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captured states
in the Balkans





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Fostering democracy and upholding human rights, taking action to prevent the destruction of the global ecosystem, advancing equality between women and men, securing peace through conflict prevention in crisis zones, and defending the freedom of individuals against excessive state and economic power – these are the objectives that drive the ideas and actions of the Heinrich Böll Foundation. We maintain close ties to the German Green Party (Alliance 90/The Greens) and as a think tank for green visions and projects, we are part of an international network encompassing well over 100 partner projects in approximately 60 countries.

The Heinrich Böll Foundation works independently and nurtures a spirit of intellectual openness. We maintain a world wide network with currently 30 international offices. Our work in Albania, Bosnia and Herzegovina, and Macedonia concentrates on the democratization process, political education, and environmental protection and sustainable development. We support and open public fora about topical and marginalized social-political issues and we enable networking of local and international actors close to the Green values.

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state capture in the Balkans – *l'état c'est nous!*

Marion Kraske

The international community, especially the EU and its member states, seems clumsy and even over-burdened in light of the recklessly proceeding patronage networks in the Balkans: The approach of *local ownership* which has been propagated for a long while is dangerously ignoring the real balance of power in those countries. How could citizens deal with very diffuse networks, if there are no intact correctives, no free, no independent justice?

The attackers came in flocks, they stormed, some of them masked, the session hall of the Parliament in Skopje. They staged their attack in the manner of hooligans, one parliament member was pulled by her hair and hurled like a human catapult. The thug squads chose their victims cautiously: social democrats and members of the Albanian minority group. After the act of violence, Zoran Zaev, former leader of the opposition, now Prime Minister, was bleeding from his head, the Albanian MP Talat Xhaferi, who had been elected Speaker of the Parliament, was dragged like an animal through the building and severely injured. His health was a matter of serious concern for days.

A few days after the attack, footage circulating online verified that the attackers had been let into Parliament by members of the VMRO-DPMNE party, the party that has been in power for years: phone calls had been made and, shortly after, someone

removed the safety bar and opened the door of the building – thereby opening the way for the most brutal attack on state institutions in the region in years.

This approach was only the latest proof that the party of long-serving former Prime Minister Nikola Gruevski, along with his supporters, had made it a principle to put themselves above the state. *L'état – c'est nous!*

When, like after the parliamentary elections in December 2016, there is the prospect of loss of power through democratic means, this power is defended – by all available means. The ruling clique surrounding Gruevski previously declared the state to be private property, seized its institutions and degraded them to compliant instruments. The countless abuses of power and office have been documented very well through numerous recorded telephone calls, revealing the criminal workings to the public in 2015.

State capture by well-connected politicians and their wide-ranging supporter networks has been far reaching in other Balkan states as well: In Bosnia and Herzegovina, the three nationalistic parties are dividing the country painstakingly into three influence zones. The resources, state-owned enterprises, energy providers, banks. And, not least: the education system. Everything is appropriated and politicised along ethnic-nationalistic dividing lines. There is almost no practical politics, the concern for the public interest is almost inexistent. Instead, party leaders claim for themselves and their entourage increasingly large pieces of the cake.

While 50% of the population remain unemployed, the infrastructure has not been upgraded since the 1970s, 22 years

What is lacking is the non-negotiable conditionality when demanding and securing the necessary reforms (especially in the area of the rule of law and anti-corruption measures) on one side. On the other side, an uncompromising support and revaluation of precisely those *change agents* has to be realised, who are really interested in democratisation: Those civil society actors who have been largely neglected by international actors and left alone in the battle against the corrupt networks.

since the war ended there are still no state-level ministries of education, cultural affairs and agriculture (in a country with up to 60% rural areas), and the health care system vegetates at the level of developing countries, Bosnia's elites have been enriching themselves for years through their unrestricted access to resources.

The administrative apparatus thereby functions, like everywhere in the region, as the toolkit for the meticulous consolidation of power: The one allocating jobs in a country where there is normally no work available, creates an army of subordinate supporters, who all profit from the system of party patronage. In this way, a sort of neo-feudalism has developed, in which citizens do not count, only the will of the big clans, which got rich already during the Balkan wars through smuggling and para-state activities.

In Serbia, the ruling SPP under Aleksandar Vucic created a powerful system that absorbed state institutions and state-owned enterprises. In this universe there is no space for those who are not loyal to the party. Opposition and civilian actors are, in spite of all the pro-European lip service, rigorously combated, criminalised, and, not least, threatened.

In Albania, the justice system serves as a flourishing source of income for judges and public prosecutors and as a devoted power consolidation instrument for politics – so far, all major cases against high-ranking politicians have been either obstructed or brought to a standstill by judicial representatives. The judicial system does not function as an autonomous element of the state system, but as a friendly accomplice of corrupt and criminal civil servants.

The conditions in the Balkans prove clearly that the local political caste does not have anything in common with politics in the traditional sense: It is not concerned with solving social, economic or ecological issues, or with increasing general prosperity – the guiding principles of *good govern-*

ance have hardly been implemented. In point of fact, the concern is with using state resources in an unhindered manner and with protecting these all so beneficial doorways for friends and family members.

In such oppressive power structures there is barely space for those defining themselves through performance or creativity. Thus, it is precisely this endemic party patronage, the distribution of posts based on connections, that is driving hundreds of thousands of well educated and trained people out of those countries: A mass exodus is already blazing its trail towards Western Europe, where, in the best case, what counts is the individual work performance, the know-how, and to a lesser extent belonging to a certain group or party.

Despite all differences of the political framework, the political actors of the region do have one thing in common: Their claim to power is radical, their approach repressive and even authoritarian. Reforms are blocked extensively, critics declared enemies of the state, civilian actors, artists and journalists denounced and marginalised. The highest goal is to cement the illiberal conditions. Because the political actors know one thing: The more democratic reforms take effect, the more the state, especially the judicial system, moves towards functionality, the more dangerous this becomes for one's power base, the bigger the possibility becomes that one's actions are prosecuted – like in the case of former Croatian Prime Minister Ivo Sanader, who was sentenced to a long prison sentence because of corruption.

Against this backdrop, the utterance of political or diplomatic representatives from Berlin to Brussels, which has been repeated time and again, according to which the political elites in the Balkans must have "an interest in a fast EU integration," seems oddly far from reality. Why should groups, who have fluid connections to informal and criminal networks, who define themselves solely based on power, whose resonating

environment is the clan or the party, who have created a land of milk and honey for themselves at the expense of the general public, have an interest in democratisation processes, which would restrict precisely this power of the unhindered exploitation of the state system?

In order to secure their influence, the elites have been making use of old recipes: Nationalistic narratives are disseminated, friend-and-foe schemata fuelled purposefully, in order to divert from one's failure on the one side (all the countries are still facing high unemployment rates and sweeping poverty), and on the other, in order to goad voters and rally them behind themselves. Who, like in Macedonia's case, are warning the VMRO-DPMNE of enemies of the "Macedonian cause", who, like in Bosnia, are perpetuating the victim myth and blaming other ethnic groups for their misfortune, who are making calculated use of the *divide et impera* principle: Thus, a perpetual system of fear is kept alive. This approach is still successful and repeatedly secures the dominant parties victory, not least because the media landscape is also dysfunctional and seized by parties and politics, and an objective, balanced media coverage of the true issues in the country is truly rare.

The international community, especially the EU and its member states, seems clumsy and even over-burdened in light of the recklessly proceeding patronage networks in the Balkans: The approach of *local ownership* which has been propagated for a long while is dangerously ignoring the real balance of power in those countries.

How could citizens deal with very diffuse networks, if there are no functioning correctives, no free, no independent justice? Or, to put it another way: Who has the power to confront them in a system, in which the last corner of society is permeated with the influence of parties and clients, where even the simplest posts like kindergarten director are allocated by the dominant power apparatus, the political parties and their leaders?

The restrained approach of the EU has mainly effectuated one thing in the last few years: That the reform-resistant elites were able to further widen their sphere of influence. Furthermore, laboriously achieved reform successes were made void. Thereby, in the past few years the region underwent

a dangerous process of backsliding and a repeated radicalisation.

While the EU has been dealing with internal problems, these political actors, who for good publicity like to praise themselves in discussions as reformers, have been accepted as equals for a long time. These hijackers of state systems have used this to benefit themselves, and, instead of implementing reforms, have strengthened anti-liberal and authoritarian tendencies.

Not seldom have the members of the international community believed this misconception that this superficial stability, the created "stabilocracies" – as a counter-model to true democratisation – could be a recipe for success for the sustainable establishment of peace in the region.

Quite the contrary has been the case: The non-functioning state systems, the judicial systems barely deserving of the name, created new space for actors like Turkey, Saudi-Arabia, Russia and others, going after their geo-strategic goals in the region, which are undoubtedly diametrically opposed to the tenets of the European Union.

A change in the attitude of the EU and its member states is necessary: What is lacking is non-negotiable conditionality when demanding and securing the necessary reforms (especially in the area of the rule of law and anti-corruption measures) on the one hand, while, on the other, there has to be uncompromising support for, and revaluation of precisely those *agents of change* who are truly interested in democratisation: Those civil society actors who have been largely neglected by international actors and left alone in the battle against the corrupt networks.

The *Heinrich Böll Foundation*, which supports democratisation processes in over 60 countries worldwide, is convinced that a democratic renewal in the Balkans can only be achieved by a strong civil society. So far, a strategic partnership with civil society actors is lacking. Should they be ignored in the future as well, and be left alone in their struggle with the elites, even the last brave ones will leave the region discouraged, in order to offer their expertise in some other place. Then, the reform-resistant power structures would gain even more space to hamper any further progress. ■■■

introductory note – peculiarities of state capture

Srđan Dvornik

The metaphor of ‘captured state’ comes handy as a description of the developments that have followed since the beginning of the post-communist transition. While these changes are generally referred to as ‘democratic changes’ or ‘transition to democracy’, there is a common conviction that democratic systems in these countries are defective and do not provide for responsible and accountable politics. Even at first glance, it seems that there are particular groups which exercise decisive influence on the formally democratic systems. However, it should be kept in mind that the notion of ‘captured state’ emerged in a specific context, wherein World Bank experts were looking for the best way to understand the relations in the Russian society and politics in the 1990-ies. Unlike the collapsed state in that country, the countries of our region display certain important differences, which entail different relations between state and society.

A good thing about metaphors is that they – being themselves the kind of expression that is based on the transfer of meaning – can be further transferred. While the metaphor of ‘captured state’ originally referred to newly-emerged holders of economic power (‘oligarchs’) who used that power to bribe lawmakers into creating a system which suited them, we are dealing here with states which stand in different positions to their respective societies. In some of them, owing to transitional turmoil or war, the state system did collapse, and was restored on a new basis. In others, electoral victories left in power old parties under new names, endowing their dominance with new legitimacy, or installed new parties which utilised the old structures of dominance.

In most cases, however, the most painful changes took place in the societies. Civic societies in a strictly modern sense had not even existed under communist rule, because development of autonomous horizontal relations between people, groups, organisations or enterprises was not allowed. Hence, with the formal establishment of democracy, the structure of political power did not encounter an autonomous ‘sphere’ of interests, opinions, or socio-economic forces, but a mass of people still dependent on state mediation and prone to collectivist identification and authoritarian ideologies.

By the same token, the formally proclaimed liberalisation of markets and privatisation of economies was not carried out either by selling economic resources to independent investors (national or international) or transferring ownership to employees, but by means of politically controlled allocation of economic resources to politically loyal beneficiaries. Although such transfers were formally executed as sales, the property was undervalued, new owners were often allowed to pay with great delays, to generate debts using the newly acquired property as collateral, or simply to resell it and flee abroad. In short, what we nowadays call cronyism, clientelism etc. was built into the foundations of the new system. Political elites remained dominant, and without independent societal power, political opposition remained weak. The prevalence of nationalism and authoritarian identification with national political leaders further reinforced this dominance. Therefore, the independence of media is doubtful, and autonomy of the public still precarious. On the opposite side, professional standards in governmental agencies are still subordinate

to the whims of those with political power, and different branches of power do not provide horizontal responsibility.

To wit, it would be misleading to view the 'captured states' in the postcommunist part of the world as a mere deviation from the democratic models developed in the West, such as polyarchy, as though the same basic conditions existed in these societies – from economic autonomy to a civic and participative political culture. However, some degree of pluralism, as well as the gradual integration into international associations (most notably the European Union), have worked in the opposite direction. Civil society has become more and more assertive and open, indeed, autonomous socio-economic interests are emerging, and the integration into international bodies imposes some rules of the game which limit the arbitrary power of the dominant national

elites. Although nationalist legitimation is still strong, corruption and misuse of power are perceived as illegitimate in the national public opinion, and there are obvious limits to what people are willing to withstand. Although certain forces still enjoy an inappropriate level of influence on political structures (which justifies the use of the term 'state capture'), the relations are not immutable and stable.

The analyses presented in this issue of *Perspectives* show a wide variety of ways how tenets of democracy and rule of law are distorted or even disabled in different countries. Whether these countries will converge to some common standard of pluralism and democracy is not yet apparent, but a clear understanding of the current relations and processes will hopefully be of aid to actors interested in such development. ■■■

who captures what?

kidnapped state or state sponsored kidnapping

Žarko Puhovski

The (post-communist) state has effectively colonised (the emerging) society, and that is the reason why political influence on society, especially the economy, was the problem, rather than the other way round (as tirelessly expected by both contemporary liberals and Marxists). Even more, such a "materialist" approach missed the very essence of the transitional countries and was, logically, unable to see the real problems, let alone suggest the solutions.

The phrase 'state capture' – first used by the World Bank some two decades ago to describe the situation in central Asian countries making the transition from Soviet communism – became rather popular as a tool for describing many socio-political situations. In the meaning that has developed since the first instances of its use, "state capture occurs when the ruling elite and/or powerful businessmen manipulate policy formation and influence the emerging rules of the game (including laws and economic regulations) to their own advantage" (Anne Lugon-Moulin, Deputy Head of the CIS Countries Division, Swiss Agency for Development and Cooperation, Federal Department of Foreign Affairs, Switzerland, <http://f3magazine.unicri.it/?p=402>).

The distinguishing factor in such a framework is in the systematic presumption that it is merit, rather than the relationship with the ruler, that determines the distribution of resources when states have developed beyond tribal organisation (as it is, for instance, stated in Francis Fukuyama's *Political Order and Political Decay: From the Industrial Revolution to the Globalisation of Democracy*, 2014). Of course, state capture is characterised by completely diverse situations in which specific (social, political,

ethnic) groups enjoy (economic, political) privileges awarded by modes of state-run distribution (including different types of immunity).

However, such a framework of interpretation contains an important – maybe even crucial – ideological element. The point of departure is namely an implicit belief that such a condition means a clear distinction compared to the ideal notion of the state (basically, the technical apparatus of political power, according to the original liberal theory). Although this is not in doubt, the problem begins with the other part of the ideological equation; with the presupposition that such a state of affairs also stands in clear contrast to the really existing types of state. That there are political systems in which there are no (social, political and other) privileges built into the foundations of the given state. In addition, such a notion is, in principle, not acceptable for numerous theoretical approaches – starting with the traditional liberal, and many versions of the Marxist interpretation of political affairs.

If the concept of state power has for Locke "no other end but preservation" (*Two Treatises of Government*, P. Laslett (ed.), Cambridge: Cambridge University Press, 1988, 2.135), it means, among other

implications, that state power guarantees given social relations, and ultimately that it protects the given mode of distribution of wealth and power. In the very classical notion, state power is hence already captured by the prevailing interests (of owners, concretely).

Starting from such a type of analysis (and revolutionary programme, of course), Marx and Engels simply (and simplistically) understand the (bourgeois) state as "essentially a committee for managing the common affairs of the whole bourgeoisie" (*"The Communist Manifesto"*, International Publishers, Moscow 1948, p. 11). In other words, there is nothing really new in the (post) modern understanding of the captured state. What occurs in the post-communist societies is "only" that the major political processes are more primitive, and consequently more transparent (in a perverted version of famous introduced by Gorbachev in 1986) than in societies with more institutional experience in hiding dominant social interests in their political influence.

However, the legacy of the real existing socialist regimes is an indisputable birthmark of all the post-communist countries. The totalitarian aspect of this *ancien régime* heritage pre-formed all the democratic terminological tools that were so fashionable, especially in the first phase of the so-called transition. Nevertheless, systematically understood, this heritage meant that the essential modern *césure* between society and community (represented by the state) cannot be analytically useful. Consequently, state and society had to be (re)constructed before internal differences could be applied.

In a hasty development that occurred after the fall of the old regime, most actors were reasonably satisfied with the very fact that new, democratically legitimated institutions were built, laws adopted, personnel changed (more or less). Unfortunately (but somewhat logically) the next lesson was one of the essential formality of the legal framework and the open possibilities in which it can be misused (or, rather, used) in various ways. Nothing new there but the shadow of the totalitarian past. Contrary to the liberal tradition of the developed democracies, cultivated before the historical emergence of totalitarianism (or imposed on countries like Germany, Italy, or Japan by the victorious forces after World War II), post-communist systems allowed those who had the power to play in a much wider field than that of the traditional political "sphere". This political

An even bigger obstacle for the local (internal) imperialism of the post-communist states, those in Europe in the first place, was the pressure of "European" (i.e. EU) integration. It was one of the promises given by (almost) all the post-Yugoslav (or -Soviet) political elites, and the promise that was taken very seriously by the population. During the admission process, enthusiasm constantly weakened in the societies of the candidate states. However, the political will of the citizens was strong enough to make all the escape strategies virtually impossible and, one after another, the post-communist countries joined European Union, or, at least, accepted to participate in the imposed process of accession.

surplus dealt with traditional social aspects of many people's lives, primarily the realm of values at play in the everyday life of the country. The ideology of ethnic nationalism, which undoubtedly came out victorious in the post-communist competition of *weltanschauungs*, made this imperialistic type of state apparatus not only possible, but even more than that: it made it successful.

The (post-communist) state has effectively colonised (the emerging) society, and that is the reason why political influence on society, especially the economy, was the problem, rather than the other way round (as tirelessly expected by both contemporary liberals and Marxists). Even more, such a "materialist" approach missed the very essence of the transitional countries and was, logically, unable to see the real problems, let alone suggest the solutions.

A decade or so after the triumphant colonisation of (ethno-nationalistically primed) societies in the nineties of the twentieth century, new governments were put under pressure from two sides. From the slowly emancipating society, on one (internal) side, and from the daily increasing pressure of the globalised (or regional) integration, on the other (external) side.

Mostly less than positive effects aside, economic globalisation was instrumental in the already mentioned process of economic emancipation of society. It meant namely a gradual imposition of global rules (terms of trade, property rights, etc.), which the local political elites were not able to stop or at least manipulate in order to maintain their unquestioned supremacy.

But an even bigger obstacle for the local (internal) imperialism of the post-communist states, those in Europe in the first place, was the pressure of "European" (i.e. EU) integration. It was one of the promises given by (almost) all the post(Yugoslav, or Soviet) political elites, and the promise that was taken very seriously by the population. At least at the very beginning; somehow a new Big Brother was needed against the old one, Bruxelles (with Washington as a logical background) against Moscow or Belgrade. During the admission process, enthusiasm constantly weakened in the societies of the candidate states. However, the political will of the citizens was strong enough to make all escape strategies virtually impossible and, one after another, the post-communist countries joined European Union, or, at least, accepted to participate in the imposed process of accession.

In both cases, paradoxically more so in the case of those countries that are still candidates than in the case of those that are already members, local states have become subject to the specific work-in-progress. The essence of this procedure was the constant stripping off of layer after layer from the most precious substance of the (ethno-nationalistically legitimated) concept of the state – its sovereignty. The very state apparatus that was able and ready to sponsor kidnapping of the social and economic, individual and group potentials in these countries is now being kidnapped from outside (and above). New regulations for legally acceptable practice by institutions and firms, citizens and associations, are coming from Bruxelles – more or less mediated by the local governments and parliaments. Fear produced by terrorism (but also by the hysterical notion of the "invasion of migrants") make this dependence even more direct, obvious – and unpleasant.

Effective counter-measures against this supremacy are starting – for the first time in the history of the EU – from the outskirts of the "old Europe", from the new member-states; Hungary and Poland, Slovakia and the Czech Republic. There are parallel movements in the Western parts of the Union (and even if some of these Western movements are considerably older than the recent Hungarian or Polish political construction – they are still much weaker).

The new "anti-European EU movements" depend almost entirely on the radical right wing interpretation of ethnic nationalism (including some elements of Nazi, or Fascist ideologies). So, the circle has been closed; after two decades of differently motivated attempts to introduce liberalisation into the post-communist ethnic nationalism (from the West), nowadays, the anti-liberal interpretation of the nation-state plays the role of the defender of the people against the Bruxelles bureaucracy (coming from the East).

At the same time, the new defenders can – again – start with the (re)colonisation of the local societies, backed by the ideology that understands ethnic unity as the highest goal of every political activity. To make things almost tragicomic, it has to be mentioned that some of the "new" right wing political leaders belong to the same group that started the first colonisation in the early nineties in a more liberal disguise). Within this institutional framework, the circle is even elegantly perfected: state sponsored kidnapping of the social resources was replaced by the process of kidnapping of the new EU member-states by "Bruxelles", and now at least some of them are hitting back. Of course, they are not hitting only the "alienated bureaucrats from Bruxelles", but, even more, "their own" citizens (if not subjects). ■■■

modes and instruments of state capture

BiH's un-reformable public administration – an instrument of state capture

Bodo Weber

In Dayton BiH, it is the public sector, the public administration plus other state institutions as well as state-owned/public enterprises that dominate. They are controlled by the domestic political elites, especially since 2005, when the international community handed full political control over the country back to them, and the elites consistently engaged in rolling back democratic and market reforms initiated by international actors during the post-war decade.

