



**European Committee  
of the Regions**

**CIVEX-VII/003**

**140th plenary session, 12-14 October 2020**

## **OPINION**

### **Local Democracy Challenges in the Western Balkans**

#### **THE EUROPEAN COMMITTEE OF THE REGIONS**

- commends the Croatian Presidency of the Council of the EU for setting this opinion in motion;
- welcomes the continued engagement of the European Commission, the European Parliament and the Council of the EU vis-à-vis the Western Balkan countries; reaffirms its position that enlargement is in the political, economic and security interest of the EU; underlines that all candidate countries need to satisfy all of the membership criteria;
- notes with regret that the European Commission has not generally tended to pay sufficient attention to local democracy, the rule of law and good governance at local level in its relations with the Western Balkan partner countries;
- is concerned by the poor progress in terms of fighting corruption and protecting human rights, media freedom and the judiciary;
- recalls that local democracy in the Western Balkans is facing several challenges, exacerbated by a number of factors that do not exist or are less of an issue in the EU, such as: the legacy of previous armed conflicts; unresolved disputes over sovereignty and territory; lack of media freedom; lack of acknowledgement of genocide and war crimes; expansionist aspirations; hate speech; unresolved constitutional issues; unequal status between different peoples and unconstitutional electoral laws; insufficient good governance; authoritarian inclinations of incumbents and governing parties at all levels of government; relatively low levels of socio-economic development; largely negative demographic trends, and an underdeveloped civil society with a weak political and democratic culture;
- among the various challenges to local democracy, stresses in particular the emergence of "local state capture", which is understood as a local governance system that is fully or partially usurped by powerful individuals or groups to the benefit of their own particular interests;
- perceives the main aspects of local state capture as follows: manipulated and sometimes illegal public procurement; undeserved appointments, recruitment and promotion of civil servants, as well as of managers and employees of public-sector companies; pressure on the judiciary; non-transparent support from local authorities to civil society organisations; non-transparent activities by local authorities and public administration, which often go hand in hand with control of local media; misuse of political parties for personal enrichment; keeping local communities in a state of

"capture" by maintaining patronage networks; underlines that these aspects often contribute to disillusionment among citizens and lead to low voters' turnout in local elections;

- is convinced that the three European Committee of the Regions' Joint Consultative Committees, with Montenegro, North Macedonia and Serbia, and its Working Group on the Western Balkans are key tools for engagement, and that their use should be maintained to support positive developments in local democracy in the Western Balkans;
- recommends that the European Commission, in close cooperation with the European Committee of the Regions and the European Parliament, actively encourages efforts to tackle the problem of local state capture in the Western Balkans;
- suggests that the EU institutions provide additional support to stakeholders working to promote local democracy and the rule of law, such as independent, non-profit organisations that monitor respect for human rights, transparency and/or corruption in public authorities;
- points out that when setting the criteria to relations with the Western Balkans, the EU should take into account the reality at national and local level, and not only monitor formal fulfilment of the criteria, which mainly aims to align national legislation with the EU acquis.

Rapporteur

Nikola Dobroslavić (HR/EPP), Prefect of Dubrovnik-Neretva County

References

Letter from the Croatian Presidency of the Council of the EU (Croatian Minister for Foreign and European Affairs, Dr Grlić Radman, to the president of the CoR, Mr Lambertz), A/00028

# Opinion of the European Committee of the Regions – Local Democracy Challenges in the Western Balkans

## I. POLICY RECOMMENDATIONS

### THE EUROPEAN COMMITTEE OF THE REGIONS

#### General comments

1. commends the Croatian Presidency of the Council of the EU for setting this opinion in motion, as this is the first time the CoR has formulated an opinion devoted exclusively to the challenges facing democracy in the Western Balkans, and in particular the issue of local state capture, a phenomenon that is also to be seen far beyond the Western Balkans;
2. recalls that the Commission's enlargement package formed the subject of CoR opinions in 2018, 2019 and 2020. In these opinions, particular attention was paid to the challenges facing local democracy in the Western Balkans and the way that it operates;
3. carefully examines the progress reports on the candidate countries and welcomes the continued engagement of the European Commission, the European Parliament and the Council of the EU with regard to its enlargement policy vis-à-vis the Western Balkan countries; reaffirms its position that enlargement is in the political, economic and security interests of not only the Western Balkans but also the EU and is a geostrategic investment in peace, stability, security and economic growth in the whole of Europe; underlines that all candidate countries need to satisfy all of the membership criteria;
4. notes with regret that the European Commission has not generally tended to pay sufficient attention to local democracy, the rule of law and good governance at local level in its relations with the Western Balkan partner countries, particularly with regard to the process of their integration into the EU;
5. welcomes the progress made in reforms in a number of Western Balkan countries, but is concerned by the poor progress in some countries and, in certain cases, the backward steps in terms of fighting corruption and protecting human rights, media freedom and the judiciary, and notes an overall weakening of the rule of law;
6. recalls that local democracy in the Western Balkans is facing several challenges, many of which are similar or even identical to those in EU Member States, but in the Western Balkans are significantly more pronounced. These problems are exacerbated by a number of factors that do not exist or are less of an issue in the EU, such as: the legacy of previous armed conflicts; unresolved disputes over sovereignty and territory; lack of media freedom; lack of acknowledgement of genocide and war crimes; expansionist aspirations; hate speech; unresolved constitutional issues; unequal status between different peoples and unconstitutional electoral laws; insufficient good governance and as well as authoritarian inclinations on the part of incumbents and governing parties at all levels of government; relatively low levels of socio-

