

THE WESTERN BALKANS' BUMPY QUEST FOR EU INTEGRATION

REGIONAL ANALYSIS 2016 COMPARATIVE OVERVIEW

INDEPENDENT ANALYSIS OF EC REPORTS ON THE WESTERN BALKANS
AND THEIR FOLLOW UP – WITH A FOCUS ON EC RECOMMENDATIONS

THE WESTERN BALKANS' BUMPY QUEST FOR EU INTEGRATION

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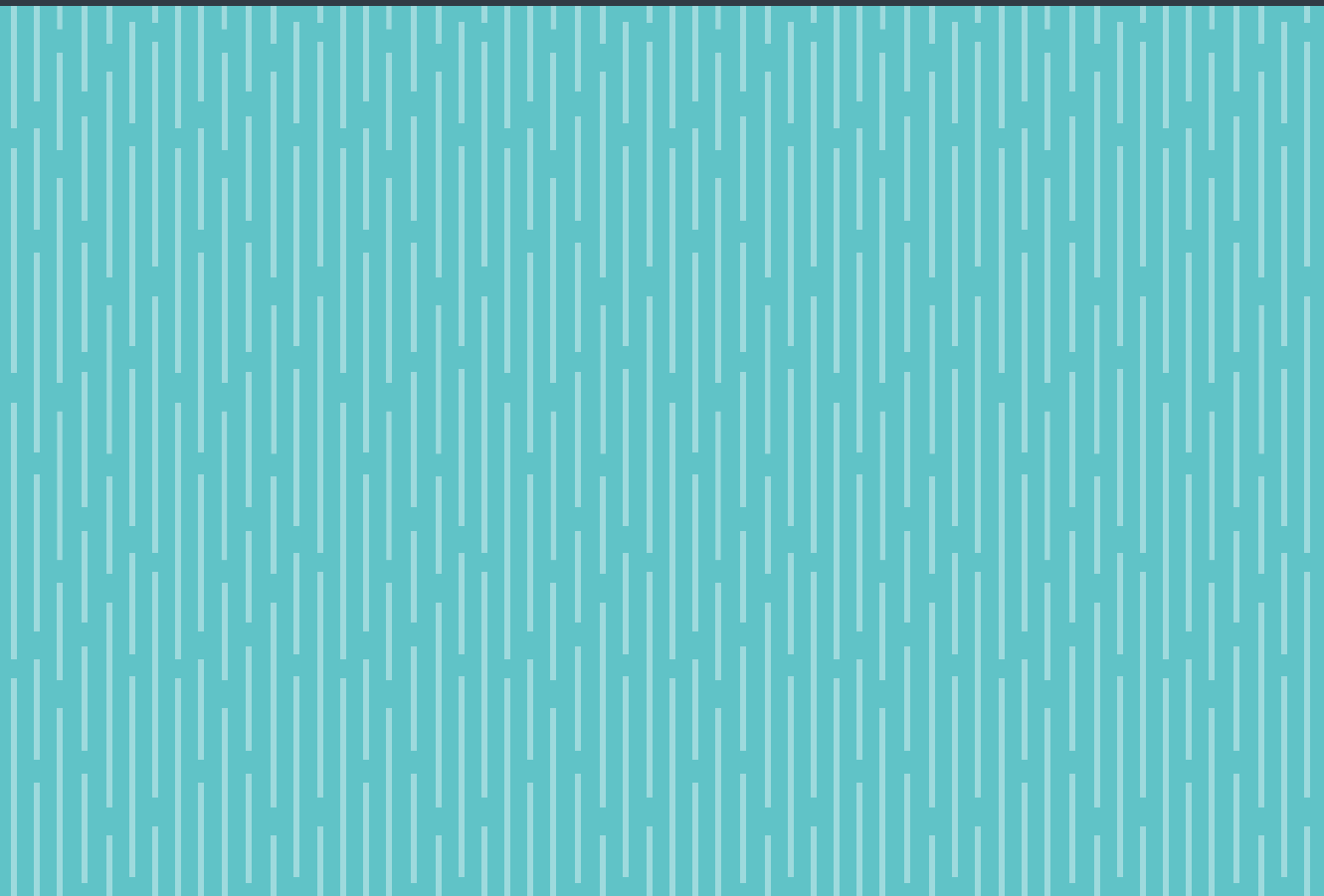
European Fund for the Balkans

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ABOUT THE PROJECT



In 2016 the TEN network provided a structured, comprehensive and objective analysis of the European Commission (EC) country reports for the first time for all the Western Balkan (WB) countries.¹ This analysis enabled the comparison of the grading system and EC assessment of all the accession criteria/chapters of the country reports. At the same time, this independent overview contributed to public awareness of where each WB country stands in the process of EU integration.

Building upon this effort, one of the aims of the **BENCHER** Project is to deepen this analysis further, providing a more critical review of the EC assessments, based on the lessons learned. Furthermore, this year's analysis dedicates a special focus to the recommendations provided by the EC in the 2015 and 2016 country reports, assessing the degree to which they were considered and implemented by each country. Moreover, the analysis provides a comparison between the 2015 and 2016 EC reports, noting the differences and similarities. The goal in this respect is to establish a base assessment of trends and common issues and to identify the degree to which change has been achieved over time. Moreover, an added value of this analysis is the fact that it continues the process of evaluation during the gap between the last EC report and the one that is due next, in spring 2018.

This analysis is based on the contribution and findings of the separate country analyses made by the project partners, produced within the BENCHER project. In order to produce this report, we have also analyzed the documents contained in the enlargement package of DG Neighborhood and Enlargement Negotiations and conducted a thematic analysis of the statements of the Commissioner regarding each country as well as the statements of the heads of state and key political leaders within the WB countries. In addition, we have provided a critical note from a CSO's standpoint as watchdogs of both the governments and the EU institutions.

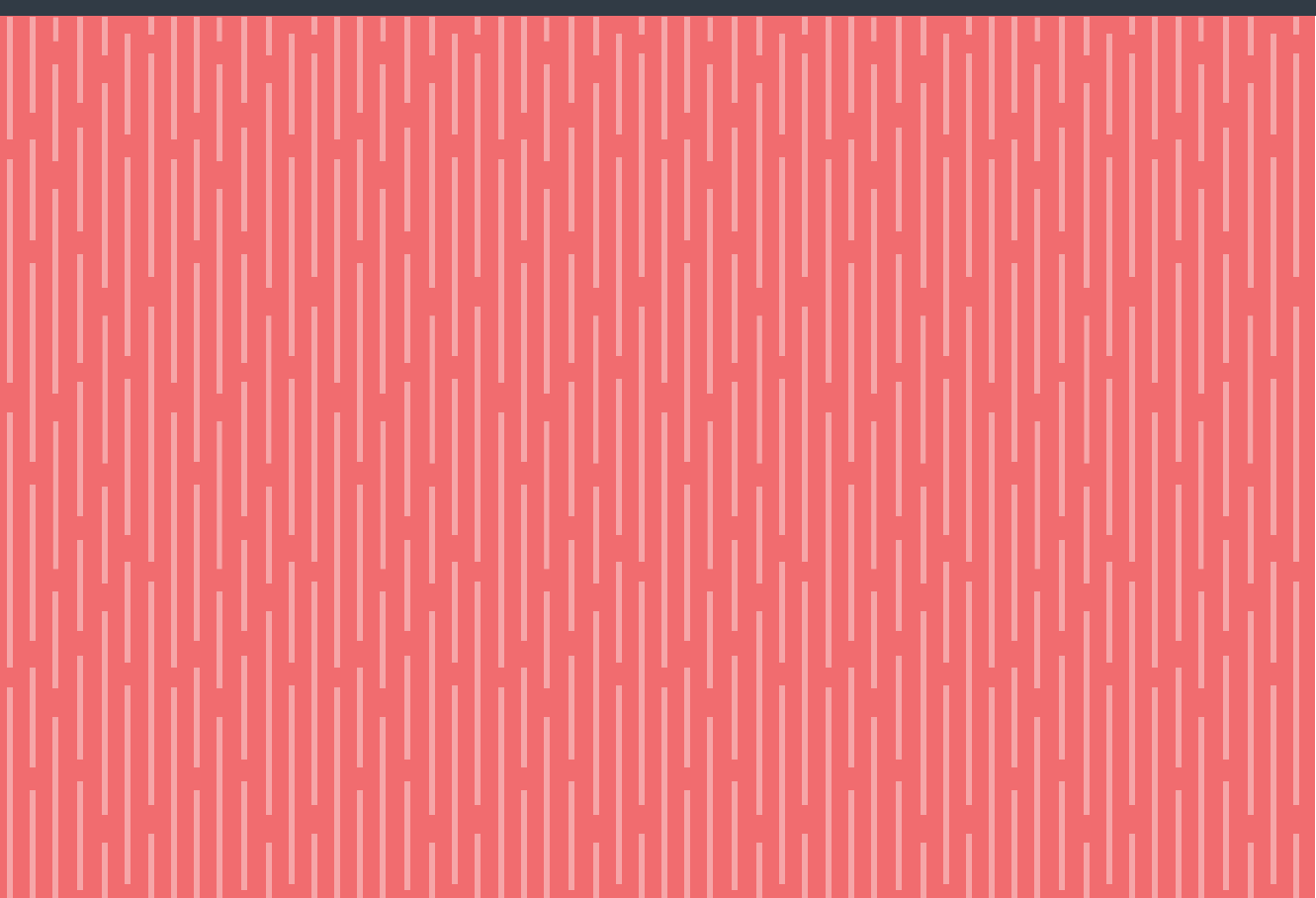
Last but not least, with this analysis we aim to provide recommendations to the EU, for improving the monitoring mechanisms. Moreover, the country analyses, produced by each project partner provide recommendations to the national Governments, regarding the short and long term implementation of the EC recommendations.

The structure of this paper is as follows:

- | Summary and analysis of the statements of international and regional stakeholders;
- | Analysis of the recommendations and assessments given in the country reports, following the Copenhagen criteria structure: Political criteria; Economic criteria; Ability to assume the obligations of the *acquis*;
- | Recommendations.

1 TEN NETWORK (2015). *The Western Balkans and its EU integration: 2015 Comparative Overview*. Skopje: European Policy Institute. Available at: [http://epi.org.mk/docs/The%20Western%20Balkans_2015%20Comparative%20Overview\(2\).pdf](http://epi.org.mk/docs/The%20Western%20Balkans_2015%20Comparative%20Overview(2).pdf)

INTRODUCTION



Reinforced methodology - distant prospect

“We have reaffirmed our commitment to enlargement as a key policy of the EU and a strategic investment in stability, democracy and prosperity in Europe. We attach great importance to the credibility of enlargement as a two-way process - if a country delivers on the necessary reforms, the EU has to deliver on its commitments.” - Miroslav Lajčák, Slovak Minister for Foreign and European Affairs and President of the Council of the EU, 13.12.2016.

In 2015 the EC promoted the new Enlargement Strategy that refers to the medium term 2015 – 2020 while underlying that yearly updates on its implementation may be provided. The enlargement package was presented by the EC as a tool that would put much more emphasis on the state of play of the countries, while the reports would provide even clearer guidance.² Moreover, the EC has underlined that its strengthened reporting methodology is focused on current political priorities and to begin with it is being applied as a pilot exercise in specific areas.³ Despite the minor changes, the structure that the EC has promoted for the country reports has remained the same.⁴

The new reporting methodology was further expanded in 2016 and was followed by the introduction of a new package calendar, thus moving the adoption of the annual enlargement package to a new slot in spring.

The next package will be delivered in spring 2018, going back to the schedule of the SAP reports of the early 2000s.

