negotiations – there is an evident urgency to separate the negotiations process from the bilateral dispute with Slovenia, let alone the legal solution discussed in the dispute (arbitration issues, etc..). If the multilateral process of accession and negotiations is stopped due to a single bilateral dispute over borders (and not in relation to reforms or Copenhagen criteria), EU policy will continue to lose credibility and consistency, leading to a decrease in support for EU membership. In the long term,Croatia would lose its European prospects, while the EU would fail to apply its foreign policy. The negotiation process is currently blocked after 2/3 of chapters have already been opened. Due to this delay, negotiations will not be completed until June 2010.

2. Dual citizenship – this politicaly sensitive issue should be solved for domestic and EU-related reasons. A significant number of Bosnia and Herzegovinian citizens also possess Croatian citizenship, which enables them to participate in elections in both countries. Setting aside the now-discussable impact this has on domestic politics, with EU membership this situation would lead to substantive changes in Bosnia and Herzegovina, since number of their citizens would also become EU citizens – although their country would still not be a member. Therefore, EU policy should also propose a solution or generate pressure on the accountable governments to solve the issue of citizenship – which is now a hot potato – in fair and just way.

3. Sustainable return of Serbian refugees – this issue needs the long-term engagement of the state, providing conditions for the sustainable living of Serbian refugees. Policy in this sector needs to be substantially improved (including stimulations and supsidiarities in the housing, employment and education sectors) and backed up with elaborated and applicable programmes. As it also presents a security issue, sustainable and socially sensitive policy in this area contributes to reconciliation and reduces conflict potential. Therefore, EU policy should still focus on this highly depopulated, deprived area, aclosely observing and evaluating the performances and efforts detected in this sphere.

4. Judiciary – radical depoliticisation of this sectory is urgently needed. Government should be invited to further develop and implement actions that will ensure the independence of judges at all levels, thus minimising conflicts of interest and any kind of discriminatory practice. All efforts related to reform of the judicial sector in accordance with the benchmarks should be highly supported. Achievements in this field would have an immediate spillover effect on the issue of corruption and transparency.

5. Regional development – EU policy should pay more attention to differences between the various regions inside the country and support actions to reduce detrimental discrepancies which can cause social inequality and holds the potential for conflict. However, that would imply a considerable change in EU policy toward the current government, which still supports highly-centralised governance.

6. Sustainable energy and climate policy – in its recalibrated version, EU policy should pay much more attention to the compliance of national policies that should be in accordance with the principles of sustainable development. Therefore, these policies should be adjusted to the EU climate and energy package, which opens up room for renewable energy and energy efficiency measures rather than prolonging dependency on fossil fuels and atomic power.

Concluding remarks

This paper proposes a fast, decisive, efficient, less conditional and more consistent EU policy toward the Western Balkans and Croatia. It is based on the notion that EU policy has already wasted lot of time due to a misperception of priorities and low interest in the region. If EU engagement in Croatia and the region is to be fruitful, it needs substantive changes that can be tracked into action. Before any country becomes a full member, functional membership could serve as a very useful model, thus bringing every candidate or aspiring country closer to EU standards. However, part of that work remains on the EU side of the field, including communicating Western Balkan accession as the completion of ongoing work, not as a new wave of enlargement which would bring new security risks. Prior to that, a visa-free regime, customs union and more regional cooperation can be the phases which can bring European Union – and European values – closer to the citizens of the Western Balkan countries.

REFERENCES:

Assessing the security implications of Balkan Integration, Security and Defence Agenda, Brussels, 2009
Assessing the Western Balkans' EU membership hopes, spring 2009, Erhard Busek,
www.europesworld.org
Democratisation Policy Council, 'Rethinking US policy toward the Western Balkans', James Lyon,
February 2009.
CEPS Policy Brief, ''Recalibrating EU policy toward Western Balkans'', Michael Emerson, October
2008.
EC Croatia progress report, November 2008.
Gergana Noutcheva, ''Fake, partial and imposed compliance – the limits of the EU's Normative Power
in the Western Balkans'', CEPS, 2007.
IFIMES, Međunarodni institut za bliskoistočne i balkanske studije. Hannes Swoboda, 'Balkan:
produženi boravak u čekaonici'
European Parliament resolution on Croatia's 2008 progress report, Committee on Foreign Affaris on
Croatia's 2008 progress report:
Towards an Integrated European Security Policy, Die Grünen, EP, April 2005

A new "Plan C" for enlargement: Clarity, Coherence, Consistency

Venera Hajrullahu

1. Introduction

Today the EU is an undeniable global actor and its foreign agenda has increased considerably. It is by far the world's biggest donor of humanitarian and development aid and has various other instruments at its disposal: Trade, diplomacy, technical and financial assistance, military and civilian crisis management mechanisms. Nevertheless, the lack of coherence of its external actions and its overly complicated CFSP mechanisms prevent it from efficiently responding to emerging crises as well as from formulating adequate policies and implementing them effectively.

