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Kosovo's Track to Europeanization:

July 2021

Moving beyond top-down mechanisms



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Abbreviations

EU – European Union

SAA – Stabilization and Association Agreement

EULEX – European Union Rule of Law Mission in Kosovo

UNMIK – United Nations Interim Administration Mission in Kosovo

WB6 – Western Balkans Six

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Introduction & background

On 17 February 2021, Kosovo celebrated the thirteenth anniversary of its declaration of independence. With a clear prospect of joining the European Union in the future – introduced firstly in the Thessaloniki Summit in 2003, and later enshrined in its declaration of independence, Kosovo holds a potential candidate country status since 2015 with the signing of the Stabilization and Association Agreement in April 2015 – a highly significant event as it entails the first contractual agreement between Kosovo and EU.¹ Five years down the line, Kosovo has reached little substantial progress towards its EU integration goal.

Throughout Kosovo's statehood, the main rhetoric of political parties and state institutions has focused on the country's European Union (EU) integration process. However, after all these years, tangible successes towards this goal remain few. The politicization of public administration, corruption, organized crime and an inefficient judicial system remain the main culprits of Kosovo's stagnation. Kosovo's hampered progress in priority areas is not difficult to understand, as a majority of reforms have been made to meet the criteria and requirements set by the EU year after year, without proper analysis and democratic transformation of the country as the main goal.² With five EU member states, namely Cyprus, Greece, Romania, Slovakia, and Spain not recognizing Kosovo, and the ongoing dialogue with Serbia, also the lack of progression in key areas contribute vastly towards Kosovo's EU integration.

Nonetheless, its shortcomings notwithstanding, the European Union has been an integral part of the state-building process in Kosovo. It has provided support and expertise for the development and restoration of Kosovo institutions as an exporter of norms and democratization, and has played a more involved role on the ground since 2008, with the establishment of the European Union Rule of Law Mission in Kosovo.³ In addition, the EU remains the largest single donor offering assistance to Kosovo and is at the forefront of rebuilding efforts. Since 1999, Kosovo has received more than EUR 2.3 billion in EU funding.⁴

¹ European Commission (2020). Retrieved from: <https://ec.europa.eu/environment/enlarg/candidates.htm>

² Democracy for Development. (2020). Evolving or revolving: Institutional Reforms and Democratic Legitimacy in Kosovo, Albania, and Montenegro. Retrieved from: https://d4d-ks.org/wp-content/uploads/2020/01/D4D_Evolving-or-revolving-Institutional-reforms-and-democratic-legitimacy-in-Kosovo-Albania-and-Montenegro.pdf

³ Kartsonaki A. (2020). Playing with Fire: An Assessment of the EU's Approach of Constructive Ambiguity on Kosovo's Blended Conflict. Retrieved from: <https://www.tandfonline.com/doi/pdf/10.1080/19448953.2020.1715668>

⁴ OECD. (2019). Retrieved from: <https://www.oecd-ilibrary.org/sites/dd53f292-en/index.html?itemId=/content/component/dd53f292-en#:~:text=Kosovo%20has%20received%20more%20than.Commission%2C%202016%5B21%5D}&text=Kosovo%20will%20be%20able%20to.of%20the%20agreement%20are%20complete.>

Utilizing the leverage of accession through a “carrot and stick” approach, the influence of the European Union in Kosovo has been witnessed in many areas. These include a mixture of trade concessions, economic assistance (Instrument for Pre-Accession Assistance Programme) and treaties (Stabilization and Association Agreements), and visa liberalization.⁵ However, whether the “carrot” has been big enough to get Kosovo on a successful path to substantial reforms to comply with the EU’s political conditionality, remains an open question. In noticeable absence of rewards and with a dim credibility of conditionality, the reformist power of the political conditionality, as a motivating force for undertaking deep reforms which have transformative political and democratic potential in Kosovo, has weakened along the way.

Europeanization has transformed from an aspiration to an obligation and this in turn has created a need for sacrificing internal democracy in terms of EU integration. Subsequently, in most cases, this results in not only a lack of implementation but more importantly a lack of ability to implement legislation. The difference being that lack of implementation may come due to lack of political will, whilst lack of ability to implement comes from the weak absorption of transformative power that the EU intends to achieve. The main issue lies in the contradictions between Europeanization mechanisms centered on conditionality and what the empirical research is pointing out, namely the reality of EU–internal politics and domestic processes and capabilities to adapt to set conditions. Hence, there is a need for revisiting and revising Europeanization mechanisms.

The aim of this policy brief is to outline the key challenges on Kosovo’s reform path, outlining bottlenecks and discussing whether a bottom-up approach can become a new catalyst for embracing Europeanization effectively. The brief provides an overview of the Europeanization process, an analysis of Kosovo as a case study of the shortcomings of current Europeanization mechanisms, and also an insight on how Germany’s role could be enhanced in order to bring back credibility to Europeanization.

⁵ European Union Office in Kosovo. (2016). Retrieved from: https://eeas.europa.eu/delegations/kosovo/1387/kosovo-and-eu_en

Europeanization: a process of change

Europeanization can be defined as a process of change induced by the European Union, aiming to evoke direct as well as indirect policy shifts at the domestic level in line with EU policy. This includes shifts to rules, policy procedures, beliefs and norms. As such, it has become an important concept for understanding the adaptation of institutional practices in Europe, aligning with a common European model.⁶ The concept has often been used to understand the internal integration of EU Member States, highlighting a two-way process where EU policies not only influence the national level, but are also influenced by Member States' practices.⁷ Europeanization is however equally applicable to EU enlargement where prospective Member States are adapting their political, economic and social systems and orienting themselves towards the European "ways of doing things"⁸. But the engagement with non-EU states is less dynamic, lending more space to the transfer of policy from the EU, rather than vice versa.

