

A Year Later: War in Ukraine and Western Balkan (Geo)Politics

Editors

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Abbreviations

| | |
|--------|---|
| BIA | <i>Bezbednosno-informativna agencija</i> [The Security and Intelligence Agency of Serbia] |
| BiEPAG | The Balkans in Europe Policy Advisory Group |
| BiH | Bosnia and Herzegovina |
| BIRN | Balkan Investigative Reporting Network |
| CoE | Council of Europe |
| CSTO | Collective Security Treaty Organisation |
| EBRD | European Bank for Reconstruction and Development |
| EC | European Commission |
| ECHR | European Convention on Human Rights |
| ECtHR | European Court of Human Rights |
| EEA | European Economic Area |
| EPC | European Political Community |
| EU | European Union |
| EUFOR | European Union Force Bosnia and Herzegovina |
| EUMAM | European Union Assistance Mission Ukraine |
| FDI | Foreign Direct Investment |
| ICTY | International Criminal Tribunal for the former Yugoslavia |
| IMF | International Monetary Fund |
| KFOR | Kosovo Force |
| NATO | North Atlantic Treaty Organisation |
| NIS | <i>Naftna industrija Srbije</i> [the Petroleum Industry of Serbia] |
| OSCE | Organisation for Security and Cooperation in Europe |
| OHR | Office of the High Representative in Bosnia and Herzegovina |
| RTS | <i>Radio-televizija Srbije</i> [Public Broadcasting Service of Serbia] |



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| SAA | Stabilisation and Association Agreement |
| SELDI | Southeast Europe Leadership for Development and Integrity |
| UN | United Nations |
| US | United States of America |
| UK | United Kingdom |
| WB | Western Balkans |

Stabilising the Western Balkans through a Common Market: Opportunities and Challenges

Andi Hoxhaj*

The European Union (EU) enlargement policy for the Western Balkans was at a standstill over the last decade, in part due to various crises within the EU, including the global financial crisis, the Eurozone crisis, Brexit, and the migration crisis. During this time, it had allowed other powers, such as Russia, Turkey, and China, to invest both economically and politically in the Western Balkans. However, Russia's annexation of Crimea in February 2014, and especially its invasion of Ukraine in February 2022, have prompted the EU to reconsider its enlargement policy approach to the Western Balkans, largely in response to the fear of further Russian influence in some Western Balkan countries. Thus, in July 2022, the EU started accession talks with Albania and North Macedonia, authorised visa liberalisation with Kosovo in November 2022 (to take effect in January 2024), and granted Bosnia and Herzegovina EU candidate status in December 2022.

In countering some of Russia's influence in the Western Balkans, as well as that of other third powers such as China, Turkey, and the Middle Eastern States, the German government in November 2022 took the initiative to revive

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the “Berlin Process”. The Berlin Process is an EU-Western Balkans Summit, that began in 2014 under former Chancellor Merkel’s foreign policy goals to explore new ways of cooperation that could go beyond the technical and legal process of the EU accession framework – establishing a new type of forum to increase political and economic cooperation (Bundesregierung 2014). The need for revision was seen as essential to maintaining engagement with the Western Balkans on both a political and an economic level. The invitation, however, did not quite take off because the Western Balkans were hesitant since there was no clear timeline for when accession might take place. Furthermore, the Western Balkan countries still do not have bilateral relations and, in some cases, do not recognise each other as states.

The EU’s foreign policy goal is to bring the Western Balkans into the EU orbit by first establishing a common regional market, and Russia’s invasion on Ukraine has made both the EU and the Western Balkans more aware that economic integration is just as important as political integration. The first-ever summit between the leaders of the EU and the Western Balkans was held in 2022 in Albania as a symbol of the EU’s commitment to the region (European Council 2022). Part of this was done to send a message to Russia that the EU will assist the Western Balkans in addressing the negative effects of war on their economies and societies, and the common regional market could act as a catalyst in this context . The Western Balkan countries agreed in November 2022, under the “Berlin Process” frameworks (European Commission 2022b), to pave the way for implementing some of the structural elements of the Western Balkans Common Regional Market based on the EU Single Market. This was initially suggested by the European Commission in February 2018 (COM (2018) 65) and adopted by the Western Balkans in November 2020 (Regional Cooperation Council 2020).

