

THE BERLIN PROCESS. WHAT WORKED AND WHAT DID NOT WORK? AND WHY?

ZORAN NECHEV, GENTIOLA MADHI, ADNAN ĆERIMAGIĆ AND JOVAN NIDIĆ



European Fund for the Balkans

Institute for Democracy “Societas Civilis”
Open Society Foundation for Albania
EU Policy Hub

The Berlin Process. What worked and what did not work? And why?

Zoran Nechev, Gentiola Madhi, Adnan Ćerimagić and Jovan Nicić

Acknowledgements: This brief was supported by the European Fund for the Balkans – a joint initiative of European Foundations, including the Robert Bosch Stiftung, the King Baudouin Foundation and the ERSTE Foundation through the Think and Link Regional Policy Programme.

Disclaimer: All views expressed in this research paper are those of the authors and do not necessarily represent the views of the European Fund for the Balkans.

Introduction

At the Feira European Council meeting, held in June 2000, the Western Balkans countries, which were engaged in the Stabilization and Association process, were recognized as “potential candidates” for EU membership. The offer of possible EU membership was considered an initial step towards preserving peace in the region. Seventeen years later, the probability of renewed conflicts is rather low and region’s most pressing problems are socio-economic. The economies of the six countries are performing far below the EU average. If they are to reach the EU average in the next 15 years, they must grow at least twice as fast as at present. The region struggles with issues such as bad governance, high unemployment rates (especially among youth) and significant ‘brain drain’. According to the European Commission none of the six countries is ready for EU membership. Furthermore, the region is attracting rising interest from other external actors such as Russia, Turkey, China and the Gulf States, which are filling the void created by the slow pace of EU-related reforms and the current state of uncertainty over future EU membership.

The mini-intergovernmentalism promoted since 2014 by the German government through the Berlin process initiative has put the spotlight on the Western Balkans, and seeks to tackle some of these structural issues. *Stable in terms of actors*, the process involves the Western Balkans countries, as well as Germany, France, Austria, Italy, Slovenia and Croatia, and the European Commission and International Financial Institutions. *Fluid in terms of content*, the process offers a venue for promoting region-

al cooperation, bilateral issues, youth cooperation, migration and connectivity, and, most recently, rule of law.

There have been positive statements about the process from both sides: local political leaders have embraced the process and promoted it to the greatest possible extent, at least at the level of their official narratives, while EU officials have outlined the ‘clear and beneficial agenda’ of the process, which, they stress, has ‘helped the Balkan countries to achieve substantial progress in different areas’. However, there have been few statements on the outcomes. Expectations have seemed to be unrealistic, at least on the part of the recipient countries. This is a result of the failure of the parties involved to come to an agreement at the outset about the expected results of the five-year mandate of the Berlin process. In initial discussions about expected results, ambiguity prevailed over precision, so there is a risk of generalizing about the extent of the process’s success.

The establishment of the Regional Youth Cooperation Office (hereinafter: RYCO) is often quoted as evidence that the process has yielded tangible results. Indeed, it is laudable that RYCO is a regionally-owned, regionally-financed organization, and that the process of its establishment brought together governmental and non-governmental representatives. It is also encouraging that the champions of RYCO were Serbian and Albanian political leaders. However, it remains doubtful how RYCO will actually implement youth policies. Strong political interference in the future work of RYCO should also not be ruled out.

Moreover, while RYCO can be seen as a visible, primary success, realising

the promise of connecting the region through infrastructure projects can be seen as a latent success. This is primarily due to the nature of infrastructural projects, especially the time needed to implement them. It is certainly true that the only visible result is the March 2017 start of construction works on a bridge connecting the Bosnian and Croatian section of a Pan-European corridor. Nevertheless, it should be highlighted that it was due to the Berlin process that Bosnian-Herzegovinian politicians agreed on adopting strategic documents relating to transport, following years of arguments and stalemate. The least results have been achieved in the area of regional cooperation and resolution of bilateral issues. Views about achievements in this area depend heavily on the viewpoint.