The main tool used to foster Europeanization in the context of enlargement has been EU conditionality. Through its employment, the EU as an external actor can incentivize change by offering particular benefits, or rather rewards, in return for the compliance with the EU's enlargement requirements. The ultimate reward is EU membership. Failure to comply with set conditions is instead sanctioned, which is to dissuade backsliding. Also known as the "carrot and stick" approach, this reward system intends to enable the smooth transfer of rules and norms as it affects potential candidate states' cost-benefit calculation for introducing institutional changes and revising domestic policy practices. Enlargement driven by conditionality has indeed become an important policy through which the EU has incited impactful change, enabling democratic transformation and economic development, which paves the way for further European integration. There are however critical voices⁹ that see the current Europeanization process in candidate and potential candidate states as coercive, failing to uphold a balanced and inclusive

⁶ For instance, see Sabine Saugugger & Claudio Radaelli (2008). The Europeanization of Public Policies: Introduction. *Journal of Comparative Policy Analysis*, 10(3), p. 213-219

⁷ For instance, see Tomasz P. Woźniakowski, Frank Schimmelfennig and Michał Matlak, eds., (2018). *Europeanization revisited: Central and Eastern Europe in the European Union*. European University Institute, p. 7

⁸ Sabine Saugugger & Claudio Radaelli (2008). The Europeanization of Public Policies: Introduction. *Journal of Comparative Policy Analysis*, 10(3), p. 213

⁹ For instance, see Arolda Elbasani, (2013). *European Integration in the Western Balkans: Revising the Transformative Power of the EU*. *E-International Relations*, 30 May 2013. Retrieved from: <https://www.e-ir.info/2013/05/30/european-integration-travels-to-the-western-balkans-revising-the-transformative-power-of-the-eu/>

approach that allows countries to internalize changes. Externally driven Europeanization indeed indicates a top-down one-directional process of rule and norm transfer.¹⁰ This gives the EU the power to determine the speed and direction of the Europeanization process. While candidate and potential candidate countries agree to adhere to the EU's requirements, the establishment of power asymmetries is inevitable as the Western Balkan countries have no say in how Europeanization is promoted.¹¹

Relying on top-down mechanisms when promoting Europeanization has in fact come under increasing scrutiny during the last few years with the enlargement of the Western Balkans,¹² as it has led to rather shallow transformations of domestic systems. This is visible in a state like Kosovo where high levels of corruption, organized crime and disregard for rule of law continues to afflict good governance, despite its commitment to reform processes as part of the EU's agenda. Consequently, a trend has become visible; the trust in the EU's perspective for the Western Balkans is waning.¹³ This comes with great risks to the consolidation of rigorous state capabilities and effective democracy, which warrants an examination and possible reevaluation of the current adherence to top-down Europeanization mechanisms with conditionality at the center.

Problems with externally driven Europeanization in Kosovo

The effectiveness of EU conditionality for incentivizing change in prospective EU Member States heavily relies on two key conditions. First, it is necessary for the country to have the domestic capacity to comply with the EU's requirements. Second, the prospect of obtaining the rewards must be credible, with a strong membership perspective greatly influencing the incentive to comply.¹⁴ The latter condition pertaining to credibility has proven to be particularly important, strongly influencing the domestic inclination towards rule and norm adoption, even in cases where the domestic capacity has been weaker.¹⁵ In the context of the Western

¹⁰ Ulrich Sedelmeier (2011). Europeanisation in new member and candidate states. *Living Reviews in European Governance*, 6(1), p. 6.

¹¹ Othon Anastasakis (2005). The Europeanization of the Balkans. *The Brown Journal of World Affairs*, 12(1), p. 78.

¹² Future enlargement is currently only applicable to the Western Balkans and Turkey. Candidate states are Albania, the Republic of North Macedonia, Montenegro, Serbia and Turkey and potential candidate states are Bosnia and Herzegovina and Kosovo.

¹³ Marko Kmezić. (2020). Recalibrating the EU's Approach to the Western Balkans. *European view*, 19(1), pp. 54-61

¹⁴ For instance, see Jelena Dzankic et.al. (2019). *The Europeanisation of the Western Balkans: A failure of EU Conditionality?* London:Palgrave Macmillan.

¹⁵ Frank Schimmelfennig & Ulrich Sedelmeier (2019). The Europeanization of Easter Europe: the external incentives model revisited. *Journal of European Public Policy*, 27(6), pp.814-833

Balkan enlargement path, both of these conditions have however been rather weak, making a reliance on top-down incentives for fostering Europeanization problematic. This section will specifically explore the EU's credibility challenges.

In the recent years, the EU has shown a limited ability to invest in further widening of its membership, with the so-called "enlargement fatigue" severely damaging the credibility of the Western Balkans' enlargement perspective and thereby the effectiveness of conditionality. Moreover, the contrasting priorities between the Member States on enlargement have contributed to furthering internal divisions within the EU institutions, generating fragmentation and curbing the Europeanization process further.

The EU's reserved stance towards enlargement developed during the last enlargement round when twelve countries joined the EU within the short span of four years (2004–2007). Ten of them were Central and Eastern European states entering the EU after the Soviet Union's dissolution,¹⁶ and the idea that these countries were "returning to Europe" contributed to the urgency with which this enlargement round was completed.¹⁷ Concerns were however quickly raised about the effects of this vast and speedy expansion, with two main issues being questioned; the EU's internal capacity to integrate new members while operating effectively, and the readiness of the new members to successfully become integrated into the Union despite poor governance structures and economic performance. Such concerns have since persisted and been reinforced due to several internal challenges in the EU and its Member States. For example, democratic backsliding and reversibility of reforms in countries like Hungary and Poland demonstrated the difficulty of maintaining reform pressure after admitting a country to the EU. It also poses an immediate threat to EU values. More deep-seated domestic political concerns resulting from years of diverse crisis in the EU, such as the euro crisis, migration crisis, Brexit and Covid-19 crisis,¹⁸ also contributed to the lessened enthusiasm for enlargement, strengthening public sentiments for deepening EU integration and dealing with internal issues before widening the Union.

