

**Europeanisation meets democracy from below:
The Western Balkans on the search for new European and democratic
Momentum**



WB2EU Kick_Off Conference | 23 March 2021

Summary Panel 1

**New perspectives on rule of law and justice – Where do we stand
and what do we need?**

The WB2EU is dedicated to bringing the countries of the Western Balkans closer to the European Union by fostering analyses and discussions. Each year is focused on one political challenge in the region. Starting off with “the rule of law and justice”, followed by “social dimension” and concluded by “democratisation from below”, WB2EU aimed at providing impetus for progress on both sides based on the observation that the status quo is unsatisfactory.

The project was kicked-off by a panel conference on the question “New perspectives on rule of law and justice – Where do we stand and what do we need?”.

Márta Pardavi, co-chair of the Hungarian Helsinki Committee, outlined the developments of the most evident case of democratic backsliding within the EU-27 and its effects on the governments of the Western Balkans, which seem to, at least partially, imitate Hungary’s authoritarian practices. Referring to the EC’s recently published report of the last monitoring cycle, Pardavi stated three important areas that are additionally to be looked at when it comes to the assessment of rule-of-law developments:

- 1) Although the EC’s monitoring cycle reports are very comprehensive, they highlight certain trends extensively while overlooking others. Pardavi calls for an extension of

the monitored areas, explicitly emphasising the exertion of influence by, in this case, the Hungarian regime on the electorate through social media campaigns that were not sufficiently noted in the report.

- 2) Strategic litigation and possible judicial weaknesses should be investigated more extensively; disregards of ECJ verdicts should be called out;
- 3) The chilling effects of governments violating rule-of-law standards on political participation and the general ability to take part in discursive processes in civil society should be investigated. According to Pardavi, civic bottom-up mobilisation has to be strengthened in order to tackle issues of missing rule-of-law compliance.

Nedim Hogić, PhD candidate at the Sant' Anna School of Advanced Studies, called for deconstructing the narrative of a universal rule-of-law culture and a reconstruction of the concept along the lines of fairness, justice, and transparency. EU-enforced solutions, like judicial councils or having parties reveal their funding, did not work because they focused on this narrative. However, there are incentives coming from within the countries' established rule-of-law systems that try to promote improvements, which allows for a more optimistic view of the status quo. In every country of the Western Balkans, there are examples of mechanisms of corruption being dismantled through judicial acts and whistle-blower reports, which, in his view, testifies to the observation that there is a shift in rule-of-law culture within the political structures. Therefore, the EU-27 should focus on strengthening the building of a rule-of-law constituency rather than insisting on standards and benchmarks, following a pathway that consists of:

- 1) promoting awareness of the negative impacts of corruption on welfare systems among civil society;
- 2) focusing on strengthening those parts of the judiciary that are willing to fight corruption;
- 3) changing its take on credit allocation; money should be lent to private companies rather than the public sector in exchange for rule-of-law compliance and upholding certain standards in order to reward those that play by the rules;
- 4) protecting individuals who try to uncover corrupt mechanisms, demonstrating that rule-of-law compliance is worth establishing and that its protection is acknowledged by the EU-27.

Nikolaos Tzifakis, Associate Professor of Political Science and International Relations at the University of the Peloponnese, outlined the most recent rule-of-law developments in the Western Balkans in light of the pandemic. Tzifakis identified authoritarian trends in the region

that showed extensive legislative fragilities, raising the question of a possible response by the EU-27 within the enlargement process. On numerous occasions, governments were able to take extraordinary measures without parliamentary approval and ignored the checks and balances mechanism. During short periods of time, the governments of Albania, Serbia, and Montenegro ruled by decrees and disregarded the verdicts of their constitutional courts, harming human rights and side-lining oppositions. According to Tzifakis the developments are especially alarming as the most aggressive violations were conducted against the three enlargement candidates, who were until then considered to be the frontrunners of the region when it came to compliance with EU standards, whereas Bosnia and Kosovo performed much better. In his view, the democratic backsliding to instrumentalise the crisis by the governments of Albania, Serbia, and Montenegro should not remain unanswered by the EU-27.