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The next enlargement round – The Balkan challenge

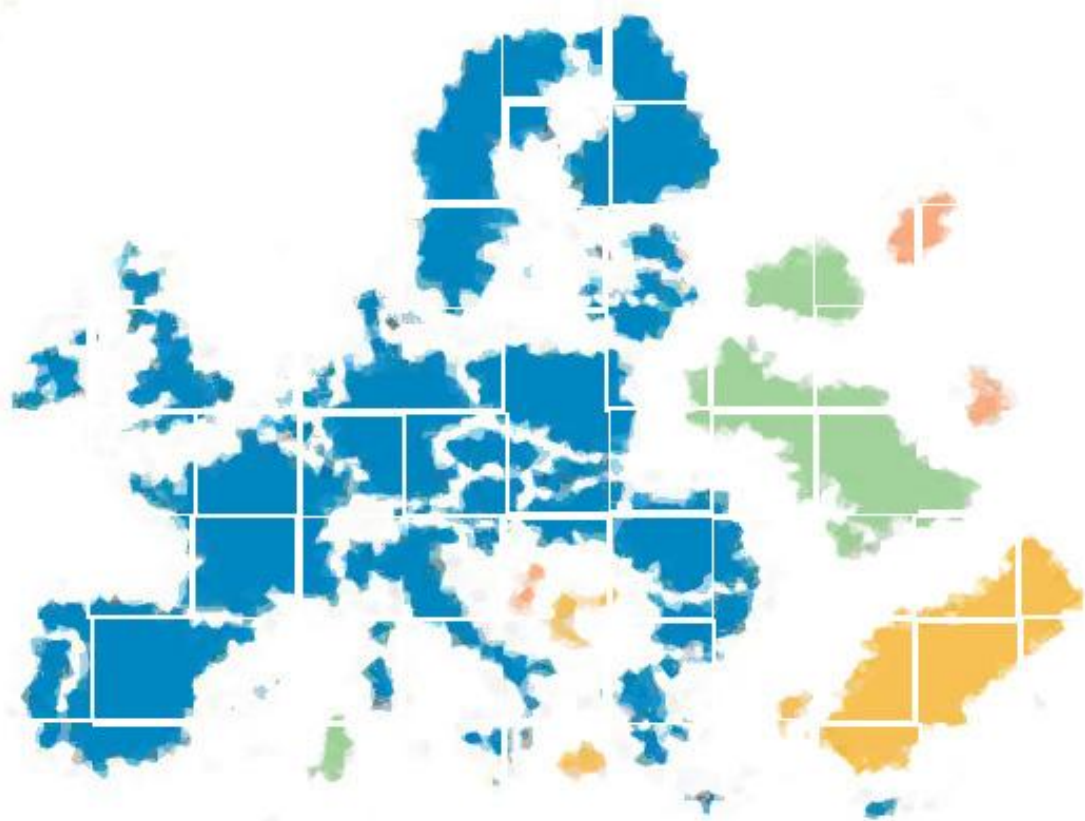
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Policy Paper

The next enlargement round - the Balkan challenge

Beáta Huszka



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Abstract

The present study highlights and discusses the issues that could potentially undermine the European prospects of South Eastern Europe. It argues that the latent threats emanate not only from the region itself but also from the EU. On the EU's side the inability to speak in one voice and the ambiguous nature of conditionality policy hide the greatest risks to the enlargement process, which might weaken the credibility of the promise of EU integration. In the region, unfinished statehood issues, problems related to the rule of law and the potential social consequences of the current economic crisis represent the most serious dangers. Altogether, this study aims to draw attention to those problems, which are likely to be on the Hungarian presidency's Balkan agenda. While presenting the potential challenges the presidency will face in 2011 concerning the Western Balkan region, the paper also offers some tentative recommendations on how to address them.

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Introduction - Born under a bad star (?)

“Enlargement is one of the EU’s most powerful policy tools”, states the European Commission’s communication on enlargement strategy.¹ While applying this tool to the Western Balkan states, the significance of its avowed function as of serving “the EU’s strategic interest in stability, security, and conflict prevention” becomes even more paramount. Beyond any doubt, EU integration is the key condition, which can lock the region into a virtuous circle of long term security and development. However, bringing about the next enlargement round seems to be more of a challenge than ever before whereas the stakes are also undoubtedly high involving vital European security interests. While candidate and potential candidate countries of the region have to meet harder conditionality requirements than the former candidates of Central and Eastern Europe, commitment of the EU to further enlargement has been wavering in the face of harder than expected institutional reform and the deepening world economic crisis.

The EU boosted its demands regarding the Western Balkan states as compared to the recently joined Central Eastern European countries through applying an enhanced conditionality policy. Political conditionality targeting the former candidate new member states was anchored in the Copenhagen criteria, which aimed at furthering democratic consolidation, and included the requirements of a pluralist and multi-party democracy, the respect for human and minority rights, the rule of law, a functioning market economy, and of having the ability to take on the obligations of membership. The scope of political conditions was extended in 1997 right before the first negotiations commenced in early 1998 to contain other measures such as fighting corruption, strengthening state capacity and having an independent judiciary.² Demands seeking to address challenges related to state building, post war reconstruction and stabilization were additional priorities specifically designed to address the special situation in South East Europe, such as fostering good neighborly relations among states, regional cooperation, return of refugees, ethnic and religious reconciliation and cooperation with the International Criminal Tribunal for Yugoslavia in the Hague. All these criteria were enshrined in the Stabilization and Association Agreements, which similarly to the Europe Agreements of the mid 1990s, put a great emphasis on democratic conditions while also included additional requirements addressing issues

¹ European Commission, Enlargement Strategy and Main Challenges 2008-2009, Brussels, 5.11.2008, COM(2008) 674 final, 3, http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/strategy_paper_incl_country_conclu_en.pdf.

² Geoffrey Pridham, “Change and Continuity in the European Union’s Political Conditionality: Aims, Approach, and Priorities,” *Democratization* 14, no.3 (June 2007): 446-471, 452.

related to state building and reconciliation. Thus, the Stabilization and Association Process became the framework of the European course of the Western Balkan countries.

The task, which the EU aims to accomplish through the enlargement process, is arguably more challenging than before as through its conditionality policy now the EU aims to address difficulties stemming from the legacy of violent conflicts. Countries of the Western Balkans have not only to carry out political and economic transition and consolidation as their Central Eastern European counterparts during the 1990s, but they also have to deal with the physical, social and psychological consequences of the wars.

Yet, conditionality can succeed in accomplishing its ultimate goal of member state building only if it is linked to credible prospects of accession into the European Union. However, the weaker political and institutional capacity of these states is coupled not only with greater conditionality demands but also with a growing enlargement fatigue in the EU. Thus, an unfavorable constellation of circumstances characterizes the present enlargement process, seriously imperiling the final success of this endeavor.³ Failing through this journey would be bad news not only for the region itself, but also for the EU, which would risk creating "a black hole" on its south eastern borders.⁴ As this dilemma was formulated by the International Commission on the Balkans, while "the region cannot achieve prosperity and stability outside of European integration"... "dysfunctional states and protectorates that characterize the region actively hinder the inclusion of the Balkans into the European mainstream". Enlargement policy needs to address this status quo, which is in itself blocking the road to EU accession.⁵ Recognizing that conditionality policy alone cannot deal with this challenge and especially problems of statehood have to be tackled before conditionality can take effect, the EU supplemented its enlargement strategy with unusual instruments through assuming a degree of sovereignty in Bosnia and Herzegovina (Bosnia)⁶ and Kosovo.

Altogether, it can be argued that several issues could potentially undermine the European prospects of South Eastern Europe. These latent threats emanate not only from the region itself but also from the EU, which will be elaborated upon throughout this paper. On the EU's side, on the one hand, the inability to speak in one voice and the ambiguous nature of conditionality policy hide the greatest risks to the

³ Such a pessimistic outlook was also presented as a possible outcome by Geoffrey Pridham in his article "Change and Continuity in the European Union's Political Conditionality: Aims, Approach, and Priorities," 446.

⁴ Quote from former EU Enlargement Commissioner Olli Rehn, "EU ministers talk Balkans", B92, 28 March 2009, www.b92.net.yu.

⁵ International Commission on the Balkans, *The Balkans in Europe's Future*, Sofia: Centre for Liberal Strategies, 2005, 12.

⁶ Bosnia and Herzegovina will be referred to by the name Bosnia for the sake of simplicity in the rest of the paper.

enlargement process, which might undermine the credibility of the promise of EU integration. In the region, on the other hand, unfinished statehood issues, problems related to the rule of law and the potential social consequences of the current economic crisis represent the most serious dangers. Therefore, this study aims to highlight those issues, which are likely to be on the Hungarian presidency's Balkan agenda. While this paper discusses the potential problems the presidency is expected to face in 2011 concerning the Western Balkan region, it also offers some tentative recommendations on how to address them.

Risks endangering the enlargement process

The EU

(1) The common voice dilemma

The EU gave a clear “European perspective” to the states of the Western Balkans at the Thessaloniki Summit in June 2003, a promise which was reaffirmed on several occasions ever since, quite recently by a statement of the Czech EU Presidency⁷ (before that by the Salzburg Declaration in 2006 and by the European Council in June 2008).⁸ Conditionality is the major and most visible element of the EU’s enlargement process, the effectiveness of which is based on the attractiveness of EU membership.⁹ The inability of the EU to speak in one voice undermines the viability of this perspective thus the efficiency of conditionality and of the enlargement process. By pushing the promise of accession indefinitely into the future the EU risks losing the momentum generated by the dynamic relationship between conditionality and the accession prospects since without a clear and viable perspective would-be-candidates and actual candidates will be less likely to work on satisfying the accession criteria. As the awards of compliance seem to be ever more uncertain in the face of a divided EU, governments could lose courage to go against their constituency while trying to fulfill demands, especially those that touch upon sensitive issues related to national identity.

