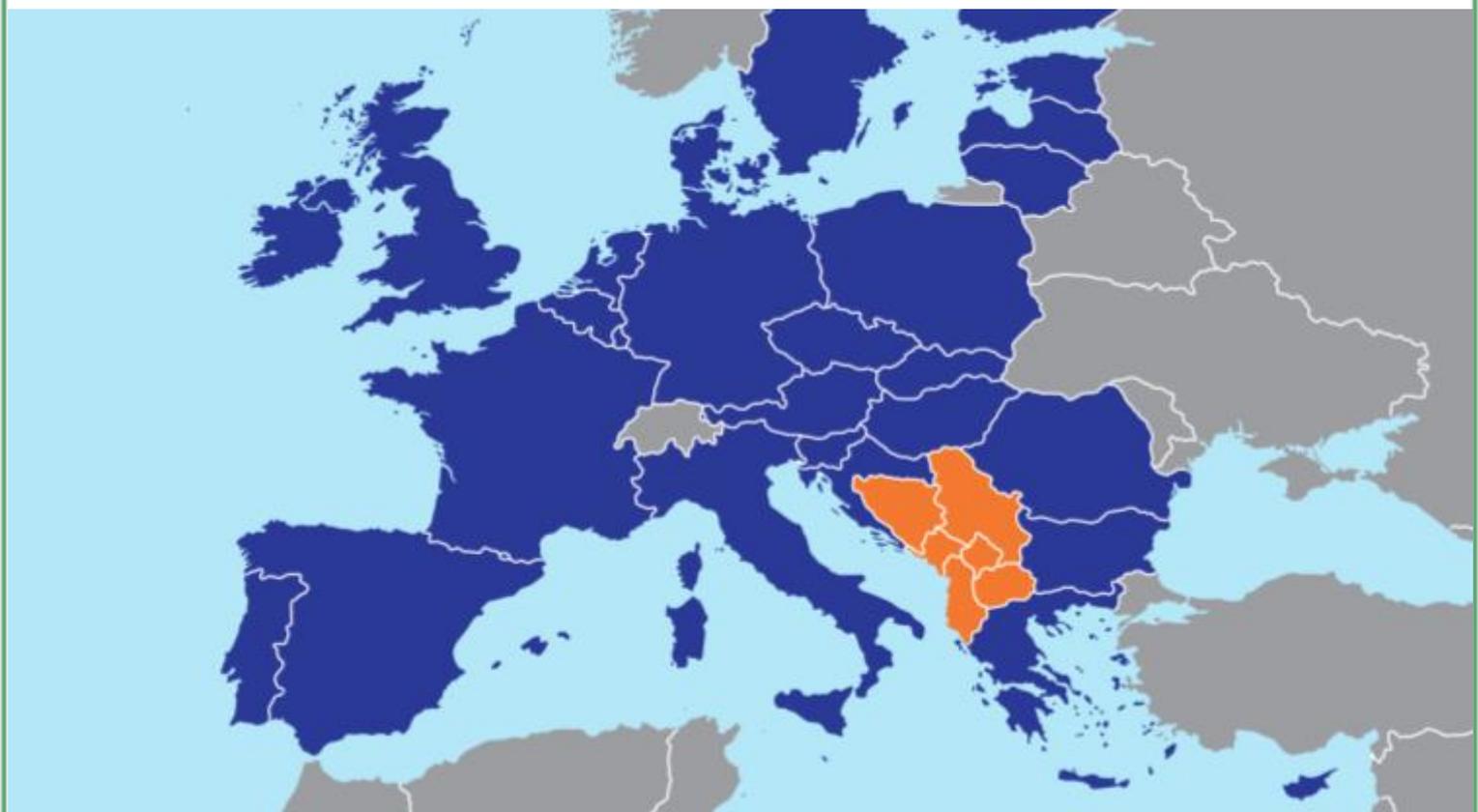


EASTERN MONITOR

Western Balkans - last call to avoid permanent stagnation? 2016 Progress Reports Assessment