economic development; largely negative demographic trends; and an underdeveloped civil society with a weak political and democratic culture;

7. stresses its belief that the state of democracy at local level is inextricably linked to its condition at national level, and that negative phenomena found at the local level often reflect similar phenomena at national level;
8. notes that the European Committee of the Regions has been continuously involved in the Western Balkans process through its Working Group on the Western Balkans (focusing on Albania, Bosnia and Herzegovina, and Kosovo\*), and its three Joint Consultative Committees (JCC), which were established and operate on a parity basis with local and regional authorities from the respective Balkan countries (Montenegro, North Macedonia and Serbia); at the same time, points out that these bodies have proven their worth when it comes to exchanging best practice and views between the members of local and regional authorities from the EU and their counterparts in the Balkans. Many issues of mutual interest have been discussed, including those in the area of the rule of law and good governance, which is something of particular importance in the context of the EU accession negotiations; regrets however, that political plurality in these JCCs in the respective Balkan countries is not always ensured;
9. welcomes the efforts of the Council of Europe's Congress of Local and Regional Authorities to promote local democracy in the Western Balkans. The work of the Congress complements that of the CoR, and therefore the CoR would like to step up cooperation with the Congress in this area;
10. points out that the EU Strategy for the Danube Region (EUSDR), one of the European Union's four macro-regional strategies, includes three Western Balkans countries. The strategy's primary goal is to further expand cooperation between countries and regions to local and regional stakeholders. This includes supporting and assisting stakeholders in the relevant – democratic – processes and civil society. It is therefore recommended that cooperation be strengthened in the ambit of the EU Strategy for the Danube Region;
11. among the various challenges to local democracy, stresses in particular the emergence of "local state capture", which was also highlighted by the European Commission in its 2018 Enlargement Strategy, and which is understood as a local governance system that is fully or partially usurped by powerful individuals or groups to the benefit of their own particular interests;
12. perceives the main aspects of local state capture as follows: manipulated and sometimes illegal public procurement; undeserved appointments, recruitment and promotion of civil servants, as well as of managers and employees of public-sector companies; pressure on the judiciary; non-transparent support from local authorities to civil society organisations; non-transparent activities by local authorities and public administration, which often go hand in hand with

---

\* "This designation is without prejudice to positions on status, and is in line with UNSC 1244 (1999) and the ICJ Opinion on the Kosovo Declaration of Independence".

control of local media through ownership and advertising; and misuse of political parties for personal enrichment and keeping local communities and authorities in a state of "capture" by building and maintaining patronage networks; underlines that these aspects often contribute to disillusionment among citizens and lead to low voters turnout in local elections and therefore a further democratic deficit for local democracies;

13. also warns of shortcomings in the rule of law; slow, inefficient, often biased and sometimes corrupt judiciary; widespread and deeply rooted corruption, which is considered by many to be normal and even unavoidable, particularly in the area of local employment, as well as in relation to medical personnel and traffic police; the continuing problem regarding ethnically and religiously motivated violent extremism; and inadequate legislative and institutional solutions with regard to local and regional authorities, including a lack of functional and fiscal decentralisation;
14. notes that missing political plurality or suppression and intimidation of elected officials belonging to opposition parties at the local level in some of the countries of the Western Balkans are major challenges to local democracies in those countries;
15. argues in this context that public procurement in places subject to local state capture serves primarily to strengthen those in power or patronage networks. This often plays out in the following way: calls for tender are circumvented and contracts are awarded directly; calls for tender are announced in publications that few people read, at unusual times and with exceptionally short deadlines; or conditions for tenders are targeted at specific bidders. The preferred tenderer in a call for tender, after being awarded the contract, demonstrates their gratitude to those in power locally, or their representatives, by paying a basic commission in the form of a percentage of the contract value, which is usually already earmarked for this purpose when submitting the tender so that it does not reduce the profit of the successful tenderer;
16. notes that human resources policy is a powerful tool for those that have "captured" local authorities, especially where good jobs are rare, which is often the case in "captured" areas. Newly employed members of local government and employees of local public-sector companies are often members of the same family or relatives of political or business "friends"; sometimes they are even members of the opposition in representative bodies, or their spouses or close relatives. Illegal reorganisation of an administration is even used as a way of rewarding loyal people for "a job well done";
17. notes with great concern that those in power locally and members of patronage networks, in order to maintain control of and access to local resources, often build up and cultivate close contacts with judges and other judicial officials at national and local level, providing economic benefits for influential people in the judicial system, using local government resources. In return, officials in the justice system obstruct investigations and proceedings in cases involving those holding power locally;
18. notes that the situation in local authorities is further exacerbated by the loss of human resources, in that large numbers of people – especially young and educated people - are leaving, which constitutes a serious problem for the development of these communities;