As enthusiasm began to fade within the EU from the spring of 2005 after the French and Dutch rejection of the EU constitution, conditionality demands became stricter. At the same time, the requirement of the EU’s absorption capacity began to be voiced more loudly. From 2005-2006 on, especially French and German leading politicians started to pull the breaks on the accession process. While some of the old member states

⁷ EU Presidency Statement Declaration, Declaration by the Presidency on Western Balkans, 2 April 2009, <http://www.eu2009.cz/en/news-and-documents/news/eu-presidency-statement-14119/>.

⁸ EU-Western Balkans Summit, Thessaloniki, The Thessaloniki agenda for the Western Balkans, Declaration, 21 June 2003, http://ec.europa.eu/enlargement/enlargement_process/accession_process/how_does_a_country_join_the_eu/sap/thessaloniki_agenda_en.htm; Slovenian Presidency of the Council of the European Union, Permanent Council No. 718., Presidency Conclusions of the Brussels European Council from 19-20 June 2008 on the Western Balkans, 26 June 2008, http://www.delvie.ec.europa.eu/en/eu_osce/eu_statements/2008/June/PC%20no.718%20-%20EU%20conclusions%20Western%20Balkans.pdf.; The Salzburg Declaration, Salzburg EU/Western Balkans Joint Press Statement, 03 November 2006, http://www.eu2006.at/en/News/Press_Releases/March/1103EUWesternBalkansStatement.html.

⁹ Geoffrey Pridham, 446.

primarily the Netherlands, France and Germany called for a slow down, new members together with Austria, Ireland, the UK and the European Commission pushed for proceeding with membership talks.¹⁰ Quite recently the (initial) failure of the Lisbon Treaty became the main argument as to why enlargement should be halted. The French president said that "without the Lisbon Treaty, there will be no enlargement of Europe".¹¹ His views were shared by the German chancellor, Angela Merkel. Merkel also suggested "a consolidation phase" for enlargement after Croatia's accession, and in December 2008 called the European Commission to delay its opinion on Montenegro's application for membership. France another "breakman", however, emphasized the need to ratify the Lisbon treaty as the most important precondition to continue the enlargement process.¹² Since the Lisbon treaty passed on the Irish referendum, Bernard Kouchner, the French foreign minister upon paying a visit to Serbia in October 2009 sounded very encouraging regarding Serbia's membership prospects.¹³

However, the good news is that on the whole there is a general consensus in the EU over the European perspective of the Western Balkans (unlike with regards to Turkey's or the Ukraine's). Now that the Lisbon Treaty has been ratified by all member states, the EU could get into a more pro-enlargement mood. There are some promising signs of that happening already. In December 2009, the EU unfroze its Interim Trade Agreement with Serbia and removed visa requirements for the citizens of Serbia, Montenegro and Macedonia although the SAA with Serbia remained blocked.¹⁴

Although the Irish vote in favor of the Lisbon Treaty removed a major obstacle from further enlargement, with the reelection of Merkel as the German chancellor and the general victory of the European right in the recent European elections, it can be predicated that skepticism regarding further enlargement is not going to go away in the foreseeable future. Since the idea of the EU being a community of values is central to the EU's rhetoric, the Hungarian Presidency together with other "drivers" and the Western Balkan states could remind the "brakemen" of the promises the EU made concerning membership.¹⁵ Mirek Topolanek, the previous Czech prime minister used such shaming tactics by arguing

¹⁰ Geoffrey Pridham, 467.

¹¹ "No EU expansion without Treaty, Sarkozy warns," EurActive, 24 March 2009, www.euractiv.com.

¹² Risto Karajkov, "Brake on EU Enlargement Dims Hope for the Balkans," World Politics Review, 14 May 2009.

¹³ "Kouchner: Serbia should be in EU," B92, 9 October 2009, www.b92.net.yu.

¹⁴ "EU extends visa-free travel to Serbia, Macedonia, Montenegro," AFP, 30 November 2009.

¹⁵ Schimmelfennig called the member states pushing enlargement further the "drivers", and those calling for a slow down the "brakemen". Frank Schimmelfennig, "The Community Trap, Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the EU", in *The Politics of European Union Enlargement: Theoretical Approaches*, ed. F. Schimmelfennig and U. Sedelmeier (London: Routledge, 2005).

that “blocking the further EU integration of the Western Balkans constituted a violation of the founding ideas of the European community”.¹⁶ As Schimmelfennig convincingly argued, this strategy worked effectively in the case of Central Eastern Europe whose leaders “rhetorically entrapped” the laggards obstructing enlargement through making frequent references to the symbolic commitment the EU made to the accession process.¹⁷ In addition, in case of the Western Balkans, applying the rationalist, liberal intergovernmentalist logic could be also effective by making references to security issues, which create clear interest for the EU to keep the perspective of membership alive to the countries of the region.

In addition, the lack of unity over foreign policy issues including enlargement not only disturbs the EU’s conditionality policy but also undermines the effectiveness of its foreign policy missions such as in Kosovo, yet this will be explained at a greater length in a latter section of this paper.

(2) The credibility of conditionality

As Schimmelfennig concluded, conditionality seems to lead to compliance where high and credible incentives go along with low domestic adaptation costs and a positive Western identity. The last factor takes effect through reducing the perception of cost, since governments with a positive identity value membership highly and are more likely to comply even in the face of the risk of losing power.¹⁸ However, while this “external incentive model” according to which external rewards help elites to overcome domestic costs worked effectively in Central and Eastern Europe, its application to the Western Balkans is more problematic. One reason that can account for this is that with the exception of Croatia the countries are not yet in the phase of negotiating their accession agreement, therefore membership remains a relatively distant perspective, implying that the rewards of compliance in the present are limited.

The second reason relates to the fact that in the Western Balkans EU conditions often touch upon statehood issues i.e. they challenge the territorial integrity of states or confront existing state building agendas. The EU actively assisted in bringing about Kosovo’s independence thus depriving Serbia of a part of its territory even if the member states remained divided over the issue, as a consequence of which the EU as a whole has not officially endorsed Kosovo’s independence. Although the

¹⁶ “Blocking integration ‘creates new iron curtain’,” B92, 13 March 2009, www.b92.net.yu.

¹⁷ Frank Schimmelfennig, “The Community Trap, Liberal Norms, Rhetorical Action, and the Eastern Enlargement of the EU.”

¹⁸ Frank Schimmelfennig, “The International Promotion of Political Norms in Eastern Europe: A Qualitative Comparative Analysis,” *Jean Monet/Robert Schuman Paper Series* 5, no.28 (August 2005): 21-22.

EU officially never made Serbia's accession prospects conditional on the recognition of Kosovo, it is clear that without some sort of "silent recognition" which is a prerequisite of developing bilateral relations between Serbia and Kosovo to a minimal degree of normality Serbia will not be able to join. However, asking of a state the silent acceptance of losing part of its territory is a much more demanding request than calling for the application of democratic norms. In a similar way in Bosnia, the police reform as was originally proposed by the EU and the edict of the High Representative in October 2007 to change the rules of decision making in the Council of Ministers and the Parliamentary Assembly were rejected by the Bosnian Serbs because these measures were perceived as threatening the very existence of the Serbian entity.¹⁹ Moreover, part of the reason why the deadlock over Macedonia's name is so hard to resolve, which stands in the way of Macedonia's EU accession is that the name issue cuts to the heart of Macedonian identity, which has been repeatedly challenged by its neighbors. Therefore, based on past experience it can be concluded that non-compliance with EU conditions can be expected when issues related to statehood and national identity are at stake. Empirical evidence suggests that these are the cases when governments are willing to risk even their European perspective. Serbian politicians made it clear on several occasions that if they have to choose between territorial integrity or EU membership, they would opt for the former, (even if such a choice never really existed, since by rejecting EU membership, Serbia could not regain Kosovo). Similarly, the Macedonian government decided to sue Greece at the International Court of Justice even though the process will probably take between two to five years, which might easily put Macedonia's NATO and EU accession on hold for a while.²⁰

Another factor weakening the effectiveness of conditionality policy is that while the EU most often makes normative claims, it is often driven by security considerations or special interests of member states generating tensions within conditionality policy.²¹ As Gergana Noutcheva in a piece written for the Center for European Policy Studies convincingly argued, when the EU makes normative claims yet is obviously motivated by security considerations, fake, partial or non-compliance can be expected from the states which are subject to such conditionality policy.²² The

¹⁹ The High Representative, Miroslav Lajcak wanted to introduce a new rule, which would have made it much more difficult than before for one party or entity to boycott decision making in the common institutions. For the quote see "Conclusion of the National Assembly of Republika Srpska 01-1720/07", 5 November 2007. Cited in International Crisis Group, *Bosnia's Incomplete Transition: Between Dayton and Europe*, Europe Report N°198, 9 March 2009, 13.

²⁰ ICG, *Macedonia's Name: Breaking the Deadlock*, Europe Briefing N°52, 12 January 2009, 9.

²¹ Othon Anastasakis, "The EU's political conditionality in the Western Balkans: Towards a more pragmatic approach," *Southeast European and Black Sea Studies* 8, no. 4 (December 2008): 365-77.

²² Gergana Noutcheva, "Fake, Partial and Imposed Compliance: The Limits of the EU's Normative Power in the Western Balkans", CEPS Working Documents, 19 July 2007, www.ceps.be.