Christian Kvorning Lassen

- **The release of the European Commission's "Enlargement Package" and the associated Progress Reports is always expected with great interest from both candidate countries and EU enlargement watchers alike. The reports present a detailed assessment of the state of play in each candidate and potential candidate country, their achievements, and set out guidelines for reform priorities. As such, the reports play a vital role in the ongoing accession aspirations of the candidate countries, particularly for the six countries in the Western Balkans region.**
- **However, the 2016 Progress Reports raise several causes for concern from an enlargement perspective. Structural problems persist across the region that need addressing if the EU enlargement agenda is to be truly revived.**



Assessing the individual countries and their progress report findings in-depth, complete with progress and backsliding in individual areas, is not possible given the spatial constraints of one paper. Therefore, this paper will primarily assess structural shortcomings and obstacles to necessary deep reforms across the region, and how they might be addressed in order to both reignite the enlargement process and consolidate the gains they already made.

Bosnia & Hercegovina: A fundamental need for constitutional reform

The Dayton Peace Agreement ended the war but did not leave a sustainable, viable constitution on which to build a state. This is reflected politically in the plethora of political parties that developed along ethnic lines and whose political patronage networks are well established and allow them to influence all levels of government, resulting in low levels of trust in democratic and public institutions, even for the region.¹ In practice, this has led to political elites in BiH being unable or unwilling to overcome institutional constraints and diverging political agendas to implement necessary reforms essential to achieve EU membership. Simply put, some influential key players in the country continue to obstruct the process.²

A window of opportunity to untie the above stated Gordian knot arose in 2014 with the so-called 'Bosnian Spring' protests following the 2014 elections.³ However, the elite-driven ethnonational stability enshrined in the Dayton constitution, and manifest in a government system based on fear and patronage rather than governance and accountability, has proven itself to be enduring⁴, in large

part because of the EU's failure to adequately capitalize on this opportunity. In 2014, the EU and BiH adopted a new initiative for BiH, making it clear that the preferred approach for the EU is to maintain the status quo to foster a semblance of stability and facilitate the implementation of much-needed reforms.⁵

Evident from the 2016 Progress Report, this strategy has manifestly failed. BiH's drop in democracy scores has continued to an extent that only Macedonia, a special case, is worse.⁶ Consensus building amongst the elites has worsened, with key players entrenched in their positions and obstructing the implementation of necessary reforms.⁷ The economy has made little to no progress, with the level of FDI relative to GDP notably being the lowest in the entire Western Balkans region.⁸ Backsliding has been recorded in the areas of public administration and the legal framework for civil society.⁹ Moreover, a strategic programme for the country's legal approximation with the EU *acquis* is yet to be adopted.¹⁰

The responsibility for the lack of progress ultimately lies with BiH. However, it is worth noting that the levels of backsliding across the board have accelerated since Juncker's presidency and his rejection of further enlargement happening in his term, which also resulted in a corresponding lower level of involvement by the EU in the individual countries' reform progress. Clearly, the focus has been on maintaining a tenuous status quo rather than meaningful engagement.¹¹

¹ Bertelsmann Stiftung, BTI 2016 — Bosnia and Herzegovina Country Report. Gütersloh: Bertelsmann Stiftung, 2016. pp. 15-16. Available at: https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Bosnia_and_Herzegovina.pdf

² Ibid p. 37

³ Bildt, Carl. "Bosnien måste ta reformer på allvar." Alla Dessa Dager, 2014. Available at: <https://carlbildt.wordpress.com/2014/02/08/bosnien-maste-ta-reformer-pa-allvar/>

⁴ Valery Perry. "Constitutional Reform in Bosnia and Herzegovina: Does the Road to Confederation go through the EU?" International Peacekeeping, 2015. P. 15. Available at: http://green-council.org/publik/Perry_Bosnia_EU_confederalism.pdf p. 15

