

# Regional Agenda 2020-2030

A Strategy for the New Decade

## *Welcome to Academy for Democratic development*

Main goal of ADD is to offer solutions to regional problems and to develop state policies that would lead to these solutions.

OUR GOAL IS TO CREATE POLICIES THAT WILL  
GUARANTEE PEACE AND DEVELOP DEMOCRACY IN THE REGION



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## SHARED VISION



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The joint democratic and economic development of Albania, Bosnia and Herzegovina, Croatia, Kosovo, Montenegro, North Macedonia, Serbia and Slovenia depends on these regional countries sharing a firm belief in the importance of stability, tolerance, good governance, rule of law and cooperation. To this end, it is important that there are not only initiatives and organisations imposed or required by international entities, but also initiatives and organisations that are locally owned, established by the region for the region and aimed at achieving full cooperation on politics, economics, and cultural, judicial, democratic and security matters between the countries of the region. The cooperation is needed at all levels of government and in all parts of societies, and it needs to be sincere, result-oriented and beneficial for all the countries, based on common interests, joint policies and the well-being of all the citizens of the countries involved.

We see the potential for the countries of the region to become functioning, modern and developed democracies that cooperate in the areas of economy, education, culture, good governance, reconciliation, climate change, EU accession and both human rights and the rights of minorities. At the same time, in order to stop the constant brain drain, the countries will invest in developing a higher standard of living. Our vision for the region's future includes political elites who are accountable to the citizens; individuals who understand that what the state does for its citizens is more important than how big the state is and who work actively and sincerely towards reconciliation, solving bilateral issues, creating solid partnerships and supporting each other. Borders between the countries are open and the free movement of goods, capital, services and labour is guaranteed.

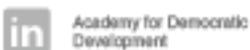
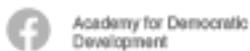
This vision goes hand in hand with all the countries of the region being full members of the European Union (hereinafter: EU) and that the perspective of membership should not be taken away or replaced by similar processes but made more credible and tangible. Current candidate and potential candidate countries have to find a way to cooperate and support each other during the process, and not compete against



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each other and put obstacles in the way of each other's membership. The role of the two states that are already EU member states is crucial, as they are the ones that should be the most reliable allies to the countries aspiring to become member states, champions of enlargement and advocates for their neighbours. With the current challenges the EU is facing, the question of future enlargement has been further postponed and appears to be tacitly deprioritised, especially within the context of the new enlargement methodology, which seems to raise many uncertainties and confusion. By entering a prolonged status quo on effective enlargement, there is a risk of Europe restricting boundaries, horizons and even considering the region as an unstable neighbourhood, rather than as a strategic asset for the territory. This risk can be reduced by establishing strong partnerships with EU institutions. In return, the EU needs to boost its offer with a "new deal" for the region and make the process more credible and more just, without broken promises, failed expectations and with clear merits, a regulated reward system and transparent, credible decision-making processes. It is essential that the countries of the region, both the civil society and regional governments, participate in and contribute to the Conference on the Future of Europe, so they can contemplate their future in the same light as the future of the EU and build a shared sense of belonging across the region. The region needs to be seen as contributing to the making of Europe, increasing the joint ownership of the European integration project and allowing their citizens to mobilise and engage in discussions transcending ethnonational lines.

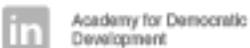
No regional initiatives, such as a common market, the Berlin Process and/or any other similar initiative can serve as a substitute for the full EU membership of all of the countries of the region. There should be more regionally owned initiatives and not only those imposed from the outside or initiated by the international community. Agreements reached and signed need to be fully implemented, not only partially, because their selective or incomplete implementation undermines the trust of the people in regional cooperation. A pertinent example of this is the Regional Roaming Agreement, which was announced as the complete abolition of roaming between the countries of the Western Balkans. However, different service providers from all of the regional states made amendments to this initiative, thus undermining the agreement and effectively nullifying the benefits. Agreements need to be strictly implemented by the countries of the region and sanctions need to be put in place for those who undermine them or disrespect their provisions.



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EU membership needs to be a credible, tangible and feasible goal for the countries of the region. This means that the accession process itself needs to change; things have changed significantly since the process began and both the EU and the countries of the region need to adjust and adopt a new approach to the integration and implementation of the new accession methodology. With a clear setup of rules, criteria, roadmaps for institutions and commitment from both sides, the first group of countries should be able to access the EU in 2025, the second group by 2028 and the third group by 2030. This way, the entire region will be fully integrated into the EU by 2030, which will not only end the process that started many decades ago and expand the territory, authority and intentions of the EU into this important geostrategic area, but will also subdue anti-Western and hostile factions in the EU's backyard. Some of the EU's institutions and mechanisms can be expanded to the countries of the region before accession (e.g. the European Public Prosecutor's Office) so that the region is fully institutionally integrated by the time of accession.

Borders between the countries of the region must never again be drawn following ethnic lines. All such proposals, set out in different non-papers which arise occasionally and present similar ideas, should be clearly and explicitly rejected and condemned. The new political elites need to replace the outdated and harmful policies of ethnoterritorialism with policies that offer novel and brave solutions focused on citizens and their rights, not on borders. These solutions will emphasise common issues and similarities rather than differences and disputes, and they will offer solutions befitting of the 21<sup>st</sup> century. These political elites are the same as those who will be accountable to the citizens and respect the rule of law, principles of good governance, independence of institutions, human and civil rights and freedoms, and the equality of all citizens. Democratic institutions in the region should be inclusive, open to citizens and their initiatives, well controlled and fully aware of their obligations, powers and responsibilities. All social groups have to have access to the institutions, elected officials and justice, as well as have the freedom to exercise all of their rights guaranteed by the international documents and national constitutions and laws. People of the region should be fully involved in their communities and democracy at all levels of government, and should understand and accept the concept of active, responsible citizenship.

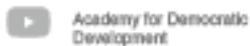
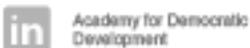
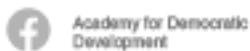
All the countries in the region should learn from history. This means facing the past, recognising and condemning war crimes, and bringing justice to the victims and their families. War crimes, ethnical cleansing and genocide committed during the 1990s



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continue to be the reasons for conflicts between nations, countries and people and the overall inability to recognise war crimes leads to constant insecurity and instability. All persons, political movements, media or other actors who are negating war crimes, celebrating perpetrators or promoting the policies that led to those crimes have to be sanctioned and condemned. Sentenced war criminals have to be prevented from practising politics, running for offices and promoting war crimes. This has to be defined by domestic legislation, but there should also be international sanctions for organisations, media and individuals who are spreading interethnic hatred, promoting war crimes and thus destabilising the region. In this matter, Executive Order 14033: Blocking Property And Suspending Entry Into The United States Of Certain Persons Contributing To The Destabilizing Situation In The Western Balkans – issued by President Biden in 2021 – is more than significant since it explicitly states that it applies to any person deemed “to be responsible for threatening the peace, security, stability, or territorial integrity of any area or state in the Western Balkans, as well as undermining democratic processes or institutions in the Western Balkans [...] violation or obstruction of any regional peace agreement [...] any person assessed to be responsible for or complicit in, or to have directly or indirectly engaged in, serious human rights abuse in the Western Balkans, or to be responsible for or complicit in, or to have directly or indirectly engaged in, corruption related to the Western Balkans, including corruption by, on behalf of, or otherwise related to a government in the Western Balkans”.<sup>1</sup> These measures should be applied by the EU as well, and any media or organisations that are promoting hatred and ethnic divisions, supporting war criminals and negating war crimes, and actively inciting conflicts should fall under the scope of the order as well. Countries of the region should cooperate in a friendly manner and restrain from interfering in each other’s internal politics. This should not only include governments, but also media, civil society and other key actors who should find the best way of working towards common goals instead of promoting particular political agendas.

We aim to establish a holistic pattern of development for the region and seek to stimulate the key long-term drivers of growth such as innovation, skills and the integration of trade. This can be done through the promotion of regional trade and

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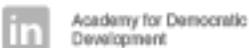
<sup>1</sup> Executive Office of the President of the United States of America (2021) *Executive Order 14033: Blocking Property and Suspending Entry Into the United States Of Certain Persons Contributing to the Destabilizing Situation in the Western Balkans.*



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investment linkages and policies that are non-discriminatory, transparent and predictable; by committing to innovate and compete on value-added rather than labour costs; by raising the level of competitiveness in the private sector; the development of infrastructure and encouraging greener and more energy-efficient growth; by placing greater emphasis on developing skills, creating employment, inclusive participation in the labour market, health and wellbeing; by enhancing the capacity of public administration to strengthen the rule of law and reduce corruption; the creation of a business-friendly environment; and the delivery of public services necessary for economic development. These goals were already set and defined by the countries of the region, but have never been implemented and therefore, a clear set of action plans, with activities, objectives, roadmaps and benchmarks in the process has to be defined. However, under no circumstances can this cooperation serve or be perceived as a replacement for the process of EU integration. This is especially true in the context of the Open Balkan initiative (formerly known as the Mini-Schengen Area), which is raising concerns that it is a mere substitute for the lack of commitment from the EU and that it will slow down an already slow pace towards full EU integration.

Education systems should be reformed in such a way that educational institutions in the region provide applicable knowledge that also corresponds to the regional labour market needs. One aspect of such a reform should address student skills assessed in the OECD's PISA study. Education systems should be designed to encourage independent research, new ideas and creativity, thereby helping young people take responsibility for themselves and their countries and start shaping their respective societies as early as possible. There was an initiative by regional researchers and representatives of academic institutions sent to President Ursula von der Leyen to establish the Western Balkans Research Fund. Since academic institutions in the region are not considered on a par with Western European ones, they cannot compete for EU research grants. The European Commission (hereinafter: EC) responded by initiating the new Twinning Western Balkans grant, whose aim is to enhance networking and joint research activities between the research institutions of the Western Balkans and top-class leading counterparts in the EU. Such ideas – if well implemented – can strengthen the position of academia and its competitiveness in Europe.

Our vision includes countries of the region fully involved with the European Green Deal and working constantly and in cooperation to fight climate change and reach the

highest environmental standards. All the governments in the region should incorporate the entire EU environmental acquis in their respective legislations by 2030. In return, the EU should provide necessary feedback, as well as financial and technical support.

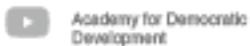
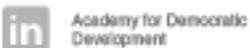
Reforming capacities within the EU will be most visible from their capability to reform the countries of the region. The cultural and geostrategic approaches that the EU has endorsed for decades still remain unclear in terms of implementation. Assessment of the long process of integration of the countries of the region into the EU, which has lasted for several decades now, needs to be done very carefully, with full recognition of the fact that the poor economies of these countries, a war that was ended with many difficulties (Bosnia and Herzegovina), devastated and depopulated areas, the consequences of war in Kosovo, the consequences of the bombing in 1999 (Serbia, Kosovo and Montenegro), systematically outdated and poor education systems, corruption and a lack of democracy cannot be a prerequisite for successful reforms and the changes that need to take place. A lot has been achieved thus far, but it is not sufficient. The countries of the region do not have the capabilities for integration on their own. The EU needs to show that it is capable of internal reform, and it can be implemented while preparing the Western Balkans for EU accession.



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## STATE OF THE ART

Balkanisation is a pejorative geopolitical term for the fragmentation of a larger region or state into smaller regions or states, which may be hostile or uncooperative with one another. The root causes of Balkanisation are usually differences of ethnicity, culture and religion, as well as other factors such as past grievances. The term has its roots in the repeated colonisation and decolonisation and the resulting religious and ethnic splintering of the Balkan region, after which it is named. It is also used to describe similar processes all over the world.

It seems that even two decades after the end of the last armed conflict in the region it is impossible to resolve all disputes and close all open wounds; fragmentation is far from over and thus the reconciliation process is far from completion. Bilateral issues between the countries of the region are numerous and often used to destabilise the entire region. The countries that are EU member states use these issues as a tool to push their own agendas and block the EU accession of their neighbours. Almost all of the countries have open disputes with each other and the areas in which there are bilateral issues are diverse – from territory, minority rights, missing persons, cultural heritage, war crimes, language and borders to history, education, recognition of diplomas and the economy.

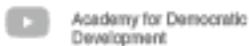
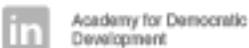
Yet, these open issues and differences make up only a small part of the dynamics between regional cooperation and the situation in the countries of the region. There are many more areas in which there are similarities, joint interests and shared challenges, to name a few: poverty; inequalities; the failure to comprehensively understand and implement European values; nationalism; the lack of the rule of law; weak institutions; environmental issues; the lack of democratic capabilities; persistent prejudices; the lack of political intent to deal with events from both the recent and not so recent past; the brain drain; and the poor educational system. All of these present obstacles to the modernisation of individual countries and the region as a whole, and leads to both the failure to achieve and implement the UN Sustainable Development Goals and presents a considerable barrier to the democratisation of the region. The security risks that arise from these issues are also considerable.



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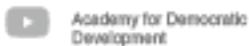
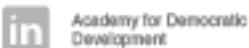




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Despite the fact that more than 80% of the issues and problems are common to the countries of the region, there is little or no cooperation between the countries and attempts to solve common problems are normally independent and not regional. Political elites are reluctant to cooperate even when it comes to “the easiest” and “most obviously” regional topics, such as the environment or the brain drain, let alone sensitive political topics such as missing persons, war crimes or border disputes. Countries of the region are interfering in the political processes, elections and decision-making of their neighbouring states, openly expressing territorial pretensions, denying borders, rights, languages and freedoms of expression, assembly and free will. Any initiatives are either imposed from outside the region or organised in order to fulfil the conditions or requirements made by others, and are rarely regionally owned, initiated by the region or the product of sincere wish and intent to work together for the good of the citizens. Even the forums that are supposed to foster cooperation, such as presidential or ministerial summits, often result in the deepening of conflicts and the emphasising of differences. Part of the reason for this lies in the fact that traditional political elites profit from these everlasting conflicts and the potential for them to escalate at any time. Politics of conflict are the easiest way for them to mobilise voters and ethnicity often presents itself as a basic mechanism for political engagement. As a result of this behaviour, there are still existing prejudices in the region, especially among young people who do not know and understand the cultures, histories and traditions of neighbouring countries and show great intolerance and hostility towards their peers in the region. Many of them have never travelled to the countries of the region and openly say that they do not want to.

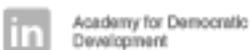
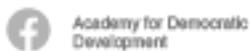
Traditional political elites are silently supporting these kind of attitudes and feelings. They are using them to gain political points while doing nothing to amend the situation, and occasionally they are themselves the generators of these attitudes. The most prominent example of this is the non-paper created and distributed by the Slovenian prime minister and communicated to the highest EU circles, which advocates redrawing the borders of the independent countries formed after the war and reducing Bosnia and Herzegovina to a third of its current size, in addition to a broader process of regional territorial re-organisation based on ethnic divisions in the countries. The non-paper has sparked fears of renewed conflict in the region and similar to the earlier debates about partitions and ‘land swaps’ in the region, proved to be a blueprint for new rounds of inter- and intrastate violence. The document proposes that Serbia, Croatia and Albania be expanded to swallow up parts



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of neighbouring Bosnia, North Macedonia and Kosovo. The idea behind it is to continue where the Yugoslav wars stopped and create monoethnic states – in direct contradiction with both EU and other international efforts to foster multiculturalism in the region. Proposed by the Slovenian officials, the document was greeted with silent support from the authorities in Croatia, Albania and Serbia, even though it is advocating for long outdated policies of ethnic states from the 19<sup>th</sup> century and the same principles that led to the deadliest European conflict after the Second World War. The fact that the issue has been revived by the highest officials of a country that is about to preside over the Council of the European Union raises even more red flags.

This incident actually gets to the heart of the matter: the EU has no coherent agenda for the region. As has been visible for nearly five years, neither local elites nor local citizens will tolerate being indefinitely sequestered in the EU's waiting room. Although the new methodology promises a more credible and tangible process of accession, the reality is that no one, not even the most optimistic analysts, believes there will be an intake of new members this decade. This is why there are many who fear that all initiatives for enhanced regional cooperation, a common market being one of them, are actually alternatives to the integration of all of the countries to the EU. The gap left by the EU's inability – or, more accurately, refusal – to articulate a compelling post-enlargement vision and offer (political, economic and other) for the region means that both its opponents and/or other international players can fill that space with their own interests, machinations and destabilising activities. This process is already underway. Russia, China and Turkey are no longer mere 'spoilers' but genuine geopolitical competitors, aggressively advancing opposing political projects in the region, including ones that hint at a willingness to use force, openly imposing their political, security, economic and other interests. This (re)establishment of a permanent boundary between the EU and its south-eastern "neighbourhood" will make it an even more enticing place for these malign elements to try all manner of political adventures. Especially if, as appears to be the case, the creation of that boundary comes with no plan or policy for the likely consequences.<sup>2</sup>

The region's collective democratic backsliding is evident from the EU reports, as well as from the reports of other international organisations and bodies. Although the EU has adopted the approach of emphasising core values such as the rule of law,

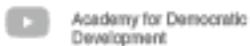
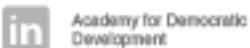
<sup>2</sup> Mujanovic, J. (2021) 'Slovenia's 'Non-Paper' is no Stunt but a Worrying Omen', *Balkan Investigative Reporting Network*, 3 May.



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independence of institutions and respect of human rights and freedoms, those are the exact same areas in which countries of the region are either failing to deliver results, make improvements or are constantly deteriorating. This even led to the creation of a new term – stabilocracy – used to describe governments that claim to secure stability, pretend to espouse EU integration and rely on informal, clientelistic structures, control of the media, and the regular production of crises to undermine democracy and the rule of law. Combining the semi-authoritarian features, while claiming to be reforming democracies and giving false promise of stability, stabilocracy includes considerable shortcomings in terms of democratic governance.

These false offers of stability by the governments of the region towards the EU, whether they are seemingly pacifying regional issues (such as bilateral disagreements) or in regard to external challenges (such as the flow of refugees), are actually misleading as the lack of democracy in the region is the main source of the instability the Western Balkan governments themselves claim to be overcoming. Semi-authoritarian stabilocracies are both willing to cause and manage instability with their respective neighbours or towards an internal other – opposition or minorities – for the sake of securing continued rule.<sup>3</sup>

For this exact reason, the rule of law for the region is essential. Stabilocracies in the region are the causes of instability. Institutions are weak, subjected to all kinds of abuse and pressure coming from authorities and unable to resist those pressures and ensure the respect and implementation of laws, international standards and European acquis. They are also failing to establish the respect for human rights and the rights of minorities, to effectively lead the fight against corruption and to create a normal functioning state. The rule of law is the main precondition for development in all spheres of society and all recommendations made by the EU concerning core values – Chapters 23 and 24 – need to be implemented in any future agendas and plans. Even the countries of the region which are members of the EU are facing challenges with the implementation of human and minority rights and achieving the stability and independence of the institutions.

Certain media in the region are actively and aggressively promoting war criminals, ideologies that led to the dissolution of and war in former Yugoslavia and are inciting

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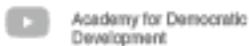
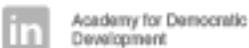
<sup>3</sup> Bieber, F. (2017) 'What is a Stabilocracy?', *The Balkans in Europe Policy Advisory Group*, 5 May.



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ethnically motivated hatred, conflicts and tensions among ethnic groups and countries. Orchestrated campaigns against ethnic groups, the leaders of countries of the region, the decisions adopted in their parliaments or by their governments, the promotion of war crimes and the glorification of war criminals are not a rarity in the media of the region. This kind of behaviour contributes to the deepening of existing conflicts, the strengthening of ethnic tensions and the inciting of further divisions and prejudices among different ethnicities living in the region. These campaigns are affecting citizens of the region in a very negative way and they are adding obstacles to an already complex situation with the reconciliation process, especially among young people.

While nationalist policies are becoming stronger and louder every day and new ethnic divisions, conflicts and ethnic changes or borders are being announced by different political actors from the region, psychologists are warning that there will be severe consequences from the COVID-19 pandemics. Tensions among the citizens and the media propaganda that incites further tension are not helping with remedying this situation. With every passing year, citizens are associating a gloomy outlook with the region. While 2019 reported 39% of citizens associated positive feelings with the regional cooperation, the percentage of citizens sharing the same attitude in 2020 has reduced to 36%. The same survey revealed that one third of the population has an instinctively negative reaction to the region.<sup>4</sup>

Without a rule of law, there can be no sustainable economic development, significant investments or true regional cooperation in this sense. Fears that a single market is not an interim goal in the path to full accession but rather a substitute for the EU integration process are preventing countries of the region to be fully devoted to its creation. This, in return, results in some of the countries being hesitant about deepening and fostering cooperation, causing losses to trade, commerce, finances and entrepreneurship. The failure to harmonise customs, different fiscal, economical, commercial and trading standards, certificates and other procedures, combined with the lack of a rule of law and legal security, has resulted in countries of the region still struggling to attract long-term, fruitful investments. Such investments would mean well-paid and high-quality jobs, not the poorly-paid, low-skilled positions that come from short-term investments and that disappear the moment the generous subsidies end. There is an obvious lack of in-depth analyses of economic and trade relations in

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<sup>4</sup> Regional Cooperation Council (2021) *Balkan Barometer*.

the region. There are almost no empirical research studies that look into the qualitative structure of trade between the countries and its implications. Moreover, there are numerous voices and studies that show that the countries of the region would benefit much more from a deeper form of integration into the EU internal market than from all efforts to further advance their intraregional trade.

Countries of the region are often quoted as the countries with the lowest employment rates and the highest unemployment rates in Europe. Although most public attention focuses on unemployment, the low rates of economic activity and the nature of employment patterns are equally worrying dimensions. The countries of the region are characterised by a high share of public sector employment; a small share of private sector employment; high agricultural, informal and vulnerable employment; and low employment rates for older workers, persons with disabilities and Roma. Women's activity rates significantly lag behind the EU average. Youth unemployment is twice as high as the overall unemployment rate and reaches over 50 per cent in some countries. Unemployment rates for early school leavers are twice as high as those for secondary and post-secondary graduates. There are few job opportunities for people with disabilities. Geographical factors also play a role, as secondary urban areas and remote rural areas tend to have less, or lower quality, job opportunities.

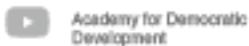
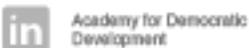
Educational systems in all of the countries of the region present a significant obstacle for the development and progress of both the region as a whole and the individual countries in it. Education methods are outdated and the infrastructure remains poor even though there is increased focus on developing Information and Communications Technology (ICT) through different strategies. Human resources continue to struggle with many problems, including the status of 'education worker' – the low wages, low level of autonomy within their work, lack of personal development, the curricula changing with the changing of ministers, low funding, constant dropping out due to poverty, infrastructure and local reasons, etc. all remain problematic factors. Reform of education, especially cross-border cooperation has only been partially successful. Curricula in the different countries are not only misaligned, but often completely conflict, contradict and diametrically oppose one another. This is especially true for history textbooks and interpretations of the events from the recent and not so recent past that are sensitive or still represent open issues between the countries. Caught between various national and international policy actors, history teaching has been subject to frequently overlapping and inconsistent reforms. Recognition of diplomas remains one of the key issues preventing enhanced cooperation. Higher education



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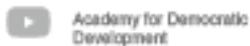
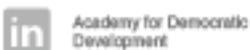
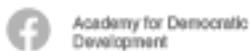
remains disconnected from the labour market, resistant to transformation and modernisation. In certain countries of the region, freedom of academia is not being respected by the governments, as government-controlled boards are influencing the internal policies of universities. At the same time, these universities are abusing the freedom to turn a blind eye to nepotism and corruption, instead of championing meritocracy and excellency.



