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Think Tanks providing Research and Advice through Interaction and Networking

Challenges in the Western Balkans' EU Accession Process

The EU accession process represents a major challenge for all aspiring member states. It is thus all the more important that it be informed and supported by a wide range of actors within each country. Carried out by the German Council on Foreign Relations (DGAP) in cooperation with the European Fund for the Balkans and with generous funding from the German Foreign Office, the TRAIN programme targeted civil society organisations, more precisely think tanks. It sought to encourage their active engagement in this process and to foster a fruitful policy dialogue with national policy-makers. During the pilot phase of the programme, which lasted from September to December 2010, 14 researchers from seven different think tanks across the Western Balkans region drafted policy papers on issues they considered particularly relevant in their country's EU accession process, covering a wealth of topics and making concrete recommendations on how policy-makers could improve the current state of play in their area of study. This publication collects the final policy papers, including a German summary of each of them.

Summary of the seven papers

Fostering regional integration in the Western Balkans through a better cooperation in the telecommunications sector was the focus of the Kosovar think tank *Institute for Advanced Studies (GAP)*. With the aim to reduce the existing high roaming costs for calls across the region, GAP advocates the creation of a Balkantariff Zone which, in the long term, would merge with the existing Eurotariff zone.

The think tank *Analytica* from Macedonia focused on the issue of Regulatory Impact Assessments (RIAs), a crucial tool to identify the financial and legal impact of new legislation. This tool is particularly important throughout the EU accession process, when the provisions from the EU's *acquis communauaire* need to be translated into national legislation. While pointing to the persisting problems in the implementation of RIAs, the think tank proposes various solutions on how to eliminate identified setbacks and improve RIAs in the Macedonian policy-making process.

Progress, also from Macedonia, dealt with the difficult fight against corruption which still constitutes an important stumbling block for the country's progress towards EU accession. Suggesting a number of short- and long-term solutions, Progress' proposal includes reducing political influence while upgrading the existing institutional system for the fight against corruption.

The reform of anti-corruption institutions was also the focus of the *Center for Monitoring (CEMI)* from Montegro. The think tank develops three different scenarios to tackle the persisting problems and, based on an analysis of regional best practices, proposes the centralisation of

existing anti-corruption institutions into a single Anti-Corruption Agency with extended competences.

The *European Movement Albania* dealt with the role of the Albanian parliament in the EU integration process. In their analysis, the two researchers identify a lack of administrative and technical capacities and suggest specific corrective measures in order to increase parliamentary oversight over Albania's progress towards EU integration.

Hooliganism was in the centre of the research carried out by the *Belgrade Centre for Security Policy*. The two researchers advocate the creation of a new task force within the Regional Centre for Combating Transborder Crime in Bucharest of the Southeast European Cooperative Initiatve (SECI). This unit would deal with persisting problems of violence in sports throughout the entire region.

Group 484 from Belgrade analyzed the situation of refugees in Serbia and the issues connected with their return to neighboring countries. The authors support a strong engagement of the Croatian government in facilitating their re-integration.

The TRAIN programme offered a framework for the development of these policy ideas, encouraging the participating think tanks to disseminate their proposals through public conferences and thereby to feed them directly into the policy-making process. The kick-off seminar in Belgrade at the end of September focused on policy paper writing and advocacy strategies through which think tanks would be able to communicate their research results to parliamentarians and other decision-makers involved in the chosen policy field. Then followed a two-month research and write-up period during which the participating researchers developed concrete policy recommendations and formulated these in a brief published both in the national language and in English. The final wrap-up seminar in Brussels in December offered the think tanks the opportunity to present their findings to representatives of the European Commission's Enlargement Directorate and of the Council Secretariat, to the Western Balkans Working Group at the European Parliament, and to a number of policy analysts working on the Western Balkans in Brussels. Subsequently, the think tanks presented their research findings to the national policy community in round tables and public debates.

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Deutsche Zusammenfassungen

Instituti GAP: Regionale Zusammenarbeit im Telekommunikationssektor

Die Senkung der aktuell exorbitanten Roaminggebühren als Anstoß für eine verbesserte regionale Zusammenarbeit auf dem Westlichen Balkan zu nutzen, steht im Mittelpunkt des Policypapiers des kosovarischen *Institute for Advanced Studies - GAP*.

Trotz einer wachsenden Anzahl von Mobiltelefonverträgen zeigten sich in den letzten Jahren zwar eine Preissenkung bei nationalen Gesprächen, gleichzeitig jedoch auch ein erheblicher Anstieg der Roaminggebühren. Während die Europäische Kommission die Preisentwicklung auf EU-Ebene reguliert und dauerhaft niedrige Roaminggebühren garantiert, fehlt in den Ländern des Westlichen Balkans bisher eine vergleichbare Institution.

Instituti GAP schlägt daher folgende Lösungsschritte vor: Zunächst müssten die Kunden für die Preis-Problematik sensibilisiert werden, um ausreichend Druck für die Errichtung einer Balkan-Tarifzone zu schaffen. Diese sollte dann langfristig in die bestehende Euro-Tarifzone eingebettet werden. Die Errichtung der Balkan-Tarifzone erfolgt nach dem Vorbild der EU, die mit der Kommission als zentraler Institution die Gebühren für Auslandsgespräche europaweit reguliert. Entsprechend sollte für die Balkan-Tarifzone eine sogenannte „Balkan-Regulierungsgruppe“ die Regulierung der Roaminggebühren übernehmen und deren Umsetzung in nationale Tarife überprüfen. Innerhalb dieser neuen Behörde wären die sechs einzelnen nationalen Regulierungsagenturen vertreten.

Da alle Länder des Westlichen Balkans mittel- und langfristig den Beitritt zur EU anstreben, sieht der Think Tank vor allem den Beitritt zur Euro-Tarifzone und die damit einhergehende Roaming-Anpassung als einen weiteren Schritt hin zum EU-Beitritt. Gleichzeitig wird durch die neuen Visaliberalisierungen eine erhöhte Zahl an Reisenden erwartet, so dass eine die Senkung der Roamingkosten einem wachsenden Teil der Bevölkerung zugute kommen würde.

Die Ausweitung des Telekommunikationssektors zählt zu den ertragreichsten und wachstumsstärksten Bereichen in der Region. Langfristig können sich deshalb die hier erzielten Erfolge positiv auf die regionale Zusammenarbeit auswirken und eine Annäherung der Länder in weitaus sensibleren und politischeren Bereichen vorbereiten.

Analytica: Regulierungsfolgenabschätzungen (RFA) in Mazedonien

Gegenstand des Policy-Papiers von *Analytica* sind die Regulierungsfolgenabschätzungen (RFA) in Mazedonien, die seit 2009 Pflichtbestandteil von Gesetzesentwürfen

sind. RFA analysieren Rechtstexte vor ihrer Verabschiedung auf wirtschaftliche Auswirkungen und dienen so als wichtiges Instrument bei der Verbesserung der Rechtssetzung. Ziel des Think Tanks ist es, bestehende Probleme bei der Erstellung der RFA in Mazedonien aufzuzeigen und Verbesserungsvorschläge zu unterbreiten.

Bei der Analyse stellt Analytica vor allem Probleme im Bereich der Vorbereitung von RFA fest. Ein Mangel an Fachkräften und ein noch immer fehlendes Bewusstsein für die Bedeutung und die Vorteile solcher Analysen innerhalb der Ministerien führen zu unvollständig ausgearbeiteten RFA. Aufgrund kurzer Vorbereitungsphasen auf Gesetzesentwürfe ist eine qualifizierte und gründliche Abschätzung sehr schwierig. Folglich werden RFA oftmals als rein technisch-formale Instrumente wahrgenommen.

Zu den größten Erfolgen bisher durchgeführter RFA gehört die Umsetzung der bestehenden Analysen in den mazedonischen politischen Prozess. Gleichzeitig wurde bereits ein umfassender rechtlicher Rahmen für die Implementierung von RFA in Gang gesetzt, der eine hohe Qualität der Abschätzungen sicherstellen soll. Trotz dieser positiven Entwicklungen betont Analytica, dass die Anwendung von RFA in Mazedonien noch immer gravierende Probleme aufweist.

Um die aktuelle Lage zu verbessern, schlägt Analytica u.a. vor, Gesetzesentwürfe der Ministerien rechtzeitig zu veröffentlichen und die Umsetzung eines funktionierenden Rechtsrahmens voranzutreiben. Die Nutzung von Medien, um die Bevölkerung über die Rolle und Bedeutung der Regulierungsfolgenabschätzungen zu informieren sowie die aktive Partizipation zu fördern, ist dringend nötig. Eine vertiefte Zusammenarbeit mit unterschiedlichen NGOs könnte diese Entwicklungen sowie die Qualität der Analysen positiv beeinflussen.

Progress: Korruptionsbekämpfung in Mazedonien

Der Think Tank *Progress* widmet sich in seinem Policy-Papier der Korruptionsbekämpfung in Mazedonien. Bereits in den EU-Fortschrittsberichten von 2009 und 2010 wurde deutlich, dass Korruption immer noch ein großes Hindernis auf dem Weg zum EU-Beitritt des Landes darstellt. Progress untersucht daher die Gründe für die andauernde Korruption und analysiert die Zusammenarbeit der staatlichen Anti-Korruptions-Behörde SCPC (*State Commission for the Prevention of Corruption*) mit der mazedonischen Justiz.

Bei der Analyse wird deutlich, dass vor allem der politische Einfluss der Exekutive einen erfolgreichen Kampf gegen Korruption behindert. Zusätzlich sieht der Think Tank erhebliche strukturelle Schwächen bei der Zusammenarbeit zwischen der Justiz und SCPC. Die SCPC kann Korruptionsfälle nur durch die Staatsanwaltschaft einleiten. Diese wiederum kann nicht selbst investigativ tätig werden, sondern ist von den Untersuchungsergebnissen des mazedonischen Innenministeriums abhängig. Progress vermutet hinter dieser Struktur eine

deutliche politische Motivation, die eine effektive Bekämpfung von Korruption unmöglich macht und gleichzeitig gegen bestehende EU-Vorgaben verstößt.

Als kurzfristige Lösung schlägt der Think Tank deshalb eine Verringerung der Einflussmöglichkeiten der Exekutive sowie eine Erweiterung der Kompetenzen der SCPC vor. Zwar hinge auch eine solche Veränderung wieder vom politischen Willen der Exekutive ab, sie bedeute aber gleichzeitig eine deutliche Effizienzsteigerung der Arbeit von SCPC.

Langfristig sieht Progress die effektive Lösung in einer strukturellen Neudefinierung der Aufgaben der SCPC nach dem Vorbild der kroatischen Korruptionsbehörde. Durch grundlegende Umstrukturierungen erhielte die Anti-Korruptions-Behörde die Möglichkeit, Verdachtsfälle in enger Zusammenarbeit mit der Staatsanwaltschaft selbst zu untersuchen und Verfahren einzuleiten. Da diese Lösungsmöglichkeit einzelne Verfassungsänderungen voraussetzt, rechnet Progress mit einem langfristigen Prozess, der nicht zuletzt von den derzeitigen Ergebnissen der Korruptionsbekämpfung abhängen wird.

CEMI: Reform der Antikorruptions-Institutionen in Montenegro

Der montenegrinische Think Tank *CEMI* (Centar za monitoring – Center for Monitoring) beschäftigt sich in seinem Policy-Papier mit der Reform der vier Anti-Korruptions-Behörden in Montenegro und entwickelt anhand verschiedener Szenarien kurz- und mittelfristige Problemlösungsansätze.

Trotz einiger Fortschritte steht Montenegro noch immer im Ruf, unter weitverbreiterer Korruption zu leiden. Dabei stellt CEMI fest, dass die unternommenen Anstrengungen, Korruption effektiv zu bekämpfen, wiederholt scheiterten. So wurde u.a. eine der größten nationalen Initiativen, die Nationale Strategie für die Bekämpfung von Korruption und organisiertem Kriminalität, nur teilweise umgesetzt. Gründe für die fehlerhafte Umsetzung sind eine allzu breite Formulierung der Ziele von Korruptionsbekämpfung sowie die Missachtung von Empfehlungen oder gar fehlende Partizipation des zivilgesellschaftlichen Sektors. Außerdem zählen eine unzureichende Unabhängigkeit von staatlichen Institutionen, fehlende Kapazitäten bei der Umsetzung von Strategien sowie fehlende Monitoring-Mechanismen zu den prominentesten Problemen der zuständigen Behörden. Zusammenfassend stellt CEMI fest, dass Montenegro bei der Bekämpfung von Korruption nicht den internationalen Anforderungen gerecht wird.

In verschiedenen Szenarien schlägt der Think Tank deshalb drei mögliche Lösungsansätze vor: Das erste Szenario sieht die Beibehaltung des Status Quo mit einer Erweiterung im Bereich der Rechtssetzung als kurzfristige Perspektive vor, während im zweiten Szenario eine Teilzentralisierung von Aufgaben der beiden mit Monitoring sowie der Implementierung der nationalen Strategie betrauten Anti-Korruptions-Behörden im Zentrum steht. Das dritte Szenario schließlich entwickelt in Anlehnung an die bereits bewährte Anti-Korruptions-

Agentur in Serbien die Zusammenlegung aller Institutionen in eine zentrale, unabhängige Agentur vor. Langfristig gesehen könnte diese Agentur die Aufgaben und Kompetenzen der bestehenden Institutionen übernehmen und den Kampf gegen Korruption zentral und transparent steuern.

EMA: Die Rolle des albanischen Parlaments im EU-Beitrittsprozess

Der Think Tank *European Movement Albania* (EMA) befasst sich in seinem Policy-Papier mit der Rolle des albanischen Parlaments im EU Integrationsprozess.

Obwohl sowohl die albanische Gesetzeslage als auch die Geschäftsordnung die wichtige Rolle des Parlaments im Integrationsprozess hervorheben, stellt EMA eine unzureichende strukturelle Funktionsfähigkeit der Institution fest. Durch offensichtliche Mängel, die u.a. auf die problematische Geschichte des Landes zurückzuführen sind, kann das Parlament seiner wichtigen Rolle im EU-Integrationsprozess nicht gerecht werden. Dabei weist der Think Tank vor allem auf schwache Kapazitäten im Verwaltungsbereich und eine unzureichende Umsetzung der gesetzlichen Vorhaben hin, was oftmals zu Kompromissen bei der Gesetzgebung führe, ohne die erwarteten Anforderungen zu erfüllen.

Um die Funktionsfähigkeit des Parlaments im EU-Integrationsprozess zu stärken und gleichzeitig Albanien auf dem Weg in die EU zu unterstützen, soll u.a. die Diskussion zwischen staatlichen und nichtstaatlichen Akteuren angeregt werden. Hauptziele sind bessere Gesetzgebung und eine effektive Umsetzung des Rechtsrahmens. Außerdem sollen Gesetzesentwürfe rechtzeitig veröffentlicht werden, um wichtigen Akteuren die Möglichkeit der Beteiligung am Gesetzgebungsprozess zu gewähren. Eine langfristige Verbesserung der Arbeit des Parlaments erfordert allerdings nicht nur eine Stärkung im Bewusstsein des Parlaments für seine Rolle im EU-Integrationsprozess, sondern eine Neuausrichtung auf gesamtstaatlicher Ebene.

Belgrade Centre for Security Policy: Hooliganismus im Westlichen Balkan

Das Policy-Papier des *Belgrade Centre for Security Policy* (BCSP) widmet sich der Problematik von Hooligan-Gewalt bei Sportveranstaltungen. Laut Ansicht des Think Tanks sind die gewaltsamen Auseinandersetzungen, die vor allem bei regionalen Fußballspielen auftreten, Ausdruck des anhaltenden ethnischen Konflikts zwischen Kroaten und Serben. Gleichzeitig stellt die Bekämpfung solcher Gewalt noch immer keine Priorität für die zuständigen Behörden dar.