19. stresses that in light of gender equality as a basic principle of the EU the actions to strengthen women's rights and to increase their political participation have to be seriously taken into account and fulfilled.
20. is profoundly aware that irregular migration is also a significant burden on local authorities that are located on the "Balkan route", as it exacerbates feelings of helplessness among the general public and also the authorities, as well as a sense that the institutions in place are not functioning properly;
21. stresses that organised crime threatens the safety and well-being of local communities;
22. against this background, is also concerned about the control of the media and local branches of national institutions by powerful local agents;
23. notes that although civil society organisations, as well as the media in the Western Balkans, are in principle critical of the authorities at all levels, they often depend on these same authorities – on their grants, on tax advantages and on the provision of premises. By arbitrarily rewarding or denying financial support or premises, local authorities can wield a powerful "hijacking" tool to silence criticism and develop clientelism on the part of certain civil society organisations;
24. stresses that liberating the Western Balkans from state capture, at both national and local levels, would greatly benefit the people living there, help strengthen the economy, democratise society and diminish negative demographic trends, especially the population drain and bring those countries closer to membership in the European Union;
25. welcomes the fact that, on 6 February 2020, the European Commission adopted a new methodology for the EU accession process for the Western Balkan countries and expects relations between EU delegations and government representatives in the Western Balkans to be further strengthened in the areas of the rule of law, public administration reform, transparency, environmental protection, market competitiveness and sectoral policies;
26. considers, in this regard, that this will lead to a new opportunity to bring potential candidate countries closer to the European Union, and that these countries should in turn show more willingness to fight corruption, strengthen the rule of law and ensure transparent management of public resources;
27. in the light of the new methodology for EU accession negotiations, emphasises in particular that strengthening the rule of law is a way of effectively combating the causes and consequences of local state capture;
28. notes that the continuation of local state capture, in which the same small groups of people have held political and economic power for years or decades, also has an impact on the conduct of elections by discouraging the political participation of citizens. Moreover, the turnout in local elections is often lower than in national elections. Examples include elections that have been boycotted by the opposition party, as well as local elections that have not been held for 11 years

(Mostar), which is unacceptable in a democracy, and which resulted in a ruling by the European Court of Human Rights (case 30100/18, Baralija v. Bosnia and Herzegovina). The Committee therefore calls on the EU to pay particular attention to monitoring electoral processes in such contexts;

29. notes with regret that while exclusion and political apathy are prevalent among one section of the public, especially those that are more educated and financially independent, another section maintains close ties to the authorities through clientelism (obtaining employment, supplementary pensions, nursery places for their children, new tarmac for access roads to their homes, etc.). This situation amounts to "hijacking" and ensures the parties concerned remain in power and further worsen the situation of local democracy;

### **General context**

30. recalls that the EU launched the 1999 Stabilisation and Association Process (SAP) as a framework for relations between the EU and the countries in the region. At the same time the Stability Pact was launched as a broader initiative. The Regional Cooperation Council (RCC) was established in 2008 to replace the Stability Pact. In Thessaloniki in 2003, the European Council confirmed that all SAP countries are potential candidates for EU membership;
31. stresses that, in this context, the European perspective was reaffirmed in the European Commission's strategy for the Western Balkans of February 2018, as well as in the Sofia Declaration following the EU-Western Balkans summit on 17 May 2018, and will be the theme of the next EU-Western Balkans summit, to be held in Zagreb, Croatia, on 7 May 2020;
32. notes that the network of EU delegations that forms part of the European External Action Service is essential for monitoring and reporting on the phenomenon of local state capture, notably corruption and obstacles to free and fair elections, at both local and national level;
33. stresses that, as a key partner in cooperation with partner countries in the Western Balkans and elsewhere, the European Committee of the Regions has furthered efforts to enhance local democracy, the rule of law and good governance, notably by advocating reforms to local public administration and local economic development;