Following the massive involvement of the past decade, the Western Balkans has slipped down on the list of the EU's foreign and security agenda priorities. This decrease of interest, mainly due to competing priorities faced by the EU, but also to its lack of determination to pursue its enlargement policy in a sufficiently intense and consistent manner, leaves the EU's business in the Western Balkan region unfinished.

Lessons from the past two decades are a study in the contrasts of the EU's policies towards this part of Europe: The policy of the early 1990's, the negative consequences of which continue to be felt, and the policy of 1999 onwards, which resulted in increased stability and the achievement of a remarkable transformation. Ten years later, it's time again for bold,and strategic decisions that draw on the lessons learned and respond to the specific needs of the region as well as individual countries.

2. EU Enlargement

So far, enlargement has been the EU's most successful foreign policy. EC reports show that the most recent enlargement brought political and economic benefits to both EU and candidate countries. However, the overall political atmosphere and context have changed in the interim. As a result of the world economic crisis, the obstacles to ratifying Lisbon, and as a result of lack of political leadership in a number of Member States, enlargement is now in difficulty. The prevailing feeling of "enlargement fatigue" seems to be based merely on perception, given that the actual benefits of enlargement have outweighed its cost. However, perception matters and is to be taken seriously at all levels: The EU, Member States and countries aspiring to EU membership. There is room for improvement at all these levels in terms of intensity, approach and effectiveness: Enlargement needs to be communicated in the way it deserves, for the benefit of both EU and Western Balkan countries' citizens. The Lisbon agreement to streamline the EU's institutional set-up and an effective accession process would both contribute to the European Union's consolidation. Political leadership remains key on both ends – at the EU level and that of candidate/potential candidate countries – as what is at stake is nothing less than the role and credibility of the EU in an increasingly challenging international setting and its consolidation, both territorial and political, to include South East Europe.

3. Western Balkans

The EU – a more predictable, consistent and effective partner

The EU is the most important international actor in the Balkans today and in the foreseeable future as

it holds a very important lever – the prospect of full EU membership for the countries of the region. It also holds a well-established framework, the Stabilization and Association Process (SAP) with its large palette of complementary instruments as a means to smoothly lead the region through the demanding accession reform process. In addition, there is a declared political consensus of all WB countries over this strategic goal, and there is good public opinion support – membership is what most of the people of the Western Balkans want, whatever their ethnicity or political views.

However, this lever has not been exercised sufficiently effectively. The lack of coherence of EU foreign policy and the lack of a more regional approach, in terms of better understanding the interconnectivities among the different countries of the Western Balkans, have led to a number of inconsistent policies and a weakened conditionality instrument. Indecisiveness and vagueness have left the region with a mix of unresolved problems which are coming to the surface, causing delay and limiting progress – as a result, all countries, in one way or another have stalled in the process.

It is of prime importance to understand that the nature of transition in the Western Balkans is not only a matter of transition to democracy and functional market economies, but also of post-conflict state-building and the establishment of new borders. As long as political issues remain open, it is impossible to envisage strong, sustainable progress on the EU reform agenda. Settling the remaining open questions is a precondition to lasting stability, sustainable development, democratization and ultimately Europeanization.

Ten years after the last war, even though the region as a whole has come a long way, it is still not ready to be left to itself. An exit strategy from those countries where the EU has direct engagement (executive powers) should be based on clear benchmarks and matched with a strategic, efficient, strict and fair engagement in bringing the region closer to the EU. The EU accession framework remains the strongest, if not the only working policy that the EU can apply to the Balkans.