Reforming Bosnia-Herzegovina's public administration, characterized by politicization, oversizing and inefficiency, is on the international community's current list of structural reforms, pursued since 2015 within the framework of the so-called Reform Agenda. Just as it has been more or less throughout the whole post-war era – seemingly without much success. The resilience of public administrations in BiH as in the wider Western Balkans regions against numerous reform initiatives is indirectly referred to through the use of the term "state capture." The term has been used in recent years to describe the political developments of concentration of power that undermines previous democratic (and market economic) transformation processes in countries still characterized by weak states and underdeveloped civil societies. Control over state institutions, in particular over public administrations, seems to lie at the core of these processes that undermine the formal existence of the institutions of pluralistic democracies. With authoritarian tendencies rising in the Western Balkans (in Serbia, Macedonia), but also beyond (for example in Viktor Orban's Hungary or Tayyip Recep Erdoan's Turkey), "state capture" has turned into a catchphrase used by media, analysts

and academics¹ alike to describe these anti-democratic tendencies.

the concept of state capture in the context of the western balkans

Yet in order to use the term "state capture" in the specific geographic and political context of the Western Balkans, and even more so in Bosnia-Herzegovina (BiH), it is necessary to refer to its original meaning and definition. "State capture" is a term originally coined in 2000 by World Bank experts looking into transformation processes in the context of the post-socialist societies of Eastern Europe and the former Soviet Union. Analyzing the relationship between states and firms at the end of the 1990s, they observed that "after only a decade of transition, the fear of the leviathan state has been replaced by a new concern about powerful oligarchs who manipulate politicians, shape

1 See for example: <https://www.novaeuropa.co.uk/state-capture-and-corruption>; <http://www.suedosteuropa.uni-graz.at/en/event/2017/party-positions-and-state-capture-western-balkans-marko-zilovic-george-washington>.

institutions and control the media," who "shape the policymaking, regulatory and legal environments... to advance and protect their own enterprises at the expense of the social interest."²

Using the term "state capture" for today's Bosnia and Herzegovina at first sight already reveals that we are dealing with a substantially different socio-political reality than what the original authors from the World Bank were dealing with. In Dayton BiH, it is the public sector, the public administration plus other state institutions as well as state-owned/public enterprises that dominate. They are controlled by the domestic political elites, especially since 2005, when the international community handed full political control over the country back to them, and the elites consistently engaged in rolling back democratic and market reforms initiated by international actors during the post-war decade. As a result, the political system enshrined in the Dayton constitution (re) gained full strength – a patronage system that is based on an institutionalized form of ethnic power sharing. In this ethno-political system it is the ethnic political parties that, through control over public administrations and the wider public sector, exert control over large parts of the economy and the society, instead of owners of larger companies – oligarchs or tycoons – exerting control over state institutions and elected officials. This connection between political parties' control over the public sector and ethnic nationalist legitimization is not restricted to BiH but forms a core aspect of antidemocratic developments in large parts of the Western Balkan region. In Macedonia, the post-Ohrid power sharing arrangement formed the basis for former Prime Minister Nikola Gruevski's establishment of an authoritarian regime, while the name dispute with Greece prevented the EU from fighting back against these anti-democratic developments. In Serbia and Kosovo, engagement with the EU in solving the open ethnic status dispute through the so-called Dialogue served, and continues to serve, ruling parties in both countries in legitimizing their authoritarian power as the EU traded democracy for the Dialogue.

Political scientists have tried to bridge this gap between the original definition of "state capture" and the return of the "levia-

than state" by extending the capture of state institutions by economic actors to political parties. Yet in order to avoid hollowing out state capture of any concrete meaning in this broadening of the original term, it is crucial to highlight the *differentia specifica* when it comes to Bosnia-Herzegovina and the Western Balkans – that is, the specific form of informal action and its linkage to ethnicity, as well as its origin in the society of real socialism. BiH's current patronage system has its origin in the evolution of the one-party system in the late socialist era, in the prominent role of semi-formal networks that were based on para-institutional acting from within state institutions. These networks particularly expanded in the Yugoslav type of socialism in the context of the process of authoritarian decentralization. They formed the basis for the distribution of power and resources, of privileges and corruption. Ethnicity in the form of the official nationality policy became a semi-official source of legitimizing this semi-formal transformation of the socialist system. In BiH, the so-called "national key" formed the specific basis of this aspect of power sharing. The end of the one-party system and the first multi-party elections in 1990 did not remove this semi-formal power sharing system, but rather transformed it. A complex, heterogeneous one-party system was replaced by three (ethnic) one-party systems. It was no coincidence that the formation of a post-election governing coalition started with the division of control over state institutions among the three ruling ethnic parties. And while this "democratization" of the socialist "national key" did not spare the country from the violent breakup of Yugoslavia – quite the contrary – its logic of post-socialist ethnic power sharing not only survived the war, but became institutionalized in the post-war Dayton constitution of BiH.

public administration in post-war BiH

Public administrations in Bosnia-Herzegovina seem to have kept their core characteristics since the immediate post-war era, with the situation only getting worse over the last decade. The decentralized, fragmented institutional system of the Dayton state has set the basis for a burgeoning public administration. Its exact size, at least until recently, has been an unknown. The fact that the exact number of civil servants remains unknown

2 Joel S. Hellmann/ Geraint Jones/ Daniel Kaufmann, "Seize the State, Seize the Day' State Capture, Corruption and Influence in Transition," World Bank September 2000; available at: <https://elibrary.worldbank.org/doi/pdf/10.1596/1813-9450-2444>.

Ethnicization serves as the means for turning public administrations into the core instrument of the systems of patronage, in two ways: First, it is responsible for the fragmentation of public administration in the highly decentralized Dayton state. Second, the legally prescribed ethnic representation in public administrations limits the development of a merit-based civil service. What's more, it serves as an entry point for the politicization of civil services, especially its leading positions.

to the public speaks to its nontransparent nature. What is known is that public employment experienced a sharp rise following the international community's handover of full political responsibility to domestic elites in 2005-6. After 2006, public employment rose in the Federation too, but it exploded in the RS, where the public wage bill rose by 40% in only two years. Despite initial attempts to limit public employment, it seems to have further risen in the first half of this decade. As a consequence, general government expenditure (which includes spending on state-owned enterprises) remains extremely high, close to 50% of GDP. If one adds other forms of government's impact on the economy, like public tenders or entity-based development banks that, too, operate in a highly politicized way, estimates about the share of the economy dependent on the government go as high as 80%.

Ethnicization serves as the means for turning public administrations into the core instrument of the systems of patronage, in two ways: First, it is responsible for the fragmentation of public administration in the highly decentralized Dayton state. Second, the legally prescribed ethnic representation in public administrations limits the development of a merit-based civil service. What's more, it serves as an entry point for the politicization of civil services, especially its leading positions. Public employment based on political party membership, family and other personal affiliation is primarily maintained by exerting political influence over the public administrations' select committees. It fits into the overall political context of the strengthening of the patronage system in BiH that employment in public administrations was more merit-based in 2005 than today.³

At the same time, BiH has gone through a lengthy public administration reform process, which started with the 2000 EU Roadmap and led to the establishment of the BiH Public Administration Reform Coordinator's Office (PARCO) in 2004, and the adoption of a country-wide Public Administration Reform Strategy in 2006, which expired in 2014 without any relevant impact.

Public administrations are still staffed by relatives and friends of those in power. Since the introduction of formal educational criteria, that hurdle is managed thanks to a network of private universities, where the sons and daughters of politicians and connected businessmen buy their diplomas. The combined low quality of civil servants' work performance and their high, privileged salaries distort the labour market in the private sector and undermine the overall work ethics in the society. As a politicized public administration and the nationalistically legitimized fragmentation of state institutions continue to reinforce each other, service delivery and infrastructure in BiH suffer across the board. In the health care sector, which suffers from an overemployment of so-called non-medical staff, expenditures are near the level of the Eurozone, but services are extremely bad, while most medicines for serious diseases like cancer have to be purchased privately by patients. BiH has one of the worst transport infrastructures in the Western Balkan region. The construction of a highway that would run through the whole country from north to south is years away from completion. Because of the lack of a state-level agency to manage EU agricultural funds (IPARD), between 2007 and 2013 BiH lost 300 million Euro in IPARD funds alone. Due to the difficulty of access to promising jobs for those who are highly educated but have no political connections, there is a constant brain drain from BiH. Over the last three years alone, an estimated 100,000 young Bosnians and Herzegovinians left their home country to

3 Sead Maslo, "Politika i javna uprava: aspekti politizacije državne službe u BiH, trendovi politizacije vs. Reformska opredjeljenja," *Foundation Public Law Centre*; available at: <http://fcjp.ba/index.php/15-news/251-politika-i-javna-uprava-aspekti-politizacije-drzavne-sluzbe-u-bosni-i-hercegovini-trendovi-politizacije-versus-reformska-opredjeljenja>.

seek jobs abroad. With a mortality rate substantially higher than the birth rate (10.6 ‰ to 8.5 ‰ in 2015), the UN recently estimated that BiH will lose almost half a million of its three and a half million citizens by 2050.⁴

public administration reform and the reform agenda

Within the Reform Agenda 2015-18, which formed the centerpiece of the 2014 EU BiH initiative, public administration reform constituted one of the seven core areas of structural socioeconomic reform. In the Agenda text, all levels of government committed to the creation of a "modern, competent, transparent, effective, cost-efficient and accountable public administration".⁵ The results of implementing this part of the Agenda so far have however remained limited, and outlooks are grim. In July 2015, the Federation parliament passed a new labour law that was presented by the government as ending the privileged position of public employees. Civil servants' privileged position in regard to salaries and other aspects, however, is not fixed in the labour law at all, but in other laws and regulations. No serious reform of the latter has been taken place since then. In the RS, the government never even argued about the need to end the privileged position of public servants. The development of a new public administration reform strategy that is part of the Reform Agenda action plans lags behind the set timetable. As the only substantial measure, governments at state and entity levels introduced public wage bill freezes, as well as freezes on new hiring. These freezes were the result of the leading role of the IMF and the conditionality regarding the downsizing of public administrations in BiH that is part of the Fund's current credit arrangement with BiH. However, against the background of the EU watering down conditionality in its BiH initiative, the Reform Agenda fell into a crisis in the first half of 2017.⁶ With reform



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conditions unmet, the existence of the IMF credit arrangement is endangered. And with the campaign for the 2018 election nearing, the collapse of the entire Reform Agenda has become a realistic outcome. In that case, BiH political elites would once more succeed in averting real structural reform of public administrations in BiH.

public administration reform without constitutional reform?

Against this background of a burgeoning, costly and inefficient public administration that forms the backbone of Bosnia-Herzegovina's patronage system, and that resisted all reform attempts over the last decade and a half, the question arises whether substantial, structural public administration reform is at all possible without profound constitutional reforms that would put an end to the undemocratic ethnic power-sharing system. This question is even more pressing if one looks at the role the RS regime headed by President Milorad Dodik has played for over a decade in blocking any institutional reform in BiH. Time and again, Dodik has prevented the establishment of any additional state-level institutions or bodies, presenting his position as the defender of national interests against the "centralization of competences." Yet while this ideological approach has hollowed out the debate about the meaningfulness of any institutional reform, for example in the field of agricultural policy, leaving exclusive competences on the sub-state level has not led

4 "BiH ostaje bez ljudi," *Slobodna Evropa*, July 11, 2017; available at: <https://www.slobodnaevropa.org/apad-nataliteta-u-bih/28610637.html>.

5 Reform Agenda for BiH 2015-2018, working translation; available at: <http://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf>.

6 Bodo Weber, *Substantial Change on the Horizon? A Monitoring Report on the EU's New Bosnia and Herzegovina Initiative*, DPC Policy Paper, March 2017; available at: <http://www.democratizationpolicy.org/summary/substantial-change-on-the-horizon/>.

to improvement in agricultural policy nor service delivery.

In order to answer the question, it is worth taking a look at the various fiscal and economic aspects of the impact of the current state of the public administration. Regarding the direct financial costs of a fragmented, overstaffed administration, the figures are substantially smaller than one would expect. In 2010 the so-called "municipalization" initiative, a grass-roots initiative for constitutional reform, presented an alternative model for a radically decentralized Bosnian state with only a central and a municipal government level. A financial analysis of the model showed savings in public administration costs of 500 million BAM, roughly 7 percent of all government spending,⁷ numbers that are surprisingly low when compared to the general public's perception of BiH's oversized public administration. Yet besides the direct, higher costs of a politicized public administration, there is a multitude of additional, more indirect costs. Here, the World Bank's original concept of state capture can serve as a helpful tool. As the authors of the 2000 study stressed, while there is a direct rent-seeking benefit for the minority of companies linked to state institutions and elected officials, the average growth rates of all other private companies, that are not part of the capture economy, are systematically lower. For the economy and society as a whole, state capture leads to a "vicious circle... that weakens economic growth and further undermines the state's provision of necessary public goods."⁸ The effects of BiH's patronage system are both similar, and worse: Public administrations that are characterized by political overemployment and high salaries not only put a heavy burden on public budgets and create a civil service with a low output. High, privileged salaries in the public sector distort the labour market and outprice the private sector in attracting workers. The various links between the public sector and the private sector (through, for example public procurement or development banks) further distort the market economy in BiH. The politicization of employment in the public sector undermines the social value system and boosts the substantial brain drain BiH is

suffering from. While there exists no calculation of these indirect costs of the politicized public administration, one can assume that they are substantially higher than the direct costs.

In theory, thus, there should be no obstacle to a substantial, real reform of public administrations in BiH even without a radical overhaul of its fragmented institutional setting enshrined in the state's constitution. There are basically two alternative approaches. The first has been proposed by the NGO *Green Council* in regard to agricultural policy. *Green Council* has found that BiH is missing a state-wide agricultural strategy and institutional capacity, due to which it has missed out on enormous funds in the past. The NGO proposed the establishment of a state-level agricultural ministry as the best solution to overcome these policy- and institutional insufficiencies.⁹ In 2016, the IMF took another approach, based on the existing constitutional setting. As part of its reform conditionality in the framework of the new credit arrangement with BiH, the IMF demanded the strengthening of banking surveillance, taking a two-step approach. Respecting the constitutional division of competences, the IMF demanded the strengthening of the work and independence of the existing banking surveillance agencies in the two entities as well as the harmonization of their work. Should that demand not be met within a year, however, the Fund at the same time announced that it will shift to demanding the establishment of a state-level agency.

In the end, either approach could be successful. But whatever the initial approach, more important is that any substantial reform of public administration *must* lead to the destruction of the patronage system. This can only happen with either the international community, that is first and foremost the EU, shifting finally to a serious approach in Bosnia-Herzegovina based on a policy of strong, consistent conditionality, and/or a political revolution from within Bosnia and Herzegovina. ■■■

7 *Municipalization: A Popular Governance Model for Bosnia and Herzegovina*, p.46; available at: <https://de.scribd.com/document/231194321/K-143-Municipalization-Model-FULL-document-ENG>.

8 Joel S. Hellmann/ Geraint Jones/ Daniel Kaufmann.

9 *Green Council, Cost-benefit analiza uspostave Ministarstva poljoprivrede, prehrane i ruralnog razvoja Bosne i Hercegovine*, Sarajevo 2014; available at: http://green-council.org/publik/Cost_benefit_analiza_uspostave_Ministarstva_poljoprivrede_prehrane_i_ruralnog_razvoja_BiH.pdf.

dismantling Bosnia and Herzegovina's fractured authoritarianism

Jasmin Mujanović

Bosnia and Herzegovina (BiH) is a complex administrative state with a surplus of parliaments and representatives but a dearth of substantive democratic norms. While the Dayton constitutional framework has ensured peace in BiH, it has proven insufficient to the task of creating a rules-based political order. In particular, the non-implementation of the European Court of Human Rights' Sejdić-Finci decision of 2009 and the unsanctioned "holiday referendum"¹ in the Republika Srpska entity (RS) in 2016 highlight the *de facto* lawlessness of contemporary politics in the country.

While one logical conclusion from this characterization would be that BiH is therefore a failing state, a more careful examination of actually existing political practices in the country reveals a more subtle if no less disconcerting reality: BiH is a fractured authoritarian state². It is a fractured state because of the pervasive sectarian tensions among the representatives of the country's respective "constitutive peoples"; the Bosniak, Serb, and Croat political elites. But it is also doubtlessly an authoritarian state because each of BiH's territorial and political fragments is administered like a patrimonial fiefdom by these same elites.

Behind the veneer of dysfunctionality are static political leaders whose longevity at the forefront of the country's sectarian politics suggests a deeply symbiotic relationship between the respective ethno-national cliques in BiH. While their professed conceptions of the Bosnian polity are, essentially, mutually incompatible, Bosniak, Serb, and Croat nationalists have an almost identical conception of power. Namely, a conception of power as fundamentally patrimonial, dominated by "big men" (what I have elsewhere referred to as a "baja class"), and by definition incompatible with democratic norms or governance.

1 <http://blogs.lse.ac.uk/europpblog/2016/09/26/republika-srpska-referendum/>

2 https://www.academia.edu/31246982/Fractured_Authoritarianism_in_Bosnia-Herzegovina

Jasmin Mujanović

Dr Jasmin Mujanović is a political scientist specializing in the politics of Southeastern Europe and the politics of post-authoritarian and post-conflict democratization. His first book, *Hunger and Fury: The Crisis of Democracy in the Balkans* is now available for pre-order from Hurst Publishers (<http://www.hurstpublishers.com/book/hunger-and-fury/>).

the theatre of sectarianism

After all, behind the veneer of dysfunctionality are static political leaders whose longevity at the forefront of the country's sectarian politics suggests a deeply symbiotic relationship between the respective ethno-national cliques in BiH. While their professed conceptions of the Bosnian polity are, essentially, mutually incompatible, Bosniak, Serb, and Croat nationalists have an almost identical conception of power. Namely, a conception of power as fundamentally patrimonial, dominated by "big men"³ (what I have elsewhere referred to as a "*baja* class"⁴), and by definition incompatible with democratic norms or governance.

In this sense, Bakir Izetbegović, Milorad Dodik, and Dragan Čović are not avatars of their respective nationalist projects; *they are the projects*. In other words, the purpose of their politics is their personal enrichment and the tightening of their exclusive control over the state apparatus, the primary means of accumulation in the country's still largely "feudal" economy⁵ (i.e. an economy in which the coercive state apparatus rather than the free market is the primary means for wealth (re)distribution). Nor are their respective political parties – the SDA, the SNSD, and the HDZ – political movements in the traditional sense of the term. In fact, these blocs bear far more resemblance to organized crime syndicates⁶ or mercenary armies than they do to political parties in other electoral regimes.

These are sweeping, provocative claims but they are necessary to capture the full extent of the complex political situation in the country. As it is, too much international policy and analysis on BiH, and the Western Balkans as a whole, remains mired in technocratic marginalia; "connectivity," "local ownership," and "accession criteria." This turgid jargon obscures an inability, or rather, an unwillingness on the part of poli-

cymakers in Brussels, in particular, to come to grips with the reality of politics in the region.

So, in order to illustrate these claims it is useful to assess them with reference to certain basic concepts within the study of politics. To that end, consider Harold Lasswell's paradigmatic definition of politics⁷ as the process by which societies decide "who gets what, when, and how." Let us take each of these segments in order and then see what sort of society they add up to in BiH.

"who gets what, when, and how" in BiH?

Clearly, the ruling "who" in BiH is a fistful of individuals. While analysts have in the past referred to a condominium of six ruling parties, as noted, parties in BiH are characterized by virtual cults of personality. Internal party democracy is non-existent among the main blocs, at least, and party policy does not extend beyond the whims of said leaders. The fact that intra-party disputes most often end with the losers being ejected (and forming their own parties in turn), is a neat illustration of the phenomenon.

The "what" concerns the process of patrimonial redistribution that characterizes the political economy of the Bosnian state; rather than operating on the basis of free market competition, or even state-led development, BiH's economy is defined by cronyism and corruption. Especially important in this respect is the public administration and bureaucracy. Instead of existing to provide services for the public, the administrative state in BiH is the means by which political elites reward their base; by providing jobs, peddling permits, and (formal and informal) pardons for their clients.

Accordingly, very little is actually produced, manufactured, or even provided in BiH. The only semi-functional portions of the economy are those that are most autonomous of and least dependent on the government apparatus: tourism and the nascent IT sector. Taken as a whole, however, BiH's economy is in a death spiral. Take only the fact that local governments are now increasingly relying on commercial banks for loans to provide even the most

3 David B Kanin, "Big Men, Corruption, and Crime", <https://link.springer.com/article/10.1057/palgrave.ip.8800038>

4 Jasmin Mujanović, "The Baja Class and the Politics of Participation", https://www.academia.edu/9018208/The_Baja_Class_and_the_Politics_of_Participation

5 Jasmin Mujanović, "Is Feudal Ex-Yugoslavia Incapable of Reform?", <http://www.balkaninsight.com/en/article/is-feudal-ex-yugoslavia-incapable-of-reform--02-20-2017>

6 Jonathan D. Heskett, "Corruption in the Balkans: an examination of the ties between government and crime in several Southeast European countries", http://cal-houn.nps.edu/bitstream/handle/10945/38946/13Dec_Heskett_Jonathan.pdf?sequence=1

7 Harold Dwight Lasswell, Politics: Who Gets What, When, How, https://books.google.com/books?id=Iah_NAEACAAJ&dq=harold+lasswell+defined+politics+as&hl=en&sa=X&ved=0ahUKEwihKTqk6XUUhUJW_CYKHSKtAgkQ6AEIKDAA

Only sustained pressure and mobilizing can affect truly entrenched regimes. Thus, for instance, the key mistake of the protests in 2014 was not that they shifted towards the participatory plenum model; indeed, the plenums illustrated the sophisticated capacity of BiH civil society to articulate and advance coherent policy demands. The mistake was in re-locating the plenums to politically insignificant terrain: community centres, meeting halls, art galleries etc. Those meetings should have taken place in public squares and/or on the steps of parliament, forcing the authorities (and the public) to confront and recognize them.

basic social provisions to their constituents: pensions, disability payments, welfare etc.

