

Policy Paper No.53/2020



# Rebuilding Our House Of Cards: With More Glue

-  
Srdjan Cvijic and  
Adnan Cerimagic

November 2020

*The views expressed in this document do not necessarily reflect the views of  
the Institute for Democracy "Societas Civilis" – Skopje*



**Rebuilding Our  
House Of Cards:  
With More Glue**

-  
Srdjan Cvijic and  
Adnan Cerimagic

November 2020

# Impressum

---

**Title:** Rebuilding Our House Of  
Cards: With More Glue

**Publisher:** Institute for Democracy  
"Societas Civilis" – Skopje

**Authors:** Srdjan Cvijic and  
Adnan Cerimagic

**Design:** Dejan Kuzmanovski

**This publication is available at:**

<https://idscs.org.mk>

# Some glue, please!

---

In late June 2016 two of us, a Serb and a Bosnian, met with numerous EU politicians and officials. With them, we tried to discuss EU enlargement towards the Western Balkans. Arguing in favour of it was never an easy task, but in a freshly post-Brexit Brussels it was even more difficult. Worried by what just happened, completely unaware of what was coming from the USA later that year and a bit bored by all the same from the Western Balkans, one of our interlocutors interrupted us to conclude that “at the moment the EU we built is like a house of cards and you come in to tell me we should put more cards on it, right? Well, unless you have some glue with you it will be hardly possible.”

At the end of our tour we compared notes and discussed what we heard. Three points stood out that afternoon:

First, that **there will be no new EU enlargement before the deepening of the EU.**

Second, that **EU will not accept new Orbáns and Kaczyńskis in the EU.**

And third, that **former Yugoslav states cannot expect to have seven votes in the EU Council while Germany and France have only two.**

Four years later we come together to write this paper with an aim to propose and discuss some concrete ideas on how to glue together the EU and Western Balkans. Our glue is built out of solidarity based on values and sacrifice and it brings rewards both for the region and the EU. If implemented, the two can come out stronger.

# First EU internal reforms, please!

---

To reform or to enlarge is a false dilemma put before Europeans since the European project was initiated. In reality, forces that contributed to enlargement helped those who wanted a stronger and more cohesive Union. It is no different with the Western Balkan enlargement.

In May 2018 the French President, Emmanuel Macron, came to Sofia to tell his EU and the Western Balkan counterparts that he is “not in favor of moving toward enlargement before having all the necessary certainty and before having made a real reform to allow a deepening and better functioning of the European Union.”<sup>1</sup> After all, he did not win elections on a platform of enlarging but saving and remaking the Union. Many friends of the Western Balkans worried at that moment that this could spell the end of EU enlargement.

---

What happened in the wake of Macron’s veto over the start of accession talks with Albania and North Macedonia was emergence of a clear and very vocal consensus among countries of the Central and Eastern Europe (including Germany and Italy!) on the need for the EU to keep its enlargement promise to the Western Balkans.

This should be seen as a confirmation of the old dynamic where champions of internal reforms, France, the Netherlands and Denmark, use the push for the enlargement, this time to the Western Balkan, to build consensus on the deepening of the EU. These reforms would aim to make, among other, Union that is more functional, but also more attractive to its current and future citizens. Part of these reforms should, it seems, be focused on making sure that the decision-making process is less disrupted by higher number of member states.

---

<sup>1</sup> Andrew Gray, [“Macron pours cold water on Balkan EU membership hopes”](#), Politico, 17 May 2018.

# No new Orbáns and Kaczyńskis, please!

---

It is no secret that democracy and the rule of law have been backsliding in the last decade, both in the EU member states – Hungary and Poland – and across the Western Balkans.<sup>2</sup> For years progressive politicians and public – both in the EU and the candidate countries for EU membership – were focused on addressing two major crisis: bridging the economic and social gap between EU’s core and periphery and addressing the crisis of its values: the rule of law and the check and balances of liberal democracy.<sup>3</sup> With the recent pandemic Europe’s two crisis were deepened further and the third, public health crisis came in. All three have been used to undermine EU’s foundations, from inside and outside.