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As a result of all these issues, the brain drain – the emigration of highly-skilled and educated workers in search of higher-paying jobs and/or better working conditions – has become one of the highest concerns for all of the countries of the region. It is clear that this will remain a significant challenge as long as the region's economies struggle and democratic deficits persist. It is clear that the economy is not the only factor contributing to this issue, just as it is evident from the examples of the EU member states that this problem will not be solved with EU membership. Young people across the region start planning their departure very early in their lives and an astonishing amount of them say that they would leave the region if given the chance. Even the prospect of emigration affects economies: young people in the Western Balkans make educational choices in line with the demands of their chosen destination country more often than those of their home country, increasing competition in some sectors. At the same time, there is an evident absence of a region-wide political debate on migration. Political leaders in the region have yet to begin unpacking the question of why people leave, let alone to actually address the problem. It has almost become a platitude to describe the region as an abandoned area, with this theme being a central part of many political and media campaigns featuring entire families who have been forced to leave. However, there is surprisingly little analysis of the positive effects of emigration, resulting in an almost complete inability to focus on the policies needed to soften its impact on society. For the moment, regional traditional political elites are making no strategic decisions on emigration and appear to lack the attentiveness and maturity for the task.

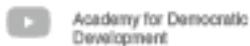
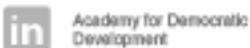
Several factors have contributed to the environmental degradation in the region in the face of economic growth, industrial development and modern consumption patterns. These include socio-economic factors such as weak or recovering economies with limited budgets for addressing issues of environmental protection; insufficient environmental regulations or implementation; limited public participation; and poverty. Limited access to cleaner technology and environmental information and



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political tensions has also contributed to the environmental degradation in the region, leading to the pollution of the soil, air and water, with the region's capital cities being among the most polluted in Europe. The following areas are considered the key environmental challenges on a regional level: threats to biodiversity; climate change mitigation and adaptation; the degradation of water resources; high levels of air pollution; infrastructure development that does not consider sustainability issues; contamination of soil and water; agricultural trends towards more intensive farming; poorly enforced waste and recycling legislation; and the environmental and security concerns as well as potential transboundary risks of mining. Greenhouse gas emissions from the region are projected to increase and climate change impacts expected to become stronger. There is almost no cooperation in the region to address these issues, even though they are amongst the most prominent examples of problems that neither recognise nor stop at borders. There is also significant proof that even the best solutions will not work if developed, adopted and implemented nationally and not regionally.

Workers' rights are constantly violated and, due to high unemployment rates and weak trade unions, workers are not protected when fighting for their rights and ensuring that laws and both domestic and international obligations towards them are being respected.

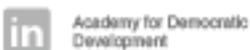
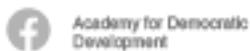
## REGIONAL AGENDA AND METHODOLOGY



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The Regional Academy for Democratic Development (ADD) is a regional think tank, policy development, advocacy and lobbying organisation that was founded on the ideas of modern governance, humane society, democracy and civil society. The ADD is a non-governmental, non-partisan and non-profit organisation. Its main goal is to offer solutions to regional problems and to develop state policies that will achieve these solutions. The ADD's Executive Board consists of long-term MPs, former ministers, and notable intellectuals and political activists from Serbia, Montenegro, Bosnia and Herzegovina, Macedonia, Croatia, Albania and Kosovo. All of the members have considerable experience in legislative procedures, institution building, the establishment of independent institutions, the introduction of civic-control of government work, the European integration process and the implementation of policies that lead to the building of a democratic society. The ADD's work also includes numerous eminent intellectuals, experts, researchers and civil society organisations. The long-term objectives of the ADD include working on building a modern and humane society, strong democratic states with solid institutions and European values, balanced socio-economic development, active citizenship and participative political culture. In this direction, the ADD focuses its activities and policies on the rule of law, good governance, gender equality, security, achievement and implementation of sustainable development goals and multi-ethnic and multicultural coexistence. The work is primarily project-based.

The Regional Agenda 2020–2030 is a project that aims to develop joint regional policies, offer solutions to shared projects, and later on implement projects in order to realise these policies through the network established during the development of the policies. The project is led by the ADD and is supported by the Embassy of Switzerland in Belgrade, the Olof Palme International Center and Friedrich Ebert Stiftung.

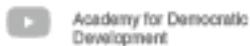
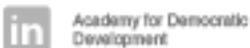
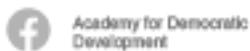
The first task of the project was to identify areas in which it is possible to develop joint policies and a common roadmap and to define the main issues and obstacles for democratisation and improvement in these areas. Thorough desk research was conducted and attitudes of citizens of the region were analysed in depth through focus groups. The main goal of the research was to reveal the attitudes of citizens about the situation in the countries of the region, the attitudes towards the current authorities,



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as well as attitudes about neighbouring countries. Respondents for the focus groups were selected by gender, age, education, and occupation and employment status. The geographical distribution of respondents was as follows: Serbia – Belgrade x 2, Kragujevac, Novi Sad, Vršac, Inđija, Užice, Pirot, Novi Pazar, Leskovac; Croatia – Zagreb x 2, Split, Osijek, Rijeka, Varaždin, Karlovac, Virovitica, Vukovar, Zadar; Bosnia and Herzegovina – Sarajevo x 2, Tuzla, Mostar, Bihać, Goražde, Banja Luka, Trebinje, Bijeljina, Doboj; Montenegro – Podgorica x 2, Mojkovac, Pljevlja, Šavnik, Niksic, Cetinje, Ulcinj, Budva, Tivat; Albania – Tirana x 2, Shkodër x 2, Berat, Elbasan, Durrës, Kukës, Vlorë, Sarandë.

The respondents were asked to comment on different topics. The first question they were asked was what would be the first thing they would change about their country. Questions about the most important issues and most serious problems in their country and the region followed, as well as questions about the significance of certain topics, such as education; the fight against corruption; climate change and environmental issues; healthcare in a COVID-19 context; the standard of living; the economy; culture; migrants; regional cooperation; and EU integration. After the questions, citizens were asked to assess the general situation in their countries, the region and their relations towards the EU, NATO and other international players. The second phase of the focus groups was based on the political behaviour of the citizens, their attitudes towards traditional political elites, the functioning of institutions and the accountability of elected officials. Next phase focused on the attitudes of the citizens towards other countries of the region and other nationalities and ethnic groups living in their country, or any of the neighbouring countries.

The results of the research showed that the majority of the respondents saw healthcare as the biggest problem in their countries and the region as a whole. However it must be noted that the research was carried out during the peak of the COVID-19 pandemic so that has to be considered as a reason that response scored so high. Other big concerns all the citizens of the region have include high unemployment rates and poor standard of living, corrupt political elites, poor education and, to some extent, environmental issues. When it came to the regional problems, poor connectivity and administrative obstacles were the most common answers, constant tensions and lack of joint projects and investments followed close behind. All the citizens vote somewhat regularly, but do not have a lot of trust in the political institutions and are generally very dissatisfied with the political leaders, traditional political elites and political parties in their countries. Answers addressing the citizens

growing interethnic relations and attitudes towards other nations and countries showed that there are still existing prejudices in the region and a great level of mistrust between different ethnic groups, as well as lack of readiness to accept the idea of peaceful coexistence.

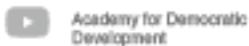
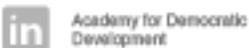
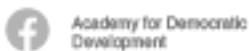
Members of the Executive Committee and Advisory Board of the ADD, as well as our partners from prominent CSOs and experts from the region, analysed the results of the research, discussed them in detail and worked on the development of the policies. The work included decision-makers, officials, activists, experts and CSOs from the region – MPs from Albania, Croatia, and Bosnia and Herzegovina; former MPs from Serbia; the former Deputy Prime Minister of Albania; the former Minister for European Affairs and the Chief Negotiator for EU Accession from Montenegro; the State Secretary for European Affairs and the Minister of Justice from North Macedonia. Also involved were regional experts in the fields of: human rights, environmental issues, European policies, the rule of law, the development of public policies, cultural cooperation, participatory democracy, security, the economy, finances, peacebuilding and reconciliation processes, gender equality, trade, labour, trade unions, workers' rights, social rights, the judiciary, political systems and institutions, among other areas. Finally, there were representatives and officials from some of the most prominent international and regional organisations, institutions, initiatives and think tanks. Some of the participants in the meetings and discussions and contributors to the paper include: Balša Božović, former member of the Serbian Parliament; Bojan Glavašević, member of the Croatian Parliament; Saša Magazinović, member of the Parliamentary Assembly of Bosnia and Herzegovina; Kalinka Gaber, Secretariat for European Affairs in the Government of North Macedonia; Aleksandar Andrija Pejović, former Minister for European Affairs in the Government of Montenegro and Chief Negotiator for the EU Accession Negotiations; Senida Mesi, former Deputy Prime Minister of Albania; Aleksandra Jerkov, former member of the Serbian Parliament; Mija Javornik, Vice-President of the Party of European Socialist Women; Bojan Maricik, Minister of Justice in the Government of North Macedonia; Tanja Miščević, Deputy Secretary General of the Regional Cooperation Council; Demush Shasha, Executive Director of Epik Institute from Kosovo; Jovana Marović, Executive Director of the Politikon Network from Montenegro; Dr Olivera Komar, Institute for Political Studies from Montenegro; General Nikola Lunić, Council for Strategic Policy from Serbia; Sanela Čičić, Chairwoman of the Network of Progressive Initiatives from Bosnia and Herzegovina; Pavle Bogoevski, Director of the Progress Institute from North Macedonia; Blerjana



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Bino, Chairwoman of the Centre Science and Innovation Development from Albania; Shpetim Gashi, Vice-President of the Council for Inclusive Governance from Kosovo; Milica Kovačević, President of the Center for Democratic Transition from Montenegro; Nataša Vučković, Executive Director of the Center for Democracy from Serbia; Filip Isailović, Association for Affirmation of Culture from Serbia; and many others.

The work was done through several separate events and conferences held between November 2020 and June 2021, which included in-vivo meetings, zoom events, policy analysis, in-vivo and online consultations, regional conferences and thorough analysis of the existing documents on similar issues, building upon them and using some of them as a starting point, while constantly amending them and adjusting and updating them to the ongoing and developing events. One of the first decisions was to select topics in which the policies will be developed, and projects implemented. After much deliberation, the following list of six topics was adopted:

- Active Citizenship, Participatory Democracy and Accountability
- Equality and Human Rights, Freedom of Media
- EU Integration, Foreign Policy and Security
- Rule of Law and Independence of Institutions
- Economic Cooperation, Environment and Sustainable Development
- Sustainable Peacebuilding and Interethnic Dialogue

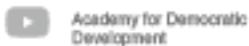
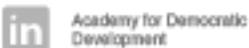
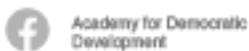
Along with the selection of topics, the main guidelines and key features were agreed and persons responsible for each of the topics were appointed. Over the course of the following months, our teams began working on developing draft policies following the guidelines decided upon by the entire group and based on the conclusions made at the previous meetings. The teams were constantly consulting with each other, among themselves and with external experts, and presented their draft policies at the final regional conference held at the end of the May. At the conference, all the draft policies were discussed with key experts in the selected areas, elaborated on and conclusions for the joint paper were made. The conference was affected to a certain extent by the latest developments in regional relations and cooperation – the appearance of the non-paper created and distributed to the EU by Slovenian officials, the Brdo-Brijuni Process which was held just days prior to the conference and where some important decisions were made, and the lack of a tangible perspective for EU membership in the



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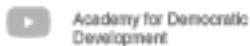
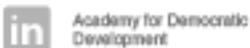
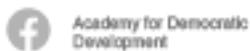




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near future – and policies were discussed both within this context as well as in a more general sense. The conclusions, aftermaths and consequences (political and other) of these events were carefully deliberated and analysed. Some of the conclusions of the Brdo-Brijuni Process were supported (e.g. the capability of the EU being sufficient to accept all countries of the region into full membership) and the conference went a step further and supported the conclusions that had failed to be adopted by the country leaders – absolute and explicit rejection of territorial swaps, changes of borders and demarcations of any kind. Moreover, the development of the policies was affected by the statements made and conclusions reached during the Berlin Summit and the first effects of the implementation of the Open Balkan agreement which came into force on 1<sup>st</sup> July 2021.

## KEY RECOMMENDATIONS FOR DECISION- AND POLICY-MAKERS

As it will be seen in the following pages, all policy areas contain significant number of concrete actions that need to be taken by the decision-makers in the region and international community, clear recommendations, detailed guidelines and a roadmap for institutions, politicians, civil society, policy-makers and political elites in the region and the European Union and the United States of America.

There are more than 400 recommendations in different policy areas and all of them are a product of thorough analysis, detailed debate and careful deliberation. All of those recommendations represent the Regional Agenda 2020-2030 – a set of tasks that need to be conducted by the governments of the region in order for those countries to become truly democratic, modern and humane societies which are governed by the principles of democracy, rule of law, independence of institutions, respect of human rights, equality, liberty, progress and reconciliation in the region.

In the light of the events that took place during the production of the paper (2020/2021), ADD sees following as the key recommendations and a backbone of the process of democratization of the region as a whole and of the countries in it:

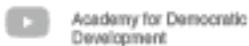
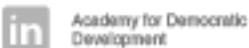
- There can be no changing of borders in the region between the countries, especially along ethnic lines. Different territorial arrangements within the countries are possible, but only within the existing borders of the countries and not between countries. All attempts, initiatives, ideas and notions of new ethnic divisions need to be rejected and condemned by all political actors. Ideas of greater nationalistic states and ethnoterritorialism have to remain in the last century where they belong and should be replaced by a shared vision of the countries as developed, modern, democratic and humane societies working together towards the same goals, rule of law, democracy, respect of human rights and freedoms and sharing a common future for their citizens.
- Regional transformation from stabilitocracies to democracies is essential for economic, political, financial, democratic, cultural and any other development. In the process of promoting the EU rule of law, it is necessary to include additional actors – both expert and non-political – who will complement the EU's efforts by convincing national elites of the need to internalise EU values. Basically, it is essential to achieve the transformation



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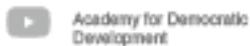
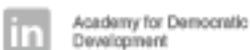
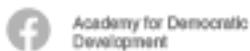




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from traditional top-down power structures in which governments are at liberty to influence both the legislative and judiciary branches through clientelistic networks and/or methods of more or less open pressure to a horizontally structured civil society based on the rule of law. In concrete terms, civil society empowerment should strengthen their expertise, capacities and technical know-how; provide for regional and international networking possibilities with the aim of establishing support mechanism for their systemic resilience; help local fundraising; and better connect civil society to politics.

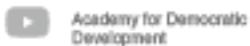
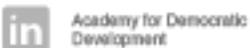
- There can be no substitute to the full EU membership of all the countries of the region. No regional imitative cooperation, be it political, economic, cultural, financial, institutional, fiscal, infrastructural or any other form or forum of cooperation, can serve as a replacement for the accession of all the countries of the region to the EU. A credible and tangible perspective of membership is therefore needed, and the process needs to be transformed and adjusted to the new circumstances both in the region and in the EU. The first group of countries needs to be granted their EU memberships in 2025, the second in 2028 and the third in 2030. The role and support of the countries of the region that already are EU member states is essential in this endeavour, both formally and informally. The “no real membership” policy, which appears to be the main approach of the EU, opens the door to other international players infiltrating the region and spreading their malign influence and has an impact that goes beyond the borders of the region and its countries. Countries of the region need to be involved in the Conference on the Future of Europe and it is essential both for the region and for the EU that they have their say about all the issues and challenges that lie ahead for the EU.
- Targeted sanctions are needed for individuals and organisations involved in undermining democracy, the rule of law and democratic institutions in the region, as well as for those violating human rights, spreading ethnic hatred, promoting war criminals, negating war crimes and disrespecting the decisions and rulings of courts and international tribunals for the war crimes. The Executive Order of the President of the United States is a good example of this, and it should be followed by the EU which needs to condemn and sanction this type of behaviour. Sanctions need to be applied to the media that are spreading hatred, involved in war-mongering activities and leading orchestrated campaigns against officials and citizens of other countries.



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Justice needs to be achieved for all the victims and their families. All the parliaments of the region have to adopt resolutions that condemn war crimes and pay respect to all the victims. Any negation, relativisation and promotion of war crimes needs to be sanctioned and criminalised. This needs to go hand in hand with forbidding sentenced war criminals from practising politics, being politically active, speaking publicly and holding offices.

- There needs to be political and societal consensus and support for regional cooperation in the hearts and minds of the people. Regional initiatives have to be regionally owned rather than imposed from the outside and demanded by the EU or international community. Leaders of the countries need to be devoted to regional cooperation and refrain from inciting conflicts, using old and opened wounds to gain political points and fostering a system in which exploiting ethnic and other differences are the easiest way to mobilise voters and gain popularity. There can be no ambiguity from leaders about regional cooperation, the need for the countries of the region to work together rather than competing against each other, where the countries of the region belong and the direction in which they are heading. This is necessary to secure and sustain the support of their own citizens, as well as citizens of the EU and must be reflected in the communication and outreach of the leaders to the people.

## POLICIES, TASKS AND RECOMMENDATIONS

The ideas presented in the Slovenian non-paper are not new. They are the same retrograde ideas based on the same principles that have been governing political elites in this part of Europe for a very long time. In the midst of the lack of any real reforms, the perspective of better living, democratic deterioration and with the EU accession process at a standstill, these ideas are gaining new momentum and are being launched by political elites in to the public domain and catching the attention of the citizens. Whether they are here to stay depends on whether there is an alternative to them. The aim of this paper is to provide such an alternative to the non-vision presented in the non-paper, to define a set of common goals, shared interests and joint policies, and to provide the main principles on which these policies need to be based. The paper contains sets of recommendations for decision-makers in the region as well as in the EU and EU member states.

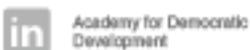
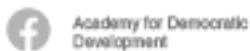
The discussion during the project was result-oriented and focused on offering solutions and concrete measures to be undertaken by the authorities and decision-makers in the region. Outlining the problems was not the main focus, although it was of considerable importance and needed special attention. Proposed policies are accompanied by concrete project proposals to be implemented by the partners in the project and organisations that took part in the policy development. In this chapter, key features for each of the areas will be presented, as well as possible steps and measures for the implementation of future policies for each area.



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### Active Citizenship, Participatory Democracy and Accountability

The idea of participatory democracy pertains to the involvement of civil society and other actors and stakeholders at all levels of the public policy cycle, via employment of instruments such as debates, expert consultations, participation in advisory and monitoring bodies, as well as other procedures. The goal is to enable the inclusion of non-governmental actors in the development and implementation of public policies, and the logic is based on the premise that policies and decisions made with the

participation of representatives of various interest groups and experts render the social consensus necessary for the continuity and sustainability of policies in any sphere of life. In this way, the participation of citizens in part addresses the shortcomings of the representative democracy, which limits the role of citizens to intermittent voting.



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The practice of the inclusion of civil society in what is traditionally viewed as “the business of the state” is taking off in the region, at both local and national levels. For it to be successful, it requires that the capabilities of the civil society, business associations and other non-governmental actors are sufficiently developed to clearly formulate their policy proposals and interventions, and advocate for their adoption. It also requires the existence of channels for the communication and articulation of proposals and suggestions, as well as the awareness of officials and public servants that criticism and external expert support are both a necessary stimulus and element in the democratisation and European integration, which requires the inclusion of all available capacities in society.

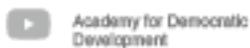
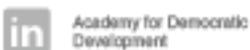
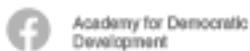
Under the influence of European integration and the EU conditionality, all the countries of the Western Balkans have taken certain steps towards the greater inclusion of civil society and citizens in decision-making, but these efforts have largely been reduced to improving participation procedures. These improved procedures in some of the countries imply a mandatory public hearing for all laws and bylaws, or a specific model of civil society participation in working groups for EU membership negotiations. However, regardless of the models, as well as the degree of involvement that varies from country to country, civil society faces the same problems in each of them. They can be reduced to formal inclusion in many ways, but substantial exclusion, as the impact remains limited, given that most proposals are not approved by officials, but are usually rejected without proper justification. In this sense, the problems faced by civil society organisations include limited transparency and the non-disclosure of important information, shortening or non-holding of public hearings, and often organising consultations and debates "only for the chosen ones" or delivering partial responses to received proposals during a public hearing. Also, mere involvement in



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various working groups for drafting legislation, monitoring its implementation or negotiating is insufficient, since the representatives of civil society in these bodies are outvoted and their opinion and suggestions often neglected. As for the citizens and their participation in decision-making, there is a lack of information about the mechanisms available to them, and thus insufficient use of them. Citizens, furthermore, often do not believe that they can influence decisions that directly affect them, and therefore do not have the will to participate in the processes. Citizens are not informed about their rights in communicating with institutions. Ultimately, they are not familiar with what their legitimate expectations from the authorities should be, and even elected officials are not aware of their obligations towards citizens and all the tools at their disposal.

Accountability and inclusiveness in institutions and institutional arrangements remain significant challenges in the countries of the region. During the last three decades, the region has had to deal with the breakdown of socialism and the accompanying internal ethnic conflicts and civil war, all the while trying to meet the requirements of European accession and debt conditionality agreements with the International Monetary Fund, the World Bank and other donor organisations. The transition discourse, highly influenced by Western powers, initially affirmed the value of democracy, human rights and the rule of law. In time however, implementing focused on selective political and civil rights (at the cost of civil, economic and social rights) and measures to create a competitive market economy, stated as key to improving efficiency and production. In this process, the public sector was restructured and accompanied by the privatisation of prevailing entitlements and rights in traditional essential services. Under these pressures, reforms and rights in the region were and remain contested terrains, associated with dissimilar norms of justice and inclusiveness that particularly affected the more vulnerable sections of society.

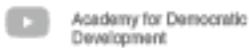
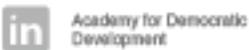
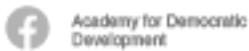
The crisis of democracy in the region is closely linked to several other factors that determine the dynamics of a society. Some of the most prominent factors include low public participation in political life and the decision-making processes; the lack of trust in political processes and political institutions; corrupt political elites who are failing to build inclusive institutions; and a non-existent culture of political dialogue that should include different actors and stakeholders and which would allow a new generation of political leaders and players to emerge. All of this results in a usually low election turnout, the progressive withdrawal of citizens from the areas of democratic participation and consequently the rise of populism.



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However, recently we have witnessed a tide of citizen dissatisfaction. Several citizen movements against authoritarian tendencies and for the greater inclusion of citizens in the decision-making and democratisation in general have started to emerge: from the so-called colourful revolution in Skopje, impromptu gatherings of civilians and plenums in Bosnia and Herzegovina, to the Kosovan political revolution and the grassroots movement Vetëvendosje's electoral sweep demonstrating citizen dissatisfaction with the deteriorating governance of the country. There was also the Možemo movement in Croatia that won the local elections in Zagreb and the defeat of three major ethnic political parties in the local elections in Sarajevo in Bosnia and Herzegovina, not to forget the civic initiatives tackling urban rejuvenation projects and various forms of less-visible 'every-day, discrete activism' in smaller communities. They all exhibit the willingness of the citizen to democratise the societies in which they live and to experiment with different forms of bottom-up participation and inclusion. In their demands to be included, the citizens of the region sometimes look to their own pasts, whether in search of inspirational traditions, like socialist self-government modes, or to avoid the perils of the ethnonational divisions that were a result of the 1990s conflicts and subsequent consociational arrangements. They also look for inspiration to other forms of participative strategies and democratic innovations taking place in various social movements throughout Europe.

The political processes, however, remain mostly closed for the initiatives of citizens. With few exceptions, they are failing to become active political players or to influence the decision-making processes in their communities. Decision-makers, be they elected officials from legislative or executive authorities, are not made accountable to the citizens and answer only to their parties and party leaders. This also has to do with the type of political and electoral system that allows for that type of behaviour or even, in some cases, encourages it. For example, in many countries of the region there exist closed party lists with a predetermined order in which candidates will be elected to parliament (decided by the parties). This puts all the power in the hands of the party decision-makers and bonds members of national or local parliaments to their parties and not to the citizens. While the practice of blanket resignation (also known as pre-signed resignation) has been abandoned in almost all the countries of the region (although it can be reactivated at any time), this predetermination of the

distribution of seats by a party created new tools for parties to discipline elected officials. Moreover, this leaves citizens completely powerless and without a say in choosing their representatives and the bond between them and their representatives is very loose or non-existent.