⁵ Ibid, p.1

⁶ Schenkan, Nate et al. "Nations in Transit 2016: Europe and Eurasia Brace For Impact." Freedom House, 2016, p. 11. Available at:

https://freedomhouse.org/sites/default/files/FH_NIT2016_Final_F_Web.pdf

⁷ Bertelsmann Stiftung, BTI 2016 — Bosnia and Herzegovina Country Report. Gütersloh: Bertelsmann Stiftung, 2016. p. 32. Available at: https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Bosnia_and_Herzegovina.pdf

⁸ Ibid, p. 25

⁹ European Commission Bosnia and Herzegovina 2016 report, pp. 4-5. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_bosnia_and_herzegovina.pdf

¹⁰ Ibid, p. 4

¹¹ Stojic, Marko. "EU Enlargement to the Western Balkans: Out of Sight, Out of Mind?" EUROPEUM Institute for European Policy, 2016, pp. 7-9. Available at: <http://www.europeum.org/data/articles/stojic-eu-enlargement.pdf>

The Serbian stagnation: yet another year stuck in a quagmire of inertia and regression

Serbia's economy continued to improve, and the progress reports laud it for its cooperation and conduct during the refugee crisis from the point of view of limiting arrivals; from a humanitarian perspective, the country has been strongly criticized for its inability to find durable solutions to the refugees stuck in the country.¹² However, the positive assessments in the progress report are marred by continuous interference with the judiciary, corruption, and lack of progress in media freedoms.¹³ Additionally, the relationship with Kosovo remains tenuous; while Serbia has agreed to implement all EU-facilitated agreements with Kosovo, it remains unwilling to recognize its independence¹⁴ and furthermore continues provoking it, such as with the recent accusations of planning an attack on a train.¹⁵ Ultimately, Serbia has largely stagnated or slightly backslid in the above-stated problematic areas compared to the 2015 progress report. Part of it is due to the focus on relations with Kosovo and the general handling of the migration crisis in the Western Balkans at the expense of deeper reforms. While they are indeed important and require careful attention, emphasis on Serbia-Kosovo relations and the migration crisis arguably becomes disproportionate when it is at the expense of implementing basic structural reforms ensuring some of the basic underpinnings of a democracy, namely media freedoms, independent judiciary and rule of law. So far, Serbia's commitment to implementing such reforms has been half-hearted at best; compared to previous progress reports, the Commission concluded that no progress had been made in

those areas. Due to weak institutional and regulatory environment, laws are often adopted under 'emergency procedures' without proper consultation. Another part of it has been due to prolonged electoral and post-electoral haggling over forming a new government, suspending parliament's work for several months.¹⁶

For Kosovo, the entering into force of the Stabilization and Association Agreement (SAA) on 1 April 2016 marks the first contractual relationship with the EU. However, the country has not moved beyond the 'early stages of preparation' or 'some level of preparation' in any of the areas assessed by the 2016 progress report, meaning its improvements compared to 2015 are minor at best.¹⁷ However, it is positive that Kosovo's democracy score has continued to improve compared to 2004 levels, and that Kosovo remains committed to normalizing relations with Serbia.¹⁸ That being said, support for this normalization is dwindling in the population due to the negative example of BiH.¹⁹ While normalization might bring stability, the issue of reaching conclusive determination of Kosovo's statehood by the EU remains unsolved and of higher importance to the Kosovar.²⁰ Furthermore, anything even remotely resembling Bosnia's dysfunctional post-Dayton political reality – which the normalization process arguably could potentially bear semblance to – is connoted with negativity.²¹

It remains to be seen how the SAA will shape the future of the EU-Kosovo relationship, but considering its low levels of preparation coupled with suffering from many of the similar problems as the remaining countries of the region, and a continued contested legitimacy as a state, Kosovo's road to membership is arguably the longest.