Vor diesem Hintergrund sieht BCSP die größte Priorität in der Einrichtung einer „Task Force“ im Rahmen des Bukarester Zentrums für die Bekämpfung grenzüberschreitender Kriminalität

(Regional Centre for Combating Trans-border Crime) der Regionalorganisation SECI (Southeast European Cooperative Initiative). Sie gilt als einzige regionale Initiative im Westlichen Balkan mit voll ausgebildeten Kompetenzen im Bereich der Konfliktprävention bei Sportveranstaltungen. Gleichzeitig fördert das Zentrum die Zusammenarbeit zwischen nationalen Institutionen und spezialisierten Behörden. Mithilfe einer im Zentrum integrierten Task Force soll vor allem die Konfliktprävention verbessert werden.

Weitere Empfehlungen an die serbische Regierung, das serbische Sportministerium sowie den serbischen Fußballverband beinhalten u.a. die Forderung nach transparenten Sportgesetzen, festen Vorgaben beim Ticketverkauf sowie bestimmten Verhaltensregeln bei Sportveranstaltungen. Gleichzeitig appelliert der Think Tank an alle Beteiligten, die Problematik von Hooliganismus in ihre Agenda aufzunehmen und von den positiven Beispielen aus Großbritannien und Deutschland zu lernen. Friedliche Sportveranstaltungen könnten gerade vor dem Hintergrund der gemeinsamen Bewerbung Kroatiens und Serbiens um die Ausrichtung der Fußball-Europameisterschaft 2020 als wichtiger Katalysator für die Versöhnung zwischen den Ländern des Westlichen Balkans wirken.

Group 484: Flüchtlingsrückkehr zwischen Kroatien und Serbien

Gegenstand des Policy-Papiers des serbischen Think Tanks *Group 484* ist die Flüchtlingssituation in Serbien und die Problematik der Rückkehr von serbischen Flüchtlingen nach Kroatien.

Serbien weist europaweit die höchste Flüchtlingszahl auf, wobei drei Viertel der Flüchtlinge kroatischer Herkunft sind. Vor dem Hintergrund der Bedeutung von regionaler Kooperation für den EU-Beitrittsprozess erklärten im Jahre 2010 die Außenminister der betroffenen Länder des Westlichen Balkans erneut, die Flüchtlingsproblematik langfristig gemeinsam lösen zu wollen. In ihrer Analyse stellt Group 484 jedoch fest, dass trotz mehrerer Verträge und Abkommen bisher nur ein langsamer Fortschritt bei der Flüchtlingsrückkehr erreicht werden konnte.

Unter Aufsicht der EU soll demnach in erster Linie die kroatische Regierung dazu aufgefordert werden, den Flüchtlingen bei ihrer Rückkehr nach Kroatien die zugehörigen Rechte auf Miete und Eigentum nach EU-Standard zu gewähren. Ein Entschädigungsmodell soll die entstandenen Verluste zusätzlich kompensieren. Schließlich appelliert der Think Tank an die kroatische Regierung, neben Veränderungen im Rechtsrahmen auch den Aufbau von zerstörten Häusern sowie die Wiedereingliederung der Flüchtlinge in den kroatischen Arbeitsmarkt voran zu treiben.

Full versions in English

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GAP: Fostering regional cooperation – Lowering roaming prices in the Western Balkans

Rudina Heroi and Jeton Mehmeti

gap | policybrief

Introduction

Since political disputes have hindered cooperation among some of the Western Balkans countries, the regional cooperation should start on other issues that benefit them all. While leaving apart the political disputes, a new chain of mutually benefiting agreements should develop in order to bring these countries closer. Telecommunication could be one of the means to foster regional cooperation. Regulating roaming charges could be the start of such cooperation.

The Telecommunication sector is one of the most successful sectors spreading rapidly in the region. It is also one of the most profitable sectors generating high revenues. Competition among mobile operators has led to better offers, thus the number of subscribers has more than doubled in ten years. Today, Kosova has two mobile operators (VALA and IPKO) both reaching 1.5 million subscribers; Albania has three (AMC, Eagle Mobile, Vodafone Albania) with 4.5 million subscriber; Macedonia has four mobile phone operators (Cosmofon, One, VIP Operator, T-Mobile) reaching 1.9 million subscribers; Serbia has three mobile operators (mt:s, Telenor, VIP) reaching 10.4 million subscribers; Montenegro with three mobile operators (Telenor, T-Mobile, m:tel) has 1.1 million subscribers, and Bosnia and Herzegovina has three mobile operators (BH Mobile, M-tel BH, HT-Eronet) reaching 4.1 million subscribers. The rapid increase of mobile subscribers each year suggests that the number will go even higher. While these operators tend to provide better and more competitive tariffs for its customers, the roaming prices remain extremely high.

This policy brief analyses the roaming charges in six countries of the Western Balkans: Kosova, Albania, Montenegro, Macedonia, Serbia and Bosnia and Herzegovina. Croatia is not included in this study. Since Croatia seems much closer to EU accession, our recommendations would not fit for it and may be consider as a step back. Therefore, the Western Balkan notion used in this paper does not include Croatia. This paper deals with the issue of roaming charges applied in the above mentioned countries. Extremely high roaming charges are being applied for citizens of these countries. For instance, Kosovo citizens have to face roaming charges up to 29 times higher than domestic calling tariffs. This is much higher compared to roaming charges applied in EU countries; not to mention the differences in living standards and GDP. GAP Institute believes that the status quo should be change since the welfare of consumers is at stake. Since it is very unlikely that mobile operators would ever reach an agreement setting roaming caps, GAP

Institute suggest that national regulatory agencies should stand up and put certain limits to roaming prices. To change the status quo, GAP Institute offers three policy options: a) join the Eurotariff zone; b) establish a "Balkantariff" zone; c) raise awareness on high roaming tariffs.

1. Dealing with high roaming charges

The telecom market in the Western Balkans is growing at a rapid pace with the number of subscribers growing constantly, accompanied by new entrants into the marketplace, privatization of state-owned telecom companies, modern telecom infrastructure and more affordable products and services for consumers.[1] Moreover, the telecom industry has been liberalized and legislation has been or it is adopting the regulatory principles, founded in the EU's regulatory framework for communication, which promotes competition as the most effective way to offer communication products and services while ensuring universal access.

Today, Albania, Serbia, Montenegro and Macedonia have adopted regulatory principles found in the EU's 2003 regulatory framework for communication. On the other hand, Kosova and Bosnia Herzegovina are the only two countries still basing their regulatory principles on EU's 1998 regulatory framework for communication.

Kosova is also a signatory of the eSEE Agenda Plus – a joint effort of SEE countries to develop a benchmark based on the points and policies of the EU's i2010 strategy, which also includes an appropriate regulatory framework. Policies and actions undertaken by eSEE are corresponding with the efforts to push SEE closer to EU action plans for Information Society development, as express in the current i2010.

The number of telephone subscribers is rapidly increasing. Today Albania has 4.5 million subscribers, Macedonia nearly 2 million and Serbia 10.4 million. As Table 1 shows, each country has seen a rapid growth of telephone users during the last ten years, suggesting that the number will further increase. Kosova too has seen a rapid increase of telephone subscribers. The number of subscribers today is more than 1.5 million. Despite the fact that 13% of the total number of subscribers belong to mobile operators illegally operating in Kosovo, still the number of telephone users is high. Table 2 provides details of the overall market share.

The increasing number of mobile subscribers and the entrance of new mobile operators have increased the competition and have resulted in more competitive prices and packages. However, roaming charges for citizens of Western Balkan countries still remains very high. The roaming fees are usually charged on a per-minute basis and they are determined by service provides at their own choice. There are different types of roaming, such as: regional roaming, national roaming, international roaming, inter-standards roaming, etc. Western Balkan countries apply international roaming standards. Although there are cases when two or more mobile operators from different countries have reached agreements on decreasing roaming charges, but there is no collective agreement. Therefore, different countries have different roaming prices. Since the

1 http://www.telekomunikacije.rs/arhiva_brojeva/prvi_broj/c_van_den_boogert:_creating_a_competitive_market:_european_union_and_serbia.52.html (last accessed on 15 October 2010).

majority are prepaid subscribers, this paper deals only with the roaming charges offered for prepaid users.

Table 3 shows how mobile telecom operators from different countries charge various prices for incoming and outgoing roaming calls. The lowest roaming charges are often offered through roaming-agreements between sister companies, and occasional short term agreements between two companies usually during summer season. Mobile operators currently divide roaming charges according to zones. Zones are created for easier reference and usage control, as well as to ensure better quality, and simple and favorable roaming services. Many cities can be grouped into zones in order to easier administer different features such as prices, authentication, methods, etc. Mobile companies define their zones differently and usually they are made more on logical geographically observation. The bigger the geographical distance the higher are roaming charges.

Kosova's two major mobile operators, VALA and IPKO, who together share 85% of the telecommunication market offer extremely high roaming prices. While VALA offers cheaper roaming prices with other countries in the region, IPKO offers better roaming prices for EU countries. Nevertheless, the general roaming prices are beyond standard prices and many times higher than domestic tariffs. For instance, VALA's roaming charges in Macedonia are 19 times higher compared to domestic calls. IPKO's roaming tariffs with Macedonia are even higher, 29 times higher than domestic calls. These charges are simply too high and for most costumers unbearable. Table 4 and 5 shows the highest roaming charges applied for both VALA and IPKO.

Considering the data presented above, the necessity to regulate roaming charges is more than evident. The best argument for this claim is the thorough transformation of the EU electronic communications sector in the last 10 years, since its liberalization. The liberalization of EU telecom markets proved to have driven growth and innovation, stimulated investment and competition, and the widespread available of services to the public[2]. Moreover, since all Western Balkans countries are aiming to join the EU, it is logical for them to follow a similar road map towards the liberalization and regulation of telecom markets, specifically the mobile roaming market segment.

2. Reflection on Eurotariff model

Today's problem with high roaming charges in the Western Balkans was once a problem for the EU countries too. The European Commission had many times urged mobile operators to lower their roaming charges. Although some companies decreased their prices, they remained on average 4 times more expensive than domestic mobile phone calls; in some cases roaming prices went up to 12 Euros for a 4 minute call. To further highlight the problem, the European Commission launched a website on roaming tariffs in October 2005, but even this did not have a powerful impact so to lower the prices, thus the Commission proposed to intervene by regulating them. This proposal was published in July 2006. After significant consultations, public hearings, impact assessments and negotiations the proposed EU regulation called "Roaming on public mobile networks" was adopted by the Parliament on May 2007. The regulation limits the rates

[2] http://ec.europa.eu/information_society/policy/ecomm/index_en.htm (last accessed 27 October 2010).

operators can charge each other while roaming, but also limits the tariffs an operator can charge its customers.[3]

The regulation entered into force on 30 June 2007, and mobile operators in all 27 Member States had one month time to inform their customers for switching to the new tariff, otherwise the new tariff automatically would apply the lasted on 30 September 2007. The new roaming charges became known as Eurotariff and were applied for all EU states plus Iceland, Liechtenstein and Norway.

The agencies responsible for the implementation of the regulation were the National Regulation Authorities (NRAs). They are still responsible for monitoring mobile operators, and in order to better cooperate the Body of European Regulators for Electronic Communications (BEREC) was later established, which consists of 27 members representing each of the 27 national regulators.

At the beginning the Eurotariff imposed a charge of no more than 0.49 euro per minute for calls made abroad and 0.29 euro for calls received abroad. However some companies in order to compete offered even lower prices. Since 2007 roaming charges went event down, expecting to reach 0.35 euro in 2011. Table 6 summarizes the roaming Eurotariff charges.

3. The way forward

Considering the high roaming charges, the Western Balkans countries need to come up with a policy that would not only lower the high roaming charges but will also put a limit to the maximum roaming charges, just like the EU did. To achieve this we propose the following policy options for consideration:

- Join the Eurotariff zone
- Establish a "Balkantariff" zone
- Create awareness on high tariffs

Join the Eurotariff zone

The Eurotariff model was adopted by 27 EU states in June 2007. As of January 1, 2008 three states of European Economic Area (EEA), Iceland, Liechtenstein and Norway joined the Eurotariff model. This means subscribers from EU beneficiate with the same price caps when traveling within EEA and vice versa. Following the same logic, we suggest that the Western Balkan as a whole join the Eurotariff zone. This means that roaming caps would be the same as within the Eurotariff zone This way travelers from EU countries would enjoy the same roaming charges when traveling to Western Balkan countries and vice versa. One argument for encouraging this policy option is that all Western Balkan countries aspire to join the EU, and most likely each of them will become a member of EU eventually. Hence why not transform the

[3] "A brief history of Parliament's work on the mobile roaming proposal", Press Service of the Directorate for the Media of EU Parliament, December 2007.

roaming charges as early as possible? This would also foster the EU – Western Balkan cooperation and will be nothing more than a simple agreement in the range of many agreements between EU and these countries. If visa liberalization is an initial step towards approaching the EU family, joining the Eurotariff zone would be another practical step towards EU integration. Besides, by adopting the Eurotariff, citizens of these countries would enjoy much lower roaming charges; not only when traveling to EU countries but to one another's country too. Now, as most of these countries enjoy visa liberalization, more traveling is expected and hence more need for communication too.

In order to join the Eurotariff zone, telecommunication regulatory agencies of these countries should first become members of the Body of European Regulators for Electronic Communications (BEREC). Applying Eurotariff roaming caps would eventually eliminate currently extreme roaming charges. Besides, a consumer would better know the roaming charges when traveling to any country in the Western Balkans or EU.

Establish a "Balkantariff" zone

Another option to eliminate high roaming charges is to create a "Balkantariff" zone, similar to Eurotariff model. By following the European Commission's approach for regulating roaming charges, Western Balkan countries should create a joint regulatory body that would impose roaming caps to all participating countries. Each country has a National Regulatory Agency (NRA) that issues licenses and monitors the activities of domestic mobile operators. In the EU case, it was the Commission that established the European Regulators Group (ERG), whose mission was to advise and assist the Commission. In our case there is no "Balkan Commission" to impose the new roaming tariffs; hence Western Balkan countries should create a "Balkan Regulators Group", regardless of the naming it will have, to impose roaming caps. "Balkan Regulators Group (BRG)" should consist of 6 members, representing each National Regulatory Agency, namely Kosova, Albania, Montenegro, Macedonia, Serbia and Bosnia and Herzegovina. The role of "BRG" should be to set new roaming caps, both for calls and SMS, whereas the NRA should monitor them. In this phase we cannot suggest what the new roaming caps should be, except that they must be lower than today's. Our concern is to create limits to high roaming tariffs, not to standardize the roaming charges. Mutual agreements between two or more operators for common roaming prices could still exist, but it should not exceed the limits imposed by "BRG". Moreover, we expect that roaming prices, like in Eurotariff model would further decrease in the following years. Thus "Balkantariff" would ensure consumer protection and enhance competition.

We expect mobile operators to be against such initiative just like some European mobile operators protested against the Commission's proposal for creating the "Eurotariff; and if it had been for voluntary participation, most probably "Eurotariff" would not have existed today. In our case mobile operators most likely would prefer to keep the status quo and enjoy high roaming profits. This is why the "BRG" should have executive powers. Furthermore, the "Balkantariff" model could last till participating countries become EU members.

Raise awareness on high roaming tariffs

Before the European Commission decided to intervene by imposing the Eurotariff in 2007, in 2005 the Commission launched a consumer website on roaming tariffs. This came as a result of failure after repeatedly urged mobile operators to lower their roaming prices. The idea of website was to highlight the problem that roaming charges were on average four times more expensive than domestic calls. In our case, creating a similar website would be the first step towards creating the "Balkantariff". The body responsible for this could be the "Balkan Regulators Group". The idea of website is to further highlight extremely high roaming charges, but it should not be the sole activity of "BRG".

Today high roaming charges remain extremely high and most of these prices go unnoticed. Many mobile operators do not reveal in their website their high roaming prices; only when they reach mutual agreements for lower roaming prices during a specific season. In our case where roaming prices are up to 29 times higher than domestic calls, consumer protection campaigning becomes a must. Only a few can afford calling back home for a rate of 2.92 euro/minute. This is incomparable to Eurotariff rates of 0.39.This website would also assist consumers to compare roaming charges and select the one with the best offer upon entering a roaming zone. Again, the website is not the perfect solution to lower high roaming charges, but it creates awareness of the problem and it may accelerate the process towards creating the "Balkantariff".