Elected officials are avoiding their obligations to citizens: they do not reach out and work with citizens; consult them, respond to their requests, demands or initiatives; or be accountable to them and answer to them. CSOs are failing to work with citizens, educate them about their rights and the channels at their disposal to control elected officials, hold them accountable and contribute to the rule of law. One of the most prominent examples of this is the fact that as many as 88% of citizens in the region have never requested information based on the law and they do not know that they have a right to do so.

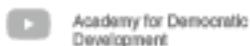
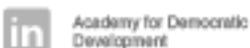
The latest Nations in Transit report warns of the democratic backsliding observed in 2020 throughout Europe and Asia. Data shows that the countries of the region have mostly followed this general trend. While both Bosnia and Herzegovina and North Macedonia observed some improvement, the democratic score of other countries in the region has declined in the past year. Bosnia and Herzegovina held local elections in Mostar for the first time in 12 years, and opposition candidates managed to win against the incumbents in Sarajevo and Banja Luka. Improvements to the electoral process contributed to the higher democracy score of North Macedonia. In Albania, shrinking spaces for civil society and activism and the continued deterioration of media independence were the main factors of its democratic score decline. Kosovo's unstable government and power plays in 2020 contributed to its decreased score, while local governance and the takeover of Budva were the main culprits of democratic deterioration in Montenegro. Long awaited change of government in Montenegro brought continuation of misusing public funds, mainly in terms of party employment, lack of transparency and additional ethnic polarization. In Serbia, the continued centralisation of power by President Vučić and a lack of choice during the elections contributed to its democratic decline.<sup>5</sup> This goes hand in hand with a growing perception of unequal treatment in society and further diminishes trust in institutions. Amidst widespread corruption, biased institutional responses to rule-breaking and impunity, people feel that institutions do not work in their interest. People in the



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<sup>5</sup> Csaky, Z. (2020) *Nations in Transit 2020 – Dropping the Democratic Facade*.

Western Balkans (excluding Serbia) have significantly less trust in institutions than the OECD average.<sup>6</sup>

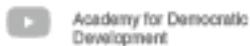
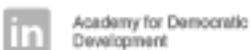
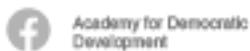
Distrustful citizens will find other avenues to get things done, and this typically means they must rely on brokers in political parties to receive public services.<sup>7</sup> Regardless of whether citizens trust institutions or not, they have needs and expectations and must try to navigate society. This dependency sets off a spiral where distrust feeds such actors, who then gain political or economic capital while avoiding the rule of law, infringe on institutions and contribute to another wave of civic distrust. This systemic deficiency has increased support to a style of leadership characterised by political strongmen who can get things done regardless of the necessary democratic due process. Citizens look to political leaders who promise quick results and seemingly deliver, viewing democratic and judicial developments as too slow. Paradoxically though, 59% of those supporting strong leaders support democracy as well.<sup>8</sup> Moreover, the distrust in institutions often extends to civil society actors. Such a state of play derives from a combined lack of knowledge and organised anti-CSO campaigns. This is a debilitating factor, so CSOs focus more on organising pressure rather than mobilising, performing monitoring and watchdog roles so as to build assessments and case files, and informing the public. Another debilitating consequence of the distrust in governance is a shared sense of futility towards any possible action. The mounting information about malpractice, failed expectations, and the experience of impunity continuously creates an image that nothing can be done, and that resistance and civic activism are a waste of time.



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## RECOMMENDATIONS:

<sup>6</sup> OECD (2020) *Government at a Glance: Western Balkans – 9.1 Trust in government*.

<sup>7</sup> Civil Society Forum (2021) *The Role of Civil Society in Strengthening Democracy*.

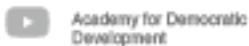
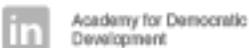
<sup>8</sup> Bieber, F. and Lavrič, M. (2021) 'Shifts in Support for Authoritarianism and Democracy in the Western Balkans', *Problems of Post-Communism*, 68(1), pp. 17–26.



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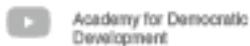
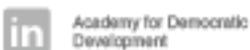
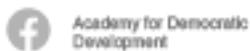
- The main change that needs to be made in order to amend this unfavourable situation is to create a stronger bond between elected officials and citizens. Besides traditional political culture, one of the main obstacles for this is the electoral system which, in some of the countries of the region, puts disproportionate power in the hands of political parties and discourages any individuality of the elected officials. There is no perfect formula for the right type of electoral system, or the one that would best fit the needs of citizens of all of the countries of the region. The situation in all of the countries is different and numerous factors need to be taken into account: the ethnic composition and ethnic relations, the level of voting literacy among the voters, the political and social context, the existence of constitutional provisions for referendums, citizen initiatives and direct democracy, the degree of centralisation, the choice between parliamentarianism and presidentialism, voting habits, etc. Electoral systems are among the most important features of political setup in a country and have a profound effect on the future of political life, wider political and institutional framework and other structures within and outside the constitution. Although political in its essence, the decision to choose a certain type of political system cannot be subjected to the daily political interests of political elites and at the expense of democracy and the empowerment of citizens. It has to be a product of comprehensive public debate that must include experts, politicians, academics, CSOs and other public players, and it needs to ensure active participation of citizens in political processes through the strengthening of the obligations of elected officials directly to the citizens. Citizens have to be empowered and permitted to actually influence and decide who gets to be elected to any position, from a municipal level to a national level.
- Civil society can utilise both pressure and cooperation with institutions to induce positive change and improve governance. To do this, CSOs must employ strategic coordination and work together to deliberately create an environment where they create civic demand for particular changes and provide counsel to institutions on how to reform. These are not new roles for CSOs, but they often still lack synchronisation, joint advocacy and mobilization. More concretely, to bring back trust in institutions as a requisite for democratisation, CSOs and citizens must start winning together against



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entrenched, corrupt actors especially in areas that have visible effects on everyday life. Victories in favour of the environment should be the priority, and civil society must win in the courtroom, with strategic litigation and organised demands for quality in adjudication. In this way, citizens will start feeling more optimistic about the potential for progress, and this regained trust will have a snowball effect for victories in other areas. CSOs also need to be working on building citizen's trust in them. Many of them sometimes transform from CSOs to active political players and participants in the elections, and are, therefore, not regarded as non-bias and neutral, but rather a supporters of different political options.<sup>9</sup>

- One of the ways in which the participation of citizens in democratic processes can be improved is to make institutions in the region more inclusive and to develop proper mechanisms which will ensure the participation of stakeholders and citizens in the decision-making and democratic procedures. Public participation needs to be firmly embedded in the policy-making process. Proactive engagement of stakeholders broadens the collection of data and evidence, fills data gaps and contributes to the better examination and understanding of the benefits and costs of the proposed policy and legislative interventions. Public participation should therefore be an integral part of any regulatory impact assessment and evidence-based policymaking. Participatory processes should be consistently implemented in the drafting of both primary and secondary legislation, as well as in the drafting of policies and strategic documents, and results should be analysed in a meaningful way. During all these stages, the mechanisms must be fully implemented and all stakeholders adequately informed, so that as many actors as possible take part and the process is participatory and of high quality.
- Different mechanisms for ensuring citizen participation in the decision-making processes need to be strengthened in all phases of the policy cycle. Some of them should include post-legislative scrutinies, public hearings, public consultations, working groups, expert insights, open debates and different instruments that will strengthen the overseeing role of the parliaments with greater participation from stakeholders. There should be a permanent interactive communication channel (e.g. a web platform) through which the

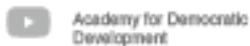
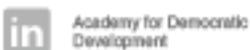
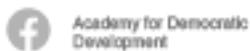
<sup>9</sup> Civil Society Forum (2021) *The Role of Civil Society in Strengthening Democracy*.



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public and expert audience (business associations, academia, umbrella NGOs, think tanks, research institutes, etc.) can communicate their initiatives regarding public policies and legislation. It is particularly important that institutions know how to recognise the importance of early consultation, the timely involvement of external and expert support, and to see this as an opportunity to improve public policies, rather than as part of a procedure imposed on them under the influence of the EU integration process.

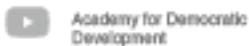
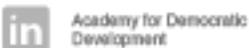
- To gain the public's trust as well as support for the policy at hand, and to improve its implementation, public authorities should always provide feedback on received contributions. Official documentation of the European accession process, public hearings, results of public debates, working groups, contributions of stakeholders and remarks made by experts needs to be made available to the EC along with the adopted legislation. Stakeholders should be informed if significant changes to the draft are made during the process. Every contribution needs to be registered and analysed in a transparent manner. Such practices will result in a clear legislative footprint and will help ensure that the influence of interest groups on policy-making is not disproportionate, and that undue influence and state capture are prevented. However, this feedback cannot be in the form of a general review or response response to all received proposals at once, but rather it should be a review of each comment individually. This will ensure what the EC often calls in its reports "responding in a meaningful way". Reports from consultations and public hearings should be part of the package submitted to the EC with the draft laws and the reports on compliance with the *acquis*.
- Public authorities should monitor the implementation of participatory processes. They should monitor the process itself – the implementation of planned activities, the timeline and the use of resources – as well as its quality – how the activities were implemented and if the set objectives were met. When the process is over, it needs to be internally evaluated. The evaluation should include the assessment of implemented methods, appropriateness of the set objectives, success with the identification and involvement of stakeholders, incurred costs and reached benefits and impact. In line with the results of the evaluation, the support provided by the EU to the institutions should be carefully designed so that it is targeted where it is most needed.
- Citizens need to be clearly informed and fully aware about their rights to participate, influence the decision-making process and hold their



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representatives and authorities accountable. This includes both people who are affected by the policies, with special consideration of vulnerable and marginalised groups (such as older people, younger people, people with disabilities) and expert audiences (business associations, academia, umbrella NGOs, think tanks, research institutes, etc.). The information on the different possibilities to get involved needs to be published, communicated and available to the public at all phases of policy development.<sup>10</sup> Such a campaign should be ongoing at both national and local levels, and its implementation should be jointly implemented by institutions and civil society. This is to ensure that the voice of as many stakeholders as possible is heard and that citizens are prepared and encouraged to influence decisions that affect them and hold institutions accountable if need be.

- Decision-makers, especially those elected and held accountable by the citizens, need to be aware of their rights and obligations towards citizens, as well as of their authority towards other levels of government. Their work needs to be based on permanent consultations and communication with citizens, respecting all aspects of the notion of representation. In this sense, education is necessary for both citizens and elected officials. At the same time, the institutions should be fully open to the public to prove that they have nothing to hide and are fully prepared to listen constructive criticism and continuously improve on their work.
- Grassroots initiatives need to be strengthened and empowered so they can have more impact on decision-making processes. Their voices, especially in the smaller communities, are often unheard, they are failing to mobilise greater numbers of people and their inputs, initiatives and efforts to participate in the political processes are usually ignored. They are not connected to each other and are unable to articulate their demands in a manner that would contribute to clear and productive political participation. Donor assistance and access should go in the direction of combining support for joint think tank and grassroots projects in order to strengthen the capacities of both and ensure better action.
- Citizens often believe that there is no point in getting involved or participating in the political processes, since they can make no difference to the decision-

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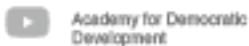
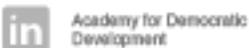
<sup>10</sup> Regional Cooperation Council (2017) *Western Balkans – Recommendation on Public Participation in Policy-Making Process*.



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making and policy development. There are, however, some exceptions to this. In 2020, there were some changes, previously considered impossible, on the political scenes in several countries of the region. As mentioned above, grassroots movements and/or opposition won in local or national elections in Croatia, Montenegro, Bosnia and Herzegovina and Kosovo, and candidates from traditionally strong parties were defeated. This affected the perception of citizens' attitudes towards elections as a tool for change, with many of them starting to believe that a change of government is possible through elections. Studies show that 80% of Montenegrin citizens now believe that the government can be replaced at an election. In other countries of the region this percentage remains significantly lower – it is highest in Kosovo, with 56% of people believing in a change of government at an election; North Macedonia with 46% of citizens; in Bosnia and Herzegovina and Serbia only 43% of citizens believe in the possibility to change a government; and in Albania this figure stands at 38%.<sup>11</sup> The experience of these countries shows that it is possible to change the government even when there is an uneven playing field and when the conditions for holding elections are far from free and fair. These developments and the growing awareness of citizens that they can influence change should be an additional motivating factor for collective action across the region.

- CSOs need to provide constructive criticism, mobilise pressure, and provide oversight to national and local governments. On the other hand, they need to advise and facilitate institutional development. Ideally, it is a balancing act between CSOs with different mission statements ranging from grassroots organisations and watchdogs to professional associations, capacity builders and think tanks. The success rate is greater when there is deliberate thematic coordination and strategic intervention in these two broader types of action – confrontation and cooperation. Both support and criticism are necessary in reaching long term goals of democratisation. In terms of rules and resources, weak institutions need to be supported to reach a desired level of proficiency and integrity, one capable of moving the country forward.<sup>12</sup>
- Regulatory bodies that are in charge of controlling this are either weak or under the control of the authorities, and citizens do not feel they can ask for

<sup>11</sup> Marović, J. and Perlec, T. (2021) 'No Longer Voting for the Devil You Know? Why the Balkans' Collective Action Problem Might Be Easier to Break Than We Think', *BiEPAG*.

<sup>12</sup> Civil Society Forum (2021) *The Role of Civil Society in Strengthening Democracy*.

protection or the enforcement of existing laws and procedures. Their role needs to be stronger, more influential and they need to be substantially and legally empowered to serve citizens.

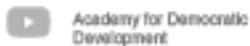
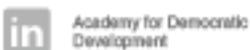
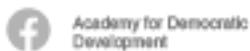
## Equality and Human Rights, Freedom of Media



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All of the countries of the region signed and ratified the majority of the internationally binding documents, declarations and conventions regarding human rights, minority rights, gender equality, anti-discrimination and the freedom of expression, as well as other documents guaranteeing equality and the full respect of human rights. This means that the countries of the region have many obligations: those that have arisen from UN membership and ratified human rights treaties; those deriving from membership of the Council of Europe; obligations secured from the EU accession process or membership; and those found in national legislations. The situation in all of the countries, according to EU progress reports and the relevant human rights organisations, gives cause for concern. Almost all of the countries are facing challenges with significant human right issues, including: slow or no progress towards accountability for war crimes; ethnic tensions; intimidation and censorship of journalists; acts of unjustified police violence targeting irregular migrants and refugees; discrimination and violence towards members of ethnic and minority groups; discrimination against LGBTQ persons; unequal treatment of women; failing to act and fully protect survivors of gender-based violence and domestic violence; failing to align with international standards the definition of rape in national criminal legislation; the deluge of hate speech in public discourse; and failing to update the tools for the protection of human rights in the context of the COVID-19 pandemic, which brought new challenges and obstacles to respecting human rights, as well as to the implementation of international and domestic standards.

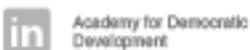
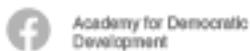
Independent regulatory authorities and bodies in charge of enforcement of human rights and ensuring equality are often not strong enough and do not have sufficient authority or tools at their disposal. Some are also under political influence due to the means of election and appointment of legal framework, jurisdiction or other legal provisions. The practices of the authorities in enforcing provisions affecting the exercise of human rights are often a greater problem than the very provisions of the law.



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There are serious issues with the acknowledgment and condemnation of war crimes, with many being denied or worse, glorified. Persons responsible for serious human rights infringements are not being processed, condemned and are still celebrated as heroes. The carefully orchestrated campaigns are constantly visible in the media and public discourse. The rights of the victims and their families to justice are being denied and violated, and the smear campaigns against them are not sanctioned in any way.

Moreover, there are media campaigns all over the region, including cross-border campaigns, with which the media are directly inciting ethnically motivated hatred and promoting hate speech towards different ethnic groups or religions, neighbouring countries, migrants, refugees, Roma or other minorities and different social groups. This propaganda is encouraging discrimination, prejudices, hatred and unequal treatment.

There are many political murders and assassinations that have not been solved, especially when it comes to determining the political background of the crime and who inspired, supported and helped the murderers. The same is true with regards to the murders of journalists, with many unsolved cases still remaining in several countries of the region. Threats, intimidation and violence against journalists are still a source of serious concern all over the region.

Economic difficulties are pushing many citizens to the brink of poverty, widespread crime and corruption, populist rhetoric lying at the heart of and driving political activity due to the inability of the political elites to address core national issues. All of this has turned the countries of the region into communities of widespread prejudice and stereotypes with great social divides separating the populations, both locally and in the region.

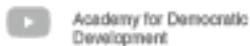
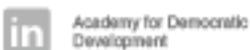
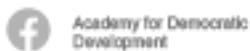
Despite an impressive list of global, regional and national frameworks, neither the labour market nor the social policies have been successful in addressing the specific needs of the vulnerable population. Many citizens withdraw from the labour market or face multiple barriers to access it. Vulnerable groups are also over-represented in public works programmes, which usually don't actually result in people finding permanent jobs. The evidence suggests that these vulnerable groups are the last to gain in periods of growth and economic prosperity and the first to lose in periods of economic downturn. Economies of the region have relatively high shares of informal



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employment in total employment. Informal employment is high among the most vulnerable groups, such as young people, women and the older age groups. Informal workers are subject to exclusion and vulnerability, and informal employment has a persistent, forced and occasionally desperate character. Unpaid family employment accounts for a significant share of informal employment in most regional economies.

Empathy for the socially excluded is not universal and unfortunately it depends on their identity and to which particular group they belong. Though this reading of the barometer records a visible empathy for the socially excluded groups, affirmative actions are still considered far more favourable for some groups than for others, with Roma once more pushed to the economic and social margins. Employment measures for the disabled are supported the most (92% of respondents), while fewer feel that special privileges should be given to members of the Roma community (79%) or other minorities (81%).<sup>13</sup>

Although some of the countries are facing very specific challenges regarding human rights (e.g. Bosnia and Herzegovina is still failing to implement ECHR decisions, Serbia has issues with political rights and Croatia is facing challenges when it comes to the Serbian and Roma minorities) they will not be analysed separately, since there are many common issues shared by all of the countries of the region. These issues will be the focus of this chapter.

## RECOMMENDATIONS:

- All politically motivated murders and assassinations – including the assassinations of the former Prime Minister of Serbia, Zoran Đinđić and the Kosovo Serb opposition party leader, Oliver Ivanović – need to be fully resolved, with not only the direct perpetrators but also the organisers, conspirators and all involved in ordering the murders brought to justice. This does not only affect the human rights situation in the countries of the region, but also the rule of law, overall democratic situation and ability to move forward. Finding out the political background of these events and prosecuting all those responsible goes way beyond mere court verdicts – it also contributes

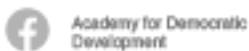
<sup>13</sup> Regional Cooperation Council (2021) *Balkan Barometer*.



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to building a political environment for free expression of thoughts, speech, political assembly, political pluralism and democratic processes.

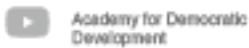
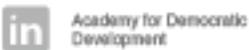
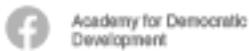
- Investigation and prosecution of pressures, intimidation, threats, violence and attacks on journalists have to be the priority of investigative bodies and the judiciary across the region. These are the urgent efforts that need to be made in order to ensure the freedom of expression and the independence of the media across the entire region. Authorities react weakly to concerns over political pressure, intimidation and threats against journalists.
- Efforts need to be made in order to guarantee the independence of public service broadcasters, to promote transparency in public and private funding of the media and to tackle the distorted advertising market in all countries in the region. The lack of financial self-sustainability leaves media vulnerable to political and business interests. It is important to ensure a greater transparency of media advertising by state institutions, political parties and public enterprises. Self-regulation efforts need to be intensified to support an advancement in professional standards and the quality of journalism. It is essential to continue supporting media pluralism, promoting professionalism, unbiased reporting and investigative journalism, and building resilience to effectively combat disinformation. This is not an easy task to achieve, and the crucial role in this sense belongs to the regulatory bodies, which also need to be empowered and independent enough to be able to enforce this. This can be done through *de jure* and *de facto* empowerment, through amending legislation and providing the organisations with adequate resources, knowledge and finances so that they are able to complete this task. An environment in which freedom of expression can be exercised without hindrance and ensuring that threats, physical assaults, violence, and cases of invasion of privacy against journalists and bloggers are properly and swiftly followed up by law enforcement and judicial authorities, as well as publicly condemned by government officials has to be created and enabled. We are aware that formulating such legislation is a difficult task – particularly since restricting freedom of speech can be dangerous and produce negative consequences. Thus, we recommend that legislative bodies need to differentiate between mere offence and legitimate political debate on one hand, and incitement and instigation on the other. Subsequently, regulatory bodies need to ban the former while allowing political discourse (consisting of opposing views) to thrive. While this is not an easy task, international



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regulatory bodies have been able to make such a distinction in the past and identify instances of clear instigation and incitement – most notably, the International Criminal Tribunal for Rwanda (ICTR) successfully indicted and sentenced individuals considered responsible for incitement during the Rwandan genocide of 1994. The participation of political elites in this sense is crucial, since they themselves are often the ones publicly defaming or smearing journalists, reporters and media, especially investigative journalists whose work is crucial for the fight against corruption and ensuring transparency and rule of law in the countries of the region.

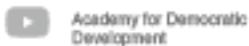
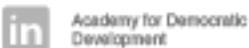
- Legislation which will explicitly and clearly condemn and sanction any form of hate-speech, warmongering and spreading ethnic hatred by the media needs to be adopted and implemented. This also has to include the negation of war crimes, glorification of sentenced war criminals, spreading fake news about countries of the region and different ethnicities, and the promotion of war crimes, which is often followed by a smear campaign against victims and their families – an almost daily occurrence in much of the region’s media.. In this sense, an important contribution can be made by applying the President of the United States’ Executive Order on Blocking Property And Suspending Entry Into The United States Of Certain Persons Contributing To The Destabilizing Situation In The Western Balkans to the media, journalists and editors who are actively destabilising the reconciliation process, violating human rights and inspiring interethnic hatred and conflicts in the region. These measures should in no means limit disproportionately the freedom of expression and of the media. We, again, acknowledge that this may not be easy – since it is often difficult to differentiate between opposing views and hate speech. However, there are countries which could serve as a good example. For instance, in Germany, denying the Holocaust is explicitly prohibited. Such legislation seemingly did not prevent political debates in German society. Thus, we would advise the legislative and regulatory bodies to search for examples of adequate regulation of free speech when thinking about the policies that could be implemented in the region.
- All legislation in accordance with international standards and best practices should be adopted and implemented to ensure gender equality and to prevent and address discrimination, harassment and gender-based violence. Special mechanisms to ensure the swift prosecution of cases involving gender-based violence, domestic and partner violence included, have to be implemented to



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ensure that the processes are less traumatic for survivors and that their path to justice is easier. All the procedures, tools, resources and institutes at their disposal need to be carefully analysed, revised and constantly improved upon. Special attention has to be devoted to gender-sensitive budgeting, especially at a local level, and all resources and budget allowances made available for this purpose need to be supervised, their results analysed and effects measured. Education and training for public officials and civil servants who are in charge of gender-sensitive budgeting and the protection of survivors of domestic violence needs to be provided, and special mechanisms need to be put in place that will ensure their cooperation with experts and civil society organisations. All local municipalities have to establish single-point-of-access services commissioned by local authorities, which act as the first point of contact for any victim of gender-based violence and to support those who have experienced domestic violence, rape and sexual assault, prostitution, stalking, human trafficking and modern slavery, forced marriage, female genital mutilation and so-called “honour” based violence. One-stop shops should offer free advice, information and support from a range of agencies all under one roof in order to help victims of domestic abuse.