EU's role in keeping Serbia and Montenegro together until 2006 can be mentioned as an illustration of a scenario where the EU's position could be hardly supported by normative arguments or reasons referring to functional governance. As Noutcheva pointed out, it was difficult to reason for the common state based on moral or legal norms and values considering that other former Yugoslav republics were allowed to become independent, moreover that the Serbian and the Montenegrin leadership agreed to a peaceful divorce in 2001. In addition, given the very different size, economic structure and thus interests of the two republics, claims of functionality were hard to make in favor of sustaining the joint state. Fears of spill over effects Montenegro's secession might trigger in the region overrode all other concerns and served as the main reason for the EU's insistence on keeping the two republics together. Yet, this type of conditionality clearly driven by security interests led to fake compliance on the Montenegrin side, reflected by Podgorica's efforts to make the common state non-functional and by the Montenegrin government's decision to call a referendum in 2006.

By contrast, the rhetoric of the EU justifying the need for Kosovo's independence centered on functionality arguments, namely that after the many years of UN rule and in light of the obvious preferences of the local population there was no real alternative to independence. It was also being argued that undefined status prevents economic development; moreover frustrations of the Albanian population might result in eventual violence. Although human rights violations of the Milošević regime thus moral considerations underpinned Western sympathies towards independence, securing stability became the central claim validating the EU's role in settling Kosovo's status.²³ However, the moral ground is somewhat shaky considering the change of regime in Serbia and the treatment of the Serbs in Kosovo. It is equally difficult to justify independence by referring to legal norms given that the UN Security Council has not approved Kosovo's independence declaration. Thus the EU's Kosovo policy does not represent a strong legal or moral case either, which makes it even harder for Serbia to swallow the outcome. When politicians in the region get the impression that the EU is less concerned about spreading its norms than promoting its security interests, "compliance with conditionality tied to sovereignty" is less likely to happen.²⁴ The lack of persuasive normative arguments diminishes the credibility of the conditionality process, which might lead to non-compliance or as Noutcheva labeled it to partial or fake compliance.²⁵

At other times, pressure from EU member states dictates the enlargement agenda reflecting preferences of individual countries, such

²³ Gergana Noutcheva, 11.

²⁴ *Ibid.*, 12.

²⁵ *Ibid.*, 1-11.

as the Netherlands blocking signing the SAA with Serbia,²⁶ Greece boycotting the launching of membership negotiations with Macedonia or the recently renounced Slovenian threat to block the accession of Croatia. Understandably, conditionality driven by selfish motives of member states does not motivate compliance either.

Nevertheless, enlargement policy is a delicate task which involves balancing between the ideal of rigorous conditionality on the one hand which can ensure that only states fully prepared for membership will be accepted as members and security concerns on the other hand which are linked to fears of alienating the Western Balkans states.²⁷ The EU signing the SAA with Serbia and making the decision to start a dialogue on visa liberalization right before the presidential elections was clearly meant to influence the election outcome and to boost the support of the pro-European candidate, Boris Tadić. At the same time, the EU has not ratified the SAA with Belgrade ever since thus has been sticking to its principle of demanding full cooperation with the ICTY, which would require the apprehension of Ratko Mladić. By contrast in Bosnia the EU let its conditionality on the police reform be diluted in the face of strong opposition from the Bosnian Serbs. Considering that the necessity of meeting the EU's strict requirements regarding the police reform were disputed by many international observers, the achieved compromise, which was nevertheless inadequate by EU standards was retrospectively an acceptable outcome.²⁸ Although the SAA with Bosnia in December 2007 was signed finally, yet, the fact that the High Representative was unable to follow upon his political commitment to the police reform seriously hurt not only his but also the EU's credibility.

Therefore, the rhetoric of rigorous conditionality often comes into conflict with interests related to security and the aspiration to keep the affected countries on the course of European integration.²⁹ This creates confusion and ambiguity with regards to EU conditionality reducing the chances for real compliance. The EU should set the criteria for further progress towards EU integration in a more transparent manner spelling out clearly the benchmarks and conditions that each country needs to meet such as was done for instance while drafting the road maps for visa

²⁶ Dutch politicians made it clear on several occasions that they will block Serbia's association process as long as Ratko Mladić is not apprehended. The Netherlands adopted such a hard line on Serbia because Mladić masterminded the Srebrenica massacre. The Dutch feel personally responsible for the tragedy as the Dutch peacekeepers stationed in Srebrenica could not prevent the genocide.

²⁷ Othon Anastasakis, 373-74.

²⁸ It was noted in a recent ICG report that "international observers now consider that the police generally function at a relatively high level and do not require reform along the EU criteria." International Crisis Group interviews with EUPM officials, Sarajevo, 14, 23 January 2009. Quoted in ICG, Bosnia's Incomplete Transition: Between Dayton and Europe, Europe Report N°198, 9 March 2009.

²⁹ Othon Anastasakis, 374.

liberalization.³⁰ This would be especially important given that although the EU expects compliance with formal requirements; its ultimate aim is to promote democratic *transformation* of the targeted countries and societies, which implies a deeper effect than mere rule adoption.³¹ The condition of cooperation with the Hague Tribunal for instance cuts at the heart of national identity, as the EU is asking the countries in question to treat their national heroes as criminals, and thus to revoke the values and principles they symbolize. On the EU's side this condition was underlined by the need of strengthening the rule of law.³² Yet, while extradition can be demanded it is much harder to enforce the transformation of norms. Compliance in this particular case was often justified by governments as a necessary measure to fulfill a criterion of EU accession and not by the rejection of the acts or ideals these individuals stood for.

However, regarding the issue of the Hague cooperation it is questionable what the benefits are of blocking the ratification of the SAA with Serbia until Ratko Mladić is extradited. The EU was vindicated in signing the SAA with Serbia by the subsequent capture of Radovan Karadžić, yet it is slightly ironic that Serbia was deemed as deserving the signature but not the implementation. Notwithstanding that *full* cooperation with the ICTY should be kept as a condition beyond any compromise, yet its fulfillment could be set as a requirement of opening membership negotiations. At the same time, the present *partial* compliance represented by the handing over of Karadžić could be regarded as sufficient for Serbia moving to the next stage of the accession process to become a candidate. This would be in line with the strategy followed by the EU in the 1990s when meeting democratic standards was the precondition of opening membership negotiations with the candidate countries. As cooperation with the Hague is part of the political criteria related to democratic standards it would make sense to follow the same approach, which would let Serbia move ahead along the path of accession while also allowing the EU to keep a non-compromising stance on European values. Moreover, the treatment of Serbia might look somewhat unfair also in light of the fact that Croatia received a candidate status in mid 2004 more than a year before Ante Gotovina was extradited; only entry negotiations were postponed. Since the Hague cooperation touches on very emotional national issues while simultaneously has a symbolic content of representing European standards, the EU should be especially careful of not using this requirement in a controversial way by applying

³⁰ Srdjan Cvijic, The new Serbia: fast forward towards the EU?, Policy Brief, European Policy Centre, January 2009.

³¹ See for instance the wording of the 2005 Enlargement Strategy Paper: "the pull of the EU has helped transform Central and Eastern Europe from Communist regimes to modern, well-functioning democracies [...] the Western Balkans is a particular challenge for the EU; enlargement policy needs to demonstrate its power of transformation in a region where states are weak and societies divided." In European Commission, 2005 Enlargement Strategy Paper, 2.

³² See for instance the speech of Barroso, European Commission, Barroso Speech, 16 February 2006, 06/98.

double standards. In addition, launching accession talks with Romania and Bulgaria prematurely despite their failures to adequately satisfy certain criteria point to the need of not letting security, geopolitical or other kind of interests override the need of adherence to requirements of fulfilling fundamental political conditions.

The region

(1) The economic crisis

In the last quarter of 2008, the effects of the world economic crisis began to be felt in South Eastern Europe. As the rate of economic growth has been slowing down, industrial production and foreign direct investment started to fall as well, as a result most countries began taking international loans thus further burdening their already large current account deficits. The economy of Croatia, Serbia, Bosnia and Macedonia contracted in 2009 resulting in negative growth rates ranging between 0 and -6% although they are likely to rebound to a positive course in 2010.³³ Croatia will have to deal with similar economic problems in the next few years as its neighbors, however, it is still in a better position due to its close prospects of entering the EU.³⁴ In Montenegro the economy contracted by 4% in 2009 due to the global crisis. Albania also faced a significant slow down; yet probably will be spared from getting into the negative zone. Albania might be the least impacted by the crisis owing to the low volume of Albanian exports and FDI inflows into the country.

As the region's traditional export markets are contracting, and in Serbia and Montenegro privatization revenues are expected to shrink compared to previous years, it will be very difficult to keep the state budgets in balance. The characteristically high current account deficits all over the region are a cause for serious concern, significantly increasing the countries' economic vulnerability. The burgeoning current-account deficits necessitate a fiscal tightening which together with the poor external economic outlook is hitting hard Serbia, Croatia, Macedonia and Bosnia. This at the same time further diminishes consumption, which together with the contraction of available finance dampening domestic investment will significantly slow down domestic demand growth in 2010.

It is feared that the crisis might trigger the deterioration of the delicate social situation in the region. The EU's latest enlargement strategy published in October 2009 wrote that "the unfolding of the crisis in the enlargement countries, particularly its impact on the real economy,

³³ Economic Intelligence Unit, Country Reports on Serbia, Bosnia-Herzegovina, Croatia, as of February 2010, www.eiu.com.