Why is this happening? In short, because unwilling to reform their patrimonial regimes⁸, local elites can no longer rely on the IMF and World Bank for loans and funds. As a result, these governments are reduced to dealing with predatory – and themselves unstable – local banks (see only the recent Bobar Banka collapse⁹ in the RS).

Inevitably, this house of cards will collapse. The best case scenario, as remarkable as this may sound, is the Greek one; that is, internationally managed bankruptcy¹⁰. The more likely scenario, however, is outright chaos; a mixture of Argentina's 2001 default and the unbridled rage of the 2014 protests in BiH. This is the structural dynamic of BiH's existing political economy that cannot be ignored. Genuinely reformist actors may emerge from within this maelstrom but even if this crisis consumes the existing political establishment, as in much of Europe, still more reactionary elements may seize the day. That, after all, was also the result of the last, locally-produced economic crisis in the Balkans, the one in the 1980s, which (in)directly precipitated the dissolution of Yugoslavia.

In the meantime, the matter of "when" and "how" is somewhat more complicated, as the origins of the existing elite establishment in BiH can be traced back to the last days of the Socialist Federal Republic of Yugoslavia (SFRJ) and, in particular, the rampant fraud and corruption of the late 1980s. Unlike their peers in the rest

of communist Europe, Yugoslavia's elites never truly lost power in the wake of 1989. Instead, the Yugoslav Wars primarily served to cement their rule, their regimes amended only insofar as they swapped rhetorical commitments from the working class to the nation.

Thus one party rule in the former Yugoslavia never actually ended; it merely fragmented along republican and ethno-national lines, with each unit, as mentioned, remaining largely authoritarian or at least profoundly illiberal. In BiH, this process was especially pronounced and so today we have the aforementioned surplus of parliaments, with little in the way of substantive democracy. While it should technically be possible to ameliorate this situation through the use of elections (the "how" part of the equation), in practice, this is a tall order.

Owing to Dayton's ethnocentric design, non-nationalist parties are at an inherent disadvantage. The period between 2010 and 2014, for instance, illustrated how a party like the HDZ, which never wins more than about 12% to 15% of the vote, was able to completely obstruct the functioning of government for no other reason than that they were excluded from the ruling coalition. This period provided a succinct summation of how nationalist politics in BiH was largely a smokescreen for kleptocracy; the HDZ was upset not because there would be no Croats in the then SDP-led government in Sarajevo (there were) but because the HDZ was losing access to lucrative state coffers.

8 Dragan Maksimović, "Ko će vraćati dugove BiH?", <http://www.dw.com/bs/ko-će-vraćati-dugove-bih/a-37452148>

9 "Bobar banka: Optužnice protiv 16 osoba", <http://balkans.aljazeera.net/vijesti/bobar-banka-optuznice-protiv-16-osoba>

10 Dragan Maksimović, "Dug Republike Srpske preko pet milijardi maraka", <http://www.dw.com/bs/dug-republike-srpske-preko-pet-milijardi-maraka/a-36112030>

This dynamic also resonates among ordinary voters. In a country in which something like one-third of all employed persons¹¹ works in some segment of the public administration, which is in turn largely politically staffed, elections are not a matter of one's political (or even ethnic) persuasions. In such a polity, elections are a matter of guaranteeing one's own economic survival. In a country with 40% unemployment, if your family's income depends on a public sector wage that likewise depends on, say, the HDZ staying in power, you too would likely vote for this bloc; even if, in the aggregate, you recognized that their administration was damaging to your community's overall social well-being.

Bosnian and Herzegovinian voters are thus compelled to choose between (relative) economic security and promissory notes of eventual political reform and prosperity. Unsurprisingly, the former tends to win out. Besides, the whole idea of "reform" in BiH is deeply compromised by the fact that, to date, there has been no credible evidence that local elites want anything of the sort. All major post-war reforms in BiH have largely been the result of international (and disproportionately American) political pressure. Indeed, the privileged position of said elites in contemporary BiH depends precisely on the non-implementation of socio-political or socio-economic reforms of any substantive sort.

turning to civil society

If even the electoral machinery is compromised by clientelism and patrimonialism, what options are left in BiH? The recent government change in Macedonia provides a useful avenue for change. Like BiH, Macedonia is an ethnically polarized polity, in which corruption and criminal-political linkages are among the most deeply embedded in Europe. Unlike in BiH, however, once Macedonian civil society was finally driven to the streets they remained there, eventually forcing the main left bloc in the country to take up their struggle as their own. Or, more to the point, to pin their eventual electoral future on the demands of a burgeoning civil society struggle which called for the radical transformation and democratization of Macedonian society.

11 Pero Zelenika, "Svaki treći zaposlenik u BiH radi u javnoj upravi", <https://www.vecernji.ba/vijesti/svaki-treci-zaposlenik-u-bih-radi-u-javnoj-upravi-954862>

In other words, when existing institutions and processes were incapable of producing political change, civil society turned their efforts to extra-institutional struggles. In this respect, Macedonia's recent experiences very much mirror those of other Eastern European states in confronting both Cold War era one-party regimes and their illiberal successors (i.e. as during the "Colour Revolutions" period in the early 2000s and, more recently, during Ukraine's "Euro-maidan"). Is something similar possible in BiH? Doubtlessly, but it will require the embrace of two organizational principles by both local activists in BiH and the international community present in the country.

First, sustained democratic protest is both legitimate and necessary to affect change in illiberal regimes¹². While one-off moments like the "Baby Revolution" in 2013 and the "Bosnian Spring" of 2014 are educational and empowering, they are insufficient. Only sustained pressure and mobilizing can affect truly entrenched regimes. Thus, for instance, the key mistake of the protests in 2014 was not that they shifted towards the participatory plenum model; indeed, the plenums illustrated the sophisticated capacity of BiH civil society to articulate and advance coherent policy demands¹³. The mistake was in re-locating the plenums to politically insignificant terrain: community centres, meeting halls, art galleries etc. Those meetings should have taken place in public squares and/or on the steps of parliament (or perhaps within parliament itself as during the Sunflower Movement in Taiwan¹⁴), forcing the authorities (and the public) to confront and recognize them.

Secondly, the politics of protest have a definite shelf life. Eventually, the struggle to affect change has to take on an electoral and/or parliamentary dimension. In Macedonia, this meant the establishment of a kind of détente between civil society and the centre-left SDSM, which had itself been implicated in past corruption scandals, in order to finally wrest power from the VMRO-DPMNE. Whether the new government proves up to the task of rebooting Macedo-

12 Jasmin Mujanović, "Democracy blooming at the margins: Bosnia-Herzegovina, Ukraine and Taiwan", <https://www.opendemocracy.net/jasmin-mujanovic/democracy-blooming-at-margins-bosniaherzegovina-ukraine-and-taiwan>

13 Bosnia-Herzegovina Protest Files, <https://bhprotest-files.wordpress.com/>

14 J. Michael Cole, "Was Taiwan's Sunflower Movement Successful?", <http://thediplomat.com/2014/07/was-taiwans-sunflower-movement-successful/>

nia's democratic project will largely depend on the ability of civil society to remain a vital and relevant "check" on the pervasive illiberal and authoritarian tendencies in the society as a whole.

For BiH though, this means that the puritan and/or technocratic attitudes of civil society will need to shift if the country is to make a similar turnaround. Civil society cannot merely be in the business of monitoring government, nor can it forswear cooperation with all existing (and emerging) parliamentary actors. Eventually, civil society will need to become involved in (and, ideally, to lead) the contentious social movements that will open space for new actors and new options to emerge in BiH. Simply, those who are not involved in politics – be they the politics of the street or the politics of parliament – abdicate their right and ability to steer their own fates.

When such social manifestations (re) appear in BiH, as in Macedonia, the international community will likely have to play a facilitating role; ensuring that entrenched elites respect and abide by the legitimate

grievances of their populace. It will be especially important, however, that the EU and U.S. sanction and curb the reactionary tendencies of BiH's elites. Scenes like the VMRO-DPMNE-led sack of the Macedonian parliament would be far more volatile and dangerous in BiH. And, indeed, greater international engagement (or, at least, reaction as with the U.S. Treasury Department sanctions¹⁵ of Milorad Dodik) can do much to prepare the social terrain for democratic revolt and reform.

Threading the democratization-security needle¹⁶ is thus delicate work, but we cannot forget that without the former, the latter is impossible. The best guarantee of lasting security and stability in BiH and the Western Balkans as a whole is the long overdue, bottom-up, civil society-led democratization of the region as a whole. This will, inevitably, be primarily a domestic effort but one whose eventual emergence is greatly assisted by the international community's appreciation and interest in the complexities of democratic and civil society struggles in such fractured authoritarian regimes. ■■

15 "U.S. imposes sanctions on Bosnian Serb nationalist leader Dodik", <http://www.reuters.com/article/us-usa-sanctions-bosnia-dodik-idUSKBN1512WI>

16 Jasmin Mujanović, "South-eastern Europe's descent into chaos", http://www.ecfr.eu/article/commentary_south_eastern_europes_descent_into_chaos_6017

state capture: how to save the Macedonian democratic consolidation and EU enlargement

Zhidas Daskalovski

The achievement of state capture by the captors is a process rather than an event. While the process has been effectively stopped by removing the power from the coalition government of VMRO-DPMNE and DUI, it is not clear if Macedonia will not fall back into state capture because the democratic credentials of the new SDSM and DUI government are not much brighter.

Some twenty five years after democratic reforms, Balkan citizens have grown tired of electoral promises of a better life in the future. The long duration of the EU accession process and the declining level of foreign direct investment in the region heighten the feeling of indifference to the EU and the whole enlargement project, influencing a political culture of outright hostility between government and opposition parties and authoritarian tendencies in domestic politics. Some local elites are again turning to nationalism. In Macedonia, elites played with the emotions of the citizens when they revamped the capital city under the Skopje 2014 modernisation project, an imposing initiative meant to raise national pride and attract tourists. Using neoclassical and baroque architectural styles, the project included the construction of almost 20 new buildings, including museums, theatres, concert halls, hotels and administrative offices, fountains, colonnades, footbridges over the Vardar, and Roman galleys on the riverbanks, all invigorated with a multitude of bronze and marble statues erected to adorn the surroundings. The costs of the project are disputed, the opposition claiming them to be as high as 500 million, while the VMRO-DPMNE government rounding

them to 208 million Euros. On the other hand, this revamping of urban space is 'purposefully created to counter the Greek denial and the indifference of the international community to the Macedonian problems'. (Janev, 2011:34)

The Greek objections to the name have negatively influenced the well-being of the country. Macedonia was granted EU candidate status in 2005, and since 2009 the Commission has consistently recommended that negotiations be opened. The European Parliament has also incessantly supported opening accession negotiations. Nothing has happened, mainly due to the objections by Greece to the country's use of the name 'Macedonia.' Greece objects to the use of the name 'Macedonia', arguing that Macedon was an ancient Greek kingdom and Macedonia is the name of a region of Greece adjacent to the former Yugoslav republic that bears the same name. A solution to the name issue remains elusive for all sides, including EU officials and the EU High Representative for Foreign Affairs and Security Policy/Vice-President of the European Commission Federica Mogherini. As far as starting negotiations for membership is concerned, beyond the Greek blockade over their objections to the use of the name Macedonia, the country faces a serious internal problem regarding democratic consolidation.

In February 2015, Macedonia became immersed in a political imbroglio as the Social Democrat opposition leader Zoran Zaev began releasing recordings of illegally wire-tapped phone conversations. Prime Minister Nikola Gruevski and the Head of the Intelligence Service Sasho Mijalkov faced accusations that during the past few years they had secretly and illegally wire-

tapped some 20,000 people, including journalists, opposition leaders, businessmen, NGO activists, academics, religious leaders, members of the judiciary, and prominent intellectuals. The content of the wire-tapping conversations was disputed, and criminal charges were filed against Zaev, including incitement to 'overthrow the constitutional order', and 'espionage and violence against top state officials'. For some time, all aspects of public life – from the bureaucracy to public enterprises to civil society – have been politicised. The recordings augmented the fear that the system of government has been designed with the objective of maximising wealth, power, and impunity for the benefit of particular groups and networks, rather than serving the public interest.

An agreement, brokered by the European Union and the United States, was worked on in June and July 2015. Early general elections in April 2016 were announced. From 20 October 2015, a transitional government was installed including the two main parties, VMRO-DPMNE and the Social Democratic Union (SDSM). A new special prosecutor was appointed to investigate alleged crimes implicated by the wiretapping scandal. As part of the agreement, Gruevski resigned in January 2016. The investigation into Gruevski and other politicians from VMRO-DPMNE was stopped in April 2016 by a pardon issued by the President Gorge Ivanov, which resulted in several protests. VMRO-DPMNE allegedly did not agree with his action. Zaev supported the protests to overturn Ivanov's pardon, which were referred to by some as the "Colorful Revolution." The protesters demanded that the government resign, that a technical government be formed, and that the parliamentary elections planned for 5 June 2016 be cancelled, on the grounds that the conditions for free and transparent elections are not in place. The government and its supporters, who have organized pro-government rallies, maintained that the elections on June 5 were the only solution to the political crisis. Finally, early parliamentary elections were agreed upon and were held on 11 December 2016. The elections produced inconclusive results as the ruling party won 51 of the 120 seats in parliament and the SDSM 49, both proclaiming victory and insisting they would form the new government, which SDSM indeed did in June 2017, concluding a coalition agreement with two ethnic Albanian parties.

endangered democracy

Generally, democracy in Macedonia is gravely endangered. For some time now all aspects of public life, from the bureaucracy to public enterprises to civil society have been politicized. Complaints of political dominance over the media system; the structural inefficiency of the public administration; the rising costs of entry into politics for new subjects; weak execution of the regulations concerning the public financing of parties; the de-facto arbitrariness of many decision-making processes excluding wide and efficient public consultation; citizens' lack of confidence in state institutions and the political class; the lack of awareness on the significance of the state and of continuity in planning development policies, and the utilisation of public service for narrow party interests are not new phenomena. The feeling among citizens is that the system is designed with the objective of maximizing wealth, power, and impunity for the benefit of particular groups and networks, rather than serving the public interest. Since 2015, among many in Macedonia a widespread 'sense of impunity' of the VMRO-DPMNE and DUI officials exists, amplified by a long-standing absence of alternation in government. The feeling is that Prime Minister Gruevski and his associates have learnt to maximize wealth and power for their own benefits, while practising a large-scale extraction of resources from the society and employing part of these resources through clientelism. All of these actions are seen as being taken in order to ensure that they remain in their positions, as well as to ensure their financial gain and impunity: direct influence on the judiciary, including dismissing criminal charges against government ministers, appointment of party-loyal judges, influence on the media, selective prosecution of political opponents, mass electoral fraud during past elections using fictional voters, fake ID cards, buying votes, registering up to 50 such voters at individual addresses and instructing them to vote for the ruling party, intimidation of public servants, including threats to fire them if they do not vote accordingly, attempts to steal election material, misuse of the police and public administration for the party agenda, and pressure on individuals and firms.

If we take the standard definition of "state capture", that "it occurs when the ruling elite and/or powerful businessmen manipulate policy formation and influence the emerging rules of the game (including laws and economic regulations) to their own advantage" (Hellman et al, 2000) and that the distinguishing feature of state capture is a high level of secrecy, then we can easily confirm that the rule of the previous government fits in this category. The wire-tapping scandal took away the secrecy. The *extent* of state capture in a country is assessed by identifying and distinguishing between the different types of state institutions that are deemed to have been captured. For example, in one country one or just a few of the various arms of government and its state-owned enterprises may be captured, while in others the number may be higher. This gives rise to the concept of 'degrees' of state capture ranging from partial to complete. This means that the achievement of state capture by the captors is a process rather than an event. While the process has been effectively stopped by removing the power from the coalition government of VMRO-DPMNE and DUI, it is not clear if Macedonia will not fall back into state capture because the democratic credentials of the new SDSM and DUI government are not much brighter.

what should be done

What should be done? For one, we need to *return politics to a sense of normality and decency*. Being a politician must not confer special privileges. Politicians must not abuse the system, and need to consider humility and accountability as virtues. Macedonian politicians should not enjoy extraordinary incomes; neither should they enjoy various hidden privileges as they do at present. (e.g. extra income from membership in various supervisory and governing boards, extravagant travel expenses and *per diems*, unlimited or unaccounted usage of publicly paid-for mobile phones, automobiles or meals in restaurants). Politics in Macedonia must be an open and transparent activity, where public goods are not used for private or party benefits during electoral campaigns and beyond. Integrity means playing by the established rules, not subverting them, even for the sake of ideological or party gain. Politicians are elected by the citizens to make decisions on the basis of evidence-based policy research conducted by public servants in cooperation with analysis by experts from think tanks, universities, trade unions, employers' associations, business associations and civil society activists, and in communication with the citizens. Politicians are not elected to seclude themselves and base their decisions on their own or party interests.

Macedonians of all creeds must demand further *democratization of the political parties*. Ethnic parties should adopt more

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Given the problems witnessed with the wire-tapping affair, various forms of participatory democracy should be taken into consideration. Overall, participatory budgeting which allows the citizens to participate in the conception and/or allocation of public finances should be an aim. Doing so will encourage Macedonians to become part of the 'public sphere' rather than to remain mired in the civic disengagement and apolitical cynicism that seems to have plagued our political systems in recent years

nanced party platforms based on political ideologies rather than solely on advancing particular kin interests. The electoral system must not only take into consideration the role of women, going beyond the current 30% quota, but also present citizens with choices to elect candidates on the basis of individual virtues, perhaps using the open electoral roll model or a combination of a majoritarian and PR system as used in Germany. To reduce inter-ethnic tensions, the electoral system should induce ethnic accommodation, for example, vote pooling could be used in local or presidential elections. Through vote pooling, politicians in a heterogeneous society seek support outside their own group in order to win elections and voters exchange votes across group boundaries. Transparency of the elections must be raised both in terms of party financing and media coverage.

Macedonian politicians have for a long time disagreed about government institutions, engaged in fighting for dominance, and held a "winner takes all" attitude. It is imperative for political and social actors to understand that the consolidation of democracy comes through cooperation not based on self-interest but on society-oriented interests. In order for democracy to consolidate, it is imperative for political parties and politicians to show political will in negotiations and institution-building beyond petty and temporary interests. Politicians in Macedonia must comprehend that the *consolidation of democracy depends on elite consensus and cooperation*. A critical step for successful democratisation is the transformation of divided elites into consensually unified ones through a settlement of the elites' basic disputes. An elite pact, settlement or political settlement is a "relatively rare event in which warring national elite factions suddenly and deliberately reorganise their relations by negotiating compromises on their most basic disagreements". (Burton and Higley, 1987:295) Alternatively put, formal and

informal pacts between contending political actors can move relations from a stage of disruptive confrontation to one of respectful, consensus-based political competition between elite groups. This is needed in Macedonia as soon as possible.

Furthermore, given that there are typical problems related to corruption and political/party influence on the independence of public institutions, the media, and the electoral processes, Macedonia should *focus on strengthening the independence and the competences of several public institutions* that can influence the mentioned problematic areas. These include: the State Audit Office, the Media Regulatory Body, the Public Broadcasting Service (MRT), the Ombudsman's Office, the Public Prosecutor, the Anti-corruption Commission, the State Electoral Commission, the Commission on Freedom of Information, Anti-monopoly Commission, and the Commission for Protection from Discrimination. One could envision a system of election/appointment of officials in these bodies through a majority vote in the parliament where, for example, the nominations would be confirmed by a strong majority and the candidates would have very strong qualifications. Among other things, the strengthening of the efficacy and the role of said institutions will influence the fairness of elections. Conducting free and fair elections, whereby voting will not be disputed by any party, should be a priority for the near future.

A key aspect of this engagement is to *improve monitoring and evaluation* of public policy-making in general. Macedonia should move from traditional monitoring which focuses on implementation, i.e. tracking inputs (money, resources, strategies), activities (what actually took place) and outputs (the products or services produced). This approach focuses on monitoring how well a project, programme or policy is being implemented, and is often used to assess compliance with work plans and budget. The government should begin using

results-based monitoring, which involves the regular collection of information on public policy performance. Results-based monitoring demonstrates whether a given law, programme or policy is achieving its stated goals. However, this should not be used as an incentive for further enlargement of the public administration but should be performed through reforming its present capacities and efficiency measures to fit the new results-based monitoring approach. It will inevitably need the establishment of a monitoring and evaluation framework that is currently lacking, as well as that civil servants acquire certain sets of skills, as well as for public managers to require a level of knowledge and awareness for results-based monitoring framework to be enforced.

Performance-based monitoring, evaluation and budgeting must include systematic and continuous data collection on public policy implementation for performance measurement, and it must include indicator values against which progression towards meeting targets can be measured in line with the objectives set. Furthermore, it should facilitate adjustments and adaptations, thus making for more effective public policy management. This facilitation of full-fledged monitoring and evaluation through consensus and capacity development – with a view to increasing the efficiency and effectiveness of public policies – should be a priority. Regulatory impact assessments and other steps and commitments to performance-based budgeting already presuppose strategic planning for targets and indicator-based measurement. Pertinent to the success of the results-based models of policy-making is time, for deliberation, for implementation, for adjustment and measurement of impact and results. The style of governance promoted in the last decade was rather contrary to this, marked by uninclusive policymaking due to the lack of time, emergency procedures for adoption of new legislation successfully hidden behind the need to meet the pressures of accelerating EU accession. Therefore, a new government should take it slowly, define several results per sector and devote a period of time for implementation that will allow time for measurement of results and deliberation on new policy solutions. Due to the currently low capacities of the government for monitoring and evaluation and performance budgeting, such improvements can be bridged by the inclusion of independent experts and civil society actors.

