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SECURITY IN TRANSITION:
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INVESTIGATION INTO THE
SECURITY GAP

EU in the Western Balkans: Hybrid Development, Hybrid Security and Hybrid Justice

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Paper commissioned by the Human Security Study Group

SiT/WP/03/16

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Security in Transition
February 2016, London

Abstract

This paper analyses multiple policy instruments used by the EU and their effects in the Western Balkans from a conflict networks perspective, developed by the authors. The conflict network perspective is an agential approach to the effects of networks on peacebuilding outcomes that analyzes relations rather than actors or categories. It allows us to capture an enduring character of relations developed through war-time violence which are sustained and reworked in the context of a local political authority in response to the international peace-building efforts. The three case studies of hybrid development, hybrid security and hybrid justice, demonstrate how the EU policy produces three types of outcomes: subversion, unintended consequences and a qualified success, when it encounters a networked nature of the political authority. We conclude by reviewing the risks for the EU policy in the Balkans and identify policy implications.

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Introduction

Since the late 1990s, and following its early diplomatic efforts to mediate in the conflict that destroyed former Yugoslavia, the EU has been a lead international actor engaged in supporting the peacebuilding process in the Western Balkans[1], after it took over both military missions and civilian roles from NATO and the UN respectively. It has deployed a full array of military and civilian instruments available under the CFSP umbrella alongside enlargement instruments specially tailored to address the legacy of armed conflicts. On the territory of former Yugoslavia, five military and civilian missions mandated to maintain safe and secure environments for the implementation of peace agreements which ended armed conflict in Bosnia-Herzegovina (Dayton PA), Kosovo (UN Resolution 1244) and FYR Macedonia (Ohrid agreement), have been implemented. Those missions were upended by the launch of the Stabilisation and Association Process (SAP) as a broader policy framework to support peacebuilding by pursuing an EU member state-building agenda. Although SAP has formally been the main framework for the EU engagement since 2001, in practice it has been paralleled by explicit instances of CFSP action outside and beyond the CSDP missions; moreover, the specifically tailored SAP conditionality works across the CFSP and enlargement policy portfolios.

While the EU's approach to the Western Balkans has evolved over the years, its primary focus has been to maintain security and prevent reactivation of armed violence both within and between states. Such an aptitude is demonstrated in the application of policy conditionality, which remains primarily responsive to security dynamics in the region. As a result, other constitutive aspects of peacebuilding, including economic development and support to civil society and broader issues of social justice, including transitional justice, have been effectively subservient to a narrow stabilisation agenda. This has arguably worked to circumscribe the overall impact of EU intervention in advancing conflict resolution and peacebuilding objectives in the Western Balkans. A number of events in 2015 seem to corroborate this view, prompting some commentators to claim that inter-state relations across the Western Balkans are at their lowest in a long time with the local leaders' rhetoric erringly reminiscent of early 1990s (Dedic, 2015). Capturing most potently a still fragile state of reconciliation in the region- both among the political elites as well as the general public- is the case of Serbia's prime minister Aleksandar Vucic's ill received initiative for a region-wide commemoration day for all the war victims in the region, he launched after the Srebrenica incident (Bojicic-Dzelilovic 2015).

In this paper we make an argument that EU interventions in the Western Balkans have had an ambiguous effect in terms of conflict resolution and peacebuilding outcomes. Depending on the issue area, the interventions have either produced unintended

[1] Western Balkans includes Albania, Bosnia- Herzegovina, FYR Macedonia, Kosovo, Montenegro and Serbia.

consequences, had counter effects with respect to stated objectives, or proved a qualified success. Such outcomes can be traced to three main shortcomings in the existing approach to peacebuilding in the Western Balkans pursued by the EU : 1) state-centric focus ; 2) the fragmentation across policy domains ; and 3) inconsistent conditionality. The paper maps the EU interventions in the Western Balkans since the breakup of Yugoslavia, and traces the EU's changing role as a peacebuilding actor, by focusing on the relationships across the levels at which the EU interventions operate and across the policy domains. To illustrate the instances of tensions, gaps and potential successes attributed to such policy interventions, which have produced a distinct form of hybrid peace, the paper adopts a conflict network perspective (elaborated below) to analyse the impact of EU policies in three areas: private sector development, security sector reform, and justice and reconciliation. The concluding section summarises the findings and refelcts on policy implications.

EU in the Western Balkans: Policy Overview

The establishment of the Stablisation and Association Process (SAP) after the Kosovo war in 1999 offered an emergent European perspective for Western Balkan countries. The SAP expressed a commitment to the region's economic and structural development, through EU financial and technical assistance and through the establishment of provisions for the adoption of key EU principles of rule of law, democratic processes, free markets, and stable institutions. Below, a mapping exercise of the instruments employed by the EU reveals a variety of different approaches to Europeanisation in the Western Balkans at regional, state and local levels.

Humanitarian

EU's engagement in the provision of humanitarian assistance for basic social needs including food, water, hygiene, medicine, clothing and so on, goes back to the early stages of the conflict triggered by the former Yugoslavia's dissolution. European Community Monitoring Mission in Bosnia- Herzegovina was for example involved in negotiating humanitarian operations with the local warring parties. Humanitarian assistance was directed by the **European Community Humanitarian Office (ECHO)** established in 1992, which operated in partnership with the International Committee of Red Cross, UNHCR, UNICEF, the World Food Program, and international non-governmental organisations. Besides the partnership with other agencies, ECHO directly engaged in assisting refugees and displaced populations throughout the region in the immediate post-conflict period.

Stabilisation

EU policies concerning stabilisation have been directed primarily at the state and regional level. The **Stability Pact** of 1999, pre-dating the SAP, was established with the aim of transforming the governance dynamics of the region, and became a central complementary mechanism in support of the SAP. Addressing the varied aspects of governance development in the Balkan neighbourhood, the Stability Pact was divided among three Working Tables, reflecting areas of concern for domestic reform as, Democratisation and Human Rights, Economic Reconstruction, Development and Cooperation, and Security Issues.