³⁴ EUI forecast, Economic Intelligence Unit, Serbia, Country Report, Main Report, 16 March 2009, www.eiu.com

including on the employment and social situation, is continuing".³⁵ Similarly, the EIU does not exclude the possibility that the crisis could provoke social unrest, and could empower radical nationalist forces.³⁶ As a response to the economic crisis, public-sector wages and war veterans' benefits were cut in Bosnia as a part of an IMF loan package further raising unemployment and fueling social discontent which in itself significantly weakens the chance of reaching a compromise on the constitutional issue (to be discussed later in this paper).³⁷ Similarly in Serbia, the DS led government is coming under increasing pressure due to strikes and protests generated by the economic crisis. The government has to implement further cuts in employment and public sector spending in order to meet the deficit targets agreed upon with the IMF. The series of strikes in early 2010 indicates wide social discontent over low and unpaid wages.³⁸ Likewise in Bosnia, both entities will have to cut public sector spending in light of a stand by agreement with the IMF.³⁹

If the middle class, which in the recent years began to stabilize its position falls victim to the crisis that in turn could disrupt social peace, which could even endanger the accession process of the region.⁴⁰ Such worries are not without grounds considering the high level of unemployment rates being at around 20% in Serbia, 33% in Macedonia, 44% in Bosnia, and over 45% in Kosovo.⁴¹ Social stability and cohesion is thus relatively fragile, which can be easily broken by a recession, which can result in higher unemployment and falling living standards. That in turn might boost the popularity of nationalist parties, which might even lead to renewed low scale, inter-ethnic violence. Although it is hard to predict the probability of such pessimistic scenarios, the risks are real, therefore the EU should upgrade its economic assistance in the region to avoid a social backlash, which might weaken pro-EU political forces and their social base.⁴²

The EU should get serious about providing sufficient economic assistance in order to avoid a social crisis, which will probably cost less than the consequences of instability. From the Crisis Response Package under the Instrument for Pre-Accession Assistance (IPA) in the form of a loan Bosnia received 39 million Euros while Serbia 200 million Euros. In

³⁵ Commission of the European Communities, Enlargement Strategy and Main Challenges 2009-2010, 14 October 2009, http://ec.europa.eu/enlargement/pdf/key_documents/2009/strategy_paper_2009_en.pdf, 4.

³⁶ Economic Intelligence Unit, Serbia, Country Report, Main Report.

³⁷ Economic Intelligence Unit, Bosnia and Herzegovina, Country Report - Main Report, 1 October 2009, www.eui.com.

³⁸ Economic Intelligence Unit, Country Report, Serbia, February 2010, 6.

³⁹ Economic Intelligence Unit, Country Report, Bosnia and Herzegovina, February 2010, 5.

⁴⁰ Tamás Bakó, "Délkelet-európai régiós láttelep", *Világgazdaság*, 12 February 2009.

⁴¹ Economic Intelligence Unit, country reports, www.eui.com.

⁴² "Regional envoy warns economic crisis could spark new political turmoil in Balkans", *SETimes*, 2 April 2009, www.setimes.com.

Serbia's case this assistance comes in addition to the 194,8 million Euro that the EU promised the country under the IPA for 2009.⁴³ Yet, the EU played a moderate role in assisting the South East European states to survive the crisis relative to other actors. For the sake of comparison, Serbia received a stand by agreement from the IMF worth of 3 billion Euro in May 2009, while the Russians gave Serbia a 1 billion USD loan in October 2009.⁴⁴

Therefore, the present system of EU assistance could be reshaped. IPA funds available for the Western Balkans are considerably less than the amount of pre-accession resources before the enlargements in 2004 and 2007, while remaining tasks are also more demanding. On per capita bases the Western Balkans countries receive half of the assistance given to Romania and Bulgaria in 2006, before their accession. Although it is very difficult to change the amounts in the middle of the budgeting period, successful assistance will likely require more funds in the long run, as was argued by Tamás Szemplér. It is an additional cause for concern that due to the differentiation between potential and actual candidates, the countries most in need cannot access funds in the most important fields of development. As the Serbian deputy premier bitterly noted, "there is too much difference between being in or out" of the EU. He lamented how difficult it was "to access resources, to go around the Instrument for Pre-accession Assistance (IPA) limitations, to go around the European Central Bank regulations or even the structural funds in the area of infrastructure and social cohesion".⁴⁵ Moreover, as assistance targeting potential candidates is managed by the European Commission (as opposed to candidate countries where administration of funds is the task of national governments) in their case there is no effective instrument, which could encourage progress towards creating better functioning institutions.⁴⁶

A way of dealing with this problem could be by gradually increasing the structural funds available to the countries of the region towards the levels granted to the new member states right before they joined the EU. This would not only address the issue of greater development needs but would also serve as a very tangible incentive to carry out reforms related to the judiciary and fighting corruption. Most states in the Western Balkans are "weak states" characterized by strong external dependency, a high level of informal economic activity, and lack of rule of law meaning widespread corruption, organized crime, weak judicial structures and

⁴³ European Commission, Enlargement, News about "IPA/financial assistance", 09-10-2009. http://ec.europa.eu/enlargement/press_corner/whatsnew/ipa-financial-assistance_en.htm.

⁴⁴ "IMF approved USD 6.2bn since 2000," "Russian loan and 'importance of Serbian infrastructure'," B92, 25-10-2009, www.b92.net.

⁴⁵ "Serbia regrets EU's lack of solidarity with Balkans", Euractive, 25 March 2009.

⁴⁶ Tamás Szemplér, "EU Financial Support for the Western-Balkans: Well-Suited to Real Needs?", CEU Center for EU Enlargement Studies, *Using IPA and other EU funds to accelerate convergence and integration in the Western Balkans*, 2008 Budapest, 19-21.

administrative capacity, which will be discussed in greater detail in the next section.⁴⁷ As Michael Emerson from CEPS in a recent policy brief explained, the experience of the Bulgarian and Romanian accession suggests that the EU can use conditional funding in an effective way to ensure the implementation of judicial and anti-corruption reforms *before accession*.⁴⁸

As growth rates have been decelerating all over the region, free trade agreements which are part of the SAA package could also be reshaped. A recent World Bank study called for including the Western Balkans into the EU's customs union, which would bring significant advantages over the present multilateral free trade system. Customs union induces intra-industry trade being a major engine of economic development indicated also by the accession experience of the Central Eastern European states. Enlarging the EU's customs union to the Western Balkans could speed up the region's economic integration into the EU and could stimulate economic progress. The framework of the customs union is more favorable than the present system of free trade agreements also because CEFTA tariffs are higher and more diverse than those of the EU thus allow for more trade diversion.⁴⁹ If the Western Balkan states entered the EU's customs union they would have to comply with EU's external tariffs, standards and customs procedures at the same time they would be spared from dealing with the current system's complicated rules relating to country of origin. This would simultaneously send positive signals to investors who would treat the region as part of the EU's internal market, while reducing opportunities for border corruption.⁵⁰

A further way of how Hungary could contribute to the economic development of the region is through placing a great emphasis on including Serbia and Croatia into the Danube Strategy while formulating concrete projects. As the Danube Strategy will be adopted under the Hungarian EU Presidency, it offers a great opportunity to connect Serbia and Croatia organically to the EU through including them into the various forms of cooperation in the area of transport, environment and economic development within the frames of the Danube macro region, which is now in the making. While for Croatia EU membership will be most likely a reality by the time the Danube Strategy kicks off, involving Serbia would be of high importance as it would offer the country some tangible benefits counterbalancing the fact that its EU membership is a more distant perspective.

⁴⁷ Website of the European Commission, Western Balkans: Strengthening democracy, the rule of law and human rights, http://ec.europa.eu/world/peace/geographical_themes/west_balk/strengthening_democracy/index_en.htm.

⁴⁸ Michael Emerson, Recalibrating EU Policy towards the Western Balkans, CEPS Policy Brief, No. 175, October 2008, 6-7.

⁴⁹ S. Kathuria (ed.), *Western Balkan Integration and the EU – An Agenda for Trade and Growth*, World Bank (2008).

⁵⁰ Michael Emerson, 4-5.

(2) Rule of law

Most states in the Western Balkans are “weak states” characterized by strong external dependency, a high level of informal economic activity, and lack of rule of law. The latter means in essence widespread corruption, organized crime, weak judicial structures and administrative capacity.⁵¹ The region is part of a major transit route of drug and human trafficking into the European Union. The problems of organized crime and money laundering were especially highlighted with regards to Montenegro, Bosnia, Serbia, Albania and Kosovo in the EU’s latest progress reports, while corruption and weak judiciary remain an issue in every country of the region including Croatia. Besides the practices of petty corruption manifested mostly in bribing officials, the phenomenon of state capture and systemic corruption characterizes the region, which will be illustrated here through the example of Serbia; which does not mean, however that similar phenomena would not be prevalent elsewhere.

The strong influence of business monopolies over political and economic structures poses one of the greatest systemic difficulties in Serbia today. As Srđan Cvijić has argued in a recent policy brief, powerful businesses maintain strong sway over political parties making party financing non-transparent, preventing liberalization of markets and driving up domestic prices thus distorting competition. Simultaneously, party leaders keep a firm grip over their parties, which is reinforced by the practice according to which mandates cannot be exercised freely by deputies but effectively belong to the parties as a result “undisciplined parliamentarians” can be replaced by the party leadership. This kind of centralization of the political system together with parties’ dependence on businesses breeds corruption and prevents further progress in the area of de-politicization of public administration and spoils efforts to create an independent judiciary.⁵² Furthermore, political parties constituting the ruling coalition effectively control the whole public sector, which they divide up among themselves based on the number of mandates they received in parliament during elections. The parties appoint management (and often personnel) in “state administration, public companies, utilities, institutes, agencies, funds, health, social and cultural centers, dormitories, schools, theaters, hospitals, libraries, monuments and memorial parks maintenance services” without advertising these positions through open competition.⁵³ This sort of distribution of functions works also vertically through appointing heads of local

⁵¹ Website of the European Commission, “Western Balkans: Strengthening democracy, the rule of law and human rights”, http://ec.europa.eu/world/peace/geographical_themes/west_balk/strengthening_democracy/index_en.htm.