The Berlin Process

The Berlin Process was introduced to inject new momentum into the EU enlargement policy agenda, to improve political cooperation, and to promote market integration within the Western Balkans (Griessler 2020, 20). Moreover, it was a direct response to growing political and economic investments by Russia, China, and Turkey, which exploited the EU disengagement with the Western Balkans to enhance their presence in the region (GIZ 2018). The Berlin Process is designed to be complementary to the overall EU enlargement

process, focusing on market integration, and on mapping out the issues that are holding back the Western Balkans' economies from becoming more competitive.

The Berlin Process can be characterised as an *ad hoc* and flexible EU enlargement instrument that is based more upon a soft law approach to allow the Western Balkans to make more collaborative and joint commitments towards EU integration (Griessler 2020). It is also in full synergy with the EU accession conditions. But unlike the EU accession framework, the main objective of the Berlin Process is to improve the dialogue between the six Western Balkans countries by bringing together the leaders of the Western Balkans annually to promote more market integration and to create a common regional market (Marciacq 2017).

The underlying goal of the Berlin Process is to establish a common market based on EU Single Market rules, and it has become central to the new EU engagement with the Western Balkans since Russia's invasion of Ukraine. This is because, first and foremost, the EU seeks to counteract Chinese, Russian, and Turkish investments in the region and ensure that any future investments in the Western Balkans are evaluated under EU rules similar to those of the EU Single Market (Chrzová 2019). Second, it is geared to break up monopolies and anti-competitive practices in critical sectors where Russia has a strong foothold, such as energy and telecommunications, and to ensure that antitrust rules are applied in accordance with EU Single Market rules (Savićević & Kostić 2020). Third, the objective of the Berlin Process is to provide a new pool of labour as well as a safer area for EU companies to invest in, which can be protected under EU Single Market rules (Dienelt 2020).

In conceptualising the Berlin Process common market initiative for the Western Balkans, the EU was guided by the idea that that regional market integration is the best avenue to overcome bilateral and ethnic disputes (Djolai & Nechev 2018). This is based upon the Plutarchian idea that countries which are more economically and socially integrated are less likely to go to war (Stader 1988, 280). In addition to often being related to the origins of the EU this idea has shaped European policy-makers' thoughts about the new EU engagement with the Western Balkans (Harste 2009). As a result, the leaders of the Western Balkan countries endorsed a proposal at the 2020 Berlin Process summit to start adopting new policies to create the conditions for establishing a Common Regional Market (European Commission 2020b).

The idea of increasing market integration and regional cooperation with the

Western Balkans has framed much of the thinking around the new EU-Western Balkans enlargement strategy adopted in February 2018. Furthermore, the establishment of a common regional market based on EU Single Market rules is suggested as the best path to successful integration into the EU. This way of thinking has so far influenced the EU's enlargement policy with the goal of promoting socioeconomic integration among Western Balkan countries to overcome the legacies of Yugoslav disintegration, in the vein of what post-war Europe achieved through the European Union.

The Western Balkans Common Market 2025

The President of the European Commission, Ursula von der Leyen, has stated that the 'Western Balkans are of great strategic importance to the European Union' and that the EU planned to introduce a long-term economic and connectivity plan to link 'the Western Balkans as closely as possible to EU' (European Commission 2020a). Thereafter, the Commission presented an economic and sustainable development package called the "Economic and Investment Plan for the Western Balkans", which is a 10-year plan to support socio-economic development. Furthermore, it has re-oriented the "Instrument for Pre-Accession Assistance" funding by assigning 9 billion euros to boost economic convergence with the Western Balkans for the period 2021-2027 (COM (2020) 641). This is directly aimed at promoting the establishment of the Common Regional Market for the Western Balkans. Furthermore, during the EU-Western Balkans Summit under the Berlin Process framework in November 2022, the Commission announced a substantial energy support package of 1 billion euros in EU grants to help the Western Balkans address the immediate consequences of the energy crisis and build resilience in the short and medium term, to move away from depending on Russia oil and gas (European Commission 2022).

