Policy Recommendations for Future Institutional Settings in the Western Balkan Countries

Executive Summary

We address this policy paper to the EU Commission. The paper aims to provide policy recommendations for the assessment of rule of law implementation in Western Balkan countries aspiring to EU membership. The main question out of which the policy recommendations emerge is whether EU institutions have an influence, and if so of what kind, on implementation of the rule of law, with a particular focus on the reforms of the judiciary in five Western Balkan Countries: Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia. The research preceding this policy paper assessed the current use of conditionality criteria in the field of rule of law in Western Balkan countries and the institutional reforms carried out in the development of the judicial sector. Special attention was given to newly established institutions, such as the High Judicial Council and Judicial Academies, with the goal of assessing whether they provide an adequate normative framework for the political independence of the judiciary. The method used for this research largely leaned on content analysis of legal rules and administrative regulations adopted for this purpose, as well as of their implementation. We propose a regionally unified EU approach for monitoring progress in judicial reforms in the Western Balkan countries.

Introduction

Amidst the new uncertainties caused by the differences between North and South or East and West, between Islamic and Christian countries, between liberal and non-liberal communities and other global conflicts, widespread agreement has been reached on "one point alone: that the rule of law is good for everyone."[1] The European Union has adopted this as one of the criteria for countries' EU accession while using principles of conditionality. The enlargement policy of the European Union is widely recognized as one of the most powerful instruments of the EU's foreign policy. It is said to have considerably contributed

[1] B. Z. Tamanaha. 2004. *On the Rule of Law: History, Politics and Theory* (Cambridge: Cambridge University Press)

to the political transformation process by promoting democratic consolidation, the rule of law, respect for human rights and the protection of minority rights.[2] But what exactly does the rule of law stand for?

Kochenov argues that in the period of pre-accession for Eastern countries, the EU Commission opted for fusing the assessment of the rule of law and democracy.[3] In that way, the EU gained political maneuvering space for more specific policy prescriptions in the process. However, the "rule of law" and judicial sector reform remain vaguely defined concepts due to "the lack of a coherent theory of judicial independence, and the difficulty to measure the performance of the judicial system," as has been observed with regard to the monitoring activities in the Eastern enlargement process.[4] A problem also springs from the discrepancy between the theoretical concept of rule of law and the practical requirements of the EU for judicial reforms. A recurrent problem also lies in the vagueness of the very essence of the negotiating chapters, where most of the benchmarks are of highly political or constitutional importance and relate to Copenhagen political criteria rather than to the hard *Acquis*.

A policy paper such as this one is timely, since the EU is using conditionality in the realm of the rule of law with its current Western Balkan aspirant countries. If the EU is striving to see these reforms conveyed, it has to tackle the main issue, namely how so assess the progress and success of implementation of rule of law in a particular aspiring member country. Therefore, we propose a twofold approach for improving the EU's assessment of the implementation of the rule of law in the WB, with a particular focus on reforms of the judiciary. This approach runs along two crucial dimensions of any policy, namely, what in essence a policy aims to achieve, and how policymakers will go about it:

[2] T. Freyburg and S. Richter. 2008. *National Identity Matters: The Limited Impact of EU Political Conditionality in the Western Balkans*. National Centre of Competence in Research (NCCR). Challenges to Democracy in the 21st Century. *Working Paper* 19.
[3] D. Kochenov. 2007. *The Failure of Conditionality: Pre-accession Conditionality in the Fields of Democracy and the Rule of Law: A Legal Appraisal of EU Enlargement* (Groningen: Rijksuniversiteit): 46
[4] A. Mungiu-Pippidi. 2008. "The EU as a Transformation Agent. Lessons Learned from governance reforms in East Central Europe," *Hertie School of Governance – Working Papers* 33.

- The EU Commission should offer a clear conceptualization and criteria of measurement of rule of law progress and implementation for WB candidate countries, especially in judiciary reforms

- Because of similar legacies and judicial reforms processes, as well as learning from the Central and Eastern European Countries (CEEC), the EU Commission should acquire a regional take and offer a unified regional framework for monitoring WB candidate countries' progress in implementation of rule of law, particularly reforms in the judiciary

Therefore, we find it essential that the EU set clear criteria for judiciary reforms as part of the rule of law, along the benchmarks of *independence, accountability, efficiency and professional competence*. We strongly maintain that firm standards in this area in the phases of SAA, then in the phase of screening and finally in the negotiation phase would ensure the absence of political interference in the judiciary reform process.