4. Summary and recommendations

Regional cooperation among Western Balkan countries has so far been hindered by political disputes. Today all of them aspire to join the EU family, but the accession process seems to be long one. Hence regional cooperation becomes a necessity, especially in issues that are regulated by regulatory bodies. Some Western Balkan countries have already initiated a presidential regular meeting that aims at discussing issues of common interest and foster regional cooperation. The next presidential meeting could be a great platform for discussing roaming tariffs. Regulating roaming charges could be a very good start that would lead to other agreements. Since high roaming prices constitute a problem shared by all people of Western Balkan countries, GAP Institute suggests the following recommendations:

- Western Balkan countries should attempt to join the "Eurotariff" zone and start applying roaming charges that are applied in EU countries;
- If due to political obstacles the first recommendation in not implementable, they should create a "Balkantariff" zone;
- National regulatory agencies should create a joint regulatory group that would impose roaming caps to mobile operators;
- National Regulatory Agencies should monitor the new roaming caps;
- The joint regulatory group should create a website showing currently extremely high roaming charges ;

- The joint regulatory group should only limit roaming charges while allowing mobile operators for cheaper offers;
- The operating formula should be for enhancing competition and consumer protection;
- The idea of regulating roaming prices should be in the agenda of next presidential summit.

Analytica: Strengthening the role of RIA in the policy-making process in Macedonia

Sonja Risteska and Agim Selami

The aim of this policy brief is to address some of the most important aspects of the introduction and implementation of Regulatory Impact Assessment in Macedonia. In addition, it aims at carrying out a detailed analysis of the entire process and based on the conducted analysis to determine the achieved progress to date and identify concrete challenges that get in the way of the process. The analysis is followed by recommendations on how to eliminate identified setbacks. The report has been conducted with combination of interviews with key players for RIA in Macedonia, desktop research, and comparative analysis with other countries.

Introduction

In this day and age, governments of different countries throughout the world are encountering a trend increasing quantities of regulation. This trend, understandably, is more visible in countries with unconsolidated democracies, where beside the problem of the large quantity of existing regulation, an additional concern is its quality, its synchronisation with current circumstances in society, and the effects it produces. Approving new regulations, or analysing existing ones, should have a single goal: solving problems within a certain field for the direct stakeholders as well as for the whole of society. In order to achieve this goal, it is necessary to carry out a detailed analysis of the problem that is being addressed, to identify regulatory or non-regulatory solutions, and, most importantly, to determine the most appropriate solution in terms of budget so that it does not cause additional fiscal implications. Addressing these questions can most precisely be achieved through the preparation of a document on Regulatory Impact Assessment (RIA).

RIA is an instrument that decision-makers use to predict and assess possible impacts of existing or prospective regulation on various aspects of society: social, cultural, economic, and environmental. Another important definition of RIA is that it is a regulatory systematic activity and cannot be considered as a substitute for the policy-making process. Instead, it must be fully integrated into the process and contribute positively to the policy-related debate.[4]

The process of carrying out a RIA is based on putting into practice the core OECD principles for more effective and better regulation: definition of the problem, identification of expenses, identification of benefits that arise from the regulation, distribution of effects of the new regulation across society, consistency and comprehensiveness of the regulation, opportunity to involve stakeholders in the consultations, and determining ways to implement the regulation.[5]

4 Regulating Better: A Government White Paper setting out six principles of Better Regulation. January 2004. http://www.betterregulation.ie/eng/government_white_paper_'regulating_better'/RegulatingBetterGovernanceWhitePaper1.pdf (last accessed 2 November 2010).

5 The 1995 OECD Checklist for Regulatory Quality. http://www.oecd.org/officialdocuments/displaydocument/?doclanguage=en&cote=OCDE/GD(95)95 (last accessed 2 November, 2010).

The weak political will on the side of governments for integrating RIA in the decision-making process is a crucial problem. If they do integrate it into the policy-making process, they do so because they want to achieve legitimacy in international contexts, not because they have carefully examined the real opportunities of the RIA.[6]

1. RIA in Macedonia

Compared to OECD countries, Macedonia is not lagging behind drastically as regards the introduction of RIA. Regulatory inflation, ineffectiveness of regulation, continuous recommendations from international organizations, as well as good political will of authorities to introduce RIA are the most evident factors that led to the initiation of this process. According to the Methodology on Regulatory Impact Assessment, the main benefits of introducing RIA in Macedonia are the understanding of the complexity and an in-depth analysis of the real regulation impacts as well as transparency and consultations, both internally (among the ministries) and externally with all stakeholders. RIA in Macedonia is a part of the general regulatory reform, which began in 2006. This reform is still in process and is divided into two phases. The Regulatory Guillotine[7] is the first phase, while RIA is part of the second. More precisely, RIA is part of the project Capacity Building of the Administration for EU Integration, Global Opportunities Fund - Reuniting Europe (GOFRE), which is being implemented in cooperation with the government. Together with Strategic Planning, it is part of the component Public Administration Report as Support of the EU Accession Process. Submitting a RIA along with the drafted law is obligatory since 1 January 2009.

Having considered the developments of this process to date, the estimations are most diverse. It is clear that the RIA templates[8] are attached to every submitted draft law, but the quality is not at the desired level. Better quality and more detailed RIA are being prepared in ministries whose teams receive technical support from external donors. The main problems and challenges identified for the successful implementation of the whole RIA process are a lack of well trained employees to prepare RIA in the respective ministries and a lack of awareness in the government institutions of the meaning and benefits of RIA, which is undoubtedly a result of the short and modest tradition of preparing RIA. There is an additional problem in the process of preparing laws in the ministries. In some cases, although the law is enacted according to the regular procedure, the time period for ministries to draft the law is almost the same as drafting laws

[6] Katarina Staronova, Jan Pavel and Katarina Krapez 2007. Piloting regulatory impact assessment: a comparative analysis of the Czech Republic, Slovakia and Slovenia. http://docserver.ingentaconnect.com/deliver/connect/beech/14615517/v25n4/s3.pdf?expires=1287494698&id=59202844&titleid=896&accname=Guest+User&checksum=F040D819503696D0E3873A8E210ECBC3 (last accessed 19 October 2010).

[7] The Regulatory Guillotine is a project of the Government of the Republic of Macedonia with the purpose of eliminating all unjustified requests in the legal acts and bylaws. The objective of the project is to simplify many regulations in a short period of time at a low cost, while strengthening the government's ability to focus on regulations needed to improve the conditions for doing business in the country.

[8] Template 1: Plan for RIA; Template 2: Initial RIA; Template 3: Complete RIA. Methodology of Regulatory Impact Assessment; Rules and procedures for the amendment of the Rules and procedures of the Government of the Republic of Macedonia; Strategic plan of the General Secretariat of the Government of the Republic of Macedonia for 2007-2009; Decision on the form and content of the templates for RIA.

according to the urgent procedure. The problem appears more often in cases of law amendment. The proposing ministry does not allow for sufficient time to prepare a high quality RIA, thus making RIA only a technical and formal tool.

1.1. RIA through important documents

As mentioned above, RIA can be considered an integral part of the process of drafting political and legal acts. This goes back to the enactment of a few key documents about RIA, which formalised the unambiguous determination of the government to integrate RIA in the policy-making process. (Table 1) The process of RIA and its further implementation is regulated by the following documents.

1.2. Types of RIA

A ministry drafting a new law decides, depending on the complexity of the necessary analysis, whether an initial or a complete RIA will be prepared. In particular cases, the General Secretariat recommends drafting a complete RIA after assessing the law's complexity. The procedures for implementing both types of RIAs are identical. The only difference lies in the details of the analysis, the recourses used, the length of the assessment, and in the way in which the preferred option is assessed.[9] However, in order to implement a complete RIA, the following criteria must be taken into consideration: - Does the draft law have any significant economic and social impacts, as well as environment impacts for one or more sectors, which result from implementing complex reforms? - Does the draft law have financial implications exceeding 600 (six hundred) million denars for its implementation?[10]

1.3. Consultation process

Including stakeholders in the policy-making process constitutes a substantial element of RIA. By organising consultations, the policymakers open several avenues for gathering information and data important for the policy-making process, which they cannot gather and analyze by themselves. The guidelines on RIA in several OECD reports consider the consultations to be a significant element, mentioning that the public is to be permanently included in the consultations and in fact from the earliest phase of the policy-making process.[11]

In Macedonia, two types of consultations are envisaged: internal consultations (among the ministries) and external consultations (including stakeholders), both of which must be implemented regardless of whether an initial or a complete RIA is concerned. According to claims of the representatives of the General Secretariat, who are responsible for monitoring and co-ordinating the RIA process, the consultations are going well so far, but there are some deficiencies. The low interest of the included parties and of the citizens in general in active participation in the consultation process is one of the major challenges. Despite the possibility to

[9] Methodology for Regulatory Impact Assessment, Official Gazette of RM, nr. 66, 28.05.2009.
[10] Methodology for Regulatory Impact Assessment, Official Gazette of RM, nr. 66, 28.05.2009.
[11] Pedro Andres Amo, Sophie Richter-Devroe & Delia Rodrigo 2007. *"Policy Brief on Tools to Initiate RIA"* www.oecd.org/dataoecd/44/26/38404544.pdf (last accessed 20 October 2010).

comment online on the legal acts in question on ENER, citizens' interest in commenting and suggesting changes is still very limited. This is probably due to an uncompleted functionality of ENER, which due to technical problems from time to time does not enable citizens to register and leave comments. "Dnevnik has tried in the past few days to register at ENER as a precondition for leaving comments on some of the legal acts, but the reply which we got every time was: Your profile on the web-site of ENER is not approved for usage at the moment."[12] Analytica had a similar experience, which for a long time rendered efforts to register on the portal fruitless.

However, although the registration is reported as successful, the link for activating the membership was provided a couple of weeks after. The representatives of the General Secretariat claimed that this has been the case only when the portal was undergoing a technical and functional upgrade and as of the last upgrade its full functionality is incontestable.

The above-mentioned comments are in line with the remarks contained in the European Commission progress report on Macedonia for 2010. The report states that although the guidelines on RIA are enacted and the civil servants involved in drafting laws have received various trainings, some ministries sill do not organise consultations with stakeholders and do not prepare systematic analysis for drafted laws.[13]

2. Achievements to date and future challenges

2.1. Important achievements

Apart from initiating and integrating RIA into the process of policy-making, which has undoubtedly been a success, the developments of RIA so far are characterized by a range of achievements, of which the most important are:

- Integrating RIA into the policy-making process;
- Introducing a high-quality legal framework for implementing RIAs, which ensures a good quality of RIA;
- Capacity-building of the administration responsible for preparing RIAs for drafted laws;
- Creating and putting into function the website of ENER for informing interested parties and citizens about every drafted law and enabling the option to leave comments and suggestions;
- Preparing a good-quality Manual on RIA with the support of the British Embassy.

2.2. Future challenges and recommendations

[12] ENER-Izgasen fener. http://www.dnevnik.com.mk/default.asp?ItemID=D5E874F05DCE7D4AAA246584343DB75B (last accessed on 25 October, 2010).

[13] 10EC Progress Report on Macedonia (2010). http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mk_rapport_2010_en.pdf (last accessed on 10 November, 2010).

The progress on RIA to date is still far from presenting an ideal case. The analysis made in the report and the opinions of the key actors in RIA show that despite progress accomplished, there is much more to be done and many challenges to be faced when establishing a solid modus operandi for RIA implementation in Macedonia. The most important remaining tasks and challenges are:

- Strengthening the implementation of RIA's legal framework which will improve the quality of preparing RIAs;
- Announcing all draft legal acts drafted by the Ministries on ENER's website and on the respective ministries' websites in due time;
- Creating a new database of general information. The current data of the Statistical Office is insufficient for preparing high-quality RIAs, which often leads to filling in RIA's templates with the single answer of "no impact";
- A proactive attitude and self-initiative of the business community and other interested parties for engagement in the consultations.
- Termination of the practice of enacting laws according to the regular procedure in a very short period of time;
- Continuing the established practice of organising training for the administration;
- Urgent improvement of ENER's functionality, enabling the interested parties and the citizens to actively participate in the policy-making process;
- Announcing explanations for accepting or not accepting comments submitted by interested parties and citizens on the website of ENER, showing that enabling active participation of the citizens in the process of policy-creating and -making is not just a formality, but rather contributes to a better quality of regulation;
- Promoting the RIA tool in the media to inform the general public about its role and meaning and to draw citizens' interest in actively participating in the policy-making process;
- Starting the next phase of RIA as soon as possible: including RIA of bylaws and other projects;
- Networking RIA in the Assembly of the Republic of Macedonia so that by enabling insight into the prepared RIA, it will determine the quality of the drafted legal act;
- Involving the NGO sector more intensively in the whole process of law drafting by consulting analyses and reports by this sector that are relevant to the proposed legal act.

Progress: Corruption as Impediment to EU Integration: Improving Good Governance in the Republic of Macedonia

Dane Taleski and Tanja Tomić

Introduction

Reforms in the judiciary and the implementation of anti-corruption legislation are listed among the key short-term priorities in the Accession Partnership between the EU and Macedonia (OJ L 80, 19/03/2008). The two policy areas are highly interdependent; results in the fight against corruption depend on both.

The established anti-corruption system seemed to yield results. According to the Transparency International corruption perception index, the Republic of Macedonia made substantial progress. Being ranked in position 105 in 2006, the country moved to position 84 in 2007, then to 72 in 2008, 71 in 2009, finally reaching position 62 in 2010. However, the Bertelsmann Transformation Index states that "corruption in Macedonia is a serious and widespread problem that affects many aspects of the social, political and economic life" (BTI Macedonia, 2010: 10). The Freedom House report of 2009 finds that "improving the independence and the efficiency of the judiciary remained a major challenge" (Nations in Transit, 2009: 350). The 2009 and 2010 reports of the European Commission note some progress in the anti-corruption policy, yet they conclude that "corruption remains prevalent in many areas and continues to be a serious problem" (COM (2010) 660). The data from the State Commission for the Prevention of Corruption (SCPC) shows that none of the initiatives in the field of criminal trials raised with the public prosecutor between 2007 and 2010 has led to a court sentence. The question arises why anti-corruption cases do not end with a court judgment?

To answer that question, this policy paper analyzes the cooperation between the SCPC and the judiciary. The main finding is that there is a lack of structured cooperation between the SCPC and the judiciary, namely the public prosecutor. The research finds that the lack of political will is the main reason for this shortcoming. It seems that political interference from the executive is impeding the anti-corruption system in the Republic of Macedonia.

1. How anti-corruption works or does not work?

The Law on the Prevention of Corruption was enacted in 2002 and with it the SCPC was established. Its role is primary preventive. The anti-corruption commission gives opinions on laws, monitors the wealth of elected and appointed political officials and monitors the work of public companies and the state administration. In addition, the SCPC can ask the public prosecutor to start a criminal investigation and raise a trial for cases of corruption.

Constitutional reforms were enacted in 2005 by which judiciary and a prosecutor's councils were established. These councils are in charge for the election of judges and prosecutors. The Minister of Justice was designated as a member in both of the councils, hence the political influence in both was retained. Over the years, an Academy for Judges and Prosecutors was established,

which improved the quality of human resources. Moreover, an independent judiciary budget was secured. Organizationally, within the judiciary, special units were developed for the fight against corruption.

In 2004, a cross-sectoral working group for the fight against corruption was established. It was coordinated by high-ranking officials from the Ministry of Justice, and included inter-ministerial officials as well as members from the judiciary and the SCPC. The working group still exists today, but while the technical level meetings have intensified, "the high-level political commitment to monitoring of the implementation of anti-corruption policies has weakened" (COM (2010) 660: 14).

The fight against corruption for several years seemed to be intensifying. In three separate cases in 2009 numerous public employees were arrested. The arrests included border policemen, pay toll employees, doctors and administrative workers from the Pension Fund. The arrests were followed by a media frenzy and were widely publicized. Some of the institutions involved in the process, namely the Ministry of Interior (MoI) aided the publicity of the process. Namely the MoI requested media presence in front of the courts before taking the arrested for questioning. This jeopardized the constitutional rights of the arrested in terms of their presumption of innocence. In some cases the MoI gathered evidence for the arrests using surveillance techniques. But the MoI did not always obey the procedural steps to secure the usage of these measures, so they were not valid in the court trails.