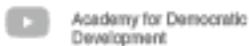
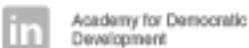
- Full implementation of the Istanbul Convention needs to be ensured in all of the countries of the region. This includes the obligation of states to redefine rape as any sexual act without consent. The Istanbul Convention defines that consent must be given freely, something that will be determined based on individual cases. The definition of rape in criminal laws and court practice prescribes the use of force from the attacker and physical resistance from the victim, and decisions on whether a rape happened or not are based on traditional beliefs about the “typical” behaviour in those types of situations, different gender stereotypes and myths about male and female sexuality. Additionally, the overall position of survivor during the court procedures needs to be changed following this report. Processes, procedures and mechanisms that will ease their path to justice need to be introduced. This has to be followed with the introduction of protocols for the education of police, judges, prosecutors and all other civil servants working with survivors. A general awareness about the necessity of consent needs to be raised and special attention needs to be given to the student population. Teachers should be trained to identify and support victims of sexual assaults, rape or gender-based violence, as well as domestic violence. Misogyny needs to be defined as



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a hate crime and street harassment needs to be recognised as a separate category of offence. Criminal sanctions need to be introduced for tech executives who do not act fast enough to remove misogynistic abuse from their platforms and custodial sentences for those who name victims of rape and sexual assault.

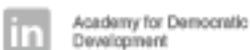
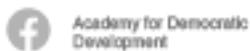
- Child protection and childcare systems need to be strengthened. There is an urgent need to improve protective and counselling services for children, particularly while a child is going through the justice system. Regarding issues of juvenile detention, as well as amending a much too limited recourse for restorative justice, governments need to further promote and protect the rights of persons with disabilities in line with the UN Convention on the Rights of Persons with Disabilities and address discrimination against minorities. Community services that identify children at risk and support young victims of violence, Roma children and adults, and children with disabilities have to be improved, including better interagency cooperation.
- All conventions, bilateral agreements, international standards and domestic legislation protecting the rights of ethnic minorities need to be fully implemented. While this is crucial for all minorities, it is especially important for people who belong to minorities that were previously constitutive nations in former Yugoslavia, since their states were at war with each other and there is open hostility towards them. Further efforts need to be made to improve the socio-economic situation of vulnerable Roma, especially in the fields of education, employment, health, housing, civil documentation and the fight against antigypsyism. Special systems to protect the rights of persons facing discrimination need to be introduced and punishment for hate-motivated crimes need to be made priority.
- In all of the countries, human rights institutions need to be strengthened, and authorities have to guarantee and ensure their independence – including through the allocation of the necessary financial and human resources – and ensure timely follow-up to their recommendations. Authorities in all of the countries need to ensure that media and other non-state actors who investigate legal evasion, corruption and who protest police abuse are protected.
- Measures have to be undertaken to enable public employment and social service agencies greater capacity to implement integrated user-centred approaches to improve outreach to vulnerable and hard-to-employ groups



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and to encourage inclusive labour markets. Public employment and social service agencies have to implement innovative programmes for the employment of disadvantaged groups and scale them up to a regional level.

- While the set-up of the external oversight mechanism of the police is in place in many countries, the absence of genuinely independent investigators may impede the work of the unit to effectively address police impunity. This is also true for further ensuring adequate prison conditions and the prevention of ill-treatment, in line with international human rights standards.
- All countries of the region need to adopt laws regulating the legal status and rights of same-sex couples. In doing this, governments of the region need to be politically brave, innovative and opened, and these laws need to be the product of broad public debates, awareness-raising campaigns and different affirmative actions.
- All measures need to be put in place to prevent women from facing discrimination in the labour market. This includes during employment interviews, career stagnation and forcing female employees to choose between professional and personal development. Organisations for the protection of human rights, courts, inspections and the enforcement of law in this sense are crucial, and they need to be empowered to independently exercise their authority.
- All ratified conventions, resolutions, documents, norms and mechanisms for the protection of human rights need to be implemented and transferred into domestic legislation by the end of 2022.

## EU Integration, Foreign Policy and Security

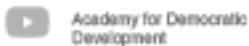
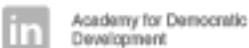
Full EU membership is the ultimate priority for all of the countries of the region. The process of accession started more than 20 years ago, when European perspective for all of the countries of the region was confirmed and the stabilisation and association process was launched. The enthusiasm of citizens of the region towards EU integration was also a significant driving force for national authorities and a strong impulse for them to carry on with an integration process which seemed a credible perspective and a tangible goal for the near future. Over the course of the following years, the road



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has been one of opposites: success and failure, advancement and standstills, high hopes and disappointments, expectations and realities, enthusiasm and fatigue. While Slovenia joined the EU in 2004 and Croatia in 2013, other countries of the region are currently facing a slowdown and to many the future accession seems further away than at the beginning of the process. Although in different phases of the accession process, all of the countries are currently facing similar challenges, including uncertainty of the process after many mixed messages from member states, doubts concerning the implementation of new methodology, the dynamics of the accession and negotiations, political will in the member states and support for the membership diminishing in many countries due to failed expectations, broken promises and a lack of commitment to the integration process.

In the past 10 years, the EU has faced a number of serious challenges, both internal and external: the international and European debt crisis and the global economic crisis, the outbreak of war in its territories, the refugee and migration crisis, the growth of Euroscepticism and populism, the British vote to leave the EU, the election of Donald Trump, the rise of China's economic diplomacy, the return of Russia to the European stage, the COVID-19 pandemic, etc. The reform of the accession process was something that was evidently needed and the crisis in which the process was called for revision. The new methodology was aimed at making the process of accession to the EU more credible, predictable, dynamic and politically driven, as opposed to what was previously considered a "technocratic" process of meeting certain technical requirements and standards. Candidates are now required to be genuine in terms of their sincere commitment to the fight against corruption, respect for the rule of law, ensuring the proper functioning of democratic institutions and public administration, harmonisation with EU common foreign policy instruments, and strengthening regional cooperation and good neighbourly relations. This is especially important from the perspective of the document adopted in 2018 titled 'A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans', which elaborates on many of these issues and uses the term "captured states" to describe the situation in the countries of the region.<sup>14</sup> Despite the new approach presented in

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<sup>14</sup> European Commission (2018) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans.*

the paper and the strong, important messages laid out in it, this document failed to provide the much needed impetus and incentives to the process of the EU integration of the countries of the region.

The current state of affairs for each country of the region involved in the accession process is different:

Croatia, the last country to join the EU, applied for accession in 2003. It became an official candidate one year later (2004), started accession talks a year after that (2005) and concluded accession talks six years later (2011). Croatia officially joined the EU in 2013, a decade after it had applied.

North Macedonia applied for accession in 2004 and became an official candidate within one year (2005). In the 16 years since then it has not been allowed to start accession talks. The EC made promises and announcements that negotiations would be opened numerous times, but for years individual member states have been blocking these recommendations and deciding not to open the negotiations for various reasons, the most recent one being a veto from Bulgaria because of the language, nation, historical and identity dispute. The example of North Macedonia and situation connected to their accession can be applied to a much broader context – it can serve as a test for the policy of conditionality, the principle of the stick and the carrot, European values themselves, the credibility of the EU and the entire accession process, and it raises the question of what is considered a valid condition for accession. Despite North Macedonia being the country that achieves the best results in reforms and conditions requested by the EU, this progress was not evident in the accession process and the expected rewards were not received.

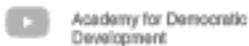
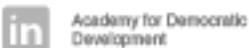
Montenegro applied for accession in 2008 and it started talks four years later (June 2012). It has now been negotiating for nine years, already three years longer than Croatia. Of the 35 negotiation chapters, only three have been provisionally closed, with the latest one being closed in 2017. At a summit in Sofia in May 2018, 10 years after Montenegro's membership application, EU member states refused to support an EC target for the country to "potentially be ready for membership in a 2025 perspective". Montenegro is the front-runner in the Western Balkans today. It accepted the New Accession Methodology but the negotiations are still based on the old interim benchmarks.



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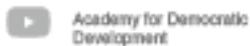
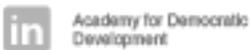
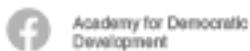




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Serbia applied for accession in 2009 and started talks five years later (2014). It has, so far, opened 18 accession chapters and provisionally closed two of them. A special reason for concern for Serbia lies in the fact that Serbia has not opened any new chapters since December 2019. Then in June 2021, European member states decided not to open any new chapters with Serbia, primarily because of concerns regarding the rule of law and the need for Serbia to harmonise its foreign and security policies with the EU.

Albania applied for accession in 2009, before Serbia. Twelve years later it has not yet started accession talks, with many announcements being made by the EC and member states blocking the start of the negotiations. Although the EC decided to open negotiations with Albania in 2020, the first intergovernmental conference was never convened. The case of Albania can also give reason to question the approach in which countries of the region are regarded as pairs (Serbia and Montenegro, Albania and North Macedonia, Kosovo and Bosnia and Herzegovina) even with the merit-based approach being widely accepted and adopted in the accession process.

Bosnia and Herzegovina applied for accession in 2016, following years of constitutional reforms and engagements under the Dayton Agreement. It has not advanced since and has had the status of potential candidate since 2003. This gridlock stems from many problems which require constitutional changes and amendments of the dysfunctional federal structure. These include the creation of a supreme court and case law consistency across the Federation of Bosnia and Herzegovina and Republika Srpska. Bosnia and Herzegovina also need to introduce a "substitution clause" which would allow the federal state, upon accession, to temporarily exercise the competences of other levels of government to prevent breaches of EU law.

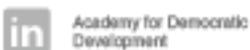
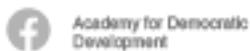
Kosovo has been told that it cannot apply for EU accession as its independence is not recognised by all EU member states. Despite the green light by the EC and the European Parliament, opposition from certain EU member states resulted in Kosovo being denied visa liberalisation and thus it remains the only country in Europe whose citizens cannot travel to other European countries without a visa. Even the signals concerning potential member status are mixed; while some European officials are saying that an agreement with Belgrade would bring Kosovo closer to membership, others are saying that Kosovo will not be able to advance in the EU integration process until it is recognised as an independent country by all EU member states.



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The EU is very strict when it comes to the principles of proportionality and rewards for successful candidate countries, which lie in the basis of the accession process. The decision that each country of the region should advance towards membership at their own pace and on their own merits is generally well received and supported by almost all political players in the individual countries and in the region as a whole. This includes the most important regional initiatives, such as the Brdo-Brijuni Process and the conclusions reached by regional leaders in May 2021.

This is why the arbitrariness of individual member states blocking the process seriously damages the credibility of the process and the EU itself, and has wider and deeper political consequences. Although the EU has the right to close the door on enlargement, it is highly unlikely that this will be presented as such. The standstill in the enlargement process, with countries like Serbia and Montenegro not advancing in negotiations and countries like Albania and North Macedonia being held in the waiting room, will not change the fact that the entire region will remain in the direct vicinity of the EU, connected to the EU in areas such as trade, security, commerce, finance, administration, migration, etc. This also means that all the issues and problems that countries of the region are facing will remain in the backyard of EU, including the everlasting conflicts, unresolved disputes and ethnic tensions. Last but not least, influences coming from other international players will also become stronger at the borders of the EU and will undermine all the efforts made thus far. For years, the EU has relied on the promise of eventual accession as its primary means to prompt citizens of the region to realise reforms in their country. Yet the continued ambivalence of the EU's own members about further enlargement has undermined the EU's credibility and rendered EU approaches to the country, and to the region as a whole, sluggish and erratic. Europe cannot build its common home if turmoil in its south-eastern corner spreads corruption, sparks renewed conflict and generates new waves of migration.

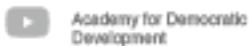
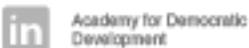
Although this situation might be considered the status quo, the effects of “no real membership” policy on countries of the region have numerous negative consequences. It will introduce increased security challenges, especially when not all the countries of the region are NATO members. These concerns are evident from different indicators, e.g. the large-scale military exercise led by the US, NATO and its allies, dubbed Defender-Europe 21, which began in mid-March 2021 and lasted until the second half of June, with most of the activities unfolding in the region and immediate neighbourhood of Serbia – the country with the strongest anti-NATO



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sentiment and lobby groups. Moreover, the decision to lock the candidate countries out of the EU would make it more difficult to reach agreements and cooperation with each individual country on the control of migrations, human trafficking, and the fight against radicalisation and terrorism. The political consequences of “no real membership” policy include the negative perceptions created among the population, a possible outburst of tensions, and the weakening of the public institutions and pro-European leaders and parties in the countries which may appeared to have “failed” the membership negotiation process. Polls in many of the countries of the region show that although more than half of the population in the Western Balkans is strongly in favour of EU accession, the population has partly lost hope in a forthcoming enlargement.<sup>15</sup> A blocked or postponed enlargement process may create tensions, frictions and even resentment towards EU leaders. In countries which have experienced violence (Bosnia, Kosovo, Albania), tensions or conflicts, the instability factor is also a concern, as the countries may witness waves of radicalisation, renewed nationalism and/or conflicts. This gap left by the EU and its reluctance to politically step up and offer a credible perspective of membership created a fertile soil in which speculations, dreams and policies of re-establishing greater countries based on ethnic principles have grown. The latest example of this has already been mentioned – the non-paper created and distributed by the Slovenian Prime Minister on the eve of the Slovene presidency over the EU. With a lack of commitment and credible perspective of membership in the near future, an opportunity for anti-European forces presents itself, along with a perspective for outdated politics and nationalistic and chauvinist rhetoric. This is an environment which gives incentive for the interference of other geo-political players, which is a third, and maybe the most important, impact or consequence of the standstill in the European integrations. Russian interference in the region is a well known fact, with Russian influence being visible in politics, media, military, security, energetics and other spheres of public life. The clear message from Russian officials is that Russia wants to push its agenda in the countries of the region. There are even court decisions proving that Russia was actively involved in numerous destabilising attempts in the region, among them an attempted coup d’état in Montenegro and the storming of the Parliament of North Macedonia. Recently, Turkey has become a strong player in the region with the Turkish president openly saying that the goal is to re-establish the influence Turkey had over the region during the Ottoman Empire. One of the most challenging influences is coming from China and its impact

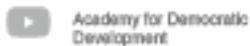
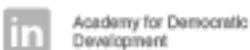
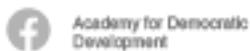
<sup>15</sup> European Stability Initiative (2020) *Hamster in the Wheel – Credibility and EU Balkan Policy*.



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on the numerous fields of investment, transport, finance, science, education, infrastructure, high technologies and green technologies. The Chinese government is growing their economic and political influence in many countries of the region, including EU and NATO member states. That is why it is crucial that EU keeps the perspective of membership alive, and to keep the credibility of the EU strong. Officials of the EU and of the member states need to make sure that the countries of the region do not turn towards other strategic partners. In this sense, it is highly unproductive to hear statements similar to the one made by the EU's envoy for the Belgrade–Pristina dialogue on the normalisation of relations, who when asked about the credibility of the process and promises made by the EU, replied, "If you don't trust the EU, go somewhere else, if you have a better option. EU is never begging anyone to join. It is the strategic choice of you to join EU, let me be clear about that".<sup>16</sup>

In this light, the Berlin Summit held in July 2021 was important for the reaffirmation of the full membership perspective of the countries of the region. The summit brought together Heads of State or Government from the Western Balkans and their counterparts from nine EU Member States, high-level EU representatives and the United Kingdom for the eighth time, to advance on their regional cooperation and European integration agenda. During the summit, the EC reconfirmed its commitment to cooperation with and support for the region in its post-pandemic recovery through the Economic and Investment Plan, focusing on green and digital transition investments, smart mobility links, sustainable energy, digital infrastructure, business sector development and human capital, including youth. The commission also called for further progress in the region's economic integration to reap the full benefits of the planned investments.

The President of the European Commission said that the first priority *"is to accelerate the enlargement agenda across the region and support our Western Balkan partners in their work to deliver on the necessary reforms to advance on their European path. But our engagement with the Western Balkans goes beyond that, and the Berlin Process has served as an incubator for many initiatives that have now become an integral part of the EU's policy vis-à-vis the region. Together we have set the course for a more sustainable, more digital and more resilient Europe."* However, the latest research shows that the EU integration expectations in the Western Balkans have

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<sup>16</sup> GLOBSEC Bratislava Forum, 2021

noticeably dissipated, with only a quarter of citizens remaining optimistic about EU accession by 2025.<sup>17</sup>

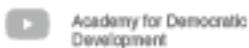
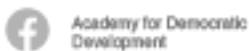
There are two possible approaches to the enlargement – a differentiated enlargement and group enlargement, and there are advantages and disadvantages to both. Differentiated or successive enlargement is the scenario adopted for previous enlargements and it is supported by leaders in the region. The latest decision adopted at the Brdo-Brijuni Process is that each state should advance according to its own merits, the same principle followed when opening negotiating chapters with Serbia and Montenegro. This notion was also affirmed in the 2018 Enlargement Strategy, which explicitly stated that with strong political will, the delivery of real and sustained reforms, and definitive solutions to disputes with neighbours, Serbia and Montenegro could potentially be ready for membership in a 2025 perspective, while concluding that this perspective is extremely ambitious and that whether it is achieved will depend fully on the objective merits and results of each country.<sup>18</sup> This principle, although it seems to be the most just and logical approach, has its opponents, especially in the countries that are not progressing in the process, or are facing challenges that are beyond their reach. As it is strongly divisive and may result in countries of the region competing against each other and not working together towards the common goal, the successive accession approach needs to consider not only the performances and results, but also the needs and difficulties of each of the countries. The second approach to the enlargement and EU integration of the region is that the countries of the region join the EU in a new wave of enlargement. Those who support this approach argue that this could have positive impacts on the stabilisation of the region by opening up borders, markets, territories and horizons, similar to what was seen with previous the enlargement experience, when positive effects on the stabilisation of integrated countries were seen. It is believed that this approach might enhance and foster cooperation in the region and motivate countries to work together towards this common goal, since they would be interconnected, and their progress tracked as a whole. However, this approach would undermine the entire philosophy on which lies the principle of conditionality and progress based on clear



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<sup>17</sup> Regional Cooperation Council (2021) *Balkan Barometer*.

<sup>18</sup> European Commission (2018) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans*.

criteria and the fulfilment of obligations and efforts, and all the progress made by the front-runners in the process so far would be undermined and its effects lessened. This is why this approach is not endorsed by many key players and is favoured only by certain forces in countries that are lagging behind.

On 6<sup>th</sup> February 2020, the EC put forward a proposal to modify the EU accession process, making it more flexible, effective and dynamic. The rationale behind the new enlargement methodology is to reinvigorate the accession process, enhance its credibility and strengthen trust between the EU and aspiring EU candidates. The proposed enlargement methodology builds on several main principles: (a) credibility (both aspiring countries and the EU need to deliver on their promise); (b) stronger political leadership and a more dynamic process (grouping chapters into clusters, with the cluster on fundamental rights taking a central role); and (c) mutual predictability (defining more clearly the conditions for candidate countries, offer them incentives for implementing reforms and rewards when substantial progress is made).

It is increasingly evident that progress on the fundamental values, such as the rule of law, is taking a central role in the accession process. It appears, however, that contrary to its aim, the new methodology has created confusion in the countries of the region aspiring to become EU members. It is not clear how it will be translated into concrete actions in the accession process, how will it affect the countries that have yet to start negotiations, and how it will apply to the countries that are already negotiating. Additionally, it is not clear what the new dynamics will be and whether it will speed up or slow down the process. Other questions to arise are how progress will be assessed, which institution should do what during the process, how it will affect potential foreign investment in the region, how the institutions should adjust their procedures and practices to the new methodology, and finally, how to make sure that the new methodology does not slow down or even halt the accession process? The impression in the region is that the EU itself is not completely sure how the new methodology should be applied to the accession processes.

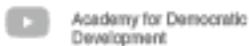
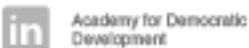
The role of the countries of the region that are already EU member states is crucial regarding this matter. Support coming from these countries can be essential for the integration of candidate countries, and their potential to be the champions of the enlargement process is enormous. They can assist authorities and CSOs in candidate countries both technically and politically, especially in the fields of *acquis communautaire*, institution building, human and minority rights, the rule of law, the



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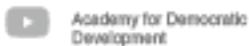
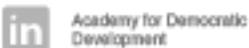




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judiciary, cross-border cooperation and good neighbouring relations. Besides official assistance, they can serve as advocates for a faster integration, and can share knowledge, experience and know-how with their peers in countries aspiring to become EU members. This is why the fact that the Croatian presidency did not bring any new incentives to the accession process gives great cause for concern, and the fact that on the eve of the Slovene presidency there are published plans with the potential to further divide the region and undermine the results achieved so far is even more concerning. Furthermore, past enlargements give reasons to fear that those exact countries might be the greatest obstacles to integration and that they might include bilateral issues and disputes in the enlargement process. This is currently the case with Bulgaria blocking the beginning of the negotiations with North Macedonia – something witnessed previously with Slovenia placing obstacles in the path of Croatia's membership – and we have some indication that Croatia might present Serbia with additional conditions. This also raises the question of what is considered a valid condition to be put on a country and whether bilateral disputes can become part of the process of integration and a reason for suspending or blocking negotiations. All bilateral issues between the countries need to be solved bilaterally and parallel with the accession process, with no possibility to affect or stop it in any way.

In the meantime, countries of the region are facing the threat of becoming a relegated periphery of the EU or mere recipients of aid, as opposed to active players in the process of reform and participants in the further integration of the European continent, political community and union of its countries. This is why it is crucial that the countries of the region are fully included in the discussions and decisions that are taking place within the Conference on the Future of Europe and gradually included in some European policies. This will not only ensure their voices be heard but will also reinstate their position in the EU and allow them to feel part of the European family. Moreover, countries of the region should be included in European policies, and the work and authority of certain institutions (especially new ones) whose role is to ensure the implementation of EU legislation and principles – such as the European Public Prosecutor's Office (hereinafter: the EPPO), a union-level body recently set up to investigate and prosecute fraud involving EU money – should be expanded to the countries of the region before accession.

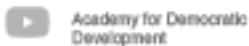
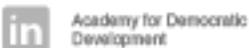
The countries of the region have become both a target and a conduit for opaque investments and the flow of money from a growing number of sources around the world with little interest in transparency, accountability or the rule of law. Although



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not a major investor, Moscow acts opportunistically in the region by sowing the seeds of distrust among local actors, encouraging and emboldening extremist politicians, expanding selective energy, security and intelligence relationships, and exploiting cyberspace with disinformation and disruption. China's interest in the Western Balkans continues to grow, as the region lies between the Chinese-owned port of Piraeus in Greece and the rest of the large European Single Market. Many projects are being undertaken with Chinese suppliers and workers rather than with local resources. Chinese investment further fuels the corruption that is endemic in the region and is plunging all of the countries of the region deeper into debt. International players infiltrating the region is made easier due to the empty space left by the lack of serious investments and commitments from the EU.

Defining national interests is one of the key tasks in the realistic theory of international relations, made all the more difficult as they are especially hard to identify in the region. While they are not explicitly stated anywhere due to the lack of national strategic documents, they are often misused by populists and, as a rule, aimed towards the emotions of the voters. When political elites are defining national interests, they are doing so without clear concepts, basic goals and value-based orientation. It can be concluded that one of the regional interests should be to educate political elites in the field of security, so that they can understand the strategic context of national interests, contemporary international, and especially regional, relations and their influence on national security.

When asked about the greatest inside security threats to their countries, citizens of the region have said that the instability factors are corruption and organised crime combined with the poor behaviour of politicians and bad governance. Attitudes similar to this should serve as a guide to the political elites in their efforts to gain the trust of the citizens, otherwise this imbalance of moral ethics and rhetorical national interests will have severe political consequences.