The pilot areas have been further expanded, now covering areas linked firstly to economic development: free movement of goods, competition, transport, energy; secondly to areas of chapter 24: migration, border control, asylum and the fight against terrorism and environment/climate change.⁵ The EC noted that the expansion of the methodology “takes into account the need to ensure appropriate sequencing of reforms and the continued need to focus on the fundamentals”. However, the methodology retains its “live” character, meaning that it will be expanded again when delivering the next package in 2018. Changes have been introduced to the economic criteria by further refining the sub-criteria: “The revised sub-criteria highlight the main economic shortcomings of the current enlargement countries such as their weak business environments with limited access to finance, high unemployment rates, poor education outcomes and low levels of innovation and regional connectivity”.⁶ This focus should enable better guidance for the countries regarding the Economic Reforms Programme (ERPs). This changed structure in economic criteria is consistent with the National economic reform programs.⁷

2 EUROPEAN COMMISSION (2015). *Fact sheet: What's new in the 2015 enlargement package?* Available at: http://europa.eu/rapid/press-release_MEMO-15-6040_en.htm

3 Rule of law and fundamental rights (judiciary, fight against corruption, fight against organised crime, freedom of expression); economic development; public administration reform; three “acquis” chapters (public procurement, statistics, financial control)

4 Kosovo's country report now has separate sections for the fight against terrorism and the fight against organized crime, in accordance with the other countries; economic criteria reporting has slightly changed

5 EUROPEAN COMMISSION (2016). *2016 Communication on EU Enlargement Policy.*

Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20161109_strategy_paper_en.pdf

6 Ibid.

7 Ibid.

The Enlargement Communication issued in 2016⁸ on the implementation of the Enlargement strategy, reiterated that the *'EU continues to face serious challenges on various fronts'*, whilst also noting that *'the attractiveness of the EU in the enlargement countries has been partly affected by the economic downturn and skepticism regarding the European project'*. The reforms and results in countries go at *'different speeds'* but despite the fact that all WB countries are different, in divergent positions, they are all on the same track towards EU integration with a commitment to the principle of *'fundamentals first'*.⁹

The white paper that was presented by the EC in March 2017,¹⁰ only added to the existing *'accession fatigue'*, as enlargement is barely mentioned in the *'future of Europe'*. The EU stands firmly on its assessment that *"none of the countries will be ready to join the EU during the mandate of the current Commission"*,¹¹ even though ruling out any enlargement in the term of this Commission continues to be perceived as *"a huge mistake"*.¹² A slight shift in the position of the EU can be noted with the declarations of Mogherini and Hahn during the Trieste Summit in July 2017, which formed part of the Berlin process. Mogherini identified the WB as the second priority over the next two years, aiming to move the region closer to the EU. She justified this by saying: *"This is due to the fact that it has the most potential – not because it's a troublesome region"*.¹³ This kind of declaration might indicate a return of the WB as a region of geo-strategic importance. However they have been undermined by the latest announcement of no further enlargement until 2025, while specific strategies have been introduced, but only for Serbia and Montenegro.

Even though during his state of Union address¹⁴ Juncker affirmed: **"if we want more stability in our neighborhood, then we must also maintain a credible enlargement perspective for the Western Balkans"**, the letter of Intent that he sent to the

8 Ibid.

9 IGOR CRNADAK, Minister of Foreign Affairs of Bosnia and Herzegovina (2017): *"We are all different, our positions are divergent, but we are all on the same track, on the EU track. Thus it is in our common interest to cooperate so that people feel the benefits in everyday life."* Belgrade Security Forum 2017, panel "Berlin Process in Belgrade".

10 EUROPEAN COMMISSION (2017). *White Paper on the Future of Europe: Reflections and scenarios for the EU27 by 2025*. Available at: https://ec.europa.eu/commission/sites/beta-political/files/white_paper_on_the_future_of_europe_en.pdf

11 EUROPEAN COMMISSION (2015). *EU Enlargement Strategy*.

Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2015/20151110_strategy_paper_en.pdf

Despite being positive about their own achievements, the governments of the WB countries are very aware of the fact that they will not become part of the European family any time soon.

12 In this regard, GORAN SVILANOVIC (2017) also underlined that Balkan leaders are *"increasingly realistic"* about the reduced appetite in Brussels for EU enlargement. See: <http://www.reuters.com/article/us-balkans-eu-market/past-repackaged-eu-plan-for-balkan-market-faces-resistance-idUSKBN17925Q>; IGOR CRNADAK, Minister of Foreign Affairs of Bosnia and Herzegovina (2017): *"We need more predictability in the process, but we also must not be avoiding our duties and obligations. If people start to perceive this process as something eternal, they will start looking for alternatives, and this is something we want to avoid."*; IVANICA DAČIĆ, First Deputy Prime Minister and Minister of Foreign Affairs of the Republic of Serbia (2017) asserted that the European Union as an organisation *"does not have a fair attitude towards Western Balkan countries. Either we will join the EU or the EU will join us. I hope that we will enter before the EU falls apart."* Bled Strategic Forum, September 2017. See: <https://www.bledstrategicforum.org/wb-accession-to-eu-a-two-way-process-requiring-effort-from-both-sides-panel-hears/>

13 FEDERICA MOGHERINI (2017). See: EUROPEAN WESTERN BALKANS (2017). *Mogherini: Western Balkans' EU approximation a priority*. Available at: <https://europeanwesternbalkans.com/2017/06/23/mogherini-western-balkans-eu-approximation-a-priority/>

14 JEAN-CLAUDE JUNCKER (2017). State of the Union Address. Available at: http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

President of the European Parliament and to the chairperson of the Council of the EU announcing that the European Commission plans to create the *Strategy for the successful accession of Serbia and Montenegro to the European Union*¹⁵ clearly did not favor the whole region. In the roadmap for a More United, Stronger and More Democratic Union,¹⁶ this strategy is mentioned as one of the ten main priorities and is envisaged to be presented by February 2018, with a view to accession to the EU taking place in 2025. This was acknowledged once again by Hahn in October by stating that Serbia would “*very soon become a part of the European family*”.¹⁷ While this is a positive step towards the integration of Serbia and Montenegro, it is rather discouraging for the remaining countries that lack formal “signs” of their accession process.

Our Union will not be complete until all Western Balkans join the European Union. – Mogherini, Tirana, 3 March, 2017

Nevertheless, at the moment the EC in the Enlargement Strategy assesses that: “*all countries face major challenges with respect to the rule of law*”, with “*Judicial systems not sufficiently independent, efficient or accountable*”, while “*Serious efforts are still needed to tackle organised crime and corruption*”. A credible question remains: when will the WB stop outsourcing democracy from the EU? Despite the moderate encouragement offered by the EC through the acknowledgement that “*there have been efforts to modernise legal frameworks and infrastructure*”, the statement that “*several countries in the region continue to show clear symptoms and various degrees of state capture*”¹⁸ demonstrates that reservations continue to exist.

15 EUROPEAN COMMISSION (2017). Roadmap for a More United, Stronger and More Democratic Union. Available at: https://ec.europa.eu/commission/sites/beta-political/files/roadmap-factsheet-tallinn_en.pdf

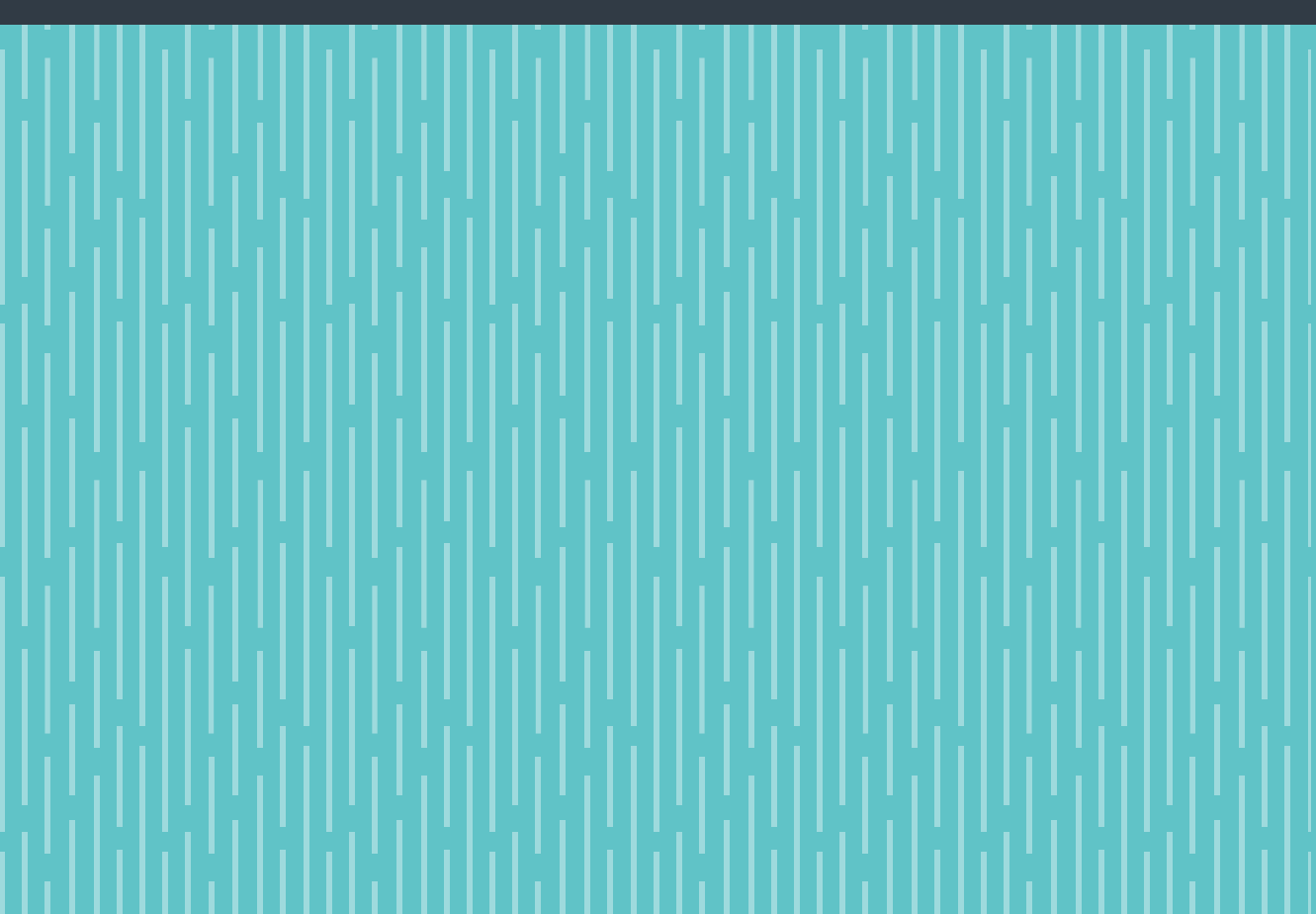
16 Ibid.

17 JOHANNES HAHN (2017). See: EUROPEAN WESTERN BALKANS (2017). Hahn, Tajani, Mogherini, Brnabić: Serbia will soon become part of the European family. Available at: <https://europeanwesternbalkans.com/2017/10/11/hahn-tajani-mogherini-brnabic-serbia-will-soon-become-part-european-family/>

18 EUROPEAN COMMISSION (2016). *Implementation of the 2015 Enlargement Strategy*. 2016 Communication on EU Enlargement Policy. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20161109_strategy_paper_en.pdf (p.3).

1

**THE BALKANS
AS SEEN BY THE EU
AND AT HOME**



1.1. The approach of the EU elite – the Balkans: partners on hold

The various external threats to the EU and its “unpreparedness” to manage them have pushed the troubled Balkan states into thinking they can invoke the “stability” card as their “shortcut” to accession. Needless to say that numerous statements from high level EU officials,¹⁹ primarily on the importance of the stability of the region for the interest of the Union²⁰ and the neighborhood, have encouraged this, whilst at the same time they have turned a “blind eye” to fundamental reforms.²¹

Firstly, the rising security threats of terrorism and radicalization, as well as the influence of foreign actors such as Russia, Turkey and Iraq on both the EU and the enlargement countries, have to some extent worked in the WB’s favor since they have contributed to the region being placed higher on NATO’s agenda, as demonstrated by the accession of Montenegro to the Alliance. These threats clearly impose the need for improved **collaboration which has to be built upon**. In this regard, NATO’s PA report stated that the “WB are under risk and thus must be strongly supported”.²²

The refugee crisis is the second factor shifting the relevance of the WB towards that of a viable partner in the eyes of the EU.²³ Since 2015, the Commission has placed a heavy emphasis on the capacities of the police and the institutions that deal with border control and influence the movement of refugees. This theme has become stronger throughout the country reports, while at the same time they have acknowledged that the WB countries offered their support in tackling the **migration crisis**, which resulted in the effective closure of the WB route. Ultimately, the WB contributed to a significant drop in the number of migrants reaching Greece and a decrease in the number of lives lost,²⁴ which were effectively the main concerns of the EU during this period.