Consequently, Macedonia must *immediately* thoroughly *improve fiscal transparency* – the comprehensiveness, clarity, reliability, timeliness and relevance of public reporting on the past, present, and future state of public finances – it is critical for effective fiscal management and accountability. It helps ensure that governments and the public have an accurate picture of public finances when making economic decisions, including the costs and benefits of policy changes and potential risks to public finances. The current crises revealed problems that originate from the lack of pre-budget statements and therefore a lack of debate in Parliament; concerning the central budget, lack of citizens involvement with the budget and therefore user-friendly information sharing on the budget with ordinary citizens; absence of reporting on public debt in the budget document and so on. The separate reporting of external public debt is not sufficient; it needs to be included in the budget as it is financed and administered through the budget, and it needs to include debt not just towards external financial institutions but also commercial lenders. Fiscal transparency should provide legislatures, markets, and citizens with the information they need to hold governments accountable.

By joining the Open Government Partnership, the government of Macedonia has pledged to continuously improve itself on the foundations of open, transparent, reliable and efficient government institutions that communicate and cooperate with the citizens. The obligations of transparent implementation of government activities as well as inclusion of NGOs are *proclaimed priorities* that should be put into practice. It is imperative that the civil sector is more actively used in policymaking processes. Macedonia needs to *develop a culture of inclusion* and respect for the rights of all citizens in the policymaking and decision-making processes, including the adoption of laws and access to information. Better enforcement of the Law on Free Access to Information of a Public Character should also be a priority, especially providing data to citizens first hand so that there is no actual need that one should use this Law to ask for certain information.

The *reform of the judiciary* should be a continuous process, important *now as in the long run*. Enforcement of anti-corruption legislation requires an efficient, predictable, and accountable judiciary, able to

hold the executive accountable under the law, and to interpret and enforce the terms of the constitution. The independence of the judiciary from direct undue interference in adjudication by the government and the power to enforce its rulings are crucial in the anti-corruption efforts. In this matter, enforcement of rulings is the key issue and Macedonian government must consent to provide the resources needed for enforcement. Given its stature, the Constitutional Court could contribute more to the development of public policies.

Macedonians must also insist on deepening the decentralization processes. Deepening the principles of equitable and just representation defined within the Ohrid Framework Agreement to the municipal level in combination with moderated electoral campaigns as envisioned above should have a reconciliatory effect on inter-ethnic relations in the country. Macedonia should focus on the implementation of the Strategy on Integrated Education and have a more proactive approach in order to ensure the ethnic, cultural and linguistic identities of all communities, lowering the threshold of 20% for official use of minority languages. This threshold is one of the contentious points hovering over the census-taking process.

Given the problems witnessed with the wire-tapping affair, *various forms of participatory democracy* should be taken into consideration. Electronic participation at the problem-defining level if not at the strategic planning and budgeting processes should be an aim for citizens to be able to effectively engage on the local level. Overall, participatory budgeting which allows the citizens to participate in the conception and/or allocation of public finances should be an aim. Doing so will encourage Macedonians to become part of the 'public sphere' rather than to remain mired in the civic disengagement and apolitical cynicism that seems to have plagued our political systems in recent years. Such citizen engagement will increase social justice by involving the poor and excluded, and help individuals become better citizens through oversight of public spending, thereby helping to reduce corruption and cronyism, empowering a more diverse range of political activists, reducing elitism and clientelism and, in the end, providing citizens with greater access to basic services and improved living conditions (Moynihan 2007). Overall, if put in place, these reforms and processes will greatly contribute to the strengthening of the democratic consolidation of Macedonia and improve its readiness in the EU enlargement process. ■■■

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judiciary as a mechanism of state capture: external actors, party patronage and informality

Arolda Elbasani

The actual state of the judiciary as an enabler of corruption, crime and abuse of office is a result of widespread party patronage and rampant informality that characterized the decades of messy transition.

During the last three years, Albanians have been busy discussing a large scale judiciary reform. This would be the most comprehensive reform after the initial reshuffling of the communist-inherited system early into the transition. The project aims to depoliticize the ranks of the system but also check individual judges for links to corruption and organized crime, a strong feature of the evolving post-communist system. The central plank of reform consists of an internationally-led mission with the capacity to vet the individual members of the judiciary.

Wide popular support for reforming the system, with the help of an international mission, draws on ample evidence that the judiciary has gradually degenerated into a corrupt corporation that stands on two pillars – deep politicization and links to organized crime.¹ Given the documented links judiciary-politics-crime, any reshuffling of the judiciary is expected to trigger resistance from powerful players, who have built their careers and of course immense wealth on such underground connections.

Indeed, the entire process of negotiating and setting up the vetting process was hindered at each and every stage by various parties in the Albanian parliament. The current Prime Minister, Edi Rama, has been a vocal advocate of reform and turned the

issue into the core challenge of his governing program. A last minute pre-electoral agreement involving concessions for the opposition parties in May 2017 seemed to bring boycotting sections of the political spectrum to the negotiating table again, but the future prospects of reform are all but certain.

Evidence of the relationship between the judiciary, crime and political misdeeds

Accumulated evidence on the functioning of the Albanian post-communist judicial system leaves no doubt that it has gradually turned into a mechanism facilitating state capture. The data on judiciary corruption are particularly scary: 80% of Albanian career judges can't justify their own declarations of assets.² Perhaps shocking for any career judge in the world, their Albanian counterparts record ownership of substantial business shares, real estate properties, thick bank accounts, dynamic movements in their property portfolios and luxurious life styles.³ The discrepancies within such declarations, let alone with undeclared assets, tend to escape any judicial scrutiny thanks to the cooperation of their colleagues within the system.

1 BTI (2016) *Albania Country Report*, https://www.bti-project.org/fileadmin/files/BTI/Downloads/Reports/2016/pdf/BTI_2016_Albania.pdf (Accessed May 2017).

2 B. Likmeta, (2016) *The Integrity Gap*, <http://www.balkaninsight.com/en/article/the-integrity-gap-albania-s-appeals-court-judges-asset-disclosures-raise-red-flags-06-16-2016> (Accessed May 2017).

3 Bakillari, (2016) *Albanian Judges' Wealth Escapes Scrutiny*, <http://www.balkaninsight.com/en/article/albanian-judges-suspicious-wealth-escapes-scrutiny>

Yet, Albanians have learned from the media explosive information on what might explain at least some of these sources of wealth: renowned 'international' criminals – killers, pimps, drug dealers and leading capos of organized crime – are frequently released during various stages of "due" process. In a recent 2016 case, a notorious prisoner accused of several killings, international drug trafficking and orchestrating businesses racketeering schemes, activities which the police found he continued to pursue from prison, was pardoned for "good behaviour". Various judges involved in his decade-long processes had already given him minimal fines and then systematically shortened his term in prison, decisions which went through and involved various levels of the judiciary. The US ambassador, then actively involved in the ongoing judiciary reform, didn't mince his words: "I want to say to the corrupt judiciary that this is an unacceptable decision." Other cases of judiciary corruption exposed in the media indicate paying judges in "cash" for favourable rulings; transferring of state-registered properties to private claimants; robbing the state with harsh penalties when the state is a party; deciding in favour of corrupt businesses, soliciting sexual favours, and, in general, doctoring decisions based on who offers the highest price. Indeed, surveys show that Albanians rank the judiciary at the top of the most corrupt institutions.

Another pertinent feature of this post-communist model of the judiciary is its persistent obstructing and ultimately closing of all cases of abuse of power, an indicator that it is the politics that pulls the strings of the system.⁴ So far, all high-level cases of abuse of public office were delayed, obstructed, and ultimately closed without proper prosecution.⁵ How politically "delicate" cases end up nowhere is illustrated by the evolution of a 2016 case on the privatization and subsequent collapse of the Albanian Power Distribution Company, the so-called CEZ affair. The Attorney General, historically a key political appointee, who enables centralized political control over active investigations, refused to look further into a file documenting potential abuses by around 10 then-state officials involved in the 2009

privatization process. The High Court of Justice, another important institution that is usually filled with political appointees and thus has a reputation for serving as a political instrument,⁶ effectively closed down further investigations. A parliamentary committee led by the ruling party, which was in opposition when the privatization was concluded and therefore interested in disclosing irregularities, continuing to investigate the involvement of key political figures – several then-ministers, then PM, his son, and other state officials in the affair. Accordingly, a third person who mediated the deal received a 7 million Dollar transfer for "consultancy", a sum he withdrew in cash soon after the deal. The same "consultant", who is neither a public official nor any kind of noted expert in the field, had registered around 100 calls with the then-PM as far back as 2006. Neither the recorded calls, nor red-light transfers, nor disclosed communications and meetings between the "consultant", Albanian politicians and their relatives, proved sufficient for the Albanian judiciary to further investigate the case; indeed, it was a demonstration of how the judiciary often serves to cover up rather than disclose political corruption.

party patronage and informality

How did we get here and why the judiciary became a key node of state capture by particular political and criminal interests is crucially important to assess the evolving resistance and actual stalling of internationally-sponsored reforms that aim to overhaul the system.

The actual state of the judiciary as an enabler of corruption, crime and abuse of office is a result of widespread party patronage and rampant informality that characterized the decades of messy transition. From the very start of regime change, Albanian political parties have treated the state as a piece of property to be distributed among respective militants and loyalists without any consideration of professional credentials or requirements for the job.⁷ The recruitment of political militants and loyal-

4 Elbasani, A. and Šelo Šabić, S. (2017) Rule of law, corruption and democratic accountability in the course of EU enlargement. *Journal of European Public Policy*, <http://www.tandfonline.com/doi/abs/10.1080/13501763.2017.1315162>

5 BTI 2016.

6 Ibid.

7 Elbasani, A. (2009). 'EU Administrative Conditionality and Domestic Downloading: The Limits of Europeanization in Challenging Contexts', Berlin: KFG Working Paper Series, no. 2. <http://www.ssoar.info/ssoar/handle/document/36563> (accessed May 2017).



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ists in key state institutions – privatization boards, public companies, the judiciary, security services, public administration, constitutionally independent entities, and even the academic system – was instrumental in controlling the spoils of the state. The initial stages of transition, when the old institutions had collapsed and the new ones were yet to emerge, provided particular "openings" for party oligarchs to infiltrate their militants into the institutional hierarchy of the state.⁸

The judiciary was particularly vulnerable to infiltration by party cronies because of its potential role in disclosing and undermining such schemes. Hence, the "initial" reforms undertaken in the period 1992-1994 made sure to remove around 80% of the old personnel, who were branded communist collaborators without scrutiny into their credentials or collaboration with the regime. The new batch of judges that replaced the old ones were drawn from the militants of the anti-communist umbrella party, the Democratic Party, which won the first free elections in 1992. This group of judges were hastily trained through a legal course of 3-6 months before being catapulted into key positions of the judicial hierarchy.⁹ Given that the new contingent lacked education, expertise or any other professional qualifications, they served party patronage schemes to advance their careers. Moreover, the incoming batch of political loyalists could control promotion of judges, allocation of cases and generally who was to be included and excluded from

the system. Those candidates who went against the party line even when they were party affiliates and nominees – the chair of the High Court in 1994, the attorney general in 2007 and again the attorney general in 2013 – were purged from their posts never to be able to enter the system again.¹⁰

In addition to the initial placing of loyalists without professional qualifications throughout the system, the same "anti-communist" establishment that ruled in the period 1992-1996 and again in 2005-2013 managed to keep hold of the judicial appointments and promotions by controlling the presidency of the country. Out of 5 post-communist presidents, 4 were nominated by that specific party and 3 came from the narrow circle of its leadership. These politically affiliated presidents who were also in charge of appointments in the judicial hierarchy made sure to promote convenient candidates, thus creating an informal institutional network that carried out the party patronage line. Because of its control of the presidency, all attorneys general but one were appointees of the same party, and so were all leaders of the High State Control, nominations which echoed the party agenda across state institutions.

the feeble role of international actors

Given the actual state of the judiciary and its deep, although informal, enmeshment with politics, any reforms to clean up its ranks would require the involvement of international structures. However, whether the international community can succeed in pushing forward the ongoing reform is quite uncertain given the poor record of internationally-led institution-building experiences so far, as well as the inbuilt problems of external projects and the shelf-life of institutional transfers across the region.

In the case of Albania, the international community has long been involved and to some extent implicitly liable for the state of the judiciary. After the collapse of state authority in 1997, various bodies of the international community took over a leading role in initiating, negotiating and sponsoring major institutional reforms.¹¹ After 2000, the European Union emerged as the leading actor, and EU integration a con-

8 F. Abrahams, *Modern Albania, From Dictatorship to Democracy in Europe*, NYU Press, New York 2015.

9 Elbasani and Šelo Šabić, S., 2017.

10 Ibid.

11 Abrahams, 2016.

Most financial assistance has focused on technical capacities while ignoring the dimension of impartiality, such as independence, corruption and de facto separation of institutions in focus. Much of the assessment conducted under the auspices of international bodies moreover focuses on one-shot, quick and formal assessment of newly built institutions while ignoring the informal and ongoing patronage schemes that keep these new institutions hostage to politics.

sensual agenda against which the country's progress and stagnation are measured. In this context, the EU was in the position to set the priorities, assess relevant reforms, use various diplomatic channels to push for its priorities, and spend substantial funds in target areas of EU integration.¹² The judiciary and other rule of law institutions have actually received the lion's share of external assistance and of EU funds in particular. Since 2005, the EU has also poured assistance on a specific international mission dedicated to "the development of a more independent, impartial, efficient, professional, transparent and modern justice system in Albania". The so-called Euralius mission is still going strong in its 5th extension. Other projects, funds and advice related to the judiciary kept coming in within the framework of other international organizations, including the Council of Europe, OSCE, World Bank and other foundations. Such focus on rule of law enabled streams of well-paid international experts to suggest new rules, procedures and institutional arrangements. Many projects were successfully concluded and huge amounts of assistance, some of which given as loans, were successfully spent. Although the country received plenty of advice, legal templates and actual financing and projects, the formal institutions and laws resulting from these projects were continuously made and unmade with little effect in curbing political control over, and corruption of the judiciary.

A crucial problem of why such internationally-led campaigns have failed to make a real change is related to the technicalities of funding. As Martin Mendelski suggests on the basis of comparative evidence from South-East Europe, most financial assistance has focused on technical capacities – better infrastructure, improved payment schemes, clear institutional procedures, training etc. – while ignoring the dimen-

sion of impartiality, such as independence, corruption and de facto separation of institutions in focus.¹³ Much of the assessment conducted under the auspices of international bodies moreover focuses on one-shot, quick and formal assessment of newly built institutions while ignoring the informal and ongoing patronage schemes that keep these new institutions hostage to politics. Hence, most external reporting on the issue remains at the superficial level of formal change and fails to dig deep into the actual links, actors and historical processes that enable judiciary corruption.

A related problem has to do with the life and nature of international projects. Most projects have a specific timespan and are concerned with spending the allocated funding while recording a list of demonstrable outputs within that specific time period. Few projects had a long enough timespan to evaluate how the new institutions functioned, whether they have changed and/or were replaced after the project has ended. Besides, most international consultants employed by such projects are interested in skipping from one position to another instead of delving into the mud of long-term informality and corruption, which would probably also put them on bad terms with domestic politicians whose support they need to pursue yet other consultancy appointments and projects. Certainly, the usual reporting on general institutional changes that only skim through the surface of reform is more rewarding than delving into how and why those institutions are and remain captured.

Last but not least, the international community often proved rather weak to consistently push for its initiatives and counteract domestic strategies of resistance. In the case of judicial reform, the EU and US sponsored the entire legal package and preparatory

¹² Elbasani, A. ed., *European Integration and Transformation in the Western Balkans: Europeanization or Business as Usual?* Routledge, Abingdon 2013.

¹³ Mendelski, M. (2015) 'The EU's pathological power: the failure of external rule of law promotion in South Eastern Europe', *Southeastern Europe* 39(3): 318–346.

works. They were also behind the political negotiating processes and arranged a "consensual" adoption of the necessary constitutional changes on June 2016. Yet, secondary legislation necessary to implement the constitutional changes was still blocked and delayed for another year. The exchanges between the US ambassador and the Albanian Attorney General bring some clarity on the type of resistance. According to the Ambassador: "for 18 months, the Attorney General has spoken persistently and loudly against reform. ... Luckily, those who drafted the reform have foreseen that powerful authorities would attempt to manipulate the new [vetting] councils." Few days before the frank exchange, the US embassy had revoked the US visas of 23 key members of the judicial hierarchy. The Attorney General blamed ambassador's declaration as "Sorosian pressure to manipulate the public opinion." To leave no doubt as to who stands behind his blames, the Attorney General rushed to write a letter of "complaint" and then meet the president-elect and the chair of the parliament, both coming from parties that had entrusted him with that position and had actually used all institutional means to block reform, particularly the vetting process.

The Brussels officials proved less determined to name and shame sources of resistance. Instead, they reached for a "political" offer, which left it to the parties to appoint members of the vetting commissions, a concession that played into the parties' interest in keeping control of the system. Even with such concessions, the creation of vetting structures didn't go through until a US high official could broker a pre-electoral agreement that brought all parties to the negotiating table again. In another twist that shows how strong the anti-reform block is, while the parties were seemingly working on the vetting structures, the Albanian Association of Judges appealed the vetting law to the Constitutional Court. The court had already checked and arguably watered down some of the key articles of the respective law during a previous appeal. Given that the country will hold general elections in June 2017*, the progress of reforms will largely depend on the configuration of the future parliament, but also on the determination of the US and EU actors to counteract strategies of resistance from powerful actors who have everything to lose from a proper vetting of the judiciary system. ■■■

* the final version of the article was submitted in mid June (*editor's note*)

Serbia: hijacked and appropriated state

Đorđe Pavićević

The concept of appropriation came up in recent political discourse in Serbia as a means of characterizing the particular kind of rule practised by the Serbian government. It is related to efforts of the ruling elite to exclude all means of utilising state authority and institutions other than those that work in the interests of the owners (the ruling elite) and their employees (supporters), as well as the means of utilising them that are used for the delegitimization of their rivals.

During the last three decades, the failures of Serbian state were interpreted in different ways. The most popular thesis during the last decade of the twentieth century was the one that held that Serbia is an unfinished state, famously advanced by the philosopher and first democratic Prime Minister of the Republic of Serbia Zoran Đinđić. It was further developed by political theorists Milan Podunavac and Nenad Dimitrijević, and historian Latinka Perović. The concept of unfinished state refers to the discrepancy between norms of political integration and the institutional structure of the state. A consequence of this failure is the emergence of a so-called dual state, one that acted through the official state apparatus, and another, which relied on non-state and unofficial agents and networks. During the first decade of the XXI century, the main cause of the failure of the state was seen in the extensive influence of political parties, participacy. Political parties and their elites were blamed for usurping and abusing institutions, public resources, state services, etc. Since the elections of 2012 and the change of government that followed, political scientists and analysts have been reluctant to characterize the new style of rule. The usual conceptions of authoritarian rule or state

capture are not comprehensive enough to capture all important elements of the new style. They comprise many important aspects, but they leave many important features out of sight.

A more precise qualification of the Serbian state could be given in terms of a hijacked and appropriated state. The concept of hijacked state is rarely used in political analysis. To my knowledge, it is used in analyses of ruling elites in some African states (John Prendergast) and as a characteristic of several American administrations (Robert F. Kennedy Jr., Charles H. Ferguson, Gail Collins). The concept refers to the state in which "rulers use state authority, institutions, and deadly force to finance and fortify crony networks. In these states, corruption is not an anomaly – it is the foundation of the intended system." The concept of appropriation is used here in the ordinary legal meaning of "to make one's own" and "to set (something) apart" for particular use. Although the concept of appropriation is familiar in political theory in the context of critique of neoliberal policies and market practices, I am not familiar with the usage of the concept of appropriated state. The concept came up in recent political discourse in Serbia as a means of characterizing the par-

ticular kind of rule practised by the Serbian government. It is related to efforts of the ruling elite to exclude all means of utilising state authority and institutions other than those that work in the interests of the owners (the ruling elite) and their employees (supporters), as well as the means of utilising them that are used for the delegitimization of their rivals.

There are at least two advantages to using the concepts of hijacking and appropriation in relation to the Serbian state. First, unlike the concept of state capture, these concepts do not presuppose a clear and simple division of labour between state actors and private interests. According to a simple picture of social division of labour, failure of the state is seen in systemic influence of private interests on the political decision making process. The supposedly neutral state is corrupted by illegitimate trespassing between different spheres of action. In this case, it all depends on where one draws the line it is illegitimate to trespass. This line is not always clear, especially in the cases of governments with ambitions to transform society. Representatives of the Serbian Government often use messianic rhetoric to describe their historic mission in changing the society, people, habits, etc. The distinction between public and private interests is of little use in evaluation of great political and historic missions. The second advantage of using this terminology is that it provides a useful conceptual framework for analysing the formation and protection of "crony networks" that are created in order to put public resources and state services under control.