In 2008, the Stability Pact was replaced by the **Regional Cooperation Council** (RCC), functioning as an instrument for regional cooperation whose key role was to "generate and coordinate developmental projects of a wider, regional character, to the benefit of each individual participant".[2] The RCC framework reflects a dominant focus on the regional level and a concern for establishing the domestic and regional conditions for the implementation of European developmental projects primarily in the area of Justice and Home Affairs, to which the fight against organised crime and the management of migration and asylum pertain.

Association

The European Union has signed **Association Agreements** with third parties on a bi-lateral and multi-lateral level to engage primarily with trade and liberalisation reforms. In the Western Balkans, these agreements have been extended to establish a privileged relationship that goes beyond mere cooperation and actively seeks to create instruments that can monitor and enhance the progress of reforms. Because of using a bilateral track, the impact of these agreements has been stronger at the state level than the regional level, where multi-country agreements have been signed, such as the establishment of the European Common Aviation Area in 2006.

Bi-lateral negotiations have figured prominently in the EU's strategy towards its immediate neighbouring countries. Even before the establishment of a clear path to EU candidacy, and before the SAA in early 2001, bi-lateral negotiations between the EU and Serbia-Montenegro led the EU to become directly involved in the political process of dissolution of the Federal Union. Whilst Javier Solana sought to preserve the unity of the Federal Union, the degree of autonomy obtained by Montenegro, as well as the weakness of the Union institutions, combined with the extension of reform-inducing **conditionalities**, accelerated the widening of the gap in capacity between the two entities as they failed to harmonise their policies and structures towards a common EU future (Tocci, 2007:96).

2 Regional Cooperation Council. *Overview.* http://www.rcc.int/pages/2/overview

Whereas Association Agreements replaced previous Cooperation Agreements and reinforced the role of the EU in the region, the signing of **Stability and Association Agreements** (SAAs) between the EU and its regional partners in the Western Balkans signified a further re-definition and more permanent cementing of EU's role in the region. The focus on EU assistance, once again, remains mainly at state level, with agreements establishing extensive technical assistance to support institution-building, and the attainment of standards necessary for the start of pre-accession talks. In the case of Bosnia, instruments such as the adoption of a State Aid Law stem directly from the SAA and, together with other state-level provisions such as the establishment of census law, were aimed at addressing important institutional reforms deemed central for the country's EU integration prospects.[3] The establishment of a clear European prospect for Bosnia, led the European Union to merge its Special Representative Office with its Delegation Office in Sarajevo, in order to combine the assets of the European Commission and of the European External Action Service; this was also the case in FYR Macedonia. An additional instrument has been applied in the form of **European Partnerships**- as detailed country-tailored reform road maps in support of SAP.

The impact of association policy at the local level has figured less prominently. The EU has also embraced several important **local-level projects** carried out by national governments, with considerable support from the EU and EU-funded bodies, with the purpose of cascading EU provisions at the community level. For instance, in the area of community security in Kosovo, as per SAP outcomes, the EU has pledged support for the Action Plan on the Implementation of the Strategy for the Integration of Roma, Ashkali and Egyptian Communities. This project, initiated in 2009 and still on-going, also sees the support of the European Council's Project 'Cross Culture' and of other international organisations and human rights pressure groups. The importance of civil society has been recognised within both the SAP, as well as within the larger CFSP framework. Civil society policy recommendations have influenced EU policy-making by generating projects that have considerable social impact.[4] Nonetheless the EU's policy emphasis on civil society has not resolved the tension between civil society development as an end in itself, as opposed to civil society development as a means for approximation to the EU. The tension was resolved in favour of the latter with civil society development being guided by immediate priorities of European integration. Such resolution has a practical and operational rationale. The SAP, with its comprehensive reformist political and economic agenda, has served as the anchor of reforms enacted in the Western Balkans states. However, it also reflects the EU's move to prioritise member state-building, akin to that of Central and East European aspirants to the EU membership, as opposed to post-conflict state-building, which would entail a

[3] Council of the European Union (2011) Conclil Conclusions on Bosnia and Herzegovina. 3076th Foreign Affairs Council Meeting, Brussels 21st March 2011. p.1.

[4] For example, see the long term plan "Policy Committents for the integration of Roma, Ashkali and Egyptian Communities 2016-2020" in Kosovo .http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV%3Al14536

much broader reconstruction agenda to states and societies emerging from violence and destruction.

Accession

With the signing of SAA agreements regionally, the focus of the EU shifted towards pre-accession instruments that could support the development of cross-cutting regional cooperation. Given the establishment of a clear prospect for accession into the Union, several mechanisms have been in place to initiate and sustain accession processes in the Western Balkans. Amongst these instruments, bi-lateral agreements such as the SAA have the purpose of providing a framework for dialogue and negotiation between the EU and applicant countries.

Political and economic dialogues, such as the EU-supported Dialogue between Prishtina and Belgrade also represent steps towards the consolidation of the process of accession; it is expected that the outcomes and decisions taken as part of the Dialogue are incorporated into the formal negotiation process for accession. In 2012, the Commission introduced the High Level Accession Dialogue in FYR Macedonia, operating through the meetings between the Prime Minister and the Commissioner for Enlargement, which further extended the EU's engagement with the local political establishment to prevent the country's political destabilisation and keep it on the accession path.

These mechanisms which are administered at state-level speak directly to the EU's capacity-building project. **National Programmes for the Adoption of the Acquis,** for instance, more specifically and technically establish the timetable and the resources allocated to each applicant in its accession path. In the case of the Western Balkans, **Instruments for Pre-Accession Assistance (IPA)** have replaced Community Assistance for Reconstruction, Democratization and Stabilisation (CARDS), in generating momentum and financial support for institutional reforms, and encouraging regional cooperation.

Reform implementation has been prioritised by focusing, at the local level, on mechanisms of training and support, which aim to train local stakeholders whilst at the same time targeting the alignment of local knowledge and expertise to European and donor standards. These projects address to an extent the local level, by focussing on specific areas of need. **Technical Assistance and Information Exchange programmes** (TAIEX), in operation since 1996, have sought to address particularly the delivery of support, are peer-to-peer, and aimed at short-term institutional development and capacity-building. In Kosovo, for instance, several projects have seen the arrival of many area-specific experts that have instructed local structures of government on issues concerning justice and security; for instance, a 2010 TAIEX project saw the deployment of European expertise on a project concerning assistance on civil aviation security.