19 Regarding the economic situation Hahn (2016) noted that even though it has gradually improved in all the countries, the continuing weaknesses of the rule of law negatively affects the investment climate in many countries, which in turn is the reason why the EU insists on the strengthening of the fundamentals. See: https://ec.europa.eu/commission/commissioners/2014-2019/hahn/announcements/enlargement-package-2016-johannes-hahn-committee-foreign-affairs-european-parliament_en. Additionally, during the STOEU2017 address Hahn (2017) stressed that “if we want more stability in our neighborhood, we must maintain credible enlargement perspective for the WB”. See: http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

20 INSTITUT ALTERNATIVA (2016). Back to Basics: *Re-affirming the Rule of Law in the Western Balkans*. Podgorica, Montenegro. Available at: http://epi.org.mk/docs/Back%20to%20Basics_Re-affirming%20the%20Rule%20of%20Law%20in%20the%20Western%20Balkans_FINAL%20brief.pdf

21 IVICA DAČIĆ (2017): “EU is turning a blind eye to certain undemocratic developments in the EU member states, and has somewhat double standards for dealing with the other states”; IGOR CRNADAK (2017) spoke of “stabilocracy” as a “damaging policy”. Both Belgrade Security Forum 2017, panel “Berlin Process in Belgrade”. See: <https://european-westernbalkans.com/2017/10/12/bsf-day-two-belgrade-security-forum/>

22 EUROPEAN WESTERN BALKANS (2017). NATO PA Report: *Western Balkans under risk, must be supported*. Available at: <https://europeanwesternbalkans.com/2017/04/28/nato-pa-report-western-balkans-under-risk-must-be-strongly-supported/>

23 Something that has been underlined both by Mogherini and Hahn on numerous occasions. See: <https://europeanwesternbalkans.com/2015/09/17/brussels-eu-commissioner-for-european-neighbourhood-policy-and-enlargement-negotiations-johannes-hahn-warned-the-eu-member-states-on-thursday-against-shifting-the-responsibility-for-receivingrefuge/>

24 EUROPEAN COMMISSION (2016). *Enlargement Package 2016 - Johannes Hahn at the Committee on Foreign Affairs of the European Parliament*. Available at: https://ec.europa.eu/commission/commissioners/2014-2019/hahn/announcements/enlargement-package-2016-johannes-hahn-committee-foreign-affairs-european-parliament_en

Nonetheless, this cooperation seen during the migration crisis did not bring about advances regarding the issue of rule of law, explained in part by the numerous studies that have highlighted the rather detrimental impact the crisis had on the rule of law in the region.²⁵ In fact, most WB countries still face **important structural shortcomings**, although it should be noted that “*given the complex nature of the necessary reforms, this is of course a long term process*”.²⁶ Shortcomings are present in all branches, characterized by malfunctioning democratic institutions, continued weaknesses in the rule of law followed by backsliding in progress made in this area, the failure to practically implement fundamental rights in key areas, the lacking central role for national parliaments and the emerging trend of boycotting parliaments, all of which are shown in this analysis to be central concerns for several countries.²⁷ Regionally, WB countries have unresolved bilateral disputes amongst each other or with EU member states. The **regional cooperation** mainstreamed through the Berlin process - which aims to connect people, market and infrastructure as well as to foster good neighborly connections and aid the resolution of bilateral issues - is in its early stages: no concrete results have been achieved so far.²⁸ Structural changes are needed if the Berlin process is to really deliver advantages to people and revive their trust.²⁹ Regrettably, even though positive results in WB countries have come about at ‘*different speeds*’, the EC maintains the same assessment with slightly different wording for all countries in the area of rule of law. Nonetheless, there are still “*hopes the Western Balkans would have done so many steps by the end of 2019 that process towards the EU becomes irreversible*”.³⁰

This again could easily be undermined if the issue of rule of law is not dealt with genuinely: while the EU purports to export democracy, in some cases we see examples of where illiberal democracy has been exported instead. The EU must be careful not to turn a blind eye to this.

Even though the fundamentals are at the core of the EU's conditionality, the reason why a partnership with the WB is so attractive is its importance in terms of the stability of the region and the Union. As it has been pointed out previously, the EU cannot expect to have the reputation of a strong global actor if it cannot even hold its position in its own geopolitical front yard. As Mogherini stated during her visit to Sarajevo: “What is at stake for us is peace which is not a minor thing to mention in this

25 BODO WEBER (2017). *The EU-Turkey Refugee Deal and the Not Quite Closed Balkan Route*. Sarajevo: Friedrich-Ebert-Stiftung Dialogue Southeast Europe. Available at: <http://library.fes.de/pdf-files/bueros/sarajevo/13436.pdf>

26 JOHANNES HAHN (2016). See: EUROPEAN COMMISSION (2016). *Enlargement Package 2016 – Johannes Hahn at the Committee on Foreign Affairs of the European Parliament*. Available at: https://ec.europa.eu/commission/commissioners/2014-2019/hahn/announcements/enlargement-package-2016-johannes-hahn-committee-foreign-affairs-european-parliament_en

27 Macedonia, Kosovo, Albania and Montenegro.

28 However, Mogherini remained cautious, and on another occasion in Brussels she described the WB as: “*a region exposed to different layers of challenges and tensions. Some internal, domestic politics dynamics that create tensions in some countries; some regional inter-ethnic tensions or between or among countries that are extremely dangerous because they could bring the region back a few years... The Balkans can easily become one of the chessboards where the big power game can be played.*” See: EEAS (2017). *Remarks by High Representative/Vice-President Federica Mogherini following the Foreign Affairs Council*. Available at: https://eeas.europa.eu/headquarters/headquarters-homepage/22056/remarks-high-representativevice-president-federica-mogherini-following-foreign-affairs-council_ru

29 HEDVIG MORVAI, Executive Director of European Fund for the Balkans (2017). See: EUROPEAN WESTERN BALKANS (2017). *Day two at the Belgrade Security Forum*. Available at: <https://europeanwesternbalkans.com/2017/10/12/bsf-day-two-belgrade-security-forum/>

30 FEDERICA MOGHERINI, Building a peoples' Europe, speech address, Florence, May 2017

city, it is stability, security, economic opportunities for all of us, regional cooperation and what I call the reunification of our continent”.³¹

Discouraging is the fact the WB “accepts change when faced with necessity and recognizes necessity when amidst of a crisis”.³² There is a perception of the accession process as eternal or never-ending, a notion that is not aided by the long-term nature of the required reforms. To counter these hindrances to progress, there is a need for clear EU political will and a speeding up of the reform process. This is indicated clearly by the example of Macedonia,³³ which illustrates what happens when there appear to be minimal prospects for advancement, when progress reports are softened up and when a country stops taking reforms seriously.³⁴

Equally, the new momentum seen in Macedonia and the justice reform in Albania are examples of the positive changes that can occur when countries are encouraged by evident will for integration on the side of the EU.

Similarly, EU political will can help to avoid a situation whereby WB countries seek alternatives to EU integration. “We are seeing the growing Russian influence, we are seeing growing Turkish influence, the United States is a player, the European Union is a player, so there are different interests at stake.”³⁵ As for Balkan politicians, they are also always eager to promote Russia’s image as a alternative to the EU when pursuing their own interests.³⁶ Experienced enough, Mogherini during her visit in Belgrade underlined: “*there is a perception that full membership implies having to make a choice between the East and the West. One does not rule out the other, and work must be done to change this perception.*”³⁷ Thus, there are undeniably many foreign influences operating in the region in the pursuit of their own interests and even Balkan politicians themselves have been eager to promote the image of Russia as an alternative to the EU. The EU has the opportunity to stem such a recourse by demonstrating its political will and thus offering some encouragement to the WB countries.

31 FEDERICA MOGHERINI (2017). See: EEAS (2017). Remarks by High Representative/Vice-President Federica Mogherini following her meeting with Denis Zvizdić, Chair of the Council of Ministers of Bosnia and Herzegovina. Available at: https://eeas.europa.eu/headquarters/headquarters-homepage/21973/remarks-high-representativevice-president-federica-mogherini-following-her-meeting-denis_en

32 IGOR CRNADAK, Minister of Foreign Affairs of Bosnia and Herzegovina (2017): “We need more predictability in the process, but we also must not be avoiding our duties and obligations”, explaining that a high level of public support for the EU accession process should not be taken for granted. “If people start to perceive this process as something eternal, they will start looking for alternatives, and this is something we want to avoid.” See: BLED STRATEGIC FORUM (2017). WB Accession to EU a two-way process requiring effort from both sides panel hears. Available at: <https://www.bledstrategicforum.org/wb-accession-to-eu-a-two-way-process-requiring-effort-from-both-sides-panel-hears/>

33 HOYT BRIAN YEE, Deputy Assistant Secretary of the Bureau of European and Eurasian Affairs at the US State Department (2017) claimed that the joke that the EU pretends to offer membership and the Western Balkan countries pretend to make reforms remains true, saying that the region “only accepts change when faced with necessity and only recognise necessity when amidst of a crisis”. Bled Strategic Forum, September 2017. See: <https://www.bledstrategicforum.org/wb-accession-to-eu-a-two-way-process-requiring-effort-from-both-sidespanel-hears/>

34 NIKOLA DIMITROV, Foreign Affairs Minister of the Republic of Macedonia (2017). Bled Strategic Forum, September 2017: See: <https://www.bledstrategicforum.org/wb-accession-to-eu-a-two-way-process-requiring-effort-from-both-sides-panel-hears/>

35 Ibid.

36 MAXIM SAMORUKOV, Deputy Editor of Carnegie.ru Moscow Center (2017): “Moscow has opted for a low-cost, opportunistic approach in the Western Balkans that shifts most of the burden to local actors.” See: CARNEGIE EUROPE (2017). Russia’s Tactics in the Western Balkans. Available at: <http://carnegieeurope.eu/strategieurope/74612>

37 FEDERICA MOGHERINI (2017). See: EUROPEAN WESTERN BALKANS (2017). Mogherini with Serbian President: “East or West” dilemma a wrong perception. Available at: <https://europeanwesternbalkans.com/2017/03/03/mogherini-with-serbian-president-east-or-west-dilemma-a-wrong-perception/>

1.2. Looking through rose-tinted glasses?

Despite the numerous challenges and shortcomings, it has become a habit for politicians to salute each report by underlining how 'positive' the assessment is and how their work has contributed to such a favorable outcome.³⁸

For two years in a row, the political leaders of Albania, BiH, Kosovo, Montenegro and Serbia have welcomed the EC progress reports as the most positive one yet. However, a deeper analysis reveals that the real assessment of some of the most important areas does not go in favor of the domestic politicians.³⁹ **Macedonia is the exception to this trend of overly-optimistic responses**, with former political elites criticizing the EU and blaming it for the ongoing political crisis in the country, primarily due to the drawn-out and stagnant situation regarding EU integration.⁴⁰ For example, the (ex) Macedonian Prime Minister, expressed discontent with the EU for not awarding "better grades" even when the country had successfully cooperated in some areas, such as the refugee crisis.⁴¹

When it comes to the political criteria - public administration reform - most of the WB countries retain the same assessment. Only Albania and Kosovo have lower scores in comparison to last year. This does not correspond with the fact that narratively the EC still puts emphasis on the fact that the public institutions are politicized which prevents the normal functioning of the country and its institutions throughout all the sectors.⁴² Additionally, when it comes to the progress of the functioning of the judiciary most countries maintain the same grades across 2015 and 2016, with slight improvements in the cases of Kosovo and Albania.⁴³ In Macedonia, despite a declarative commitment to the priorities set out by the EU,⁴⁴ the country continued

38 As an example, in Montenegro ALEKSANDAR ANDRIJA PEJOVIĆ, Chief Negotiator for EU Accession, repeated the words of former Prime Minister, MILO ĐUKANOVIĆ, who stated last year that the 2016 report is the most positive so far. He pointed out the report's findings on the establishment of institutions and the development of the legislative framework, which clearly show the scope of the progress Montenegro achieved thus far. See: RTCG (2016): Report on Montenegro best so far. Available at: <http://rtcg.me/english/montenegro/147079/report-on-montenegro-best-so-far.html>

39 As an example, the Prime Minister of Serbia predictably stated that Serbia showed progress in "almost all chapters" while the head of the EU delegation in Serbia was also supportive during the presentation of the report, which leaves the public with the image of Serbia as the best pupil on its way to EU membership. However, as a matter of fact we can see from the progress reports that Serbia shows backsliding in 2015 compared to 2016 both in some of the pilot political criteria areas, and in some of the *acquis* chapters (see pages 10 and 20).

40 The President of the country IVANOV, when receiving the report, underlined that the ongoing political crisis in Macedonia is also due to the continued status quo situation of the country regarding EU integration. The President also noted that the early parliamentary elections might be an opportunity to solve the crisis but only if they are followed by progress in the country's status regarding EU integration. He expressed a hope that the EU would correct their erroneous approach towards the country.

41 KATERINA BLAZEVSKA (2016). See: RW (2016). Nema napredok - stana vtoro ime za Makedonija. (No progress - the second name of Macedonia). Available at: <https://goo.gl/RJTXnf>

42 Nevertheless, after receiving the long-awaited European Commission's Questionnaire on 9th December 2016, the 2016 report was assessed by the administration of BiH as highly successful and as such used as PR material by local governments to praise the positive reform that has been achieved. However, a closer examination of the report (as follows) reveals that any initial optimism is unfounded as, in reality, the situation has not improved in a meaningful way.

43 KLAJDA GJOSHA, Minister of European Integration highlighted that: "the positive recommendation the EC has outlined in the report should make the government more accountable on the continuity of work concerning justice reform, and starting implementation of law on assessment of prosecutors and judges in particular, as key for opening accession negotiations with the European Union". REF.