¹² Human Rights Watch, Serbia Events of 2015. Available at: <https://www.hrw.org/world-report/2016/country-chapters/serbia/kosovo>

¹³ Poznatov, Maja. "Serbia easily digests Commission's 'Progress Report'", Euractiv November 10, 2016. Available at: <http://www.euractiv.com/section/enlargement/news/serbia-easily-digests-commissions-progress-report/>

¹⁴ Poznatov, Maja. "Serbia Confirms it will not Recognize Kosovo", Euractiv September 8, 2016. Available at: <http://www.euractiv.com/section/enlargement/news/serbia-confirms-it-will-not-recognise-kosovo/>

¹⁵ Serbia Accuses Kosovo on Planning Attack on Train. Balkan Insight, January 14, 2017. Available at: <http://www.balkaninsight.com/en/article/serbian-pm-kosovo-tried-to-provoke-conflict-01-14-2017>

¹⁶ Prelec, Tena. "On Serbia: Perpetual Electoral Haggling is Hindering Real Progress." Experts React: EU Enlargement and EU Progress Report 2016, The London School of Economics and

Political Science. Available at: <http://blogs.lse.ac.uk/europpblog/2016/12/19/experts-react-eu-enlargement-2016/#Four>

¹⁷ European Commission Kosovo 2016 Report, pp. 4-6. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf

¹⁸ Schenkan, Nate et al. "Nations in Transit 2016: Europe and Eurasia Brace For Impact." Freedom House, 2016, p. 11. Available at: https://freedomhouse.org/sites/default/files/FH_NIT2016_Final_F_Web.pdf

¹⁹ Ibid, p. 11

²⁰ Ibid, p. 11

²¹ Borger, Julian. "Bosnia's Bitter, Flawed Peace Deal, 20 Years On." The Guardian, November 10, 2015. Available at: <https://www.theguardian.com/global/2015/nov/10/bosnia-bitter-flawed-peace-deal-dayton-agreement-20-years-on>

Albania – On the right way, yet still far to go

The 2016 report was the most positive to date for Albania; the EC recommended opening accession negotiations with Albania conditional on the implementation of justice reform and vetting law for judges and prosecutors, intended to ensure independent judiciary, while encouraging continuous commitment to the existing reform path.²² However, the optimism of the report is marred by a stagnant democracy score compared to 2015, and backsliding compared to its 2013 score.²³ Organized crime and emigration remain great challenges, with the former seeing little to no improvement due to failure to establish effective, independent and accountable institutions that can break away from the token efforts that have characterized Albania's attempts to fight corruption.²⁴ Thus, while there are small improvements to be noted, it remains to be seen whether Albania can develop a consistent track record of improvement, which is still a monumental challenge considering the systemic corruption haunting the country.

Macedonian Meltdown

The Commission abandoned all pretense in its damning diagnosis of the ongoing Macedonian meltdown, stating that 'Democracy and rule of law have been constantly challenged, in particular due to state capture affecting the functioning of democratic institutions and key areas of society. The country suffers from a divisive political

culture and a lack of capacity for compromise.'²⁵ Furthermore, the report noted backsliding in the functioning of the judiciary, obstruction of justice in relation to the Special Prosecutor responsible for investigating the wiretap scandal that created the current debacle, as well as a complete lack of progress in key areas such as freedom of expression and fight against corruption and organized crime.²⁶ The deteriorating environment for civil society makes it difficult to foresee positive developments.²⁷

Despite such a damning diagnosis – by far the hardest stance the EC has taken on any country since the release of the progress reports – the EC is maintaining a careful stance towards Macedonia. Conditional upon progress on implementing the Przino Agreement, holding credible democratic elections and the 'Urgent Reform Priorities'²⁸ outlined by the EC in 2015, the EU remains willing to consider opening accession negotiations.²⁹

Considering PM Gruevski's recent failed attempt in late January at forming a coalition with BDI³⁰, the largest Albanian political party in Macedonia, there is no end in sight to the political crisis that has plagued the country for more than a year. With the prospect of new elections looming once more, the political crisis seems endemic, with progress on key reforms being one of the first casualties of this deadlock. Whether the country will backslide further remains to be seen in future reports, yet the outlook for Macedonia's EU accession is grim at best.