---

Progressive and liberal forces both in the EU and the Western Balkans should tackle all three crisis in a coherent way. To achieve this, the continent needs more solidarity and will to increase financial transfers from the core of Europe to its periphery. This transfer, however, should strengthen the European values, not undermine them.

For most countries in the wider region of Central and Eastern Europe the last decade has been the one of “democratic deficits.”<sup>4</sup> The period after the world economic crisis has been characterized by the creation of hybrid regimes, also referred to as “competitive authoritarianism”.<sup>5</sup> Ten years on, we are facing a situation where a good number of leaders in the wider region “have dropped even the pretense of playing by the rules of democracy.”<sup>6</sup>

<sup>2</sup> Bieber F., Bino B., Cvijic S., Djolai M., Dzihic V., Flessenkemper T., Kmezcic M., Marovic J., Stratulat., Vracic A., Wunsch N. March 2017. [The Crisis of Democracy in the Western Balkans. An Anatomy of Stabilitocracy and the Limits of EU Democracy Promotion](#), Policy Study, BIEPAG.

<sup>3</sup> European Stability Initiative, [“Beyond the silent cash-machine – smart solidarity: The wizard, the virus and a pot of gold: Viktor Orban and the future of European solidarity”](#), 27 April 2020.

<sup>4</sup> Freedom House, [“Nations in Transit 2020: Dropping the Democratic Façade”](#), May 2020.

<sup>5</sup> Steven Levitsky and Lucan Ahmad Way, [“Elections Without Democracy: The Rise of Competitive Authoritarianism”](#), *The Journal of Democracy*, Volume 13, Issue 2, April 2002.

<sup>6</sup> Zselyke Csaky, [“Dropping the Democratic Façade”](#), Nations in Transit, Freedom House, 2020.

According to the Freedom House, none of the candidate or potential candidate countries for EU membership in the Western Balkans qualifies as a “semi-consolidated democracy” and are all classified as “transitional or hybrid regimes”. A gloomy result for the EU enlargement policy goes beyond the Western Balkans. Only two countries that joined the EU in past 20 years – Estonia and Lithuania – did not experience a democratic backsliding in the last five years. Freedom House warns that there are fewer democracies in the regions of Western Balkans and Central and Eastern Europe today than at any point since their annual report was launched in 1995. EU member states Hungary and Poland together with the Western Balkan frontrunners Montenegro and Serbia are leading the pack of democratic backsliders.

Hungary under Viktor Orbán – in power since 2010 parliamentary elections - is the most extreme example of all countries in the region. From a status of a fully-fledged “consolidated democracy”, policies and actions by the government in

Budapest downgraded the country to the lowest category of a “transitional/hybrid regime”.

The latest blow came in March 2020 when the “law on protection against Coronavirus” was passed. This law allowed Orbán’s government to rule by decree with no time limit. It also amended the Criminal Code to introduce prison sentences of one to five years for anyone who spreads “falsehood” or “distorted truth” about the pandemic. Reminiscent of the crackdown from the Communist dictatorship, from March to May 2020, in total 87 procedures based on these provisions were launched, with 16 people ending up being arrested.

In another EU member state Poland disintegration of the rule of law started later, in 2015, and coincided with the Law and Justice Party coming to power. Already in December 2017 the Council of Europe’s Venice Commission warned that the changes to the judicial system bore “a striking resemblance with the institutions which existed in the Soviet Union and its satellites.”<sup>7</sup> Since then, things got worst.

---

<sup>7</sup> European Stability Initiative and Fondacija Batorego, [“Poland’s deepening crisis When the rule of](#)

Ten years ago, Montenegro and Serbia were at the beginning of their EU accession process as both applied for EU membership and were hoping to get an official candidate status. Since then, the quality of democracy in both countries has deteriorated and resembles that of Hungary or Poland.

The EU's track record in facing these authoritarian tendencies in the Western Balkans and the EU itself was similarly weak. Both when it comes to sanctioning governments that show authoritarian tendencies, or when it comes to rewarding those that fight to stop and reverse those trends.