44 The technical Prime Minister of Macedonia, Dimitriev, on the other stated that the Government remains focused on the priorities as set by the EU, available at: <https://goo.gl/RJTXnf>

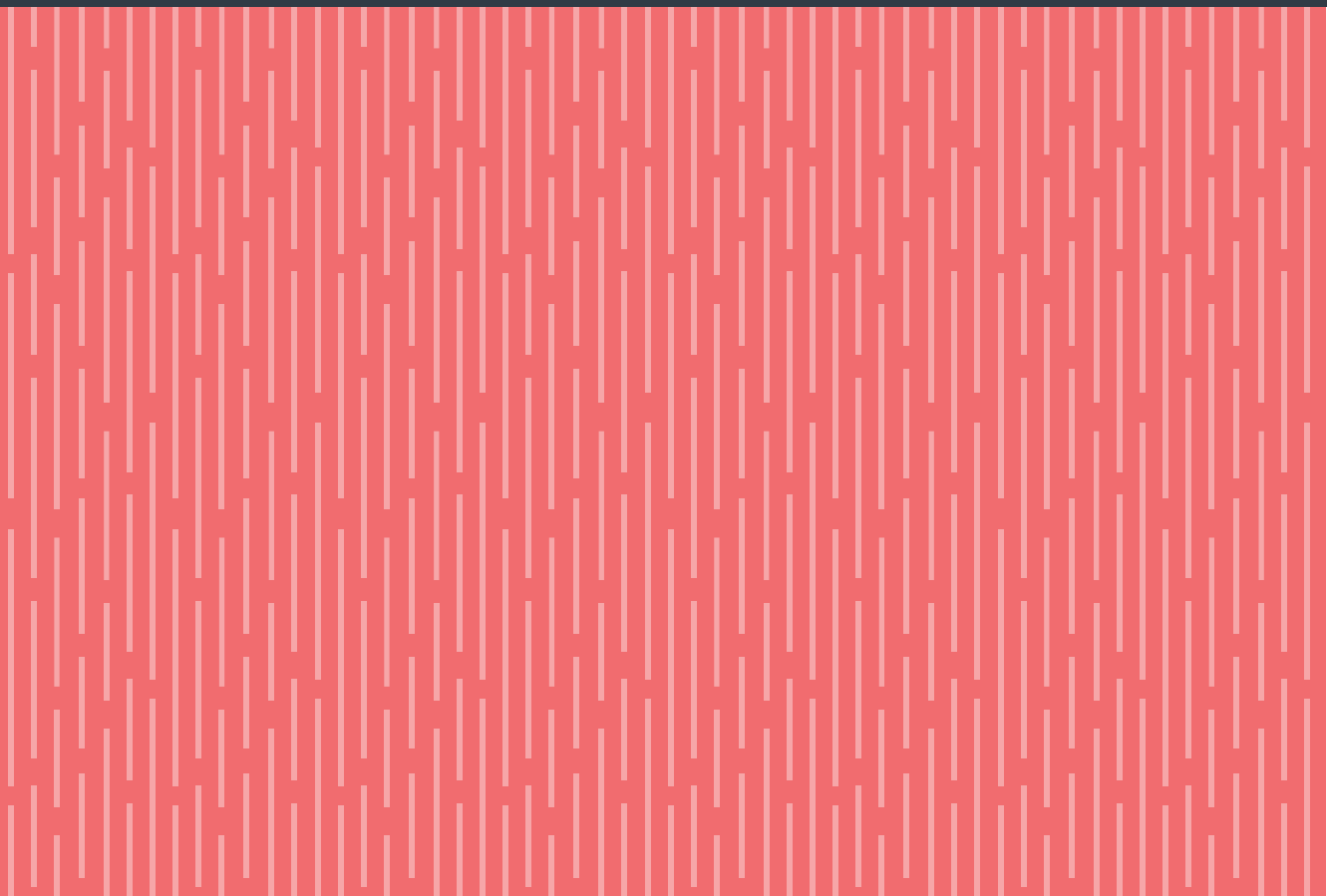
to demonstrate severe backsliding in the area of rule of law making its grade for progress in functioning of the judiciary the worst in the region.⁴⁵ Two additional areas of great importance for the accession process, and of serious concern for the region, the fight against corruption and the fight against organized crime, also retain the same grades progress-wise as in 2015, while in the case of Serbia there is a noted deterioration in the fight against corruption. Freedom of expression remains the most troublesome area, with the most concerning grades: no progress was seen in any of the WB countries in this regard.

However, the grades given to each country are not directly comparable, as they often fail to capture the context. For example, we can see that when it comes to PAR, Macedonia scores relatively well on technical issues, but the key issue of politicization remains “pertinent”.

⁴⁵ This is in spite of the fact that the country was the first to set out on judicial reform back in 2003 and was far ahead for many years.

2

FOCUS ON FUNDAMENTALS – A VIEW FROM WITHIN⁴⁶



2.1. Politic(ised)al criteria

All of the WB countries face complex political situations. Some of the challenges encountered in national parliaments, public administration, and judicial systems are similar. The concept of politicization has consistently emerged as a theme for the past two years and its repetition indicates that the EC should dedicate more attention to addressing the causes behind it.

All countries must strive to de-politicize public service. More specifically, in Albania, this should be targeted towards the independent institutions and the electoral process. Montenegro should ensure the full implementation of the law in the cases of civil servants and state employees and adhere to the principles of merit and transparency in recruitment, appraisals and dismissals at all levels, including for senior positions. Strong political will is needed to achieve this and the resizing of the state administration to an appropriate capacity (recommended last year, and still needed). Macedonia should concentrate on depoliticizing the judiciary and the systems of appointment and promotion in practice, not only in law, and also on ensuring the separation of state and party activities in the electoral process. BiH should focus its efforts in this area on financial and institutional stability as well as editorial independence for the Public Service Broadcasters.

Although the legal frameworks required may be in place to varying levels in each country, shortcomings persist in practice, thus indicating merely “shallow” Europeanization.⁴⁷

Even when it has been achieved, progress has generally been technical, failing to genuinely address politically-sensitive issues. There has been a continuous trend of stagnation or backsliding in terms of fundamental rights and this has especially been reflected in the deteriorating freedom of the media and the violation of human rights by police officers and other official institutions.⁴⁸ Particularly in Macedonia and BiH, backsliding has occurred regarding media freedom, information society and the functioning of the judiciary. In addition, backsliding has been recorded in BiH in terms of amendments to the legal framework for the civil service in the Federation entity, increasing the risk of politicization, while in Macedonia there has been regression in the management of public finances and fiscal discipline.⁴⁹ On another note, the cooperation between the Government and civil society has declined, as demon-

46 This part of the paper follows the same structure as the EC country reports, firstly giving an overview of the assessment of the Political Criteria in all the WB countries, and secondly reviewing the section on Democracy, referring to: Elections; Parliament; Governance; and Civil society. This is followed by an analysis of the EC's assessment of Public Administration (Pilot area) and Rule of law (Pilot area) including topics such as: the functioning of the judiciary; the fight against corruption; and the fight against organized crime. The final part of this section of the paper is dedicated to an assessment of the section on Human Rights and the Protection of Minorities, including Freedom of Expression (Pilot area).

47 „JAN-HINRIK MEYER SAHLING (2017). Third Regional WeBER Platform meeting. November 2017, Skopje”

48 EUROPEAN POLICY INSTITUTE (2016). *Monitoring and Evaluation of the Rule of Law in the Western Balkans*. Skopje: European Policy Institute. Available at: <http://balkanfund.org/wp-content/uploads/2017/01/Monitoring-and-Evaluation-of-the-Rule-of-Law-in-the-Western-Balkans.pdf>

49 Various analyses confirm that the countries are facing stagnation and regression, for example: “Albania, Bosnia and Herzegovina, Croatia, Kosovo, and Macedonia have all suffered a decline in national democratic governance over the past five years, driven in part by the overlap between business and political interests and the nagging problem of organized crime”. See: FREEDOM HOUSE (2012). *Fragile Frontier: Democracy's Growing Vulnerability in Central and South-eastern Europe – Overview Essay*. Available at: <https://freedomhouse.org/report/nations-transit-2012/overview-essay>

strated by the shrinking space for CSOs and the campaigns against them. The role of non-governmental actors in EU Accession efforts is limited by a lack of access to key information on the progress made in meeting EU criteria, especially in Montenegro.⁵⁰ Through observing the grades accorded by the EC, it is noticeable that Serbia, Montenegro, Albania and Macedonia are advancing more or less at the same speed. Equally, Kosovo and BiH are progressing at the same pace. It should be noted that Macedonia was previously ahead of other WB countries but its progress has declined/slowed severely in recent years. However, the use of grades in between two grades (e.g. Some progress/good progress) perhaps suggests that the EU is “stuck” with the existing system of grading - the scale is too simple for a long-term process, so it is unable to serve its purpose.

The big question we face is: Can the traditional EU approach of technicisation capture the political landscape in the WB countries, especially taking into account the trend of “securitisation”, while keeping it in mind that the EU perspective is uncertain in the long-term and the political outlook (determined by election period) is inevitably short term ?

2.1.1. De(clining)mocracy

The EC reports indicate that democracy⁵¹ continues to be one of the main challenges for all the WB countries, both in 2015 and 2016. The role of their respective national parliaments remains underdeveloped. The trend of boycotting the national parliaments that has been a point of focus in both 2015 and 2016 for Macedonia, Kosovo and Albania is particularly concerning. Moreover, the occurrence of violence inside parliament has been noted in Montenegro in 2015, Kosovo in 2015 and 2016 and Macedonia in 2017.

According to Freedom House, the WB democracy score has declined 6 years in a row, leading to an average democracy score in 2016 equal to that of 2004.⁵² Kosovo received the worst score, although the country’s position has improved since 2015, while Serbia received the best score, despite it having declined since 2015.⁵³ The report where illustrates that the highest average score for the region was accorded in 2008, while the worst score was seen in 2016. In 2017 there has been even further deterioration in this area, with a severe attack on democracy having taken place in Macedonia where violent protesters entered the parliament building and physically harmed several MPs (including the now serving prime minister).

50 EUROPEAN POLICY INSTITUTE (2016). *Monitoring and Evaluation of the Rule of Law in the Western Balkans*. Skopje: European Policy Institute. Available at: <http://balkanfund.org/wp-content/uploads/2017/01/Monitoring-and-Evaluation-of-the-Rule-of-Law-in-the-Western-Balkans.pdf>

51 Including the subsections of elections, parliament, governance, civil society, and civilian oversight of the security courses.

52 NATE SCHENKKAN (2016). *Europe and Eurasia Brace for Impact*. Freedom House. Available at: <https://freedom-house.org/report/nations-transit/nations-transit-2016>

53 Ibid.

Elections

Improvements to electoral legislation and the orderly conducting of elections are among the preconditions which in the past have not only been used for granting candidate status (as in the case of Albania), but have also represented a condition for opening negotiations and are noted as a benchmark in the context of Chapter 23 (in the cases of Montenegro and Serbia). While the EC praised Montenegro and Serbia for the conduction of their national elections in accordance with EU standards, the electoral legislative and institutional framework in Montenegro requires further alignments with international standards. Electoral reform remains necessary in Albania and Kosovo. This is unsurprising given that early parliamentary elections have become almost an annual habit in the WB countries. Macedonia currently holds the record in this respect, with four early parliamentary elections in a time span of 10 years, while Montenegro and Serbia are just behind, with two.⁵⁴

Violence, claims of intimidation and irregularities during elections which remain uninvestigated are all evident in Serbia, Macedonia and BiH. What appears to be most pertinent in Macedonia, Albania and Kosovo is the lack of separation of state and party activities, political party financing and party electoral campaigning, (un)balanced media reporting and the failure to continuously update the electoral register.

Parliament

Parliaments in the region are characterized by weak oversight functions and their hindered performance as a forum for constructive political dialogue and representation. The EC parliamentary recommendations are focused on the necessity of improved cooperation with, and more effective oversight of, the executive, as well as the participation of all parliamentary parties, proper consultation and transparency. The reasons for the necessity of these changes differ across the WB countries: From polarization and antagonism between the main parties in Montenegro, Serbia, Kosovo and Albania, to the authoritarian ruling of the (ex)government Macedonia, to the case of BiH in which the state level parliament is blocked by the different nationalist agendas.⁵⁵ In Kosovo the Parliament has been continuously criticized for its lack of institutional debate, violent obstruction of plenary sessions and the use of fast-track procedures to enact several important laws. Similarly, in Albania, Macedonia and Montenegro opposition parties have boycotted their parliaments demanding that free elections be held, which in turn has weakened the oversight function of the parliaments.