²² Hoxhaj, Andi. "On Albania: There is a Good Chance of Opening Accession Negotiations over Next Year." Experts React: EU Enlargement and EU Progress Report 2016, the London School of Economics and Political Science. Available at: <http://blogs.lse.ac.uk/europpblog/2016/12/19/experts-react-eu-enlargement-2016/#Seven>

²³ Lamallari, Besfort. "Nations in Transit 2016: Albania." Freedom House, 2016. Available at: <https://freedomhouse.org/report/nations-transit/2016/albania>

²⁴ Hoxhaj, Andi. "On Albania: There is a Good Chance of Opening Accession Negotiations over Next Year." Experts React: EU Enlargement and EU Progress Report 2016, the London School of Economics and Political Science. Available at: <http://blogs.lse.ac.uk/europpblog/2016/12/19/experts-react-eu-enlargement-2016/#Seven>

²⁵ European Commission The former Yugoslav Republic of Macedonia 2016 Report, p. 4. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf

²⁶ Ibid, pp. 4-6

²⁷ Gateva, Eli. "on Macedonia: The Commission Abandoned its Diplomatic Tone and Delivered a Damning Diagnosis." Experts React: EU Enlargement and EU Progress Report 2016, the London School of Economics and Political Science. Available at: <http://blogs.lse.ac.uk/europpblog/2016/12/19/experts-react-eu-enlargement-2016/#One>

²⁸ For full document, please see: https://eeas.europa.eu/sites/eeas/files/urgent_reform_priorities_en.pdf

²⁹ European Commission The former Yugoslav Republic of Macedonia 2016 Report, pp. 4-6. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf

³⁰ Macedonia's Political Crisis Continues as Conservatives Fail to Form Coalition. Deutsche Welle, January 30, 2017. Available at: <http://www.dw.com/en/macedonias-political-crisis-continues-as-conservatives-fail-to-form-coalition/a-37325772>

Montenegro – the poster-child for EU’s strategy of less involvement?

Montenegro is widely lauded as the paragon of EU integration in the Western Balkans region. However, it is also the only country in the Western Balkans region that has not experienced a change of governing party since the introduction of the multi-party system in 1990.³¹ Thus, the same individuals, families and political and business elites have been controlling the country’s politics and economy for more than 25 years. This pattern did not change in the October 2016 elections.

The causes for this unusual situation are systemic and ranging from micro to macro. Government control of most of the media, irregularities regularly happening during elections and the insignificant impact of audits of political parties coupled with a lack of political will to improve in the above stated areas all amount to deeply-rooted corruption in the electoral process.³² There has been minimal progress in implementing the necessary rule of law reforms and reports by NGOs of decline in both the government’s and the EC’s engagement in implementing Chapter 23 (judiciary and fundamental rights) and Chapter 24 reforms (Justice, freedom and security), allowing for further entrenchment of the government.³³ This is further reflected in Montenegro’s deteriorating democracy score, which is currently lower than its 2004 levels.³⁴

It begs the question of why Montenegro has become the poster-child for EU integration and Western Balkans accession aspirations. In 2014, then ENP commissioner Stefan Füle expressed dismay at the lack of tangible results from Montenegrin rule of law reforms, echoing what some people termed Montenegro’s “sclerotic progress” towards EU accession, the implication being that Montenegro only weakly implements reforms and at the last minute in order to receive a good scorecard in the progress reports.³⁵ In this regard, little has changed for Montenegro,

even if the progress report points to progress in areas such as public administration and judiciary, while at the same time avoiding the backsliding in other areas, such as media freedoms, that plagues other countries in the region, although no backsliding is naturally not the same as progress. While the building up of the Anti-Corruption Agency is largely complete, work on the implementation of the *acquis* has taken place, making the country ‘moderately prepared’ in many chapters, such as the free movement of goods, public procurement, statistics, justice, freedom and security, bringing it markedly closer to assume the obligations of membership.³⁶ Considering the backsliding of other countries in the region, such progress is encouraging despite the above-stated shortcomings.

For all its progress, however, Montenegro is a textbook example of some of the problems associated with the current EU enlargement strategy. The tendency to fast-track regulations and strategies, followed by weak implementation and subsequent superficial revision processes, means that progress is all too often made only on paper. The EU’s choice not to take a more critical, in-depth approach to its own progress reports and scorecards does not provide the much-needed impetus for deeper structural reforms. This is a wasted opportunity since obviously the country cares enough about their verdict (and the financial support associated with it) to juke the stats.