During the next decade, in the context of security, it is necessary to promote trust-building, predictability and stability of relations among the countries of the region. It is only after this first phase, and beyond 2030, that we can think about integrating the parts of the security segments which would improve the capabilities of all of the countries of the region in the context of a wider security response to defined threats. Although at the moment it is very difficult to promote the integration of capabilities, it is both economically and technologically justified. Integration could be efficiently

established in the area of responding to climate and natural disasters, where all the countries of the region would have a joint interest for a common approach and compatibility of capacities and capabilities.

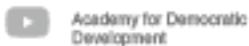
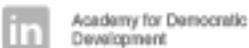
### RECOMMENDATIONS:



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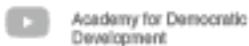
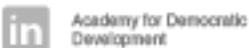
- Full EU membership is the ultimate goal and common interest for all of the countries of the region. However, the governments of the region, as well as the CSOs and citizens, need to see the EU accession as a journey on which all of the countries of the region change and provide a better quality of life for their citizens, rather than focus only on the destination. The overall path towards EU integration is important, since it needs to be understood that membership itself will not magically solve all the challenges, issues and problems in the countries of the region. This is why political players, elites, CSOs and other factors in the process should not raise the expectations of citizens of the full membership only. The process itself is just as important, as it will bring about reforms that are needed in all of the countries of the region.
- This, however, does not mean that the accession process should last too long and the guarantee of full membership for all of the countries has to be at the end of the road. For that exact reason, the possibility of full EU membership for all member states needs to be real, credible and with a clear and exact timeframe. Similar to the 2018 strategy, the EU should commit to respect a certain timeframe and set a realistic roadmap for the accession of all of the countries. This can be done using the step-by-step approach, by defining clear priorities in each of the phases and transparently assessing whether the country in question fulfils its obligations and whether it is going in the right direction. This is the approach that would be most easily applied both for the EU and for the countries of the region, since it would leave no space for improvisation, ambiguities and arbitrariness in the accession process. Depending on the reforms and efforts made by each of the countries, the EU should be committed to accept the first new members by 2025, while two more groups can follow – in 2028 and 2030.
- All conditions put before the countries of the region need to be followed by clear roadmaps for their fulfilment. Institutions, authorities and other entities



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involved in the process need to be aware of their obligations, tasks and rights and a clear system of checks and balances needs to be established along with a fair tracking system. The EU needs to make the process and the EU itself credible again in the eyes of the region, and to fully comply with its promises and announcements. Contradicting decisions coming from EU institutions and EU member states, as well as failed promises, undermine accession as a merit-based process, penalise those who are making an effort and achieving results and disincentivises reforms and finding solutions to tough issues. EU accession is in its core a political process based on political decisions and that is well understood by all participating. However, political decision-making, while inevitable and desirable, should be reserved to some phases of the process (e.g. the final phases) and not applied in all of the phases, especially not when assessing the fulfilment of criteria. The detrimental effect of this can be seen in the case of North Macedonia, when having met all the requirements, it was still not enough to progress in the EU accession process. There are some suggestions that the rules of procedures for decisions like this in the EU bodies should be amended, e.g. introducing a qualified majority when deciding on accession.<sup>19</sup>

- In this sense, bilateral issues between current member states and candidate countries need to be handled bilaterally and must not become a part of the accession process or EU agenda. They do not belong to the Copenhagen or any other criteria for EU integration and therefore cannot be valid conditions for the accession. The EU has to develop mechanisms which would prevent this and cancelling the veto rights in these types of circumstances might be considered as one of possibilities.
- The role of Slovenia and Croatia is essential in the integration process of their neighbouring countries and other countries in the region. Their role goes in two directions: 1) by assisting candidate countries with reforms, documents, procedures, *acquis* and other elements of the accession; and 2) by lobbying, advocating for the accession and being champions of enlargement in EU bodies and communication with other member states.
- Successive enlargement should by no means serve as a reason for authorities to work against each other. Although the process is competitive, it does not

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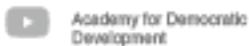
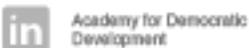
<sup>19</sup> Kmežic, M. (2020) *Respecting rule of law beyond EU Enlargement: Does the EU have what it takes?* (Policy Paper No.49/2020).



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mean that it cannot be cooperative at the same time and countries should not see each other as enemies or counterparts in the process. They have to cooperate with each other and be supportive partners while sharing knowledge and learning from each other's experiences.

- One of the possible manners and tools for the EU to show its commitment to fostering a rule of law and integrating institutions of the candidate countries into the institutions of the EU is to expand the policies and authority of certain EU bodies and institutions to the institutions of the candidate countries. This can be done with the EPPO, which can integrate with prosecutor's offices of the countries of the region to help prosecute corruption and the misuse of EU money. By including the countries of the region in their political system and integrating their policies and processes with regional ones, the EU would be showing their commitment to the region.
- In order to enhance the economic development of the countries of the region and contribute to the overall development of the region, the EU should show a greater commitment in terms of investment in the candidate countries. In order to stimulate the long-term recovery – backed by a green and digital transition – leading to sustained economic growth, the implementation of reforms required to move forward on the EU path and bring the Western Balkans closer to the European Single Market, the current Economic and Investment Plan needs to be expanded. The Economic and Investment Plan for the Western Balkans adopted in 2020 aims to unleash the untapped economic potential of the region and the significant scope for increased intraregional economic cooperation and trade. The document states that it is built on the foundations of a performance-based and reform-oriented proposal for an Instrument for Pre-accession Assistance III (IPA III) and reinforced instruments to foster public and private sector investment. The document also contains the commission's proposal to mobilise up to EUR 9 billion of IPA III funding for the period 2021–2027 to support economic convergence with the EU primarily through investments and support of competitiveness and inclusive growth, sustainable connectivity, and the twin green and digital transition.<sup>20</sup> This investment package, however, is not

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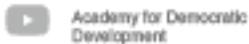
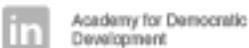
<sup>20</sup> European Commission (2020) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – An Economic and Investment Plan for the Western Balkans.*



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sufficient to foster sustainable and meaningful economic development and to achieve goals set out in the plan, especially bearing in mind that these investments would be coming from other international players, many of which are not benevolent and are aiming to block or reverse the process of integration. This is especially important with some of the Negotiating Chapters, where the implementation of all EU standards and fulfilment of conditions is very expensive and the role of the EU a contributor is essential in this sense. The EU needs to develop a 10 year investment plan for the countries of the region, and the plan needs to be followed by clear allocation for the reforms of the institutions and the rule of law, both of which are going to be financed with these funds.

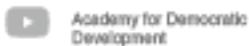
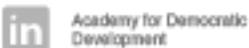
- One of the key interests of the countries of the region is to cooperate among themselves, to connect with each other, develop joint projects and be part of as many regional initiatives as possible, be they political, infrastructural, trade, commercial, financial, climate, educational or any other initiatives and processes. All the institutions in the region need to be working together on a regular basis at all levels of government – presidential, ministerial and parliamentary levels of government need to establish permanent and regular working bodies, initiatives and processes in which they will be working together achieving common goals and developing a joint agenda. None of these processes, however, must serve as a substitute for the process of European integration, nor can they be perceived as such.
- All of the countries of the region need to harmonise and align their foreign and security policies with the EU's policies. This is important not only because of political and economic reasons, but for security challenges that arise from the current state as well. All of the countries of the region need to become NATO member states and integrate fully with all security institutions, foreign policy instruments and tools of the EU. This needs to be done in the shortest possible time and integration with NATO needs to start immediately.
- All countries of the region need to develop clear roadmaps and timetables for the application of the New Accession Methodology. Strategies for full implementation need to be developed in coordination with the EU and all relevant factors and stakeholders need to be included in the process. Strategies need to include clear roadmaps; timelines; publicly-known criteria for assessment; laws and procedures that need to be transported and implemented broken down by areas; and lists of institutions that are



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necessary and responsible for enforcing EU rules, which include both the public administration and judiciary. Checkboxes and parameters for following the progress of the countries and the decision-making process need to be revised and adjusted to the changes that took place since the process started more than two decades ago. The EC should follow up on their practice and continue publishing the Western Balkans rule of law scoreboard, so the results are continuously tracked and published. Listing the requirements, defining the tasks and assessing alignment gives the EU leverage. It is an exercise of EU power and promotes European values and interests.

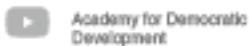
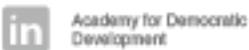
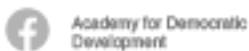
- The current process of accession is hard to explain, both to Balkan publics and sceptical EU politicians. This raises distrust and suspicions. EU accession is a complex process and it affects every aspect in the lives of citizens. That is why it must be transparent: thousands of concerned individuals – politicians, administrators, judges, companies, citizens – should understand what is happening and what is needed. Quality roadmaps and quality checklists for each chapter need to be combined with regular convincing public assessments and feedback from the commission. Feedback that is taken seriously and seen as useful can be a powerful motivator for civil servants. Assessments – positive or negative – that are noticed by publics can be useful for politicians. Most importantly, checklists keep efforts focused on the process.
- The role of the United States of America is crucial. A renewed push for change requires the United States and the EU to rebuild their frayed partnership with the region. Their contradicting priorities and policies have meant that no initiative had much chance for success. In the past, Brussels has had the means, but has often lacked the will, to push the necessary reforms, whereas Washington has often demonstrated the will, but failed to devote the necessary resources. When the two work at cross purposes, each is weaker. When they engage together as partners for reform, each can enhance the other's strengths. A new bargain will require a heavy lift from each side: the United States must openly say that changes of borders are not an option in the region, Brussels must be prepared to work with Washington to address core political obstacles to the region's European path, not just socio-economic hurdles. Both must be willing to deploy the necessary political will and tools,



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including sanctions against those in their countries who would obstruct reforms.<sup>21</sup>

- The United States and the EU must be prepared to sanction officials contributing to destabilisation of the region, fostering conflicts, violating human rights, infringing democratic processes and those who seek to spoil the broad-based process of citizen-driven reform. As they do so, they must remain determined and even-handed with regard to all parties. In this sense, the Presidential Executive Order on Blocking Property and Suspending Entry into the United States Of Certain Persons Contributing To The Destabilizing Situation In The Western Balkans<sup>22</sup> is more than significant and should serve as an example for the EU as well. The undefined and ambiguous response to the order adopted in June 2021 was not satisfactory and cannot serve as a good example of a partnership between the United States and the EU for the countries of the region. Instead, the declaration adopted in June 2021 by Germany and the UK can serve as an example to be followed. In the declaration, the two countries reaffirmed their shared commitment to the security, stability, prosperity and full sovereignty of all six Western Balkan countries in line with their European and EuroAtlantic paths, emphasised the importance of advancing the rule of law and committed to working closely together to support the Western Balkan countries in promoting regional cooperation, tackling corruption and organised crime, especially illicit financing, and to addressing legacy issues of the past, notably Missing Persons. If you include the Berlin Process as well, this agreement is very significant.<sup>23</sup>
- The U.S. International Development Finance Corporation should use its new Belgrade office – the only office outside of the United States – to serve the entire Western Balkans through investments and other connective infrastructures that can more effectively link the countries of the region to each other and to the EU. The EU should use new money it has already allocated, and new tools it has devised for its own members, to leverage political and economic reform in the region.

<sup>21</sup> Hamilton, D. S. (2020) 'Fixing Dayton: A New Deal for Bosnia and Herzegovina', *Wilson Center*.

<sup>22</sup> Executive Office of the President of the United States of America (2021) *Executive Order 14033: Blocking Property and Suspending Entry Into the United States Of Certain Persons Contributing to the Destabilizing Situation in the Western Balkans*.

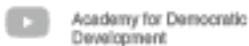
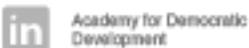
<sup>23</sup> HM Foreign, Commonwealth & Development Office (2021) *UK-Germany Joint Declaration*.



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- The EU has created two new tools for its own members that it could also apply to the region, even before membership is granted. The first are rule of law requirements attached to funds intended to help countries recover from the COVID-19 pandemic. The EU could attach similar conditions to its new funds for the region. The EU's second new tool is a special prosecutor for corruption. A dedicated unit within the prosecutor's office could at a minimum track the use of EU money in the region, and other donors could either promise similar rules or give the EU prosecutor access to information.
- In terms of security, it is important that all of the countries of the region become EU and NATO members and that it is made clear there is no alternative to the Euro-Atlantic integrations. Support is needed for a coordinated, and later integrated, response to hybrid threats used by developing countries to expand their malign influence that is both destructive for peace and the sustainable stability of the region.
- The destructive competition between the autocratic leaders of the region to see which country has more armed forces, military equipment and arms needs to be discouraged. The competition is used as a source of instability; arms and equipment are often bought from Russia and other countries with malign influences on the region; there is a constant threat of new armed conflicts; and trust-building processes between the countries are invalidated.
- A strategical approach to common regional security challenges needs to be harmonised and special attention needs to be given to the resilience and independence of institutions and the rule of law. Decadent and destructive economic, political and social influences coming from undemocratic international players need to be stopped and strategies need to be developed in order to avoid the consequences of such actions and activities.

## Rule of Law and Independence of Institutions

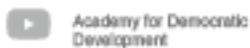
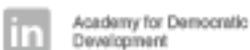
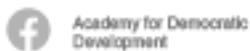
The rule of law along with respect for human dignity, freedom, democracy, equality, and respect for human rights, including the rights of persons belonging to minorities, is enshrined in Article 2 of the Treaty on European Union as a shared value on which the union is rooted. Since the Treaty of Lisbon, these principles are recognised as constitutive EU values. As such, the rule of law defines the collective identity of the whole organisation and thus essentially determines the EU's actions in the domestic



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and international realms, as well as the conditions for EU membership.<sup>24</sup> However, not only EU candidates but also several member states are confronted with grave threats to the functioning system of the rule of law. Recognising the danger of the observed rule of law backsliding across the EU and beyond, the 2020 Report Rule of Law report acknowledged that threats to the rule of law challenge the legal, political and economic basis of how the union works.<sup>25</sup> As a result, the EU is currently confronted with the double challenge of promoting the rule of law within the union and in regard to future members.

Despite being exposed to the EU rule of law promotion mechanisms within the Stabilisation and Association Process for more than two decades, the respect for the rule of law in the countries of the region has been steadily declining for over a decade. Countries of the region were defined for the first time as “captured states” in the document titled ‘A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans’. The document states that all of the countries have elements of state capture, including links with organised crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests. All this feeds a sentiment of impunity and inequality. The document concludes that there is also extensive political interference in and control of the media and that visibly empowered and independent judiciary and accountable governments and administrations are essential for bringing about the lasting societal change that is needed.<sup>26</sup> In addition to this, the latest Freedom House ‘Freedom in the World’ report observes an absence of the rule of law and an increase in patronage networks and clientelism, which threaten democratic institutions in the region.<sup>27</sup> The Transparency International Index (CPI) of 2020 indicates that corruption levels in the Western Balkans are stagnating. Apart from Montenegro, each country in the region achieved between 36 and 39 points, which puts them between 87 and 99th place out of 180 countries in the CPI. Kosovo, Montenegro and Serbia saw perceived corruption

<sup>24</sup> EU Member States (2007) ‘Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community’, *Official Journal of the European Union*, C2007/306/01, pp. 1–229.

<sup>25</sup> European Commission (2020) *The 2020 Rule of Law Report*.

<sup>26</sup> European Commission (2018) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans*.

<sup>27</sup> Csaky, Z. (2020) *Nations in Transit 2020 – Dropping the Democratic Facade*.

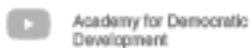
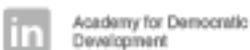
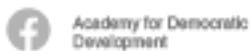
levels rise in the past year, while Bosnia and Herzegovina recorded its worst result since 2012. North Macedonia and Albania share the worst ranking in the Western Balkans. Notwithstanding the CPI's limitations, country scores give a useful snapshot for researchers and policy-makers of the level of corruption in the Western Balkans, and the possible challenges for the rule of law initiative to be a transformative tool in strengthening the rule of law in this region.<sup>28</sup>



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The 2018 Enlargement strategy, however, does not offer concrete proposals nor a roadmap for strengthening the rule of law, only some broad policy objectives. Rather, it should be understood as a platform for the Western Balkans and the commission to engage in a dialogue to transform the rule of law flagship initiative into a joint action plan. Reforming the judicial system is an end goal, a by-product of which should serve to strengthen independent institutions' abilities to uphold the rule of law without political interference. The strategy indicates that the commission will work closely with the Western Balkans towards ensuring that the judiciary is reformed in line with the highest EU standards and the Copenhagen criteria, and will offer technical and financial support in the fight against corruption and organised crime as part of the rule of law initiative. There are no clear examples of the EU and the Western Balkans developing a joint action plan or strategy on fighting corruption and organised crime, or how such cooperation would fit within the overall initiative on the rule of law as yet, since there is no joint action plan as a direct outcome of the rule of law initiative, nor is there explicit indication of what any help might include.<sup>29</sup> The implicit principle in the rule of law initiative of the 2018 EU–Western Balkans strategy is that a clear track record in the fight against corruption and organised crime at the highest level is required, in order to show true commitment towards meeting the core EU membership criteria regarding both the rule of law and the overall Copenhagen criteria, and if countries want to be taken seriously in their bids to join the EU. In other words, the Western Balkans must show a record of indictments of public officials who have either abused their power or engaged in corruption or been part of or associated

<sup>28</sup> Transparency International (2020) *Corruption Perceptions Index 2020*.

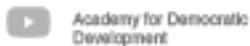
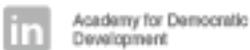
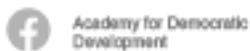
<sup>29</sup> European Commission (2018) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans*.



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with an organised crime network, as the first step of good faith in their commitments towards the Copenhagen criteria. This is a clear indication that the countries of the region need to stop the practice of political interference in judicial decisions, investigations and indictments of high-level officials. Furthermore, the underlying message in the rule of law initiative is that the commission plans to make use of all of the leverage provided in the accession talks frameworks for as long as possible, by delaying the Western Balkans accession to the EU in order to avoid any repetition of the Hungary and Poland situations, where there were clear elements of backsliding in their commitments to the rule of law, or the situations in Bulgaria, Slovakia and Malta, where high-profile politicians were observably involved in corruption and organised crime networks.<sup>30</sup>

It has become evident over the years that no progress can be made without the rule of law. It is also the key benchmark against which the prospects of these countries will be judged by the EU. The region must embrace these fundamental EU values much more strongly and credibly. Strengthening the rule of law is not only an institutional issue, it requires societal transformation. Reforms in all other areas will not be sustainable or effective without the rule of law and complete enforcement and implementation of all institutional and legal provisions which exist in the legislative and institutional framework of the countries of the region. The rule of law goes hand in hand with the independence, inclusiveness and stability of institutions which need to establish a system of checks and balances, control authorities and impose the full implementation of legislation and respect of democratic and legal procedures. The rule of law is essential not only to the respect of fundamental rights, but for the development of the economy, climate change action, foreign direct investment (hereinafter: FDI), security, workers' rights, the environment, infrastructure and all other areas of life. Moreover, the new enlargement methodology puts the rule of law at the core of the EU accession process, as it constitutes a key prerequisite for

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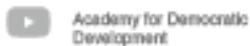
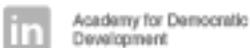
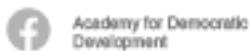
<sup>30</sup> Hoxhaj, A. (2021) 'The EU Rule of Law Initiative towards the Western Balkans', *Hague Journal on the Rule of Law*, 13, pp. 143–172.



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guaranteeing fundamental rights and values, allowing the application of EU law and supporting an investment-friendly business environment.<sup>31</sup>

Country reports adopted by the EU recognise numerous problems with the rule of law every year. They range from the erosion of independent institutions and control over the judiciary to utter arbitrariness and violence of ruling elites. Recommendations in this area are the most extensive yet complied with the least, even though the EU has made it clear that these will be the most important preconditions and that all others will depend on them. This often correlates with a lack of political will, the continuing existence of certain elements of state capture, limited progress on judicial independence, institutional resistance and an increasingly difficult environment for civil society. The “new” EU approach in Chapters 23 and 24 – ‘Judiciary and Fundamental Rights’ and ‘Justice, Freedom and Security’ – was introduced for the first time in the Croatian negotiating process and since the Montenegrin negotiations, these chapters are the first to be opened but the last to be closed. Because of this, the approach relies on an interim benchmarking system that assesses a country’s preparedness to open and close a negotiating chapter, and introduces safeguard measures, most notably the overall balance clause intended to stop negotiations on all other chapters if progress on the rule of law begins to lag behind. However, in practice interim benchmarks are very broad and represent a long-term goal, which makes their assessment rather superficial. In addition, the benchmarks are not tailored to the specific circumstances of the countries they target, as seen in the example of four identical benchmarks developed for the two Western Balkan accession front-runners – Serbia and Montenegro.<sup>32</sup>

One area of the rule of law that the EU strongly emphasises is law reform and government institutions, particularly judiciaries. This approach needs to be more inclusive and empower other actors in the institution-building process, making them rights-holders in relation to public authority, including civil society, experts,

<sup>31</sup> European Commission (2020) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Enhancing the Accession Process – A Credible EU Perspective for the Western Balkans.*

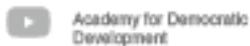
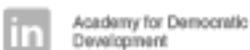
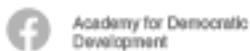
<sup>32</sup> Kmezic, M. (2020) *Respecting rule of law beyond EU Enlargement: Does the EU have what it takes? (Policy Paper No.49/2020).*



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constructive grassroots and local initiatives. The executive-centred approach needs to be broadened and other institutions should be included through the development of new mechanisms for enforcing the rule of law. One of the mechanisms that is significantly underdeveloped both in the regional EU member states and for the candidate countries is post-legislative scrutiny in the parliaments. Such a tool would help push for compliance of key laws, monitor their implementation and influence norm internalisation before, during and after EU membership negotiations. Moreover, the rule of law initiative is very much a top-down approach, and does not fully engage with members of civil society. In the absence of independent institutions and state capture, formally including members of civil society in designing national action plans on reforming the rule of law can help both the EU and the countries of the region. The members of civil society can ensure that governments are implementing all reforms related to the rule of law in line with the EU conditionalities, as well as empowering civil society to take a more proactive role in upholding the rule of law.

An additional problem that requires special attention is the fact that while the EU has put a considerable effort into promoting the rule of law, at the same time it has been rather unsuccessful at preventing concurrent democratic backsliding. It is clear that the rule of law cannot be built and protected on its own, and it can barely be sustained in the autocracies and stabilitocracies of the region. In most cases, governments deliberately undermine the rule of law and thus are only susceptible to change their approach due to domestic or international pressure. Checks and balances, and the separation of powers between the judicial, executive and legislative branch are weak almost to the point of non-existence. Therefore, government leaders have almost absolute control over the country's affairs and in this environment, the space to strengthen the rule of law, or expose organised-crime networks and corruption, becomes far more challenging. So far in the Western Balkans, political elites often simply avoid prosecution; they have excessive and unchecked power, and there are few mechanisms to hold them accountable. Strengthening the rule of law is clearly in opposition to the interests of those autocrats in power, and thus, far less likely to succeed. The capability of the EU to reform the countries of the region will also indicate the level of capability the EU has for internal reforms. In order to be effective, the sanctions have to be possible during the accession and post-accession period, i.e. not exempting EU members as a way of discouraging backsliding or strategic and incomplete reforms. These could include accelerated infringement procedures and the development of the equivalent for countries negotiating accession. The authority of

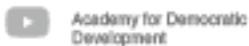
certain EU institutions regarding the rule of law and anti-corruption efforts can already be expanded to the countries of the region during the pre-accession period, so that the judiciary systems of the candidate countries can be functionally integrated into the EU system. This is the case with the EPPO, which can have authority over the spending of money coming from the EU, its funds, programmes, projects, donations and investments.