As a result, an action plan to create the "Western Balkans Common Regional Market" by 2025 was adopted. The Commission, as well as the main EU leaders behind the Berlin Process, Chancellor of Germany and President France, welcomed this decision and reiterated that, if the Common Regional Market was successfully implemented, based upon the four freedoms, and followed the rules of the EU Single Market, then the Western Balkans could par-

ticipate in the EU Single Market in the future (European Commission 2020b; Bundesregierung 2020; Élysée 2020). In other words, the Common Regional Market can be viewed as a springboard for the Western Balkans to harmonise their laws and policies, should their economies become more competitive, and they are able to show a good track record – the award is participating in the EU Single Market.

The Common Regional Market action plan gives more in-depth guidelines about the laws and policies that must adopt by 2025 (Regional Cooperation Council 2020) and the action plan is divided into four policy blocks and offers guidelines on the legal and policy areas that must be aligned with the EU Single Market rules, which can be summarised as follows (Balkans Group 2020):

1. Regional trade area: free movement of goods, services, capital, and people;
2. Regional investment area: aligning investment laws and policies with the EU Single Market standards and promoting the region to foreign investors;
3. Regional digital area: integrating the Western Balkans into the pan-European digital market and following the EU rules; and
4. Regional industrial and innovation area: developing a joint EU-Western Balkans strategy to transform the industrial sectors and following the EU Single Market rules.

However, it is unclear whether the Western Balkans will be able to launch the Western Balkans Common Regional Market by 2025 due to several bilateral disputes. For example, Serbia does not recognise Kosovo as an independent state and continues to refer to it as the “Autonomous Province of Kosovo”. Furthermore, Bosnia and Herzegovina’s central government refuses to recognise Kosovo as an independent state, due in large part to the veto of the Bosnian Serb-dominated Republika Srpska. There appears to be a renewed political will to integrate the Western Balkans into the EU, both politically and economically, following Russia’s invasion of Ukraine in 2022. Since the EU and US are more engaged with Serbia and Kosovo (Stojanović 2023), it could be possible to find a long-term and/or permanent solution through economic integration.

Challenges and opportunities for the Western Balkans Common Regional Market

The Western Balkan states do not have an independent justice system as a result of undue influence and high levels of corruption, which could become a major hurdle to ensuring that countries abide by the EU Single Market rules. The EU-Western Balkans enlargement strategy of 2018, highlighted that ‘the Western Balkans countries show clear 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’ (COM (2018) 65, 3). However, given Russia’s influence in the Western Balkans, as well as heavy investment from China and Turkey, the EU has overlooked the issue of state capture and corruption, which could become a major barrier to the Common Regional Market’s successful operation.

With the persisting issue of state capture in the Western Balkans, the EU faces a significant challenge to making the Common Regional Market functional. A study by Southeast Europe Leadership for Development and Integrity (SELDI 2020) on “anti-competitive laws”, and one by Transparency International (TI 2020) on “tailor-made laws”, present alarming findings on the complex nature of state capture in the Western Balkans, which can impede the function of the Common Regional Market for the Western Balkans. Furthermore, the TI and SELDI impact assessment on the effect that “anti-competitive laws” and “tailor-made laws” indicate that these can jeopardise the operation of the functioning of the Common Regional Market. As a result of Russia’s ongoing war in Ukraine, the EU should not weaken the rule of law, as the European Court of Auditors has indicated that a lack of the rule of law poses a serious threat to the Western Balkans’ ability to uphold market economic rules.