54 Ibid (p.36).

55 MARKO KMEZIĆ and FLORIAN BIEBER (eds.) (2017). *The Crisis of Democracy in the Western Balkans. An Anatomy of Stabilitocracy and the Limits of EU Democracy Promotion*. Balkans in Europe Policy Advisory Group (p. 36). Available at: <http://www.biepag.eu/wp-content/uploads/2017/05/final.pdf>

Governance⁵⁶

In Serbia, Montenegro, BiH and Kosovo the government must strengthen transparency and stakeholder inclusiveness in the accession process and also improve coordination between different levels of government for the alignment, implementation and enforcement of EU law. The more numerous recommendations for Albania, Montenegro, Macedonia and Serbia revolve around the improvement and reform of self-government, the consolidation of public finances and the strengthening of budgetary positions, transparency, efficiency and accountability. For effective decentralization, improvements in the legal frameworks are needed throughout the region, alongside the distribution of the capital funds and insurance that rural municipalities require in order to carry out the responsibilities given to them. In Macedonia, while inter-ethnic relations remain fragile, 2016 saw a drastically reduced list of recommendations in the sphere of governance, the only one being to complete and review the Ohrid Framework Agreement. This was in contrast to 2015 when there were several recommendations on undertaking further initiatives to promote good inter-community relations and an inclusive multi-ethnic society, alongside investigations into high-level sensitive cases.

In the case of Serbia, which has the largest number of recommendations (followed by BiH), almost all the recommendations from 2015 are repeated in 2016. Similarly, the recommendations are the same for Montenegro across both years, but in this case the country has the least number of recommendations. Macedonia, Albania and Kosovo have new recommendations in 2016, while the status of the recommendations from 2015 that have not been repeated remains unknown.

Civil society

The relationship between civil society and governments in the WB remains problematic. CSOs need to participate more in public consultations, public funding of civil society needs to be transparent and clarified, while CSOs, as key societal actors, need to be involved in policy dialogue. In this regard, due to the structured engagement and advocacy of the WB civil society, the EC's focus on civil society has been increasing, as demonstrated by both the greater attention devoted to this section in the country reports and the increased consultation of CSOs by the EC.

The overall space for civil society has been shrinking and CSO sustainability remains stagnant.⁵⁷ Despite some observable progress in terms of government-CSO cooperation in Kosovo, BiH and Albania, there is still a need for closer cooperation and coordination at all levels of government with the parliament and civil society groups dealing with EU integration. In Montenegro, civil society continues to be excluded from accession talks, which remain exclusively between the Government and the

⁵⁶ As EPI and the TEN network previously pointed out in the comparative analysis of 2015: the Commission changed the title of the subsection "Government" into "Governance". The reasons for this remain unknown. Given that distinctions exist between the two, the latter being a much broader term that refers to all processes of governing and not solely to the formal body (the Executive) authorized to make decisions, the wording should be reversed to "Government".

⁵⁷ EUROPEAN COMMISSION (2016). *Albania 2016 Report*. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf

Commission. In Macedonia, the important role for civil society in supporting democratic processes has been recognized, in particular the initiative of a group of CSOs for Urgent Democratic Reforms.⁵⁸

Of particular concern is the hate speech against CSOs, which is an emerging trend in the WB.⁵⁹ The region is not an isolated case, since the same trends have equally surfaced in EU MS. In this regard, the EC should be more insistent on CSO conditionality in light of the hostile local and global environment.

2.1.2. Public Administration Reform – only a de jure reform

The strategies for reforming public administration in the WB remain an empty fanfare,⁶⁰ while public service in the countries has been deemed to be in the “basket of politicization”. The use of the public sector as a political instrument is concerning as it leads to an oversized administration and a challenging optimization process. The reforms needed will require a lot of time, political will and resources, especially if they are to be sustainable.

The lines of accountability in the administrations of each country are ambiguous, indicating that the state administrations are fragmented. As detailed in the previous section regarding the political criteria, the implementation of a more transparent recruitment process for civil servants must occur – something that is not emphasized heavily enough by the EC. The wording in this section of the EC reports is mild, while on the ground clientelism and politicization takes place. In this area, the targeted goals outlined above (see page 14) will be key to the consolidation of achievements towards more efficient, depoliticized, and professional public administrations.

The EC has once more pointed out that public policies and major investments are rashly adopted without proper consultations on the ground and ex ante assessments.

As shown in the charts⁶¹ below, we can see that Montenegro, Serbia, Macedonia and Albania maintain the same (highest) grades of preparedness for the region both in 2015 and 2016, while the status has not changed in either BiH or Kosovo, with BiH coming last with an ‘early stage of preparation’, and Kosovo having ‘some level of

58 The Blueprint represents a joint effort of a group of civil society organizations (CSOs) and is a product of synergy and cooperation between CSOs, academia and independent experts. This joint effort was a response to the current political crisis, backsliding of democratic standards, rule of law and loss of credibility of institutions.

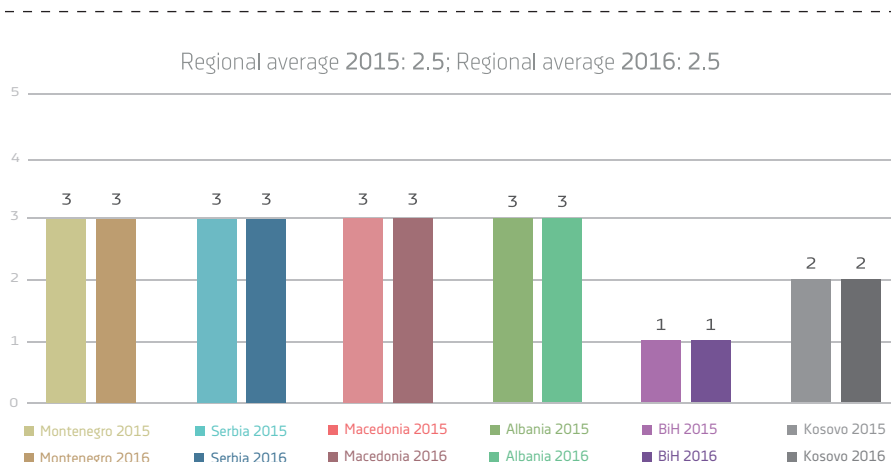
59 Particularly following the election of Donald Trump in 2016, populist leaders across Central and Eastern Europe launched intensified attacks on nongovernmental organizations. See: NEW YORK TIMES (2017). *After Trump Win Anti-Soros Forces Are Emboldened in Eastern Europe*. Available at: <https://www.nytimes.com/2017/03/01/world/europe/after-trump-win-anti-soros-forces-are-emboldened-in-eastern-europe.html>

60 The formulation of PAR strategies are guided by the SIGMA (joint initiative of the OECD and the European Union - Support for Improvement in Governance and Management) principles that represent a set of rules, the key objective of which is to strengthen the foundations for improved public governance, and hence support socio-economic development through building the capacities of the public sector, enhancing horizontal governance and improving the design and implementation of public administration reforms, including proper prioritisation, sequencing and budgeting. SIGMA publishes early monitoring reports analyzing how the countries are performing in the area of public administration reform (PAR).

61 The evaluation for both preparedness and progress is elaborated on in Annex 1.

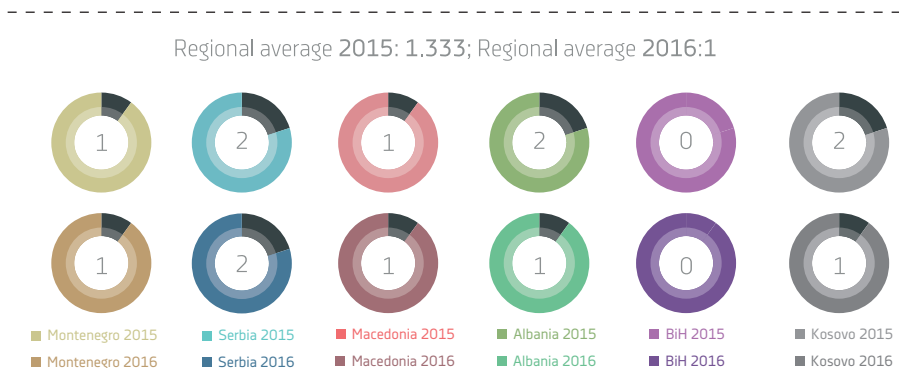
preparation'. It is important to note that Macedonia and Albania have had the same score as Montenegro and Serbia for two years in a row, yet are deemed less advanced by the EC in the narrative report.

Public administration reform - Preparedness



When it comes to progress in public administration reform, Serbia is the frontrunner for the second year in a row, Montenegro and Macedonia have maintained the same grades, Kosovo and Albania have lower grades this year, and BiH, coming last, has seen no progress for two years in a row.

Public administration reform - progress



2.1.3. Rule of (un)law

As reaffirmed by the 2016 Paris final declaration from the latest Berlin process summit “more than ever, the rule of law lies at the heart of the enlargement process, including thorough judicial reforms, tackling organized crime and corruption, as well as ensuring full respect of fundamental rights”.⁶² Even though more than a decade has passed since many of the WB countries signed the SAA (16 years in the case of Macedonia, which signed the SAA in 2001), corruption and organized crime remain the most prominent challenges in all of the EC country reports.⁶³ Despite rule of law persisting as a problematic area for all WB countries, they have been left without clear guidance and clarity on what an “EU model of rule of law” means.⁶⁴ In this regard, the rules are ambiguous and there are difficulties in measuring progress. At the same time, the EU seems to have trouble grasping the historical legacies that have influenced each country’s judiciary system.⁶⁵ The big issue is that the EU is lacking hard *acquis*. The EU is presenting international standards and best practices as *acquis*. However, on the basis of international standards concrete models and templates are advocated by the EU, the sustainability and results of which have yet to be seen. An example of this is the vetting process in Albania.⁶⁶

Functioning of the judiciary

All of the WB are faced with a low level of professionalism in the courts, inefficient and ineffective administration, nepotism, corruption, a lack of accountability and public trust, the inadequate dismissal and promotion of judges and a lack of adequate training.⁶⁷

In general, the EC recommendations revolve around strengthening financial, human and administrative resources and improving their planning and distribution. Despite efforts having been taken to establish legal frameworks and infrastructure, most countries still face problems in terms of a lack of independence and accountability, both of which must be improved. Even though new strategies and judicial reforms have been adopted, there is a call for full implementation, transparency in professional appraisals and promotion systems, as well as criminal liability, disciplinary and ethical responsibility. The depoliticization of systems of appointment and promotion and a re-evaluation of existing prosecutors and judges are both required. Court de-

62 EUROPEAN PARLIAMENT (2016). *The Western Balkans and the EU: Enlargement and challenges*. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589791/EPRS_BRI\(2016\)589791_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589791/EPRS_BRI(2016)589791_EN.pdf)

63 Ibid.

64 MARKO KMEZIĆ (no date). *Lack of Clarity and Credibility in the EU Rule of Law Conditionality*. Balkans In Europe Policy Blog. Available at: <http://www.suedosteuropa.uni-graz.at/biepag/node/50>

65 EUROPEAN PARLIAMENT (2016). *The Western Balkans and the EU: Enlargement and challenges*. Available at: [http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589791/EPRS_BRI\(2016\)589791_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2016/589791/EPRS_BRI(2016)589791_EN.pdf)

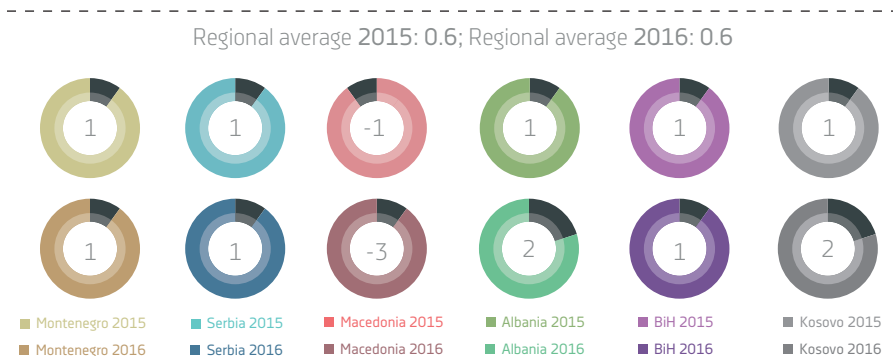
66 As part of measures to fight corruption and re-establish public trust in the judiciary, the law provides for re-evaluation (vetting) based on 3 criteria: integrity through assets assessment, background assessment (inappropriate links with organised crime) and professional competence. See: EUROPEAN COMMISSION (2016). Albania 2016 Report. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf

67 ZORAN ILIEVSKI (2014). *Europeanization by Rule of Law Implementation in the Western Balkans*. Skopje: Institute for Democracy. Available at: <https://goo.gl/yxHwer>

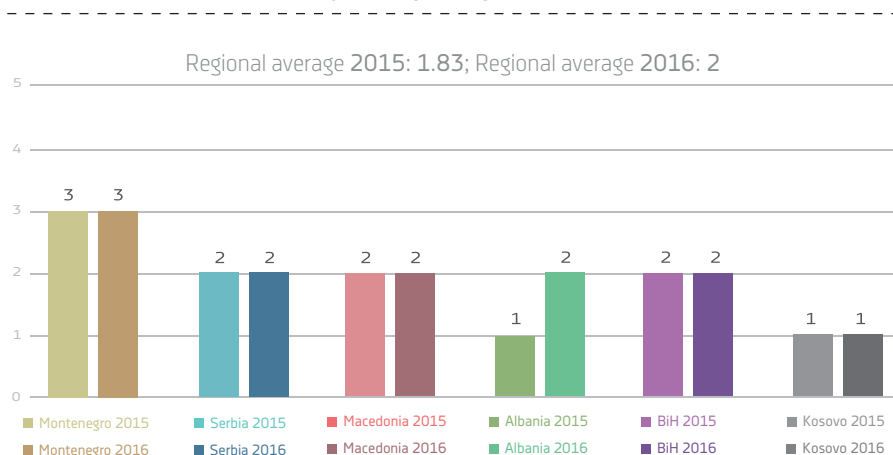
cisions should be published on time and anonymously⁶⁸ and in many countries the same recommendation to reduce the backlog of cases is mentioned.