Impact at the civil society level has been significantly more limited. Within the SAA framework, the EU has initiated and carried out projects that sought to enhance the participation of candidate countries such as Croatia in **community programmes:** an example is Tempus[5], the trans-European cooperation scheme for higher education. Furthermore, the European Commission has interacted with civil society primarily through consultations aimed at enhancing and improving donor coordination and knowledge of local circumstances; in the Western Balkans one of the most successful examples of consultation with the civil society has taken place in the context of dialogue on visa liberalisation.

CFSP

Whilst the EU has arguably always approached regional security policy as a single external strategy, it was not until the establishment of a singular body of the European External Action Service (EEAS) that efforts were made to create a unitary diplomatic corpus to gather staff, documents and policies from the Council, the Commission and Member States under one umbrella entity.

Nowhere is the EU's contribution to security in the Western Balkans more substantial and expanded than in the area of **Rule of Law and Police training.** With ground-breaking missions in Bosnia and Kosovo, EU's strategy for the CFSP addressed the regional aspect of normalisation of relations by tackling issues such as cross-border relations and trafficking. The EU Rule of Law Mission in Kosovo (EULEX), deployed in 2008, has had the principle purpose of training local police, fostering Prishtina-Belgrade relations, gathering evidence and statistical information on human rights abuses and human trafficking, and handling high-profile war crime cases.

Nevertheless, the strongest impact of security provisions has taken place at the state level. Given that much of the EU's efforts in the region have concerned strengthening governance and state institutions, most instruments have tackled the issue of security at the level of each individual state. In the case of Kosovo, the SAP-related meetings have been established to monitor institutional reforms in key areas including security and justice. The European Union has engaged with **mechanisms that address more traditional aspects of security and defence,** such as through the establishment of Western Balkans Defence Intelligence Chiefs (WEBADIC), Disaster Preparedness and Prevention Initiative for South East Europe (DPPI SEE), and South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC). Under the RCC framework, however, security activities have seen a shift away from defence and the military sector "to non-military areas such as international terrorism and cross-border organised crime."[6]. In FYR Macedonia, the EUPOL mission Concordia

5 Council Decision 99/311/EC of 29 April 1999 adopting the third phase of the trans-European cooperation scheme for higher education (Tempus III) (2000-2006)

6 Conclusions. Seventh Meeting of Working Table III, Bucharest, June 5-6, 2002. http://www.stabilitpact.org/wt3/020606-conclusions.doc**.**

that was established in 2001 to secure the suitable environment for the implementation of the Ohrid Agreement provisions against a backdrop of violence, was considerably downsized in 2003, with the emergence of EUPOL Proxima. Likewise, operation Althea in Bosnia was downsized in 2012, and now mainly ensures the provision of capacity-building activities such as monitoring and support (EU CSDP Althea Factsheet, 2015). Within the current RCC framework, the emphasis is instead placed on enhancing the resilience of **regional bodies in the disaster risk reduction area** (Regional Cooperation Council 2014). In Kosovo, EULEX, has dedicated itself to training of police and judges, as well as to enhance inter-ethnic cooperation at the institutional level. EULEX also evidences an involvement at the local level, through the establishment of a specialised unit, the Religious and Cultural Heritage (RCHS) Unit, to "comply with ethnic minority safety concerns", in areas concerning the protection of cultural and religious rights. The table below provides an overview of the main EU policy instruments applied in the Western Balkans, in terms of primary level of engagement, namely regional, state, local government and civil society.

Table 1 : Level and degree of EU policy in the Balkans

Levels	EU Policies				
	Humanitarian	**Stabilisation**	**Association**	**Accession**	**CSFP**
Regional		●	○		
State		◉	●	●	●
Local	●		◉	◉	
Civil Society	○		○	○	

Legend: Degrees of focus of EU policy

● Dominant

◉ Tangential

○ Marginal

The Outcomes of EU Policy in the Western Balkans: Subversion, Unintended Consequences and Qualified Success

The peacebuilding literature has devoted relatively scant attention to the strategies local actors use to negotiate international interventions, and to the distinct ways in which they adapt both to the emergent constraints as well as opportunities, by mobilising their social networks to that end (Zahar 2003). A preference for engaging with formal institution and institutional processes leaves those practices outside the cognitive and instrumental purview of EU intervention. Consequently, a strict focus on the institutionalisation of ethnic co-operation between different groups in the Western Balkans may have obscured the processes of inter-ethnic relationality that are not formally included in the framework of analysis, and that exist beyond the formal structures and procedures set up to foster inter-ethnic dialogue. Traditionally, then, any progress made in relation to security is attributed to these frameworks that spell out provisions for ethnic inclusion, thus establishing and reinforcing the necessity for the securitisation of identities with a knock on effect on the processes of reconciliation and peacebuilding.

Peacebuilding from a Conflict Network Perspective

We adopt a conflict network[7] perspective to analyse three outcomes of the EU policy in the Western Balkans: subversion, unintended effect, and qualified success. The conflict network approach is informed by a relational turn in the critical peacebuilding literature. It is an agential perspective, in that it focuses on the effects of networks on peacebuilding outcomes, by analysing relations rather than actors or categories. In the context of external intervention such as by the EU, it takes an alternative view to the Weberian conception of state capacity focused on functionality and resources which informs the EU peacebuilding/ state building approach. Instead, from a relational perspective, state capacity is reconceptualised as a structure of local power relations. Therefore, it is a critique of the conception of state "as ideally divorced from politics, economics, and society" (Wesley 2008, 380), which is particularly problematic in the light of deep social transformation associated with violent conflict engaging different sections of the local society. Understanding the nature of war-related social transformation is therefore a quintessential precondition for building an effective strategy to assist post-conflict peacebuilding.