SELDI finds that there is a high degree of monopolisation in key sectors of the economy, such as energy, pharmaceuticals, telecommunications, and construction, and it is concentrated close to companies that have close ties with the government (SELDI 2020). Furthermore, these sectors are also prone to external pressure through foreign investments, such as Russia in energy, or Turkey. For example, in Serbia, Russia controls revenues of close to 5 billion euros generated by the national economy in the energy sector, as *Gazprom* and *Lukoil* dominate the oil and fuels markets (Kovačević 2017). Serbia is almost

fully dependent on gas imports from Russia and the two companies have a total monopoly on its energy market. According to Prelec (2020), local political leaders facilitated this monopoly through intermediaries in the central government in exchange for a stake in the company or bribery. Similar trends can also be observed in Albania where Turkish foreign direct investments have strong stakes in the banking sector (Demirtaş 2015). Turkish investors own 60 per cent of Albania's major commercial bank (*Banka Kombetare Tregtare* (BKT)). Furthermore, Turkey also has a large stake in the telecommunication sector, as the Albanian government sold 76 per cent of its shares in the biggest-state owned company, known as *Albanian Telecom* (*Telekomi Shqiptar*) to two Turkish companies in 2007 (EBRD 2008).

Hence, what the Common Regional Market and the EU policymakers that are behind this regional economic integration initiative must understand is that the Western Balkans have legal barriers in place for entering their market (Lemstra 2020) and administrative requirements to obtain service licences (Perry & Keil 2018). The examples of Turkish and Russian companies having a strong foothold in the Western Balkans above suggest that EU companies may be skewed in favour of companies close to the government, and due to the weak judicial system and ineffective antitrust laws (SELDI 2020), the Common Regional Market may still be insufficient to offer fair competition insofar as there is a lack of the rule of law. Due to this, nations like Russia and Turkey have had much more success to gain access to the Western Balkans through bribery or personalist links with the leaders of the region. In addition to the high degree of monopolisation and anti-competitive practices, state capture is also utilised by the governments to pass “tailor-made laws” for individual companies, effectively legalising state capture and monopolisation of the market, and makes any corrupt practice impossible to prosecute (TI 2020).

The study of such tailor-made laws is relatively new in the Western Balkans (Vurmo 2020), but research in the field indicates that tailor-made laws are possibly the highest expression of state capture because they allow for monopolisation. Simultaneously, it makes it difficult for judicial and law enforcement institutions to investigate and prosecute any of the cases. Furthermore, the lack of enforcement of the anti-monopoly laws reduces the monitoring capacity of auditing agencies and thereby preventing accountability and scrutiny and weakening the credibility of the media and civil society organisations in reporting such cases.

More research is needed to fully understand the scope and impact of undue influence in law-making and the phenomenon of tailor-made laws. Even so, while there may be more favourable political conditions following Russia's investment of Ukraine in deeper economic and political integration with the Western Balkans (Kmezić 2020), the Common Regional Market for the Western Balkans will be very difficult to implement in contexts of extensive state capture (Hoxhaj 2021).

Conclusion

The Russian attack on Ukraine has pushed the EU to re-engage with the Western Balkans by means of the Common Regional Market. In pursuing closer political and economic cooperation based on EU Single Market rules, with a view to possible future EU membership for the Western Balkans, the Union also seeks to counter Russia's influence and investments in the region. Simultaneously, supporting the Western Balkans' socioeconomic and socio-legal development by focusing on areas of mutual interest, is also intended to provide EU investors with a new market and economic areas based on EU Single Market rules. This will ensure that the supply chain can move back closer to the European continent, rather than China, post-COVID-19, and become less dependent on Russia.

If properly implemented, the Common Regional Market for the Western Balkans may accelerate their future accession into the EU. However, for the Common Regional Market to work, the rule of law must be strengthened. Although some encouraging EU-led reforms have been implemented as part of the accession process, such as when the Western Balkan states agreed on visa-free travel among the six countries and mutual recognition of university diplomas and professional qualifications based on the four EU freedoms at the end of 2022. However, these steps toward EU membership are largely symbolic and insufficient, given that judicial systems throughout the region are prone to corruption and state capture, undermining the function of the four freedoms. In environments where the EU has to balance between pushing for reform and local leaders are entrenched in foreign dependencies, the key challenge for the EU is to not lower the rule of law standards and conditions for accession. Especially in the context of Russia's invasion of Ukraine, it is essential for the EU to develop strategies for strengthening the rule of law and independent institutions in the Western Balkans and create stable and prosperous societies in its neighbourhood.

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