According to SCPS, between 2007 and 2010, 52 separate initiatives to start criminal investigation were sent to the public prosecutor. Among them there is not a single case where corruption was detected among high level national politicians. In twelve cases, the SCPS suspects that public administration officials were involved in corruption. In thirteen cases, those suspected are heads and employees of public companies, while local politicians (e.g mayors) are involved in fifteen cases. In five cases, employees in the local administration were involved, and multiple actors were involved in seven cases.

The public prosecutor denied eight of the initiatives on the grounds that there is not enough evidence or that there is no act of corruption. The prosecutor has opened an investigation in thirty five of the cases, while three of the cases are currently in trial. For six cases there is no information on their status. The most surprising fact is that none of these cases has resulted a court judgment.

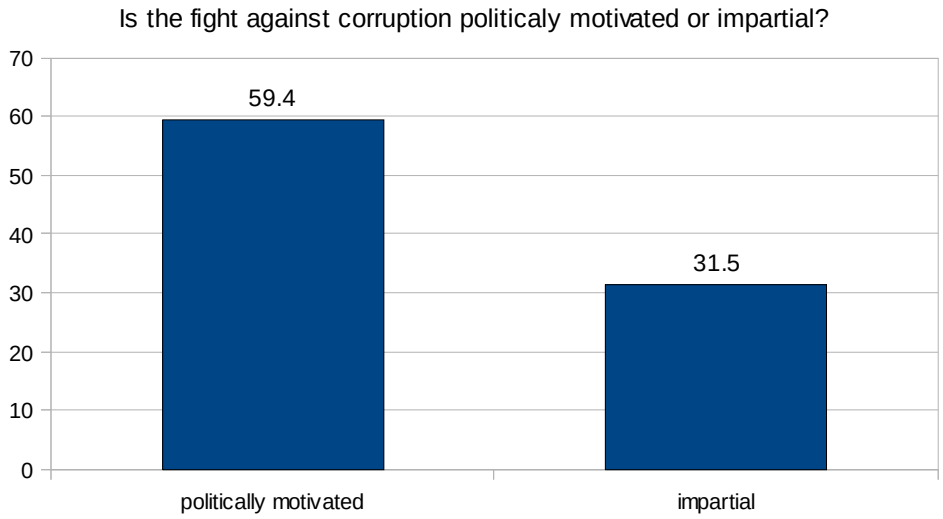
2. What is preventing the fight against corruption?

To research the problem we carried out a public opinion survey and conducted interviews with the experts public. The phone poll was carried out in Skopje on 374 respondents that were randomly chosen. The sample was stratified on the basis of the 11 municipalities making up the city of Skopje. The respondents were asked on a scale from 1 (lowest) to 5 (highest) to judge the work of the government in terms of the fight against corruption and to give scores for the judiciary and the SCPC. They were also asked about the motives for the fight against corruption and about the level of corruption compared to previous years.

The government received a mean score of 2.9, and so did the SCPC. A share of 38.5% of the respondents gave a 1 for the government, while 16% gave a 5, and in the case of SCPC 18% gave a score of 1 and 11% gave a 5. The judiciary received a mean score of 2.3 where 32% of the respondents gave a 1 for the judiciary and only 4.5% gave a 5. These results show that the public considers the judiciary to be the least effective in the fight against corruption, and while many think that the government is not effective, the results are close to average for the SCPC.

The results presented in graph 1 below show that close to 60% of respondents think that the fight against corruption is politically motivated in the Republic of Macedonia, while 31.5% think that it is impartial. Furthermore, 42.8% of the respondents said that now there is more corruption compared to previous years, while 22.7% said that there is no significant difference and that the level of corruption remained the same. In comparison, 30.8% of the respondents said that today there is less corruption than in previous years. These results show that in the views of the public, the fight against corruption is not conducted impartially. Further more, for large part of the public the level of corruption has not decreased.

Graph 1. Public opinion on the motives for fighting corruption



Beyond the poll, interviews with 28 experts were conducted under conditions of anonymity due to the sensitivity of the subject. The majority of the respondents for these interviews, 16 in total, were Members of Parliament from three parliamentary committees, namely the legal committee, the committee on the political system and the EU affairs committee. Half of the MPs came from the parties in the government coalition and the other half come from parties in opposition. Of the other interviewees, seven were experts working on the issue of corruption, law professors or working in anti-corruption NGOs. The remaining five were journalists from different media outlets that follow developments in the judiciary and in corruption cases.

The research team also approached the SCPC to get answers from the members of the commission, sent the questionnaire to the Ministry of Justice and contacted several judges and prosecutors. The SCPC provided some data on their work; however, the members of the SCPC

failed to return any answers. The answers from the Ministry of Justice are pending on their review of our request where the research project was explained and further information on the Progress institute was requested. The judges and prosecutors denied answering to any of the questions. One of the main reasons pointed out was fear of reprisal and punishment for the answers given. Despite the promises for anonymity, there is a negative experience from a previous poll conducted by the OSCE in the field of judiciary. The results of the OSCE poll showed that the judiciary lacks independence and is under systematic political pressure. Nevertheless, the survey was not followed by adequate reforms, but instead the Minister of Justice and other high judicial officials publicly denied the results, and some judges and prosecutors were later downgraded and punished.

The respondents in the expert interviews were asked a series of six questions to judge the political will and independence of the institutions fighting corruption, as well as the cooperation between the judiciary and the SCPC. The answers were given on a 5-point scale where the lowest points, showing negative results, were mutually exclusive with the highest points, showing positive results. The statistical analysis of the results shows that there is a high consistency of the answers among the respondents. The sum of the results is presented in tables 1 and 2.

Table 1. Political will and institutional independence for fighting corruption in Macedonia

	1	2	3	4	5	
The government instigates corruption						The government is fully dedicated to the fights against corruption
Mean score		2.17				
The fight against corruption is politically driven						The fight against corruption is impartial
Mean score	1.8					
The judiciary is under political pressure						The judiciary functions independently
Mean score	1.5					
The anti-corruption commission is under political pressure						The anti-corruption commission functions independent
Mean score		2.3				

Crombah's Alpha .852

The mean scores, presented in table 1 show that there is low political will for fighting corruption in Macedonia and that the judiciary and the SCPC are under political pressure. The results in table 2 show that there is a lack of cooperation between the judiciary and the SCPC, while the division of competences between them is somewhat obscure. From the 28 expert, 23 considered that the fight against corruption is not impartial, but that it is politically driven.

Table 2. How is the cooperation between the judiciary and the anti-corruption commission?

	1	2	3	4	5	
It is a disaster						It is fantastic
Mean score	1.9					
There is overlap and competition						There is clear division of competences
Mean score		2.7				

Crombah's Alpha .749

The interview with the experts also included a series of qualitative questions. Firstly, they were asked what the main impediments for the fight against corruption in the Republic of Macedonia are. Widespread poverty and a deteriorating economic situation were suggested by some and many noted that the legal provisions and the capacities of the institutions may always be improved. However according to most what is substantially missing is a strong political will to seriously and impartially fight corruption.

The institutional reforms were judged positively. The 2002 anti-corruption legislation in and the 2005 constitutional reforms set the basis for a strong system for fighting corruption. However, the practices of that system today do not match the expectations and the needs for the eradication of corruption. In that respect, the experts point to two factors as to why anti-corruption cases fail in courts. On the one hand, some say that the main purpose is to have a media spectacle, a public performance that would create the impression that the government is seriously fighting corruption. On the other hand, some say that the procedural steps for the investigation and preparation of the cases by the prosecutors are not carried out correctly, and sometimes may even be conducted unlawfully. With the legal forms and procedures for gathering evidence or detention not being observed, the cases fail in court.

Overall, the work of the SCPC was seen as positive, but rather symbolic. The definition of the SCPC's work is dubious. It is not a fully preventive unit, as it does not screen contracts and procurements before they are done. On the other side, it can start initiatives with other institutions, but it cannot investigate cases or take offenders to court. Many of the experts criticized the appointment process of the SCPC members and their status. Because the members are elected in Parliament, some see political influence in the composition of the SCPC. As the mandate of the SCPC is drawing to an end, many fear that the political influence over the commission is likely to increase. Also, the members are not full time employed, which hampers their work dedication.

The current capacities and resources of the commission are rather scarce. The SCPC depends on the state budget, and earlier in 2010 when the government was re-balancing the budget the SCPC was practically left without adequate means to function normally. This decision was redrawn after a strong public reaction of the newly elected president of the SCPC and after the EU raised

concerns. The integrity of the president of the SCPC is seen as a crucial point. The previous president was seen as trying to tone down the fight against corruption. At the same time, she served several other public functions, which raised concerns over a possible conflict of interests.

A big crux in the work of the SCPC is that it does not prioritize the corruption cases it handles. In that respect, an unlawful appointment of a public school director in a small rural municipality would be regarded as being equal to the mismanagement of funds in a big public company or in a national ministry. Furthermore, the SCPC does not always react to reports from the State Audit Office. For example, the auditors' reports in 2009 showed concerns about procurements in several line ministries (i.e. Ministry of Transport and Telecommunication, Ministry of Justice, Ministry of Foreign Affairs), but none were examined by the SCPC. The data from SCPC shows that audit reports were the base for one third of the cases initiated with the public prosecutor in 2009 and 2010, while external initiatives were the base for two thirds of the cases. Only one case was raised as an internal initiative of the SCPC. None of these cases involves high-level political figures, but instead most dealt with local politicians or public administration officials.

Except for the MPs from some of the governing parties, the other interviewees consider that the judiciary is under strong political pressure. They point to politicized practices of election and dismissal of judges and prosecutors in the respective councils. The views of the experts are best captured in the EU's progress report, which states that "the Judicial Council and the Council of Public Prosecutors need to ensure high standards of independence and impartiality of the judiciary in practice. (...) The role of the Minister of Justice within the Judicial Council raises serious concerns about the interference of the executive in the work of the judiciary. (…) Independence of the judiciary remains a matter of serious concern affecting the determination to combat corruption" (COM (2010) 660: 13-15).

The cooperation between the SCPC and the judiciary lacks a clear structure. The SCPC can only initiate cases with the public prosecutor; and the latter usually depends on the MoI to gather evidence, sometimes using special investigative measures. Experts are skeptical that investigative measures will be transferred to the public prosecutor. It would effectively mean losing political control over the process. At the same time, the EU report states that "the role of the Ministry of the Interior in authorizing the use of interceptions is not in line with EU standards and raises concerns about undue political interference" (COM (2010) 660: 14). In general then, the efficiency of the fight against corruption fully depends on political factors.

3. Conclusions and recommendations

Lack of political will and political interference in the processes seem to be the main factor hindering the fight against corruption in Macedonia. The fight against corruption seems to be politically motivated. The dominant goal is to influence the public perception rather than to actually eradicate corruption. The structural cooperation between the main anti-corruption unit, the SCPC, and the judiciary is lacking. The SCPC does not have the competence to start trials, while the public prosecutor does not have the competence to investigate the alleged cases of corruption. None of the processes initiated in front of the public prosecutors by the SCPC since

2007 have been concluded; none of them involved high political figures. Instead, they were focused on alleged corruption at the lower levels of the pyramid of power.

Possible options for action

Option 1: No change.

Essentially, since this is a "no-option", the current problems with corruption are likely to remain. Furthermore, political influence is likely to increase as the mandate of the current SCPC members is drawing to a close and new members will again be elected in Parliament.

Option 2: Cutting political power and institutional upgrading.

This option mostly depends on the political will of the executive. Concretely, the Minister of Justice would redraw from the Judicial and Prosecutor's Councils and the MoI would transfer investigative competences to the Public Prosecutor. The SCPC would mainly have competences to screen public procurement and public appointments. More investments would be made in the capacities and resources of SCPC and the prosecutor's office. The budget of the SCPC needs to be stable, with no over proportional cuts if the state budget needs to be re-balanced. This is a cost-effective scenario that would improve the efficiency of the existing system. It would require Constitutional changes to redraw the Minister of Justice from the Judicial and Public Prosecutor's councils. It would also require smaller amendments in the anti-corruption legislation, in terms of clearer preventive definition for the role of the SCPC and transfer of investigative competences from the MoI to the office of the Public Prosecutor. This is a short term policy solution; depending if there is political will to implement the necessary changes.

Option 3: New system, new competences.

The role and competences of the SCPC are redefined. The members of the SCPC are fully professionalized. The SCPC no longer deals with the mere prevention of corruption, but instead has the competences to investigate and start trials for cases of corruption. In that respect, the SCPC would very closely cooperate with the public prosecutor's office, or it is integrated within the public prosecutor's office. To a large, extent this model resembles the Croatian Department for prevention of corruption and organized crime (USKOK). This policy option requires substantial changes in the anti-corruption system. Beside the full time employment of the SCPC's members, this policy option recommends that the work of the SCPC and the public prosecutor is fully integrated. It would require wider legislative changes, including the criminal and penal codes. Changes are likely to be time consuming and substantial increase of resources for the new system will be needed. This is a long term policy solution; depending if the current institutional set up continues not to deliver results in the fight against corruption.

Center for Monitoring: Reform of the Anti-Corruption Institutions in Montenegro: How to make the system more efficient?

Ana Selić, Nikoleta Tomović and Zlatko Vujović

Summary

Since 2006, Montenegro has made significant progress in legislation regulating the area of fight against corruption. However, still not all regulations are aligned with international standards, and their implementation remains at an unacceptably low level. For concrete results in the fight against corruption, above all it is necessary do redefine the institutional framework through which this fight is conducted. It is necessary to ensure independence, empowerment and the willingness of these institutions to give tangible results. In this paper, we will give short overview of the problems that are impeding the efficient fight against corruption and we offer three scenarios for the solution of these problems. In the first scenario we explain how existing policy could be "patched" for a short term, as a step towards full reform of the anti-corruption institutions, while in the second and third scenarios we offer two different types of centralization of the these institutions. At the end, we will give conclusions and final recommendations for implementation of the chosen scenario.

1. Problem analysis

It is necessary to underline that in Montenegro no one from higher levels of government has ever been accused or sanctioned for corruption. One of the main causes for this situation is the extremely complex system of institutions that are dealing with the fight against corruption and their scarce coordination. These institutions have narrow jurisdictions and weak powers, the mode of appointment and funding does not allow for sufficient independence in actions, so even the small powers that these institutions have often remain unused. The current state of anti-corruption policy in Montenegro is best reflected in result of Transparency International's classification where Montenegro was the only country in the region whose corruption perception index has worsened.

There are several institutions that deal with the suppression of political corruption and which coordinate the creation and implementation of the anti-corruption policies: the Directorate for Anti-Corruption Initiative, the Commission for the Prevention of Conflict of Interests, the State Electoral Commission, the Working Group for the Creation of a National Strategy for the Fight against Corruption and Organized Crime, and the National Commission for the Implementation of the Action Plan for the Fight against Corruption and Organized Crime.

The Directorate for Anti-Corruption Initiative, the Commission for Prevention of the Conflict of Interests and the State Electoral Commission are facing a lack of funds for their work and a lack of human and technical capacities. Furthermore, the legal frame that regulates their work disables their actions to a degree that it renders obtaining significant results impossible.

1.1. Strategic framework for the fight against corruption

In August 2010, Montenegro adopted a National Strategy for the Fight against Corruption and Organized Crime. In the process of the adoption of the Strategy , recommendations from the civil sector, among which members of the working group that elaborated this document, were severely disregarded, while during the creation process of the Action Plan the civil sector was entirely excluded. In consequence, the adopted documents are incomplete and suffer from numerous weaknesses. The Action Plan lacks clear and direct measures and objective result indicators.

The current strategic framework has three main flaws that will influence the efficiency of its implementation and complicate the achievement of tangible results in the area of fight against corruption:

Methodology: The Action Plan for the implementation of the Strategy lacks qualitative indicators of success and benchmarks which would indicate that a measure is completed, and assist assessment of its possible effects regarding the reduction of the corruption in the targeted area.