In 2016 the EC repeated all of its recommendations from the previous year in the cases of Macedonia and BiH, a large number of those for Albania and Kosovo, and introduced several new ones for Serbia and Montenegro. However, the scope of the recommendations is diverse. Albania is an exceptional case with the launching of the specific vetting mechanism.⁶⁹

Judiciary progress



Judiciary - Preparedness



68 Also noted in the Transformation Index BTI 2016. According to the Index, Albania has the worst grade of 5 on a scale of 1-10 regarding rule of law, while Serbia leads with 7.3. When it comes to the independence of the judiciary, Albania fares the worst with a grade of 4, while Serbia and Montenegro lead in this section with a grade of 7, and the remaining countries have been given the same grade – 5. See: BTI Index 2016. Available at: <https://www.bti-project.org/en/reports/regional-reports/east-central-and-southeast-europe/>

69 As part of the measures to fight corruption and re-establish public trust in the judiciary, the law provides for a re-evaluation (vetting) based on 3 criteria: integrity through assets assessment, background assessment (inappropriate links with organized crime) and professional competence. See: EUROPEAN COMMISSION (2016). Albania 2016 Report. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf

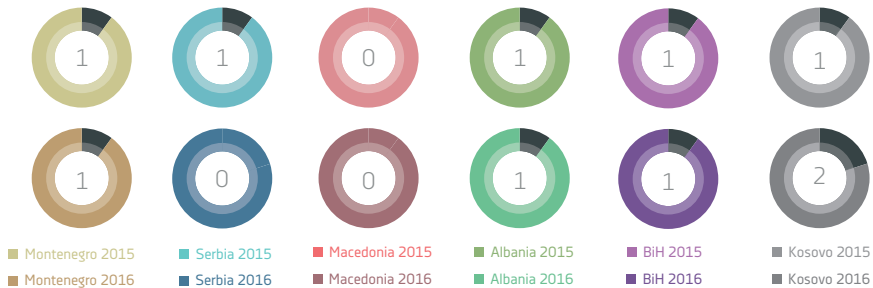
Fight against corruption

The EC offered some praise regarding the efforts that have been taken to strengthen legal frameworks for tackling corruption in the region, but political commitment in the WB countries to this cause has been described as ‘just declared’, meaning that it is not yet fully established and is potentially vulnerable to change.⁷⁰ The fight against corruption remains one of the biggest concerns of the region as a whole, with anti-corruption strategies failing to be fully implemented given the lack of independence and effectiveness of the institutions in charge of the fight against corruption, caused by political influence and weak administrative capacity. An emerging practice in the countries aiming to address the fight against corruption while taking into account this politicization of the institutions responsible is the establishment of a Special prosecutor’s office. However, in addition to their lack of administrative capacity they are faced with political obstacles.

The reduced grade given to Serbia is particularly notable, with the country being considered to have made no progress in 2016. The only case in which an improvement can be observed is that of Kosovo.

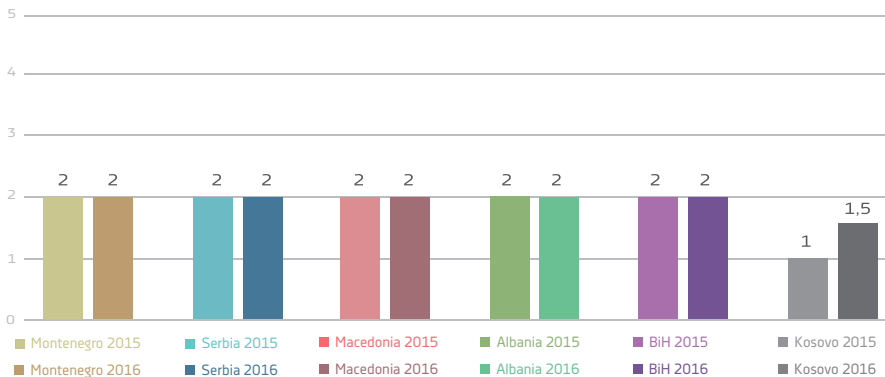
Fight against corruption – Progress

Regional average 2015: 0.833; Regional average 2016: 0.833



Fight against corruption – Preparedness

Regional average 2015: 1.833; Regional average 2016: 1.916



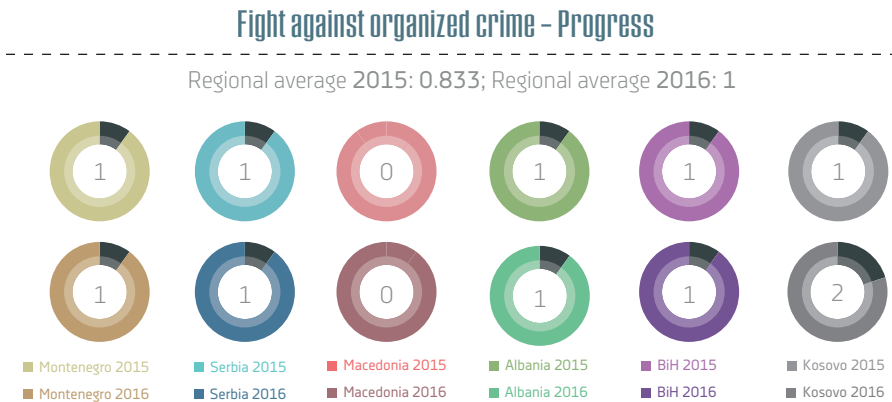
70 EUROPEAN COMMISSION (2016). 2016 Communication on EU Enlargement Policy. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20161109_strategy_paper_en.pdf

Fight against organized crime and terrorism

The EC has given largely positive assessments regarding the strengthened legal frameworks for tackling corruption, but political commitment in the WB countries has been labeled as ‘just declared’.⁷¹ As the enlargement countries represent a partner in the battle against terrorism, further positive comments have been given in regard to the adoption of new anti-terrorism strategies and action plans targeting anti-radicalization as well.

The fight against terrorism in the last two years has been linked by political leaders and the media to the refugee crisis. This has also been visible in the EU arena, especially when antiterrorism measures have been discussed in the context of addressing the refugee crisis and tackling migration issues.⁷² When it comes to the WB, political leaders in the region, especially in Serbia and Macedonia, have used this ‘political momentum’ and played the migration refugee crisis card to advance their own position, including in the integration process. However, in reality Macedonia has achieved the least progress regarding the fight against terrorism, while Kosovo is still the least prepared in the region in this area.

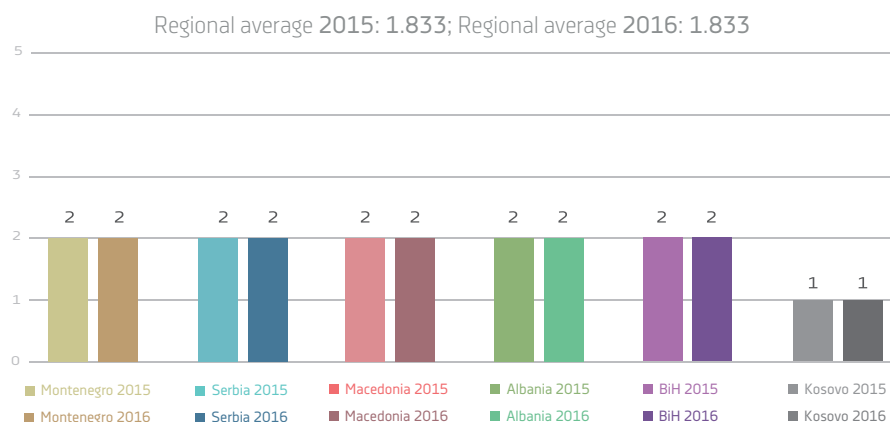
The recommendations given on this subject refer to the need for further efforts to identify, prevent and disrupt the flow of foreign terrorist fighters travelling to conflict areas, the continued necessity of professionalizing and training the police and the need for cooperation between the police and prosecutors.



71 Ibid.

72 EUROPEAN PARLIAMENT (2017). Legislative Train Schedule: Towards a New Policy on Migration – Emergency Support Mechanism for the Refugee Crisis. Available at : <http://www.europarl.europa.eu/legislative-train/theme-towards-a-new-policy-on-migration/file-emergency-support-mechanism-for-the-refugee-crisis>

Fight against organized crime – Preparedness



2.1.4. Human rights and the protection of minorities – forgotten freedoms

The failure to implement the legal frameworks which are (to a certain extent) in place⁷³ hinders progress in the area of human rights. Moreover, in Macedonia and Serbia repeated recommendations from the EC refer to the lacking institutional capacity and political will of the various bodies and institutions responsible for the protection of human rights and minorities. This may be due in part to the fact that there is a lack of financial resources and coordination between the bodies, as noted on several occasions across the reports. In Albania the emphasis should be on property rights, social exclusion and discrimination and the protection of children's rights; in Macedonia and Serbia problems persists regarding freedom of expression, due to the uneven implementation of the law as well as political interference; in Serbia there is a need for better implementation of the protection of vulnerable groups and a comprehensive approach towards the inclusion of national minorities; in Kosovo it is the strategies and legislation relating to the rights of women and minorities that specifically need to be implemented; and in BiH and Montenegro the focus should be on the implementation of anti-discrimination laws.

The wording used by the EC on several occasions does not adequately reflect the severity of the shortcomings regarding human rights protection, particularly in terms of the persistent discrimination against the Roma community and the hostility shown towards vulnerable groups such as the LGBT community.⁷⁴

The importance of implementing media laws is also emphasised, mostly due to the deteriorating situation of media freedom across the WB countries. Severe political interference has hampered the work of public broadcasters, as has the '*untransparent public funding of media, and intimidation of journalists*' in all of the WB countries.⁷⁵

73 EUROPEAN COMMISSION (2016). 2016 Communication on EU Enlargement Policy. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_en.pdf

74 EUROPEAN COMMISSION (2016). 2016 Communication on EU Enlargement Policy. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_strategy_paper_e

75 EUROPEAN PARLIAMENT (2017). Media freedom trends 2017: Western Balkans. Available at: [http://www.europarl.europa.eu/RegData/etudes/ATAG/2017/603888/EPRS_ATAG\(2017\)603888_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2017/603888/EPRS_ATAG(2017)603888_EN.pdf)

The EC reports maintain that no progress has been made in this area.⁷⁶ In general, the media in the whole region is being '*undermined by poor implementation of existing laws; clientelism, politicization and corruption and insufficient political will to promote media pluralism and independence*'.^{77 78}

Cumulative status of Pilot areas for the Political criteria across the WB countries

After introducing the new reporting methodology in 2015, the pilot areas have been expanded further in 2016.⁷⁹ However the pilot areas in the political criteria have remained the same: rule of law and fundamental rights (functioning of the judiciary, corruption, organised crime, freedom of expression), and public administration reform.

Regarding the political criteria, Macedonia has seen the least progress of the countries in the region, with a value of -0.4. This is no surprise since the EC has given the country the worst possible assessment on the scale, that of 'state capture'. In BiH there has been progress in 2016 in comparison to 2015 despite numerous criticisms. Kosovo on the other hand has seen the most progress in this area. This is a clear indication of the EC's dedication to the eventual integration of Kosovo into the EU, given that the country only signed the SAA in October 2015. Serbia and Albania on the other hand have regressed in comparison to 2015. This is just another example that illustrates how the technicisation of the EC's grading in the pilot areas does not reflect the state of affairs on the ground, which is usually more severe than portrayed. This shows that the system of grading cannot fully depict "state capture" and "politicization".