In the case of its two members, Hungary and Poland, EU has triggered the Article 7 procedure laid down in the Treaty of the European Union. This provision of the Treaty, often seen as a "nuclear option" foresees, when a member state is in a "serious and persistent breach" of the fundamental EU values (Article 2 of the Treaty) to eventually suspend some of the rights reserved to member states, including the voting rights in the Council.

The catch 22, however, is that in order to determine the existence of a "serious and persistent breach" all EU member states - except the one concerned - has to vote in favour in the European Council. Having two countries, Hungary where in September 2018 the European Parliament activated the procedure, and Poland where in December 2017 the European Commission triggered the procedure, meant that both countries could pledge to "protect" each other. Which is exactly what they did.

Suspension of the accession negotiations with Montenegro and Serbia would be an equivalent of the Article 7 procedure for the EU member states. Except for the calls by civil society organisations in Montenegro, in April 2018, suspension of accession talks was never seriously considered by the EU.<sup>8</sup> The catch 22 here is that the unanimity of EU member states is required in order to agree on that step. In April 2019, the foreign minister of Hungary assured government in Belgrade and Podgorica that this would not happen.<sup>9</sup> Any attempt to seriously discuss suspension of the accession

---

<sup>8</sup> BCSDN, "[Montenegrin CSOs: EU to Consider Suspending Accession Negotiations](#)", 13 April 2018.

<sup>9</sup> Szabad Magyar Szo, "[Szijarto: Dragi moji prijatlyeli \(video\)](#)", 19 April 2019.

talks with Belgrade or Podgorica ends with a finger pointed to EU's inability to reach consensus on ending accession talks with Erdoğan's Turkey.

Building on the writings of Srdja Pavlović, in an LSE Blog on Montenegro in late 2016, the Balkans in Europe Policy Advisory Group has contributed to the common use of the term "stabilitocracy" to describe "[t]his exchange of stability for external lenience on matters of democracy".<sup>10</sup> One of the best examples of how "stabilitocracy" works are EU's attempts to eliminate the political influence over Serbia's judiciary. Measures aimed at overcoming this problem were put forth in the 2013 Judicial Reform Strategy and in the Action Plan for Chapter 23, which was agreed upon by the European Commission and the Serbian government in April 2016. The action plan provided for the end of 2017 as a deadline for the adoption of the constitutional amendments that would eliminate the political influence from

Serbia's judiciary.<sup>11</sup> Four years on, the EU continues to tolerate what is an obvious lack of will of the Serbian government to achieve that goal.

One of the aims of the EU is to spread its living standards and values to the rest of the continent. Since 2014, the EU has invested more in Poland and Hungary than the US invested in Germany or the United Kingdom under the Marshall Plan [in 2018 value].<sup>12</sup> At no point in time was there a serious consideration to suspend these funds due to authoritarian developments in Budapest or Warsaw. When some suggested that it was problematic to allocate more funds to help Hungarian and Polish efforts than the Italian efforts to fight the Corona pandemic, the Hungarian government argued that "this is our money. Hungary deserves to get more than Italy. To suggest otherwise is insidious."<sup>13</sup> Similarly, the Hungarian government reacts when questioned about its actions in undermining EU values.

---

<sup>10</sup> See footnote 2 and Florian Bieber, "[What is a stabilitocracy?](#)", BiEPAG Blog, 5 May 2017.

<sup>11</sup> Cvijic S., Čečen B., Đorđević D., Jahić D., Jeremić I., Kostić V., Milivojević A., Minić Z., Nenadić N., Stojanović M., Šarić M., "[When Law Doesn't Rule: State Capture of the Judiciary, Prosecution and Police in Serbia](#)", *Open Society European Policy Institute, Transparency Serbia and Center for Investigative Journalism of Serbia*, 12 October 2018.

<sup>12</sup> European Stability Initiative, "[Beyond the silent cash-machine – smart solidarity: The wizard, the virus and a pot of gold: Viktor Orban and the future of European solidarity](#)", 27 April 2020.

<sup>13</sup> European Stability Initiative, "[Beyond the silent cash-machine – smart solidarity: The wizard, the virus and a pot of gold: Viktor Orban and the future of European solidarity](#)", 27 April 2020.