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The EC recommended that emergency measures taken in the context of the COVID-19 pandemic respect fundamental principles and values, are proportionate, restricted to what is necessary, limited in time, implemented in a non-discriminatory way, subject to judicial and democratic oversight, and overall in line with European standards. The overall behaviour of the authorities during the pandemic can also serve as an indicator for the level of respect for the rule of law in the countries of the region. Their compliance with recommendations coming from international and domestic health authorities and institutions and their attitude and behaviour towards the physical and mental health of the citizens shows the level of democracy, will to respect the rule of law and comply with the standards of respecting the human rights. Those governments that behaved irresponsibly during the pandemic in order to gain political points, win the elections or profit politically in any other manner should be called out and sanctioned for their irresponsible and dangerous behaviour.

Efforts made by the countries of the region towards good governance and rule of law related reforms can be enhanced through regional cooperation. Cross-border judicial cooperation needs to be strengthened, mutual trust among the region's judiciaries and administrations improved, and shared anti-corruption and good governance solutions implemented. Close cooperation among judiciaries creates an atmosphere that supports the process of enhanced independence, effectiveness and the accountability of the judiciary as a precondition for any democratic society, based on the rule of law and with corruption rooted out. Strengthened regional cooperation in the rule of law also efficiently reinforces good neighbourly relations.<sup>33</sup> Furthermore, cooperation between other institutions – from legislative to independent regulatory bodies – needs to be established through joint work, support, information, and sharing experience and knowledge about goals, challenges, mechanisms and achievements.

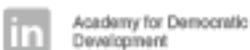
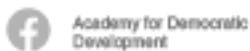
<sup>33</sup> Regional Cooperation Council (no date) *The Rule of Law*.



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The role of parliamentary cooperation is especially important in this sense, with parliaments all over the region having the key function in promoting the democratic principles of the rule of law, human rights and good governance, through parliamentary cooperation and institutional framework that will further enhance this cooperation. Regional actions supporting the reforms in the rule of law area will promote the efficiency of the judiciary, shared solutions in fighting corruption, more efficient and transparent public administration institutions, as well as facilitate practical regional and cross-border cooperation to these effects.

Compared to the average across the 27 EU member states, the judiciary systems in the Western Balkans are underfunded and the allocated budgets are mostly for day-to-day running costs. The Council of Europe's 'Plan of Action to Strengthen the Judicial Independence and Impartiality' suggests that budgetary constraint is a way to implicitly control the resource mobilisation process of the judiciary system. In other words, judicial independence is difficult to achieve without financial freedom. The European Commission for the Efficiency of Justice, in its report published in 2018, suggests that the judiciary in the Western Balkans does indeed face budgetary constraint in comparison to EU member states. Montenegro and Bosnia and Herzegovina distributed 1–1.4% GDP to the judicial system; the judicial system budgets of Albania, North Macedonia and Serbia are between 0.26–0.8% GDP. This means that the judicial system budget per capita in the Western Balkans is highest in Montenegro and Bosnia and Herzegovina, with both allocating around EUR 25 per capita, whereas North Macedonia allocates EUR 20 and Albania allocates less than EUR 10 per inhabitant for the judicial system. The average EU member state judicial system budget allocation is EUR 64 per capita, with a median value of EUR 53 per capita.<sup>34</sup>

## RECOMMENDATIONS:

- **Political leaders in all of the countries of the region need to promote democratic values and the protection of human rights through their own**

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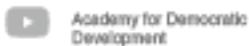
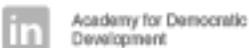
<sup>34</sup> Hoxhaj, A. (2021) 'The EU Rule of Law Initiative towards the Western Balkans', *Hague Journal on the Rule of Law*, 13, pp. 143–172.



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**words and actions.** COVID-19 has thrown into sharp relief the importance of public trust in democratic institutions and elected leaders, exposing weaknesses in many established democracies, and this was especially visible in the countries of the region. When senior officials in such countries attack the press, the judiciary, or other institutions, they further undermine faith in democracy. Political leaders should demonstrate respect for fundamental norms by adhering to the relevant domestic legislation and parallel international human rights standards, and by refraining from rhetoric that contradicts those standards. Doing so will give them greater credibility and present a positive model for individuals still struggling to bring democracy to their countries. The behaviour of political elites during the pandemic towards the recommendations of health authorities is also the measure of their will to promote and respect the rule of law and those who behaved irresponsibly should be sanctioned.

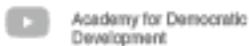
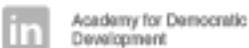
- **Promotion of democracy and human rights needs to be a priority in bilateral relations between the countries of the region.** While economic deals and financial assistance can jumpstart cooperation and help people on the ground, it is crucial to incorporate democracy and human rights considerations into such agreements, and not only the reform of the judiciary. Democracy backsliding cannot sustain the efforts made in the field of the rule of law, and all the countries of the region should be transformed from stabilitocracy and hybrid regimes into democracies.
- New political dynamics that would enable the break away from established patterns of clientelism, informal networks and strong party control over media and state institutions need to be unlocked. In other words, liberal structures must be strengthened in order to persistently challenge illiberal power structures and norms. In an environment where public institutions cannot fully safeguard the rule of law, due to state capture by autocratic leaders, it is imperative that civil society actors, such as journalists, academics and NGOs are supported to play a more central role in scrutinising the reforms related to the EU rule of law conditionalities. This opportunity can be used by the EU to include civil society in the implementation phase of the rule of law initiative, and more importantly in the design of national action plans related to the strengthening of the rule of law in each of the countries of the region – such inclusion could be a significant factor in the initiative becoming a transformative tool. The EU's top-down and civil society's bottom-up



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strategies for the promotion of the rule of law in the region should be used together. Additional non-political and expert actors need to be included in the process of promoting the EU rule of law to overcome the potential problems that tend to accompany a governmental approach. Civic networks need to be created and strengthened in order to ensure the transparency and accountability of the state by providing control over its efficiency, effectiveness and responsiveness. This can be done through additionally improving their expertise, capacities, technical organisation, and by providing them with regional and international networking possibilities. Constructive grassroots and local initiatives calling for democracy need to be supported in the region. Financial assistance through the Instrument for Pre-accession Assistance (IPA III) should play a key role in empowering democratic actors in the region.<sup>35</sup> Evidence-based policy-making is essential in this sense – especially in terms of the monitoring of progress and setting visible and achievable goals.

- Funding coming from the EU and the United States of America needs to be made **conditional on respecting democratic values and push on key areas related to the rule of law and media freedom**. The connection between the respect for the rule of law and the funds and political and other support coming from the EU and US during the accession period needs to be established. Moreover, the procedure of suspension of membership negotiations and any financial assistance from the EU which could be imposed on a prospective member in a systematic breach of the rule of law and democracy needs to be amended, since it suffers from a different set of problems; a single member state can raise the overall balance clause to prevent further opening of negotiating chapters until satisfactory progress on the rule is achieved. Moreover, it needs to be accompanied by constant awarding systems for those who oblige and respect all the requirements and meet conditions in order to be fully efficient.
- Following the example of the United States of America, the EU should impose targeted sanctions on individuals and entities involved in human rights abuses and acts of corruption. These measures need to include the possibility for the authorities to block visas for and freeze the assets of any people or entities,

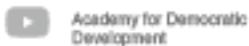
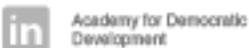
<sup>35</sup> Kmežic, M., Marović, J. and Prelec, T. (2019) 'Strengthening the Rule of Law in Western Balkans: Call for Revolution Against Particularism', BiEPAG.



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including private companies, that engage in or support corruption or human rights abuses. These accountability tools enable governments to punish perpetrators without harming the general population. Countries with similar laws should robustly enforce them, and the EU should prioritise the creation of its own such mechanisms.

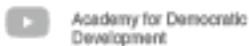
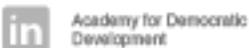
- **EU should prioritise long-term democratic progress over short-term political and economic considerations.** Despite a number of successful political deals and technical progress towards accession to the EU, the countries of the region are facing democratic deterioration. The revamping of the accession process can serve as an opportunity; membership might not be an immediate offer, but the EU should make sure that it remains a credible partner and that good governance and democracy criteria remain front-loaded in the process. The recent renewal of engagement by the United States was a much-needed boost, but to secure lasting results Washington needs to work in close cooperation with their European allies and reintegrate its traditional foreign policy with emphasis on democracy.
- More detailed rule of law assessments should be undertaken, and advisory missions extended to the whole region, building on the experience of the earlier advisory missions. The monitoring of the implementation and enforcement should be enhanced through more systematic, case-based peer-reviews organised by the commission, with the participation of member state experts. To fill up these gaps, it would be useful if the EU develops a fundamental set of benchmarks for the rule of law that would be applied to candidate and members states alike, notwithstanding the need for acknowledging their specific contexts and legal tradition. Trial monitoring in the field of serious corruption and organised crime should be introduced, and the assistance of the EU and the United States in financial forensics and processing the cases of high corruption is essential. Although similar ideas have existed in the past, they have never been implemented. Work developing indicators of reform implementation should be undertaken. Progress in judicial reform needs to be measured by the effectiveness of the justice that the system is able to provide to its citizens and businesses. However, it should be noted that occasionally even the best EU solutions are not applicable to the countries of the region, due to the severe polarisation of their societies. However, the authority of certain EU and US bodies and mechanisms can be expanded to the countries of the region and applied to the funds coming from



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those countries. The regional countries lack domestic mechanisms that guarantee the transparent use of these funds, so the EU should make sure that the EPPO is adequately resourced and able to investigate such crimes in the countries of the region as well. In the United States, there is a legislation that established an action fund offering financial assistance to foreign countries during historic windows of opportunity for anticorruption reforms. There is also a legislation that requires the US government to assess corruption around the world and produce a tiered list of countries; US foreign assistance directed at the lowest-tiered countries would require specific risk assessments and anticorruption mechanisms, such as provisions to recover funds that are misused. Both measures would contribute significantly to the regional fight against corruption.

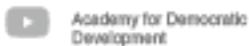
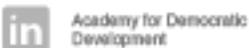
- In its progress and other reports, the EU should assert the manner in which the countries of the region managed crises caused by the COVID-19 pandemic, with special attention given to the respect for the democratic procedures, decisions, measures and protocols established by international and national health authorities, especially given the fact that these authorities predict that the mental health consequences for citizens will be long-term and present for years to come. This also means that partners in building democracy and stability cannot be found among those politicians and political systems that behaved irresponsibly towards the mental and physical health of the citizens and were raising panic, spreading fake news or using the crisis to gain political points, politically establish themselves and strengthen their political power. Those regimes cannot be supported by the EU, but they must not be the reason for punishing entire populations. The EU needs to identify those officials responsible for using the pandemic to undermine the influence, aid and credibility of the EU via the channels provided by foreign influences, both in aspiring countries and member states.
- The independence, quality and efficiency of the judicial system must be ensured. The independence of the judiciary and of individual judges is essential to ensure fairness and to hold the executive and legislative branches of government to account. This is a precondition for any democratic society based on the rule of law and for its economic development. The first step in the EU-Western Balkans 2018 Enlargement Strategy Rule of Law Initiative is judicial reform. This approach mainly involves vetting the members of the judiciary. This primary focus must expand to make space for civil society actors



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to participate, moving away from a top-down approach that includes only EU and state government officials. Furthermore, the rule of law initiative must also include new investment in the judicial system's infrastructure and management, making it more accessible for citizens. Vetting judicial officials is a crucial part of the rule of law initiative, but in moving forward, it is just as important that the judiciary is funded appropriately and here the rule of law initiative may play a role in coordinating investments in the Western Balkans justice system. The countries of the region are not allocating sufficient funding to the judiciary in comparison to the EU member states and thus, when the joint action plan is developed, there must be an increase in such funding.<sup>36</sup>

- All confidential files on opposition leaders, peace and democracy activists, media, civil society activists, intellectuals, journalists and other members of the public need to be opened and made transparent.
- On a regional level, special judicial trainings, alternative dispute resolution and tools to improve the efficiency, accountability and independence of the judiciary are needed. Networking and experience sharing on the most pressing reforms under the rule of law strengthens practical cooperation among jurisdictions, and implementing shared anti-corruption solutions to increase the accountability of state institutions and strengthen civil society and the rule of law is a necessity.
- The countries must root out corruption without compromise. Strong and independent institutions are crucial in preventing and tackling corruption and conducting more effective investigations and prosecutions, leading to final court rulings that are enforced and include dissuasive sanctions. Both the specialised prosecutorial structures fighting corruption and organised crime and judicial bodies should be significantly strengthened. This should include the allocation of special police units to prosecution offices. Measures should be pursued and enforced, such as the stripping of illegally acquired assets, the loss of the right to hold public office, stricter compliance rules for public officials and accessible information and complaints mechanisms for citizens.

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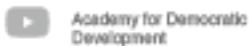
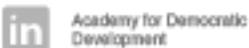
<sup>36</sup> European Commission (2018) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A Credible Enlargement Perspective For and Enhanced EU Engagement with the Western Balkans.*



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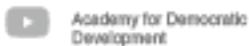
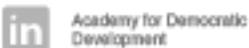
- Countries must also put in place strong framework for the prevention of corruption. More transparency is needed in the management of public funds, especially at all stages of public procurement, an area particularly prone to corruption. Countries should substantially increase the transparency, competitiveness and fairness of public procurement tenders, limit the use of confidential procedures and introduce safeguards excluding political influence on bidders. The use of transparent, publicly accessible e-procurement should be fully rolled out. This should enable citizens to see clearly how their taxes are spent, from the initial tender to final execution of contracts. Managerial accountability and an internal control culture in public institutions are also crucial.
- Organised crime has a foothold on the region, whether in terms of trafficking human beings, drugs and weapons or the risk of criminal infiltration of the political and economic systems. The authorities must dismantle criminal networks and their economic bases more effectively, making systematic use of financial investigations and applying more targeted tools like the precautionary freezing of criminal assets, third-party confiscation, the reversed burden of proof on holding certain types of assets, non-conviction-based confiscation to tackle inexplicable wealth, full ownership disclosure requirements for companies, and enhanced judicial cooperation. A concrete and sustained track record in tackling corruption, money laundering and organised crime should be established as a matter of urgency.
- Strengthening the functioning of democratic institutions is essential. This includes ensuring constructive dialogue across the political spectrum, notably within the parliaments. The government needs to ensure that the opposition has the possibility to fully perform its role, and the opposition needs to engage constructively in the democratic process. Elections should be free and fair and the recommendations of election observation missions properly implemented. The rules for the public and private financing of political parties also require substantive reform.
- Special mechanisms need to be developed in democratic institutions that will ensure control of the work of the government and ensure stakeholders can actively participate in the reform and policy-making process. This includes the development of the post-legislative scrutiny in the parliaments of the region, which will also increase the integrity of the parliaments, increase citizen trust



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in democratic institutions, strengthen the overseeing role of the parliament and make it more transparent and inclusive.

- Public administration reform is paramount to strengthening governance at all levels. This includes improving the quality and accountability of administration, increasing professionalism, de-politicisation and transparency, improving the recruitment and dismissal processes, more transparent management of public finances and better services for citizens. An appropriate balance between central, regional and local government also needs to be found.<sup>37</sup>
- The EU rule of law policies require providing tools for both members and future members. While the accession process can provide leverage, if successful, it cannot prevent backsliding after accession, as no democracy and system based on the rule of law is ever completely immune to setbacks. This requires developing joint strategies for current and future member states. These include the identification of rule of law setbacks, such as rolling out the EU justice scoreboard for all countries of the region, and also developing coherent methodology to focus beyond the judiciary to other aspects of the rule of law and democracy, e.g. free and fair elections, media freedom, checks and balances, informalities, anti-corruption, etc. Ideally, existing monitoring tools should be integrated under one authority that would regularly observe compliance with the union's values. The European Fundamental Rights Agency (FRA), assisted by local expertise, could expand its scope of work to cover current and prospective EU member states by means of regular assessment on specific legal and political measures concerning the rule of law and democracy.
- Independent regulatory bodies in charge of the rule of law need to be empowered both legally and in practice. An increase in results and public trust in them will depend on their sustained efforts to ensure their integrity, impartiality and accountability and remedy the shortcomings in its decision-making.
- Investigation and adjudication of war crimes cases faces legal and practical obstacles, including specific evidentiary requirements of war crimes trials, witness protection and insufficient capacities within the prosecution and the judiciary. Assistance of the judiciary institutions and mechanisms from the

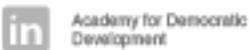
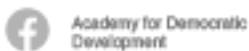
<sup>37</sup> United Nations (2011) *Rule of Law Indicators – Implementation Guide and Project Tools*.



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United States and the EU in prosecuting those charged with war crimes and crimes against humanity is essential.

- Countries of the region need to learn best practice from the EU in improving legal framework. In order to acquire broad political consensus and political will by all political parties and to actually adopt judicial reform and make the necessary constitutional changes that will allow the implementation of reforms related to the rule of law, soft law instruments may be insufficient.
- The EU policy objective should not only be focused on vetting judicial officials, it should also focus on institutional capacity-building and investment in judicial infrastructure so that it is more accessible to the citizens of the region.
- Judicial organisations should continue to receive technical legal assistance, including resources for improving ethics and accountability, while democratic partner governments should closely monitor and speak out against attacks on the courts in the region. All countries should abide by the Venice Commission's 2016 Rule of Law Checklist, which sets out the core elements of a democratic legal system.<sup>38</sup>

## Economic Cooperation, Green Deal and Sustainable Development

The economies of the countries of the region differ greatly in size, in which main sectors contribute to GDP growth and in their level of industrialisation. That being said, they face the same challenges, such as high unemployment, a low rate of youth contribution in the labour force, low formalisation and digitalisation, low industrialisation, inefficient revenue collection, different and frequently changing fiscal policies, a lack of fiscal consolidation and poor debt management.

The need for investment is big and most of it comes from EU countries, WB, EBRD, KfW, etc., but in some countries, debt from China, Russia and public-private partnerships (hereinafter: PPPs) is threatening the region's economies.

The COVID-19 pandemic plunged the regional economies into a deep recession, just like in the rest of the world. In 2020, economic activity reduced by an estimated 3.4%

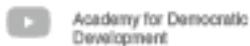
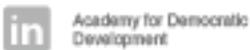
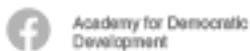
<sup>38</sup> Council of Europe (2016) *European Commission for Democracy Through Law – Rule of Law Checklist*.



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– the worst downturn on record. The primary causes were the drop in domestic and foreign demand and disruptions in supply chains, especially early on in the year. The region’s economy began to reactivate in Q3 2020, supported by the partial easing of stringent lockdowns and the revival of global demand. But with renewed restrictions in late 2020 in response to a resurgence of infections, the recovery has been subdued. The crisis has led to significant job losses but the labour market is rebounding. Recovery is expected to strengthen in the second half of the year as vaccinations continue and confidence, consumption and trade gradually improve. The economy is projected to expand by 4.4% in 2021. In 2022 and 2023, growth will likely moderate to 3.7%, weighed down by lingering damage from COVID-19.<sup>39</sup>

If seen separately, the economies of the region are all small in size, making them less attractive for FDI. However, if they succeed in working together, to unify what makes them different, and to simplify and streamline the process for permissions, licences or recognising documentation, it will free up so much capital and make free trade and the movement of people, goods and services possible. By removing the obstacles, the region can become a single market with almost 18 million inhabitants, a diversified and skilled labour market, different sources of economic growth in an already faster growing economy and in a very attractive geographical position. This would attract more FDI and boost innovation, tourism, agriculture, energy, maritime, decreasing the trade deficit and increasing exports of goods and services, increasing the GDP per capita and improving the life for citizens.

Good economic conditions are key incentives for businesses to invest abroad. Improved economic conditions translate to lower investment costs, suggesting that the better the conditions in a country, the bigger the increase of multinational involvement. The results also acknowledge this hypothesis and suggest that better economic conditions in an EU member state – as measured by a larger ESI (economic sentiment indicators)<sup>40</sup> – motivate MNEs (multinational enterprises) to pursue FDI in

<sup>39</sup> World Bank (2020) *Western Balkans Regular Economic Report*.

<sup>40</sup> ESI –The economic sentiment indicator (ESI) is a composite indicator produced by the Directorate General for Economic and Financial Affairs (DG ECFIN) of the European Commission. Its objective is to track GDP growth at Member states, EU and euro area levels. It measures confidence indicators, which are statistical indicators based on the results from business surveys interrogating enterprises on their current economic situation and their

that country. More capital is invested and a larger number of projects are undertaken in a country with a larger ESI.<sup>41</sup>

In October 2020, the EC adopted a comprehensive **Economic and Investment Plan for the Western Balkans**, which aims to spur the long-term economic recovery of the region, support a green and digital transition, and foster regional integration and convergence with the EU.

The Economic and Investment Plan sets out a **substantial investment package mobilising up to EUR 9 billion of funding for the region**. It will support sustainable connectivity, *transport, energy*, human capital, competitiveness and inclusive growth, and the twin green and digital transition *“to create sustainable growth and jobs. The plan also offers a path for a successful regional economic integration to help accelerate convergence with the EU and close the development gap between our regions, ultimately speeding up the process of EU integration. This plan should help to transform the Western Balkans into one of the most attractive region for investments in the world. Implementation of course will need to go hand in hand with reforms.”*<sup>42</sup>

In conjunction with the plan to support the region, the commission has presented guidelines for implementing the Green Agenda in the Western Balkans. It foresees actions around five pillars. These are: 1) climate action, including de-carbonisation, energy and mobility; 2) circular economy, addressing in particular waste, recycling, sustainable production and efficient use of resources; 3) biodiversity, aiming to protect and restore the natural wealth of the region; 4) fighting air, water and soil pollution; and 5) sustainable food systems and rural areas. Digitalisation will be a key enabler for these five pillars and will keep them in line with the concept of the dual green and digital transition.

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expectations about future developments. Five separate confidence indicators are produced; for industry, construction, services, retail trade and consumers.

<sup>41</sup> Cieřlik, A. and Ghodsi, M. (2021) *Economic Sentiment Indicators and Foreign Direct Investment: Empirical Evidence from European Union Countries*.

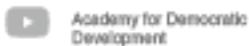
<sup>42</sup> European Commission (2020) *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – An Economic and Investment Plan for the Western Balkans*.



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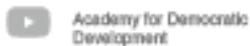
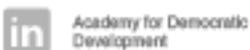
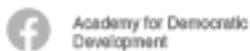




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The plan identifies the top 10 investment opportunities to support major road and railway connections in the region; renewable energy and the transition from coal; renovation of public and private buildings to increase energy efficiency and reduce greenhouse gas emissions; waste and wastewater management infrastructure; and the roll out of broadband infrastructure. The plan also suggests increased investment in the private sector – particularly in small or medium sized companies – to boost competitiveness and innovation and a youth guarantee.

In addition to the significant grant funding to the region, the EU can provide guarantees to help reduce the cost of financing for both public and private investments and to reduce the risk for investors. Support through the new **Western Balkans Guarantee Facility**, under the EU External Action Guarantee and the European Fund for Sustainable Development Plus, is expected to mobilise potential investments of up to EUR 20 billion in the next decade.

The investment package will be a key driver in facilitating increased public and private investments in the region by European and international financial institutions.

The Commission has been supporting the efforts of the governments of the region to develop a new vision for the creation of a regional economic area. The EU will strive to bring the region closer to the European Single Market. Good governance is the foundation for sustainable economic growth. Boosting investment and economic growth will therefore only be possible if the Western Balkans firmly commit to and implement fundamental reforms in line with European values. The implementation of these reforms, in particular in the rule of law field, will be crucial for the success of this economic plan and fostering sustainable economic development in the region.<sup>43</sup>

The transformation of the global economy is posing continuous challenges for the region in terms of competitiveness and inclusive, sustainable growth, challenges which also affect the rest of the world. However, it also offers up new opportunities. The changing nature of work, the digital and green transitions, and of course the COVID-19 pandemic are clear examples having a very direct impact on the lives of citizens and affecting the socio-economic fabric of the region. To embrace the opportunities and minimise potential negative implications of those transformations and challenges, it is

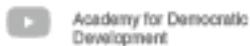
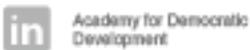
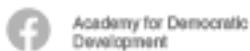
<sup>43</sup> European Commission (2020) *Western Balkans: An Economic and Investment Plan to Support the Economic Recovery and Convergence*.