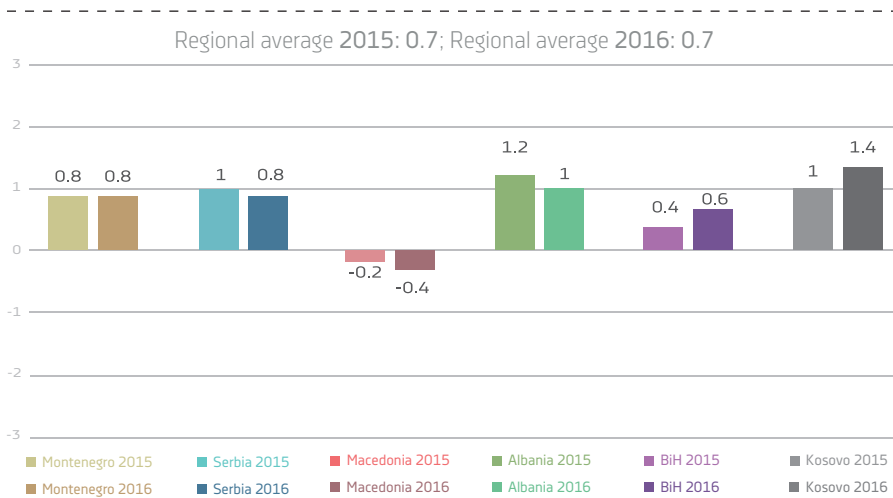
76 According to the World Press Freedom Index 2002-2016 the erosion is most visible in Macedonia, as it used to be in the range of 40 to 60, while now it holds the 111th place on the list, and is called the 'Balkans bad boy' by the reporters without borders. BiH is in the best position, in 65th place, while Serbia is just behind in 66th place. See: REPORTERS WITHOUT BORDERS (2017). World Press Freedom Index 2017. Available at: <https://rsf.org/en/ranking>

77 EUROPEAN PARLIAMENT (2017). Media freedom trends 2017: Western Balkans. Available at: [http://www.europarl.europa.eu/RegData/etudes/ATAG/2017/603888/EPRS_ATA\(2017\)603888_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2017/603888/EPRS_ATA(2017)603888_EN.pdf)

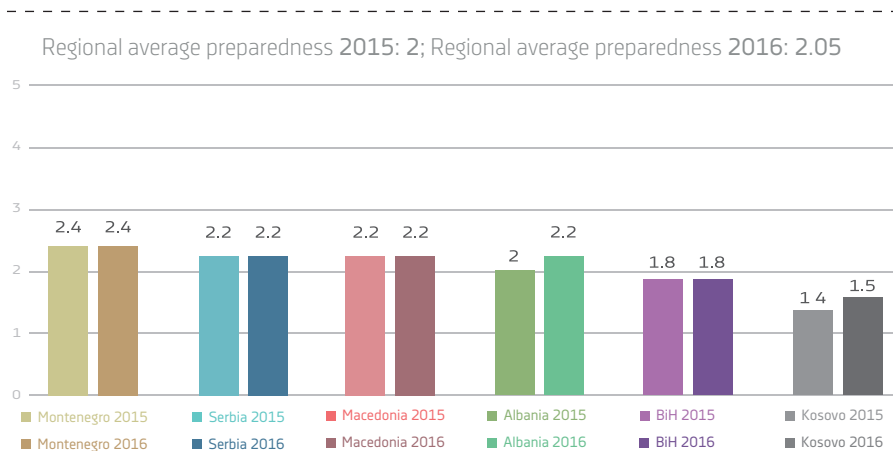
78 Moreover, it is worrying that according to a comparative overview 60.7 % of journalist respondents in Kosovo said they have been prohibited from reporting in certain places on the basis of not having accreditation issued by authorities or for other reasons. This statistic stands at 44% in Macedonia, 42% in Serbia and Montenegro and 26.1% in BiH. Another concerning statistic is the fact that 44.9% of the respondents in BiH have said that politicians have been extremely or very influential to their work. The respective percentage in Serbia is 15.3, while in Macedonia it is 21%, in Kosovo it is 6% and in Montenegro it is 3.8%. See: SNEZANA TRPEVSKA and IGOR MICEVSKI (2016). Indicators on the level of media freedom and journalists' safety in the Western Balkans: Summary of Findings. Belgrade: Independent Journalists' Association of Serbia. Available at: <http://seenpm.org/wp-content/uploads/WB-freedom-of-media-and-journalists-safety-Comparative-report.pdf>

79 It now also covers areas linked to economic development (free movement of goods, competition, transport, energy), as well as to certain areas of chapter 24 (migration, border control, asylum and fight against terrorism) and to the environment and climate change.

Political criteria – Progress



Political criteria – Preparedness



Regionally, all countries have roughly the same level of preparedness in terms of the political criteria, with a slightly more advanced level observable in the cases of Albania and Kosovo in 2016 in comparison to 2015, even though Kosovo still holds the lowest score in the region. As we can see, Montenegro has now been the frontrunner for 2 years in a row, while BiH, Macedonia and Serbia have all maintained the same level of preparedness, regardless of the significantly different grades for progress/regress in 2016. This is an obvious example of inconsistency of the grading system.

2.2. Economic criteria – legal certainty still lacking

Regardless of the praise from the EC in terms of the “*stronger growth, higher investment and more jobs created by the private sector*”, a stronger focus needs to be placed on the prevailing high unemployment rates (especially among youth), the major structural, economic and social challenges, the worsening of public debt/GDP ratios, and the low efficiency of public administration. Even in cases where investment has actually increased, the investment climate remains negatively affected by the deteriorating rule of law, the deficiencies in the corporate governance sector and the signs of state capture. In this respect the economic criteria is dependent to a great extent on the political criteria. Regarding this, the EC has stated that “*given the impact of the rule of law on economic governance, the Commission will pay particular attention to the links between these two pillars of the accession process.*”⁸⁰

In Macedonia the EC concludes that there has not been any progress, despite the country having been moving closer to gaining the status of a free market economy in the past.

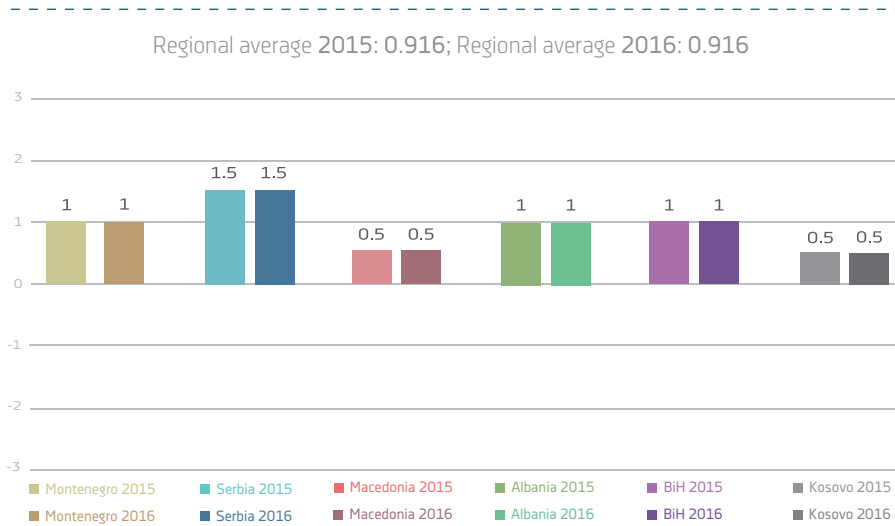
The blockage to the second phase of the SAA, although Macedonia met the conditions a decade ago, contributed to stagnation in meeting economic criteria, observed for the same period of ten years.

Montenegro on the other hand made some progress towards improving the functioning of the financial and labour markets as well as towards improving the business environment, but there is still a need to reduce the continuously rising public debt and the high unemployment rate, as well as to “stabilize” fiscal policy. Albania also progressed in terms of improving the budget balance, fighting informality, reforming the electricity sector, and improving higher and vocational education. BiH and Kosovo are both in the early stages of developing a functioning market economy and building the capacity to cope with the competitive market forces within the Union. When it comes to progress in terms of the economic criteria, Serbia is once again the frontrunner.

As shown by the economic criteria progress chart, all of the countries have maintained the same scores across 2015 and 2016.

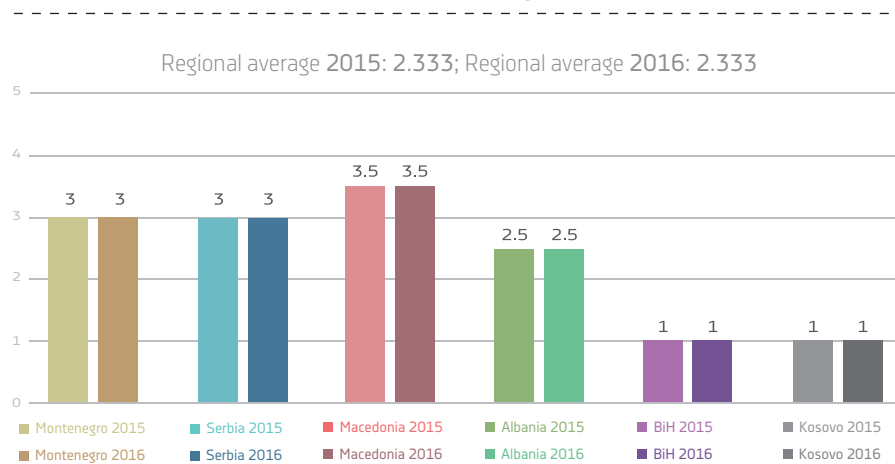
80 EUROPEAN COMMISSION (2016). 2016 Communication on EU Enlargement Policy. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20161109_strategy_paper_en.pdf

Economic criteria - Progress



Macedonia remains the most prepared in terms of economic criteria, while Kosovo and BiH face the most difficulties with an average of 1.

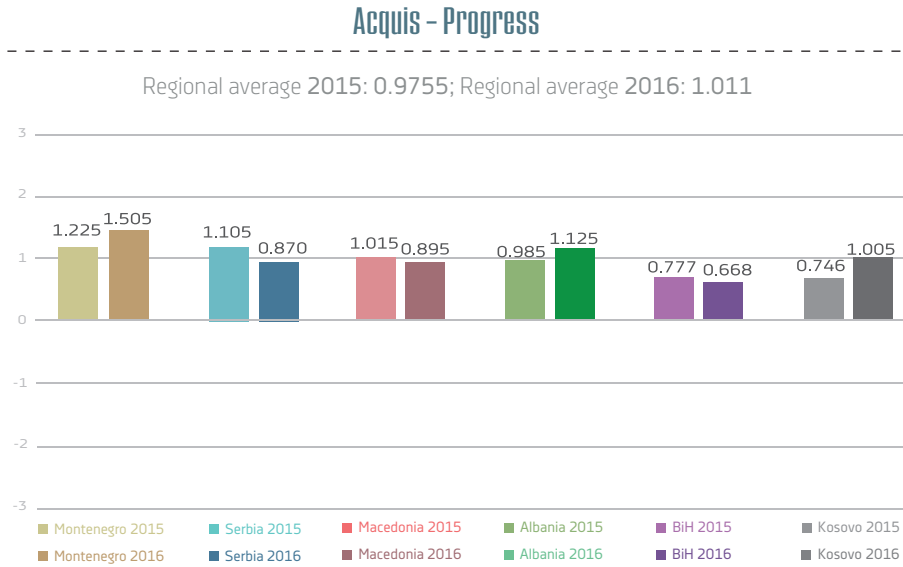
Economic criteria - Preparedness



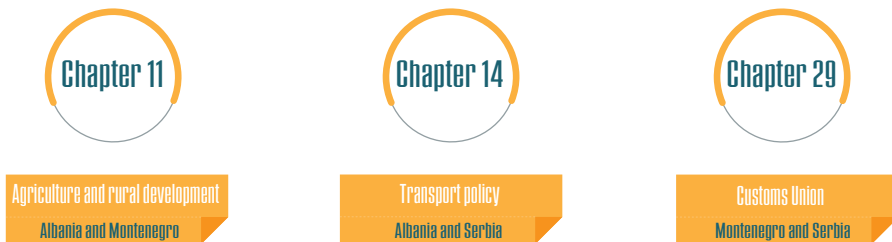
2.3. Does the WB have the ability to assume the obligations of membership?