Contents: The aims adopted in the Strategy are too broadly defined, while measures in the Action Plan do not correspond to these aims. Anti-corruption measures, as foreseen by the Action Plan, are unclear and have facultative character. It is very difficult to estimate whether a measure was taken by the responsible body, and almost impossible to measure its impact on the aim set by the Action Plan.

Monitoring mechanisms: The National Commission is not competent to monitor the implementation of the Action Plan in each sector. Also, it is not a professional body, and periodical meetings of this body are not sufficient for a detailed assessment of results.

1.2. Anti-corruption institutions

The Directorate for Anti-Corruption Initiative- DACI in 2009 accepted 98 allegations on the existence of corruption, which is twice as many as compared to 2008 (40). From these, 79 allegations were processed to other government bodies, while in 19 cases legal advice was given. Since processing and sanctioning does not fall under the jurisdiction of the Anti-Corruption Initiative, the Directorate does not receive feedback on how many allegations were processed to other government bodies and what verdicts were issued.[14]

The Directorate for Anti-Corruption Initiative undertakes preventive-educational activities most efficiently; however, it is too narrow a field of action for one institution. On all other fields, the Directorate faces serious problems, such as a lack of capacity, an unclear place in the hierarchy of institutions and a lack of mechanisms to act. Even though the awareness-rising role of the Directorate up to certain extent has been successful so far, it can in no way represent the only raison d'être of an entire institution.

[14] Information received from DACI Director, Mrs. Vesna Ratković.

The role of the legal advice center and the channel for reporting corruption is also significant – but it is done by all other anti-corruption institutions in country, as well. Formal transmission of reports and giving legal non-binding opinions, without the possibility of administrative investigation, without data on cases processed, opens to the citizens another channel for reporting the cases of corruption – but does not provide significant results.

The State Electoral Commission- SEC, in addition to the control of the electoral process, publishes on its website reports of the Auditor of the Ministry of Finance for political parties and electoral campaign financing. In this process, the State Electoral Commission represents only a mechanism for the transmission of information from state institutions to the public. The Commission does not have the capacity to undertake the revision of financial reports by itself, nor to initiate proceedings against parties that have not submitted reports. The lack of human capacities negatively impacts the efficiency of this institution. Usually these capacities, during the electoral process, are "borrowed" from other government institutions, in order to smoothly carry out all planned activities.

Jurisdictions of the Commission are administrative and procedural and relate mainly to the period of elections. The income of its members and the president of the Commission varies greatly: in the period between elections it is about 150 € per month, while during the period of elections it can reach up to 7000 € for the month of the elections.[15]

The work of Commission is regulated by the Rules of Procedure, while only three articles of the Law on the Election of the Committee Members and MPs stand to represent the legal framework of this institution's functioning. The conduct of the Commission is not regulated by the Code of Conduct, thus there is no definition on which principles the work of its members should be based, nor are there sanctions provided for unethical actions.[16] Until the decision of the Administrative Committee of the Parliament of Montenegro was adopted in April 2010, by which function of the SEC's President was professionalized, the State Electoral Commission did not have permanently employed workers. This institution is the only body, which has not implemented even one of the measures foreseen by the Innovated Action Plan. In its new composition, the Commission started with the realization of those measures which do not require changes to the legislative frame.

The Commission for the Prevention of Conflicts of Interests- CPCI is facing the problem of insufficient powers, and a lack of functional independence. Particularly problematic is the provision from the Law on the prevention of conflicts of interests contained in article 24, stipulating that the instigation of a procedure, by which it is decided whether there is breach of this law, is initiated by the Commission upon the demand of the authorities in which the public official executes or has already executed a public function. The Commission can also initiate the procedure ex officio. Taking in consideration that members of Parliament do not have a direct superior, and bearing in mind the mode of appointment of the members of the Commission, the

[15] Law on Budget 2009 (year of parliamentary elections) and 2010; interviews with members of SEC.
[16] New composition of State electoral Commission began preparations for formation ofnew Code of Conduct.

question arises whether these members will be able to conduct procedures impartially, ex officio, against those who appointed them.[17]

The problem with membership in governing boards still persists, since the Law still allows public officials to be members of a governing board in companies partly owned by the State. The Commission has, within its mandate, addressed a large number of requests for the dismissal of public officials to competent authorities that appointed them; however there was no feedback from these authorities. Also, there are no sanctions for authorities that have not withdrawn the mandate of their functionaries, based on the Commission's decision.

The National Commission, is not using its entrusted powers in an adequate way. Namely, besides the monitoring of the implementation of the Action Plan, the National Commission had the authorization to dispose of entire funds for the fight against corruption and to control the implementation in all institutions. However, the Commission is exclusively following and evaluating realized measures, without any influence on their realization. Also, despite the fact that the Commission is the body of strong political authority, it does not have specialized knowledge to monitor the implementation in individual sectors, in order to properly evaluate the quality of measures that were realized.

2. Available options

In this part we will present three scenarios for the solution of the aforementioned problems. The first scenario represents maintaining of the current situation, while the following two consider different types of centralization.

Scenario 1 – Status quo

Status quo represents maintaining the existing system of anti-corruption institutions with a partial widening of jurisdiction and amendments to the legislative and the strategic framework. It would include:

- amendments to the Law on Conflict of Interests Prevention;
- adoption to the Law on State Electoral Commission;
- strengthening of human capacities of SEC;
- innovation of the Action Plan for the Fight against Corruption with more concrete measures and objective indicators.

Such changes may somewhat improve the general results in curbing corruption. However, these changes should only be a first step in improving the framework for the fight against corruption. In the long run, the system of anti-corruption institutions in Montenegro requires deep reform, which would widen the institutions' jurisdiction, enhance their powers and integrate administrative and executive powers.

[17] SIGMA Report 2009 "Public Integrity system in Montenegro".

Scenario 2 – Partial centralisation

This scenario foresees a number of competencies shared between two institutions: The Agency for the Fight against Corruption and the State Electoral Commission. In addition to the monitoring of the implementation of the Program for the Fight against Corruption and Organized Crime and the National Action Plan, this Agency would have a set of other competences including the initiation and coordination of the formulation and implementation of strategic anti-corruption documents and monitoring by sectors; giving initiatives for the change and passing anti-corruption legislative acts; registry-keeping and implementation monitoring of the Law on lobbying and integrity plans; initiation and coordination of preventive measures at the national level; control of the implementation of the Law on Free Access to the information; coordination of other bodies in the fight against corruption; acting on reports of corruption by legal and physical entities; international cooperation in area of the fight against corruption in cooperation with state bodies; and the conducting of other functions foreseen by law.

The State Electoral Commission would be established as an independent professional body through a new Law on this body. In addition to the activities that are already under the jurisdiction of the SEC, they SEC would also be responsible for the monitoring of political party funding and electoral campaigns as well as the implementation of the Law on conflicts of interests. In order to achieve this, existing capacities of the SEC and the Commission for the Prevention of Conflicts of Interests would be united. Except for those capacities, it would be necessary to open an audit sector, which would control the authenticity of the statements made in financial reports of political parties and candidates in elections. Also, the SEC would keep the registries of public officials, registries of property and assets of officials in accordance with the Law on the prevention of conflicts of interests.

This would be an optimal scenario if the political will to establish State Electoral Commission as a completely independent and professional body existed. However, currently that is not the case and political compromises on structure and functioning would not allow such a body to efficiently conduct the fight against corruption.

Scenario 3 -Dominant strong and independent institution

This scenario envisages the integration and transformation of the Directorate for Anti-Corruption Initiative, the Commission for the prevention of conflicts of interests, as well as the National Commission for monitoring the implementation of the innovated Action Plan for the Fight against Corruption and Organized Crime. The National Commission for monitoring the implementation would be partially transformed into a Board of the future Agency, which would be responsible for monitoring the implementation of the National strategy. On the other hand, human resources of DACI and the Commission for the prevention of conflicts of interests would be unified and systematized in an optimal manner, in accordance with the experience and professional profiles of the staff.

The State Electoral Commission in this case would remain with minimal powers, with mandatory professionalisation, while the Agency would obtain the whole spectrum of competencies including:

1. Competencies related to the strategic planning of the fight against corruption and Law on the Agency:
    - monitoring the implementation of the Strategy and Action Plan for the fight against corruption and sectoral action plans, as well as the adoption of reports on their implementation;
    - initiation and co-ordination of strategic anti-corruption documents, both regarding their creation and implementation;
    - co-ordination of government bodies work in fight against corruption;
    - initiation and conduct of infringement procedures and imposing sanctions of the first instance for breaches of the Law on the agency for the fight against corruption;
    - acting on reports of corruption from legal and physical entities.
2. Implementation of laws regarding to lobbying and integrity:
    - establishment of registers of public officials, lobbyists, property and revenues of civil servants in accordance with the law regulating the prevention of conflicts of interests;
    - providing guidelines for the development and monitoring the implementation of integrity plans;
    - implementation of laws on lobbying and free access to information.
3. Implementation of laws regarding conflict of interests, party financing and pre-election campaign financing
    - resolving cases of conflict of interest;
    - performing duties of the control of political party funding and pre-election campaign financing.
4. International co-operation and awareness-raising activities:
    - introduction and implementation of training programs on corruption;
    - providing opinions and guidance for the implementation of laws that it controls;
    - organising research, following and analyzing statistical and other data on corruption presence;

- in co-operation with state bodies pursuing international cooperation in the area of fight against corruption and supervising the implementation of international obligations arising from membership in international organizations and the ratifications of international legal acts for the fight against corruption;
- undertaking other functions foreseen by law.

Functional independence:

The Director of the Agency is chosen by the Governing Board by a two thirds majority of the total number of members, while members of the GB of the Agency are representatives of relevant institutions, academic society, civil society and Bar Association. The Governing Board would be appointed by the Government or the Parliament.[18] The Director of the Agency would be chosen by the GB on the basis of a public call for applicants and his or her qualifications, which would be indicated in the Law on the Agency for anti-corruption. In this manner, we have three-level procedure of appointment of functionaries of the Agency and possible influence of the executive or legislative branch of power is reduced to minimum.

Financial independence:

The Law on this Agency should state that funds for its functioning cannot be inferior to 0.5% of the budget that will be allocated to the Governing Board, which will decide on their use. This would avoid any direct dependence on the executive branch of power and provide the necessary independence in decision-making.

Institutional co-ordination:

This institution would have the highest position in the hierarchy of anti-corruption institutions in Montenegro, while all institutions are obliged to present any document upon the demand of this institution.

3. Conclusion and recommendations

Cosmetic repairs of the existing institutions, or worse, establishing new ones, will not contribute to the resolution of this stalemate, but it will show that there is no sufficient political will for curbing of the corruption. As we already underlined in the previous part of the brief, the best model for a reform of institutions would be third presented scenario, i.e. the formation of an independent Agency that would take over competences of the Directorate for Anti-Corruption initiative, the National Commission for monitoring of implementation of the Innovated Action Plan, the Commission for the prevention of Conflicts of Interests and part of the competences of

[18] CEMI advocates that the choice of the GB is done by the Government, because the process of selection and appointment of the members of the AC institutions in the Parliament was followed by controversies and numerous breaches of procedure and thus did not guarantee the independence of the chosen persons, and the authority of their decisions was often questioned. Also, the Government of Montenegro is responsible for the anti-corruption policies, and by including the appointment in its competences it would be responsible also for the implementation of this policy.

the State Electoral Commission. A similar Agency in Serbia has started work in January 2010 and has already shown significant achievements.

From regional experiences, we could identify several key factors for the success in the fight against corruption:

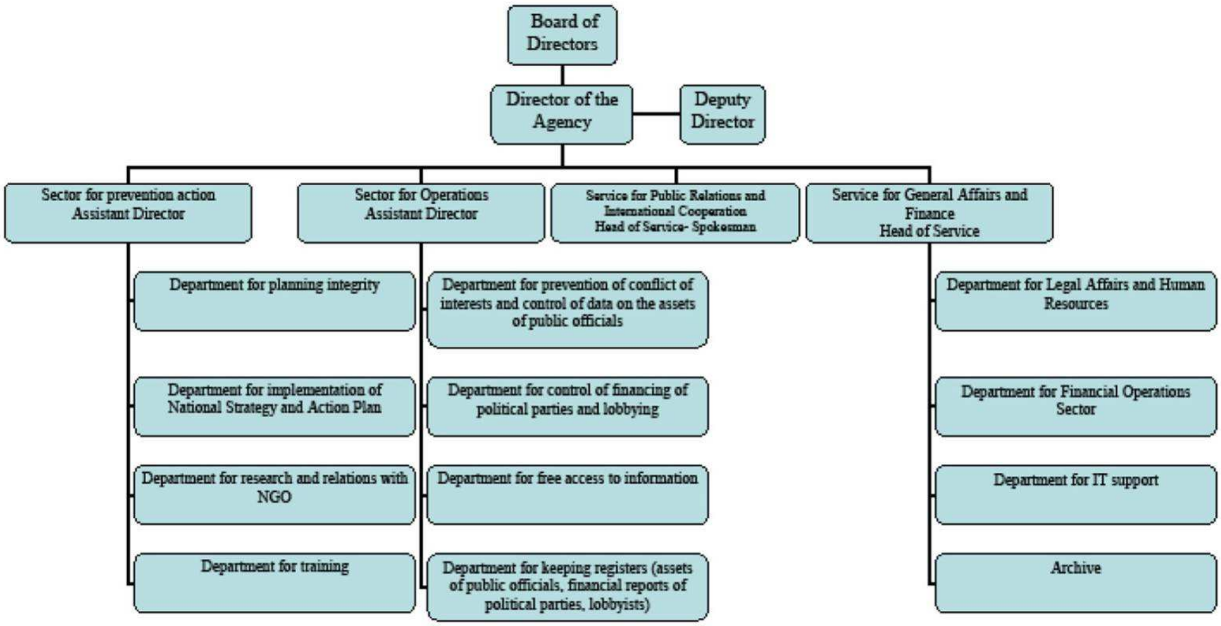
- Members and directors of anti-corruption institutions must have strong personalities with demonstrated integrity;
- Clear and sufficiently wide competences of these institutions;
- A strong mandate and willingness to implement sanctions (from the authorized bodies);
- Good co-ordination with state institutions which are responsible for the fight against corruption;
- Existence of the strong political will for the reduction of corruption – there are no "untouchables";
- Independence and financial security;
- Primacy over other institutions in the institutional hierarchy;
- Empower institutions to conduct administrative investigation and first-level sanctioning;
- Foundation of this institution requires changes to the legislative framework, which would enhance this body and grant its free functioning, giving at the same time solid legal base for the fight against corruption.

This includes:

- Adoption of the Law on formation of an independent Agency for the fight against corruption, which would define criteria for appointment of the Governing Board and the Agency Director, the Agency's competences and the powers vested in it;
- Improved strategic framework for the fight against corruption;
- Amendment of the Law on Prevention of Conflicts of Interests, in order to align it with international standards, to transfer competences from the Commission for the Prevention of Conflicts of Interests to this Agency and to increase the Agency's powers. It is crucial to accord wider investigation powers in this area, as well as the possibility to make first-instance verdicts in individual cases.
- Amendment of the Law on financing of political parties in order to transfer control of the financial reports, publishing them and verification of the actual assets of individuals under this Law, to the Agency;
- Adopting laws on lobbying and on integrity in the public sector;
- Write into the Law the obligation of all institutions to cooperate with the Agency.

If these preconditions are achieved, Montenegro will have a strong mechanism for combating corruption, which would provide tangible results. However, if these conditions remain only recommendations, Montenegro will obtain another "decorative" institution which spends the money of tax payers, simulating work, in order to make points in international circles.

Annex – Organigram of the Agency for anti-corruption



European Movement Albania: Which role for the Albanian parliament in the EU integration process? Assessment of the oversight role and administrative capacities

Gledis Gjipali and Blerta Hoxha

Introduction

Albania is a parliamentary democracy where by constitution, the parliament (or assembly) is attributed an oversight role over the executive and the institutions established and voted for by it. It has a mono-cameral structure and is currently composed of 140 members elected through direct universal suffrage.[19] The functioning of the Albanian Assembly in the European Integration process is regulated through Law No. 9252 of 8 July 2004[20] as well as through the Rules of Procedure of the institution, subject to several changes[21] in the last years.