This brief analyses the results achieved within the framework of the Berlin process. It looks beyond the façade of the process to assess the progress made in policies such as youth cooperation, the connectivity agenda and resolving bilateral disputes. In doing so, the brief seeks to explain why the Berlin process has so far been more successful in one area than in the others.

Visible success story: RYCO and youth cooperation

RYCO is considered a success of the Berlin process. Its establishment has brought Western Balkan leaders together to work for a better, peaceful future for the younger generations of the region. It builds on the already existing youth cooperation experiences that were primarily stimulated and facilitated by foreign donors, and it at-

tempts to overcome past animosities and repair long-lasting regional divisions. Since the 2016 summit in Paris, RYCO has made important steps towards becoming fully established and fully operational. The ratification procedure of the founding agreement is now concluded, and the governments have allocated the respective funds for the 2017 RYCO budget, amounting to €1.5 million.

The establishment of this regional cooperation office marks one of the most tangible achievements of the Berlin process. It is also a major step towards accelerating reconciliation efforts among citizens of the fairly recently war-torn Western Balkan region. It is a regionally-owned organization entirely dedicated to youth and youth cooperation, set up in a manner that can contribute towards overcoming past prejudices and nurturing an EU values-oriented mindset. In light of its noble mission, RYCO has received strong political commitment, as well as societal and community support.

Four decisive elements have contributed to its positive perception. The first is its limited scope, clear timeline and precise implementation roadmaps. Strong political interest and articulated leadership from the Rama-Vucic duo has significantly influenced the formation of RYCO. The local ownership of the initiative has been equally shared from the very beginning by the governments, local civil society organizations and international actors involved. Finally, RYCO is a materialization of a joint effort by representatives of state and non-state actors, participating and contributing on an equal footing. The collaborative manner cherished throughout the process has contributed positively to the creation of a sustainable and credible organization.

Since RYCO is not yet operational, the transitional phase is being managed by a joint coordination team, which includes a representative of the Albanian Ministry of Foreign Affairs and the members of the moderation team. In December 2016, RYCO's governance structure was publicly announced. The governing board is composed in equal measure of representatives from Western Balkans state institutions dealing with youth policies, and of civil society representatives. The organization's organigram and strategic development approach has been adopted by the board, including the 2017 Activity Plan. The Secretary General who will lead the organization and his deputy have been selected. By the summit in Trieste, it is expected that the selection process of local staff and remaining administrative issues will have been concluded, as a final step before launching the first call for applications.

RYCO still needs to be materialized into concrete activities, and the initial positive symptoms therefore need to be sustained. Many challenges lie ahead, such as the adoption of comprehensive measures on the facilitation of the free movement of young people between Kosovo and Bosnia and Herzegovina. Monitoring mechanisms should be adopted and the highest possible level of independence from political interference needs to be applied. Likewise, higher transparency and accountability in the decision-making process would be beneficial for long-lasting trust in the independence of this organization, both in financial and operational terms. It is in the interest of both governments and their respective civil societies that RYCO does not turn into a 'political instrument' of relations between the countries.

RYCO must ensure full implementation both of principles of participatory democracy and of inclusiveness. The latter has been taken into consideration only in some segments of the establishment of this regional organization. In particular, the research conducted has highlighted that civil society has not been consulted in defining the priority areas, and the activity plan for 2017 has not been made available online, which breaches the principle of transparency. In this regard, a bad precedent has been set in the case of Macedonia, where the civil society representative initially appointed to RYCO was an official of the National Assembly as well as a member of a political party. Despite a fierce reaction from civil society organizations including youth organizations, the issue was not addressed appropriately. In planning the regional exchange programmes, RYCO structures should explore all available opportunities for serving as a force opposed to the revival of nationalism and ethnic divisions in the region, and for raising awareness and building trust among young people.