### **Recommendations for action**

34. is convinced that the three European Committee of the Regions' Joint Consultative Committees, with Montenegro, North Macedonia and Serbia, and its Working Group on the Western Balkans are key tools for engagement, and that their use should be maintained to support positive developments in local democracy in the Western Balkans;
35. recommends that the European Commission, in close cooperation with the European Committee of the Regions and the European Parliament, actively encourages efforts to tackle the problem of local state capture in the Western Balkans;



36. suggests that the EU institutions provide additional support to stakeholders that are working to promote local democracy and the rule of law, such as independent, non-profit organisations that monitor respect for human rights, transparency and/or corruption in public authorities (watch-dog organisations). Local government associations in the countries of the Western Balkans are also important actors in tackling corruption and strengthening democracy at local level, and can be strategic partners;
37. suggests cooperation with other international organisations active at local level (IOM, UNDP, UNICEF) in moves to strengthen the rule of law, protect human rights and empower the public;
38. strongly urges all the EU institutions to step up their communication and contacts with the public in Western Balkan countries in order to develop partnerships and synergy with a view to achieving the mutual goal of effectively implementing the necessary reforms, strengthening the rule of law and building a democratic society. One area where people are aware of the benefits of local democracy and of rapprochement with the EU is the provision of municipal services. It is also an area which is not infrequently subject to corruption and local state capture. Greater openness and transparency is called for in this area, together with more consultations with the public on providing municipal services where the focus is on people's needs and demands;
39. calls on the European Commission, in this context, to pay even more attention to the above-mentioned shortcomings at national, regional and local level when negotiating EU accession and relations with the Western Balkans. This includes thoroughly examining cases of local state capture, monitoring implementation of legislative and institutional solutions for limiting politicians' discretionary powers over financial and human resources, and promoting media freedom through financial and educational incentives;
40. points out that when setting the criteria to be applied to relations with the Western Balkans, the EU should take into account the reality at national and local level, and not only monitor formal fulfilment of the criteria, which mainly aims to align national legislation with the EU acquis. This approach is more ambitious, but the results could be much more useful;
41. considers that EU delegations in the Western Balkans, the European Committee of the Regions and potentially the European Economic and Social Committee should play a greater role in verifying the real state of local democracy, the rule of law and good governance in the Western Balkans, including via direct contacts with local and regional authorities and members of the political opposition, the business world, academia and civil society, as well as by structuring and supporting dialogue with members of the public.

Brussels, 14 October 2020

The president  
of the European Committee of the Regions

Apostolos Tzitzikostas

The secretary-general  
of the European Committee of the Regions

Petr Blížkovský

## II. PROCEDURE

<b>Title</b>	Local Democracy Challenges in the Western Balkans
<b>References</b>	Letter from the Croatian Presidency of the Council of the EU (Croatian Minister for Foreign and European Affairs, Dr Grlić Radman, to the president of the CoR, Mr Lambertz), A/00028
<b>Legal basis</b>	Own-initiative opinion (Art. 307(1) TFEU), Rule 41b)1 Rules of Procedure
<b>Procedural basis</b>	Optional referral
<b>Date of Council/EP referral/Date of Commission letter</b>	10 December 2019 (received by the CoR on 9 January 2020)
<b>Date of Bureau/President's decision</b>	23 January 2020
<b>Commission responsible</b>	Commission for Citizenship, Governance, Institutional and External Affairs
<b>Rapporteur</b>	Nikola Dobroslavić (HR/EPP)
<b>Analysis</b>	3 February 2020
<b>Discussed in commission</b>	26 February 2020
<b>Date adopted by commission</b>	N/A
<b>Adopted in plenary</b>	14 October 2020
<b>Result of the vote (majority, unanimity):</b>	Unanimity
<b>Previous Committee opinions</b>	<p>(CoR 2727/2019) Enlargement Package 2019 Rapporteur: Jaroslav Hlinka (SK/PES)</p> <p>(CoR 2352/2018) Enlargement Package 2018 Rapporteur: Franco Iacop (IT/PES)</p> <p>(CoR 65/2018) Enlargement: Inclusion of Western Balkans Local and Regional Authorities in the EU's Macro-regional, Cross-border and other Transnational Cooperation Initiatives Rapporteur: Franz Schausberger (AT/EPP)</p> <p>(CoR 93/2017) EU Enlargement Strategy 2016-2017 Rapporteur: Rait Pihelgas (EE/ALDE)</p> <p>(CoR 5896/2015) Enlargement Strategy and Main Challenges 2015-2016 Rapporteur: Anna Magyar (HU/EPP)</p>
<b>Date of subsidiarity monitoring consultation</b>	–