2.3.1. Acquis progress

Looking at the average progress of the acquis, the progress of Macedonia, BiH and Serbia has slowed, while Montenegro is leading regionally with the most advanced level of progress. The highest grade – ‘very good progress’ - was not achieved by any of the countries in 2016, as was the case in 2015.⁸¹



Best score (good progress) common for at least two countries in:



Less progress across all countries in:

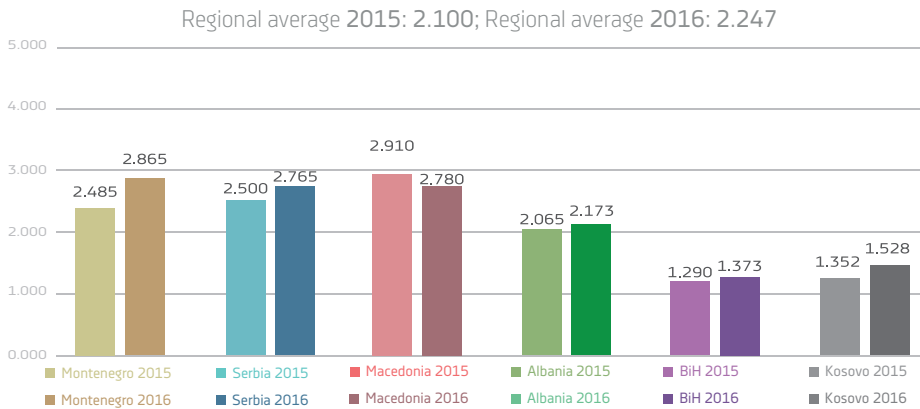


81 A detailed overview can be found in Annex 2.

2.3.2. Acquis preparedness

Similarly, when it comes to alignment with the EU acquis, none of the WB countries managed to obtain the highest score of 'well-advanced'. In terms of preparedness Montenegro led regionally in 2016, having surpassed Macedonia, which held the best score in 2015. Serbia came third, just after Macedonia, while BiH was given the lowest level of 1.373. However, the country has improved its score since 2015 and is now just behind Kosovo.

Acquis – Preparedness



Best score (Good level of preparation) common for 3 countries:



Science and research

Macedonia, Montenegro and Serbia

Best score (Good level of preparation) common for two countries in:

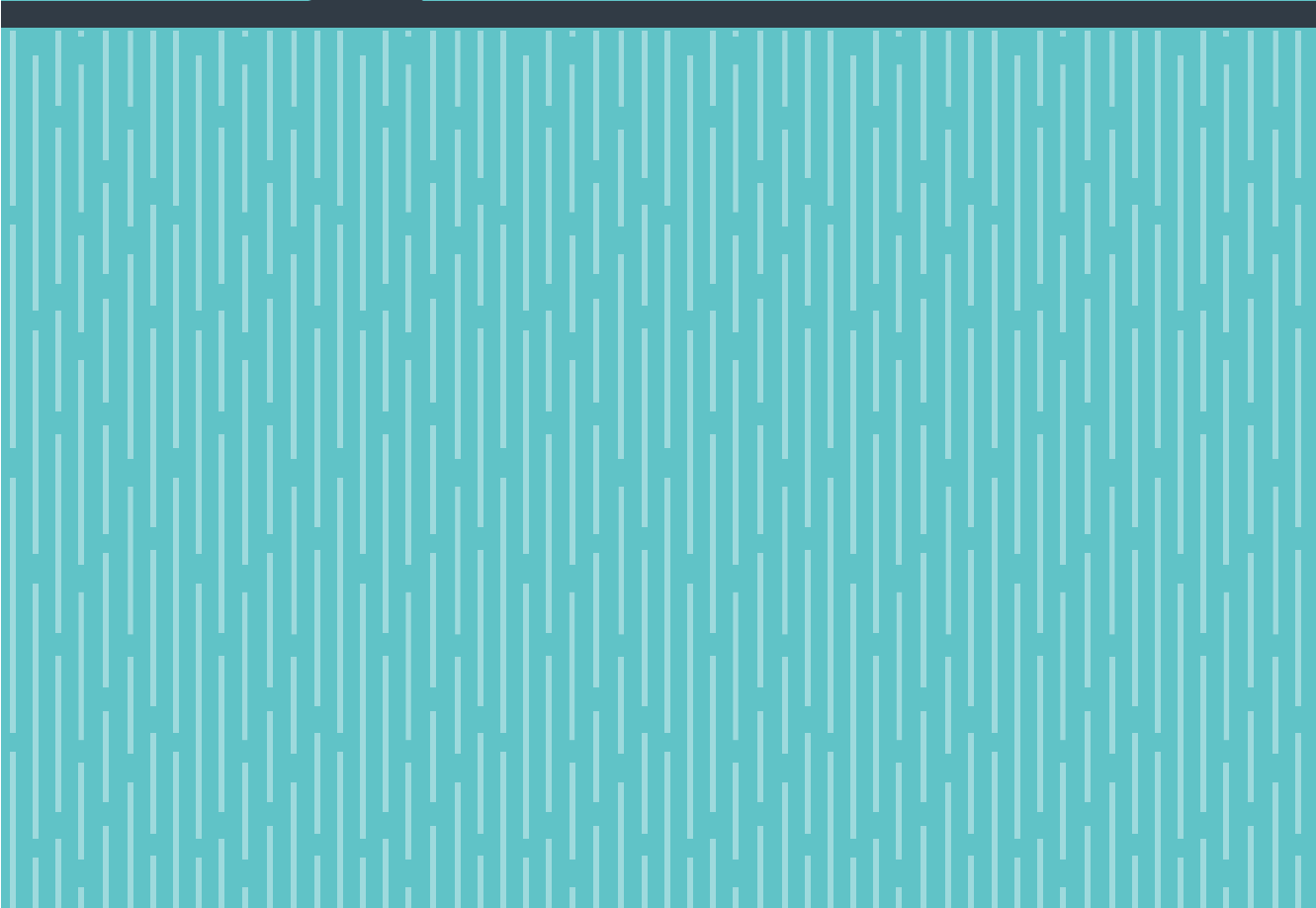


Grades have deteriorated across 3 countries in:



3

RECOMMENDATIONS



While the EU advanced the measurement in the reports, also by showcasing the grading structure, there is still a significant risk that the new methodology does not capture the realities on the ground, especially in relation to the political criteria. The scale could be deemed too simple for a process as long-term as accession. Hence, the EC should clarify the precise substance of the reforms needed in addition to providing a grade for each area.

Given the repetition of recommendations from one year to the next, the EC should aim to specify the outcomes required within a reasonable time frame for each of the candidate countries (including those that are not in the process of negotiating accession).⁸²

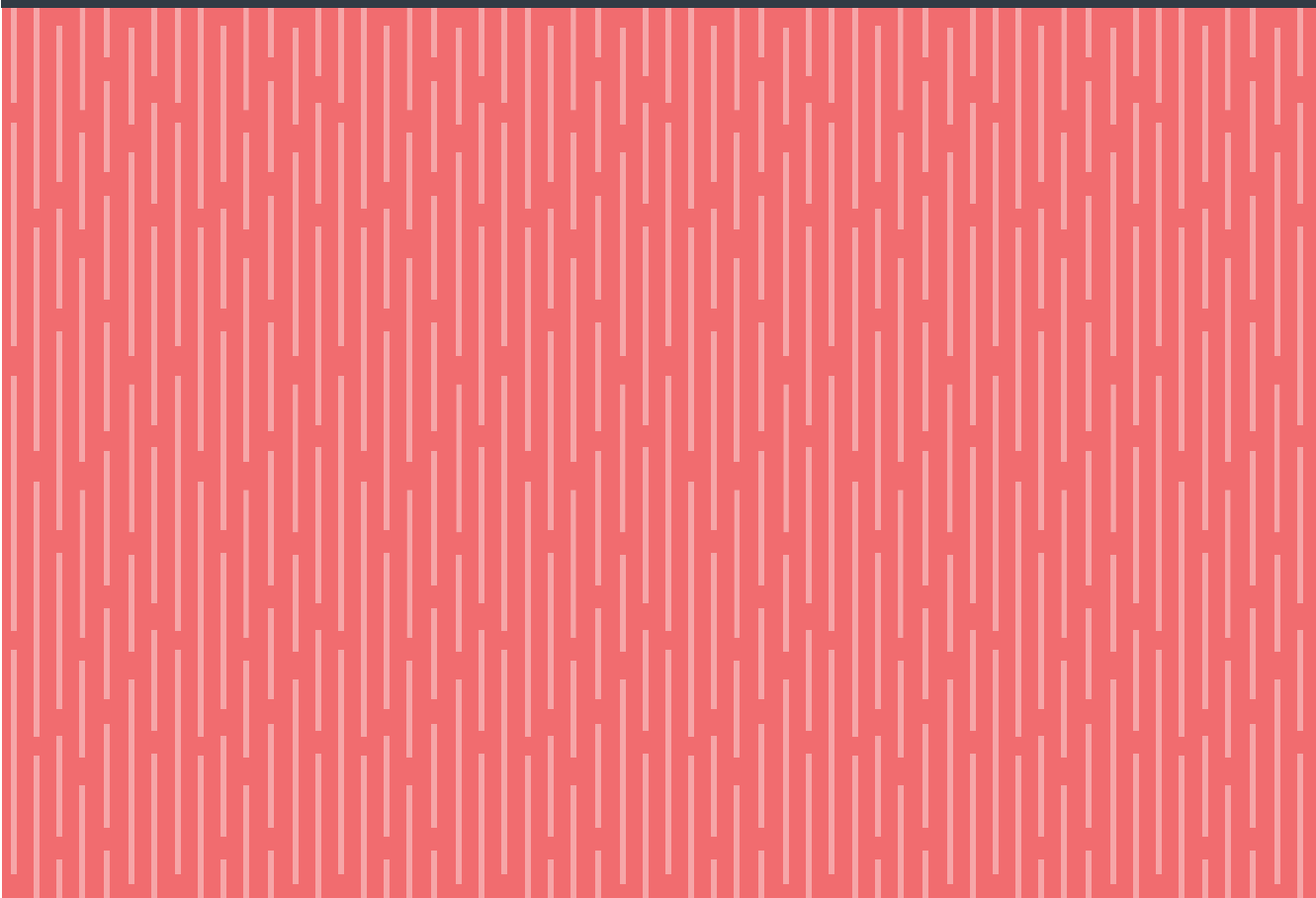
Reflection on what constitutes an “EU model of rule of law” should continue and a clear definition should be included in the regular reports for the candidate countries, as for the EU member states.

While the EU’s focus on rule of law is understandable, it risks downgrading the significance of the other Copenhagen criteria, notably the necessary economic transformations and the assuming of EU membership obligations. Hence, EC should place comparable focus in the accession process on all three criteria.

The EC should aim to set priorities in each of the areas/chapters that are clearly defined and that represent a gradual pathway of reform.

82 The Accession Partnerships of the mid-2000s contained short and medium term priorities with approximate time frames for delivery.

4 ANNEX 1



Sources used in analysis:

1. Documents contained in the enlargement package of DG Neighbourhood and Enlargement Negotiations:

- Enlargement Strategy – Communication of the Commission 2015 and 2016
- Country reports – staff working papers 2015 and 2016
- Specific focus on the recommendations.

2. Immediate country reactions following the publication of the progress reports.

The country reports have been analysed through a content analysis method.

The EC uses the same structure for all reports across the region. There are some differences in the section regarding the assuming of obligations for potential candidates (Bosnia and Herzegovina, Kosovo).

Each area/chapter of the report is coded in terms of two variables:

- Progress achieved in the last year;
- Level of preparedness (to take on obligations for membership).

The coding structure is as follows:

Progress

<i>Assessment</i>	Numerical value
Backsliding	[-5]-[-1]
No progress	0
Some progress	1
Good progress	2
Very good progress	3

Level of preparedness

<i>Assessment</i>	Numerical value
Early stage of preparation	1
Some level of preparation	2
Moderately prepared	3
Good level of preparation	4
Well advanced	5

Specific issues:

The EC has not applied the harmonised assessment to all areas. Coding is applied for areas where EC assigned clear grades. In areas where the reports are predominantly descriptive, the main conclusions have been extracted from the Enlargement strategy, the country summaries attached to the Strategy and the conclusions from the report itself.

Grades are presented as average values separately for political criteria, economic criteria and acquis/standards.

Weighting: a weighting system is applied to the 33 chapters of the acquis, as some chapters are much more demanding than others

The weighting is based on:

- number of EU measures (directives, regulations, etc.);
- complexity of transposition and implementation of the EU acquis.⁸³

The coding system is applied rigorously to all countries to ensure consistency and comparability.

Comparability:

In order to achieve comparability, the assessment of European standards for BiH (with an updated structure from last year's report in the area of the fight against organized crime and the fight against terrorism) and Kosovo are classified according to chapters of acquis.

The weighting for Kosovo and BiH has been adapted to match the differences in the structure of their reports with the rest of the countries.

83 On the complexity of chapters see: ALAN MAYHEW (2007). Enlargement of the European Union: An Analysis of the Negotiations for Countries of the Western Balkans. Support for Improvement in Governance and Management: Paper No. 37. Available at: [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/SIGMA\(2007\)1/REV1&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/SIGMA(2007)1/REV1&docLanguage=En)