As also foreseen by the provisions of the Lisbon Treaty, national parliaments play a growing role in the EU integration process. Besides being the temple of pluralism and debate on the democracy of the country, through its representative character, the assembly provides the necessary legitimacy to the EU integration process. With the current legislative framework, the Albanian assembly, the highest legislative body at national level, is attributed a driving role in the framework of implementation of the Stabilization and Association Agreement. More concretely, this role concerns the completion of the legal framework as well as support and monitoring of Albania's EU integration process.

This prominent mission requires not only political determination to assert the adequate position of the institution vis-à-vis other institutions, in particular the executive, but also improvements in human resources and infrastructure. Several instruments such as investigative committees, interpellations, question and answer sessions, motions for debates, motions of confidence, motions of no confidence, reporting and petitions are foreseen to ensure the oversight role of the assembly. Also, attempts have been made to increase human resources and improve the quality of staff. However, the Albanian parliament is said not to be fully functional from many points of view. By non-functioning of the parliament we do not mean only the current political stalemate, we mean the structural deficiencies.[22] Non-respect of the legal framework and rules of procedure in place, combined with weak administrative capacities, have often resulted in a "compromised

[19] The current four-year legislative mandate started in September 2009, after the June 2009 general elections conducted through a regional proportional system.
[20] Commonly known as Zela Law, after the name of the MP that proposed it.
[21] The Rules of Procedure of the Assembly, approved upon decision no. 166, dated 16.12.2004, have been amended four times since then.
[22] Speech of Pierre Mirel, Director General of Enlargement at the occasion of the release of the Avis of the European Commission on Albania's application for EU membership, Tirana, 10.11.2010.

quality of legislation not reaching the expected standards"[23]. On a more general note, the overall weaknesses of the parliament have resulted in a limited role played so far by the Albanian parliament in the EU integration process.

In this policy brief, we analyze some technical aspects of the (lacking) oversight role of the legislative over the executive and of the administrative capacities of the institution which support the process. By identifying concrete pitfalls in the functioning of the institution, we seek to suggest specific corrective measures that would contribute to increase its role and due impact in the EU integration process of Albania. This policy brief is the result of desk and field research. Recommendations are made with a view to achieve tangible results in the short run.

1. Structural and functional deficiencies of the legislative

The weak role of the Assembly in Albanian political life is as easy to contextualize as it is complex to address. As a country having lived through half a century of totalitarian regime and lack of pluralism in the political debate, Albania for a long time disposed only of a formal assembly, meeting twice a year in brief sessions of just a few days to approve all the legislative proposals submitted by the executive. No discussions about the proposed legislation were held, not even formally.

In the twenty years following the fall of the communist regime, the legislative has mainly served as an arena of often polarized and unconstructive political debate, primarily aimed at attacking rivals rather than debating on policy options. In these conditions, the assembly has long been shadowed by a strong and little accountable executive. As revealed in several independent national and international reports, the Assembly has been losing ground in terms of impact and efficiency in policy-making vis-à-vis the executive, especially over the last years.

Currently, the assembly is afflicted by severe dysfunctions concerning both its activities in the field of building a functioning democracy and to those directly linked to EU integration. On an operational level, the timeframes foreseen to allow for the necessary analysis and discussion of draft-laws at the relevant committees and in the plenary session are often not respected. For example, members of the committees seem not to be regularly provided with the materials in due time to allow their preparation (i.e. at least two working days before the meetings). Furthermore, meetings of the committees are often formal and too short to allow for proper consultation with interest groups. The latter themselves claim not to be informed in time to be able to participate. In order to attend the meetings, interest groups and civil society organizations also face long and discouraging bureaucratic procedures. Parliamentary committees work under severe time pressure to guarantee an efficient law-making process.

Furthermore, committees differ considerably in terms of workload and activity. The EU Integration committee, dealing with verifying that draft-laws are in line with the EU acquis, is the smallest out of eight committees. 'The assembly's legislative agenda is decided upon by the

[23] European Commission, Analytical Report accompanying the Communication from the Commission to the European Parliament and the Council, Commission Opinion on Albania's application for membership of the European Union, Brussels, , SEC(2010) 1335, {COM(2010) 680},09 November 2010, pg. 12.

Conference of Chairmen, which includes the parliamentary group chairmen but not the individual committee chairs. As a consequence, there have been conflicts between the committees' work plan and the assembly's legislative agenda.'[24] These issues clearly distance the Albanian legislative more and more from the standards expected in the framework of the EU integration process.

With regard to administrative capacities, there have been several attempts in the last years to increase them, especially in view of the growing obligations deriving from the entry into force of the SAA agreement. A unit for the approximation of legislation with the EU acquis was formally created in 2006, becoming operational however only in 2008. The main task of this unit is to support the EU Integration committee by verifying the compliance of draft-laws with the EU acquis. However, this unit has regularly operated understaffed as it never reached the foreseen capacity of four legal experts. Moreover, the administration works without precise job descriptions and recruitments are often affected by political affiliations. Despite efforts to increase human resources, there has been little improvement of the capacities of the administration in terms of expertise in EU issues.

As far as the specific monitoring role is concerned, 'despite constitutional provisions, there is a lack of effective parliamentary oversight over the executive and parliament does not function as an independent institution.'[25] Oversight instruments such as investigative committees, interpellations, question and answer sessions, motions for debates, motions of confidence, motions of no confidence, reporting and petitions find limited application and when used, often merely serve the purpose of fighting political adversaries. The answers of the very limited number of questions usually addressed from MPs to the executive are delayed and/or often inappropriate and incomplete. To this, we must add that ministers do not regularly come to report on their activity in front of the assembly. Another severe pitfall is the fact that the legislative is only formally consulted on the different strategies and action plans adopted. This is regrettable if we consider that these documents are strategic and vital instruments of development of the country and path to the EU.

2. Conclusions and recommendations

Taking into account the non-favourable background in which the legislative has developed in Albania as well as the current political stalemate, we do not see the case for over-optimistic and radical steps to increase the role of the Albanian parliament in the EU integration process in the short term. However, we see room for some smaller and more realistic steps that would result in significant improvement of the functioning of the Assembly without forcing major changes in the current legal framework.

Concretely, we would advocate for:

- More debate and demand from state and non-state actors to claim proper application of the legal framework and rules of procedure in place. This would imply ensuring that

[24] European Commission, *Op. Cit.*, pg. 11.
[25] Ibid.

timeframes and instruments at disposal to find full application and be respected. The result would be an improved legislative process.

- The Assembly should open up to the public opinion, informing relevant stakeholders in time about the draft-laws to be discussed and reducing bureaucracies to attend meetings. Besides publication in advance of such information, it would also be useful for the parliament to establish a voluntary database of interest groups to be contacted and to give input to the policy-making process.
- Ensuring that recruitment is not affected by political affiliations and special attention is paid to equip with qualified staff the Unit for approximation of legislation and the Integration Committee.
- The Assembly itself must become aware of the role foreseen in the integration process by the Albanian constitution and legislative framework.
- In the long run, we would recommend making a detailed gap analysis of the current legal framework and rules of procedure. Depending on the findings, it would commendable to eventually propose a revision of the latter to the extent that it would improve significantly the quality of the Assembly work.

Belgrade Centre for Security Policy: Reducing Hooligan Violence in the Western Balkans: Stop Feeding the Beast

Saša Đorđević and Marko Savković

1. The context of hooligan-related violence in Serbia

Manifestations of violence in sports events caused the death of seven people in Serbia since 2000. Young people get hurt after football matches, football firms are facing official bans and transfers of players from one football team to another have been under police and prosecutors' scrutiny on many occasions. For this reason, the examples used in this paper are related to professional football in Serbia and therefore, football events must remain in the focus of attention of the actors involved, namely the Ministry of Interior, the Ministry of Youth and Sport and the Football Association of Serbia.

We have been faced with two terminological difficulties from the onset of our research. Despite the downward trend of the sports in Serbia, the events are observed by "real" football fans, that is, all who come to watch a football match to enjoy a good game. The general condition of sports facilities in Serbia (with the exception of Belgrade Arena), namely the out-dated building constructions, often makes it impossible to separate the hooligans from others. There is a limited number of exits and entrances, as well as stands (in most cases there is only one). For this reason, every police intervention is a risk for those who do not take part in violence. We opted for the term "hooligan violence" in order to distinguish hooligans from ordinary football club fans. However, we lack courage to call football firms by their real name – hooligan groups. The final ruling of the Constitutional Court will not be of much help either in this matter. It is the responsibility of decision-makers, journalists, "sports professionals" (a term coined by journalists which does not mean anything) and others who participate in the organisation of sports events to finally start to call things by their real names.

Next, it is necessary to make a distinction between sports violence as a violent behaviour of game participants (aggressive or "deadly" starts, pushing and various examples of undisciplined behaviour are common in football) and that of game spectators. If the spectators deliberately resort to violence, and do that continually, they can be labelled as hooligans.

Sports violence is not typical only of Serbia. One of the first research projects conducted in order to identify its causes showed that hooligans always represent a minority of football fans; that they have a distorted perception of themselves as active participants in sports events and, as football is a "game for men" in which violence on the pitch is a common thing, violence on the stands should not surprise anyone. The emotionally charged and highly stressful experience of a football match is an opportunity for many to "feel alive" or express pent-up frustration caused by poor living conditions. The terrible facilities where football matches are held only add to the picture.

The above-mentioned findings are not applicable to Serbia. Although it is true that hooligans are always in the minority, here they constitute a considerable minority. On October 12, 1.600 football fans from Serbia were in Genoa (daily newspaper Blic, October 12, 2010), out of which

300 "split in two groups [...], blocked the city [...], threw fire-crackers on the passers-by, smashed shop-windows, destroyed one police car and wrote graffiti on the walls of the Duke's Palace" (daily newspaper Politika, October 13, 2010). In the end, 50 persons were arrested, out of which 33 were released and 17 were kept in remand (B92.net, October 13, 2010). There are also team and individual sports popular in Serbia that do not include physical contact, which considerably limits the possibility of violent behaviour. Novak Đoković, tennis player, and Nikola Grbić, volley-ball player, are setting a good example not only for the youth in Serbia but in other countries as well. However, this fact did not prevent the fans of Novak Đoković (Serbia) and Mario Ančić (Croatia) to start a fistfight in Australia (Dnevnik, Croatia, January 15, 2007), which added a new dimension to the problem of sports violence. Hooligans are not particularly interested in the match itself, no matter how stressful it can be. Their "show" goes on regardless of the developments on the pitch: fireworks will certainly be used and a specially prepared scenography as well. If things do not go well for their team, the entire stands can turn their backs to the pitch and keep brawling, which is considered a gesture of support and loyalty to the team. Both victory and defeat can be used as an excuse for street violence after the match. On top of it all, "everybody knows that Red Star and Partisan fans are showered with various privileges and they have turned their support into a sort of a profession" (Radio Free Europe, October 11, 2009).

What makes the problem of sports violence in Serbia a complex one is the post-conflict context in which it is manifested. Namely, football club fans began to get more organised in the late 1980s. This coincided with the evolution of violence when first serious chauvinistic outbursts moved from stadiums to the political arena. What was not allowed to be said in public discourse was voiced on the stadium stands. After all, as one sports commentator observed, how do we determine the responsibility of someone shouting "fifty thousand souls, one hundred palms"? Such incidents are commonly labelled as a "display of public discontent". The scene from the Maximir football stadium, when one football player rushed into a fight between the hooligans and the police remains one of the strongest symbols of disintegration of Yugoslav society.[26]

The public in Serbia had an opportunity to see a documentary entitled "The Unit", produced by "Vreme film", that tells a story which is the most striking example of how a football firm can be misused, if there was any misuse, of course. In 1989, and under the patronage of Željko Ražnatović, football firms that occupied the north stands of the Red Star football club stadium became united. Among the first members of the volunteer guard, that will later grow into the Special Operations Unit, were those who started their own war with Croatia on the Zagreb football stadium in May 1990. After the political changes the practice of using (top quality) sports for political purposes has continued to this day, though this, most direct connection between the sports and politics, has been broken.

[26] Zvonimir Boban said, commenting on the events in Genoa, that ''there is and always will be a conection between football and politics''. When asked to compare this event with the one from 1990 in which he himself participated, he said: ''that was a protest, a rebellious act against injustice, an act against the regime. Croatia wanted to get rid of communism and that can be justified.'' (Index.hr, 13 October 2010).

2. Profiling the Beast: Hooligan Firms in Serbia

They are always in the first rows. However, the readiness to use violence is something that distinguishes them from others. In terms of ideology, they are a blend of everything: chauvinists, however, they easily make "unions" and "friendship" with hooligan groups abroad; they present themselves as traditionalists, but the status symbols they care about are very much of this, material, world. There are some among them who sincerely believe that the protest they express, even a violent one, is the matter of personal choice.

Hooligans view themselves as active participants in sports events. Trainers and journalists, who call them "the sixth" or "the twelth" player, depending on a type of competition, contribute to this false perception. The club can be in a "crisis regarding the players or results" (this is one of many jargon phrases), but they are always in the state of alert. Organised in football firms, with a firmly set hierarchy, they influence "their beloved club's" policy along with the club management. If necessary, and when provoked by certain decision, they threaten with boycott. They readily disapprove of violence, but once it occurs, do not miss an opportunity to remind the general public how they "earned" their place on the stands. And violence occured ever so frequently. By using this approach, the hooligans in Serbia have taken over at least one sport in the past two decades, and not just any sport, but traditionally most popular association football.

Nonetheless, it is a great mistake to interpret hooligan behaviour as irrational and affective. There is no room for irrationality if rocks and other objects are stashed in containers in advance in order to be used later against a rival group or persons of a different sexual orientation (Politika, 11 October, 2010). Discipline and a strict hierarchy have already been mentioned as characteristics of hooliganism in Serbia. The brutal beating and murder of a French football fan in Belgrade in September 2009, is indicative as the attack was prepared in communication among several persons but two participated in the attack itself. It is also indicative that the two "leaders", of all who were involved in the attack on Brice Taton, are still at large (B92.net, 2 September, 2010) and that the persons in question are also multiple criminal offenders.

Hooligans act in an organised manner because they are forced by state regulations. These measures can be both preventive and repressive. In Great Britain, whose experience is rightly taken as a good example of combating hooliganism, football clubs were forced in the last decade of XX century to raise the security standards on their stadiums. The fences were removed, both the ones that physically separated the pitch from the spectators and those in the stands. The by-standing areas were abolished, cameras mounted everywhere and police officers replaced with monitors who were club fans as well and whose authorities were strictly regulated. Under these circumstances, the rush onto the football pitch is treated as an act that entails a prison sentence and, maybe even more importantly, the entrance ban to stadiums which is carried out very consistently. The law enforcement authorities, aware of the fact that "professional football fans" can use away matches to avoid this measure, have a good cooperation and prepare and forward the lists of persons who are banned from stadiums. A biometric identification system is even used in the Netherlands in order to prevent registered hooligans from attending sports events.

The situation in Serbia is very different. The incidents in Genoa and later mutual shifting of responsibility for them between football federations, as well as between Italian and Serbian police, have opened a new problem in the cooperation of Serbian police with other police forces in the region and the EU.

3. The issue of under-regulation

The Law on the Prevention of Violence and Misbehaviour at Sports Events, adopted in 2003, has undergone several modifications, however, the organiser is the one who "supervises the work of monitors" (Article 3). This solution is not appropriate in the situations where the by-laws regulating the work of monitors do not exist or the law which would regulate the work of the physical security staff (The Bulletin of Internal Affairs of the EU and Serbia, No.13). In addition, persons tasked with security and organisation of sports events are rarely professionals. The Draft Law on Sports, the consistent implementation of which should make the proprietary structure of the clubs more transparent, was forwarded to the National Assembly at the end of 2009 but has not been adopted yet.

According to Dejan Šuput, Director of the Association for the Development of Sports Law in Serbia, "Serbian Criminal Code and the Law on the Prevention of Violence and Misbehaviour at Sports Events are fully harmonised with international legal standards. The majority of solutions [...] that exist in England have been used in our law as well." (Politika, 22 October, 2010). However, the problem lies in the implementation. Minister Snežana Samardžić-Marković has stressed on several occasions that the court ruling was made in only 2,4 percent of cases, which is an implicit confirmation that the suppression of hooligan violence has not been on the state priority list in recent years.