⁵² Srđan Cvijić, The new Serbia: fast forward towards the EU?, Policy Brief, European Policy Centre, January 2009.

⁵³ Vesna Pešić, State Capture and Widespread Corruption in Serbia, CEPS Working Document, No.262, March 2007, www.ceps.be, 7.

institutions which belong to central government jurisdiction. In addition, the accumulation of functions by politicians is a widespread phenomenon, partially due to insufficient regulation. Romania's and Bulgaria's accession taught the lesson that reforms related to the rule of law need to be tackled before EU entry. At the same time, the EU enjoys a greater leverage over this area thus is more in the position to trigger progress through its conditionality policy, than related to issues of statehood.

Croatia was regarded as fulfilling the Copenhagen criteria. Yet, the EU's latest progress report as of October 2009 stresses that Croatia needs to make further efforts to strengthen the independence and efficiency of the judiciary, fight organized crime and corruption. Moreover, more needs to be done in the area of minority rights including refugee return and war crimes trial.⁵⁴ Although the European Commission notes that Croatia made some progress "on the various outstanding issues regarding refugees",⁵⁵ it is important to emphasize that so far only a minority of the 350.000 Serbs who fled the country returned.⁵⁶ Although 108 466 Serbs returned, there are still some 80 000 Croatian Serbs registered as refugees mostly in Serbia. Ethnically motivated incidents, discrimination in employment and housing difficulties prevent refugees from returning.⁵⁷ Pressure should be kept up on Croatia to implement its housing care program aiming to help returning refugees and to foster the climate of ethnic tolerance until its date of EU entry.

(3) Outstanding issues of 'stateness'

Besides the problems outlined above, unfinished state building issues that is contested and consequently porous state borders, disputed state functions and structures pose the greatest challenge to EU integration in the Western Balkans. As a result of the 'stateness' problem, the region continues to be a breeding ground of soft security threats especially in Kosovo and to a lesser extent in Bosnia, Macedonia and Serbia.

The crises in Bosnia and in Northern Kosovo are the two most pressing sources of instability in the region, both related to problems of statehood. While the Stabilization and Association Process provides the framework for enlargement and the Regional Cooperation Council for Southeast

⁵⁴ Commission of the European Communities, Enlargement Strategy and Main Challenges 2009-2010, 14 October 2009, http://ec.europa.eu/enlargement/pdf/key_documents/2009/strategy_paper_2009_en.pdf, 13.

⁵⁵ Website of European Commission, Croatia 2008 Progress Report, http://ec.europa.eu/enlargement/pdf/press_corner/key_documents/reports_nov_2008/croatia_progress_report_en.pdf. 6, 14.

⁵⁶ Human Rights Watch, Croatia: Plight of Returning Serb Refugees May Slow EU Bid, 4 September 2006, <http://www.hrw.org/en/news/2006/09/04/croatia-plight-returning-serb-refugees-may-slow-eu-bid>.

⁵⁷ Website of European Commission, Croatia 2008 Progress Report, 6, 14.

Europe (the former Stability Pact) for regional cooperation, CFSP and ESDP instruments are used for the purpose of conflict prevention, crisis management and post conflict consolidation. CFSP instruments are applied today in the region in Bosnia, Kosovo and Macedonia, however their application is not unconnected from the SAP as CFSP goals are part of the conditionality exercised through the SAP, especially in Bosnia and Macedonia.⁵⁸ Yet, CFSP and ESDP instruments primarily address state building and security issues helping to create functioning states with uncontested borders. In that sense they complement the enlargement policy, which alone is unsuitable to solve problems related to state building. At the same time, conditionality policy can be effective only if there is a viable and sovereign state with which the EU can negotiate.

Bosnia

In Bosnia, as the chance of return to ethnic violence has diminished considerably, the greatest challenge is now how to make the state functional.⁵⁹ The constitutional order based on the Dayton Peace Accords (DPA) is intensely contested by national leaders. On the one hand, the Bosnian Serbs led by Milorad Dodik, the prime minister of Republika Srpska demand the closure of the OHR and claim their right for holding a referendum on independence. While the independence of the Bosnian Serb entity is not a real option taking into consideration that such a solution could hardly gain international support and that the Brčko district physically divides the entity into two halves, the Bosnian Serbs are most interested in a weak central state such as it was right after the Yugoslav wars.⁶⁰ The Bosniaks on the other hand represented by Haris Silajdžić, the Bosniak member of the state presidency want a centralized state. While both of these positions are unfeasible to start with, they both challenge the DPA, and they are also mutually exclusive making a compromise very hard to reach. The Prud process, which was the most hopeful attempt by Bosnian politicians to solve the constitutional deadlock and to make the state more efficient, broke down in February 2009. In the meantime, the Peace Implementation Council (PIC) is trying to close the Office of the High Representative (OHR) and hand over its mandate to the Special Representative of the EU (EUSR) with no success so far. Many international observers argue for the closure for the OHR on the basis that it encourages irresponsible behavior by Bosnian politicians, lost its credibility and prevents Bosnia from moving on towards EU integration.⁶¹ Yet, out of the five objectives and two conditions which were set by PIC as necessary requirements to close the OHR still one condition and two objectives remain outstanding: dealing

⁵⁸ Marie-Janine Calic, "EU Enlargement and Common Foreign and Security Policy in the Western Balkans," *Südosteuropa Mitteilungen* (01/2007), 13-14.

⁵⁹ Ian Bancroft, "A difficult transition," *Guardian*, 20 March 2009, <http://guardian.co.uk>.

⁶⁰ Discussion on the Western Balkans with Florian Bieber and James Lyons for the program "Most" with Omer Karabeg on Radio Free Europe. Omer Karabeg, Zapadni Balkan: Ključ stabilnosti u rukama Beograda, Radion Zapadna Evropa, 05 December 2008, slobodnaevropa.org.

⁶¹ ICG, Bosnia's Incomplete Transition: Between Dayton and Europe, 14-16.

with state and defense property, and full compliance with the Dayton Agreement. The latter requires a positive assessment of the political situation in BiH by PIC, which has been steadily deteriorating since 2006. Yet, it is a fairly vague condition allowing for flexible interpretation by PIC members who might pursue their own political agendas which is why many fear the premature closure of the OHR.

However, clearly the challenge of how to make the state more governable is the most urgent problem, which is at the same time the most controversial. It concerns state competencies, functions and the territorial organization of the country and would imply changing the present power relations among the state and the entities. This essentially means that reaching an agreement will be very difficult.⁶²

However, if the country remains in its present divided form, the EU will be unable to negotiate further with Bosnia towards membership. Although the EU imposes conditionality on the state, yet the Bosnian state can act only based on a consensus among both the entities and the three constituent nations. This makes the whole process very difficult given that not all the partners involved are equally keen on EU integration. The state building reforms demanded by the EU would require the biggest compromises from the Bosnian Serbs who are the most skeptical about EU membership.⁶³ Therefore, the success of the EU's engagement will depend on how the EU will be able to address Bosnia's "systemic paralysis" and encourage the creation of a functioning political system.⁶⁴ Therefore, the EU should not compromise its demand that the government must "speak with one voice".⁶⁵

Given Bosnia's internal political stalemate, the handover from the OHR to the EUSR was again put off in November 2009. The current OHR, Valentin Inzko is the fourth one who takes office with the aim to finish the job within his term. Yet, it is not clear what will be the competencies of the new EU mission, more precisely whether it will have any of the Bonn powers. Most EU member states would favor giving it a weaker mandate, while the US and the UK would want it to retain some of the "hard" prerogatives, which could be used as a last resort in the defense of the Dayton Agreement.⁶⁶ In light of the irreconcilable positions of the Bosniak and the Serbian sides and the worsening economic crisis, which brought the Croat-Bosniak Federation to the brink of state bankruptcy it is questionable whether Bosnia is ready for a weak EU envoy deprived of the OHR's strong legal powers.⁶⁷ So far, the attraction of the fairly distant perspective of EU integration has been insufficient to motivate politicians

⁶² Ibid, 5.

⁶³ Ibid, 19.

⁶⁴ Ibid, 21.

⁶⁵ European Commission, Bosnia and Herzegovina 2008 Progress Report, 5.

⁶⁶ Florian Bieber, "EU and Nato in Bosnia", 25 December 2008, <http://fbieber.wordpress.com/2008/12/25/eu-and-nato-in-bosnia/>.

⁶⁷ "Bosnia's future, A tearing sound," *The Economist*, 4 April 2009.

enough to forge a consensus on constitutional changes. That is why it would be dangerous to close the OHR prematurely or to give up fully on the possibility of using strong powers until an effective agreement on how to make the state more functional is reached and is implemented.