¹⁶ The ten Central and Eastern European states that entered the EU between 2004–2007 were Hungary, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, Bulgaria, Romania. Two were Mediterranean countries, Malta and Cyprus. Only Croatia has joined the EU (2013) since the last enlargement round.

¹⁷ Elitsa G. Kortenska, (2016). The Limits of EU Enlargement Linked to Citizens' Perceptions of Past and Future Enlargements. Retrieved from: https://userpage.fu-berlin.de/kfgeu/maxcap/system/files/maxcap_wp_32.pdf p. 6

¹⁸ Spyros Economides, (2020). From Fatigue to Resistance: EU Enlargement and the Western Balkans. Dahrendorf Forum IV, Working Paper No. 17, 20 March 2020. Retrieved from: <https://www.dahrendorf-forum.eu/wp-content/uploads/2020/03/From-Fatigue-to-Resistance.pdf>

In light of these extensive challenges and public concerns, key EU players have indeed responded by slowing down the enlargement process to deepen the Union, rather than widening it. Upon taking office in 2014, former European Commission President Jean-Claude Juncker stated that no new enlargement will take place during his mandate ending in 2019.¹⁹ This resulted in the suspension of the EU's accession endeavors during this period, clearly reducing the membership perspective for candidate and potential candidate countries and thereby deeply impacting the credibility of the EU's membership incentive.

Individual EU Member States have also contributed to the decreased enlargement credibility. Domestic politics and public skepticism greatly influence Member States' position on enlargement, which has resulted in an inconsistent adherence to the EU's reward-system. France is important in this context, as one key EU player slowing down enlargement. Motivated by domestic political concerns, it has long been in favor of reforming the EU and improving its functioning before enlarging it. In 2019, this was visible when it vetoed against opening accession negotiations with North Macedonia and Albania, and later called for more extensive conditions for proceeding with accession negotiations in a non-paper.²⁰ The veto was used despite the countries' key reform achievements in line with the EU's requirements, which was an important blow to the credibility of the EU's conditionality mechanism since a clearly expected "reward" was suddenly withheld. It also further halted the enlargement process until the final adoption of a renewed enlargement methodology in February 2020. The fact that Bulgaria now blocks the start of North Macedonia's accession negotiation²¹ continues to demonstrate how the presence of internal political differences within the EU, based on domestic political concerns, can work to curb enlargement and enhance the uncertainty of the membership perspective.

Kosovo has been directly impacted by the uncertain conditionality regime in recent years in light of the failing visa liberalization incentive. Being a priority for the citizens of Kosovo, the country was set on fulfilling the conditions needed to acquire this "reward", and in 2018, the European Commission confirmed that all conditions

¹⁹ Jean Claude Juncker, (2014). A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission. Opening Statement in the European Parliament Plenary Session. p. 11 Retrieved from: <https://www.eesc.europa.eu/resources/docs/jean-claude-juncker---political-guidelines.pdf>

²⁰ Non-paper: Reforming the European Union accession process (2019). Retrieved from: <https://www.politico.eu/wp-content/uploads/2019/11/Enlargement-nonpaper.pdf>

²¹ Sandor Zsiros & Hannah Somerville, (2021). EU's credibility 'undermined' if North Macedonia delayed from joining the bloc. Euronews, 7 May 2021. Retrieved from: <https://www.euronews.com/2021/05/07/albania-could-begin-eu-membership-talks-without-north-macedonia>

for an agreement on visa-free travel were met. The European Parliament also expressed its support and called on the Council to adopt a decision on the matter. Despite this, visa free travel is yet to be realized for Kosovo due to the blocking by certain Member States, with France and the Netherlands²² being particularly careful to proceed with this process. The fears voiced are mainly related to the high levels of corruption and crime, as mentioned by the French Ambassador in Kosovo, Didier Chabert, when declaring that further work is needed for Kosovo to fulfill all conditions²³ (challenging the European Commission's and Parliament's positions). This is a familiar tune heard in the case of North Macedonia's and Albania's accession negotiations as well. Even though issues of corruption and crime indeed remain problematic, the reluctance of some Member States to follow commonly agreed benchmarks and the subsequent inability for the EU to maintain a unified approach makes its intentions rather ambiguous. The interruption of the reward mechanisms due to internal disagreements on the EU level will continue to reduce the credibility of EU conditionality, as it renders the "carrot and stick" approach defunct, while making it difficult for the EU to uphold its own credibility as a top-down driver of Europeanization. It is also making Kosovo's citizens lose trust in the EU and question its commitment,²⁴ which reduces the effectiveness of externally driven Europeanization at large.

Due to the contradictions between currently applied Europeanization mechanisms and the reality of EU-internal politics, a revision of key Europeanization mechanisms is called for. The domestic costs vs. the benefits of EU's rewards are simply too high for this approach to be sustainable. The following two sections will explore the case of Kosovo further, looking at the domestic capabilities to successfully address concerns raised by EU Member State. It will outline identified challenges on Kosovo's reform path, discuss why a top-down approach fails to promote domestic capabilities, and analyze space for change, which is key to identifying an appropriate track to Europeanization for Kosovo.

²² The Netherlands is another enlargement skeptic keen on protecting common European values due to domestic political concerns. It therefore adheres to a strict interpretation of EU conditionality. For more, see: Gentiola Madhi, (2021). Diluting Principles, Darkening EU Accession Perspective: Politization of Kosovo's Visa Liberalization Process. In: eds. Ioannis Armakolas, et.al. (2021). Local and international determinants of Kosovo's statehood – Vol 2. Kosovo:Kosovo Foundation for Open Society, p. 319

²³ Ibid. p. 316

²⁴ European Western Balkans. (2021). Visa liberalization for Kosovo: From one report to another. 29 April 2021. Retrieved from: <https://europeanwesternbalkans.com/2021/04/29/visa-liberalization-for-kosovo-from-one-report-to-another/>

EU Country Report analysis on main fields

EU produces Kosovo country reports that analyze and provide both a macro and micro assessment of Kosovo's political and socio-economic situation. The country reports serve as an evaluation and guide for a country that aspires EU integration. Given that the country reports provide in-depth background information pertaining both to democratic and institutional progress, they also provide roadmaps especially in terms of legislative agendas. Analyzing these reports is crucial in understanding how Europeanization is applied via country reports.