On Friday, October 22, the National Assembly, faced with a big public pressure and a clear government stand on the events of October 10 and 12, adopted the amendments to the Criminal Procedure Act. The amendments envisaged the extension of remand from eight to thirty days for criminal offences with elements of violence for which the law stipulates prison sentence of more than five years. These criminal offences include offences against life and body, affliction of grievous bodily harm, attempted murder and murder. The amendments and modifications took effect the following day when (perhaps not surprisingly) the football derby between Red Star and Partisan was held without any serious incidents. This time, "only" 34 persons were apprehended (Blic, 23 October, 2010). In addition, a relatively high number of apprehended minors is repeated from game to game.[27]

[27] The context of the events in Genoa is somewhat more complex and surpasses the topic of this paper. Namely, the media and decision-makers inform us of the existence of 'football mafia' that makes profit and launders money by 'participating' in the transfers of players to football clubs in the EU countries. The 'participation' is actually classical racketeering, either of the clubs or the players who, under threat, commits to a multi-year cooperation to his manager. Although the investigation is in the process, we were informed that travel expenses of the group Ultras 1989 had been paid by the person who participated in the transfer of football players.

4. Short- to medium-term outlook

In the short term, we expect the state to continue to resort to repressive measures when responding to the most extreme forms of hooligan violence. Prevention calls for investment in terms of both human and material resources that are not available. In the meantime, new groups will take the place of those banned, probably being just as violent. This, however, might be averted through a more efficient judiciary in terms of the time lapse from accusation to verdict.

Preventive measures should include the exchange of information, prioritisation of this issue within the agenda of inter-ministerial working groups, and the implementation of good practices and experiences of EU countries which managed to regain control of their sports events. Moreover, it is necessary to secure funds for the reconstruction of the most frequented sports facilities. Finally, special attention must be paid to the matter of minors involved in hooligan violence.

5. Fair Game without Beast: A Proposal for the Prevention of Hooliganism in the Western Balkans

The on-going discussion on hooliganism prevention and future plans for different sports competitions in the Western Balkans demands differentiated policy analysis and proposals with the aim of ensuring the safety of citizens (as higher goal), and of preventing and controlling violence incidents in sports events (as concrete goal). It is of great importance to start a public discussion in order to develop efficient mechanisms for the prevention of hooliganism. In this part of the paper, we first want to map the current regional legislative and institutional framework for combating violence in sports events. This is followed by a proposal for the design and creation of a special organizational unit within the framework of the Regional Centre for Combating Trans-Border Crime (SECI Centre). The aim is to fill the gap in the current strategic, legislative and operational framework in the prevention of hooliganism in the Western Balkans.

All of the Western Balkan countries share similar problems with violence in sports, especially with regard to football hooliganism. These problems become more intense when clubs or national teams representing different Western Balkan countries compete against each other. At best, what may happen and often does is an exchange of insults; at worst, incidents which may lead to life threatening injuries or even death.

In the last decade all of the Western Balkan countries have adopted adequate legislation and established some kind of institutional mechanism tasked with combating violence in sports. For example, the National Assembly of the Republic of Serbia in 2003 adopted a "Law on the Prevention of Violence and Indecent Behaviour at Sport Events". Further important changes were made in 2009 with new amendments and supplements to the law of 2003, as well as the creation of the "Council for the Prevention of Indecent Behaviour at Sport Events" and the "Action Plan for the Prevention of Violence in Sports." As for Serbia's neighbour Croatia, there exists within the Police Directorate a special organizational unit, the Department for the prevention of disorder at sporting competitions. Laws addressing the issue of prevention of violence in sport events have been adopted both in Croatia (2003), Macedonia (2004) and Bosnia

and Herzegovina (2007), while the Assembly of the latter has also adopted the Law on Sports (2008). Croatian Ministry of Interior has a Department established for the purpose of preventing violence in sport events.

Seen from a regional perspective, the situation is completely different. Cooperation between law enforcement agencies has mostly been ad hoc, and limited to the exchange of information prior to important sporting events. Moreover, in the strategic documents of different regional initiatives, no priority has been given to fighting violence in sports.

For example, in the latest strategic document of the Regional Cooperation Council (RCC)[28], there is no explicit mention of the fight against hooliganism. Still, in an indirect way, we can establish a link between the first and core strategic priority of the RCC in the field of justice and home affairs, namely the fight against organised crime and different illegal sports activities, such as money laundering, match fixing, point shaving, counterfeiting of tickets and merchandise. Based on the Financial Action Task Force (FATF) report from 2009, several sports can be identified as vulnerable to money laundering: football, cricket, rugby, horse racing, motor racing, car racing, ice hockey, basketball and volleyball.[29] Some of them, especially football and basketball, are among the most popular sports in the Western Balkans.

Nevertheless, for our policy proposal is very important that the RCC has handed to the SECI centre one of the key roles in fostering regional police cooperation. The overall situation on preventing violence in sports is quite similar to other regional initiatives dealing with police and judicial cooperation.

6. "Heysel" equals "Luigi Ferraris": Perfect Momentum for Prevention Activities

Prevention mechanisms with promising results show up only after incidents with disastrous or near-disastrous consequences. There is a parallel between the events in Brussels on 29 May 1985 and Genua on 13 October 2010. What happened at the Heysel stadium was, in terms of the loss of lives, much worse. Indeed, after a total of 39 people died and 670 people were injured, the UEFA decided to ban British football clubs from European Championship tournaments for a period of five years. This finally incited the British government to act forcefully: draconic laws were followed by systematic implementation and some smart policing. The final result is a game worth watching. However, we are still waiting for the outcome of the incident at Luigi Ferraris stadium. Never to have another "Heysel" again is the main rationale for any future EU involvement in the fight against football hooliganism. We believe that the events of October 13 brought national shame upon Serbia and demonstrated that the time is ripe for action.

[28] The RCC is the successor of the Stability Pact for South Eastern Europe and coordinator of regional activities, not only in Western Balkans but in whole South-Eastern part of Europe.
[29] An example of a recent high-profile case is the 2009 sentencing of officials of the Football Association of the Bosnia and Herzegovina, Munib Ušanović and Miodrag Kuneš to five years in prison under the charges of abuse of office and tax evasion.

The substance of our idea is the creation of a new task force within the existing SECI centre structure which would deal exclusively with the prevention of violence in sports events.30 Firstly, the SECI centre is the only regional initiative in the Western Balkans with fully developed capacities for the exchange of information. This is actually one of core activities of the SECI centre. Secondly, the SECI centre's main objective is to support national efforts in order to improve domestic cooperation between law enforcement agencies and specialized task forces. This is a key precondition for building up a mechanism similar to the National Football Information Point (NFIP) which has become part of the EU framework.

We envisage three phases in the establishment of the Task Force for Combating Violence in Sports.

Design of an Action Plan: Every Western Balkan state should mandate one representative from the ministry dealing with home affairs or from a specialised organisation unit competent for tackling violence in sports. In order to create an effective strategic plan, it is important to map every important actor in this area. After this mapping process is over, state delegates should initiate negotiations with: 1) national focal points in the domestic countries and the liaison officers in the headquarters of the SECI centre; 2) representatives of the NFIP of the five EU member states of the SECI centre[31], 3) sports associations and civil society organizations dealing with wide range of security issues. The reason for these consultations is to propose effective approaches to preventing and combating violence in sports to all stakeholders, especially to the governments of the Western Balkan countries, the SECI centre and the RCC.

Presentation of the Action Plan: An important part of the action plan should be a knowledge-based map which should provide the analysis of currents trends and problem areas in hooliganism and violence in sports, and then propose how to manage these issues. After the setting up of the action plan, the delegates should present this introductory plan to all mentioned stakeholders and to the European Commission in order to fill the gaps of and present the conditions, aims and goals for building the task force.

Creation of the new Task Force: The creation of institutional mechanism for combating violence in sport will be one of the hardest phases. However, it is important to underline that we do not propose a new institutional framework (which means spending more money), but an upgrade in the existing one. Indeed, the SECI centre is currently transforming into the Southeast European Law Enforcement Centre (SELEC), which will be tasked with supporting crime prevention activities, facilitating the exchange of information, fostering connections of the national focal points, and providing strategic analysis. Evidently, these new tasks are in line with current trends of violence in sports in the Western Balkans, and therefore the creation of a new Task Force.

[30] In the SECI centre, there currently exist eight different task forces: the Task Force on Human Trafficking and Migrant Smuggling, the Anti Drugs Trafficking Task Force, the Anti Fraud and Anti Smuggling Task Force, the Financial and Computer Crime Task Force, the Task Force on Stolen Vehicles, the Anti-Terrorism Task Force, the Container Security Task Force, and the Environmental Crimes Task Force.
[31] These are: Bulgaria, Greece, Hungary, Romania and Slovenia.

The primary goal of the paper was to encourage the discussion about the lack of a regional framework for cooperation in the fight against hooliganism and violence at sports events of international character. The incident in Genua in October this year may be used to further explore the mechanisms in the prevention of violence in the EU. Guided by the principle that the replicating same mechanism of mapping from one to another geographic area is not the best solution, we provide a model of which could and should be discussed. It is certain that the proposed solution is not definitive, but represents a good basis for further analysis and determination of the factors of cooperation in preventing violence at sports events in the Western Balkans. In addition to procedural and institutional framework there is an important added value: the possibility of reconciliation through sports people of the Western Balkans.

7. Recommendations

To the National Assembly of the Republic of Serbia:

Adopt the Law on Private Security (for the reason of regulating the competences of stewards).

To the Ministry of Youth and Sports and the National Assembly of the Republic of Serbia:

Finalize and adopt the Law on Sports (for the reason of ownership and managing the teams).

To the Ministry of Youth and Sports, Ministry of Interior and Association of Private Security Companies, Serbian Chamber of Commerce:

- Prepare and adopt a Rulebook regulating the scope of work, obligations, liability, competences and standards of stewards in sport events.
- Define to the most concrete level measures of protection of fans in and out of sport venues.
- Define standards of cooperation and communication with law enforcement bodies.
- Define means of ticket sales and measures for prevention of counterfeiting.

To the Football Association of Serbia:

Observe fully UEFA ten points on racism.

To all stakeholders involved:

- Place the issue of football hooliganism on the agenda of inter-sector bodies that have already been set up.
- Use the examples of good practice coming from Great Britain, Germany, Holland and Belgium.

- Raise funds necessary for urgent reconstruction (for security reasons) of most frequented sport venues (e.g. in Serbia stadiums of Red Star and Partizan football teams, as well as "Pioneer" hall).
- Address the issue of juveniles as participants in hooligan behaviour.

To Regional Cooperation Council, governments of Western Balkan countries and respective Ministries of Interior:

- Exert your influence in order to fill the "gap" at the regional level where Regional Cooperation Council (RCC) has not included violence in sport as a separate issue in its strategy.
- Use the public sentiment to launch the debate on the need of setting up a new regional framework of prevention.
- In the core of this framework lies a new task force to be created within the existing SECI centre in Bucharest tasked specifically with prevention of violence and hooligan behaviour.
- The setting up of this new task force should be arranged in three steps: design of the action plan, presentation of the action plan to relevant stakeholders and creation of the actual task force.

Group 484: Refugees from Croatia: Could the European Integration Bring the Resolution?

Tanja Pavlov and Vladimir Petronijević

Introduction

The refugee situation of the 1990's in the former Socialist Federal Republic of Yugoslavia (SFRY) was the greatest post-World War II refugee crisis in Europe.

Today, the Republic of Serbia is the country with the largest number of refugees and internally displaced persons in Europe. Since 1996, the number of refugees from the countries of the former SFRY has decreased by more than 80%, but in 2010, Serbia still hosts 82,600 registered refugees, of which 61,200 from Croatia and 21,400 from Bosnia and Herzegovina (BiH).

The reduction in the number of refugees is largely the result of their integration into the Republic of Serbia. About 300,000 refugees have acquired the citizenship of the Republic of Serbia. Through the process of return, implemented with varying success in BiH and Croatia, the number of refugees has decreased by another 149,000. It is estimated that another 49,000 refugees have found refuge in third countries.

1. Sarajevo Process

In response to the need for final and comprehensive solutions of the refugee problems in the region, the authorities of Croatia, Bosnia Herzegovina and Serbia and Montenegro signed the Sarajevo Ministerial Declaration on regional refugee return on January 31, 2005. With the assistance and support of the local missions of the OSCE, UNHCR and the European Commission Delegation, the signatory parties agreed to develop national strategies for addressing the remaining refugee issues by the end of 2006, enabling either a sustainable return to the country of origin or local integration in the country of refuge.

Although certain progress has been achieved, the process initiated by the Sarajevo Declaration is incomplete. The major impediment has been the deprivation of acquired rights for mainly Serb former tenancy rights holders expelled from their homes in Croatia during the conflict.

In a letter to state authorities in Bosnia and Herzegovina, Croatia and Serbia, the OSCE, UNHCR and the European Commission referred to "finding a comprehensive and just solution for terminated occupancy and tenancy rights" as the most critical open issue.[32] However, for five years, the Sarajevo process has remained stalled, despite additional encouragement and initiatives from the international community.

[32] Letter signed by the heads of the OSCE Missions, UNHCR Offices and EC Delegations in Bosnia and Herzegovina, Croatia and Serbia, 9-207/75.

2. Protracted Situation

In the second half of 2008, the United Nations Refugee Agency selected Serbia as one of its five focus countries with a protracted refugee situation whose resolution requires joint action and cooperation of the countries in the region, with the support of the international community.

By refusing to recognise the acquired rights of former tenancy rights holders, the Republic of Croatia has prevented the return of refugees to their original homes and thus acted contrarily to the Resolution 1120 of the United Nations Security Council of 1997, which reaffirmed the right of all refugees and displaced persons originating from Croatia to return to their original homes in Croatia. With this longstanding practice, Croatian authorities have largely obstructed and hindered the return to urban centres.

In a 2007 paper on minority return, UNHCR reported that 44% to 50% of registered returnees do not permanently reside in the Republic of Croatia.[33] The Republic of Croatia and the Federal Republic of Yugoslavia concluded an Agreement on the Normalisation of Relations in 1996, and agreed to ensure conditions for free and safe return of refugees and exiles to their places of residence or other places they would freely choose, and for the repossession of their property or just compensation.

However, the expected outcomes remain quite absent. Slow process in finding durable solutions for refugees arise from the lack of more fundamental democratic changes in the countries of the former Yugoslavia that were involved in the conflicts. Consequently, the ethnicity-based discriminatory approach within national legislations and discriminatory actions of state bodies has not been entirely eradicated, which has led to the violation of numerous rights, including the right to choose a permanent solution, guaranteed by the UN Convention on Refugee Status of 1951 and the peace accords for the former SFRY.

3. European Context

The EU strategic framework further underlines the need to effectively address the issues of refugee populations in the Western Balkans.

The EU Council Decision No. 2008/213/EC of February 18, 2008, in a part of Annex 2 on regional issues and international obligations of Serbia, foresees ensuring "the right to a real choice between sustainable return and integration" (short-term priorities) and facilitating the "integration of refugees who choose not to return" (medium-term priority). The Stabilisation and Association Agreement of the Republic of Serbia in the Preamble affirms the "right of return for all refugees and internally displaced persons, the right to protect their property and other related human rights."

On the other side, despite considerable progress by Croatia toward EU accession, the process of removing obstacles to sustainable return of refugees in Croatia is slow, and is largely caused by problems in the work of competent administrative bodies and the problematic political-legal framework. The same problems exist in relation to the recognition and realisation of various

[33] UNHCR: Sustainability of Minority Return in Croatia, 2007.

acquired rights in the Republic of Croatia for those refugees who have opted for permanent local integration in Serbia. The European Commission has recently pointed out that "a number of obstacles to the sustainable return of Serb refugees remain, the main one being housing, particularly for former tenancy right holders" and that "further efforts are needed to resolve the main outstanding issue not yet addressed, namely how to deal with the compensation claims of those who lost occupancy and tenancy rights in Croatia."[34]

The problem of refugees and internally displaced persons is not fully resolved in any of the countries involved in the Sarajevo process and it is necessary to intensify regional cooperation in order to achieve a fair, comprehensive and durable solution, particularly for the most vulnerable, knowing that this would contribute to further development of good neighbourly relations and regional stability, as well as to the process of European integration. This is clearly emphasised in a joint statement of Ministers of Foreign Affairs of Bosnia and Herzegovina, Croatia, Montenegro and Serbia, on 25 March 2010, at the Belgrade International Conference "Durable Solutions for Refugees and Internally Displaced Persons – Cooperation among Countries in the Region."