Rewarding those that stop and reverse authoritarian tendencies in the Western Balkans has been weak as well. North Macedonia is the most recent and the most prominent example. Since 2017 the government in Skopje defeated an authoritarian leader, made serious steps to dismantle captured state, improved rights of its Albanian minority, improved its relations with neighbouring Bulgaria and signed a historic Prespa agreement over the name issue with Greece. The Commission recognized these efforts and in April 2018 without any conditions recommended EU member states to open the accession talks with this country. After 13 years of vetoing the Greek government supported this recommendation but government in Paris disagreed.<sup>14</sup> This turned into a saga that undermined EU's transformative power in the region despite EU governments finally agreeing to open the membership negotiations with the country in March 2020, at the height of the pandemic.

**This is why the next multi annual financial framework of the EU, which includes recovery funds for the pandemic, both for the EU members and the Western Balkan countries, have to be conditioned with having the rule of law and democracy at the highest level.**

Furthermore, **the EU should base the Article 7 procedure on the qualified majority voting in all stages of the process of the suspension of membership rights.**

Presently, the Council may suspend certain rights of a member state by qualified majority, but only if prior to that unanimously determines the existence of a serious and persistent breach of the values referred to in Article 2. Under a new system, which would require a treaty change, it would take more than an unprincipled coalition of the perpetrators, such as the one of Hungary and Poland, to

---

<sup>14</sup> Grabbe, H., [\*The EU's Transformative Power Europeanization Through Conditionality in Central and Eastern Europe\*](#), Palgrave Macmillan, 2006

prevent the triggering of the sanctions system.

In the case of the Western Balkans, the EU member states could consider agreeing to grant membership short of voting rights until countries prove that not only they adopted and short-term managed to implement all the membership criteria, including the article 2, but that they can keep it over a longer period.

## **No new decision making disrupters, please!**

---

In Brussels and many capitals across the EU there is a growing sentiment that past EU enlargement rounds made decision-making process in the EU (more) difficult. There are three ways to address these concerns.

First, by pointing out that it was never easy to make decisions in the EU. When some pointed at enlargement as a culprit for a difficult process of deciding over top EU jobs after 2019 elections, Carl Bildt pointed to how difficult it was for then 12 governments to decide on Jacques Santer as the Commission president in July 1994.

Second, by pushing and implementing reforms that would enable easier decision making process in the EU. Introducing more areas where qualified majority voting applies would be one way.

And third, by considering to accept new members into the EU without giving them voting rights in some policy areas.

At the moment, the French President Emmanuel Macron is the one expressing this concern loud and clear, but many in the EU silently share it. In May 2018 when he told his EU and the Western Balkan counterparts that he is “not in favor of moving toward enlargement before having all the necessary certainty and before having made a real reform to allow a deepening and better functioning of the European Union” he also said that “what we’ve seen over the past 15 years is a path that has weakened Europe every time we think of enlarging it.”<sup>15</sup> In July 2019, as the EU leaders struggled to agree on candidates to fill top EU jobs, Macron said he is “more than skeptical toward those who say that the future of Europe lies in further enlargement, when we can’t find agreement between 28 nations. And I am insistent on the fact that I will refuse all forms of enlargement before deep reform to the way we function institutionally.”<sup>16</sup>

Proposals for more policy areas where qualified majority voting is needed are already on the table. In September 2018, the Commission proposed extending qualified majority voting to three specific foreign policy areas: a collective response to attacks on human rights; an effective application of sanctions and civilian security and defense missions.

**The EU should consider introducing qualified majority voting in all intermediary stages of EU accession negotiations.**

Qualified majority vote by the Council – 55 percent of member states representing at least 65 percent of the EU population – in order to validate the progress or backsliding of a candidate country would make the process fairer and more effective.<sup>17</sup>

**Having in mind the passerelle clause in treaties of the European Union, the alteration of a legislative procedure in this case would not require a formal amendment of the treaties.**

<sup>15</sup> Andrew Gray, [“Macron pours cold water on Balkan EU membership hopes”](#), Politico, 17 May 2018.

<sup>16</sup> Reuters, [“Size matters: France deflates EU enlargement aspirations”](#), 2 July 2019.