The Serbian state is analysed as an appropriated and hijacked state in two different ways. First, after the parliamentary elections of 2012, and the forming of the new ruling coalition with a thin majority, the largest party in the ruling coalition, the Serbian Progressive Party (SPP), monopolized the political arena and appropriated public resources for the purpose of running an incessant political campaign in favour of the party leader, as well as a campaign against the political opposition and non-partisan rivals. Second, after the parliamentary elections of 2014, the SPP formed a supportive loyalty network built on massive employment of its members in state institutions and state-owned companies, severe abuse of institutions for partisan purposes, and the politics of social insecurity for those who were disloyal or disobedient.

The leader of the ruling party in Serbia built a powerful party organization which is able to hijack the state and its institutions and to use its resources to benefit ruling elites and their supporters. All of them are included in the organized political enterprise of hijacking the state and protecting the loyalty network. For this reason, the future of democracy in Serbia is not guaranteed; the prospects that the Serbian state would become a consolidated democratic state are even more gloomy given the international environment and support that the current government is winning from important international actors interested only in the stability of the region.

appropriation of the state

In order "to set aside" public resources for the purposes of promotion of partisan interests and interests of their own leader Aleksandar Vučić, the SPP launched an aggressive campaign to delegitimize and criminalize political opposition. The main target was the previous ruling party, the Democratic Party (DP). Ninety-seven party officials, members of the DP were arrested or incriminated for various forms of political corruption in the first three years of the new government's rule. Only a few of them were officially charged for corruption, and only one case has been adjudicated in the first degree. Nonetheless, arrests were usually carried out in spectacular police actions with designated names and with extensive media coverage. This is only one example of maltreatment of political opposition. Most members of opposition parties were forced to become passive or to change affiliation in order to save their jobs or to keep their positions. It is estimated that one third of all officials in local municipalities were previously members of parties that are now in opposition. The remaining membership were treated as enemies of the state or as remnants of the old, corrupt regime doomed to disappear.

The other way of excluding the opposition and other rivals from the public arena was colonizing and strict control over most of the media space, including the flow of information on web sites. Journalists were intimidated for their critical view of the government, and some of them were severely punished by losing their jobs. The financing of media companies is an extremely sensitive question because almost all of them are heavily dependent on public financing, advertising by state-owned companies and cooperation with advertising agencies that are regularly managed by persons close to the government. A paradigmatic case was the cancellation of the most popular and longest-lasting political talk show in Serbia, "Utisak nedelje" [Impression of the Week], broadcast on the private TV station B92. The contract with the author and producer was annulled at the owner's expense. The whole operation of cancellation was accomplished without a legal ban being issued and without visible political interference. What is mysterious about it is that the cancellation was against the commercial interest of the media company, to broadcast such a popular and influential talk show, concerning that the author's only "offence" was that she was critical of the Government and especially the Prime Minister.

The absence of credible and effective opposition along with effective control over publicly broadcast information allowed the ruling party to appropriate state resources and use them at its own will and as if they were its own.

hijacking the state

The appropriated state resources are used for establishing a supportive network in order to keep the party riding and stable in the saddle. The SPP is a massive party with more than 630,000 registered members. This number constitutes approx. 17% of the electorate, bearing in mind that the average turnout is about 3.8 million voters. For this reason, it is a serious task to keep the membership in line with party policies and to establish party discipline, keeping in mind that the SPP is a party with a strong leader and strict rules of conduct. There are several modes of abusing state authority and state resources to fortify the loyalty network of the party.

- a) Employment of party members in state institutions and state-owned companies. The favourite method of recruiting new members and keeping them under control is promising the possibility of employment and social advancement due to active party membership. Almost no other precondition is necessary except loyalty to the leadership. This method of recruitment and disciplining members has been improved to perfection by the SPP leadership. Prospects for employment or promotion are mostly dependent on contributing to the electoral results, on praising the party as a successful organization, as well as publicly expressed loyalty to the party leadership. Keeping the job or position safe is likewise dependent on contributing and loyalty. In order to keep the membership active, their positions are usually temporary. For example, in state-owned companies in Serbia, 21 out of 37 directors are acting directors whose contract duration is sometimes as short as 3 months, and the government renews them after the designated period expires.
- b) Selective justice and impunity. High-ranking officials and active members enjoy a high degree of impunity concerning legal prosecution, provided that their deeds were done in order to promote the party and its leadership. The most prominent examples are the Helicopter case and the Savamala case. At least two Ministers were involved in the case of a fatal crash of a helicopter during a humanitarian rescue mission. It was established that there were failures in the chain of command, as well as that regular procedures were neglected. A criminal investigation did not find criminal responsibility on anyone's part, beside the disciplinary responsibility of two army generals who were punished by having the possibility of further promotion withheld. The sentence was later annulled. The Savamala case is widely known and more publicly explored, given that more information was available. Savamala is a part of Belgrade located where a controversial national project named the Belgrade Waterfront is under construction. Several buildings were destroyed overnight by workers employed by

an unknown company, protected by masked security guards and without a court decision that these buildings are illegal. In addition, a masked security guard maltreated several passers by and a watchman of one of the buildings; the police refused to react, and so on. There were a number of wrongdoings. All that is publicly known about those responsible for the series of misdeeds is that they are "idiots" and that they are high-ranked officials of the City of Belgrade. Otherwise, rules and regulations are strictly implemented when the object of implementation is ordinary citizens and their property.

- c) Fear and social insecurity. Insecurity of income, job or position is an important instrument of widening and fortifying the loyalty network. There is a widespread conviction that the necessary condition for advancing individuals' private interests is membership in the party. Fear of losing one's income and job is a powerful tool for mobilizing party members, as well as an incentive to bystanders to join the winning team and stay obedient.

The leader of the ruling party in Serbia built a powerful party organization which is able to hijack the state and its institutions and to use its resources to benefit ruling elites and their supporters. All of them are included in the organized political enterprise of hijacking the state and protecting the loyalty network. For this reason, the future of democracy in Serbia is not guaranteed; moreover, the prospects that the Serbian state would become a consolidated democratic state are even more gloomy given the international environment and support that the current government is winning from important international actors interested only in the stability of the region.

conclusion

The thesis presented in the essay is more a result of the direct, everyday experience of a careful observer of daily politics in Serbia than based on serious scientific findings. Given the absence of serious publications on political developments in Serbia, the author took a risky strategy of trying to articulate his own experience and expertise. Still, it is surprising that after five years of significant changes in the Serbian political environment it is so difficult to find reliable scientific articles on different aspects of the political transformation of the Serbian state. ■■

state capture in the Western Balkans

Leon Runje

introduction

There are many factors that contribute to the relatively strong ability of political parties in Western Balkan states to perpetrate state capture. The most acute ones, however, include the socialist legacy of the region, the subsequent international isolation as well as the bloody break-up of Yugoslavia. The ethnic divisions within most states of the region, which arose from the war as well as the region's strategic position on the Balkan route of the refugee crisis which exploded in 2015, give the political parties continuing internal and international leverage for maintaining political power. This power is otherwise based primarily on the support of clientelist networks. Unfortunately, this modus operandi comes from a strong legacy of para-state activity and hostility towards government institutions throughout the region's history.

the socialist legacy

It is widely considered that during the communist period, corruption in the Western Balkans was widespread, but was, for the most part, petty. During this period administrative corruption was prevalent, meaning that it took the form of low level bureaucratic corruption of state and public institutions, as opposed to the corruption of centralized government bodies and agencies occurs at the top of the hierarchical structures of government. The first phenomenon can be described as "administrative corruption", while the latter tends to be denoted by the use of the term "state capture". (McRobie, 2010: 5-8) This assertion cannot be empirically disproved, however; there is a problem

The first mode was the use of the corruption of state institutions to accumulate wealth through its extraction from both the private and public sectors, whether through outright theft of government property or through corrupt dealings with private enterprises. This activity would not have been possible without the second mode of manifestation of corrupt behaviour. This behaviour can be best described as corruption with the aim of power preservation. The regime would promote civil servants as well as deal with private companies based exclusively on their displays of political loyalty as opposed to competence.

with its claims. Namely, as McRobie points out, low level political corruption tends to either correlate with, or be a direct result of the metastases of high level political corruption or state capture. (McRobie, 2010: 10)

If the correlation is so strong, how is it that the primary forms of corruption recorded in the Western Balkans during the communist period were of the low level administrative variety? The cause most likely lies in the way corruption was defined in socialist countries during the Cold War. The current definition of state capture comes from the World Bank and defines the term as the efforts of a small number of firms (or such groups as the military, ethnic groups and kleptocratic politicians) to shape the rules of the game to their advantage through illicit, non-transparent provision of private gains to public officials, examples of such behavior include the private purchase of legislative votes, executive decrees, court decisions and illicit political party fund-

ing. This concept links the problem of corruption with vested economic, social and political interests – which in turn form key obstacles to economic reform. (World Bank, 2001) This of course gets obfuscated in a socialist system which does not necessarily value or protect the concept of private property, indeed regardless of the various dogmas of "social ownership", the majority of the companies in the Western Balkans were state-owned, that is to say, the ruling communist party was free to control them by means of access to key managerial positions within state-owned companies. (Begovic, as cited in McRobie, 2010: 10) Evidence of these practices continuing even after the end of the Cold War and the subsequent fall of communism can be found in the fact that, in certain cases, as was the situation in Serbia, large swathes of state property were not privatized but rather became property of the reformed communist party, now called the Socialist Party of Serbia. (Pešić, as cited in McRobie, 2010: 14) Furthermore, the ruling parties continued the tradition of directly controlling state-owned enterprises; as Pešić points out, the idea that government-owned companies should be administered by party-elected cadres is alive and well in Serbia. (Pešić, as cited in McRobie, 2010: 15)

What follows logically from this fact is that, in the Western Balkans generally, and in Serbia and Albania specifically, legal state capture which existed during the communist period has, in a sense, been transformed into party capture. That is to say, special vested interests will focus on supporting a specific party and then, once it obtains power, use it as a tool to perpetrate state capture upon the government system. The development of this approach in the Western Balkans is a direct result of the fact that the authoritarian socialist regimes in the region have given way to nominally democratic ones. In these systems political parties are forced to contend for power on the one hand, while on the other, national election campaigns are becoming ever costlier for them. (McRobie, 2010: 22) As far as government-funded campaigns are concerned, particularly in the case of Albania, high tax avoidance rates make it difficult for the government to provide this public service.

the legacy of war and isolation

The twin legacies of war and isolation in the Western Balkans are hard to separate, although they affected the region's constituents in radically different ways. If one takes a moment to consider the definition of the Western Balkans (at least as proposed by the European Union, in terms of its expansion plans), one usually gets the formula of Ex-Yugoslavia minus Slovenia plus Albania. If one accepts this definition, one can notice two diverging histories. While Yugoslavia was generally the most open of the socialist countries during the Cold War, Albania, on the other hand, was subject to a strict self-imposed isolation by its Cold War socialist regime under Enver Hoxha. Although this policy was abolished by the 1990's, it lasted for a full forty years and made smuggling an essential economic activity. This is where the strong link between organized crime and Albania's political elite begins. (McRobie, 2010: 26) Yugoslavia, on the other hand, had a very different trajectory. The relationship between the political elites of the individual Yugoslav Republics is also strongly connected with smuggling activities, however for vastly different reasons. As McRobie points out, "the elites of the Yugoslav Republics [during the war] were actively involved in the development and organization of smuggling channels." (McRobie, 2010: 15) This has a lot to do with international isolation caused by the war itself. That being said, motivations for such behaviour diverged between the individual Yugoslav Republics. The primary motivation of Croatia and Slovenia for engaging in illegal smuggling initially was to break the arms embargo imposed by the international community, given the fact that the Yugoslav People's Army, which they were facing at the time, was far better equipped for the imminent conflict. Serbia, on the other hand, commanded the Yugoslav People's Army or what was left of it, and therefore hardly had the need for importing weapons. It was, however, faced with a wide array of economic sanctions due to its war time activities and was, therefore, in dire need of smuggling services in order to procure certain goods.

Both the case of the political isolation of Albania and the case of the former Yugoslavia cemented the connection between local governments and organized crime. (McRobie, 2010: 15) Furthermore, the war

in the former Yugoslavia also strengthened organized crime networks in Albania. This was primarily evident in these crime networks supplying the Albanian Kosovo Liberation Army with weapons; however it was also simply a way for these networks to profit from Serbia's relative isolation through providing smuggling services. The fact that Albania itself was experiencing an institutional crisis which would lead to an institutional collapse in 1997 did nothing to alleviate matters. (McRobie, 2010: 21-22)

power protection and accumulation

When dealing with state capture in the Western Balkans, one would be wise to introduce a further categorical distinction within the terms used to describe the wider phenomenon of political corruption. While political corruption is broadly defined as the use of public power for private benefit (World Bank, as cited in McRobie, 2010: 7), there are two ways in which the regimes which arose in the Western Balkans after the fall of communism manifested political corruption in particular. The first mode was the use of the corruption of state institutions to accumulate wealth through its extraction from both the private and public sectors, whether through outright theft of government property or through corrupt dealings with private enterprises. This activity would not have been possible without the second mode of manifestation of corrupt behaviour. This behaviour can be best described as corruption with the aim of power preservation. The regime would promote civil servants as well as deal with private companies based exclusively on their displays of political loyalty as opposed to competence. This would free the regime from a considerable source of restraint while it was engaging in illegal activity as well as create an extensive network of individuals and organizations which would all stand to benefit from the regime's activities. (McRobie, 2010: 8-15) It is hard to separate these two forms of corrupt behaviour by a specific government regime from each other, mainly due to the fact that they complement and necessitate each other. It is therefore difficult to answer the question of which mode of behaviour came first; however, one can make a reasonable assumption that where one of these behaviours exist, the other will follow.

ethnic divisions and state capture

The states of the West Balkan region are not only divided by the different variants of socialism they experienced during the Cold War, or by the various positions they found themselves in during the break-up of the Yugoslav Federation. The main difference in terms of the levels of state capture in individual Balkan States stems primarily from the ethnic divisions within their respective societies. Therefore, a key difference arises, primarily between states where the issues of ethnic division in society play only a secondary role, such as Serbia and Croatia on the one hand, and those such as Bosnia, Macedonia and Kosovo where they dominate the political landscape. As Vachudova points out, "In Serbia and Croatia, office-seeking parties have responded to strong incentives to moderate their positions in order to become EU-compatible. In Bosnia and Macedonia, however, political competition is structured almost entirely on identity, with parties hardly taking any distinct positions on managing the economy and public services (...) These party systems have been captured by small groups of elites who profit from illiberal democracy; to protect it, they keep the EU at bay, and use nationalism and chauvinism as a strategy to deflect attention from rampant corruption and the rollback of democratic freedoms, transparency and the rule of law." (Vachudova, 2017) Furthermore, as Peter Van Ham points out, "Bosnia and Herzegovina, as well as Kosovo, remain (at least partially) internationally administered... Bosnia and Herzegovina are hamstrung by a political deadlock between three main ethnic groups: Bosniaks, Croats and Serbs." (Van Ham, 2014: 8) Furthermore, in the case of Kosovo and Macedonia, ethnic based state capture is further facilitated by international circumstances. As Van Ham points out, "Kosovo's ties with the EU are restricted, since the five EU member states (Cyprus, Greece, Romania, Slovakia and Spain) refuse to recognize Kosovo's independence. (Van Ham, 2014: 8) Macedonia is another example where ethnic based identity politics is not only legitimizing state capture at home, but also facilitating it in the international arena through provoking inter-state confrontation. The clearest example of such a phenomenon is Macedonia's continuing failure in its attempts to join both the EU and NATO. The main

The collaboration of western states with Balkan autocrats is certainly nothing new. From King Alexander, Marshall Tito to President Milošević, the West has historically been happy to trade in democracy for stability. What differentiates this new form of "stabilocracy" from its previous incarnations is the fact that in the 2000's, the EU actually did invest a considerable amount of effort and political capital into providing the region with a path to full EU membership. This path was always heavily predicated upon the implementation of the required reforms. The current backsliding towards "stabilocracy" puts all the invested work and political capital in jeopardy.

reason for this is the persistent opposition to Macedonia's application bid by Greece, which opposes the use of the name "Macedonia" to denote the Former Yugoslav Republic of Macedonia. The issue for both the Macedonians and the Greeks is in fact one of ethnic identity. (Van Ham, 2014: 8)

Another dimension of ethnic based state capture in the Western Balkans is the high level of kin-trust characteristic of ethnically homogenous groups. Since the break-up of Yugoslavia in the 1990's, the newly created states, although multiethnic themselves, have become home to ever more homogenous ethnic groups on the sub-state level. Examples of this are the Serb, Croat and Bosniak communities in Bosnia, the Serb and Albanian communities in Kosovo, the Serbs and Montenegrins in Montenegro as well as the Albanians and Macedonians in Macedonia. In addition to this, there is a particular historic legacy in the region, stemming from centuries of foreign occupation. The region's history saw the local community, the kin or the clan, pitted in a long term struggle against the state, which was considered to be a hostile and foreign actor. A culture of familial connections and other para-state institutions, which greatly facilitated state capture, sprang up from such a mentality. (Van Ham, 2014: 11) Given this history, combined with the aforementioned increasing levels of homogeneity among the ethnic groups of the region since the Yugoslav Wars, it is a small wonder that Alan Riley can claim that what the Western Balkans have experienced in the last 20 years is akin to a process of "refeudalization". By this Riley denotes a process whereby "power is held by informal networks that run through every state institution and the private sector". (Van Ham, 2014: 9)

stabilocracy in the Western Balkans: state capture and the refugee crisis

Another issue which has helped stabilize and strengthen the state capture regimes currently in place in the Western Balkans has been the refugee crisis. This situation has provided the weak democracies in the region, with autocratically minded leaders governing through informal patronage networks, with the legitimacy of, once again, providing the West with stability in the region. (BiEPAG, 2017: 7) The collaboration of western states with Balkan autocrats is certainly nothing new. From King Alexander, Marshall Tito to President Milošević, the West has historically been happy to trade in democracy for stability. What differentiates this new form of "stabilocracy" from its previous incarnations is the fact that in the 2000's, the EU actually did invest a considerable amount of effort and political capital in providing the region with a path to full EU membership. This path was always heavily predicated upon the implementation of the required reforms. The current backsliding towards "stabilocracy" puts all the invested work and political capital in jeopardy. It also explains the very different reactions of the leaders of Hungary and Serbia to the refugee crisis. Although they both use nationalism to cement their ever-stronger grip on state power, Viktor Orban of Hungary and Aleksandar Vučić of Serbia reacted very differently to the recent refugee crisis. While Orban rode the populist wave and closed off his country's borders using the crisis to gain political points from his right-wing base, Aleksandar Vučić had a completely different agenda. He was primarily interested in demonstrating Serbia's usefulness to the EU in the crisis, and had therefore behaved accordingly. Consequently, Serbia opened

its borders to the refugees and allowed itself to be used as a transit zone. This was welcomed in Brussels and Vučić was treated as EU's partner and ally. Such a turn of events is worrying primarily because it signifies that certain events, such as the refugee crisis, or certain competitors for influence in the region like Russia and China for instance, can severely limit the soft power of the EU. Local regimes in the region are now in the position to play external global actors off against each other, be they the EU, Turkey or Russia. This is the first time since the end of the Cold War that local regimes find themselves in a position to extract resources from foreign actors due to their countries' strategic position. (BiEPAG, 2017: 8)

conclusion

The Western Balkans is currently a region of some geostrategic importance, which lags behind the rest of Europe in terms of economic growth. It is also currently home to numerous clientelist regimes which per-

petrate state capture for the purpose of servicing the needs of various vested interest groups. The reasons for this vary from historical, cultural to geopolitical. The EU, as the main external actor in the region, is both a positive and negative influence in this regard. On the one hand, it has the power to influence the local regimes into conducting reforms through the process of accession conditionality. On the other hand, the EU's dependence on the collaboration of the Balkan states and Turkey in the recent refugee crisis lead to an additional source of international legitimacy for the political parties currently in power in the region. Finally, the EU also serves as a means of easing the social tensions within the individual Balkan states, being itself a primary destination for working migrants from the region. The EU allows the dissatisfaction among the population of the Balkan states, fuelled by the failure of the captured state institutions to generate prosperity, to be partly diffused by providing these countries' populations with economic opportunities within its own borders. ■■■

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culture and media

ethno-geo-political entrepreneurs and the creation of internal homelands in Bosnia and Herzegovina

Sead Turčalo

Deconstruction of the country is characterized by a constant effort to strengthen the discrimination and marginalization produced by violence and preserve the dominance of the dominant group in exclusive ethnic territories. Ethno-geo-political entrepreneurs frame the complex *present state* of the country, constituted by the Dayton Peace Agreement, into a discourse about an impossible country, where this seeing of the impossibility is opposite and determined by processes of ethno-territorialisation.

Twenty-two years after the end of the war in Bosnia and Herzegovina *the ghosts* of geopolitics and nationalism are still haunting the political rhetoric and everyday life of the country. Both *ghosts* are linked to different visions of territory, which leads to the creation of divergent, ethnically determined strategies of territoriality.

I use the term ethno-geo-political entrepreneurs to describe the key actors that use territoriality as a spatial strategy for the purposes of mobilization of their own ethnic group and its differentiation from the *Others*. Ethno-geo-political entrepreneurs do not live only *from* or *for* ethnicity (Brubaker, 2004:10) and territory, but also from geopolitical visions in which, according to their own needs, they attribute certain roles to space and ethnic groups, ultimately transforming these two categories into the desirable geopolitical order. By using a *hyphen* as a figure in the phrase 'ethno-geo-political entrepreneurs' I try to point out that all elements of our compound word, *ethnicity*, *geographical*, and *political*, are very close to each other and serve as instruments to *entrepreneurs*.

The aim of this text is to show that through the strategy of territoriality, a *territory* as a real geopolitical category *par excellence* becomes a key instrument in controlling ethnic groups, determining dis-

course on (ethno-) national identity and conceptualization of a country.