4. Occupancy and Tenancy Rights

Since the end of the conflict in 1995, Croatia's policy toward Serb refugees has been the most prominent obstacle to resolving the refugee issue in the region. A number of conditions for sustainable return remain unfulfilled. Former tenancy rights holders of Serb ethnicity do not have the right to return to the homes where they resided prior to the conflict. Moreover, they have been deprived of acquired rights granted by previously recognised legal principles of tenancy rights and the status of specially protected lessees of socially owned flats.

The Constitution of the former SFRY defined tenancy rights as family, social, and property-related rights. The legal mechanism for acquiring tenancy rights of socially owned flats was via a contract between the tenancy right holder and the relevant public fund. Tenancy rights holders had the status of specially protected lessees of socially owned flats. Furthermore, the Constitution stipulated that tenancy rights holders could privatise their flats under favourable conditions. Individuals who entered the flats of ethnic Serbs forcibly evicted during the conflict invoke these rights. In some cases, flats were privatised even before the court revoked tenancy rights of holders who were absent from their flats for over six months.

According to the OSCE estimates, about 100,000 mostly ethnic Serb refugees and displaced persons from urban areas in Croatia were affected by the deprivation of tenancy rights from 1991 to 1995. The total number of cases of tenancy rights terminations is estimated to be 29,80035. Of this caseload, 23,800 have been terminated by Croatian courts in the territories outside the Areas of Special State Concern[36] (ASSC). In the majority of cases, tenancy rights terminations have

[34] European Commission, Croatia Progress Report, 2009.
[35] Source: Ministry of Justice of the Republic of Croatia, from the UNHCR Representation in the Republic of Croatia – Summary Statistics on Refugee / Return and Reintegration, January 1, 2008.
[36] Areas of Special State Concern are mostly those territories that were out of Croatian sovereignty during the 1991-1995 civil war. The Law on ASSC regulates measures allegedly intended to stimulate demographic and economic development, reconstruction, return of population, and housing.

occurred without the presence of tenancy right holders.[37] The remaining 6,000 cases have been terminated by law, inside the ASSC, and after the war was over.38 The principle of tenancy rights in the Republic of Croatia was abolished when the Law on the Lease of Flats came into effect.[39] While international documents and decisions put the issue of tenancy rights violation in the human rights framework, the Croatian government treats it solely as a humanitarian issue.

However, the 2006 Decision of the Croatian Constitutional Court stipulates that a tenancy right is by its nature a property right. It further declares that the right to repurchase a flat is at its core a property right and carries with it the option to realise the right to property.[40] In the national court practice there is also an example where the value of tenancy right was expressed with a concrete monetary value.[41]

Until the disintegration of the former Yugoslavia, tenancy rights in Bosnia and Herzegovina were legally regulated much in the same way as in the Republic of Croatia. And, unlike in Croatia, tenancy rights holders in Bosnia and Herzegovina were granted the right to return to their pre-war homes.42 All administrative and legal acts regarding tenancy rights terminations have been legally proclaimed invalid.

Facing the pressure from the international community, in 2000 Croatia began to formulate a set of measures to accommodate a subset of former tenancy rights holders. Two housing care programmes have since been adopted.

The first programme (originally regulated by the 2000-2002 Law on Areas of Special State Concern) focuses on housing for various categories of beneficiaries, including former tenancy rights holders, within the Areas of Special State Concern. The second programme, originally developed by the Croatian government in 2003, addresses housing for former tenancy rights holders outside of the Areas of Special State Concern.

Subsequently, Croatia made the first serious attempt to address the deficiencies in the housing care programme for former tenancy rights holders in 2008, following the initiation of Croatia's negotiations regarding human rights, with the European Commission. But, on the other hand, in

[37] Ignoring the Law on Civil Procedure, usually the courts would appoint a provisional administrator for special cases instead of a temporary representative. And, in many cases, these appointed administrators have failed to present evidence or to invoke available legal remedies in favour of the defendants. As a result, verdicts have become final and irrevocable.
[38] Since the tenancy right holders had not returned to the abandoned flats within 90 days from the date the Law on Lease of Flats in the Liberated Territory came into effect, i.e. September 27, 1995, Official Gazette No. 73/95.
[39] Official Gazette No. 91/96.
[40] Decision of the Constitutional Court of the Republic of Croatia No: U-III-3136/2003 of January 25, 2006.
[41] The verdict of the Supreme Court of the Republic of Croatia No: Gž. 557/72-2 of January 17, 1973, states the following: "Therefore, it is not possible to accept the statement of the defendant in the complaint that the first instance court has never explained the reason it has assessed the lost tenancy right in the concrete case to 25,000 dinars."
[42] According to Article 1 of Annex VII of the General Framework Agreement for Peace in Bosnia and Herzegovina, individuals who left their flats between April 30, 1991 and April 4, 1998 are considered refugees and displaced persons, and they have the right to return to their homes, i.e. regain ownership over the flat for which they have tenancy right.

the same 2008, Croatia passed the Law on Areas of Special State Concern, which requires far more stringent conditions to access the right to housing care within the Areas of Special State Concern.[43] New legislative restrictions are discriminatory toward refugee former tenancy rights holders as compared to other categories of housing care beneficiaries.

A majority of terminated tenancy rights cases are related to the towns outside the ASSC. However, the housing care in these towns is determined in a much less favourable manner than housing care inside the more rural ASSC. For one, the deadline for filing requests expired on September 30, 2005, while no deadline exists for requests for housing care inside the Areas of Special State Concern.

The implementation of the housing care programme can be best described as unpredictable, discriminatory, and subjected to arbitrary rule. At best, the programmes are more akin to a humanitarian effort and address neither the legal aspects of tenancy rights termination for former holders nor the issue of recognition of acquired rights to purchase flats under favourable conditions. Since official data on former tenancy rights holders, the ethnic background of beneficiaries, or their previous status is unavailable, it is difficult to ascertain to what extent the implementation of the housing care programmes have contributed to the return of refugees to Croatia.

Nonetheless, in July 2009, UNHCR's Mission to the Republic of Serbia submitted to the Serbian Commissariat for Refugees results of the implementation of the housing care programmes for the previous period.[44]

Inside the Areas of Special State Concern, 3,158 (35%) out of a total 8,964 requests were filed by Serb refugees or expellees residing in Serbia; 5,327 requests were successfully resolved. Of these, 1,270 (24%) were requests by individuals registered as refugees in Serbia from 1996 to 2005.

Outside the Areas of Special State Concern, 2,631 (58%) out of a total 4,562 requests were filed by Serb refugees or expellees residing in Serbia; 1,458 requests were successfully resolved; of these, 629 (32%) were filed by refugees in Serbia.

Former tenancy right holders do not enjoy the right to purchase a flat under the favourable conditions offered to other tenancy rights holders and non-tenancy rights holders alike. Most significantly, they have not been justly compensated for the homes they lost. The existing Croatian legal framework relating to housing care is incomplete, fragmented and does not ensure equality of citizens before the law and their legal security. The Centre on Housing Rights and Evictions (COHRE) states that Croatia violates Article 16 of the European Social Charter (the right of families to social, legal and economic protection), because the population of ethnic Serbs displaced during the conflict in the former Yugoslavia is subjected to disproportionate discrimination in relation to their housing needs.

[43] Programme beneficiaries cannot own or co-own another family house or flat. They also must not have sold, given away, or in any other way abandoned the house or flat at any point after October 8, 1991. This condition does not apply just to the territory of Croatia, but to other states in the territory of the former SFRY, and now as well as to the territories of other states where returnees possibly resided prior to returning to Croatia.
[44] Statement of the Commissariat for Refugees of the Republic of Serbia, July 2009.

In addition, due to the present restrictive conditions, the Housing Programme will provide accommodation for only a very limited number of former tenancy rights holders (i.e. for only about 5-10% of the refugees whose tenancy rights have been revoked).

The housing care is only intended for refugees who have chosen to return to Croatia and only if they comply with other restrictive conditions. Consequently, refugees who have opted not to return remain permanently deprived of the opportunity to access their rights to housing based on their former tenancy right.

Physical return or permanent settlement in Croatia must not be a condition for either the recognition of acquired rights or the compensation for former tenancy rights holders. The right to just compensation is one of the prerequisites that refugees must have as they decide whether to return to their country of origin or integrate in the country of refuge.

The United Nations Committee on Human Rights has recently examined a case related to the loss of an acquired tenancy right on the pretence of a human rights violation, a viewpoint that Croatian institutions and local courts have chosen to ignore. In the case of Vojnovic vs. Croatia, the UN Committee took the view that the abolition of tenancy rights under Croatian law is an arbitrary interference with the right to a home, which is a violation of Article 17 of the International Covenant on Civil and Political Rights.

Having in mind the severity of the problem and its ongoing negative consequences for some 100,000 refugees who have been denied of their homes, it is essential that this issue be finally resolved in a comprehensive, equitable and sustainable manner, in accordance with international human rights standards and international legal obligations of the Republic of Croatia.

A part of such a solution should have been Decision on the sale of apartments owned by the State, which Croatian Government adopted on September 2, 2010, and came into force on September 28 of this year. However, though this decision in some respects can undoubtedly be assessed as a positive step, it clearly has a limited scope (because it applies only to homes outside the ASSC), and significant deficiencies, including discriminatory features – primarily related to prescribed periods for the purchase of the flat, its purchase price (i.e. the method of calculating the purchase price) and purchasing conditions. Particularly noticeable is a very different treatment of the former tenancy rights holders (mostly refugees of Serbian descent) who use the housing programme, on the one hand, and on the other, refugees from Bosnia, of mostly Croatian origin, who have integrated in Croatia and who use the state-owned flats under the Law on Renting Apartments in the Liberated Areas.

5. Reconstruction of Demolished and Damaged Property

At the beginning of December 2009, there were 8,210 requests for reconstruction in the second instance procedure. This high number of reconstruction requests that for years have been in the appellate procedure shows that the process will not be completed within the announced deadlines. The inconsistent and uneven practice in the implementation of the Law on General Administrative Procedure, especially in the first instance, as well as numerous errors in the procedures for damage assessment, prolong the processing of reconstruction requests, which

sometimes drags on for several years. There are cases where the reconstruction has not been started more than three years after the conclusion of the reconstruction agreement.

Furthermore, the reconstruction is not followed by the appropriate investments in the development of these predominantly rural areas of return, which are economically underdeveloped and devastated. The reconstruction alone, without programmes of economic support to reintegration, through job creation, including the renovation and construction of necessary infrastructure, cannot ensure the sustainability of return.

6. Pension Related Issues

The rights related to pension and disability insurance are among the most important acquired rights, because of their scope and the fact that they are practically the only source of income for many elderly within the refugee population.

One of the common problems of refugees is the lack of records related to years of service, coupled with a variety of problems and obstacles related to their verification, which is why their pensions are (or will be) reduced. About 50,000 pension beneficiaries, who remained to live in the territories under the administration of the UN during the period of 1991–1995, were left without their Croatian pensions, because the payment was withheld due to the interruption of money transfer caused by the war. Given that legal conditions for the obsolescence of unpaid pensions have not been met, it is necessary to ensure the equal position of these pensioners in relation to other Croatian pensioners, by ensuring a mechanism for the payment of due but unpaid pensions.

For many refugees, the issue of con-validation of the years of service attained in areas of Croatia that were under the protection of the United Nations still remains unsolved. Lodged claims for con-validation amounted to 17,586 in 2009. Of this number, 9,610 have been processed, with 52% receiving a positive decision. The decision to revise all negative decisions in an internal audit is a positive development. The proposed legal framework for solving the problem of con-validation does not match the complexity of the problem, especially due to complicated demands related to the verification of years of service. The prescribed requirement for submitting a large number of documents, and the imposition of an excessive burden related to their verification, is not in compliance with the standards of international humanitarian law that, given the causes and nature of displacement, require from states to simplify procedures and facilitate the conditions for accessing rights of refugees, among other things, by determining the minimum obligation for the most necessary documents or pieces of evidence.

7. Conclusion

The Republic of Serbia is the European country with the largest number of refugees. Serbia still hosts 82,600 registered refugees, of which three quarters originate from Croatia. By refusing to recognise the acquired rights of former tenancy rights holders, the Republic of Croatia has acted contrarily to the Resolution 1120 of the United Nations Security Council of 1997, which

reaffirmed the right of all refugees and displaced persons originating from Croatia to return to their original homes in Croatia.

The European Commission has recently clearly recognized that various obstacles remain to the sustainable return of Serb refugees to Croatia, and the compensation claims of those who have lost occupancy and tenancy rights in Croatia as the main outstanding issue has not yet been addressed.

Slow process in finding durable solutions for refugees arise from the ethnicity-based discriminatory approach within national legislations and discriminatory actions of state bodies, which has not been entirely eradicated, leading to the violation of numerous rights.

More fundamental democratic changes in the countries that were involved in the 1990's armed conflicts are still very much needed. Joint statement of Ministers of Foreign Affairs of Bosnia and Herzegovina, Croatia, Montenegro and Serbia, on 25 March 2010, has explicitly called attention to the necessity to intensify regional cooperation in order to achieve a fair, comprehensive and durable solution, particularly for the most vulnerable refugees, knowing that this would contribute to further development of good neighbourly relations and regional stability.

8. Recommendations

A1. The European Union, along with other members of the international community, must leverage its authority to convince the Government of Croatia to resolve the issue of former tenancy rights holders rightly, i.e. in line with relevant UN and EU standards and recommendations.

A2. Based on the view that the abolition of tenancy rights of the war refugees in 1990s was an arbitrary interference with the right to a home, which is a violation of Article 17 of the International Covenant on Civil and Political Rights, Republic of Croatia should develop a fair compensation model for the lost occupancy and tenancy rights, within constructive agreement and good neighbourly cooperation with the Republic of Serbia, and under supervision of the European Union.

A3. The Republic of Croatia should develop the new and common (non-fragmented) legal framework for the housing care programmes intended to the former tenancy right holders who wish to return to Croatia. The new framework should apply to the whole territory of the Republic of Croatia and to the all former tenancy right holders. It is of key importance that housing care enables their beneficiaries to enjoy the same rights that has belonged to the tenancy rights holders in Croatia prior to the abolition of the tenancy right, that is, to enable those who could not use their rights because of the war to realise that rights now through the housing care programme under the same conditions that existed for the tenancy right holders prior to the abolition of that right in 1996. In addition, but not less important, the relevant legal terms should define the same status for all beneficiaries of housing care programmes regardless of their ethnicity and other personal traits.

B1. The Republic of Croatia should do more to upgrade efficiency of the process of reconstruction of demolished and damaged property belonging to the people who fled Croatia during the 1991-1995 war conflict. It is especially important to relieve the heavy burden of caseload pending in the appellate procedure for years. Specific steps should be taken to enhance the damage assessment procedure and eliminate numerous errors in that process. Also, the implementation of the Law on General Administrative Procedure has to be made coherent, uniform and even.

B2. The reconstruction of private houses and buildings should go along with investments in **the** regeneration of the areas of return, supporting job creation and economic growth.

C1. Legal framework for the problem of con-validation of the years of service attained in the areas of Croatia that were under the protection of the United Nations during the 1991-1995 war should be improved. Specifically, verification procedure should be simplified and conditions reasonably facilitated, in full compliance with the standards of international humanitarian law.

D1. Refugees from Croatia who were Croatian pension beneficiaries and left without their pensions during the 1991-1995 period should be put in position equal to the one of other Croatian pensioners, by establishing a mechanism for the payment of their due but unpaid pensions.