The EU country reports are vital in explaining of how the dynamics of supply and demand function in terms of EU integration, and overall providing a glance of how the EU not only sees but measures progress. Country reports on Kosovo focus on six key fields namely public administration, judicial system, fight against corruption, fight against organized crime, fundamental rights, and freedom of expression. Measurements can become quantifiable as the EU uses two states to measure the development: progress level that provides a relative form of measurement specifically by comparing the progress achieved compared to the previous report, and the state of preparation which in layperson terms dictates how prepared is the country in the given field. In this part of the brief, we will offer a comparison of Kosovo's progress and preparedness from 2015 – 2020. Note that the European Commission did not produce a country report for 2017 since in that year it provided the Western Balkans with the “credible enlargement perspective for and enhanced EU engagement with the Western Balkans”.²⁵ From 2015 the Commission has also been applying a new reporting methodology which aimed at enhancing transparency and also enable comparative analysis between countries.²⁶

Progress level is measured via four options: no progress, limited progress, some progress, and good progress. The table below provides the overview of Kosovo's progress level in EU country reports from 2015 – 2020.

²⁵ European Commission. (2018). Strategy for the Western Balkans: EU sets out new flagship initiatives and support for the reform-driven region. Retrieved from: https://ec.europa.eu/commission/presscorner/detail/en/IP_18_561

²⁶ European Parliament. (2017). Retrieved from: https://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595919/EPRS_BRI%282017%29595919_EN.pdf

Table 1 : Kosovo Progress Level based on EU country reports²⁷

Fields	Progress Level				
	Years				
	2015	2016	2018	2019	2020
Public administration	Good progress	Some progress	Some progress	Some progress	Limited progress
Judicial system	Some progress	Good progress	Some progress	Some progress	Some progress
Fight against corruption	Some progress	Good progress	Some progress	Some progress	Limited progress
Fight against organized crime	Some progress	Good progress	Some progress	Some progress	Limited progress
Fundamental rights	Some progress	Some progress	N/A	N/A	N/A
Freedom of expression	No progress	No progress	No progress	Some progress	Limited progress

Source: Authors' own elaboration on the basis of European Commission's country reports, 2015–2020.

Level of preparation is measured via four options: early stage, some level of preparation, moderately prepared, well prepared. The table below provides an overview of Kosovo's preparedness level in EU country reports from 2015 – 2020.

²⁷ European Commission. Kosovo EU Country Reports 2015 – 2020. Retrieved from: www.ec.europa.eu/

Table 2 : Kosovo's state of preparation based on EU country reports²⁸

Fields	State of preparation				
	Years				
	2015	2016	2018	2019	2020
Public administration	Some level of preparation	Some level of preparation	Some level of preparation	Some level of preparation	Some level of preparation
Judicial system	Early stage	Early stage	Early stage/ Some level of preparation	Early stage	Early stage/ Some level of preparation
Fight against corruption	Early stage	Early stage/ Some level of preparation			
Fight against organized crime	Early stage	Early stage	Early stage	Early stage	Early stage
Freedom of expression	Some level of preparation	Some level of preparation	Some level of preparation	Some level of preparation	Some level of preparation

Source: Authors' own elaboration on the basis of European Commission's country reports, 2015–2020.

Progress level and preparedness offer an overview of the country's pathway, however as the metrics of measurement are not well defined it is difficult to make any assertions. Hence, the brief provides more information on the five key fields below.

Reforming public administration

Public administration is considered one of the key chapters for Kosovo's development. The EU country report for 2020 states that Kosovo has some level of preparation from 2015 hitherto in this field and has stagnated in the progress level compared to other years as it has gone down from some progress to limited progress. The EU remarks on public administration, which have affected the progress level, are on the legislative framework. Specifically, the EU country report

²⁸ Ibid

states that the two necessary laws, namely the law on salaries and the law on public officials, are of vital importance for amendments, and Kosovo ought to undertake a proactive approach on adapting the Constitutional Court's findings for these laws.

Judicial System

The judicial system has not seen any changes in the perception of EU country reports, as it has remained within an early stage of preparedness and some progress being made, from 2015. The EU country report states that overall Kosovo has had some progress, with an early stage of preparation in the judicial system from 2015 – 2020 in the judicial system. The key recommendations from the EU country reports pertaining to the judicial system are the strengthening of capacities of all actors including judges, prosecutors, and support staff, and increased efforts in reducing the backlog of cases.

Fight against corruption

Fight against corruption has been evaluated steadily at an early stage/some level of preparation, and some progress. In 2020, only the progress level has changed where the fight against corruption has been deemed with limited progress. Again, both the preparation level and the progress level has been calculated based on the previous recommendations, and as such the EU has stated that there is need for legislative amendments in the anti-corruption field.

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Freedom of expression

Freedom of expression has also followed a steady rating from the EU country reports with some level of preparation, and limited progress. The key issues raised by the country report in 2020 are that there is a need for reviewing legislation pertaining to the Independent Media Commission, availability and accessibility of data on the audio-visual market, and ensuring independence of the public broadcaster whilst preserving its independence.

As portrayed, the main findings and suggestions by the EU country reports on these fields pertain to the legislative agenda. Ironically in the majority of the cases where there is progress it is mostly due to new legislation being passed, or amended. Most of these recommendations for new legislation or amendments to current legislation are incorporated in the government legislative agenda. Hence, the country reports have a high influence on the country's overall development.