At the same time, the visa liberalization process reveals that the EU has considerable leverage over Bosnian politicians when it offers tangible rewards coupled with credible conditionality. Since May 2009 when the European Commission published its assessment of the country's visa progress from which it followed that Bosnia was not included among the countries to enjoy visa free travel to the EU, the country has made a remarkable progress. The Bosnian parliament adopted important laws in urgent procedure related to border control, military equipment, international legal aid in criminal matters, prevention of money laundering and financing of terrorist activities. Police bodies reached an agreement to exchange information which was another obstacle spelled out by the Commission to the effective fight against organized crime. Bosnia also accelerated the process introducing biometric passports which became available in October 2009, and adopted a law in September 2009 to establish an anti-corruption body. In May the European Commission set mid-2010 as the date of presenting its proposal of lifting the visa obligation for Bosnia if it fulfills the necessary criteria. Yet, since May, Bosnia made a major breakthrough in delivering on its commitment to fulfill the major requirements.⁶⁸ Many in the EU especially in the European Parliament were pushing for including Bosnia into the first wave of visa liberalization together with Macedonia, Serbia and Montenegro. Leaving out Bosnia was especially problematic given that it affected mainly ethnic Bosniaks since many Serbs and Croats hold Serbian and Croatian passports.⁶⁹ Although this issue will be most likely resolved by the time of the Hungarian presidency, it demonstrates well how the perspective of tangible benefits can motivate the otherwise uncompromising Bosnian politicians to cooperate and reach difficult agreements. As Charles Crawford a former British Ambassador to Bosnia and Herzegovina (1996-1998) and Serbia (2001-2003) argued in a recent policy brief, the EU could offer a fast-track EU membership with visa-free travel for all Bosnians, in return for a new constitution.⁷⁰ Although the perspective of EU membership in itself might not motivate some Bosnian politicians enough especially in the Republica Srpska, they still might be interested in Bosnia receiving a candidate status in light of the economic benefits available only to candidate countries in the areas of regional, human resource and rural development. Moreover, as Florian Bieber recently argued, instead of pushing for a full fledged constitutional reform the EU should focus on more feasible, incremental changes. The

⁶⁸ European Stability Initiative, *Bosnian Visa Breakthrough*, May 2009 – September 2009, 2 October 2009, 4-5, www.esiweb.org.

⁶⁹ "EP Wants Expansion of Visa Scheme Strasbourg," *EurActiv.com*, 30 September 2009, www.euractiv.com.

⁷⁰ Charles Crawford, "Bosnia: ethnic disarmament," *Transconflict*, 1 October 2009, www.transconflict.org.

EU thus could require of Bosnia to harmonize its constitution with European human rights standards and to organize the sharing of competencies between the state and its entities in a way which would enable the country to negotiate its membership with the EU. Such an approach would allow Bosnians to find the way out of the current deadlock as fits them best instead of prescribing them clear cut solutions.⁷¹

In October 2009, talks resumed in Butmir in Bosnia under the auspices of the US and the EU with the aim to break the constitutional deadlock. The EU offered a package to Bosnia which would include giving the country candidate status in 2010 and granting its citizens visa free travel to the EU in a speedy procedure in exchange to strengthening state level institutions.⁷² The proposal strongly resembled the 2006 March agreement which subsequently fell in the House of Representatives. The negotiations reached a dead end; Bosnian politicians rejected the plan in a rare show of unity.⁷³

The key question is how to motivate politicians for a compromise who are not interested in EU membership. It can be argued that offering tangible benefits such as visa free travel can serve as powerful incentives. Therefore, the EU should spell out clearly the practical advantages of becoming a candidate especially its financial and economic aspects, i.e. how much money would flow to Bosnia and to which policy areas. Specifying how Bosnia could benefit from closer economic ties with the EU or how much and what kind of assistance it could expect as a candidate would be helpful also because it is not obvious how the funds could be significantly increased in the middle of a budget cycle. A media campaign focusing on these issues could help politicians and ordinary Bosnians to understand the significance of getting closer to the EU whereas a fairly distant membership perspective does not seem to be very motivating.

Kosovo

Although Serbia has remained committed to its policy of non-recognition of its former province's independence, in practice its stance softened somewhat since the new DS led government took office in 2008. Serbian ambassadors returned to those EU member countries, which recognized Kosovo and in late 2008 Serbia agreed with the EU over the deployment of the EULEX mission in Kosovo. However, North Kosovo continues to be an insecurity zone despite the Serbian government's recent conciliatory approach, mostly because the Kosovar Serbs themselves reject cooperation.

⁷¹ Florian Bieber, "Dayton Bosnia May Be Over – But What Next?" 10 December 2010, BalkanInsight.com.

⁷² Srecko Latal, "Talks Aimed at Breaking Bosnia's Deadlock Continue," Euractiv.com, 09 October 2009.

⁷³ "Bosnia and Hercegovina politics: No deal to break the impasse," ViewsWire, 21 October 2009.

Since boundary and customs posts were destroyed in February 2008 in the North on the border of Kosovo and Serbia, smuggling has been booming.⁷⁴ The situation should be improving slowly as EULEX establishes its presence on the borders, although the results so far are mixed at best. Since December 2008 EULEX has begun to deploy its mission all over Kosovo including to the north of the Ibar river, yet Kosovo's borders especially in the North remain porous and still not fully secured.⁷⁵ In North Mitrovica the EULEX court started to operate successfully, although the courts operate only with EULEX judges. The majority of Kosovo Serb police officers south of the Ibar who refused to work with the Kosovo Police run by EULEX assistance returned to their posts in June 2009. In northern Mitrovica a police unit began to operate with the participation of Kosovo Serbs.⁷⁶ However, North Kosovo continues to be an insecurity zone. Kosovo Serbs created their parallel local governments which operate under Serbia's legal framework, where public services are tied closely to Serbia.⁷⁷ Pristina has not much impact on the operation of these municipalities which are controlled by the DSS and the SRS, which are in opposition in the Serbian parliament. These parties stick to their hard line nationalist position and are unwilling to follow the Serbian government's official policy line more prone to compromises. According to a plan revealed in early 2010, the EU plans to disentangle parallel institutions in the North by bringing the northern municipalities under the authority of the Pristina government and to organize local elections until the end of 2010. The plan at first glance seems very ambitious and it is questionable how it can be implemented considering local Serbs' and Belgrade's resistance against the Kosovo government.⁷⁸

Until today the Kosovo Serbs and the Serbian government have rejected cooperation with the International Civilian Office while are more willing to deal with UNMIK or EULEX. The Serbian government seems to be aiming at sustaining the status quo, which it probably regards as the second best solution after regaining control over the province. Apparently neither the EU nor Pristina can do much in the North without Serbia's consent indicated also by the recent agreement between the EU and Belgrade, according to which EULEX can be deployed in the North only if it remains status neutral and functions fully under UN auspices.⁷⁹ The deal was fiercely opposed by the Kosovo government, which did not want

⁷⁴ ICG, Kosovo's Fragile Transition, Crisis Group Europe Report N°196, 25 September 2008, 5, www.icg.org.

⁷⁵ Commission Staff Working Document, Kosovo under UNSCR 1244/99 2009 Progress Report, Brussels, 14. 10. 2009., 45.

⁷⁶ Ibid., 48.

⁷⁷ Although in the area of electricity provision for example Pristina was able to blackmail these local governments as they receive 75% of their electricity from KEK (Kosovo Electric Company), and only 25% from Serbia. "Electricity bills due in N. Kosovo from Nov. 1," B92, 23 October 2009.

⁷⁸ Gerard Gallucci, Kosovo: EU Strategy for the North, 4 January 2010, <http://outsidewalls.blogspot.com/2010/01/kosovo-eu-strategy-for-north.html>.

⁷⁹ "EULEX Receives Green Light," B92, 27 November 2008, www.b92.co.yu.

EULEX to be status neutral but to be deployed according to the Ahtisaari plan.⁸⁰ Kosovo Serbs also dislike EULEX's presence and claim that it is building an Albanian state in Kosovo.⁸¹

Kosovo in reality has, therefore, limited independence and its status is not much clearer than was before. International authorities, the double hatted International Civilian Office (ICO), the European Union's Special Representative (EUSR), EULEX and UNMIK all share some degree of state sovereignty in various areas.⁸² The EU's institutional involvement is not only complex, but also ambiguous. The EU's Special Representative is in charge of implementing EU policy to Kosovo in general and coordinates EU presences in Kosovo, while EULEX oversees and assists legal, justice and police affairs. Besides them, there is a third player representing the EU, the European Commission Liaison Office (ECLO), which operates as an EC delegation. Obviously, this multitude of EU and other international actors might easily lead to confusion and blur lines of responsibility. Yet, the real difficulty stems from the fact that international missions are divided between the status neutral ones and those that recognize independence. Peter Feith's, the International Civilian Representative's (ICR) position is the most contradictory in this respect owing to his double hatted mandate. He as the EU's Special Representative must be status neutral, yet, he is at the same time the head of the ICO, which is in charge of implementing the Ahtisaari plan that explicitly endorses Kosovo's independence.⁸³ The five EU member states opposing independence seem to be firm on their position and are unlikely to retreat from it anytime soon.⁸⁴ This means in practice that Peter Feith is not recognized as the head of ICO by Spain and other member states that were against Kosovo's independence. These countries accept him only as the EUSR, which can undermine his position and the policies he is willing to undertake.⁸⁵ Experiences of international involvement elsewhere in the Balkans especially in Bosnia suggest that giving the International Civilian Representative an unambiguous mandate is crucial to his/her success.⁸⁶

In addition, Kosovo's sovereignty is further constrained by the fact that only 65 countries among them 22 EU members recognized its statehood so far. This practically prevents it from joining major international organizations, such as the UN or the Council of Europe, (although in June 2009 Kosovo was admitted to the IMF and the World Bank). It is

⁸⁰ Ibid.

⁸¹ "K-Serbs to submit anti-EULEX petition," B92, 16 October 2009.

⁸² Florian Bieber, "Kosovo: One Year On," Open Democracy, 17 February 2009, www.opendemocracy.net.

⁸³ See the website of the International Civilian Office in Kosovo, www.ico-kos.org.

⁸⁴ Ian Bancroft, "Crisis over Kosovo," *Guardian*, 17 February 2009, <http://guardian.co.uk>.

⁸⁵ ICG, Kosovo's Fragile Transition, 11.