Latent success story: Connecting the region with infrastructure

The Berlin process *connectivity agenda* has been latently successful in supporting concrete cross-border and regional infrastructure projects, which bring highest value in the Trans-European Transport and Energy Networks (TEN-T and TEN-E). Moreover, the connectivity agenda has achieved its initial aim of starting to change the mindset of politicians and administrations, and persuading them that

improving connectivity is crucial for integration with regional and EU markets and for further strengthening the region's competitiveness. The current commitment of all parties involved is providing the necessary impetus for conducting essential reforms, and thus increases the likelihood of producing tangible results in the near future.

The potential success of the connectivity agenda will be proved by the links and opportunities it will create for businesses and people, and by the fact that it contributes to fostering good neighbourly relations. The connectivity agenda places special emphasis on the preparation and financing of concrete regional infrastructure investment projects, and, in parallel, on connectivity reform projects (soft measures) aimed at alignment with EU policy and standards. In this context, the EU has set aside up to €1 billion for connectivity investment projects and technical assistance for the period 2014-2020 (Connecta), to support the process of setting and/or reinforcing the regulatory and institutional framework that will enable the Western Balkans to reap the full benefits of the investment in infrastructure. One of the key factors contributing to the present state of the connectivity agenda is the network of regional organizations such as the South-East Europe Transport Observatory (SEETO), the Central European Free Trade Agreement (CEFTA) and the Energy Community Secretariat (ECS), which steer the established sectoral regional cooperation process. In addition, latent success is also an outcome of the work of the National Investment Committees and their contributions to preparing the sectoral single project pipelines.

Most of the projects in the pipeline are

now benefiting from the Western Balkans Investment Framework (WBIF). Now that the project priorities are in place, the participating countries need to put further efforts into project preparation and creating an enabling environment for smooth implementation of the hard infrastructure projects – such an environment is still lacking. The ESC and SEETO, mandated to monitor the progress made, reveal that the implementation of the connectivity policy reform measures needs to be accelerated in order to facilitate the establishment of regional transport and energy markets. Furthermore, EC (Connecta) technical assistance should be deployed without any further delays. Once fully implemented, these measures could maximize the economic development benefits expected from investment in costly transport and energy infrastructure, by removing/addressing the non-physical barriers, including the regulatory, management and procedural constraints of transport and energy systems.

The first grants to connectivity projects were awarded in 2015. A total of €145 million has been allocated in support of four energy and four transport projects, with an investment value of €538 million. The investments will support the implementation of the East-West and Trans-Balkan electricity corridors; of two bridges and associated border crossings between Croatia and Bosnia and Herzegovina; and of the key railway infrastructure on the Orient/East-Med Corridor in Kosovo and Montenegro. The implementation of these eight projects made solid progress in 2016 and 2017: all financing agreements are now in place, and several projects are already under construction. In 2016, three additional railway projects, with an investment value of over €210

million, received €99 million in grant support. In total, these investments will result in the construction and/or upgrade of more than 450km of high voltage electricity lines and associated substations, as well as the rehabilitation and/or construction of more than 200km of railway lines and associated train stations. A notable sign of progress was the signing of rail border-crossing agreements between Albania and Montenegro, and between Macedonia and Serbia, with all subsequent bilateral protocols, although much more needs to be done to secure their proper and efficient implementation.

It must be emphasized that the impact of these bilateral agreements can only be measured in the medium-term. This is also true for most of the connectivity measures and for the infrastructure projects, as they are mostly long-term measures. Measurable indicators set and monitored by regional organizations would be beneficial for the future success of the connectivity agenda.

Since the development of infrastructure is almost always considered a state affair, the process tends to risk excluding the end-users, i.e. citizens and businesses. To avoid that, the process should be constantly improved institutionally in terms of transparency, communication, inclusiveness and coordination. Initial attempts at cross-sectoral coordination and inclusion of non-state actors have been made through the SEETO Transport Facilitation Working Group and the CEFTA Committee of Trade Facilitation. However, further evidence is needed that the private sector and wider civil society can formally and systematically contribute to the process.