In the following section, we first assess the current policies of the EU Commission towards the assessment of the implementation of rule of law and their drawbacks. Then we propose alternative policies of unified approach towards five aspiring EU Western Balkan countries, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia, and argue why we consider them timely and apposite.

1. Current Policies Towards EU-Aspiring Countries in the Western Balkans

As academics have already concluded, "[o]ne of the persistent fears in the European Union […] is that the accession countries will be unable to catch up with the prevailing practices of constitutionalism and the rule of law that supposedly ground the common tradition of Europe."[5] This fear generally springs from the prior experience of the CEEC countries.

[5] A. Sajo 2006. "Becoming Europeans: The Impact of EU Comstitutionalism on Post-Communist Pre-Modernity," in W. Sadurski, A. Czarnota, M. Krygier (eds), *Spreading Democracy and the Rule of Law? The Impact of EU Enlargement on the Rule of Law, Democracy and Constitutionalism in Post-Communist Legal Orders*, (Springer Netherlands): 175.

Broadly speaking, the mechanisms that the international institutions use for achieving domestic compliance are coercion, external incentives and socialization. Among the external incentive mechanisms for compliance, conditionality and socialization are currently the most widespread in Europe.[6]

Conditionality focuses on reinforcement by rewards. These usually include achieving candidate status and beginning negotiations, and finally, membership as the highest reward. *Socialization*, on the other hand, means that EU demands are more likely to be perceived as legitimate if they are part of the *Acquis Communautaire*, and if they are not more burdensome than for the existing member states. Hence, rule adoption will be facilitated when there is resonance between traditional domestic rules and EU norms.

Checkel identified three aspects of European conditionality: a) pre-conditions as policy actions agreed upon during the negotiations between an international institution and a national government that must be undertaken before the former approves credits or formally grants membership, b) actions like performance criteria or legal requirements and c) policy provisions that specify additional commitments contained in the overall agreement.[7] Furthermore, Linden concludes that non-compliance is punished by reduction or withdrawal of support and rejection of association and membership."[8]

Socialization, on the other hand, depends on the attempt of candidate countries to adjust to the official requirements of a club of countries that already maintains a particular set of norms. Repercussions in this regard come if a country experiences new norms as entirely different from its previous experience, and therefore struggles to acquire them

[6] F. Schimmelfennig and U. Sedelmeier. 2004. "Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe," Journal of European Public Policy, 11(4): 661–679; D. Jano. 2010. *The Europeanization of Western Balkans: A Fuzzy Set of Qualitative Comparative Analysis of the New Potential EU Member States* (Saarbrücken: VDM Verlag); F. Trauner. 2011. *The Europeanisation of the Western Balkans: EU Justice and home affairs in Croatia and Macedonia* (Manchester: Manchester University Press); F. Schimmelfennig. 2012. "Europeanization beyond Europe," *Living Reviews in European Governance* 7(1).

[7] J. T. Checkel. 2005. "International Institutions and Socialization in Europe: Introduction and Framework," *International Organization* 59(4): 801-826.

[8] R. H. Linden, P. Cernoch, R. W. Clark and A. Freyberg-Inan (eds). 2002. *Norms and Nannies. The Impact of International Organizations on the Central and East European States* (Lanham: Rowman and Littlefield Publishers): 19.

both in principle and in practice. Yet, are these policies sufficient for the assessment of implementation of the rule of law? We argue that they are not, illustrating this with the example of judiciary reforms.

1. 1 Criticism of Current Mechanisms

Two main problems stem from the current policy of conditionality and socialization that the EU uses in the field of rule of law in the Western Balkans. The first is the vagueness of the concept of the rule of law. The second is the vagueness of the conditionality criteria within the realm of rule of law. These mechanisms are inconsistent, bringing disappointment to the candidate countries, while at the same time failing to provide specific rules of the game. Lessons already learned from other countries point to this conclusion. Namely, the EU was inconsistent in conveying reforms and was sluggish in the creation of new institutions and implementation of EU policies in the CEUU.[9] WB countries can certainly learn from the CEEU, but so can the EU in its approach towards the newly to-be integrated region.