4. Kosovo

One year of independence

On 17 February 2009, Kosovo celebrated its first year of independence. During this period, Kosovo was recognized by 60 countries representing more than 60 percent of the world's economic power. The Comprehensive Proposal for the Kosovo Status Settlement – the Ahtisaari Plan, which provides for international supervision of Kosovo's independence – is being implemented. Belgrade, persisting in its rejection of the new reality, conducts active diplomacy with the aim of blocking the further recognition of the independence of Kosovo as well as its membership in international and regional institutions and initiatives, while simultaneously instructing the Kosovo Serbs not to cooperate with the government of Kosovo, thus obstructing the functionality of Kosovo. While the independence of Kosovo remains an irreversible fact, this policy of rejection delays not only the normalization of relations between Serbia and Kosovo, which are key to much-needed stabilization and regional cooperation, but also the accession prospects of part of the region, including Serbia itself.

The EU in Kosovo

In addition to the carrots and sticks of EU integration and conditionality, the EU has deployed other tools, such as direct engagement, deployment and application of executive powers in Kosovo.

The EU presence in Kosovo is made up of three components: A political entity in the European Union Special Representative (EUSR), double-hated as the International Civilian Representative, an operational entity in the EULEX mission, and a reform-driving entity in the European Commission Liaison Office (ECLO). While they should all be pursuing the same objective, their operations are affected at the outset by the contradiction and overlap between their advising and supporting capacities on the one hand and, on the other hand, the executive powers. In addition, the non-recognition of the independence

of Kosovo by five Member States (Cyprus, Greece, Romania, Slovakia, and Spain,) makes the status and aims of the ICO and EULEX ambiguous. The lack of clarity for their areas of operation, as well as the slow deployment of EULEX, has gradually diminished the authority and credibility of this largest-ever ESDP mission.

EU unity toward Kosovo independence – a precondition for the success of EU missions

In terms of coherence of its action on the ground, as well as the matter of consistency in implementing common decisions (Council Joint Action 2008/124/CFSP, adopted on 4th February 2008)) the EU should encourage these five Member States to align to the position of the rest of the Member States by recognizing Kosovo as an independent state, as this lack of unity has now become a major obstacle to the implementation of the EU's own strategy and action in Kosovo, diminishing the effectiveness and credibility of its joint mission there, with a negative spillover effect in the region.\At the same time, the EU should make it very clear to Belgrade that one of the conditions for it to progress towards EU is to fully support EU policy – not just not to impede that policy, but to actively support it.

It should be known that despite a high level of cooperation and the coordinated action of the Kosovo authorities with the international community, there is a high level of discontent among Kosovars over the limited sovereignty and internal integration of their new country. The inability of the EU to reach consensus on Kosovo weakens international supervisory institutions, indicating that the urgent need for stabilization is not grasped in all the European capitals.

Kosovo in the EU?

The lack of unity among Member States is also affecting the formal progress of Kosovo along the EU integration path. The tracking mechanism (Stabilization and Association Process Tracking Mechanism for Kosovo) through which it was made possible for Kosovo to benefit from the different instruments of the SAP has now reached its limits. All of the other countries have a much more advanced type of relations with the EU (they have signed Stabilization and Association Agreements or been granted candidate status), therefore benefiting from deeper political and technical dialogue as well as financial support (i.e., as candidate countries). Kosovo, despite a reconfirmed EU membership prospect, cannot achieve unanimous support at the EU Council to even start a Feasibility Study assessing its readiness to open negotiations for a Stabilization and Association Agreement.

A particularity of Kosovo, in terms of its approximation to the EU, is that it has benefited from a unique situation wherein institutions and legal infrastructure were to be rebuilt from scratch. Drawing on the EU model, Kosovo successfully aligned its new institutions and legislative framework with acquis requirements ranging from basic to advanced. Nevertheless, a functioning democracy cannot be copied nor imposed from outside, and this ''paper-based'' progress is tested when it comes to its implementation and the interiorizing of the values. A thorough assessment and benchmarking in the form of a Feasibility Study would be a good step forward, identifying shortfalls and allowing not only the authorities but also the public in Kosovo to closely pursue and monitor the implementation of the priorities it sets on its way towards the European Union.

On the other hand, Kosovo needs to make all the effort required to convince the Member States and the European Commission of its readiness and strong political commitment to enter the next phase of the process. It should demonstrate full determination in implementing the European Partnership recommendations, in particular the key and short-term priorities; in addressing primary concerns as evidenced by the 2008 EC Progress Report on Kosovo; and in bringing Kosovo institutions to a well-functioning level, with a stable public administration and an independent, efficient judicial system. Only in that way can it be taken seriously and considered a partner in the process.