Rethinking the EU’s enlargement strategy – a more proactive enlargement agenda is needed to provide the necessary impetus for deep structural reforms

Juncker’s blanket rejection of enlargement during his term has naturally diminished the incentives for the Western Balkans to implement the necessary reforms,

³¹ Srdjan Cvijic, Stevo Muk, Zlatko Vujovic. “2016 Report on Montenegro: Elections Aftermath and the European Commission’s 2016 country progress reports.” Open Society Foundation, November 8, 2016. p.1. Available at: https://www.opensocietyfoundations.org/sites/default/files/montenegro-elections-aftermath-and-european-commission%27s-progress-reports-20161108_0.pdf

³² Ibid, p.2

³³ Ibid, p.6

³⁴ Schenkkan, Nate et al. “Nations in Transit 2016: Europe and Eurasia Brace For Impact.” Freedom House, 2016, p. 11. Available at:

https://freedomhouse.org/sites/default/files/FH_NIT2016_Final_F_Web.pdf

³⁵ Menke, Matthias. “Montenegro is not the EU Poster Child it Claims to be.” Euractiv, October 9, 2014. Available at: <https://www.euractiv.com/section/trade-society/opinion/montenegro-is-not-the-eu-poster-child-it-claims-to-be/>

³⁶ European Commission Montenegro 2016 Report, pp. 4-6. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf

which are often complex, hard and occasionally even painful in the short-term.

"Without the carrot of potential membership for the near future, coupled with the vague show of European commitment to further enlargement in the face of ongoing European crises, the Western Balkan countries and their elites have almost exclusively backslid in their reform processes, choosing instead to consolidate their power at the expense of strengthening key institutions."

While each country in the region differ in their plights, progress and challenges, the lack of a more proactive EU in driving the often-arduous enlargement process is a universal shortcoming that has shown to cause a deeper systemic stagnation or even backsliding compared to the pre-2014 enlargement efforts.

While the pre-2014 enlargement process was not without problems and occasional backsliding, it was at least characterized by a certain amount of hope; enlargement was on the table and provided impetus for reform drivers in the countries, although they were not always successful. After the indefinite postponing of membership prospects, the ruling elites have expectedly consolidated and entrenched themselves across the region as the accession efforts have lost momentum.

Montenegro's ruling government and BiH's lack of will to implement constitutional reform are both cases in point. The stagnation of Serbia and Kosovo, and the fledgling optimism in Albania at slight to moderate progress, highlights just how tenuous, fragile and vulnerable these countries are. Macedonia is an unfortunate testament to this, seeing how it has plummeted from being a source of optimism into becoming the enfant terrible in the region.

"The enlargement process remains integral to the EU and represents one of the most successful EU policies, even though it is currently not a prominent agenda. The EU needs to re-engage the region in a meaningful way, and vice-versa."

It remains to be seen whether the Berlin Process will generate the necessary impetus to provide successful results, particularly considering the waning enthusiasm within the EU for further enlargement.³⁷ However, given the fact that a lack of meaningful, proactive engagement has historically shown to strengthen and consolidate governing elites and leaders with less-than stellar and dubious track records at the expense of strengthening key democratic institutions, the EU cannot continue down its current trajectory and leave the Western Balkans countries to fend for themselves. The result will be a severe blow to both the EU's credibility, and it risks the region deteriorating into the past instabilities inherent in it due to lack of assistance in solving the core challenges that prevents these countries from becoming the valuable partners their geography merits and necessitates.

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³⁷ Bieber, Florian and Kmezc, Marko et al. "EU Enlargement in the Western Balkans in a Time of Uncertainty." Balkans in Europe Policy Advisory Group, September 2016, p. 9. Available at:

<http://www.biepag.eu/wp-content/uploads/2016/10/EU-Enlargement-in-the-Western-Balkans-in-a-Time-of-Uncertainty.pdf>