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critical that the region maintain macrofiscal stability and implement structural reforms that help to address the identified weaknesses in their economies and help their societies become more resilient.

Against the current macrofiscal background, all the economies should benefit from stepping up efforts to sustainably raise potential growth and resilience. Fiscal consolidation is still necessary to safeguard debt sustainability. Rebuilding fiscal space is particularly important because many Western Balkan economies lack other stabilisation tools, in particular an independent monetary policy. Only Serbia has managed to significantly reduce the debt ratio from its post-crisis peak. Montenegro and North Macedonia have yet to achieve debt stabilisation, although Montenegro has implemented fiscal consolidation measures in recent years and the completion of one major investment project is expected to bring the budget into a large surplus, thus reducing the debt ratio. Albania's debt burden has started declining but remains high.<sup>44</sup> Expected consolidation is back-loaded in Albania and North Macedonia. Failure to contain current spending, especially on public wages and pensions, has been a recurrent problem across the region, and could again derail fiscal adjustment efforts. Fiscal risks also stem from contingent liabilities associated in particular with public-private partnerships, which often lack transparency, and with still sizeable state-owned enterprises that perform poorly and lack proper oversight. Weak tax compliance and widespread tax exemptions highlight the scope for improving revenues across the region, which would also provide more resources for priority spending, including investment.

The challenge for all economies is to increase domestic savings in order to lower external vulnerabilities, and to implement reforms in product and labour markets that will attract FDI into tradeable sectors, raise productivity and boost exports.

All economies of the region face challenges in their business environments. For most, the regulatory and institutional environment remains a key obstacle to private-sector development and competition. All the economies are struggling with corruption and legal unpredictability, which make them less attractive to foreign and domestic investors alike. Overcoming these challenges requires extensive structural reform to

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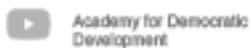
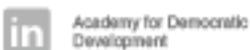
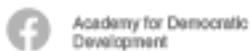
<sup>44</sup> Due to the Covid-19 pandemic, public debt increased in 2020 but is expected to decrease in 2021–2022.



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improve the business environment and investment climate, including significant efforts to strengthen the rule of law and institutions and fight corruption.

There is a large informal sector in all the economies. While there is a lack of reliable data, the informal economy is estimated to account for 25–35% of GDP in all economies of the region. Informality is a great problem, since it leads to unfair competition, obstructs the efficient allocation of state and private resources, and reduces tax revenues. Undeclared work leads to reduced job security and safety at work, and the lower pay associated with it can lead to inequality and poverty. Many underlying causes and factors facilitate a high level of informality. Weak inspections and tax audits are a clear problem, as is the high proportion of cash transactions, while high unemployment levels force workers to accept the poorer conditions of undeclared work. The low level of trust in government, and the perceived low quality of public services, discourage tax compliance. To overcome these challenges, there is a need to incentivise tax compliance through measures such as raising public awareness, the simplification of administrative procedures and lower thresholds for cash transactions. Law enforcement in this area needs to improve.

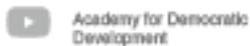
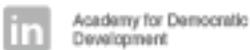
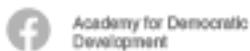
The lack of regional economic integration prevents the region from realising its growth potential. All regional partners need to be committed to boosting regional cooperation and creating a regional economic area. Such activity would improve competition allow for economies of scale and the associated productivity gains. A regional market would provide a stimulus for intraregional trade, and this extended customer base would make the Western Balkans a more attractive investment destination. Market integration based on EU rules and standards will help create opportunities for new value chains and will increase the region's attractiveness for FDI – including from the EU – in tradeable sectors. Better connectivity in transport and energy will speed up the integration of the region into pan-European networks, while strengthening competitive energy markets and developing economic corridors throughout the region. The creation of a digital space and more integrated labour markets would also offer new possibilities for young people in the region. Even though labour market outcomes are improving generally, labour resources are still largely underutilised. Women, young people and minority ethnic groups are weakly integrated into the labour market. The gender employment gap in 2017 ranged from around 15% in Albania, Montenegro and Serbia, and around 25% in North Macedonia and Bosnia and



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Hercegovina, in comparison with the EU average of 11.5%.<sup>45</sup> Undeclared work makes up 20–30% of the workforce. There is no regular consultation of unions and employers on the planning and implementing of economic, employment and social policies, and social dialogue between employers and employees, including collective bargaining, is underdeveloped.

Trade remains constrained by non-tariff barriers with complex and unsynchronised border procedures. These non-tariff barriers, as well as limited quality certification services and laboratories available, continue to restrict trade. There is a large untapped potential for trade growth subject to cross-regional connectivity improvements and the elimination of the technical barriers to trade. The authorities in the region have started to implement measures that mostly focus on liberalising trade with the neighboring countries within the framework of the Regional Economic Area (REA).

Taxation is another area where considerable improvement is needed. Different and often unpredictable taxes, fees and charges on businesses and investors are seen as arbitrary, confusing and often non-transparent for potential investors and businesses. As an example of this, in 2017 Montenegro had 659 different local taxes, fees and charges.

Access to broadband networks is seen as key to the further digitalisation of the economy. Both the digital economy and digitalisation are hampered by the low distribution of fixed internet services and weak digital skills. While most countries of the region perform reasonably well in terms of mobile broadband connection, fixed broadband in households remains a challenge. Moreover, the gap between internet access in rural and urban areas remains huge.

Public and private investments in research, development and innovation (RDI) are low. There is need to analyse and consider PPPs as a tool for development and not for investment only. Many countries around the world have dedicated agencies that are dealing, accessing and analysing the potentials of PPPs. Areas in which governments

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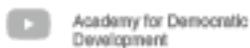
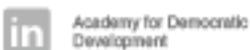
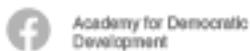
<sup>45</sup> Atoyan, R. and Rahman, J. (2017) 'Western Balkans: Increasing Women's Role in the Economy', *IMF Working Papers*, 2017(194).



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of the region need to focus on developing PPPs<sup>46</sup> will be discussed in the next paragraphs.

To shape a sustainable environmental future, all actors in the region need to cooperate with one another to tackle the key challenges such as pollution, health issues, climate change impacts and ecosystem threats. Today's decisions will influence not only the region's environment in the coming decades, but also that of other European countries.

The issue of environmental protection is of key importance in the process of accession of the West Balkans. Chapter 27 of the pre-accession negotiations deals exclusively with the issue of the environment. In the past years, some of the countries adopted a negotiating position that also explained the financial framework for reaching standards in that area. This chapter is considered as the "most expensive" of all chapters and requires long-term planning and investment in infrastructure and human capacity. Although the actions have not yet been taken towards such goals, according to initial estimates, an investment of around EUR 15 billion per country is needed to meet current standards, of which around EUR 7.5 billion is for waste and water management in Serbia alone, compared to the EUR 1.6 billion that Montenegro requires. Croatia have invested more than EUR 9 billion, so although North Macedonia, Kosovo and Albania have yet to adopt their negotiation framework, the remaining Western Balkan countries will need to invest more than EUR 25 billion in order to meet the current EU environmental and sustainability standards.

The process of harmonising regulations and practices with the regulations and practices prescribed by Chapter 27 is long and requires the adjustment of all aspects of society. The burden of adjusting and meeting the standards of the EU will be borne by the economy. As the largest source of pollution, the economy will have an obligation to improve its production processes, to suspend existing practices or to invest significantly in the modernisation of production in order to comply with environmental standards, specifically waste management. Large economies, especially companies within multinational corporations, have experience from other countries, expertise and the necessary financial resources to comply with the increasingly stringent regulations. In the process of adapting regulations, a greater

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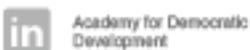
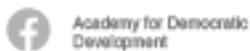
<sup>46</sup> Baxter, D. (2019) 'Trends That Will Drive Global PPPs', *World Bank Blogs*, 24 January.



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burden will be placed on micro, small and medium (SME) enterprises that do not have the expertise or sufficient financial resources to invest in the environment.

Individually each country could adopt legal documents and harmonise its legislation with EU requirements, however the most substantial challenge will be to find the funds in the budgets to invest in order to meet the standards of EU. This will be especially challenging as information from the EU reveals the amount the EU has prepared for the Western Balkans in their efforts towards EU accession totals EUR 14.162 billion. This includes funds for all chapters of the negotiation progress for Western Balkans and Turkey in the next seven years. Those funds added to what can be allocated from the budgets of the countries is simply not enough and can not ensure integration in two more decades, let alone seven years.

2015 was a historic year in which 196 parties came together under the Paris Agreement to transform their development trajectories and set the world on course for sustainable development. The aim is to limit global warming to 1.5–2°C above pre-industrial levels. Through the Paris Agreement, parties also agreed to a long-term goal for adaptation – to increase the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production. Additionally, they agreed to work towards making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development. Nationally determined contributions (NDCs) are at the heart of the Paris Agreement and the achievement of these long-term goals. NDCs embody efforts by each country to reduce national emissions and adapt to the impacts of climate change. The Paris Agreement requires each party to prepare, communicate and maintain successive nationally determined contributions that they intend to achieve and obligates them to pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

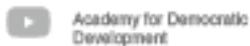
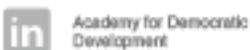
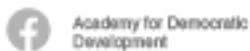
Countries of the region rarely follow the newest developments in the field of climate change, and they are failing to inform subjects to which those developments apply about the possibilities and tools at their disposal. One of the most prominent examples of this is the '4 pour 1000' initiative presented by the French Ministry of Agriculture on 1<sup>st</sup> December 2015 at COP 21, which brought together thousands of delegates representing the public and private sectors (national governments, local and regional governments, companies, trade organisations, NGOs, research facilities, etc.) under the framework of the Lima-Paris Action Plan (LPAP). The aim of the initiative is to



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demonstrate that agriculture, and in particular agricultural soils, can play a crucial role where food security and climate change are concerned. Supported by solid scientific documentation, this initiative invites all partners to state or implement some practical actions on soil carbon storage and the type of practices to achieve this (e.g. agroecology, agroforestry, conservation agriculture, landscape management, etc.). The ambition of the initiative is to encourage stakeholders to transition towards a productive, highly resilient agriculture, based on the appropriate management of lands and soils, creating jobs and incomes hence ensuring sustainable development. Although many of the most developed countries in the world joined the initiative and turned to the latest developments in agriculture, countries of the region are completely ignorant about it and authorities show no intention of introducing stakeholders or producers to the new tools at their disposal.

#### RECOMMENDATIONS:

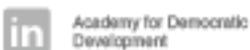
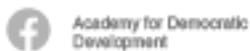
- The countries of the region must learn to perform better as a whole and with more confidence, the GDP growth must be stable and other factors such as social, economic and political stability, the rule of law, fiscal policy and business climate must improve in order to see growth in FDI from new MNEs. These improvements would also make it possible for an investment carried out in another country to be transferred to any country of the region.
- Better connecting the economies of the Western Balkans by complying with the EU requirement of a strong commitment to implementing fundamental reforms, deepening regional economic integration and developing a common regional market on the basis of the EU *acquis* will make the region a more attractive investment area.
- Countries of the region need to undertake joint action in order for the EU to secure more funds for the accession of the Western Balkans in the coming years – especially for the chapters that are considered a costly process. Collaboration among the countries of the Western Balkans needs to be established as the potential synergy will not only lead to more effective measures but will also reduce the costs of the initiatives for the participating countries.



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- The economic reform programmes (ERPs) of the Western Balkans<sup>47</sup> represent the highest level of EU engagement with both the Western Balkans and Turkey on socio-economic matters and constitute the basis for the related policy dialogue. In this context, the implementation of the reforms identified in the ERPs and the policy guidance jointly adopted by EU member states is not only key to improving competitiveness, foster job creation and facilitate social inclusion, but also to meet the economic criteria of the accession process.
- Shifting towards a sustainable and inclusive economic model, enabled by a wider uptake of digital and clean technologies, can help the Western Balkans advance towards achieving competitive sustainability and social cohesion through a new growth strategy based on the green and digital transitions. Achieving this requires profound changes in different policy areas based on the sound management of public finances. It also offers an opportunity to modernise traditional industrial models and to direct private and public investment towards innovative green technologies and a more sustainable and digital infrastructure. This will help accelerate the transition to a more sustainable, resilient and inclusive economic model.
- The outbreak of the Covid-19 pandemic has had a strong impact on the different areas of the economy, hampering growth and posing significant challenges to the social and healthcare systems. In this context, the 2021–2023 Economic Reform Programmes will have to focus on the post Covid-19 recovery, while integrating midterm reforms that make the recovery sustainable and building up economic resilience in line with the EU green, digital and just transition priorities.<sup>48</sup>
- More effort should be made to shift budgets towards a more growth-oriented composition. Fiscal adjustment plans, when and where they exist, are based mostly on containing expenditure, while a reduction in revenue ratios is expected to lead to upward pressure on the deficit.
- Current account imbalances should be reduced by increasing domestic savings and implementing productivity-boosting reforms.
- The digitalisation and development of digital skills have a potential to contribute to tackling high unemployment, especially in the rural areas. This

<sup>47</sup> European Commission (2021) *Guidance for the Economic Reform Programmes 2022–2024 for the Western Balkans and Turkey*.

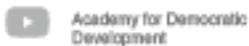
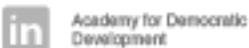
<sup>48</sup> European Commission (2020) *Guidance for the Economic Reform Programmes 2021–2023 for the Western Balkans and Turkey*.



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would create positive spillover effects on other sectors of the economy such as tourism, facilitate exports and increase e-commerce.

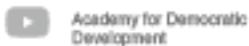
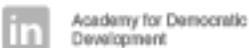
- As there is growing consensus that PPPs need to become more about people, the focus needs to be on people-first PPPs. As a consequence, proponents of PPPs and governments are increasingly subscribing to strategies to incorporate the Sustainable Development Goals (SDGs) into their policy and planning documents. This people-first approach will increasingly underlie the conditions for financing PPP initiatives by multilateral development banks (MDBs) and development agencies. This will translate into an increased focus on social service PPPs for healthcare, housing and education, as countries seek to achieve their SDG objectives.
- In a world faced with the limited financial resources caused by a possible global recession, PPPs need to factor in sustainability and resilience to be considered bankable and viable. This renewed awareness is also driven by concerns about building projects in environments prone to the increasingly acute risk of extreme weather, brought about by climate change. Governments, investors and insurers are becoming more concerned about the risk and demanding that projects take steps to mitigate it. It is also important that elements of regeneration be built into project recovery strategies so that PPPs can recover quickly from these extreme weather events.
- Many countries face the reality that projects initiated in the enthusiastic first wave of PPPs launched in the 1990s are maturing. Thirty years ago, few governments focused on the date when project contracts would expire and projects would be handed back to government owners for operations and maintenance. Many governments lack the resources to manage these projects and are concerned about being inundated by a wave of projects they really don't want to manage, or are incapable of managing. This offers great opportunities for PPP investors.
- Many countries are undergoing reforms or adopting legal frameworks to establish or improve enabling environments for PPPs. These reforms are encouraging as they will help mitigate legal constraints that have caused developers and investors to avoid PPPs in certain markets.
- One of the biggest concerns of potential developers of and investors in PPPs in emerging markets is rigged procurements and corruption. Governments are increasingly adopting measures to create an environment of transparent and competitive procurement. One approach has been to adopt e-procurement



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platforms – often sponsored by MDBs and development agencies – that ensure a level playing field and that cash-strapped governments are not being milked by unscrupulous public and private sector players focused on profiteering rather than building feasible and sustainable infrastructure that benefit all.

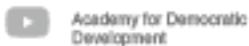
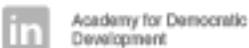
- Against growing scrutiny by governments and investors about PPP success rates, there is increased focus on improving the abilities of governments to deliver projects. This is resulting in more efforts to develop and improve the procurement and management capabilities of public sector officials. This will result in a greater mastery of PPPs by the public sector and will avoid the exploitation of PPP initiatives by nefarious actors. In many countries, newly constituted PPP units that will provide technical support to novice PPP project proponents are also being formed.
- In times of financial stress, governments focus on developing budget strategies that identify economically feasible and affordable PPPs to match national development goals. This is leading to governments requiring line ministries and sub-national agencies to coordinate their project pipelines with national pipelines (often controlled by national treasuries and ministries of finance) to prioritise projects meaningfully. This is resulting in greater scrutiny to ensure governments are not committing themselves to debt that cannot be repaid.
- Many governments in emerging economies are making concerted efforts to “educate” domestic banks about the opportunities of investing in PPPs. This trend will increase domestic liquidity and help governments find alternative financing for smaller PPPs that are not attractive to international investment banks.
- Governments are more aware they need to market themselves if they wish to compete successfully for FDI. The reality is that investors are not sentimental and it is increasingly important that governments wax lyrical about opportunities, meaningful (bankable) projects and risk mitigation, if PPP investors are to be lured. Many governments are now ensuring that comprehensive feasibility studies are mandated as a mechanism to create an attractive procurement environment and opportunity for well-intentioned developers and investors.
- As governments become increasingly aware of private sector concerns about nepotism and corruption, there is a growing awareness of the dangers



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of unsolicited PPP proposals. Consequently, there are actions underway in many countries to better regulate unsolicited proposals to ensure that only bankable projects that are economically and commercially viable are considered. It is important the private sector becomes aware of the new regulatory expectations concerning unsolicited proposals that require greater scrutiny and competitive bidding.

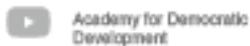
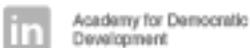
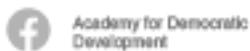
- Many new international institutions are championing PPPs. These include the Geneva-based UNECE International PPP Centre of Excellence and its affiliated regional Specialist Centres that include the New Orleans Resilience and Sustainability Center. Other institutions to watch include the newly-formed Afghan PPP Hub and the World Association of PPP Practitioners.
- Special focus needs to be put on SME in order to provide them with professional knowledge and help them face upcoming changes. A more environmentally friendly production environment needs to be created and the process does not have to be a burden on the economy but rather it can be an opportunity to develop new services and new products.
- When it comes to agriculture, the fight against climate change, green economy and the environment, it is essential that all the countries of the region join the '4 pour 1000' initiative presented by the French Ministry of Agriculture on 1<sup>st</sup> December 2015 at COP 21, which brought together thousands of delegates representing the public and private sectors (national governments, local and regional governments, companies, trade organisations, NGOs, research facilities, etc.) under the framework of the Lima-Paris Action Plan (LPAP). The aim of the initiative is to demonstrate that agriculture, and in particular agricultural soils, can play a crucial role where food security and climate change are concerned. Supported by solid scientific documentation, this initiative invites all partners to state or implement some practical actions on soil carbon storage and the type of practices to achieve this (e.g. agroecology, agroforestry, conservation agriculture, landscape management, etc.). The ambition of the initiative is to encourage stakeholders to transition towards a productive, highly resilient agriculture, based on the appropriate management of lands and soils, creating jobs and incomes hence ensuring sustainable development.
- Countries of the region need to sign, ratify and implement all international agreements, protocols and documents and comply with all of the obligations prescribed in them. When it comes to the Paris Agreement, which was signed



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by all of the countries of the region, individual countries need to do a situation analysis on both the status of each country's NDC – to see whether it is awaiting an update – and on the status of the National Energy and Climate Plans (NECP), and to do a comparison of the documents to identify where cooperation is possible.

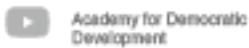
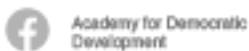
- At a regional level, the mapping of all local communities that have taken steps in Race to Zero is needed, as well as identifying others that could join. This UN-backed global campaign is rallying non-state actors – including companies, cities, regions, financial and educational institutions – to take rigorous and immediate action to halve global emissions by 2030 and deliver a healthier, fairer zero carbon world in time.
- The Global Covenant of Mayors for Climate & Energy is the largest global alliance for city climate leadership and can serve as a powerful tool in establishing regional cooperation in fighting climate change. It is a powerful and historic response to climate change, built upon the commitment of over 10,000 cities and local governments from around the world. Cities of the region need to interconnect and form an inner network within the global network and all the capitals of the region should become members of this network.
- Governments in all of the countries and at all levels of accession should join the Clean Air Initiative by committing to specific actions, including: implementing air quality and climate change policies that will achieve the WHO Ambient Air Quality Guideline values; implementing e-mobility and sustainable mobility policies and actions with the aim of making a decisive impact on road transport emissions; assessing the number of lives that are saved, the health gains in children and other vulnerable groups, and the avoided financial costs to health systems that result from implementing their policies; tracking progress, sharing experiences and best practices through an international network supported by the BreatheLife Action Platform; identifying the conditions which need to be fulfilled in order to join; and initiating research that will reveal science-based solutions – like the research that was carried out in Southeast Asia, which outlined 25 actions that could achieve safe air quality levels by 2030.
- Governments of the countries of the region need to identify the conditions which need to be fulfilled in order to join The Climate and Clean Air Coalition – a voluntary partnership of governments, intergovernmental organisations,



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businesses, scientific institutions and civil society organisations committed to protecting the climate and improving air quality through actions to reduce short-lived climate pollutants. Their network includes hundreds of partners and local actors carrying out activities across several economic sectors. The Climate and Clean Air Coalition's Multiple Benefits Pathway Framework can help governments confidently integrate air quality and greenhouse gas mitigation policies and design harmonised policies that benefit people's lives, while helping to progress on global climate and development goals.

- All the countries of the region need to adjust and implement the newest developments in waste management and to establish full implementation of signed and ratified protocols in this area. Exchange of knowledge and ideas is more important than ever and possibilities of advocating for PPPs in waste management need to be examined. Disputes between the countries regarding this issue have to be resolved in a manner that will not endanger any of the countries or put their citizens at risk.

## Sustainable Peacebuilding and Interethnic Dialogue

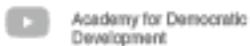
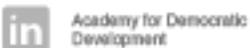
Since the signing of the Dayton Agreement in November 1995 and the end of the Kosovo War in June 1999, the region has become an important region for international actors engaged in peace-supporting activities to put their tools and concepts for building peace in war-torn societies to the test. Enormous financial and personnel resources have been invested from overseas since 1995. The main goal was to help regional actors overcome ethnoterritorial conflicts, build – effectively rebuild – well-functioning state institutions, foster the creation of a democratic political system and initiate cooperative processes between the former conflicting parties. As a result, the range of international activities in the process of peacebuilding have encompassed tools as widely diverse as the launching of various military and police missions (by the UN, NATO and the EU respectively) with changing mandates and tasks, the setting up of protectorate powers in Bosnia and Herzegovina and Kosovo in order to “facilitate” and “accelerate” state-building, and the creation of permanent structures for regional cooperation as well as the International Criminal Tribunal for the Former Yugoslavia (hereinafter: the ICTY). The latter has played a significant, but politically controversial



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role regarding reconciliation. Starting in the year 2000, the perspective of integration into NATO and the EU has become a central factor of influence in internal reforms and their contribution to regional peacebuilding are concerns for the majority of states and entities in the region. However, the countries of the region are still facing political instability, recurring economic crises, youth unemployment and stagnant economies. Ethnic divisions and unresolved issues from the periods post the Yugoslav wars still affect divisions in education and social relations in general, enhanced by a lack of cooperation and economic grievances. In parts of the region, right-wing movements are on the rise and radical groups of ex-combatants are recruiting youth. Almost all of the states of the region still have bilateral disputes concerning borders, minority rights, missing persons, cultural heritage, views of the past, war crimes, etc. and political elites are constantly keeping these conflicts alive so they can escalate them at any moment and use them as a tool for the mobilisation of the voters. There is no difference between the countries which are EU member states and those which are aspiring to become members of the EU. The harsh rhetoric of political elites, state officials and state institutions, media under the control of the governments, hate speech, war mongering and open calls for hostility and sometimes even armed conflicts are part of the everyday public discourse and they are often followed by concrete measures undertaken by the governments which undermine the peacebuilding and reconciliation process in the region. The aforementioned Slovenian non-paper is only the latest example of this practice, but examples of hate speech coming from the highest officials all over the region can be seen every day.