Rationalist institutionalism, based on "cost-benefit calculations,"[10] claim that the lack of "normative clarity"[11] of EU demands poses a special problem in the field of rule of law, and the credibility of conditionality in general. Having in mind these drawbacks, we maintain that it is important to propose a more robust framework for measuring success of implementation of the rule of law.

1. 2 Why Change Now?

In addition to the 1993 Copenhagen criteria, Western Balkan countries are expected to meet additional country-specific criteria mainly linked to different peace agreements. Furthermore, promoting regional cooperation and reconciliation is expected as well. The Union uses both a regional and a country-by-country strategy for the countries of Western

[9] A. Grigorescu. 2002. "Transfering Transparency: The Impact of European Institutions on East-Central Europe," in R. H. Linden, P. Cernoch, W. R. Clark and A. Freyberg-Inan (eds), *op. cit*.
[10] F. Schimmelfennig and U. Sedelmeier (eds). 2005. *The politics of European union enlargement: theoretical approaches Routledge advances in European politics* (UK; New York: Routledge)
[11] J. G. March and J. P. Olsen. 2004. "The Logic of Appropriateness," *Arena Working Papers* 04/09. Oslo.

Balkans. The main aim of the regional strategy is to improve regional co-operation, established through the contractual relationship of these countries in the field of border management, visa policy, migration issues and organized crime. On the other hand, the specific priorities for each country are outlined in the justice, freedom and security chapter of the Accession Partnership. Yet, despite more than a decade of the Stabilization and Association Process in the WB, one of the most problematic issues is the functioning of the judiciary.

The differences between national jurisdictions and legal systems make it impossible to construct a universal formula for the requirements that have to be met for an independent judiciary to exist. Yet we argue that a regional framework of assessing judicial reforms is feasible, since all five countries face similar challenges. Certainly, this framework can be sensitive to country-specific requirements, but will give a more succinct systematization of what indicators are to be pursued in order for a country to improve its judiciary reforms. In the next section, we briefly justify why there is a possibility for a regional approach.

2. Judicial Reforms in the Western Balkans

Initially, the judiciary in contemporary Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia was influenced mostly by the legal traditions of Austria, Germany and France. All faced perpetual flux between the tendency toward independent and moderate judicial systems and a counter pressure from authoritarian rulers attempting to impose political hegemony over state institutions. All five countries share the legacy of forty-year communist rule in the Socialist Federal Republic of Yugoslavia (SFRY). During this period, the judiciary did not achieve political non-conformism in performing judicial service. Separation of power and independence of judiciary principles were hindered by “higher state interests,” which led to the instrumentalization of law by politics.

Later on, with the political transformation of Yugoslavia in the 1990s, the judiciary was characterized by incompetent judges who worked on sensitive political cases, and thus were obliged to stay close to the regime’s interests. Only in the 2000s, when countries overcame violent ethnic conflicts, did the EU launched its policy based on the Stabilization and Association Process, offering WB countries the prospect of EU membership. In this vein,

the improvement of the rule of law became a necessary prerequisite for WB countries' accession to the EU. During the course of the research, we derived the following challenges WB countries face regarding the rule of law:

1) an inadequate constitutional and legal framework, resulting in excessive delays in court proceedings, difficult enforcement of court judgments, and lack of accountability of the judicial bodies and corruption;

2) an overly complex and extended system of courts, resulting in higher than necessary operating costs and less efficient access to justice;

3) unclear selection, dismissal, performance, and promotion standards for judges, resulting in inconsistent judicial effectiveness and a reduction of public trust in the judicial profession;

4) a lack of integrated planning, budgeting and performance measurement capacities, reducing the judiciary's ability to effectively monitor and improve system performance;

5) outmoded judicial administration operational practices, hampering effective justice administration and case processing;