The following analyses also builds on the local turn in the peacebuilding scholarship. The local context is thus a key site and perspective through which the external policies are understood and engaged with. As such, it is a challenge to the top-down perspectives, embodied for example, in the criticism of liberal peace- and state-building as neo-colonial practices. It is a normative perspective, in that local networks can have both a beneficial and malign effect. The normativity of the peacebuilding

[7]Conflict networks are understood as structured relations among state and non-state actors, local and international, forged in the course of the war.

agenda is focused on identifying an emancipatory form of local agency, enhancing the well-being of the local population, which ought to allow for a possibility that this will not be aligned neatly with liberal prescription of liberal peacebuilding. Lastly, conflict networks are embedded in local power relations and the trajectory of conflict (Bojicic-Dzelilovic and Kostovicova 2012). Hence, our focus on conflict networks takes into account a long term perspective on their development.

In sum, we show that the EU intervention in the Western Balkans has overlooked a particular configuration of conflict networks shaped by a symbiotic relation among military, security-intelligence agents, political elites and organized crime elements that developed under the cover of war – but within thickening webs of relations with official business, diasporas, non-governmental organizations, as well as local religious institutions – and how those structures have adapted since. These networks influence and have a considerable impact on those very social processes that the EU wants to address as part of its member state building agenda. Thus when considering EU discourse on security, and particularly that of justice and policing for example, a narrow focus on enhancing inter-ethnic police recruitment may have limited effect in unsettling the resilience of wartime structures which remain engaged in the struggle for power and resources. Consequently, understanding how those networks operate and engage with externally imposed policies, such as the Stabilisation and Association Process/Association Process, requires their detailed deconstruction to identify modes and mechanisms of their operation. The network analysis allows us to capture the intricate and enduring character of relations developed through war-time violence, which are sustained and reworked in response to the international peacebuilding efforts. The three case studies demonstrate how the EU policy – when it encounters a networked nature of the state authority in the Western Balkans – produces three type of outcomes: subversion, unintended consequences and a qualified success.

Hybrid Development: Subversion of the formal institutional process

The support to economic rehabilitation has occupied a much more prominent role in the EU's approach to peacebuilding since the Thessaloniki Summit, which confirmed a commitment to include the Western Balkans into the EU enlargement strategy. While the SAP framework alongside a range of supplementary instruments at the national and regional level has been adapted to address the Western Balkans' specific circumstances and needs, the EU approach to building competitive open market economies based on private sector development has followed in the footsteps of the previous rounds of enlargement. The EU's market enhancing agenda entails a set of policy reforms that aim to strengthen the state's regulatory capacity, including to create business environments conducive to private sector growth. In parallel, it places strong emphasis on the privatisation of state assets as a direct channel for private enterprise creation. The main benchmarks to assess progress towards an open market economy included in the EC's annual SAP progress reports are derived from the

Copenhagen economic criteria. They cover three main aspects, namely: the progress in the adoption and the implementation of the EU-mandated rules and regulations, and the establishment of the relevant governance bodies that when combined, constitute the institutional architecture of a market economy. The benchmarks as such are not exact, and assessment of progress is susceptible to the EU's own judgment, often informed by calculations which reflect political agendas.

In Bosnia- Herzegovina the policy reforms to strengthen private sector growth have been pursued against a backdrop of ongoing contestation among the three main ethnic groups over the state and the powers vested in various government levels, including in the area of economic policy making. While this has undoubtedly determined the pace and the scope of policy reforms- the two aspects in the focus of the EU SAP assessment exercise- the consideration of what kind of private sector growth has emerged as a consequence has received far less scrutiny. At best, such a concern is expressed in frequent reference to corruption, and a large informal economy as the manifestation of a 'pathology' accompanying Bosnia- Herzegovina's nascent market economy, with consequences on overall market competitiveness (Belloni and Strazzari 2014; Blagovcanin and Divjak 2015). The main policy reform focus is consistent in its pursuit of macroeconomic stability, removal of administrative barriers and alleviation of financial constraints to the emergence and growth of small-and-medium-sized firms.

The approach to private sector development, seconded by the main international financial institutions including the International Monetary Fund and the World Bank, has been pursued as an apolitical process of institution building devoid of consideration for how political and economic powers are organised in post-conflict Bosnia- Herzegovina. As a consequence, the policies in support of private sector development have disproportionately benefited particular groups and interests operating through multiple informal networks which link political and economic actors inside Bosnia- Herzegovina and transnationally. This has occurred in parallel to Bosnia-Herzegovina making progress, albeit overall halting and uneven, on all key economic benchmarks used as part of the SAP monitoring exercise. A case in point is an impressive record of the 'regulatory guillotine reform', intended to cut the red tape and facilitate private sector development- pursued particularly efficiently in Republika Srpska- which has not been commensurate with the private enterprise growth outcomes (Penev 2015). The reality is that in each of Bosnia- Herzegovina's three main ethnic groups, distinct configurations of politico-economic elites have been opportunistically engaged in responding to market enhancing reforms in so far as they have been able to influence the pace of reforms, and to subvert their principal goal of building institutional foundations of an open, functioning market economy to the benefit of particular group interests.

The analysis conducted by two authors of this paper (Bojicic- Dzelilovic and Kostovicova 2013) of one such network[8] originating in the 1992-1995 conflict, brings together some of the Bosnian Croat most prominent elites and organisations, captures the mechanics of their operation to the effect that private sector growth in Bosnia-Herzegovina has been accompanied by the business practices that distort market competition, undermine the government's tax base, and favour narrow private interests. Although the detailed analysis of the network's mechanics covers the period prior to the launch of the SAP, the main principles of how informal networks emerging from Bosnia- Herzegovina war have adapted in the course of EU- assisted peacebuilding are nevertheless relevant, not least in view of the fact that many of their protagonists still wield political and economic power.[9] The example of this network is emblematic of the 'symbiotic relationship between crime, business and politics' which the Feasibility Study for the SAP identified among the major challenges to the European Union accession agenda in Bosnia- Herzegovina. Although this problem is acknowledged, it has not been effectively addressed by the EU policies toward private sector development, which attribute its persistence to, and conflate it with, the incidence of corruption. To deal with corruption, a standard set of policy instruments to strengthen good government is supported through a range of instruments applied at the national and regional level, focused foremost at various governing bodies and public administration structures.