Kosovo citizens' perceptions versus EU Agenda

The EU has been involved in the state-building process and shaping of policies in Kosovo more than it has in any other country,²⁹ and still remains one of the most influential international actors.³⁰ Today Kosovo's official status is still that of a potential candidate country and EU membership has dominated the political and general discourse. The EU integration path is also part of Kosovo's Constitution. In 2015 Kosovo signed the Stabilization Association Agreement which marks the first and only one to date signature that Kosovo and EU had that contained contractual obligations. Whilst the focus of the EU has played a major role in advancing legislation, the conditionality approach has weakened the country's role and ownership in the process.

A top-down approach significantly contributed towards the notion of pro-forma legislation. Pro-forma legislation occurs when legislation does not undergo thorough discussion, and on average produces a clash between legislation and local values. The pro-forma legislation was mostly noted during two period – UNMIK and the year of the independence. In 2000, UNMIK had the legislative power to enact laws, and in the frame of one year 69 laws were passed, most of which either did not change or widely affected new legislation. Dugolli explained how the process involved civil servants and legal experts drafting legislation within hours with the sole criterion of it being a necessity.³¹ Whilst the occurrence was during UNMIK and context would apply that indeed legislation was necessary, the phenomena continued also post-independence. In 2008, when Kosovo declared independence, 91 laws were passed without substantial discussion at best, and no discussion at worst.³² The hasty legislative agenda was explained as an imposition by the international community. Whilst, in both cases the international community was heavily involved, the reluctance of local state actors to undertake responsibility played a vital role in weakening democracy in the earliest stages of state-building.

²⁹ Adam Fagan. (2009). Europe's Balkan Dilemma. Paths to Civil Society or State-Building

³⁰ Gëzim Krasniqi, Mehmet Musaj. (2017). The EU and Member State Building, chapter: The EU's limited sovereignty strong control approach in the process of Member State building in Kosovo.

³¹ Dugolli, I. (2006). P. 4. Laws without policies – Waste Dead Letter and Futility. Retrieved from: http://www.kipred.org/repository/docs/Laws_Without__Policy_-_Waste_Dead_Letter_and_Futility_618084.pdf

³² Republic of Kosovo. Assembly. Retrieved from: <http://kuvendikosoves.org/common/docs/ligjet/Evidenca%20e%20ligjeve.pdf>

Europeanization via a top-down approach played a huge role in the lack of ability for Kosovo institutions to absorb transformative power. Yet, Kosovo citizens are optimistic in terms of their EU integration and also hold in very positive regard the EU and the overall accession process. Concretely, Kosovo citizens' belief that the EU membership will be a "good thing", and their optimism in regard to EU accession, is reported in the Balkan Barometer.³³ In 2020, three out of four citizens in Kosovo believe that EU membership will be a good thing for the economy. This is an increase from the previous year as 69% reported that they perceive EU membership as a good thing. The 2020 Balkan Barometer that measures public perception in the Western Balkans 6 countries puts Kosovo only behind Albania in terms of their perception towards EU accession. Albeit, that Kosovo is the only country in the region without visa liberalization, this has not affected also the general perception of when they expect the accession of Kosovo in the EU. In 2019, when asked when they expect the accession, 33% of respondents stated that they expect Kosovo's accession by 2020, which was highly unrealistic. In 2020, the perception changed as the majority of respondents (44%) stated that they expect EU accession by 2030, followed by 38% stating that that will occur in 2025.

The top priorities from Kosovo citizens on foreign affairs are not aligned, or at least not unambiguously aligned with EU's stance on Kosovo. Based on a survey, Kosovo citizens ranked visa liberalization, and EU integration, as the top two priorities on which Kosovo should focus.³⁴ The EU on the other hand at best has brushed off, and at worst has answered negatively, to these set of priorities. Visa liberalization has been one of the key issues debated, and whilst Kosovo has been endorsed by the European Parliament twice, it has yet to reach full effect.³⁵ EU integration for Kosovo has reached a stalemate, where Kosovo is making progress in the legislative framework alignment to the EU but is failing to comply with its implementation.³⁶

Both the visa liberalization process, and EU integration have produced a set of duties that were mostly concerning legislative frameworks. These sets of tick-in-the-box types of lists were hastily met by Kosovo institutions. With requirements for changes to the legal framework, Kosovo underwent the path of producing and

³³ RCC. (2020). Balkan Barometer 2020. Retrieved from: https://www.rcc.int/download/docs/2020-06-Balkan-Barometer-Public-Opinion_final.pdf/bf27f9fc10de8a02df9db2b60596f0cd.pdf

³⁴ Democracy for Development. (2020). Cilat duhet të jenë tri prioritetet e politikës së jashtme kosovare?. Retrieved from: <https://d4d-ks.org/infografikat/cilat-duhet-te-jene-tri-prioritetet-e-politikes-se-jashtme-kosovare/>

³⁵ European Commission. (2018). Visa Liberalisation: Commission confirms Kosovo fulfils all required benchmarks. Retrieved from: https://ec.europa.eu/home-affairs/news/visa-liberalisation-commission-confirms-kosovo-fulfils-all-required-benchmarks_en

³⁶ European Commission. (2020). Kosovo 2020 Report. Retrieved from: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/kosovo_report_2020.pdf

amending legislation without proper public discussions and thus created a pro-forma approach towards policymaking. Subsequently the most common finding from EU country reports, and also the common discourse is that Kosovo is failing to implement legislation, where the latest country report states that “Legislative alignment has continued in some areas but implementation is often weak”.³⁷ However, the real issue resides in the ability to implement rather than implementation in itself. A top-down approach from the governments thus far has created a situation where the essence of democracy, namely public discussions, are perishing. This calls for more inclusiveness, taking domestic processes and capabilities into account when formulating requirements and introducing more bottom-up centered initiatives where discussion is enabled and where domestic reform challenges can be sufficiently understood and addressed.