6) onerous administrative burdens on judges, reducing judicial efficiency and lowering morale in the ranks of the judiciary;

7) lack of continuous training for judges and other judicial officials, hindering the development of a modern and professional staff specializing in judiciary management and administration;

8) inadequate curriculum of law faculties, contributing to a lack of preparation for the future leaders in the legal community and the judiciary;

9) poorly equipped and maintained facilities, restricting access to justice and straining the judiciary's resources;

10) an overcrowded and outdated penal system, which does not effectively encourage rehabilitation or satisfy international standards of humane treatment; and

11) underutilization of information technology and automated systems, resulting in the continued use of inefficient and labor-intensive administrative practices. In an effort to eliminate the aforementioned weaknesses, governments of the WB countries adopted the Judicial Reform Strategies.

2. 1 Major judiciary reforms undertaken

All WB countries except Kosovo adopted their respective *National Judicial Reforms Strategy* by 2008. These reforms addressed the pursuit of independence, transparency, accountability, efficiency, as well as accessibility of judicial bodies and building public trust in judicial institutions. They also worked on restructuring the courts into three tiers, except for BiH, because of the administrative division of the country, and Kosovo due to the factual division of Serbs and Albanians in Kosovo.

Following from these strategies, to achieve judicial independence, efficiency and accountability, the terms of appointment are crucial. Hence, all countries already have *High Judicial Councils* that are included in the procedures, playing a role in the appointment, promotion, disciplinary sanctions and dismissal of judges. The drawback of this Council is that it generally possesses scarce resources and few mechanisms for sanctioning judges (e.g. salary cuts, informal warnings, a lack of mechanisms for citizens and parties to submit complaints to the Council). These judicial councils have to adapt control functions in order to achieve greater independence and effectiveness of judiciaries. So far, the WB countries largely comply with European standards regarding the composition of the Judicial Council. The appointment of Judicial Council members in the WB countries follows international standards, where there are both ex officio as well as elected members selected by peer

commissions or by executive and legislative bodies. Pre-selection of judges became an obligatory phase, in order to ensure professionalism and decrease political influence on the judiciary. In Kosovo and BiH, the Council even oversees initial and continuous training of judges, and administers the work of the courts.

Along with independence, efficiency and accountability, a crucial feature of judicial reforms is effectiveness. This means that the policies undertaken should comply with the normative values of rule of law, and improve its quality. For this aim, effectiveness becomes essential, in the sense that those devoted to judicial reforms are competent, and follow the best practices of rule of law. Nevertheless, all WB countries face a high level of formalism in their reading of the law, as well as delays and inconsistent decisions on the part of the judiciary. Therefore, the countries started tackling the problem of effectiveness by setting up *Judicial Academies,* in order to improve the quality of judicial education. A problem arises from the fact that these trainings are not sufficiently linked to advancement in the career or promotion of judges. Hence, it often happens that those who have gone through the training and those who have not are on equal footing.

Given the EU approach towards WB countries and their implementation of the rule of law, and given the de facto reform processes in the judiciary while aspiring towards EU membership, we now shift to the following recommendations.

3. Recommendations

It is important to reassert that we do not criticize conditionality per se. Yet, if candidate countries are held to particular standards, the EU itself should not be exempt from those same standards. Those should be consistency of assessing the success of reform, external as well as internal validity of principles, and finally relevance of the policy reforms it requires. Namely, for a smoother process of pre-accession reform, candidate countries should know when and by what criteria they are considered to be progressing. Therefore, the EU has to distil particular criteria and indicators on the basis of which countries will be graded.

3. 1 Clear conceptualization and measurement of rule of law progress

First, regarding the vagueness of the rule of law, we maintain that the following rekindling of EU Commission's policies is essential:

1. The clarity and credibility of EU demands is an important factor increasing the likelihood of effectiveness.[12] By clarity is understood that the candidate countries need to know precisely what they are expected to do if they decide to comply with the EU conditions. Particular traps for uncertainty may be found in the ever-growing body of EU law, or in the absence of single EU model in many policy areas. Thus, "credibility depends on a consistent, merit-based application of conditionality by the EU."[13]
2. The credibility of conditionality is also linked to the ability of the EU to monitor the rule adoption process, which is why the EU has in recent years made serious investments in its monitoring capacity. Levitsky and Way suggest that asymmetrical bargaining power and sizeable incentives need to be firmly linked with another strong international power (Western Europe and the United States), and the civil society (NGO, media) in the candidate country in order for the conditionality to be effective.[14]
3. Low number of veto players. Schimmelfenning and Sedelmeier have constructed the adoption cost hypothesis, in which "the likelihood of rule adoption decreases with the number of veto players incurring net adoption costs (opportunity costs, welfare and power losses) from compliance." This means that a low number of veto players is a key facilitating factor.

[12] J. Hughes, G. Sasse and C. Gordon. 2004. "Conditionality and compliance in the EU's eastward enlargement: regional policy and the reform of sub-national governance," *Journal of common market studies* 42(3); F. Schimmelfennig and U. Sedelmeier (eds), *The politics of European union enlargement: theoretical approaches Routledge advances in European politics*. cit.; H. Grabbe. 2006. *The EU's Transformative Power: Europeanization through Conditionality in Central and Eastern Europe* (London: Palgrave Macmillan); U. Sedelmeier. 2011. "Europeanisation in new member and candidate states," *Living Reviews in European Governance* 6(1). lreg-2011-1.

[13] U. Sedelmeier. *Europeanisation in new member and candidate states*. cit.

[14] S. Levitsky and L. A. Way. 2006. "Linkage versus Leverage: Rethinking the International Dimension of Regime Change," *Comparative Politics* 38(4).

These can serve as criteria for composing a more meticulous and systematized concept of what rule of law reforms mean for aspiring WB countries.

3. 2 Unified regional approach for the assessment of implementation and progress of rule of law

As already presented, the EU currently depends on general conditionality and socialization in order to assess countries' compliance with its norms. Nevertheless, we find a regional approach towards the assessment of judicial reforms appropriate for the reasons already presented. From our analysis, the four benchmarks of the European Union can be the basis for a unified regional assessment of implementation of rule of law in the WB. This approach is compatible with finding functional equivalence between the countries in terms of institutions, processes, and policies, bearing in mind their specific context and slight modification of assessment where necessary. Even though rule of law is among the "soft principles" of reform, we still argue that there should be a more succinct framework for accessing implementation of rule of law reforms, since they are taken as criteria for EU membership.

The four dimensions on which countries should be assessed are judicial independence, efficiency, judicial accountability and effectiveness. In the five EU country progress reports, we also find a criterion called "impartiality," as well as "professionalism" which are not used consistently. We discover that this is often related to the quality of judge's exercise of their profession and the quality of their decisions. Therefore, we find it useful to use the term "effectiveness" that gives a broader notion of the degree of success to which something fulfills its purpose. For instance, if we are to evaluate whether judges are competent, we talk about their professionalism, and therefore we assess the quality of their training. Furthermore, if we are to assess how well the decisions by the judges serve their purpose, we assess the quality of decision making.

a) *Judicial independence* can be guaranteed only if the framework in which judges

exercise their functions provides for sufficient safeguards against attempts to improperly influence the administration of justice. Hence judges should be protected from the interference of the executive. Furthermore, besides the fact that the law guarantees judges independence from political pressures, an important feature of this aspect is financial independence, based on the principle of separation of powers. The principle of separation of powers between the legislative, executive and judiciary is the core of this principle. In this way, justices can direct the budget they receive on a yearly basis. Finally, the law should clearly protect judges, but hold them accountable to the law as well.

b) It is considered that *efficiency* is better achieved than independence. Even though the overall backlog of cases has been reduced, a more comprehensive analysis reveals that the basic courts and the courts of appeal have managed significantly to reduce that backlog, while this is not the case with the Supreme Court and the newly formed tertiary Courts, which have actually increased the number of pending cases since its establishment. Hence, the number of cases indicates how efficient courts are. Another indicator for assessing countries on how they deal with this principle of rule of law is the approximate duration of court processes. Access to these legal institutions should be easy, and the duration of judicial processes should be as short as possible.