<sup>17</sup> Cvijic S., Kirova I., Nechev Z. and Kirchner M. J., [“From Enlargement to the Unification of Europe: Why the European Union needs a directorate general Europe for future members and association countries”](#), *Open Society European Policy Institute*, June 2019.

At present, unanimity in the accession process gives an easy excuse to member states to halt enlargement because of bilateral disputes or their domestic politics. They can hide behind the candidate country's real or perceived lack of progress. As a result, the Commission is unable to demonstrate its commitment to enlargement, no matter how ambitious the new methodology is. The takeover of the enlargement process by the EU member states not only undermines the Commission's role, but renders the whole process less efficient and weakens the EU's credibility as an effective and powerful global player.

If individual members and national parliaments are allowed to impede or even stop the accession of candidate states at any given time and for reasons completely unrelated to candidate country's preparedness, as it happened with North Macedonia because of the French veto, the political cost of negotiations could be

too high for would-be members to fully commit to.

Under the system of qualified majority voting individual member states would retain the right to make a final decision on future membership and national parliaments would still have the option not to ratify any Treaty of Accession of an aspiring candidate at the end of the process.

Qualified majority works in two directions. If adopted it would place the Council in a better position to reward the reformists, but also to sanction the backsliders. A vote by a qualified majority of member states would make it easier to block the accession talks with a candidate country completely derailing from the EU membership path, like for example Turkey. Only the qualified majority voting would make the idea of "reversibility" of the accession process, as suggested in Commission's new methodology, possible.

When the EU was considering the big bang enlargement in 2004, and Bulgaria and Romania's later accession in 2007, or Croatia's in 2013, many were concerned that labour force from those countries would disrupt labour market in the so called old EU member states. This is why transitional restrictions on the freedom of movement for worker in the EU were put in place. Initially, a number of older EU members have barred labor from the eight new member states from Central and Eastern Europe. By today not only that these restrictions have been lifted but many EU member states are seeking labour force beyond the EU, including the Western Balkans.

In a similar way but on different issue, there is a fear in the EU that the Western Balkans enlargement could disrupt functionality of the EU institutions and decision-making. Additional six chairs with full voting rights, including vetoes in areas of the EU policy where unanimity is required, makes even the biggest supporters of the Western Balkans worried.

To respond to this, next to increasing the number of areas where the qualified majority voting is necessary **EU member states could consider introducing transitional restrictions to voting rights of the new member states in certain policy areas where unanimity is required to make decisions.**

**Unlike with the access to EU's labor market with the 2004 and 2007 enlargements, the acquisition of full rights would not have a time horizon. Rather they will depend on country's full alignment with the article 2 of the Treaty of the European Union. It could be regulated through a reformed procedure laid down in the Article 7 the Treaty.**

The Western Balkans countries and their citizens would still have access to EU funds reserved for the member states, as well as full rights as any other member of the Union. The only difference would be that their elected representatives would not have a say in it for several years (i.e. until they do not fulfil the conditions). In

this way, a new member state, would be placed in a conditionality process, which would be aimed at fulfilling the criteria. In this case, “a reasoned proposal” that a new member state has fully met the criteria under article 2 of the Treaty by: one third of the Member States, the European Parliament, the European Commission, or four fifths of the Council, would trigger the process for the granting of full voting rights to a new member state. Very much like in the suspension procedure, a qualified majority of four fifths of the Council would be needed first to determine the full alignment with criteria under article 2, and then subsequently, another vote to grant full voting rights to a new member state.

## Enough to glue us together?

---

The EU is our house and to some it seems like the one made of cards. We need a glue to keep it together and in this paper we argued that this glue is solidarity based on shared values and sacrifice.

The phrase we hear often at the meetings on the Western Balkans enlargement is that “we let some countries in too early.” They usually refer to the member states that joined the EU in 2004, 2007 or 2013. The assumption is that, if they waited in line longer then they would have had a stronger democracy and the rule of law. The reality on the ground contradicts such thinking. Hungarian Prime Minister Viktor Orbán has built his state from within the EU and the presidents of Serbia Vučić or Montenegro Djukanović did it waiting to join outside.