Bringing back credibility into the Europeanization process: exploring the central role of Germany

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Addressing the credibility deficit associated with enlargement and current Europeanization mechanisms will be key if sustainable change is to be enabled, with an enhanced membership perspective further increasing the incentive to implement legislation. It is undeniable that individual EU Member States can have an important impact in this regard, as was seen with the case of France whose reserved approach has had rather negative repercussions for the enlargement perspective. Germany, on the other hand, has maintained a consistent commitment to the Western Balkans, despite crises in Europe and domestic public concerns. Instead of slowing down enlargement, its strict adherence to conditionality and rigorous approach to rule of law³⁸ has been used to tackle domestic skepticism, which makes it approach more consistent and supportive of transformative processes. As a leading EU

³⁷ Ibid

³⁸ Theresia Töglhofer and Cornelius Adebahr, (2017). Firm supporter and severe critic – Germany's two-pronged approach to EU enlargement in the Western Balkans. *Southeast European and Black Sea Studies*, 17(4), pp. 523-539

Member State and one of Kosovo's most significant partners and supporters, Germany can have a significant role to play for bringing back credibility into the Europeanization process.

Germany has long been an important partner of Kosovo, supporting its independence and providing vital assistance for its post-independence state-building process. It is Kosovo's biggest bilateral donor³⁹ and one of the main actors driving Kosovo's European integration by supporting and funding key democratization and development projects aimed at preparing the country for EU membership. Germany reiterated this aim with the conclusion of the 2020–2021 negotiations of their future bilateral development cooperation.⁴⁰ It agreed to commit 72.1 million euro to support three main areas in 2021 and 2022, one of them begin the EU integration reform process (the other two are focused on support for sustainable economic development and the improvement of energy efficiency). This strong bilateral commitment puts Germany in a favorable position for strengthening the credibility of Europeanization mechanisms in Kosovo. It could leverage its existing support to the country while using its position in the EU to reinvigorate the enlargement process and work towards an inclusive approach that acknowledges the Western Balkan states and its citizens as partners that need to be considered to foster a prosperous future for Europe. This could not only enhance the trust in and credibility of Europeanization mechanisms, but also contribute to capacity-building endeavors.

One important challenge for all parties involved on this complex Europeanization path lies in the EU's unique yet complex institutional set-up that enables internal fragmentation. This is a significant hurdle that could take time to resolve as reserved EU Member States have their own strong national interest in keeping enlargement processes at bay. Germany could however help prevent the growth of disillusionment and reduced trust in the EU as an external driver of Europeanization by maintaining a progressive and inclusive approach to Kosovo's EU integration. Highlighting existing initiatives is in order. The Berlin process launched in 2014 by German Chancellor Angela Merkel was an early demonstration of the country's

³⁹ Federal Ministry for Economic Cooperation and Development, Germany, (2021). Kosovo. Retrieved from: <https://www.bmz.de/en/countries/kosovo>

⁴⁰ Deutsche Botschaft Pristina, (2021). Kosovar–German governmental negotiations: Germany commits 72.1 Million Euro to bring Kosovo closer to the European Union. Retrieved from: <https://pristina.diplo.de/xk-de/aktuelles/-/2425108>

commitment to the region. The initiative was launched to complement EU driven integration at the time when Commission President Juncker paused the enlargement efforts.⁴¹ Since its start, this collaborative format has brought a range of stakeholders together, both from the region and the EU, and has resulted in a variety of projects supporting regional cooperation and capacity-building. Kosovo has also been included in this initiative on an equal footing with the rest of the Western Balkans, which has been important for its development. Such inclusive forums can be key to counter the EU's current top-down approach and promote different voices in the reform path, which can work to enable Europeanization.

Germany's recent push in the EU facilitated Kosovo-Serbia dialogue has been another significant step towards the two countries' EU integration, as it could help bring Kosovo and Serbia closer to normalizing bilateral relations, which is a condition for EU membership. In a visit to the countries by Germany's Foreign Minister Heiko Maas in April, he emphasized Germany's strong support for the dialogue and called for concrete progress,⁴² while reiterating the commitment to the Western Balkan states' EU integration.⁴³ This was also the topic of a more recent call between Maas and Kosovo's Prime Minister Albin Kurti in May.⁴⁴ These are just a few examples of how Germany is clearly positioning itself as a driver of EU integration on the Western Balkans, which is an important counterbalance to the internal differences visible within the EU. Promoting EU integration of candidate and potential candidate states is indeed an important prerequisite for successful Europeanization as it strengthens the membership perspective, making the commitment to the Western Balkans' EU future more credible and thereby lowering domestic adaptational costs. Multistakeholder initiatives, such as the Berlin process, is supporting such measures and enhancing local capacities to respond to the vast changes underway.

For Germany to successfully convey its ambitions for the Western Balkans, this support must also transpire in the context of the EU. Germany's official position in support of the Western Balkans and Kosovo should be complemented by concrete actions that not only reassert the membership perspective but aim to improve the central reward system used by the EU through conditionality and answer to calls

⁴¹ Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), (2018). The Berlin Process in a Nutshell. Retrieved from: https://www.giz.de/en/downloads_els/The_Berlin_Process.pdf

⁴² Reuters, (2021). Germany calls on Serbia, Kosovo to strive to normalize relations. 23 April 2021. Retrieved from: <https://www.reuters.com/world/europe/serbia-kosovo-must-work-harder-normalise-relations-germany-says-2021-04-23/>

⁴³ Federal Foreign Office, Germany, (2021). New momentum for a normalization of relations between Serbia and Kosovo. 22 April 2021. Retrieved from: <https://www.auswaertiges-amt.de/en/aussenpolitik/europa/maas-kosovo-serbia/2455466>