The use of the aforementioned strategy of territoriality creates internal homelands as ethno-territorialist projects to achieve convergence between *ethnic identity* and *territory* (see O'Loughlin & O'Tuathail, 2009: 592; Dahlman & Williams, 2010: 414) which, in the Bosnian and Herzegovinian case, is attributed as Serbian, Croatian, or Bosniak.

Internal homelands appear as a space for the creation of something both new and appealing to ancient myths through a dichotomy of the past and the present, where the *internal homeland* is not merely a territory, but a historical category as well; the birthplace and the destiny of an ethnic group. A prerequisite for the creation of an internal homeland is the deconstruction of the state in whose territory the *internal homeland* is to be created.

Deconstruction of the country is characterized by a constant effort to strengthen the discrimination and marginalization produced by violence and preserve the dominance of the dominant group in exclusive ethnic territories. Ethno-geo-political entrepreneurs frame the complex *present state* of the country, constituted by the Dayton Peace Agreement, into a discourse about an impossible country, where this seeing of the

Through ascription of ethno-characterology to the area, the ethnicity, culture, and identity are strengthened in the internal homelands that become new political and psychological battlefields that shape identification with the state as a geopolitical entity and affirm the divergent geopolitical visions of the state.

impossibility is opposite and determined by processes of ethno-territorialisation.

In the dominant Bosniak geopolitical vision, it is necessary to reform the Dayton Bosnia and Herzegovina since it is based on injustice and violence and its institutional and territorial arrangement perpetuates this violence.

The dominant Croatian geopolitical vision affirms the ethno-territorial principle, which is the basis of the Dayton Bosnia and Herzegovina, but rejects the structure of the two entities and three constituent peoples since, in their view, it is necessary to complete the ethno-territorial rounding up of ethnic groups by creating a third entity.

In the Serbian geopolitical vision, the impossibility of Bosnia and Herzegovina stems from its ethnic structure that reflects "Yugoslavia in miniature." (See Silber and Little, 1996; Kecmanović, 2007; Dodik, 2013¹) And from the insight of Serbian ethno-geopolitical entrepreneurs, such an "imposed country" prevents the "millennial" aspiration of the Serbs for self-determination. This discourse of an impossible state is a reaffirmation of the narrative that the Serbian Academy of Sciences and Arts (SANU) promoted in the 1980s and 1990s about Yugoslavia being a dungeon for the Serbian people, except that in this case the former Yugoslav state is substituted by Bosnia and Herzegovina as a framework of detention. In the view of Serbian geopolitics, Bosnia and Herzegovina is nothing more than a spatial category within which it is necessary to keep the *status quo* and promote Republika Srpska as a temporary internal homeland, which it is necessary to ultimately transform into a country.

Territoriality is identified as the key strategy for achieving the aforementioned different geopolitical visions of Bosnia and Herzegovina. It mobilizes support for ethno-geo-political entrepreneurs in their competition to win political and economic power, while the politics of identity is used

as an additional mechanism, which should add to the support for the geopolitical demands. Interests represent an ephemeral instrument, since they are, as suggested by Crawford and Lipschutz (1997: 168), negotiable; compromises can be achieved and the like. On the other hand, *territoriality* as a spatial strategy and the politics of identity as one of its components are *inviolable until its practices produce a positive result for a practitioner*. (See Crawford and Lipschutz, 1997: 168)

An illustrative example of the benefits of a policy of territoriality in Bosnian and Herzegovinian conditions over the policy of ethnic interest is the fact that in the Parliament of Bosnia and Herzegovina entity voting was mostly used as a mechanism for blocking the adoption of a law (a total of 156 times, a waste 52.3% per cent of which falls at the feet of the Republic of Srpska and its blockade), while according to a Konrad Adenauer Foundation study covering the period from 1996 to 2008, the institutions for protection of vital national interests were used only four times. (See Trnka et al. 2009:90-93)

It actually shows that the territoriality is untouchable since, in the legislative sphere, a blockade by deprivation of entity support ends the legislative procedure, while the use of the mechanism for protecting vital national interests unblocks the legislative process "which, after the mediation of the Constitutional Court in Bosnia and Herzegovina, continues in the Parliamentary Assembly." (Trnka et al., 2009:93)

The use of *territoriality* also includes a mechanism of demobilization (Gagnon, 2004:120) and in the post-Dayton Bosnia and Herzegovina's geopolitical trap, *protection (of the territory) of the internal homeland* is used as a pre-emptive mechanism in the prevention of the expression of social dissatisfaction.

In this way, the internal homeland becomes an instrument of the perpetuation of the frozen Bosnian and Herzegovinian conflict, and the imagined threat to "legitimate" *ethnoscapes* becomes a means of manufacturing the consent of their own ethnic group at the ballot box.

1 www.24sata.hr. 2013. *Milorad Dodik: The Serbs have never truly accepted Bosnia*. [online] Available at: <http://www.24sata.hr/svijet/milorad-dodik-srbi-istin-ski-nikada-nisu-prihvacali-bosnu-296651> [Accessed: 25 May 2017].

In order to ensure this consent and empower the imagination of a vulnerable ethnic area, it is necessary to make the *internal homelands* a storage of *historical memories and associations*, a place where *our wise men, saints, and heroes lived, worked, prayed, and fought*. (see Smith, 2010: 23) As suggested by David Knight (1982: 517) "*the territory is not something given; it is something that becomes; the territory itself is passive and human convictions and actions are the ones that give the territory its meaning.*" In case of Bosnia and Herzegovina, the construction of the meaning of space, place, and territory is monopolized by the political class that unites into a conglomerate that I have labelled as ethno-geo-political entrepreneurs. In their hands, there are instruments that enable "their own reification and domination" through "monopoly on planning, mapping, and public memorization of space." (Radović, 2013: 29)

Through these practices, a *territory* becomes understandable only for its own ethnic group, while the *Others*, even though, as is the case in Bosnia and Herzegovina, they were born and grew up in that area, are transferred to the unknown geography. The history shaped by changes in the names of streets, districts, or entire cities is naturalized and becomes an integral part of the growing generations, in whose mental maps the new urban geography becomes the only possible geography.

In certain ways, the best examples for the presentation of this "arrangement of authority" (Čusto, 2013:32) are the cities that are perceived as the seats of power of ethno-geo-political entrepreneurs, that is, Banja Luka, Mostar, and Sarajevo.

This process took place with two parallel goals. It was necessary to create a discontinuity with the previous identity that existed within a certain territory. In Banja Luka, there was an attempt to erase the identity of non-Serb communities, create a discontinuity with Bosnia and Herzegovina, and with the communist ideology as well.

For this purpose, only until 1997, the names of 240 out of 416 streets in Banja Luka were changed, while data from 2007 show that the trend had continued, so out of the total number of streets, 338 had names that "were from the Serbian cultural heritage and the Serbian corps, 10 names are geographical terms, only 20 of them are linked to Croatian cultural history, and only three street names were connected with Bosnian Muslims." (Radović, 2013: 160)

While continuity with the previous ideological movement and the ethnic structure of the state were eradicated, continuity with the Chetnik movement was established by naming the streets in Banja Luka after a number of Chetnik dukes and ideologues such as Stevan Moljević, Duke Momčilo Đujić, Dragiša Vasić, etc. In certain ways, the city has also been marked by "Piedmont Serbs" (Radović, 2013: 159) and by Orthodox religion, by naming the streets after saints and Orthodox church officials, i.e., Aleja Svetog Save (instead of JNA), Patriarch Makari Sokolović (instead of Ferhat Pašina), and Milan Tepić (instead of Vladimira Nazora).

Identical processes took place in Mostar and Sarajevo. Since Mostar is a divided city in which the western part is presented by the views of Croatian ethno-geo-political entrepreneurs, attempts to establish the identity of the "capital city" of Croats² in this part of the Herzegovinian city were very intense.

This is shown by the information that even the names of the streets that had a geographical or some other ethnically neutral character were changed (Liska, Rudarska, Dalmatinska, Spojna, and Balinovac Square), and all the names that connoted socialist ideology or contained Bosniak or Serbian ethnic headings and names were changed. (Radović, 2013:173) This approach was actually meant to mark the borders of the Croatian territory within Bosnia and Herzegovina. The streets were named after Mile Budak, who was an ideologist and Minister of Religion in the Government of the Independent State of Croatia, to Jure Francetić, the founder of the infamous Ustasha Black Legion, and lastly to Cardinal Stepinac, a controversial religious dignitary who claimed to be, at the very least, distanced from the crimes against those who did not ideologically converge with the Ustasha regime, etc.³

2 Hercegovina.info. "Čović: Mostar is the capital city of the Croats, Sarajevo of the Bosniaks, and Banja Luka of the Srbs! We are heading for chaos without compromise!" 2012. <http://www.hercegovina.info/vijesti/vijesti/bih/dragan-covic-mostar-je-stolni-grad-hrvata-sarajevo-bosnjaka-a-banja-luka-srba-bez-dogovora-idemo-u-kaos-top-news> (accessed 18 Jun 2013). hrvsvijet.net. "Čović: We shall advocate for the third entity and Mostar as the capital city until it is realized." 2011. http://hrsvijet.net/index.php?option=com_content&view=article&id=16453:ovizalagat-emo-se-zatrei-entitet-i-mostar-kao-stolni-grad-sve-dok-to-ne-bude-ostvareno&catid=24:bih-vijesti&Itemid=100 (accessed 18 Jun 2013).

3 Tacno.net. "Mostar combating fascism: Announced mass protests, demand for the change of the name of streets of Nazi criminals." 2013. <http://tacno.net/novosti/mostar-u-borbi-protiv-fasizma-najavljenim-asovni-protestitrazi-se-promjena-naziva-ulica-nacis-tickih-zlocinaca/> (accessed 18 December 2013).

In Sarajevo, urban geopolitics developed in a way that made it necessary to make a discontinuity with the previous regime in order to affirm the Bosniak identity, and to make a connection with crucial narratives, by Bosniak ethno-geo-political entrepreneurs in the post-war period, of a historical link between medieval Bosnia and Bogumils with today's Bosnia and Herzegovina and the Bosniaks (King Tvrtko, Kulin ban's coast). The Youth Allegiance of Alija Izetbegović was also affiliated, so the members of the Mladi Muslimani (Young Muslims) movement received a number of streets (Put Mladih Muslimana – the Road of the Young Muslims, Mustafa Busuladžić, Hasan Biber, and Halid Kajtaž).⁴

What Radović (2013: 210) points out in the context of Sarajevo is that despite the fact that the trend of "decommemoration of terms and persons linked to the previous system is evident", it is still not manifest to the extent present in Banja Luka and Mostar. However, this return to the medieval past, the Ottoman and the Austro-Hungarian periods, "also testifies to certain strategies of constructing a national (Bosnian and Bosniak) identity that seem to look for a new zero point from which the national symbolism is further upgraded." (Radović, 2013: 212)

In addition to renaming the streets and squares, space is also culturally and religiously rearticulated by the construction of religious buildings of the dominant ethno-religious group, which in effect changes the way this ethnic group conceptualizes the space it is living in. Thus, the space is gradually, step by step, transformed into a place. (On this matter, see also Agnew & Smith 2002: 5) First, through organized armed violence, the territory of Bosnia and Herzegovina is partially reconfigured by the composition of new specific territorial units, ethnic regions, which, through everyday activities and the implementation of urban geopolitics, creates a sense of space, or emotional affiliation, among the inhabitants. At the moment when an emotional affiliation is created, the space is transformed into a place of subjective territorialization of identity, while at the same time in a group that cannot build that sense of belonging, space becomes a foreign category, that is, nothing more than an *absolute space*, or, "the raw physical world." (Radović, 2013: 29)

Through ascription of ethno-characterology to the area, the ethnicity, culture, and identity are strengthened in the internal homelands that become new political and psychological battlefields that shape identification with the state as a geopolitical entity and affirm the divergent geopolitical visions of the state.

Space as a geo-political category becomes a crucial factor in mobilizing an ethnic group because groups in the discourse of ethno-geo-political entrepreneurs are rooted in the space, so every speech the *official ethnic interpreters* translate as being endangering, simultaneously means threatening the group.

Bearing in mind the importance given to ethno-territoriality, the logic of territory in Bosnia and Herzegovina has a strong influence on practical geopolitics. The aforementioned territorial control becomes rooted in political behaviour and institutional actions.

Both political behaviour and institutional actions are geographically fixed at different levels of identification with the state (canton/entity/state) and conflicts are produced due to "overlapping territorial images" (Vollaard, 2009: 692), in which the Bosniak, Croat, and Serbian geopolitical visions of Bosnia and Herzegovina hold different territorial organizations of the state as a reference point.

Through these overlapping images, the Bosnian and Herzegovinian space is being precisely derogated and relativized, since, as Ćurak suggests, (2011: 28) the view is affirmed that "...Bosnia and Herzegovina is not the result of a historically coded space in which the state is constituted, but that the state is what is determined by political elites."

Croatian and Serbian ethno-geo-political elites perceive the state as a secondary reference point, while the geographical fixation is directed towards the realized internal homeland (Republika Srpska) and the anticipated internal homeland in the Croatian case.

The absence of a common vision of the state among the political elite is also reflected in the manner of identification with the state and its acceptance among the citizens of Bosnia and Herzegovina.

4 All new and old names of streets in Sarajevo can be found at SARAJEVO.co.ba. "Ulice grada Sarajeva." 2012. <http://sarajevo.co.ba/o-sarajevu/ulice-grada-sarajeva/> (accessed 09 June 2013).

In the case of the Serbs, most of them identify with the entity and not the state. Some independent surveys among the Serb population show that 59.3 percent would prefer to live in an independent Republika Srpska, while 11.1 percent would like to see RS as part of Serbia. (UNDP, 2013: 41)

The degree of identification of the Croats with the Bosnian state is, according to the quoted survey, around 20.9 percent. Their identification is directed more towards the cantons that should form the imagined third entity, as an internal Croat homeland in Bosnia and Herzegovina. This idea is supported by 37.7 percent of respondents.

This low level of identification with the state shows a deep polarization of the society and proves that affiliation to an ethnic group is preferred over affiliation to the Bosnian state.

Bosniaks most strongly identify with Bosnia and Herzegovina (36.7 percent), although a significant percentage of respondents (16.6 percent) would prefer a particular Bosniak entity or state, or some other form of state organization (17.3 percent).

By instrumentalizing people's attitudes, which are nothing else but the reflection of geopolitical discourses presented in the media, ethno-geo-political entrepreneurs, in order to perpetuate their own power and produce legitimacy as performers of identity policies, tend to deconstruct the state of Bosnia and Herzegovina in order to constitute the internal homelands in *historical territories, the heritage of fathers*.

Expressed in classical geopolitical categories, the affirmation of the entity as a state and the affirmation of the completion of an ethno-territorial setup of the state, respectively, promote the "biological imperialism of the majority nation." (Ćurak, 2011: 28)

Since territory in geopolitical terms represents a physical manifestation of the state's authority, then that kind of "loyalty to territory" (Sack, 1983: 62) – in the Serbs' and Croats' case, loyalty to the internal homeland as a form of unaccomplished nation state – "appears as a source of authority." (Sack, 1983: 62) This experience of territory as a source of authority is fundamentally based on the social-darwinist understanding of territory and, as suggested by Ćurak (2011: 25), the entity appears as a "form of life."

In the Serbian case, the understanding of the Republic of Srpska and the Serbian people as organically connected categories is not the result of external interpretation but the self-reflection of Serbian ethno-geo-political entrepreneurs about that entity, or the experience of its *organic territoriality* (Vollaard, 2009: 695), where the idea and perception is constructed that Serbs are historically rooted in the soil of the existence of RS. (Ekmečić, 2007: 21; Kuzmanović 2007: 42-45; Kunić, 2007: 54) On the other hand, the Croats' understanding of their own geopolitical position suggests that they see the Federation of Bosnia and Herzegovina as an internal homeland of the Bosniaks, since *the Bosniaks have given up on Bosnia and Herzegovina*. (Lučić, 2010: 125)

This Croatian interpretation of the Bosniak understanding of Bosnia and Herzegovina is the result of divergent geopolitical discourses produced by the Bosniak political and religious elite. This divergence is actually paradoxical. The Bosniak political elite, since the 1990s onwards, has shown that it is not capable of thinking strategically about *space*, but takes people as its reference point, rather than territory. (Ćurak, 2002: 22-23) On the other hand, the religious elite, like the former Grand Mufti Mustafa ef. Cerić, affirms the spatial thinking that is a reflection of the *biological imperialism of the majority nation*. It shows a "brilliant" misunderstanding of the nature of Bosnia and Herzegovina. Only in this way is it possible to interpret statements according to which it is the "natural right" of the Bosniaks to have a "nation state." (Cerić, 2012)⁵

It is clear that, in the last two and a half decades, in the Bosnian and Herzegovinian case, territoriality has had a significant influence on political behaviour. Ethno-geo-political entrepreneurs produce a spatial experience that converges with their desirable geopolitical order in Bosnia and Herzegovina. Such a spatial experience is filled with power that reflects the basic, underlying structure of authority and their performative geopolitical script of the *Other*, against which they strive to set boundaries in relation to their own ethnic group.

5 Depo.ba. "The Bosniaks have a natural right to a nation state, we are more aware of it than ever." 2012. <http://www.depo.ba/vijest/73660> (accessed 11 Nov 2013).; Vijesti.ba. "The Bosniaks are the only people in the Balkans who do not have their own country." 2012. <http://www.vijesti.ba/intervju/74293-Bosnjaci-jedini-narod-Balkanu-koji-nema-svoju-drzavu.html> (accessed 11 Nov 2013).

The controller (read: ethno-geo-political entrepreneur) shifts the role of the culprit for the poor state of the economy, security, and other conditions in which the controlled (read: the ethnic group that the controller exclusively represents) live on to the *Other* that endangers his territory by calling for the abolition of the entity or

secession. Translated into the language of everyday Bosnian and Herzegovinian reality, this *threat to territory* transforms space into a solely geopolitical category that controls the respective ethnic group. In this vicious cycle, geopolitics becomes and remains an enforced destiny of ethnic groups in Bosnia and Herzegovina. ■■■

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impotent media and potent business-political oligarchy

Helena Puljiz

The recent removal of Domagoj Novokmet, editor and presenter of "Otvoreno" [Open] daily political talk show, marked the completion of an ideological takeover of the state television broadcaster by the ruling, conservative HDZ [Croatian Democratic Union]. Domagoj Novokmet was the last in a succession of editors and presenters of key left-leaning political programmes who, under political pressure in the last year-and-a-half, were denied the right to freely do their work as journalists and editors. The Croatian Radiotelevision [HRT] is still mistakenly considered by many a public service television broadcaster although, since Croatia gained independence, it has rarely approached this democratic ideal.

Even though Croatian citizens have sustained the existence of the HRT by paying the mandatory subscription fee, the public has never had more than a minimal influence on its editorial policy. As a rule, HRT is governed by the governing parties. The formal reason for Domagoj Novokmet's dismissal was that he did not invite anyone from USKOK [the State Prosecutor's Office for the Suppression of Organized Crime and Corruption] to a programme addressing the affair involving the football oligarch Zdravko Mamić, accused of signing footballers such as Luka Modrić or Dejan Lovren to extortionate contracts, thus causing Dinamo FC a loss of 116 million HRK. Although Novokmet's superiors received the guest list in advance and approved it without objection, once USKOK accused Novokmet of being unprofessional, he was promptly removed. There has been talk of Novokmet's dismissal ever since HDZ came into power – when Tomislav Karamarko was still in charge of the party – but it could not be done with-

Before dealing the forceful blow to the commercial media, those in power mowed down the non-profit media, having abolished the already short-term and meagre forms of support for the non-profit media sector. Non-profit media have continued their work, but their editors and journalists have more or less produced on a voluntary basis, so this media sector is no longer a safe harbour for those who fell in the politically-motivated clearout of personnel from the Croatian media.

out a formal cause. It was merely a matter of waiting for a good opportunity.

It would have been alright from the perspective of the Croatian media scene today had Novokmet's case been isolated, and it were just a matter of the ongoing politically-motivated dismissals of HRT personnel, as dismissals in the HRT mainly do not lead to sackings, so at least the colleague in question does not have to worry whether or not they will continue to receive a salary. But this was not the case. Novokmet merely joined a series of journalists and editors who were prevented from doing journalistic and editorial work because of political pressure, overwhelmingly in the private, commercial media sector, where the protection enjoyed by the majority of those employed at the HRT is not available.

Croatia has finally reached the summit when it comes to the most corrupt countries in the European Union, and it seems unlikely that it will soon topple from that throne. One of the reasons for this lies in the corrupt media, but few people in Croatia even dare to publicly speak about it. Corruption in the media is rarely addressed as a problem in the public, so the uninitiated observer may get the wrong impression that there simply is no media corruption, while it is more likely that the truth is that it is so rife and entrenched that it is no longer even recognised as corruption.

Before dealing the forceful blow to the commercial media, those in power mowed down the non-profit media – the former culture minister Zlatko Hasanbegović abolished the already short-term and meagre forms of support for the non-profit media sector, and his successor, the supposedly pro-European Nina Obuljen Koržinek, has continued the same policy towards the media. Non-profit media have continued their work, but their editors and journalists have more or less produced on a voluntary basis, so this media sector is no longer a safe harbour for those who fell in the politically-motivated clearout of personnel from the Croatian media.