In response to the international community's efforts spearheaded by the Office of the High Representative to cut the informal flows of funding from Croatia to the Bosnian Croat parallel structures which were obstructing the implementation of the peace agreement, in 1997 this network set up the Hercegovina Holding- a sprawling business structure through which financial and commercial flows in the Bosnian Croat majority areas were to be controlled. At the core of this structure was Hercegovacka Banka, one of the best performing commercial banks at the time. Financial sector liberalisation was one of the early economic reforms which facilitated private ownership in Bosnia-Herzegovina banking sector which spurred the emergence of new banks in the country. In the Holding's portfolio were some of the most lucrative enterprises in Bosnia- Herzegovina in sectors as varied as construction, oil, trade and telecommunications. The control of the financial flows within the Bosnian Croat-majority areas was exercised through a web of interconnected actors and institutions located across the state and non-state arenas. Benefiting from those transactions were the groups conjoined through the Bosnian Croat political autonomy agenda. The core of this network constituted public officials, military personnel and businessmen actively engaged in co-opting non-state actors and institutions. The network members enjoyed privileged access to assets and opportunities created through market-

[8] This is one of the rare empirical studies that details the mechanics of network operation in the context of post-conflict statebuilding.

[9] See for example: Veza Dzaferovica i Covica- kako su otkupljivani krediti firme Soko od Razvojne banke, November 2015. http://www.nap.ba/new/vijest.php?id=18125

enhancing reforms. Access to credit for business development through the Hercegovacka Banka was often granted along the clientelist lines, on privileged terms, and in breach of due diligence such as collateral requirements (Bojicic- Dzelilovic and Kostovicova 2013, ibid). The Bank's enforcement of loan repayments was similarly arbitrary. Such practices were often combined with the bail outs of insolvent companies of interest to the network, which amounted to market competition distorting practices. Those practices took place despite a regulatory oversight of the Bank by the Bosnia- Herzegovina Federation Banking Agency, and the Bank's formal compliance with the prescribed operating standards. In the areas controlled by this network, such practices which created unfair competition worked as deterrents to new market entrants while creating incentives for the legally registered companies to move to the informal sphere or exit the market altogether. Furthermore the arbitrariness and unpredictability in enforcing relevant regulations as a consequence of informal business practices involving the network, had far reaching consequences on the rule of law, further reinforcing disincentives to private sector development – given the importance of stable rules and regulations for business planning and development. The consequence of a narrow formal production base and large informal economy was manifested in the reduced public revenue generating capacity of the Bosnia-Herzegovina state. The gatekeeping practices of the (ethnic) networks of politico-business elites, often accompanied by the instances of blatant corruption involving public office holders and business actors alike, and coupled with many instances of privatisation failures, have been major factors in shaping the private sector development in post-war Bosnia- Herzegovina. The creation of a level playing field for open competitive market as intended by the economic reforms supported by the EU in Bosnia- Herzegovina has been consequently undermined.

Such an outcome reflects the inability of the EU to adapt its approach to market reforms to effectively address the continuation of the war- time predatory political economy, and its adaptation to new opportunities provided in the context of liberal economic reforms. The EU approach presupposes the existence of a willing and committed local political and economic constituency, but in fact encounters the elites that selectively pursue those reform elements that do not threaten their interests. The result has been the emergence of hybrid forms of development whereby a small number of well- connected, rent seeking individuals and groups have been able to capture large swathes of the local economy[10] and where informal economic practices operate as a norm. This general pattern is present across the broader region; Bartlett argues in relation to privatisation that "[t]he anti- market consequences of passing state and social property over to narrow economic elites with strong political connections to incumbent ruling parties have not been sufficiently addressed and remain a stumbling block to EU membership" (Bartlett 2015:224). While Bartlett refers explicitly to the effects of privatisation, his diagnosis applies more broadly to the

[10] Michael Pugh (2015) refers to this phenomenon as the 'pyramid of oligarchs'.

consequences of the market enhancing policies as highlighted by Pugh (2015, Ibid.), which are preoccupied with building yet more of "toothless institutions" in the context where informal networks are the real power wielders (Bartlett 2015, Ibid.; also Stanojevic at al. 2015). This is in contrast to the emergence of pockets of genuine entrepreneurship whose strength is insufficient to shoulder the development of a diversified and broad based economy which EU assistance is supposed to help build as a foundation for generating growth and employment – the two economic goals of the foremost concern to the local population.

Hybrid Security: Unintended consequences of institutional reform

The EU's approach to Europeanisation has hinged upon processes of *institutionalisation* understood as the adoption of formal and informal criteria in the social context of the recipient State. The understanding of contested statehood as a principal source of conflict is consistent with a decade long approach to securitisation that seeks to create and promote the spread of a specific European 'security culture' (Dolghi and Oliva, 2011: 108). A shared sense of security, it is suggested, is important particularly to foster reconciliation and facilitate the processes of post-war reconstruction. Distinctively the promotion of the European security community acts with a threefold purpose: 1) as a peacekeeping force, through the establishment of military missions; 2) as political destination for the Western Balkan states (Cierco, 2013: 430); and 3) as a technical exercise in institution building. In this multi-pronged framework, the EU does not limit itself to addressing a traditional aspect of security, (the military one), but rather relies almost entirely on its 'normative power' as the panacea to tackle the Western Balkans ailments.

Since its inception in the form of the framework for Defence and Security in the 1990s, the process of spreading European norms to the Western Balkans has been marred by unsteady progress, weak outcomes, and the occasional recurrence of violence. These problems have usually been attributed to lack of norm assimilation and poor capacity (Bieber, 2011:1785), thus calling for further reinforcement of mechanisms that monitor, support and enhance said capacity. With the establishment of a clear prospect for enlargement of the EU into the Balkans in 2003, attempts have been made to re-wire the approach to justice and security at the state level, to reflect a concern for security threats different from that of the early 2000s (characterised by the fear of immediate violence). However, this section will suggest that within an unchanged foreign policy framework that had its roots in the European efforts for peace-building in the Balkans of the early 1990s, and cemented later on in the Defence and Foreign Policy approach, the EU's efforts post-Thessaloniki continued to be underpinned by an ethnicised understanding of security threats.