⁴⁴ Euronews Albania, (2021). Kosovo-Serbia dialogue, in the focus of German diplomacy. 12 May 2021. Retrieved from: <https://euronews.al/en/kosovo/2021/05/12/kosovo-serbia-dialogue-in-the-focus-of-german-diplomacy/>

from citizens in the region, especially for visa liberalization. While hopes were high that Germany would renew the enlargement momentum when it assumed the rotating Presidency of the Council of the EU in July 2020, the focus of its six-month program⁴⁵ was as expected on the Covid-19 pandemic response and the economic recovery of the Union. The rhetoric, however, remains supportive. Statements from German officials have made it clear that the engagement with the Western Balkans was indeed a priority during its presidency and will now remain one.⁴⁶ It is also encouraging that German officials, such as Chancellor Angela Merkel⁴⁷ and Minister of Foreign Affairs Heiko Maas⁴⁸ very recently reiterated the commitment to visa liberalization. Progress on visa liberalization for Kosovo would not only indicate the EU's commitment to the country, but would be an important step for salvaging the credibility-deficit facing the EU's reward mechanisms that are currently (not) enabling Europeanization to progress. Considering recent statements, there is reason to be hopeful that Germany will try to enhance their push for bringing the visa liberalization process forward. This push could further be enabled by the Trio Presidency,⁴⁹ of which Germany is part. Hopes have been that Slovenia, the last member of the Trio format, will put enhanced attention to the Western Balkans back on the agenda. Recent calls to speed up accession for the entire Western Balkans by the Slovenian president Borut Pahor⁵⁰ is a promising sign of this. Germany should work with Slovenia in this particular constellation to complete the initial ambitions for the Western Balkans outlined in 2020 and take advantage of the possible enlargement momentum that looks to be building up again.⁵¹

While recent developments imply an increased opportunity to strengthen the credibility of the Europeanization process, it is also important that more attention is

⁴⁵ Germany's Presidency of the Council of the European Union. (2020). Together for Europe's recovery: Programme for Germany's Presidency of the Council of the European Union. Retrieved from: <https://www.eu2020.de/blob/2360248/e0312c50f910931819ab67f630d15b2f/06-30-pdf-programm-en-data.pdf>

⁴⁶ For instance, see Marija Ristic. (2020). Rule of Law Key to Balkans' Progress – Germany's Schutz. 10 August 2020. Retrieved from: <https://balkaninsight.com/2020/08/10/rule-of-law-key-to-balkans-progress-germanys-schutz/>

⁴⁷ Balkans News. (2021). Kosovo: Kurti and Merkel Discuss Dialogue, Vaccines and Workplaces. 18 May 2021. Retrieved from: <https://balkans.news/2021/05/18/kosovo-kurti-and-merkel-discuss-dialogue-vaccines-and-workplaces/>

⁴⁸ Deutsche Welle (DW). (2021). Maas gegen neue Grenzen auf dem Balkan. 22 April 2021. Retrieved from: <https://www.dw.com/de/maas-gegen-neue-grenzen-auf-dem-balkan/a-57305457>

⁴⁹ The Trio Presidency is part of a collaborative format between Germany, Portugal and Slovenia, the latter two holding their precedencies in 2021. The aim is to have a coherent approach for longer than six months to ensure the capability to act.

⁵⁰ Reuters. (2021). EU should speed up accession of entire Western Balkans. Slovenia's president says. 14 May 2021. Retrieved from: <https://www.reuters.com/world/eu-should-speed-up-accession-entire-western-balkans-slovenias-president-says-2021-05-14/>

⁵¹ For instance, in March, a letter to the EU High Representative Joseph Borrell was signed by nine EU Member

given to inclusive formats where public discussion and the constructive engagement of civil society or and civic movements is enabled. The Berlin process is an important networking opportunity enhancing regional cooperation, but more bottom-up centric initiatives should complement this. The Conference on the Future of Europe currently provides Germany, as well as other important EU Member States such as Slovenia, with a golden opportunity to foster inclusion and tackle the power asymmetries upheld by top-down Europeanization mechanisms. Encouraging multiple stakeholders from the region to get involved in this bottom-up forum, where citizens are to join the discussion on EU's priorities for the future Europe, would not only work as an important signal to Kosovo and the rest of the Western Balkans that the future of the Western Balkans is indeed in the EU. It would also empower civil society actors that are key in the establishment of any democracy, inviting them to an EU-led forum where their concerns are to be heard. The value of multistakeholder engagement and the Western Balkans involvement in debates on the future of Europe has been acknowledged by Slovenian Foreign Minister Anze Logar in a recent meeting with Heiko Maas.⁵² This is a welcome statement and opens up for the opportunity to reshape the idea of the Western Balkan states as real partners, while making engagements more inclusive. This would contribute to the reassertion of the membership perspective and further motivate the commitment to, as well as the capability, to successfully undertake reform measures and adapt in line with the Europeanization process.

⁵¹ For instance, in March, a letter to the EU High Representative Joseph Borrell was signed by nine EU Member States Foreign Ministers, calling for him to include a strategic discussion on the Western Balkans in their next meeting agenda. The credibility of the Union was specifically mentioned as an important concern. This illustrates the increasing realization that attention needs to be redirected towards the Western Balkans. See: <https://www.euractiv.com/section/enlargement/news/letter-to-hrvp-borrell-on-western-balkans/>

⁵² Slovenia Times, (2021). Maas pledges support to Slovenia's EU presidency, 20 May 2021. Retrieved from: <https://sloveniatimes.com/maas-pledges-support-to-slovenias-eu-presidency/>

Conclusions/Recommendations

It becomes clear that the employment of a top-down approach to Europeanization has been problematic for several reasons. First, it mainly relies on conditionality, which is ineffective with the current lack of EU credibility and low domestic capabilities to adapt accordingly. Second, it fails to effectively address the latter and promote domestic capabilities necessary to adapt to the European “way of doing things”, a flaw exacerbated by the power asymmetry that the top-down approach generates. Third, it enables a gap to form between the Kosovo citizen's perception of the issues in the country and the EU agenda. A conditionality approach especially towards the legislative agenda has weakened the country's role and ownership in the state-building process. The top-down approach combined with a weak absorption of transformative power have led to agendas which are not aligned with citizen's perception of needs, and legislation which faces difficulties in the implementation phase.