The role of SEETO, CEFTA and ECS could be expanded further. They have the necessary predisposition for acting as coordination platforms and providing regional overview. The implementation of the connectivity agenda could therefore be further boosted by providing them with the necessary competence to become involved in project execution and delivery of know-how and system solutions on the ground. By contrast, if, instead of true empowerment, they are pressed into doing even more administrative work, the connectivity agenda could be jeopardized, and could risk becoming an empty form in which box-ticking is prioritised over concrete action.

Limited success: Regional cooperation and bilateral disputes

One of the most important outcomes of the 2015 Vienna Summit was the signing of the Declaration on Regional Cooperation and the Solution of Bilateral Disputes. However, since then, the process has witnessed poor results in this policy area, despite the formal affirmation of readiness for solving these disputes. There has been no significant advance with regards to political disputes, border disputes, minority rights issues, property restitution, succession issues, or implementation of transitional justice mechanisms, i.e. issues that originate from the violent dissolution of the former Yugoslavia. While some countries have made attempts to resolve issues like that of the border demarcation between Montenegro and Kosovo, the fact remains that the only notable success in this policy area has been the finalization of the Bosnia and Herzegovina - Montenegro

border dispute. On the other hand, we have seen the potential of these disputes to influence political forces and movements in the region – the case of Kosovo and the failed attempt to ratify the border agreement being the most salient example.

Political interest is the main precondition for resolving bilateral disputes between the Western Balkans states. It is becoming even more difficult to discuss and find solutions for these disputes in the increasingly authoritarian environment in the region, which is fuelled by the return of populism and nationalism. This is exacerbated by primordial fears about identity that are perpetually spread by irresponsible politicians. Moreover, some of disputes that are most important to stability and regional cooperation trends involve *EU member states which are not part of the process*, making the process unsuitable for these types of problems.¹ *The legacies of the 1990s armed conflicts in the former Yugoslavia* also remain a significant barrier to resolving the majority of bilateral disputes in the region, and relations among the states generally still suffer from a lack of trust. Finally, the *vagueness and generality of commitments* outlined in the declaration leave room for different interpretations, so there is a lack of concrete, achievable goals and clear coordination for the solution of these disputes.

The period following the Paris Summit has been characterized by further deterioration in relations both among the Western Balkans states, and with their neighbouring EU member states. While the resolution of the crisis in Macedonia and the initial steps

¹ Especially, the name dispute between Macedonia and Greece, and disputes between Serbia and Croatia on different issues.

to resolve its long-standing issues with Bulgaria and Greece are positive, the normalization of the relations between Belgrade and Pristina – especially after the election in Kosovo – remain a challenge. Relations significantly regressed after the arrest of former Kosovo prime minister and leader of the Alliance for the Future of Kosovo Ramush Haradinaj, and the announcement by the Kosovo authorities that a Kosovo military will be established in the near future.

The Western Balkans countries are making slow progress in applying transitional justice mechanisms, such as war crimes prosecutions, about the human rights violations which took place during the armed conflicts of the 1990s. In February 2017, without a decision by the competent authorities on behalf of Bosnia and Herzegovina, a request was submitted for a revision of the 2007 judgement of the International Court of Justice in the case concerning BiH's lawsuit against Serbia regarding the application of the Convention on the Prevention and Punishment of the Crime of Genocide. The request was rejected.

Property restitution and succession issues remain unresolved, although dialogue about these issues has lasted for more than a decade. At the last meeting of the Multilateral Committee for Property Restitution and Succession, held in Slovenia in October 2016, it was agreed that property which could not be divided among states would be sold by international tender. The next meeting of the Committee was announced for April/May 2017 in Belgrade, but there is no available data confirming that the meeting was held.

If commitments made in the decla-

ration were operationalized by defining minimal classification of bilateral disputes, and if they were narrowed down to specific activities, the process would benefit, and the participating countries would be steered in the right direction. The practice of preparing annual reports on the steps taken in resolving these disputes initiated at the Paris Summit, needs to continue.