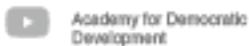
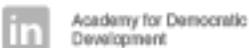
In terms of military security, the regional peace processes can be regarded as mostly successful. On the other hand, a multitude of factors hamper progress: lasting tensions caused by ethno-political and/or territorial issues; differently perceived "truths" regarding the previous wars by regional actors; tentative reforms conducted in political environments with partially continuing criminal networks still representing huge challenges in the process of conflict transformation. Decades after the termination of the last armed conflict, the time is right to reflect and deal with the lessons that can be drawn from the mechanisms and concepts used and the missions implemented in the region. This endeavour is important for the region itself, but it could also potentially answer the question of what can be used and learnt from regional peacebuilding experiences for conflict or post-war regions in other parts of the world; areas in which international actors are already engaged in conflict management or could be engaged in the future.



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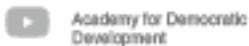
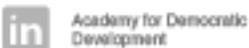
The region has moved forward, each country at a different pace than the other, and while there are encouraging sign and decisions, the region still faces some unresolved problems. The process of conflict transformation in South East Europe is still far from being regarded as closed. The region has been an experimental field for different approaches and methods of crisis management during the past 30 years. Unfortunately it has often been a learning-by-doing test case and some examples of this include: UNPREDEP, considered a successful example of preventive deployment and also a symbol for the discrediting and shameful weaknesses of the UN system in the 1990s; UNPROFOR, however, has become the symbol for an unattainable mandate, inappropriate use of resources and not sufficient political cohesion in the UN Security Council; and IFOR/SFOR were the first robust NATO crisis management operations with the participation of the Partnership for Peace nations in an internal conflict. The region saw a NATO intervention without a UN mandate with the bombing of Belgrade, accompanied by massive deployments in Kosovo – KFOR was initially composed of some 50,000 soldiers. EULEX was launched in 2008 as the largest civilian mission under the Common Security and Defence Policy of the European Union. Its overall mission was to support the relevant rule of law institutions in Kosovo on their path towards increased effectiveness, sustainability, multi-ethnicity and accountability, free from political interference and in full compliance with international human rights standards and best European practices. The region has been a playground for the Partnership for Peace, followed by NATO enlargement as an essential instrument for fostering stability. This region has been the area of operation for different international organisations (the UN, NATO, the EU and OSCE) in the same area at the same time, stimulating comprehensive processes that are considered indispensable for modern conflict resolution and peacebuilding nowadays. Transfers of authority between different organisations took place as future role models. The region was the first with first joint international peacebuilding efforts at the turn of the millennium after proceeding periods of purely military containment. There was also the European Security and Defence Policy, which was substantially triggered by the tragic events in the region. The Stability Pact for SEE, a complementary mechanism with invaluable positive regional effects, was established at the same time. After the turn of the millennium, we saw the start of regional cooperation schemes and instruments, some of them being RACVIAC, SECI, MARI, SEDEM, SEEBRIG etc., all of which are now outlived or superseded by other international mechanisms, many of them mentioned and analysed in this paper.



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In the past 25 years, the complexity of the peace processes in the region has shown that achieving stability in terms of preserving a non-fighting situation cannot be automatically equated with peacebuilding. The latter demands long-term and comprehensive political, security-political, judicial and economic efforts on the side of the affected post-war societies and international intervention forces. However, in the Balkan “laboratory”, lots of new concepts and instruments have been developed and tested in regard to international interventions in crisis and post-war situations. Among them are the building – effectively the re-building – of states and their institutions, civil-military cooperation, the concept of Security Sector Reform, new forms of military peace-keeping, the cooperation between EU and NATO in peace support operations, the concept of restoring multiethnic societies in post-war areas, as well as integration as a tool for fostering reconciliation and restoring regional co-operation. This generally comprehensive approach has guaranteed the absence of war on the one hand, but on the other hand, the serious problems the countries of the region still face while trying to install functional state institutions and to establish a peaceful multiethnic society point to the shortcomings of international strategies and instruments as well as to their unrealistic expectations.

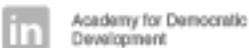
The experience gained from Bosnia and Herzegovina and Kosovo, which have both passed through several decades of externally-guided peace- and state-building, indicates how difficult it is to find a balance between international support and regional responsibility. Bearing in mind that in the first period after the war energetic measures from international intervention forces are necessary to establish basic standards in the field of rule of law and for fighting criminal elites, it seems reasonable to use protectorate powers primarily at the beginning of the international intervention. When basic standards in the field of rule of law are guaranteed and political institutions appear capable to fulfil their tasks, the political responsibility should be stepwise transferred to the local authorities. Neither in Bosnia and Herzegovina nor in Kosovo did the interaction between the international intervention forces and the local authorities develop as described above. The existence of these institutions in these countries are serving as additional cause for instability, political dispute and misunderstandings between the inner and external political players, which is the case with the latest disputes over the position of the High Representative in Bosnia and Herzegovina.



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There have been calls to change the borders in the region and all these demands are extremely dangerous. Different non-papers and unofficial offers have been put on the table in the past several months, the Slovenian non-paper being the most dangerous of all, especially considering the Slovene presidency of the EU. There has also been confirmation from officials of Bosnia and Herzegovina that the question of the dissolution of Bosnia and Herzegovina was on the table during official meetings between Bosnian and Slovenian officials. This was followed by several different counter-propositions coming from other countries of the region through official and non-official channels and sources. All of them were based on extremely dangerous concepts of ethnoterritorialism and were calling for the creation of ethnic states, the dissolution of the existing states, the swapping of territories along ethnic lines and were invoking long overpassed and outdated concepts of the greater states in the region. There were also official attempts to do something similar, when “demarcation” and territorial swaps between Kosovo and Serbia was officially promoted as one of the key solutions to the Belgrade-Pristina normalisation process by presidents and the highest state officials of both Serbia and Kosovo and supported by some of the key international players in the region. The main issue with this proposal was that it completely disregarded the “domino effect” it might have on the complex situation in the region with many entities, ethnicities and interest groups seeking to follow this example. There is a call to revise and adjust existing borders and boundaries. The fact that some changes need to be made to the old arrangements that are presenting obstacles to peacebuilding, the creation of the multi-ethnic societies and peaceful coexistence (one of the most prominent examples of this is the Dayton Agreement, which served its purpose of stopping the war, but has been representing an obstacle to effective state-building ever since), it needs to be made clear that all these adjustments need to stay within the existing borders of the states in the region. There are countries that need to make territorial adjustments, rearrangements or reorganisations (e.g. Kosovo with the Ahtisaari plan, Serbia with autonomy of different parts of its territory), but these accommodations can be done only within the borders of those countries. Conflicts between the countries must not be about the territories, but about the rights. Governments need to be encouraged to participate in dialogue, which needs to be inclusive, substantial, sincere and comprehensive.

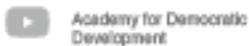
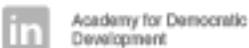
As a result of solutions which were necessary to stop armed conflicts or make ethnic accommodations at the time of adoption, some of the countries of the region now



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have political or electoral systems which are disabling ethnic cooperation and the reconciliation process. One of the most prominent examples of this is Bosnia and Herzegovina, where the Dayton Agreement, which was meant to be a temporary solution, now presents an obstacle for interethnic dialogue and stands in the way of state-building and integration of the country as a whole. Diplomats, actors and historians of that time say that, “the formula of one country, two entities and three constituent peoples was not a solution to the Bosnian Question. It was simply what could be agreed on in 1995”.<sup>49</sup> A resolution by the Council of Europe in 2004 asserts that the agreement “cannot secure the effective functioning of the state in the long term and should be reformed once national reconciliation is irreversible and confidence is fully restored”.<sup>50</sup> This point has not been reached. As a result of this, the highly ethnic-oriented political system of the country is fostering ethnical divisions, putting obstacles in the way of ethnic cooperation and demotivating candidates and parties to work across ethnic lines and use rhetoric that would call for reconciliation, true coexistence and ethnic cooperation. The political system is now organised between two main streams. One of the streams is the institutionalisation of ethnic division proclaimed by the existing documents and the political reality stressing that representatives of one constituent people – Bosniaks, Serbs or Croats – should not be elected by the votes of other ethnic groups and motivating politicians to address and represent exclusively their ethnic groups. The other stream is the European Court of Human Rights demanding an end to ethnic discrimination and other voices calling for solutions and amending the political system in a way that will contribute to building a truly multiethnic society. Signals, messages and actors that are coming from Belgrade and Zagreb are further complicating the situation. All of the neighbouring countries must respect Bosnia and Herzegovina’s sovereignty and territorial integrity. It needs to be understood that Bosnian citizens of ethnic Croat and Serb backgrounds are not diaspora, they are indigenous to Bosnia and Herzegovina. Croatia, which is already an EU member, and Serbia, which aspires to become one, should align their influence in Bosnia and Herzegovina with the reforms Washington and Brussels seek, not against them. This dysfunctional ethnocracy threatens to generate instabilities throughout the region; it powers malign ethnonationalism in Croatia, a member of the EU, and it makes it harder for Serbia to become more aligned with the European mainstream. Ultimately, it exacerbates tensions and distorts relations among all three countries and

<sup>49</sup> Bennett, C. (2016) *Bosnia’s Paralysed Peace*. London: Hurst.

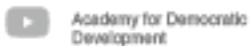
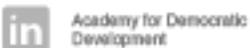
<sup>50</sup> Parliamentary Assembly of the Council of Europe, 2004



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their neighbours, and it creates opportunities for Russia to exploit and undermine the prospects of China's growing regional presence. It enables opportunistic politicians to manipulate narratives of grievance in a country and a region that still have a historically rare opportunity to transcend the tragedies of their past divisions. Although completely different from the situation in Bosnia and Herzegovina, the electoral system in Croatia bears some of the features of a deterioration of minority rights. In their efforts to ensure parliamentary representation of the Serbian minority and guarantee seats for them in parliament, special voting mechanisms have been established that are putting voters of Serbian nationality in a position where they have to publicly declare themselves as Serbs, which can be a problem for many of them considering the overall level of rights they have in Croatia and problems their community is facing on an everyday basis. This demotivates some of them from voting or is preventing them from voting for Serbian candidates. On the other hand, some of the countries of the region, Serbia among them, have not developed efficient mechanisms to ensure parliamentary representation or power-sharing models for people belonging to national minorities, although there are bilateral agreements between the countries of the region which guarantee this.

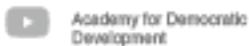
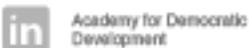
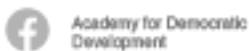
International tribunals for prosecuting war criminals, like the ICTY, are important to transform the war perception of collective guilt into the concrete legal responsibility of individual criminals. However, previous experience with the ICTY has shown that a legal body that should first deal with legal tasks cannot reconcile former parties of conflict. The judgments of the ICTY could be better used to initiate discourses on justice and reconciliation in the affected societies and between them. In spite of the fact that mass crimes committed during the 1990s have been sanctioned both by the ICTY and other specialised courts, the elites in the countries of the region still do not appear ready to work towards the moral renewal of society and take their share of the responsibility. All of the countries of the region were cooperating with the ICTY under various kinds of pressure and followed up with harsh rhetoric against the ICTY and continuous statements made by elites that the activities of the ICTY are aimed exclusively against their own people and that all sentences belong to their people. This anti-ICTY campaign has been accompanied by the skilful rationalisation and relativisation of everything connected with the ICTY proceedings. Many members of the elite who supported the war activities are involved in the campaign through their numerous media appearances. They are all taking part in a highly organised effort to minimise the "damage" regarding both the interpretation of what happened and the



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preservation of the spoils of war. The effort involves key figures in the fields of culture, higher learning, journalism, etc. Sentenced war criminals are respected members of society, belong to the political elite or are elected or nominated officials in all levels of government. They are frequent guests of the televised media, newspapers and other media, justifying their crimes and continuing to promote the ideology that led to the conflicts. This campaigning is particularly vigorous in Serbia, where sentenced war criminals are members of parliament despite the fact that the law forbids anyone who has been sentenced to the prison for more than six months to be a member of parliament. The recent life sentence of Ratko Mladić for war crimes, crimes against humanity and genocide in Srebrenica further casts light on the situation. These campaigns are followed by warmongering against other nations and orchestrated campaigns in controlled media against the leadership and officials of neighbouring countries. This was especially evident after the Parliament of Montenegro adopted the Declaration on Genocide in Srebrenica in June 2021, with officials, media, authorities and political elite in Serbia engaging in shameful and extreme campaign against Montenegrin authorities, members of parliament and citizens.

One of the challenges for the functioning of prosecutor's offices for war crimes in the countries of the region derives from the fact that their authority is universal and applicable to war crimes committed on the entire territory of the Socialist Federal Republic of Yugoslavia, including war crimes committed on the territories of other states, and this is the cause for disputes about overlapping jurisdictions. This presents a problem with regards to cooperation between states, especially with the exchanging of relevant evidence of war crimes.

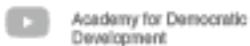
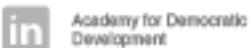
The number of parallel investigations in the region, including charges and even court rulings in the absence of the accused remains unknown. Bearing in mind the nature of war crimes, all phases of investigation are closed to the public, hence all prosecutor's offices in the region investigate and gather evidence separately, even though it is obvious cooperation and sharing information is the only way for the process to be meaningful. At the same time, on all sides, a relatively high number of cases remain unprosecuted, despite overwhelming evidence against the perpetrators. Some of the issues that are behind the lack of cooperation are of a political nature – mutual non-recognition of jurisdictions between prosecutors for war crimes between Serbia and Kosovo for example, or the lack of commitment coming from Croatia since it became an EU member state.



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It is evident that regional cooperation in the field of prosecuting war crimes is essential for the efficient prosecution of all alleged perpetrators, with no regard to the country they live in. International legal frameworks – that is, international agreements on cooperation in criminal affairs – were signed a long time ago and have been amended by protocols, memorandums and additional agreements between the regional prosecutor's offices. One of the key features of the success of the court proceedings against perpetrators of war crimes is enabling legislative framework for regional cooperation, bearing in mind the fact that victims, witnesses, perpetrators and localities where the crimes were committed are situated in the different countries of the region. Regional cooperation is also needed so that international tribunals can pass proceedings over to the national courts.

Srebrenica is no doubt the most painful thorn in the Serbian political elite's metaphorical side. The crime cannot be denied because it happened, a fact supported by the numerous ICTY rulings and the judgment of the International Court of Justice. The tragedy symbolises the world's powerlessness as well as the need to oppose genocides in our time, which occur all too frequently. Furthermore, the European Parliament has adopted a resolution obligating all member countries to commemorate 11<sup>th</sup> July in memory of the Srebrenica genocide. It is for this reason that the Serbian government is focused on relativising Srebrenica and constructing another symbol to serve as Srebrenica's counterpart. To this end, the Serb elite has chosen Bratunac as a symbol of Serb suffering during the Bosnian War (with some 3,000 names inscribed on the monument) and commemorations are held on 12<sup>th</sup> July, a day after the Srebrenica ceremony. The two toponyms have thus been put on a par in the narrative of the Serbian elites and most mainstream media, and they see any recognition of the genocide in Srebrenica as an open act of animosity and reply with harsh attacks, offence and aggression.

## RECOMMENDATIONS:

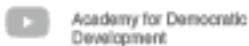
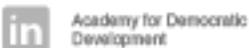
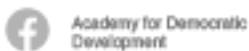
- All political actors in the region need to be aware of the danger of, clearly distance themselves from and strongly condemn making statements, plans,



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documents and hints of border changes in the Western Balkans and the creation of states on an ethnic basis. It is inadmissible that 20 years on from some of the bloodiest European conflicts, certain politicians, even state officials, wish for and plan new divisions, conflicts and drawing borders along the assumed ethnic and mythological-historical lines. All theories and aspirations for a greater Serbia, Croatia, Albania and other countries in this area must remain in the 19<sup>th</sup> century where they belong, and politicians who openly or covertly represent and promote them must be held accountable and punished. The period in which we live should be a time of integration, reconciliation, cooperation, democratisation and modernisation for all our countries, not a renewed provocation of conflict, division and hatred. No one has the right to frighten citizens with the threat of new wars, to question the survival of the countries of the Western Balkans and thus destabilise the region, endanger peace and sow fear and hatred among the people. Such behaviour is characteristic of political elites who do not understand that what matters is not the size of the state's territory, but a dignified life, the rule of law, respect for human rights and freedoms and the independence of institutions working exclusively for the benefit of citizens.

- Both the EU and the United States of America need to make clear that no change of existing borders between the countries along the ethnic lines will be accepted, welcomed or recognised by the international community. No separatist or secession movements in different parts, entities and territories of the countries of the region can have support from these countries and all nationalistic, extremist and chauvinistic rhetoric needs to be clearly condemned.
- Countries of the region need to sanction behaviour that either denies the war crimes, genocide and crimes against humanity committed during the 1990s, promotes the ideologies that led to those crimes or glorifies sentenced war criminals. All the countries of the region need to adopt legislation that will explicitly forbid these activities and sanction those who behave in that way. The decision of the High Representative in Bosnia and Herzegovina goes in this direction and its implementation has to be ensured in the entire territory of the country.<sup>51</sup> Other countries of the region need to follow this example.

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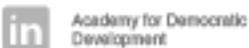
<sup>51</sup> Kuloglija, N. (2021) 'Bosnia's High Representative Imposes Genocide Denial Ban', *Balkan Investigative Reporting Network*, 23 July.



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Sentenced war criminals must not be allowed to participate in public or political life, practise politics, run in elections or represent countries and/or institutions in any manner. Targeted sanctions for persons coming from the United States and the EU and undermining democratic processes and violating human rights in the region should be applied, especially for those who are supporting war criminals politically and promoting them as national heroes. Sanctions will also apply to any media practising this and openly attacking neighbouring states and their citizens.

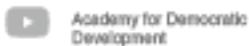
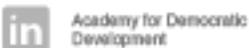
- All countries of the region need to contribute to the reconciliation process by recognising all victims of the civil war in former Yugoslavia. There can be no division among the victims regarding their nationality and empathising with victims belonging to certain nationalities only cannot be allowed. Parliaments of the region need to adopt declarations and resolutions condemning all perpetrators and expressing grief for all the victims, while offering condolences to all the families. These should be followed with the introduction of harsh sanctions for those who are still negating the judgements of domestic and international tribunals or denying crimes committed.
- Justice needs to be achieved for all families, regardless of their ethnicity. Prosecutor's offices in all of the countries need to continue their work prosecuting war crimes at full capacity and annual reports documenting their work need to be submitted. In all of the countries of the region, there is an obvious reluctance to process those responsible for the most horrific war crimes, thus aid and support combined with soft pressure from the international community is essential.
- A key precondition for establishing regional cooperation in the area of prosecuting war crimes is removing political barriers. This means a clear redefining of the regional legal framework for cooperation and the elimination of all obstacles standing in the way of full implementation. Moreover, new forms of cooperation need to be adopted and implemented in addition to the existing ones (e.g. defining joint lists of priority cases according to clear criteria and with no regard for the ethnicity of the perpetrators or victims). These need to be supported by the International Mechanism for War Crimes, as a guarantee of cooperation, improving the coordination of investigations conducted by joint investigative teams, enhancing the exchange of knowledge, information and evidence, as well as constant coordination and



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regular meetings of the representatives of the prosecution bodies. The establishment of a network of regional liaison officers in prosecutor's offices might be one of the ways to encourage cooperation at a regional level. This would also allow for an exchange programme for liaison officers in order to enhance investigations and prosecution for war crimes in the region. Last, but not least, some of the ongoing proceedings can be made more efficient by introducing modern technologies (e.g. online witness statements, etc.) and modern means of legal cooperation (e.g. questioning the witnesses via international legal aid and calling for direct communication between judicial bodies, etc.).

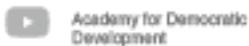
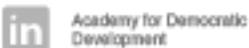
- The EU must not allow or support unresolved bilateral disputes to become part of the European agenda or a precondition for joining the EU.
- Political elites in the countries of the region need to be ready to undertake brave political steps towards the resolution of these disputes and other problems that exist among the countries. This is especially important in the case of Kosovo and Serbia, where the overall binding agreement needs to be reached by 2022. Both countries need to understand the importance of the political momentum in which they are expected to forge a sustainable solution that will not cause further destabilisation in the region. These solutions need to be institutionalised, sustainable and a result of comprehensive debate in each of the countries.
- Those responsible for politically motivated assassinations and the assassinations and attacks on journalists since the 1990s need to be identified and sanctioned, as well as those responsible for the killings and/or intimidations of witnesses called by the ICTY. It is especially important to discover and reveal the political background of the assassination of the former Prime Minister of Serbia, Zoran Đinđić and the Kosovo Serb opposition party leader, Oliver Ivanović.
- Constant pressure needs to be felt by political players, entities and the media which have been warmongering and spreading ethnic hatred for decades. The role of the media in motivating ethnic conflicts in former Yugoslavia is well known and their influence on people in the region is enormous. These malign campaigns did not stop with the end of the war; the media is still largely involved in spreading hostility and hatred all over the region by promoting war criminals, relativising or negating crimes, disrespecting court rulings and orchestrating campaigns against other nations in the region, often through



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statements from “unnamed sources” or unsigned articles. This includes rejecting and condemning any denial, relativisation or misinterpretation of the genocide in Srebrenica.

- All countries of the region need to be secular with a clear division between church and state, and all citizens need to be considered equal. The influence of the church in different states of the region has been more than problematic over the past decades, with church officials in many countries openly supporting (and blessing) war criminals, war crimes and the fights for territories. The church cannot influence the decision-making processes in the states of the region and any such attempt must be clearly prevented and condemned.
- Political systems in all of the countries need to be amended and revised in a way that will guarantee equality for all citizens and prevent any form of discrimination through open or hidden provisions of legislation. Fair parliamentary representation and power-sharing mechanisms need to be established in order to ensure the participation of all ethnic groups, and no electoral system should force electors and the elected into pre-determined identities. All systems that institutionalise ethnic division or motivate candidates and parties to mobilise votes by exclusively addressing members of their own group while ignoring or speaking against members of other ethnic groups need to be abandoned and rebuilt so as to enable ethnic cooperation and reconciliation.
- A dialogue on improving relations between students and teachers needs to be established, with special emphasis on working towards preventing destructive, violent conflicts while supporting teachers, school psychologists and pedagogues in their efforts to improve upbringings. Interethnic dialogue, peacebuilding and reconciliation initiatives, as well as different forms of informal and formal conflict resolution programmes, need to be introduced in schools all over the region.
- Political and economic incentives can play an important role in peacebuilding processes. Integration into the EU and NATO will not be enough to reconcile the people of the region, but they are important triggers for regional cooperation by providing the same standards and goals for all. In order to preserve integration tools as important catalysts in the peace processes, all countries should be included in the integration processes. A strict EU

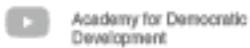
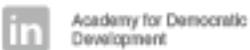
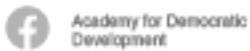
conditionality in regard to good neighbourhood relations would contribute to this goal.



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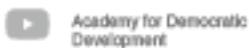
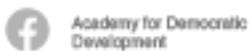
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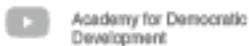
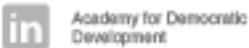




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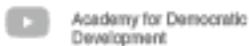
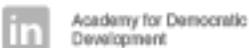
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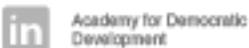
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