At the turn of the century, the belief prevailed that privatising the media, as well as foreign investment, will lead to increased pluralism in the Croatian media market, but unfortunately this did not come to pass. Foreign media investors mostly did not make the effort to guarantee the professional and labour rights protection for editors and journalists, a level of journalistic freedoms characteristic of their countries of origin, but used all the "advantages" of a politically controlled (media) market. Certainly, there are brighter examples, but they are more of an exception than a rule. If an owner or manager running a media business is democratically-minded and inclined towards an open society characterised by the rule of law, it is likely that the editorial board will enjoy freedom to work and protection from outside pressure. Totalitarian minds find such a manner of operating unimaginable, and since media managers in the private sector are also mobilised from within party ranks that are totalitarian in nature, it is hardly to be expected that the Croatian media will be run by managers disposed towards free journalism and fostering freedom of speech or open social dialogue.

Editorial policy is shaped outside editorial boards and is entirely dependent on the particular political and/or economic interests of the publisher. It is common practice for editorial boards to be dismissed and appointed on someone's political say-so. Today, Croatian editorial boards are dominated by editors who belong to the lowest rungs of the administration, not the highest ranks of journalists. Once again, editors walk around newsrooms wearing camouflage Croatian Army clothes bearing prominent national symbols. Journalistic freedoms are under attack by anyone who has tangible power – politicians, businessmen, war veterans' organisations and citizens' associations close to the governing party, as well as media owners, for their own particular economic and political interests. In the race for profit, influential small publishers abandon ethical and professional journalism, they "depoliticise" their content in order to survive.

It is no accident that publishers both small and large trivialise content, push sexualised content and reporting on accidents and personal tragedies (the current editorial boards of leading media happily rub their hands when it comes to sexual offences); this helps to create a quantitative mirage of producing media content that the public allegedly wants, but is in reality nothing but an escape from social responsibility. Because to play the role of those who watch over the powerful ultimately means to imperil the financial interests of media publishers. A majority of them did grow out of the business-political oligarchy, or is firmly intertwined with it. Claims that investigative journalism, or simply professional and ethical journalism are expensive and uneconomic do not mean that the public does not want and demand such journalism; it only means that it is not wanted by those who guarantee publishers extra profits – who at this moment in time, in the publishers' view, are certainly not the readers.

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As a matter of fact, both small and large commercial publishers stay away from critical political journalism and only keep it alive to the extent necessary for it not to disappear completely. As market laws have never come to dominate in Croatia, and since rule of law has never been established, with the entire life of the media taking place under the watchful eye and the laws of the business-political oligarchy, it could logically have been expected that in the end, publishers would choose censorship, and trivialisation of content as a special form of censorship, as a mode of survival.

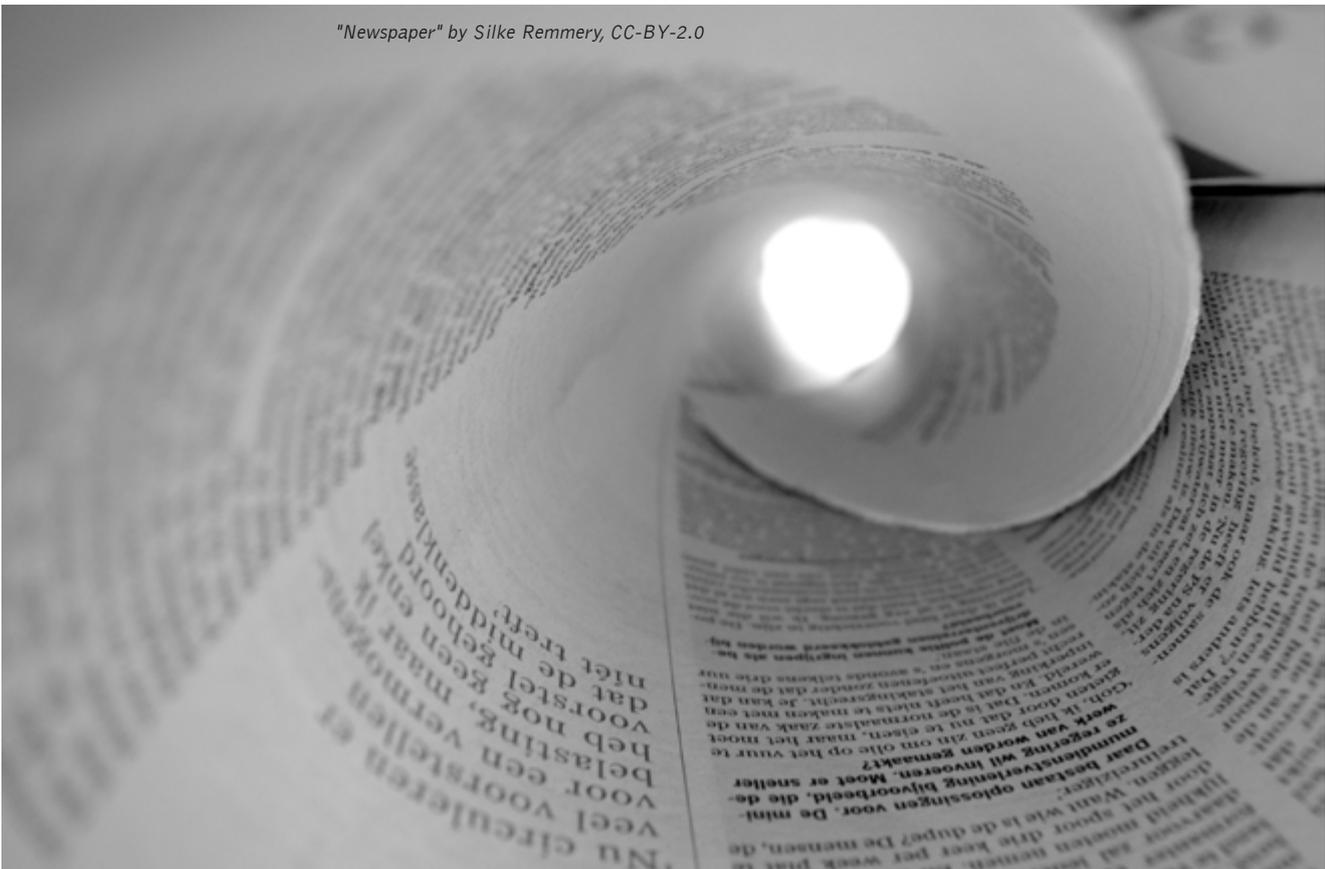
The ruins of the Agrokor company provide the best view of how the entire mainstream media system functions. While Ivica Todorčić ruled Agrokor, he was the biggest

advertiser, so no issue was made of his and his businesses' affairs. Todorčić is osmotically connected to the large media firms, which is why even after everything that has gone on, journalists do not accost him, and no cameras and fired up reporters wait outside his villa. It needs to be said that there are still enough journalists in Croatian newsrooms who would do this, but no chief editors or editorial boards have the professional integrity they would need to dare send them on such a mission or allow them to do it on their own initiative.

Political and business elites, media owners and prominent journalists/editors knew that Agrokor would crack as early as in late summer of 2016, but everyone kept quiet until the company's dealings had entirely poisoned national and regional finances.

All those who were financially dependent on advertising from the Agrokor company while it was managed by Todorčić are still financially dependent on its advertisements now that it is managed by a commissioner appointed by the Croatian government. And this ultimately means that the publishers' earnings depend on their being kind to prime minister Andrej Plenković and his administration. For this reason, the coverage of Agrokor and the functioning of Plenković's government has been mainly serflike.

"Newspaper" by Silke Remmery, CC-BY-2.0



Rare exceptions aside, our editorial boards are not democratic systems where freedom of expression and journalism based on professionalism and ethics reign, journalism whose goal it is to inform citizens on all the questions relevant to a democratic society in order for them to be able to make informed decisions. On average, Croatian editorial boards are totalitarian offices for producing media content, dominated by precarious work.

Journalists' average pay in Croatia today is lower than the national average salary, while the number of unemployed journalists has tripled in just a couple of years. A large number of those registered as unemployed have actually worked for years as collaborators on a permanent succession of short-term contracts with no worker's rights whatsoever; it is this existential pressure, in a country where unemployment has fallen exclusively as a result of accelerating emigration of work-capable population, that has created a lethal atmosphere in newsrooms.

It has been shown in practice that honourably doing one's work as a journalist, expressing critical opinions on the ruling powers-that-be – despite the fact that the public recognises and rewards such work – refusing to serve the powerful and insisting on working in the interest of the common good, can at any moment lead to you finding yourself on the street, with no income and no protection of any kind from the aggression of those who feel aggrieved by your work. For this reason, self-censorship has metastasised throughout the Croatian media. We are also witnessing the phenomenon of the author gaining the attention of the broader public, but having no media in which they could work freely.

Croatian journalism is not free. According to international organisations' evaluations measuring the global level of press freedom, Croatia has again begun an accelerated descent, while still remaining within the realm of those states considered as having a partially free media.

The fact that the situation is nearly identical in all other European transition states, and that in some developed democracies media freedoms have waned, does not bring comfort. Unfortunately, we can state that in Croatia, there has been no significant expansion of freedom of information for the past 27 years. The media have been subdued, and it is now the turn of the freedom of public speech on social networks. These days we have witnessed detentions and arrests for malignant Facebook statuses – and it is not the application of a law that recognises and penalises hate speech on social networks that is the problem, but the fact that it is exclusively selectively applied against ideological opponents. Brutal threats, slander and terrifying hate speech are not punished when they are used by members of the business and political elites, that is members and followers of right-wing parties neo-fascist groups.

Croatian citizens today are half-informed, often disinformed, and when this ties in with the ruined education system, it seems to me that this place could easily fall under a dictatorship, as the majority is entirely uninformed and unaware of why dictatorship as a form of government would be unacceptable for Croatia today, to say the least. ■■■

translated by Hana Dvornik

uneducation policy: captured education

why must education in Bosnia and Herzegovina be reformed, and why reform is impossible?

Nenad Veličković

The answer to the first part of the question – why education in BH needs to be reformed – is evident: twenty years since the armed conflict, crimes committed and mass, the Bosnian-Herzegovinian society has deteriorated in every way: growing unemployment, accelerating brain drain, inter-national tensions are high and threaten new conflicts; administration at all levels is too large, inefficient and corrupt; the budget drained and overburdened with debt. Democratic procedures have been transformed into instruments of party control over economic resources.

All this is possible because, among other things, no political option has a clear alternative to the current situation – because such an alternative would have to be built on a different social value system. The existing system is determined by the interests of capital, more specifically, by the interests of the ethnic-economic elites drawing their credibility from two sources: the neoliberal *logic* of the free market and the narrative of identity and nation.

Since these elites, who find their political embodiment in the biggest national parties (Bosniak, Croat and Serb), usurp, control and use all existing state apparatuses, including the education system, it is to be expected that education policy will also be put in service of their remaining in power.

Specifically, the curricula in primary and secondary schools (and, to a lesser extent and depth, that is, in a different form, in kindergartens and universities as well) are defined so as to favour national values, identity-based differences (of language, faith, history, culture...), while promoting entrepreneurship and private ownership,

The ethnically divided education leads directly to weakened communication, increasing mistrust and obstructing the flow of ideas, limiting and controlling competition and the market – in short, a mass provincialisation benefiting the ethnic parties leeching on the state resources.

and affirming the laws of the market and competition. Teaching methods and textbooks are antiquated, educational goals and standards low, teaching staff disunited, scared and unmotivated.

As a consequence of such education policy and practice, generations of future voters will not master the skills necessary for good democratic decision-making, primarily critical thinking based on verifiably reliable information, in the course of their thirteen-year education. The entire set of educational goals that the community of European states has set as its standard has been pushed into the background in Bosnia and Herzegovina, and is only addressed occasionally, in a way that is shallow and declarative.

Therefore, if the direct connection between the current catastrophic economic and political situation in the country and the poor education system were made, not to do which would be practically impossible, as well as foolish and irresponsible, it would be evident that without an education reform, the society cannot be reformed either.

It is clear that no reform initiative will come from those managing the educational apparatus, as they need it just the way it is. This is why no leading party programme features education as an issue. Leaving it in the background, while entering the political arena with the questions of survival, endangerment, patriotism, collective guilt, with social issues featured merely as empty rethoric, they count precisely on the education-system-guaranteed incapacity of the majority (not educated to think critically and responsibly and to make decisions objectively) to see through their strategy and become aware of its passive role in the process of pillaging the country by means of privatisation. The ethnically divided education leads directly to weakened communication, increasing mistrust and obstructing the flow of ideas, limiting and controlling competition and the market – in short, a mass provincialisation benefiting the ethnic parties leeching on the state resources.

In this context, the phenomenon of *Two schools under one roof* should be viewed merely as a logical and politically justified solution to the question of who exercises authority over education, that is, the question of the right of nationalist elites to indoctrinate those obliged to go to school in their own interests. This question cannot be solved without a rejection of an ethnically-based education, which means redefining the role and importance of subject matter related to identity and culture in the process of education, such as for instance, rejecting the premise of three allegedly distinct languages – *Bosnian, Croatian and Serbian*.

Why, however, do opposition parties not enter elections with clear and well-thought-through demands and suggestions for reforming the education system? And why do representatives of European values omit to more actively advocate for them, in the framework of their *missions* here? There are at least two reasons why opposition parties do not have active alternative education policies.

The first reason is that alternative education policy must start with alternative social values, which in this case are in opposition to the values of capitalism and ethnic nationalism. Alternative parties have not articulated such values, for purely pragmatic reasons: they do not believe that such a starting point would gain them enough votes. Which is correct, as they do not pos-

European Institutions representatives in Bosnia and Herzegovina consider education policy an internal matter of Bosnia and Herzegovina, with which they have no right to interfere. Which is incorrect, as the powers they have and the pressure mechanisms they have at their disposal would allow them to do much more. Still, they do not do it, as they are constrained by their own double, conflicting standards. Namely, their own basis is not immune to nationalism. Their own fundamental values, although obscured by pro-European euphoria, are essentially nationalist and capitalist.

sess the credibility for such an articulation, while the values themselves are not promoted through the voters' education. In fact, even the so-called *parties of the Left* have flirted with the values of the reigning Right. The best example for this can be seen in the policies pursued by the SDP (Social Democrat Party) in the period when this party held the federal, as well as four out of six cantonal education ministries.

The second reason is that opposition parties do not have the resources (neither material nor in expertise) to envisage, plan, develop, prepare and implement the necessary reform. Such resources are realistically held only by the academic community, but, just like the state apparatus, it has been harnessed for the interests of the ruling elite and has not done enough to pursue research addressing education policy and the ideological function of education.

On the other hand, European Institutions representatives in Bosnia and Herzegovina concede absolute sovereignty over education to the cantons, the Brčko district and the Serb entity, considering education policy an internal matter of Bosnia and Herzegovina, with which they have no right to interfere. Which is incorrect, as the powers they have and the pressure mechanisms they have at their disposal would allow



"Education is all – University of Manitoba" by Alan Levine, CC-BY-2.0

them to do much more. Still, they do not do it, as they are constrained by their own double, conflicting standards. Namely, their own basis is not immune to nationalism. Their own fundamental values, although obscured by pro-European euphoria, are essentially nationalist and capitalist.

For education reform in Bosnia and Herzegovina to be carried out in a way that would make education truly inclusive, modern and humanist, it is necessary to have a vision, models, instruments, funds and people.

The vision is blurred (as the wrong lens is being used), the models are dim (apart from Finland), the instruments are obsolete, funds are meagre and people discouraged.

Education in Bosnia and Herzegovina must be reformed, because it is directed against the welfare of the majority of children and it directly contributes to the paralysis of the state and the degeneration of the society.

However, reform is currently impossible, as there is no political force that could offer an alternative that could be realistically implemented.

This paradox will result in an education policy that will sabotage any reform, strengthening its nationalist and neoliberal positions using the means of the international community. The intensity and transparency of this sabotage will depend on the relations between the forces in the Parliament, but lacking a more convincing alternative, there will be no departures from the current course.

However, this short, discouraging (!) analysis dialectically suggests an entire spectrum of concrete steps that may and must be taken so that real reform of the education system in Bosnia and Herzegovina may nevertheless one day become possible. ■■■

translated by Hana Dvornik

experiences with captured states

successfully maintained obstructions

Zlatko Dizdarević

For many older and middle-aged people in the former Yugoslavia, one of the greatest and most serious sources of anguish lies in the fact that today, in this new life, the entire logic of life they grew up with in that "Former" represents a serious problem. There is much that used to be a value "then", accepted and established, that is today an object of utter denial, of ridicule. What used to be on the opposite side of morality, intelligence, and knowledge is today frequently a condition not only for prosperity, but for bare survival. Nowadays, honesty in the old-fashioned terms is all too often read as stupidity and incompetence, education as something only those "who can't do anything else" need, while openness to every kind of corruption all the way to classical thievery, is nothing more or less than proof of resourcefulness and "business capacity". For many, opportunism, to the level of a race in sycophancy, has become not merely a common necessity in their line of work, but a *conditio sine qua non*!

In a situation like this, it is difficult to reconcile oneself with the overall reality in which destruction of society and state must be read as the reality, as interest, and even policy, while the projects that are operative in bringing about these "new standards" slowly but successfully migrate into the zone comprising the normal, the unquestionable and the somewhat fatefully unavoidable. People get accustomed. The years we have left behind us, from the wars of the Nineties until today, have left their mark. Memories fade, old truths mutate into lies and deceptions, while the new criteria for good and evil, smart and stupid, wise and snobbish, have already become established as to be unimpeachable. The same goes for people

The war and peace were stopped half-way. The defeat of the greatest cannot be declared for doctrinal reasons of world politics, while the traumas of the biggest victim cannot be swept under the carpet. Here lies the permanent anguish, in response to which many inchoate solutions were given, including the programmatic "capture of the society".

and their measures of worth. Value systems are adapted for dwarves, and they have no strength, capacity or interest for a race with anything genuinely immense. Should we then marvel at the fact that new states are tailored to a new reality, which must serve the new interests and their control? Therefore they, the states, are not a product of erstwhile textbook definitions on who they are to serve, on the basis of which historic principles and theories of state and law they should be formed, which laws they should obey, what are their forms and standards, in whose interest they should be...

All of this should be kept in mind, even if just in passing, if we are to try to find an answer to the question – say, in the Bosnia and Herzegovina of today – how, why and for what was this state captured, and how come that its successful maintenance in this state of "slavery" and obstruction – is a planned and carefully sustained business.

The declared principle of three constitutional peoples that bypasses the constitutiveness of all BH citizens, that is, confining all those who do not declare themselves members of any of the three peoples to the category of "other", precludes the achievement of basic equality between all citizens of BiH. It follows logically that as such, they do not even have equal active and passive voting rights. Politics cannot solve this, as it is based on the interest of division and national exclusiveness, while the international community, whatever that may be, has no strength – meaning interest – to sanction this.

The state of Bosnia and Herzegovina, created as would-be sovereign, independent and self-sustaining, was inaugurated by the international Dayton peace agreement, as a by-product of the original intention to put a stop to the bloody war in 1995. It got out of their hands and they got tired, and the madness refuses to cease. Bad news both for the atmosphere at home and for the electoral climate for the many over there, far from Bosnia. The construction and overall effort were directed at putting an end to the shooting. They succeeded. In addition, along the way, to deal with the former darkness in the name of "a new era", of "democracy", and head off into the bright future. Here, they did not succeed. And war and peace were stopped half-way. The defeat of the greatest cannot be declared for doctrinal reasons of world politics, while the traumas of the biggest victim cannot be swept under the carpet. Here lies the permanent anguish, in response to which many inchoate solutions were given, including the programmatic "capture of the society".

The first condition for the construction of a free, rather than a captured state, has not been met because the international, will apparently inclined towards peace and concept of constitutional adaptation to the new society and new interests would neither desire nor allow it. In short, in BH, a system of "capturedness" has been constitutionally built in, a system resting on the elimination of the historical substance – a common free society – to the benefit of a destructive concept of division and the strong overriding the weak. The division sought new hate and the production of permanent intolerance, which also required a constitutional basis. And so it came to be. In a reality in which in each micro-environment, the majority

constitutionally outvotes the minority, thus producing the concept of a permanent war between the two and the third, or between one and the two, the so-called integral and independent state neither possesses a single internal sovereignty, nor is it integral or independent even to the extent necessary for it to be free, and not captured.

The second paradox that "constitutionally" determines the situation of capture of the state and society is the critical error of construction in the generally accepted democratic concept of free elections, on which contemporary states are supposed to rest. It is a notorious fact that the declared principle of three constitutional peoples that bypasses the constitutiveness of all BH citizens, that is, confining all those who do not declare themselves members of any of the three people to the category of "other", precludes the achievement of basic equality between all citizens of BiH. It is not just that they are formally, constitutionally unequal throughout the state, but it follows logically that as such, they do not even have equal active and passive voting rights. The "enslavement" of a segment of the citizenry in such a state is clear to see. Politics cannot solve this, as it is based on the interest of division and ethno-national exclusiveness, while the international community, whatever that may be, has no strength – meaning interest – to sanction this. The key ruling of the Strasbourg court on this issue has not been implemented for eight years. And not a word from anyone. Who is the captured party here?

Another, no less significant piece of nonsense lies in the fact that the country's leading political parties, generally those that stem from the three-part national constitutionality, are showing no interest in eliminating this form of a constitutional and political concept of division of society, if at least the minimum to appear to follow the evidently dubious declarations about the "European path of BH". The logic becomes clear in further discussion of the "divided" reality here, in which the lowbrow politics, entirely stolen by nation and interests, has successfully outplayed all the fundamental principles of democracy. The narrative is transparent and clear, formally attested to by invitations to free elections that, as is well known, are considered the chief mechanism for the expression of the citizens' will in choosing those who suit them most.