5. Conclusions

Post-conflict stabilization continues to be a challenge to international community interventions throughout the world and the successes, unfortunately, are not many. The Balkans could potentially be one if the work is led through its final stage.

The European Union should use its different monitoring tools together with other independent studies to produce a strategic document with a comprehensive regional approach and a timetable for full membership for all the countries of the Western Balkans. An EU-Balkan Summit, not only reconfirming but reinforcing the Thessaloniki commitments with a new approach toward the Western Balkans should take on board the special needs of the region and its individual countries. A stronger European policy and the broader presence of high ranking EU officials in the Balkans with the main goal of deepening relations with all the countries in order to bring them as close as possible to the European Union would deliver the message that the ultimate goal of full membership will be achieved when these countries are ready. A new spirit and dynamism needs to be injected into the process.

The region and the EU need to join forces and turn the Balkan challenge into the next enlargement success story.

BIBLIOGRAPHY

Resources related to the contribution:
Avery, Graham and Batt, Judy (2007): Balkans in Europe: Why, when and how? EPC Policy Brief March 2007
Balfour, Rosa (2008): The Balkans in Europe: Containment or transformation? Twelve Ideas for Action, EU Integration & Citizenship Programme, June 2008
Altmann, Franz-Lothar (2008): Kosovo's Independence: The Consequences for EU's Integration Policy- July 25, 2008, available at: www.blogs.eliamep.gr/en/altmann
Batt, Judy (2006): The EU's Foreign and Security Agenda and the Western Balkans, a joint seminar of the EU Institute for Security Studies, Paris with Institute for International Relations, Zagreb, Centre for Security Studies, Sarajevo, International and Security Affairs Centre, Belgrade, Dubronvik, Croatia, November, 2006
Bechev, Dimitar (2004): DPhil Candidate, Research Associate, South East European Studies Programme, ''Between Enlargement and CFSP: The EU and the Western Balkans'', June, 2004
Biscevic, Hido (2009): Secretary General of the Regional Cooperation Council, South East Europe should turn the crisis into an opportunity, April 2009
Busek, Erhard (2009): ''Assessing the western Balkan's EU membership hopes'', available at: www.europesworld.org/newenglish
Commission of the European Communities (2003): EU-Western Balkans Summit Declaration, Thessaloniki,June 21, 2003, available at: www.ec.europa.eu/enlargement_process
Commission of the European Communities (2006): Kosovo Progress Report (under UNSCR 1244), Brussels, 8 November, 2006 available at: www.ec.europa.eu/enlargement/pdf/key_documents/
Commission of the European Communities (2009): EU Regionally relevant activities in the Western Balkans 2008/09, available at: www.ec.europa.eu/enlargement/pdf/key_documents/
Council of the European Union (2008): Council Joint Action 2008/124/CFSP of 4 February 2008, Official Journal of the European Union
Drobnjak, Vladimir, (2009): Opening remarks ''The EU's Foreign and Security Agenda and the Western Balkans'', Dubrovnik, Croatia, November, 2006
Deda, Ilir and Peci,Lulzim (2009): Looking beyond Mitrovica bridge: an ''Ahtisaari Plus'' package proposal, KIPRED, Policy Brief Series, Paper 9, available at: www.kipred.net
European Council (2000): Conclusion of the Presidency, Santa Maria da Feira, June 20, 2000, available at: www.europarl.europa.eu/summits/
European Council (2006): Council Regulation Establishing an Instrument for Pre-Accession Assistance, Brussels, July 17, 2006 available at: www.eur-lex.europa.eu

EU Presidency Conclusions (2008): Declaration on the Western Balkans, Brussels, 19/20 June 2008

European Stability Initiative (2008), Strict but fair – Declaration on visa liberalization, 19 March 2008

European Stability Initiative (2005): Breaking out the Balkan Ghetto: Why IPA should be changed, executive summary, 1 June 2005, available at: www.esiweb.org

Foreign Policy Club (2008): How did Europe find Kosova? Progress Report and 6 points plan, Executive report, Prishtina, November 2008

Friis, Karsten NUPI (2009): Challenges for the international community in the Western Balkans 2009, the need for " status before standards", Comments made at the Norwegian Ministry of Foreign Affairs, Western Balkans Seminar, 5 January 2009

Hajrullahu, Venera and Curri, Fatmir (2007): "State of Play and Main Challenges for Kosovo on the way to the EU", Civic platform for 2007 elections in Kosovo, Forum 2015, Prishtina, 2007 available at www.forumi2015.org