c) *Accountability* mainly deals with responsibility, sanctioning and promotions of judges. Accountability here refers to being accountable in front of the "constituency" or those who legitimize one's conduct. Therefore, the judges are accountable in front of the Judicial Councils, and only indirectly to the citizens. Also transparency and media presence in the courtroom play a crucial role in justices' accountability.

d) Studies focused on questions of the *effectiveness* of EU conditionality identify a few important elements that if applied consistently would maximize the effectiveness of the desired reforms. Regarding judicial reforms in aspiring WB countries, within

these dimensions, we should assess the frequency of professional training for legal staff, as well as the quality of that training. Students in undergraduate studies and graduate schools should also receive adequate education that will prepare them for practical legal work. Finally, additional training should keep judges updated with new practices.

Along with these more general criteria and unified approach, since each country is faced within each dimension with slightly different challenges, in Appendix, we present country-specific recommendation.

3.3 Discussion

From the accession talks with Croatia, chapters 23 (Judiciary and Fundamental Rights) and 24 (Justice, Freedom and Security), which concern the rule of law, have proven to be the most difficult to conclude and remained open relatively late in the accession process. The rest of the Western Balkan countries remain together on their path of EU aspiration. Since the region is making progress towards the EU accession, there is a spillover effect. Namely, "keeping up with the Joneses" becomes an impetus for accelerated reforms, the success of which has to be assessed on clear criteria. Yet each country's success shall be recognized and measured appropriately, and a regional measurement may come in very handy and be appropriate for use by the EU Commission.

The current policy of conditionality does not set a specific way of measuring rule of law success, and there is a lack of a unified framework for implementation of rule of law. Through the example of judiciary reforms, we show that there can be precise criteria distilled. It also becomes more obvious that the EU puts the WB countries in the same basket in its assessment reports and its discussions in European Union institutions.

Judging candidate countries by the same criteria may seem context insensitive, given the fact that some countries are further along in the reform process than others. Nevertheless, the dimensions on which a country's judicial reforms progress can be measured may be constructed as a continuum on which countries are positioned. Next, the EU may set

thresholds to determine when it considers a country more in than out of the set of countries that have successfully implemented rule of law. Broader then judicial reforms, in general rule of law can be subject to stricter measurement, since it has both quantitative and qualitative indicators. For instance, we can easily measure the protection of human rights, the implementation of sanctions, and the criteria for judicial appointments, to mention a few.

The financial implications of having a unified approach towards progress in rule of law implementation should not be a great burden for the EU Commission, which already performas regular assessments. In following these recommendations, it will only sharpen its focus and give countries a clearer understanding of their level of progress.

4. Implementation

Bearing in mind that the European Commission issues an Annual Progress Report for each country, it can monitor the progress of the implementation of the rule of law in the judiciary sphere in the Western Balkan countries. Based on the four criteria we recommended, we here give specific guidelines for how these could possibly be monitored on an annual basis.

Parameters for monitoring the *independence* of the judicial system:

- number of politically dependent processes
- appeals submitted to the Judiciary Council
- number of political appointments
- has there been change/increase or decrease of the protection of judges as they conduct their duties

The *efficiency* of the judicial system should be monitored in relation to

- number of resolved cases and size of backlog
- duration of the judicial processes on an annual basis

Accountability in the judiciary:

- number of promotions
- number of sanctions of judges in front of the Judicial Council
- transparency of work of judges (published court decisions)

- media presence at public open processes

Effectiveness:

- number of trainings provided for strengthening judicial capacities
- professional qualifications
- competence improvement (judges' participation in trainings per year)

Conclusion

The comprehensive and far-reaching normative transformation of judicial institutions in Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro and Serbia has indeed caused tectonic changes in the WB judiciary over the past twelve years. The results of this comparative legal study support the declared willingness of the WB countries to adopt European standards in the sphere of rule of law and thus advance in their EU integrations. Namely, constitutional guarantees of the independence, efficiency, accountability and effectiveness of the judiciary have been strengthened by appropriate by-laws and followed by the establishment of appropriate institutions, most notably the Judicial Academies and Judicial Councils.