Recent statistical data on employment in BH show that of all the people in the coun-

try who are employed, meaning those who are more or less regularly registered as such, more than half receive their income from the state budget, from various levels of the vast public administration. From the lowest, local, to the highest levels of the entities and the so-called "state". The size of the administration in such a BH is best illustrated by the fact that throughout Europe, there will be one civil servant per one thousand inhabitants, more or less. In BH, there is an administrative servant, drawing their salary from the state budget, for every 52 citizens. Another fact: in Europe, annual financing for salaries for those employed in the public administration takes up 3-5 percent of the GDP, while in BH this amounts to 14 percent! All of this would be a problem in and of itself, beyond a strict reading of the issue of "captured society", if the local practice of complete control over the electorate by the leading parties had not been taken to the level of national and party absolutism. Simply put, getting any kind of a job in the public administration, from doorman to "boss", without enrolling in the party "tribe", is completely unimaginable. Clearly, it goes without saying that those employed thanks to family ties are suitable to the parties.

Simply, the fact that more than fifty percent of the electorate, in addition to members of the families of those employed who have the right to vote, have been bought for the ballot box, in advance and existentially. When the overall electorate is additionally divided by three, the level of control over each vote is total.

Clearly, not everyone who "enrolled" in a party has to be a great fan of the ideas of the party that got their vote, but as the old opportunist saying goes: love is love, but business is business. This is why we are in what is becoming a slightly grotesque situation between two electoral cycles, featuring deafening all-out invective against the administration and officials, parties and "leaders". And then, for more than twenty years since the establishment of the "free and democratic state", the differences between votes do not amount to more than a nuance, for the same concept and almost the same people. Those who manage to wrest the formal right given to the leading parties, protectors of the "constitutive peoples", to determine who will be the chauffeur here, and who a president as the "people's representative" there, who will be a teacher or an ambassador, a cashier or a director over there... As someone jokingly

said referring to a notorious truth: even the money given for fake diplomas that used to figure as a condition in job ads was given in vain. No diploma makes any sense if HE, the representative of the people, doesn't say that the party and the constitutive people find you suitable. If you are not suitable, the state border is open – getting a passport is still not conditional on being suitable to the party and to the people. Of course, the reverse is also true: If you are especially suitable and needed, there are no issues to you, as a national representative of this state, even its former ambassador, becoming a representative of another state's delegation in the European Parliament. Yet, you do not belong to the diaspora, but a "constitutive people" of an allegedly sovereign state. What kind of state? Well, probably a captured one.

The story of local bigwigs who managed to use their size, tricks, connections and allegiances to join the forces "enslaving" the state and its institutions from within, is well known and not exactly an exclusive. Various Miškovičes, Todoričes, and similar newfangled national oligarchs born through privatisations of the common wealth are always around. But the case of the state that was enslaved by its own laws, its own Constitution, international "historic" political decisions in the name of freedom, a state where many totalitarian aspects of depriving the citizens of those rights that were inscribed in many international charters, declarations and decisions as fundamental and inviolable have been wholly legalised – is quite a piece of nonsense. It would be even in states that are reasonably considered transparently undemocratic.

It is as if to confirm the saying, "in Bosnia, anything can always be done". It gets overlooked that the times are different, reactions are ever more intolerant, while the threshold of tolerance is sinking, even among those who do not even remember how things were when things were better. The state will somehow endure its capturedness, but the society here is less and less capable to do so. If the circumstances were objective, things could somehow still be managed. However, it is dawning on the majority that they are not objective. In BH, obstruction of change is still fed and sustained in a planned fashion. And so is state capture. ■■■

translated by Hana Dvornik

local captured state – an empirical view

Nives Miošić-Lisjak

According to the results, capture produces numerous negative effects – from creating new or widening existing inequalities (access to jobs, access to business opportunities, possibilities of self-actualization), through generating a sense of inability and pointlessness of public action, to political apathy and disinterest in politics on the part of citizens. On its own, each of these elements has a negative effect on the political and social development of local communities, while their combined effects are seriously detrimental to the further development of democracy.

In contemporary attempts to explain, or at least describe governance practices that are, for the most part, falling short of fulfilling the needs of communities, or indeed entire societies, social scientists, donors and civil society organisations are increasingly referring to a relatively new concept – capture, and its alterations – state capture, policy capture, regulatory capture. Like most concepts denoting processes, the definition is somewhat elusive, as processes are deeply contextualized. Yet, there are a few common characteristics that might help in identifying capture; these include the control of public resources and their allocation to the benefit of a particularist interest (or interest groups) based on, often entangled, political, economic and social power and influence.

Unlike corruption, which might be limited to a single occurrence, capture is systemic and structural and persists over an extended time period, thus causing significant social, economic and/or environmental harm and undermining the core democratic values.

A team of researchers from academia¹ and civil society in Croatia recently conducted research on local state capture and publicized the results, under the title *Croatia's Captured Places*². Using the case study approach, the research examined governance practices in three cities – Zagreb, Dubrovnik and Slavonski Brod, and one county – Istria, focusing on actors and mechanisms of capture, including the extent to which citizens of these communities are aware of and opposed to such practices. By choosing different localities in very different areas of the country, with very different types and quantities of resources, and with different types of political actors and political blocks in power, the research attempted to outline the key characteristics of local state capture in Croatia.

The results of the research confirmed the presence of capture practices in each of the localities, yet on a different scale, and adapted to local political contexts as well as to the nature and quantity of resources available. Additionally, it confirmed the astuteness of actors in combining formal rules and informal practices in order to achieve particularist interests.

1 dr. Paul Stubbs, Institute of Economics, Zagreb; prof. dr. Berto Šalaj, Faculty of Political Science, Zagreb University; prof. dr. Siniša Zrinščak, Faculty of Law, Zagreb University, and four researchers from GONG – Nives Miošić-Lisjak, Dražen Hoffmann, Duje Prkut and Dragan Zelić.

2 http://www.gong.hr/media/uploads/croatia's_captured_places.pdf

According to the results, capture produces numerous negative effects – from creating new or widening existing inequalities (access to jobs, access to business opportunities, possibilities of self-actualization), through generating a sense of inability and pointlessness of public action, to political apathy and disinterest in politics on the part of citizens. On its own, each of these elements has a negative effect on the political and social development of local communities, while their combined effects are seriously detrimental to the further development of democracy.

In terms of policy areas, the research unearthed several that are "conducive" to capture: employment/appointment procedures, communal construction works, spatial planning and social policy, each fulfilling several functions enabling or perpetuating capture, as depicted in the Table below.

Common elements identified in all localities fall under the denominator of *captured control mechanisms* – the political opposition, the media and civil society. Weaknesses of the opposition are again locally highly context specific, while the local media and civil society are financially dependent on local authorities, which constrains almost entirely any type of criticism, and consequently impede their working in the public interest. Critical voices are subdued by disciplinary measures including public defamation, (threats of) withdrawal of funding and/or working space.

Functions		Expanding networks	Exerting control over networks	Increasing quantity and value of resources in the network	Resource distribution within network	Increasing chances of re-election	Gaining the political support of other political options
Mechanisms	Employment/appointments	X	X		X	X	X
	Communal construction works		X	X	X	X	
	Spatial planning	X		X			
	Social policy measures					X	X

Capture practices are enabled and supported by existing legal and institutional frameworks, and are developed in interaction between identified local agents of capture and the leading national parties (HDZ and SDP), allowing for a hypothesis that the practices present in the four localities are occurring nationwide. Namely, an *invisible hand of the political market* in all localities has been identified, although the modalities of "political trading" between the local and national levels are highly contextualised. Thus, in Istria, the IDS "trades" both with the HDZ and the SDP, justifying such an approach by the need to implement projects important to the inhabitants of Istria, regardless of ideological differences. In Zagreb, Milan Bandić "trades" primarily with the HDZ at the national level, by providing political support to the HDZ in the Croatian parliament, but also by employing

the HDZ's rank and file in city-owned companies that he controls. Mirko Duspara in Slavonski Brod, on the other hand, "trades" primarily with the SDP, since his political carrier took off once he established himself as an antipode to the HDZ. He ensures employment for members of the local SDP and provides implicit support to the SDP in national elections. Dubrovnik mayor Andro Vlahušić used the deal between the SDP and the HNS on the national level, where his party – when they were the junior partner in the ruling coalition – controlled ministries important for "heavy-duty" projects, which Vlahušić would implement locally. The flip side of this, i.e. the support Vlahušić received from the HNS and the SDP, can be interpreted as their wish to politically control Dubrovnik, given the size of its budget, its reputation globally, but also the projects planned for the future.

Common elements identified in all localities fall under the denominator of *captured control mechanisms* – the political opposition, the media and civil society. The weaknesses of the opposition are again highly specific to the local context, while the local media and civil society are financially dependent on local authorities, which constrains almost entirely any type of criticism, and consequentially limits their ability to work in the public interest. Critical voices are subdued by disciplinary measures including public defamation, (threats of) withdrawal of funding and/or working space.

The citizens are aware of the mechanisms leading to capture, but they consider them to be part of the "normal" and sometimes "expected" behaviour of politicians. For citizens, integrity is not the basis on which they make political choices; they thus seek an alternative point of difference between candidates. In the four cases examined, voters opted for powerful, charismatic leaders with strong political instincts who successfully built their images as "benefactors". Since the dominant position is that political corruption is the starting point of Croatian politics, voting for a "benefactor" creating multiple patron-client relationships is not a problem.

Captured democratic control mechanisms and the failure of voters to punish the lack of political accountability mean that the key mechanism of representative democracy – political "punishment" of the governing by the governed – has been lost. Therein lies the biggest of dangers to further development of democracy.

The authors offered two sets of recommendations to strengthen the points of resistance to local state capture. The first set focuses on necessary legislative changes, arguing for the need for these changes to take place simultaneously in order to be "revolutionary". At a more realistic level, the authors argue that these changes would at least increase the transaction costs of capture. The second set of recommendations is more long-term, focused on the necessary increase of the level of political culture among the citizens through coordinated impact of the education system, with the support of organized civil society and through expanding the few existing, yet very important, independent (non-profit) media outlets and support to local citizen initiatives opposing capture practices. ■■■

when state capture and myths of victimization meet the story of a party's attempt to prevent democratic alternation of power

Jovan Bliznakovski

The April incident represents just one of the manifestations of VMRO-DPMNE's strategy to prevent government alternation which most broadly contained two main elements: 1) reliance on the already established mechanisms of control of the institutions and 2) reliance on ethnocentric myths of victimization which were used to create an image that the fall of the party would bring to a "destruction" of the state. Through these two actions VMRO-DPMNE managed to significantly affect the institutional and political outcomes, as well as to ensure public support through the last several years.

The protracted fall from power of VMRO-DPMNE in Macedonia, a process lasting for more than two years, represents an extraordinary series of events which by itself merits attention. A political elite caught "red handed" in a long list of wrongdoings has managed to remain a pivotal political competitor and a factor preventing government alternation. Many would agree that this is an impermissible situation for a country with a recommendation for opening EU accession negotiations. This "success" of a party responsible for one of the most notorious political scandals in contemporary Europe was partly achieved through reliance on ethnocentric myths of victimization. These myths have served a legitimizing function and assured a great level of public support for an openly corrupt political elite. The article describes how this was done, singles out the implications and discusses how myths of victimization affect the project of EU enlargement in the Western Balkans.

dual strategy for prevention of government alternation

VMRO-DPMNE's eleven-year rule in the Republic of Macedonia (2006-2017) came to a close during April and May, when a new parliamentary majority took control of the parliament and appointed a new government. For many, this was the only possible outcome following the Wiretapping Affair of 2015 which revealed the character of VMRO-DPMNE's government. With the publication of the wiretapped recordings, Macedonian citizens had the possibility to explicitly witness the specifics behind the state capture operation. The revealed conversations indicated an extensive list of wrongdoings, beginning with the unlawful wiretapping itself (directed at both individuals supportive of, or opposing the rule of VMRO-DPMNE, as well as the party's own members) and ending with many episodes involving flagrant abuse of power, including but not limited to corrupt acts, electoral fraud, actions aimed at establishing control over public and private media and suppression of the opposition and the civil sector.

Yet, the party and its elite proved to be very resilient. It managed to significantly

Jovan Bliznakovski
PhD fellow at NASP, Graduate School of Social and Political Science, University of Milan. In the period 2014-2016 served as programme director in the Institute for Democracy "Societas Civilis" (IDSCS), Skopje, Macedonia

Despite the constitutionally guaranteed bilingualism, and despite the existence of no explicit connection between bilingualism and federalization, and moreover without publicly present tangible demands for federalizing the country by key Albanian political leaders, VMRO-DPMNE managed to manipulate the distrust of segments of the public to block government alternation for several months. As outlined, this was done by constructing a complex narrative of conspiracy against the country, implicitly directed against the Albanian ethnic group and with cues for alleged domestic and international involvement against Macedonian statehood and self-determination.

diminish the achievements of the EU-brokered "Przhino Agreement", which aimed to create a level political playing field and which designed steps for assuring accountability. VMRO-DPMNE managed this through reliance on the captured institutions, in which the party continued to "push the buttons" in order to ensure electoral advantage and impunity. Perhaps more remarkably, the party stepped down from power while still enjoying significant political popularity despite the clear responsibility related to the wiretapped revelations: VMRO-DPMNE won 51 MPs in the 120-seat Parliament at the December 2016 general elections, as well as the largest portion of votes. Finally, when it became increasingly clear that despite the significant electoral achievement, VMRO-DPMNE would not manage to negotiate a majority in the parliament, the party utilized its ethnocentric appeal to further delay its imminent fall. As a result, the country remained in the well-known state of protracted political crisis that the elections were supposed to swiftly resolve.

The events of spring 2017 clearly exposed VMRO-DPMNE's dual strategy for prevention of government alternation. On the night of 27 April, protesters from the ethnocentric movement "For Common Macedonia" stormed the parliament, demanding annul-

ment of the election of a parliamentary speaker, which represented the first step leading to alternation of power. Protesters claimed that alternation would cause severe damage to the state, its unitary character, and the position of the Macedonian ethnic group within it. The protest got out of hand when MPs from the new parliamentary majority were physically attacked inside the parliamentary premises. State institutions remained cut off and failed to react promptly, a situation which fuelled the public agony of uncertainty during the bloody night. While intervention was assured only several hours after the violence erupted, the public quickly learned that the command chain in the police force was largely responsible for the failure to react promptly and accordingly.

Thus, the April incident represents just one of the manifestations of VMRO-DPMNE's strategy to prevent government alternation which most broadly contained two main elements: 1) reliance on the already established mechanisms of control over the institutions and 2) reliance on ethnocentric myths of victimization which were used to create an image that the fall of the party would bring about a "destruction" of the state. Through these two actions VMRO-DPMNE managed to significantly affect institutional and political outcomes, as well as to ensure public support through the last several years.

brief history of the equation between state and party

VMRO-DPMNE's history is instructive for understanding the high ethnocentric appeal that the party enjoys in the present day. It was established as a political party championing the cause of ethnic Macedonians, claiming to be a direct descendant of the Internal Macedonian Revolutionary Organization (VMRO), a rebel group active at the turn of the 20th century, which demanded self-rule for Macedonia (then part of the Ottoman Empire). VMRO-DPMNE was one of the first political actors that openly pressed for Macedonia's exit from the socialist Yugoslavian federation. Despite being very popular during the whole first decade of Macedonian independence due to its patriotic branding, it only managed to attain power in 1998, missing a chance to lead the country following the first multiparty elections (1990) due to its unwillingness to form a coalition with an ethnic Albanian political party.

Having spent the first decade of Macedonian independence largely in opposition, VMRO-DPMNE stood against the Interim Accord with Greece (1995), and in particular against the provisions that cemented the use of the name "the former Yugoslav Republic of Macedonia (FYROM)" in multilateral international relations and the change of the state's flag stipulated within the agreement. Internally, it stood against the concessions that the SDSM-led government made to the Albanian minority in the country and in particular on the issue of Albanian language higher education. In this way, it broadened its ethnocentric appeal and strengthened its ethnic Macedonian electoral base.

The internal conflict of 2001 and VMRO-DPMNE's acceptance of the Ohrid Framework Agreement (OFA) that ended it, somewhat diminished the party's reputation among Macedonian nationalists, but only for a short time. The OFA led to a more inclusive framework of the state with regard to the ethnic minorities, and especially the Albanian ethnic group, whose demands were the main drivers of this redefinition of the Macedonian polity. This was seen by many ethnic Macedonians as harmful for Macedonian interests. The outcome of the conflict, as well as the electoral defeat at the hands of SDSM at the 2002 elections brought changes in the party leadership – long-term president Ljubcho Georgievski was replaced by Nikola Gruevski. During Gruevski's leadership, the party went on to reclaim and expand its ethnocentric appeal and managed to achieve a significant success – winning four rounds of general elections in a dominating fashion (2006, 2008, 2011, and 2014).

Under Gruevski, VMRO-DPMNE strengthened its opposition to any agreement with Greece over the name dispute, reframing the conflict as a question of national identity. Furthermore, Gruevski's government created a new dynamic in the overall dispute – by pursuing a programme of so-called "antiquisation" (best visible in the "Skopje 2014" project), which aimed to establish a historical continuity between the ancient kingdom of Alexander the Great and the contemporary Macedonian state, an idea towards which Greece is unequivocally opposed. This further complicated the possibilities for resolution of the long-standing name dispute, which represents the most important external obstacle for Macedonia's EU/NATO accession.

VMRO-DPMNE's reluctance to reach a deal with Greece, as well as the recourse to "antiquisation", was seen by many ethnic Macedonians as a matter of national pride. These actions went in parallel with VMRO-DPMNE's success in publicly demonizing the opposition as "treacherous", and in further framing the concessions of the 1990s and the early 2000s as a "sellout" of the Macedonian national interests. By the Bucharest NATO Summit in 2008, which "buried" Macedonia's ambitions to join the Alliance, VMRO-DPMNE was largely viewed internally as the only protector of ethnic Macedonian interests. Despite the inability of VMRO-DPMNE's governments to bring NATO membership to the country (and later to start accession negotiations with the EU), the party's popularity remained stable – high and constant – throughout the years.

a myth intended to save from an imminent fall

VMRO-DPMNE faced the Wiretapping Affair in this mode: largely seen internally as the sole protector of Macedonian interests. Contrary to the accusations of significant wrongdoing, the party publicly pushed a narrative in which it presented itself as a victim in the scandal, claiming that (never precisely named) foreign secret services had joined forces with domestic "traitors" to push an agenda consisting of two points: federalization of the country and speedy "sell-off" of the country's name. A part of this narrative lay in the disagreement that the wiretapped recordings were authentic at all; instead, VMRO-DPMNE claimed that the recordings were fabricated in an attempt to conspire against Macedonian statehood.

VMRO-DPMNE's campaign for the December 2016 elections was also focused on the outlined conspiracy theory. While the opposition SDSM promoted an agenda of advancement of official use of the Albanian language, VMRO-DPMNE used this as "proof" that the country will be federalized if government alternation takes place. This was, of course, very much exaggerated, given that the Albanian language has been used in official communication in Macedonia since 2002 and this was done while reaffirming the country's unitary framework.

When the leaders of Albanian parliamentary parties agreed a joint platform after the elections, which also included demands for advancement of the use of Albanian

language, VMRO-DPMNE depicted this as interference of the Republic of Albania in Macedonia's internal dealings. Gruevski used the media to call for "defence" of the state, claiming that it is "under attack" by domestic and external conspirators. Upon this, the movement "For a Common Macedonia", which served as a cover-up for the April events, emerged. Its main demands closely reflected VMRO-DPMNE's positions and multiplied the reach of the "federalization myth".

Despite the constitutionally guaranteed bilingualism, and despite the existence of no explicit connection between bilingualism and federalization, and moreover despite there being no tangible public demands for federalizing the country by key Albanian political leaders, VMRO-DPMNE managed to manipulate the distrust of segments of the public to block government alternation for several months. As outlined, this was done by constructing a complex narrative of conspiracy against the country, implicitly directed against the Albanian ethnic group and with cues for alleged domestic and international involvement against Macedonian statehood and self-determination.

the EU must deal with the myths of victimization operating in Western Balkans societies

The "blockade" that Macedonia experienced in its EU and NATO accession processes has directly contributed to the development of the myths of victimization that VMRO-DPMNE skillfully used to prevent alternation of power. Large segments of the population began to cultivate a genuine mistrust towards the international community and especially towards the EU, which was increasingly seen as a factor going against Macedonian positions in the name dispute with Greece. Public opinion polls show that a majority of Macedonian citizens (and especially those from ethnic Macedonian backgrounds) do not support Macedonian accession to the EU if it is subject to concessions regarding the name of the state (66% of citizens hold this attitude according to a poll conducted by IDSCS in 2016). At the same time, when EU accession is "disconnected" from the name dispute, joining the EU has extremely high support among the Macedonian population (80% according to the same poll). This signals a need for a different approach by the EU, one that would be more sensitive towards the identity concerns of the Macedonian population. If such an approach is not initiated, Macedonia is at risk of experiencing another authoritarian episode in which the myths of victimization will play a prominent role.

The EU should also draw lessons from the Macedonian experience in dealing with other countries of the Western Balkans group, a geography where various divisive historical myths operate to negatively affect contemporary developments. Understanding that the myths of victimization are important for contemporary politics in the Western Balkans, and moreover, finding a way to curb their negative effects, should be one of the key tasks of EU policy towards the region. Making the membership perspective more credible for the Western Balkans countries will have a profound effect in minimizing the "voices" against EU accession, even when they are based on complicated identity issues that fuel the ethnocentric myths of victimization. ■■■



**Heinrich Böll Stiftung -
office for Bosnia and Herzegovina, Macedonia, Albania**

BIH – Čekaluša 42
71000 Sarajevo

P +387-33-260 450

F +387-33-260 460

E info@ba.boell.org

W www.ba.boell.org

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