EU policies have reflected, despite shifts in operationalization and sequencing, a concern for the dangerous potential of ethnic identity and its negative impact on the

institutions of these reforming countries. This concern is visible, for instance, in the manner in which normalisation of relations between Prishtina and Belgrade at the regional level has become a fundamental pinnacle of state-specific and local projects, for instance by representing one of four pillars of EULEX's rule of law mission in Kosovo.[11] In this case it is implied that any potential political disagreement between the two polities represents a regional security threat and a hindrance to the institutional development of Kosovo; in particular, the Council has often urged both parties to respect the commitment to normalisation outlined in the Dialogue in order to make "further progress on this point, including irreversible progress towards delivering structures in northern Kosovo which meet the security and justice needs of the local population."[12]

The concern for the perils of ethnic competition has become entrenched in the EU's narrative on accession and in EU policy towards pre-accession states, where political lines of contestation have been tied to the potential for the re-emergence of ethnic tensions between ethnicities,[13] without much explanation of what other factors, including ailing economic prospects, may be contributing to the unrest. For instance, in the FYR Macedonia (the first Western Balkan country to sign the SAA in 2001) despite progresses in the areas of public administration reform and regional cooperation, and despite consistent "high level of alignment with the *aquis,*"[14] the EU has identified what it perceives to be elements of backsliding in several crucial areas that have slowed down the progress towards accession. The concerns identified relate primarily to elements of institutional weakness that testify to Macedonia's fragility both structurally as well as in terms of the nature of the democratic processes of the state, which are identified as marred by "increasing politicisation", problems of media freedom, and inter-ethnic mistrust. The politicisation of state institutions, the EU has suggested, has caused their erosion, and has highlighted that in Macedonia party interests supersede the national interest. Given the reiteration of the importance of the Ohrid Agreement as the ideal model for good democracy in Macedonia, the EU's concern for the politicisation of political parties in Macedonia implies the belief that contestation (paradoxically the fulcrum of western liberal democracy) is dangerous because it is potentially explosive and violent. It is unclear, for instance, why the politicisation of parties in Macedonia could be any more dangerous for the quality of democratic institutions, than any other form of party politicisation elsewhere in Europe. Furthermore the EU's preference for an ethno-centric vision of politics in FYR Macedonia is evident also in its choice not to de-emphasise the role ethnicity has to play; in the case of the murder of an ethnically Albanian youth in 2012, the EU –

[11]EULEX Kosovo (n.d.) Support to Prishtina-Belgrade Dialogue. http://www.eulex-kosovo.eu/eul/repository/docs/Anglisht_Dialog_1.pdf

[12]Council of the European Union (2012) 3210th GENERAL AFFAIRS Council meeting Brussels, 11 December 2012.
http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/134234.pdf

[13]European Commission (2014) The Former Yugoslav Republic of Macedonia: Progress Report.

[14]European Commission (2014) The Former Yugoslav Republic of Macedonia: Progress Report. p. 1

despite acknowledging the non-ethnic motivation of the murder – chose to continue to assume that the event had played a big role in sparking the ethnic mistrust that followed.[15]

When the institutional framework cements and reiterates the ethnic narrative that understands any form of contestation, violence and instability as essentially tied to matters of ethnicity and identity, social cleavages run the risk of aligning to such existing and continuing narrative. Ethnic elites not only benefit from such an approach, but actively reproduce a situation in which (in)security is defined foremost in ethnic terms. Community strains are often, for instance, understood to be associated with ethnically motivated tensions, rather than symptomatic of larger cross-cutting economic concerns such as lack of employment. In Kosovo and in Bosnia- Herzegovina various surveys have demonstrated that such cross-cutting issues reflect more closely local opinion on the sources of insecurity.[16] Since tensions are understood as expressing themselves in the form of ethnic competition over land, resources and power, the EU's response has sought to rebuild apolitical, non-ideological institutions; in the case of the establishment of a police force in Bosnia, attempts have been geared to ensuring the preference of different ethnic groups in order to foster the view of Bosnian society as one that is no longer disrupted by division and reflects a commitment to human rights and the rule of law (Merlingen and Ostrauskaite, 2006:19). In Bosnia, the post-Dayton policing structure, made up of four overarching police agencies [the State Border Service (SBS), the State Investigation and Protection Agency (SIPA), the judicial police and the financial police] has attempted to consolidate institutional unity at the state level. Nonetheless, the public consistently tends to trust more the police force dominated by its own ethnicity. The fact that in local communities individuals who were involved in perpetrating violence against other ethnic groups are at large- some even as public office holders- and have been able to keep the influence and wealth accumulated in the course of war, is an important contributing factor. The grip of the informal networks originating in war encroaching on formal governing structures is even firmer in many local ethnically homogenised communities, and feeds the public preference for security provided by one's own ethnicity. This is a form of hybrid security whereby the informality associated with an arbitrary exercise of power, under the guise of ethnic identity protection which permeates social order, is a source of insecurity for all citizens (Bojicic- Dzelilovic 2013).

[15] Ibid, p. 13

[16] UNDP (2014) Public Pulse 8. http://www.ks.undp.org/content/dam/kosovo/docs/PublicPulse/pp8/PP_8_Eng.pdf; Bojicic- Dzelilovic 2015.

Hybrid Justice:[17] A qualified success of a policy change

Drawing on Mac Ginty (2011), this section proposes hybrid justice in the Western Balkans, defined in this case as justice without reconciliation. The pursuit of transitional justice, initially outside the region of the Western Balkans, at the International Criminal Tribunal for former Yugoslavia (ICTY), and then increasingly through domestic and hybrid (domestic-international) trials, has not been accompanied by reconciliation in the region. Different ethnic groups tend to see themselves primarily as victims rather than also as perpetrators of crimes committed during the wars that accompanied the dissolution of the former Yugoslavia; nor is there consensus on the causes and nature of the violence, or on the appropriate redress for past wrongs (Kostovicova 2013a).