Helsinki Commission (2009): unofficial transcript, hearing "The Western Balkans: Challenges for U.S and European engagement"

International Commission on the Balkans (2005): "The Balkan is Europe's Future", Sofia, available at: www.balkan-commission.org/activities

Krastev, Ivan (2005): "The Balkans explosion that could benefit Europe", Autumn 2005, available at: www.europesworld.org/newenglish

Key findings of the progress reports on Albania, Montenegro, Bosnia and Herzegovina, Serbia and Kosovo (2008), available at: www.europa.eu/rapid

Pack, Doris (2008): "Make the western Balkans the EU's next prize" GALLUP Balkan Monitor, available at: www.europesworld.org/newenglish

Petrisch, Wolfgang (2008): "The EU must speed-up its Western Balkans enlargement, Spring 2008, GALLUP Balkan Monitor, available at: www.europesworld.org/newenglish

Pond, Elizabeth (2008): Policing Kosovo: The challenges awaiting EULEX, Summer 2008, GALLUP Balkan Monitor, available at: www.europesworls.org/newenglish

Rehn,Oli EU Commissioner for Enlargement, Summary Note on the Joint report on the state of the future of EU and international presence in Kosovo, available at: www.europa.eu/rapid

Rehn, Oli (2006) Speech at Law School of Ljubljana University "Enlargement and the Western Balkans" , available at: www.libertysecurity.org

Sebastian, Sofia (2009) Making Kosovo Work, Policy Brief by FRIDE Foundation, March 2009

Solana,Javier (2007): EU High Representative for the CFSP, Summary Note on the Joint report on the state of the future of EU and international presence in Kosovo, available at: www.europa.eu/rapid

Stability Pact (1999): Sarajevo Summit Declaration, Sarajevo, July 30, 1999, available at: www.stabilitypact.org

Svilanovic, Goran (2006): "The EU and the Western Balkans-from current stalemate to a win situation for all"

The EU in Kosovo (2008): European Union Background, February 2008, available at: www.consilium.europa.eu/kosovo

United Nations Security Council (1999) Resolution 1244, New York, June 10, 1999, available at: www.daccessdds.un.org

United Nations Security Council (2007): Report of the Special Envoy of the Secretary –General on Kosovo's Future, New York, March 26, 2007, available at: www.unosek.org/docref

BIOGRAPHIES

Eldar Sarajlić earned his Masters in Political Science at the University of Sarajevo, Faculty of Political Science. He is affiliated with the Institute for Social Research at this Faculty, where he is taking part in groundbreaking research on Bosnian political elites. Eldar also works as an editor at the journals Pulse of Democracy and Status (www.status.ba; www.pulsdemokratije.ba) in Bosnia and Herzegovina.

Venera Hajrullahu is the Executive Director of the Kosovar Civil Society Foundation. Prior to that, she was Director of the European Integration Processes Office in the Office of the Prime Minister and then Advisor to the Prime Minister of Kosovo on European Affairs. She was Chair of the Experts Group for the Strategy of Public Administration Reform as well as the Kosovo representative on the Steering Committee of the Regional School for Public Administration. She graduated in French Language and Literature and also studied European Affairs at the European Institute of the University of Geneva. She has also been a member of the Kosovo Foundation for Open Society (KFOS) and the Professional Council of the Kosovar Institute for Policy and Development Research (KIPRED). Currently she is a member of a number of civic and policy platforms.

Vedran Horvat has served as the head of the Heinrich Böll Stiftung office for Croatia since 2005. Prior to that, he worked as a journalist for the national daily political newspaper Vjesnik (1998- 2004) and as a correspondent for some international press agencies and newspapers (Transitions Online, The Christian Science Monitor). He is a sociologist and holds an M.A. degree in Human Rights and Democratisation. He has also extensively published and written on environmental and migration issues both in domestic and international journals. He is engaged in diverse civic initiatives and occasionally provides political analysis or consultancy.

Vladimir Pavicevic (1978) is a lecturer at the Department of Political Sciences at the University of Belgrade and Programme Director of the Belgrade Open School. He holds an MA in European Studies. From 2004-2006 he was a lecturer at the School of Law (Department of Political Sciences), University of Montenegro, Podgorica. Pavicevic is author and co-author of several books and essays on European topics.

Issue Paper on EU policy toward the Western Balkans – Regional Perspective
Case studies – Bosnia and Herzegovina, Croatia, Kosovo, Serbia

June 2009