Conditionality is most likely here to stay as a move away from it would turn decades of enlargement strategy on its head, which makes it crucial to address central challenges, such as the EU's credibility deficit. It is also clear that increased focus must be given to capacity-building measures and civil-society support that includes a diverse range of domestic stakeholders, ensuring public discussion and inclusion. Only then can Europeanization be effectful in Kosovo and lead to the successful adoption and implementation of reforms as well as the development of shared values and principles. For the EU as the main driver of Europeanization, this shift would however require a shared determination to enhance the focus on the Western Balkans, both to increase its credibility as a driver of change and find new ways to foster common standards and norms.

Recommendations:

Clear, concrete, and inclusive process on information and understanding the EU integration process.

A lack of clear understanding of the EU integration process contributes to creating false perceptions which then would have a countereffect on the citizen's overall attitude towards EU membership. Hence, line-ministries and the government should also embed strategies on better informing citizens of the integration process including but not limited to: the administrative, legislative,

and financial tasks that will need to occur. The campaign should offer tailored information that is available and accessible for all different target groups.

Promoting and strengthening democracy as a prerequisite for state-building.

A top-down approach has proven to create more issues in the long-run than it solves. Democratic culture has been nourished in Kosovo, however, in instances where Europeanization is undertaken by a top-down approach it puts democratic institutions to a test. As a result, legislation may improve in the field of alignment with EU standards, but in the cons side without a strengthened absorption of transformative power it leads to inability to utilize both the process and the benefits deriving.

A bottom-up approach to Europeanization.

EU integration and the overall discourse on EU accession for Kosovo is disconnected from the general public and has raised unfeasible expectations. Involving the general public in better understanding the complex EU integration leads to correct information diffusion and improves citizens' inclusion, inherently contributing towards a bottom-up approach pertaining the EU-driven changes. Further seeking to understand and respond to citizens' priorities through their involvement could also help prevent the growth of disillusionment and reduced trust in the EU. Their inclusion in the Conference on the Future of Europe would not only signal their belonging, providing space for deliberation on internal EU matters, but would also be an opportunity for the EU to understand local grievances, which could inform more effective approaches to EU integration of the Western Balkans.

Acknowledge and support citizens and civic movements as agents of change.

Extending beyond involvement, citizens should be seen as agents of change in a democratizing environment and should therefore be given increased opportunities to have their voices heard while being empowered to challenge endemic issues such as corruption, lack of transparency and rule of law deficits. To complement deliberative forums, new initiatives attempting to strengthen civic movements' expertise and ability to organize should become an integral part of EU integration measures. These would be effectful ways for the Europeanization process to be driven by local actors.

Enhance the centrality of inclusive capacity-building strategies.

Rather than being stuck ticking conditionality boxes, the EU should strengthen the presence of inclusive capacity-building tools, such as twinning projects⁵³ where countries both learn from each other and strengthen their capability to respond to challenges. The participation of different domestic stakeholders would ensure an inclusive process with best practice learning, while empowering a diverse range of actors. Combining conditionality with such capacity-building strategies could enable the long-term transformation of structures as well as the development of a shared understanding of norms and procedures.

Seize the current opportunity to revive the EU enlargement momentum.

While the crisis-mode continues to loom over Europe, recent calls to reinvigorate the EU enlargement to the Western Balkans could be sign of a momentum building up. This should be seized by the EU, both to increase its credibility as a driver of change and to find new ways to foster common standards and norms. Germany and the Trio Presidency could lead this push, with Slovenia stating the wish to speed up accession for the entire Western Balkans. The intention by the Slovenian Council Presidency to have regular EU summits with the Western Balkans, starting with the planned EU-Western Balkan summit during its term, and the wish to include its citizens in debates on Europe's future should be the start of a revived, constructive, and participatory enlargement process supported by the European Commission. Such driving forces could bolster the currently bleak membership perspective, leading to reduced adaptational costs for candidate and potential candidate states, while reducing the centrality of top-down Europeanization mechanisms. This will be key to achieving sustainable change in the Western Balkans, which is the prerequisite for joining the EU.

⁵³ European Commission, (2021). Twinning. Retrieved from: https://ec.europa.eu/neighbourhood-enlargement/tenders/twinning_en

The Democracy for Development (D4D) Institute was established in April 2010 by a group of analysts who were increasingly worried that the state-building exercise had neglected democracy.

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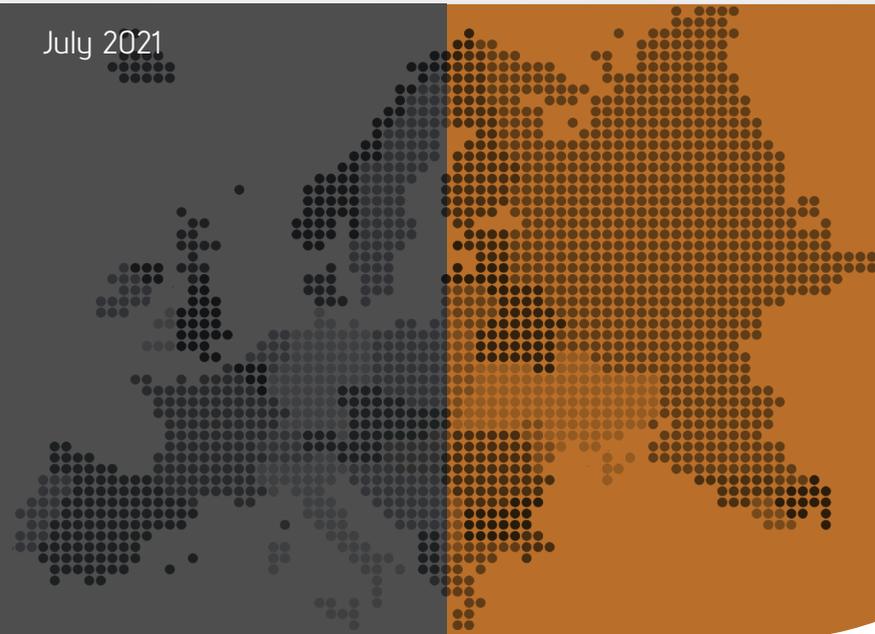
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