This, however, should not overshadow limited achievements of the ICTY. Although the trials have been contested by ethnic groups, they have prevented a blanket denial of war crimes. This has now been replaced by what Cohen (2000) has called the interpretive denial, as ethnic groups interpret the facts of crimes to fit in with their ethnic narratives of the war. ICTY's impact is linked to broader trends of democratization, including freedom, ability and space to discuss the responsibility for war crimes, both within and between ethnic groups (Ostojic 2014; Gordy 2013; Nettelfield 2012). Although the ICTY's overall strategy only affected the 'big fry', it did nonetheless offer a purge or lustration of sorts, whereby incriminated officials were removed from holding public office. Lastly, the transfer of trials to domestic judiciaries has strengthened local state capacity (Waters 2013; Gow, Kerr and Pajic 2013).

On balance, given that the introduction of the so-called Hague conditionality, according to which the Western Balkan aspirants to the European Union membership were expected to meet full cooperation with the ICTY condition before proceeding with the SAP, the EU's record of achieving justice and reconciliation in the region has at best been modest. Three dimensions of the EU's policy contributed to the EU's qualified success in this policy area: firstly, the EU policy was top-down, focused on the political elites marginalizing civil society. This has allowed them to instrumentalise the ICTY conditionality for their political benefit, rather than promote reconciliation (cf. Subotic 2009). Secondly, the EU has pursued a state-centred approach to transitional justice, which is a poor fit with the transnational nature of violence in the Balkans. Consequently, activists and scholars have pointed to a need for a regional instrument to transitional justice (Kandic, 2007; Sriram and Ross, 2007; Kostovicova 2009; Rangelov and Teitel 2014). Thirdly, the EU has opted to focus solely on the trials, preferring retributive transitional justice that focuses on the perpetrators and

[17] Dr Kostovicova acknowledges gratefully the Leverhulme Trust Research Fellowship (RF-2015-262) that has made this contribution on hybrid justice possible, alongside a broader contribution to the coauthorship of this paper. Both the contribution and the presented findings are part of Dr Kostovicova's Leverhulme-funded project on the merits of a regional approach to transitional justice, with a specific focus on the RECOM process in the Balkans.

punishment, as opposed to restorative transitional justice mechanisms that prioritise victims' needs and restoration of conflict-affected relations (Kerr and Mobekk, 2007).

The European Union made a U-turn towards supporting a restorative, bottom-up and a regional approach to transitional justice, through funding (and, to an extent, through political support).[18] The policy change stems from the EU's gradual recognition of civil society as a partner in the context of EU approximation, reflected in the increased funding to civil society since 2007.

The initiative for establishing the Regional Commission for Establishing the Facts about War Crimes and other Serious Human Rights Violations in former Yugoslavia, or RECOM, is a regional, civil society movement that has grown in direct response to the perceived weaknesses of trials as transitional justice instrument and, recognized a need to acknowledge the victims and overcome the limits of the state-centred approach. The initiative's goal is to establish the interstate war crimes commission.

But, is a regional approach superior to a national, state-centred approach to transitional justice? Is the EU's new policy in the Balkans pioneering an approach that should be replicated in other contexts where the crimes also have a transnational character?

Scholars have argued that a regional approach is bound to by stymied by irreconcilable national perspectives of victims and advocates (Dragovic-Soso 2015; DiLellio and McCunn 2013). While the RECOM process has yet to establish an inter-state commission, the consultations that the RECOM commission has held involving over 5,000 members from all ethnic groups in the Balkans at a local, national and regional level from 2006 to 2010 provide insight into the merits a regional approach.

The textual analysis of over half a million words (or 511,875 words) of textual data produced by the RECOM consultative process on the most appropriate form of redress for past crimes points to a moderating effect of the regional level debates, as opposed to national and local level ones. For example, the regional level consultations tend to be more reconciliatory in nature as opposed to non-regional, i.e. local and national ones. The global analysis of big textual data through a combination of quantitative and qualitative methods that overcomes a state-centred analysis, and the so-called 'methodological nationalism', suggests that a regional approach may have an effect on how issues critical to reckoning with the past are discussed, and how contentions may be resolved. The reconciliation in this respect implies the openness to competing perspectives on the conflict presented by members of ethnic groups, other than one's own.

Currently, the RECOM process is faced with obstacles posed by recalcitrant authorities unwilling to back the project, disengaged societies, alongside illiberal civil society

[18] It should be noted that the RECOM depends on multiple international donors.

groups actively opposed to the idea of cross-ethnic reconciliation (Kostovicova 2006; Kostovicova and Bojicic-Dzelilovic, 2013), as well as a lack of external support that would help push the issue of reckoning with war crimes firmly on the political agenda. Hence, it is uncertain if any benefits that have been gained during the consultative process include forging cross-ethnic solidarities (Kostovicova 2010; Kostovicova 2013b), and in the search for a right instrument for transitional justice, will be scaled up beyond the bounds of the consultative process.

RECOM's challenges are illustrative of broader obstacles to facing the criminal past in the Western Balkans. A lack of comprehensive transitional justice measures throughout the region has contributed to the maintenance of war time networks at all levels of state institutions, from local to state. Notably, these networks include suspects for war crimes that have escaped a selective net cast by the ICTY focusing only on the 'big fry,' and selective domestic prosecutions. The figure of about 10,000 missing in the Balkans twenty years after the conflict points to the unwillingness of state authorities to unearth the facts of crimes, alongside the human remains. The result goes beyond the dissatisfaction and injustice for the victims. Displaced fear return to homes from which they were expelled, solidifying territorial ethnic divisions drawn in blood during the conflict. Lastly, the unwillingness of the authorities to establish the exact number of victims officially, beyond efforts of civil society organisations, feeds into irreconcilable ethnic narratives about the conflict. Equally, it leaves the perpetrators *in situ* at various levels of government, allowing them to maintain their networks established during the conflict. In sum, isolated examples of the EU effectiveness of EU assistance reveal a glaring gap in the strategy to address the multifaceted criminal legacy that has persisted for over 20 years, which isolated qualified successes are insufficient to counter.

Conclusion and policy implications

Since the shift in the EU approach to the Western Balkans towards EU member state-building, securing the local political elites' commitment and cooperation has been central to the interaction between these elites and various EU agents. This has involved different forms of bargaining over the terms and the direction of policy reforms, with ambiguous consequences in terms of peacebuilding. Although the EU has an impressive track record in pursuing a multidimensional approach to the promotion of peace and stability in the Western Balkans, the region remains fragile both politically as well as economically. A form of hybrid peace which has emerged in the context of the EU's combined CFSP and enlargement intervention may have worked to prevent a reversion to armed violence – but it does not have a grounding in improved social cohesion and deep reconciliation which these societies need to overcome the legacy of war and its associated vulnerability.