**Hoping to 'repair' the countries for good before they join the EU is like painting the sealing of your apartment to cover the water leak from your upstairs neighbor instead of repairing his sink. The upstairs neighbor is Orbán's Hungary and other illiberal countries in the EU... To fix the leaking sink the EU must strengthen its checks on rule of law after membership.**

If we'd taken this approach with previous enlargements we would have had a new cold war and Putin knocking at our front door. Deepening and widening of the Union have always developed in parallel. Without the Western Balkans in the EU not only that the dream of a unified Europe would not be complete but reforming the EU itself would be more difficult. So let's glue the region stronger to the EU.

Balkan nations aspiring to join the EU are watching Orbán and friends use the pandemic to establish one-party states inside EU's borders with interest. Letting Hungary slide further into authoritarianism is not interest of the EU or the Western Balkans. President Macron is right in saying that Europe should reform itself. An important part of the solution is stopping the illiberal contagion of the EU and the Western Balkans. Where the French President is wrong is in saying that reforming the EU should come before the EU membership of the Western Balkans.

## About this contribution

---

This contribution builds upon the panel discussions of the [2020 Think Tank Forum Western Balkans Skopje 'Stimulating strategic autonomy - Western Balkans' contribution for a shared European future'](#), organized within the 2020 joint Presidency of the Republic of North Macedonia and Republic of Bulgaria with the Western Balkans Summit Series.

## Link

---

**This report is available electronically on:**

- <https://idsccs.org.mk/en/portfolio/rebuilding-our-house-of-cards-with-more-glue/>

## Information about IDSCS

---

IDSCS is a think-tank organisation researching the development of good governance, rule of law and North Macedonia's European integration. IDSCS has the mission to support citizens' involvement in the decision-making process and strengthen the participatory political culture. By strengthening liberal values, IDSCS contributes towards coexistence of diversities.

### Contact information about IDSCS

-

Address: Str. Miroslav Krlezha 52/2,  
1000 Skopje

Phone number: +389 2 3094 760

E-Mail: [contact@idsccs.org.mk](mailto:contact@idsccs.org.mk)

# Information about the authors

---

**Dr. Srdjan Cvijić** is a senior policy analyst on EU external relations. Dr. Cvijić engages in analysis and advocacy concerning EU enlargement in the Western Balkans and Turkey, as well as the Middle East and North Africa. He also engages in advocacy work in the fields of rights, values, and international law. His recent focus has been on the EU Strategic Framework for Human Rights and Democracy and counterterrorism policies of EU member states in their foreign and security policy. Dr. Cvijić has been engaged with EU policy work since 2005. Before joining the Open Society Foundations in 2015, he worked at the European Policy Centre, the NATO Parliamentary Assembly, the Stability Pact for South-Eastern Europe, and in the diplomatic service of the Republic of Serbia. He has published academic and policy-related articles on international public law, international humanitarian law, and international human rights law relating to EU foreign policy and

EU enlargement issues. He contributes regularly to *Politico Europe*, *EU Observer* and *Euractive*. Dr. Cvijić received his PhD from the Law Department of the European University Institute in Florence and his MA in International Relations and European Studies from Central European University in Budapest. He speaks English, French, Italian, Russian, Spanish and Serbo-Croatian.

**Adnan Ćerimagić** works as analyst at the Berlin based think tank European Stability Initiative (ESI) since January 2015 and is part of ESI team since August 2013. Before joining ESI Adnan has worked in the Ministry of Foreign Affairs of Bosnia and Herzegovina in Sarajevo and Brussels. He also did a traineeship in the Secretariat of the European Parliament's Foreign Affairs Committee and worked for the European Training and Research Centre for Human Rights and Democracy (ETC) in Graz. He studied law at the University of Graz and EU international relations and diplomacy at the College of Europe in Bruges. At ESI, he is researching EU enlargement policy, the Western Balkans' EU integration process and Turkey.



Policy Paper No.53/2020

# Rebuilding Our House Of Cards: With More Glue

-  
Srdjan Cvijic and  
Adnan Cerimagic

November 2020