⁸⁶ See more on that: Hans Binnendijk et al, Solutions for Northern Kosovo, Lessons Learned in Mostar, Eastern Slavonia and Brcko, Center for Technology and National Security Policy, August 2006.

difficult to see how economic progress could set off in a country, which due to its contested status will be hardly regarded as a secure business environment by foreign investors. It should be also noted that under the present economic circumstances where 60% of the population lives under 1,5 USD a day and unemployment is around 45%, social peace can be hardly expected, without the existing ethnic cleavages.⁸⁷ About 30,000 young people join the job market yearly which is five times of what the business sector can absorb. Thus, Kosovo has a large, very poor young population, which is a dangerous mix. The global financial crisis, coupled with institutional uncertainty and ethnic tensions keeps away investors who could trigger economic development and create jobs. Not surprisingly, several analysts warned of approaching social unrest.⁸⁸ Therefore, introducing measures aiming at economic development should be a high priority of the EU and the international community in Kosovo. As a very important step, obstacles which prevent Kosovo's participation in the CEFTA cooperation should be removed. Serbia has been rejecting "Kosovo Customs" stamps which are meant to certify the origin of goods for the authorities of CEFTA parties since Kosovo proclaimed independence. This move obstructs Kosovo's proper participation in the CEFTA trade.⁸⁹

It is a further factor of uncertainty how the ruling by the International Court of Justice on Serbia's motion to request an opinion on the legality of Kosovo's independence will influence its international standing. Therefore, at the moment Kosovo's situation can be characterized best as a frozen conflict surrounded by various sorts of ambiguities, which are not likely to be settled any time soon, and which for that reason could seriously imperil Serbia's and Kosovo's EU accession process. It is clear that Serbia cannot join the EU with disputed borders. Since the legal resolution of the status question is obviously out of sight for the moment due to Serbia's and international resistance what the EU could do is to facilitate dialogue or at least silent cooperation between Belgrade and Pristina over practical matters.⁹⁰

Moreover, devoting greater attention to the situation of the Serbian minority could potentially earn some credibility to the EU in Serbia.

⁸⁷ "Kosovo economy bleak, year after independence move," Thomson Financial News, 13 February 2009.

⁸⁸ "Factbox: Main challenges for Kosovo economy," Reuters, 15 February 2009.

⁸⁹ United Nations Security Council, "Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo," 10 June 2009, 9.

⁹⁰ As an illustration of the various everyday life problems stemming from Serbia's non-recognition of Kosovo the issue of property restitution can be mentioned here. Many Kosovo Serbs in North Mitrovica occupy properties of Kosovo Albanians, while Kosovo Albanians in the southern part continue to inhabit Kosovo Serbs' property. Some 21.000 property related claims remained outstanding by the end of 2008 mostly belonging to Kosovo Serbs, which cannot be settled because after the Kosovo Property Agency (KPA) was transferred to the Kosovo government's jurisdiction, the Serbian government suspended KPA's right of access to the relevant documents. Website of the US Department of State, Bureau of Democracy, Human Rights, and Labor, 2008 Human Rights Report: Kosovo, 25 February 2009.

Although Kosovo's laws and its recently adopted constitution grant far reaching rights to minorities including the right to local self governments with strong prerogatives and the creation of special protective zones, implementation has been lagging behind partially due to the lack of engagement of the Serbian minority itself. However, it can be argued that Kosovo Serbs face considerable intimidation despite these positive provisions, which seek to ensure their cultural rights. Interethnic tensions and low scale ethnic violence have continued since Kosovo's proclamation of independence. As the US State Department's report on human rights in Kosovo noted "real and perceived security concerns restrict the freedom of movement" of Serbs in practice. Mostly rock throwing and other forms of intimidation such as attack on the vehicles of Serbs prevent them from leaving their ethnic majority areas.⁹¹ The illegal occupation of properties prevents minority returns; moreover there were frequent reports about Kosovo Albanians destroying Kosovo Serbs' private property with the intention to intimidate them and to hinder their return. Violence against Kosovo Serbs often aims at forcing them to sell their house. Unsurprisingly, less than 10% of the Serbs who fled Kosovo since 1998-99 including those who left during the riots in 2004 returned; and considerably fewer people came back after the declaration of independence than in the previous years.⁹² It can be argued that under these circumstances the hostile attitude of the Serbian minority is not surprising even if it is not particularly helpful from the aspect of improving their own situation. If the EU managed to change conditions on the ground including ensuring the personal safety, freedom of movement of the Serbian minority and the return of refugees then maybe a more constructive attitude could be expected. Yet, until these concerns remain unaddressed, the rhetoric about the multi-ethnic Kosovo will sound irritating.

The great paradox of Kosovo Serbs is that decentralization as was proposed by the Ahtisaari plan would be probably their best chance to run their daily life freely. It would entail setting up local self governments which would have autonomy in the areas of education, health care and cultural affairs. In addition, these municipalities could cooperate with Belgrade, and could receive financial assistance from the Serbian state. Yet, Kosovo Serbs obstruct the plan's implementation as decentralization was part of the Ahtisaari plan for independence. Moreover, carrying out the reform would require cooperation with the Kosovo Ministry of Local Government Administration (MLGA), which Kosovo Serbs would see as an implicit recognition of Kosovo's independence. In addition, ICO was supposed to oversee the decentralization reform, which Serbs reject again as the mission is in charge of carrying out the Ahtisaari plan.

⁹¹ Website of the US Department of State, Bureau of Democracy, Human Rights, and Labor, 2008 Human Rights Report: Kosovo, 25 February 2009.

⁹² Between January and November 2008, UNHCR registered only 533 returnees, compared to the 1.815 who returned in 2007 or the 1.669 who returned in 2006. Source: 2008 Human Rights Report: Kosovo, 25 February 2009.

At the same time, Serbs in reality often turn to Kosovo institutions especially in the South when they accept salaries, or acquire documents, such as cadastral papers. They would be probably very interested in the creation of such autonomous municipalities with enhanced competencies. Yet, experience shows that without Belgrade's approval they will not cooperate. After the declaration of Kosovo's independence, in addition to the existing parallel structures in health care, education and security, Serbia established parallel municipalities in Kosovo as was mentioned above, which SRS and DSS took control of following the May local elections in 2008. The DSS led government which was in power before the May elections called on Kosovo Serbs to leave Kosovo state institutions, as a result many left the police and municipal authorities. (However, as Serbia often failed on its promise to secure jobs and assistance to these people, many returned later.) The bottom-line is that decentralization cannot be carried out successfully without Belgrade's cooperation. Although during the November 2009 local elections Serbs participated in greater numbers than before especially in the southern municipalities, still their level of participation was hardly sufficient in order to create legitimate local governments.⁹³ Consequently, the decentralization process in such circumstances will be discredited thus probably should be postponed. This also implies that as long as Belgrade keeps obstructing the international community's efforts to improve the situation of Serbs in Kosovo, success can be hardly expected.

However, the recent cooperation between EULEX and Belgrade signals that there is a way to resolve practical matters if the EU chooses the right means and offers some tangible benefits in exchange. The fact that Serbia is willing to cooperate with EULEX in Kosovo is a positive sign and indicates that the EU can use its soft power to convince Serbia to have a constructive approach to resolving practical matters when the benefits are tangible such as visa free travel to the EU. Serbia signed a protocol on the exchange of information on cross-border crime with EULEX in September 2009, as this was set as a requirement for Serbia joining the EU's visa-free zone.⁹⁴ Therefore, as Oliver Ivanović recently suggested a way forward could be the inclusion of OSCE in the decentralization process since it is a status neutral organization. The involvement of MLGA might also not be an insurmountable problem if its inclusion is kept at the technical level and if Pristina refrains from making references to the Ahtsaari Plan and keeps a low profile.⁹⁵

⁹³ The turnout in Serb-dominated areas was as follows: Leposavić: 0.83, Zubin Potok: 6.64, Zvečan: 0.75, Gračanica: 23.62, Ranilug: 25, Klokot: 25.39, Novo Brdo: 13, Štrpce: 30.91 percent (and 54% in the second round). Source: "Thaci party proclaims victory," B92, 16 November 2009; United Nations Security Council, Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 5 January 2010, 4. <http://www.unmikonline.org/UNMIKONLINE2009/misc/docs/sc-reports/S-2010-5.pdf>.

⁹⁴ Besar Likmeta, "Albania's FM Backs EULEX", EurActiv.com, 02 October 2009, www.euractiv.com.

⁹⁵ ICG, Serb Integration in Kosovo: Taking the Plunge, Europe Report N°200, 12 May 2009.

In the latest EU progress report the EU asks Serbia to play a more constructive role concerning Kosovo's participation in regional initiatives. Yet, Belgrade's constructive approach can be expected only if the EU respects Serbia's non-recognition of Kosovo. For that reason, probably those institutions should assume a higher role in implementing crucial policies such as decentralization which are status neutral. In that respect, the ICO's potential role is questionable. Moreover, negotiations have better chances to succeed if are managed in a low key manner, focusing on technical aspects. At the same time, the EU should keep up the pressure on Serbia not to obstruct policies which aim at improving the situation of the Serbian minority in Kosovo. Granting a candidate status could be conditioned on Serbia refraining from calling on Kosovo Serbs to boycott elections and to stay away from working for public institutions. Serbia's policy has been very counterproductive as it prevents the Serbian minority's fair representation in local governments and state institutions, essentially depriving Kosovo Serbs of the possibility to effectively assert their interests. Serbia needs to be told very clearly that without settling issues with the neighbors it cannot be a member. With regards to its relations with Kosovo, this does not need to be recognition, rather pragmatic cooperation in every day life issues. In the meantime, the international community should give a high priority to addressing concerns of Kosovo Serbs related to their personal safety and pressure the Kosovo government to do more to ensure the free movement of Serbs and their safe return to Kosovo. Only a rhetoric acknowledging the severity of this problem coupled with credible practical steps on the ground can gain the trust of local Serbs, which is a precondition of their cooperation in other areas.