Bilateral issues carry the risk that they will be constantly politicized by political leaders for internal, national-level purposes. Fragile democracies like those in the Balkans, distorted by frequent snap elections, further undermine the effectiveness of the process in this policy area. Issues related to the situation of national minorities are often used as a tool for heating the debate between countries, instead of being used as instruments for building cooperation. Mitigating these risks would require expanding state-level dialogue and improving the overall transparency of the resolution of bilateral disputes, by involving other, non-state, actors in the process. They could create a positive atmosphere and contribute to the process, thus making it more inclusive and factual. Non-state actors could also bring the benefit of building political consensus and societal acceptance. Furthermore, internal policies that could influence some of the bilateral issues, such as improving the position of national minorities, should be drafted in cooperation and in reciprocity with neighbouring states.

In lieu of a conclusion

The upcoming 2017 summit in Trieste will mark the beginning of the final year of the implementation of the

Berlin process. This brief has sought to explain why the Berlin process has produced better results in one policy area than the others. In doing so, the brief has gone back to the initial phases of the establishment of the process. Special emphasis has been placed on the implementation between the summits in Paris 2016 and in Trieste 2017. The brief has deployed three case study areas to demonstrate the general effectiveness of the Berlin process, while stressing at the same time that most progress has been made in policies that are precisely framed, are less politically sensitive and have a local champion. But what is even more important is that the political elites from the region have understood that the only way forward is to cooperate and progress as a region. In Sarajevo in March 2017, the first meeting of Prime Ministers took place in one of the Western Balkans states. Furthermore, the leaders have shown leadership and agreed to meet regularly halfway between the Western Balkans summits, in order to coordinate and discuss implementation of policies covered by the Berlin process.

This conclusion followed the work on RYCO and youth cooperation. Although there have been difficulties in implementation, the political push by the Vucic-Rama duo was instrumental in laying the foundations for this office and the success associated with it. Its establishment achieved a high level of visibility because of the structural involvement of wider civil society and the personal gains for both political leaders on their national political battlefields, and this visibility was sufficient to produce the necessary results. It is thus framed as the most visible success story of the Berlin process.

The connectivity agenda of the process is not less successful, but less visible. This is primarily due to the nature of infrastructural and connectivity reform projects aimed at aligning with EU policy and standards. The measures are targeting 2020 now, but much of the work will remain uncompleted and will require continuously monitoring, as the real effects can be shown only in the medium- to long-term. However, the connectivity agenda may have already achieved the most profound results, i.e. changing the mindset of Western Balkans political elites and persuading them that regional connectivity (physical and non-physical) is crucial for the overall advancement of the region and of individual countries, and for improving their competitiveness on European markets.

The Berlin process has had limited success in the policy area of regional cooperation and bilateral disputes. The lack of political interest in engaging in resolving these difficult issues stems from the populism and nationalism exercised by government elites, combined with their activities of spreading primordial fear about identity. Therefore, precision and additional transparency are needed to move forward in this policy area. This would create a positive atmosphere and environment for political elites to engage substantially and resolve the outstanding bilateral disputes that significantly burden the EU accession process for all the Western Balkans countries. The interest of the EU and certain member states in assisting the countries in the region to move forward will not last forever. An extended invitation to other interested EU member states in South-East Europe to join the commitments from the Declaration on Regional Cooperation would be beneficial in the pro-

cess of resolving the outstanding bilateral issues. Therefore, political leaders and wider civil society should use this momentum, and the mini-intergovernmental structure that has been established with the Berlin process, to make their particular contributions to moving collectively closer to the EU.

THE BERLIN PROCESS. WHAT WORKED AND WHAT DID NOT WORK? AND WHY?

ZORAN NECHEV, GENTIOLA MADHI, ADNAN ĆERIMAGIĆ AND JOVAN NIDIĆ