Preoccupations with institutional strength, tied to the (member) state-building agenda have led to a form of an 'elite peace' whereby wellbeing and security for ordinary people in their everyday lives continues to be a peripheral concern for the local authorities. Despite progress in establishing political and economic institutions in alignment with the EU membership criteria, those institutions have also been vulnerable to the strategies of informal power networks with vested interests in preserving the resources and influence accumulated during the region's turbulent transition. The EU state-centric approach focused on institutional strengthening within distinctive policy domains (policy 'silos') has not been able to dislodge the informal networks which operate trans-institutionally and transnationally, through their regional (Balkan) and global ties. Instead, EU efforts have been characterised by an approach which demonstrates a preference for dealing with 'front stage' problems qualified as ethnic related tensions, underdeveloped market economy and weak governance, rather than exploring 'back stage' issues that may demonstrate a variety of different emergent networks, including those that indicate the persistence of a type of *pax mafiosa* (Friesendorf, 2011:51) across ethnic groups. Emergent networks include cross-national and cross-ethnic drug trafficking networks that are responsible for smuggling hundreds of thousands of pounds worth of cocaine across the Atlantic and into Europe from Latin America, exacerbating the challenges to consolidate peace in this region. Interactions amongst smugglers in the border area of Mitrovica between Kosovo and Serbia, and in the south with Albania, has also been an example of inter-ethnic cooperation ever since the early 1990s (Devic 2006: 267).

The problems is partly cognitive in so far as there is insufficient understanding of the different facets of social transformation produced by the multiple transitions in the Western Balkans, which includes both a post-Communist and a post-conflict transition, and, more specifically, the modes and the mechanisms used by those actors that have benefited in the process to maintain their positions secured during the region's transitions. The other issue concerns the existing EU instruments as they have been applied in the Western Balkans, which by focusing on the engagement with the elites have "…distanced the societal transformation [*required by the EU-supported peacebuilding*[19]] from its core- civil society and citizens…" (Dzankic 2015: 97-98). Our analysis, alongside the case studies of hybrid development, hybrid security and hybrid justice, has shown that the EU policy in the Balkans was able to counter the regressive effect of conflict networks where it supported a regional and bottom-up (i.e. civil society) approach, which figure prominently as principles of a human security approach elaborated by Kaldor et al (A Human Security Doctrine for Europe, 2004). Notably as the overview of the EU policy in the Balkans indicates, these two levels of engagement are peripheral in the EU's policy toolkit in the region.

A conflict network perspective provides a critique of both an exclusively top-down and a bottom-up approach to peace-building. While the bottom-up approach is key to

[19] The authors' comment.

understanding the emergence of networks during the conflict, it is less capable of explaining their adaptation and persistence in the post-conflict period. Neither is a commonly used trope of state weakness more helpful. The chameleon-like quality of networks lies in the ability of network members to operate simultaneously both as a part of civil society and as a part of the state, while blurring the boundaries between public and private, internal and external, legal and illegal. Often, their activity is most vibrant within 'regional war complexes' (Pugh et al, 2004) which serve as conduits and as an interface with global actors and flows, and where proximity and pre-war links make mobilization of people, resources and ideological support to networks that much easier. The networks are able to thrive in the context in which informal and criminal practice associated with their agency remains condoned by the wider society in which they are anchored, and where opportunities for securing livelihoods and developmental prospects on a larger scale are constrained (Kostovicova and Bojicic-Dzelilovic, 2011; Kostovicova and Bojicic-Dzelilovic, 2009).

Ultimately, the analysis of the EU policy in the Western Balkans points to specific policy implication. The biggest risk currently faced by the EU in the post-conflict regions is that a raft of EU policy instruments, including formal and contractual incorporation in the EU, will not be accompanied by normative approximation to the EU. Instead, a formal alignment with the EU policies is likely to coexist with their simultaneous subversion and distortion by the same actors who are the EU's main interlocutors, and even promoters of the EU agenda in the region. Related to this is a risk that the norms that the EU stands for and promotes will be rejected by a broader society. For example, people may embrace corruption and entrench corruption as an efficient way of doing things. Ultimately, a broader society may come to perceive the EU project as illegitimate as they perceive their political elites. Consequently, the EU policies need to be directed at breaking down the social and economic dependence of societies on their ethnic elites by strengthening local capacity for challenging the elites' unaccountability as well as by 'smart regionalism' that would foster alternative progressive transnational social exchange, by nurturing inter-ethnic relations within and between the states in the Balkans.

The EU already deploys an array of instruments with a particular strength in human rights and democracy promotion, unlike its approach to economic development which has been less effective in addressing the needs of conflict-affected societies. The challenge is to adjust the implementation strategies by addressing the questions of how and with whom a variety of policies and interventions is implemented. To break the economic-ideological-identity nexus that feeds societal condition associated with contemporary wars, the main challenge is one of building reform constituencies to reduce a space for the abuse of external peacebuilding support by those actors who benefit from conflict. This is a task that goes beyond the confines of local societies and the EU policy silos, and which depends on the mobilisation of a variety of actors that have been so far marginalised by the EU focus on elite politics. It also goes beyond a

short- term and reactive policy responses, and a pursuit of unprincipled conditionality policy. The examples of new initiatives would be a mass programme of inter-regional youth exchange, a steady support for building trans-regional expert communities as well as civic networks engaged in lobbying and advocacy on the issues of human insecurity, which results from weak and corrupt governance. A new policy paradigm would also require regional initiatives that strengthen cooperation in the economic sphere so that a hold of the local politics over economy is undermined, to pave the way to broad- based economic growth, job creation and improved welfare provision. The adaptation of EU conditionality policy around two central pillars of responsibility and accountability would be an important element of the new policy paradigm. And lastly, a new policy approach would require going beyond formal compliance on issues of corruption to tackle the actors and their webs of connections which facilitate institutional hollowing and capture of formal processes by informal networks.

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