Macedonia

The situation in Macedonia also continues to bear the risk of potentially upsetting regional stability. The recent presidential elections were conducted without major irregularities or signs of violence, which might open the way for the start of EU accession talks as was recommended by the European Commission. However, the name dispute with Greece might easily undermine Macedonian hopes for moving forward toward EU integration. The Macedonians significantly contributed to the deterioration of Greek-Macedonian bilateral relations by bringing the issue in front of the ICJ and by renaming the Skopje airport and the main north-south highway after Alexander the Great thus further provoking Greek national sentiments. If Greece continues to block Macedonia's EU accession, it is being feared that relations between the Albanian minority and Slav Macedonians might deteriorate. The latest elections were characterized by a low turn out in Albanian inhabited areas as a result participation rate barely passed the required threshold. This reflected Albanian distrust in the front runner candidate, Georgi Ivanov, representative of ruling right wing VMRO-DPMNE party. As the promise of EU and NATO accession was the common goal uniting Albanians and Slav Macedonians underpinning also the Ohrid Agreement, loosing the European perspective might easily undermine

security and ethnic harmony.⁹⁶ Tensions between the two ethnic groups continue to linger as several provisions of the Ohrid Agreement remain unfulfilled, which is another reasons as to why events in Kosovo could still potentially destabilize Macedonia.⁹⁷ Resolving the deadlock over the country's name would be essential from the perspective of regional stability, which will be a big challenge of EU diplomacy during the coming period considering that waiting for an ICJ decision might put Macedonia's EU and NATO accession on hold for a few years. The unresolved name issue badly affects Macedonia's economy as well, which saw foreign investment - some 80 million Euros - fleeing the country since the summer of 2008. According to analysts, the world economic crisis only partially explains this capital flight, the other reason is the political instability caused by the row with Greece.⁹⁸ The recent election victory of George Papandreou's left wing Pasok has raised hopes that Greek-Macedonian relations might thaw in the near future.⁹⁹

⁹⁶ This was the opinion Ivica Bocevski, Macedonia's deputy prime minister shared by many including international analysts. "Troubled Macedonia, The name game," *The Economist*, 04 April 2009. See also: interview of Teuta Arifi, DUI vice president by ICG, cited in: ICG, Macedonia's Name: Breaking the Deadlock, 4.

⁹⁷ For instance, the new language law does not meet all Albanian demands, the integration of minorities is lacking in some areas and the treatment of Albanian ex-combatants remains also an issue of contention. ICG, Macedonia's Name: Breaking the Deadlock, 4-5.

⁹⁸ Sinisa-Jakov Marusic, "Foreign Investors Shun Macedonia," EurActiv.com, 08 October 2009.

⁹⁹ Sinisa-Jakov Marusic, "Skopje, Athens Hint at Warming Relations," EurActiv.com, 12 October 2009.

Conclusion

Enlargement to the Western Balkans will remain a slow process at best; at worst will be temporarily halted. Besides Croatia, which could join in 2011 or 2012 the other countries will be sitting in the waiting room for a while, at least until the second half of the next decade.¹⁰⁰ Croatia opened negotiations with the EU on 30 chapters out of 35 while on 17 negotiations were closed provisionally.¹⁰¹ Now that the Lisbon Treaty has been ratified and the border issue between Slovenia and Croatia has been settled, Croatia has good chances to close accession negotiations this year.¹⁰² Although Serbia aims to become a candidate during the course of this year, its chances for further progress seem to depend to a large extent on how long the Netherlands will block its integration process and whether and when Mladić will be captured eventually. According to the best case scenario, by the time of the Hungarian presidency Serbia, Montenegro, Bosnia will reach their candidate status and will be in the phase of negotiating their membership together with Macedonia. For Albania membership remains probably a more distant perspective; the European Intelligence Unit does not expect it to become a candidate by the end of 2011 due to weaknesses in the judicial system and problems related to corruption and organized crime.¹⁰³

However, big question marks hang over this somewhat optimistic picture of the future sequence of events. Bosnia's pace of approaching EU membership hinges upon whether the parties can forge an agreement on the how to make the state more functional. The upcoming general elections in the fall of 2010 narrow the chances of reaching a compromise, as politicians are likely to maintain a hard line to garner electoral support. Therefore, the problems highlighted by this paper could well stay on the agenda until the time of the Hungarian presidency, although the OHR could be closed until the end of this year as most EU members would want to see its closure as soon as possible. In Macedonia's case, coming to an agreement with Greece on the name of the country conditions largely integration prospects. With the election of Papandreou as the new premier of Greece there is real hope that the name issue will be solved soon, opening the way to starting membership negotiations between the EU and Macedonia as was advised by the European Commission in its 2009 progress report. For Serbia

¹⁰⁰ Michael Emerson, Recalibrating EU Policy towards the Western Balkans, CEPS Policy Brief, No. 175, October 2008, 2.

¹⁰¹ State of play as of 22nd of February 2010. Source: Progress in EU-Croatia accession negotiations at glance, website of the Republic of Croatia, <http://www.eu-pregovori.hr/files/Progress-in-EU-Croatia-accession-negotiations-M.pdf>.

¹⁰² Commission Staff Working Document, Croatia 2009 Progress Report, 14 October 2009, http://ec.europa.eu/enlargement/pdf/key_documents/2009/hr_rapport_2009_en.pdf.

¹⁰³ EIU, Albania, country report - main report: March 4th 2009, www.eui.com.

normalizing its relations with Kosovo will be a requirement thus a major challenge probably in the final phase of its accession process. Although EU perspective was granted to Kosovo as well, it is questionable how could it join the EU given that not all the member states recognize its status as an independent state. Moreover, Kosovo has a long way to go before it can qualify as a functioning, fully sovereign country.

Visa liberalization is likely to be implemented throughout 2010, which is a great step forward in terms of making the prospects of EU membership more tangible for citizens. Citizens of Serbia, Macedonia and Montenegro started to enjoy visa free travel from December 2009 already.¹⁰⁴ Albania, Kosovo and Bosnia were not included in the first round of liberalization, yet Bosnia and Albania are likely to follow suit in mid 2010 while Kosovo has to wait longer.

Recommendations

Conditionality policy:

Pure political conditionality, such as cooperation with the Hague Tribunal should be disentangled from functional conditionalities and should be applied as a requirement of final accession or of the opening of accession negotiations. Yet, political conditionality should not thwart a state's graduation apart from cases of flagrant relapses. Besides, functional conditions should be tied to particular policy fields, such as increased volumes of structural aid could be linked to the requirement of meeting adequate standards in financial control and anti-corruption policies. Joining the EU's customs union with Turkey could be conditioned on applying the EU's customs regime.¹⁰⁵ Clearing up the EU's conditionality policy through similar measures could prevent the mixing up of normative, security and functional claims. This could make the process more transparent improving its credibility, which in turn might induce better compliance on behalf of the target countries.

Economic policy:

Structural funds available to the countries of the region could be gradually increased. The EU could use conditional funding in an effective way to ensure the implementation of judicial and anti-corruption reforms before accession.

The Western Balkans could be included into the EU's customs union, which could speed up the region's economic integration into the EU and could stimulate economic progress.

Serbia and Croatia should be included into the Danube Strategy while formulating concrete projects under the Hungarian EU Presidency.

¹⁰⁴ EIU, Serbia: country report - main report, 6 October 2009.

¹⁰⁵ Michael Emerson, 9-10.

Dealing with outstanding issues of 'stateness':

Bosnia

The visa liberalization process reveals that the EU has considerable leverage over Bosnian politicians when it offers tangible rewards coupled with credible conditionality. The EU, therefore, should spell out clearly the practical advantages of becoming a candidate especially its economic aspects. Moreover, while focusing too much on constitutional reform can create a sense of crisis and urgency under the present conditions, it might be more productive if the EU demanded incremental changes that would enable Bosnia to negotiate its EU membership.

Kosovo

Introducing measures aiming at economic development should be a high priority of the EU and the international community in Kosovo. As a very important step, obstacles which prevent Kosovo's participation in the CEFTA cooperation should be removed.

Greater attention should be devoted to the situation of the Serbian minority, which could potentially earn some credibility to the EU in Serbia and among Kosovo Serbs. Most importantly, until real and perceived security concerns restrict the freedom of movement of Serbs, cultural rights seem less appealing or relevant. Until personal safety is guaranteed including the freedom of movement and the return of refugees, a more constructive attitude from the Serbian minority can be hardly expected.

Belgrade should be somehow involved in the decentralization reform. The bottom-line is that decentralization cannot be carried out successfully without Belgrade's cooperation.

However, the recent cooperation between EULEX and Belgrade signals that there is a way to resolve practical matters if the EU chooses the right means and offers some tangible benefits in exchange.

Those institutions should assume a higher role in implementing crucial policies such as decentralization which are status neutral. In that respect, the ICO's potential role is questionable.

The EU should keep up the pressure on Serbia not to obstruct policies which aim at improving the situation of the Serbian minority in Kosovo. Granting a candidate status could be conditioned on Serbia refraining from calling on Kosovo Serbs to boycott elections and to stay away from working for public institutions.

Serbia needs to be told very clearly that without settling issues with the neighbors it cannot be a member. With regards to its relations with Kosovo, this does not need to be recognition, rather pragmatic cooperation in every day life issues.

The next enlargement round - the Balkan challenge

Pristina should refrain from making references to the Ahtsaari Plan and keep a low profile.

Negotiations have better chances to succeed if are managed in a low key manner, focusing on technical aspects.

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