The former are designed to provide competent, professional, independent, impartial and efficient performance of judicial and prosecutorial function through selection, organization and implementation of initial training of candidates for judges and continuous professional training of judges. The latter decreases the risk of politicization of the judicial sector and strengthens the fundamental assumption of division of power. Furthermore, the newly established court structure is designed to address the problematic backlog of court cases, while new procedures for election and promotion of judges provide for the independence of the judicial function from legislative or executive power. A unified approach towards the WB countries will simplify assessment and help countries be aware of their progress, while at the same time providing the EU Commission with means for comparison and fine-grained insight into the rule of law progress of its aspiring countries.

Appendix

RECOMMENDATIONS				
Country	Independence	Efficiency	Accountability	Effectiveness
Macedonia	1. Diminishing the various kinds of pressures judges and public prosecutors face during their work affecting their independence in decision making (e.g. pressures from colleagues in higher positions, police, state representatives 2. Stronger protection of judges and prosecutors while they are performing their	1. Judges require protection when exercising their functions, but the immunity should be defined in a way that does not allow possible abuses. 2. Establishment of infrastructure and modern equipment. 3. Resolving the issue of the backlog of pending cases. 4. Decrease the overall duration of court proceedings. 5. Improvement of procedural rules will support the smooth functioning	1. Improvement of the new provisions on the monitoring and evaluation of judges' work that were introduced by the amendments to the Law on the Judicial Council. 2. Additional efforts are necessary to safeguard the security of tenure of judges. 3. Balance between prescribing immunity of judges while at the same time preventing abuse of power 4. Clear definition and predication in the legislation outlining less	1. Recruitment of judges and prosecutors graduating from the Academy for Training of Judges and Prosecutors should be addressed. 2. Further monitoring of the impact on the judicial profession concerning the Law on Courts regarding the detailed educational requirements for judges. 3. Professional trainings 4. Reforms should be made in the section of the Law dealing with sanctioning of judges by giving greater leverage to the Judicial Council. 5. Budgetary independence of courts

	duties and protection of their impartiality when they are exercising their legal functions by their professional associations. 3. Monitoring of the influence of the Ministry of Justice on the judicial processes in Macedonia in order to avoid interference with the independence of the judicial institutions.	of the court. system.	extensive and more precise grounds for dismissal and a better balance between disciplinary and dismissal proceedings.	
Montenegro	1. Constitutional reforms	1. Resolving the backlog issue.		1. New enforcement system has

	should be made in order to provide for the composition of the Judicial Council independent of the political coalition in power	2. Improvement of Court network.		been introduced to improve efficiency. 2. A country-wide single recruitment system should be established for first-time judicial appointments. 3. Strengthening and better streamlining of judicial training.
B I H	1. Reforms should be made in the budgetary process in order to support the institutional independence of the judiciary.	1. Resolving the major problem with the backlog of cases.	1. Accepting a unified definition of rule of law in the legal system in order to improve the functioning of the judiciary on all levels.	1. Efforts should be made to ensure diligent adherence to the Law on HJPC, which defines when the mandate of a judge or a prosecutor can be terminated.
Kosovo	1. Limitation of Government's competence related to the judicial branch. 2. Reforms should	1. Proper allocation of resources for regular functioning of the judicial system. 2. Establishment of infrastructu	1. Additional efforts should be made to increase public satisfaction with the judicial institutions.	1. Additional efforts should be supported to improve competence and professionalism of Judges and Prosecutors. 2. Improvement of the quality

	be made in order to fight against political interferences in the justice system. 3. Revision of powers of the President of the Republic in terms of judicial appointments.	re and modern equipment. 3. Resolving the issue of the backlog of pending cases. 4. Keeping accurate records of court proceedings.		of the written judicial decisions is needed. 3. Overcoming of lack of resources. 4. Establishment of proper management. 5. Institutional capacity building.
Serbia	1. Protection from interference by the executive	1.Faster court proceedings 2. Integrated planning 3. Simplifying procedures for judges 4. Utilize information technology	1. Introduce standards for assessing accountability of judges	1. Modernize judicial administration operational practices 2. Enforcement of court judgments 3. Set clear criteria for promotion of judges 4. Continuous training for judges 5. Improving law faculty curricula

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