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# THE EUROPEANIZATION OF THE WESTERN BALKANS, STRENGTHENING THE RULE OF LAW AND FIGHTING THE CORRUPTION

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UDC 343.85:343.352(497-15)

DOI: <https://doi.org/10.22182/ajp.1232019.5>

Original scientific paper

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Abstract

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The aim of this paper is to give an overview on how did Europeanization affect the field of the rule of law in the countries of WBs. However, the rule of law is a very broad area, made out of many subareas in the EU's eyes (as it is in general), and tackling all of them would be too broad and for some periods even too complicated. Their analyzing would definitely exceed the maximum allowed number of pages for this paper. This paper, alongside a very brief overview of the field of the rule of law in WBs countries, will also focus more closely on the fight against the corruption, and in order to make it even more narrow, the emphasis will be on the two current EU candidate WBs countries, Serbia and Montenegro. The results presented in the concluding remarks are somewhat expected given the history and the current state of the two case countries, as well as the WBs overall. The still much needed reform in the field

of the rule of law, and specifically in fighting the corruption is a must for these countries.

**Keywords:** Europeanization, Western Balkans, rule of law, corruption, Serbia, Montenegro.

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## 1. INTRODUCTION

The creation of the European Coal and Steel Community (ECSC) and then the European Economic Community (EEC) did not indicate that integration would at one point reach a level where respect for the rule of law, good governance or respect for human rights would be of a highest and crucial importance. There are three whys and wherefores to the rule of law not being on the European Union's agenda until the very 90s. First, the European Union (EU), starting from the Community, has undergone a major transformation from its origin. From being an economic project designed to ensure free trade between member states, to a very complex organization with transnational features and a wide range of activities. Second, the EU's enlargement policy, as a separate idea, was created only in the 90s as a response to the request for enlargement to Central and Eastern Europe (CEE). And a third reason, for a delayed interest in the rule of law in countries that have had contractual relationships with the EU, might be in the parallel existence of both regional and international organizations which have designated their existence to promotion, protection and operation under the field of the rule of law, such as United Nations, Council of Europe and Organization for Security and Co-operation in Europe. However, ever since the fall of the iron curtain and the following attempts to enlarge EU towards CEE, rule of law has emerged as a major policy matter.

Following the adoption of the Maastricht Treaty at the European Council summit held in Copenhagen in 1993, the European Union had for the first time precisely defined the conditions that each candidate country must meet in the accession process. The institutional change embodied in the so-called Copenhagen criteria

was further divided into political, economic and legal criteria. For this thesis the political criterion is paramount. It underlines that each candidate country for its membership requires stable political institutions, stability of the rule of law, respect for human rights, as well as the protection of national minorities. Establishing strong rule of law still remains a key challenge in the Western Balkans (WBs)<sup>1</sup> A process in which a country is doing the most in order to fulfill the political criteria in the recent literature has been termed under *Europeanization*. Europeanization is at glance understood as domestic change in which the EU is wholly or partially involved. It is marked as a process in which a change or reform is inevitable. As a process it has been widely recognized as a period of shifting opportunities that brings new openings and resources for a candidate country.

The aim of this paper is to give an overview on how did Europeanization effect the field of the rule of law in the countries of WBs. The rule of law is a very broad area in the EU's eyes (as it is in general), and it usually analyses it as a big area that is made out of many subareas, such as: functioning of the judiciary, the fight against corruption, the fight against organized crime, protection of human rights and minorities, immigration and the cooperation in fight against drugs and terrorism. All of these subareas are surely in a need of a big reform. However, tackling all of them would be too broad, plus for some periods even too complicated. Their analyzing would definitely exceed the maximum allowed number of pages for this paper. Therefore, in this paper, alongside a very brief overview of the field of the rule of law in WBs countries, paper will focus more on the fight against corruption. In order to make it even more narrow, the emphasis will be on the two current candidate WBs countries, Serbia and Montenegro.

## 2. BUT WHAT IS EUROPEANIZATION?

Given the great interest, a profuse literature on Europeanization has been produced in a very short period of time which often

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<sup>1</sup> *Western Balkans*, as a term, is an actual Brussels construction and more so political than geographical one, where all countries share a common perspective and framework of European integration, and was officially introduced in 1998 by the Austrian Presidency of the EU. It refers to the countries of Albania, Bosnia and Herzegovina, Kosovo\*, Republic of North Macedonia, Montenegro and Serbia.

becomes impossible to be managed unless a clear research focus as well as a pre-systematization of it is undertaken in advance.<sup>2</sup> The problem is not that different authors assign different meanings to Europeanization- that can well be seen as an indicator of a vibrant debate. Instead, the potential risks refer to concept misformation, conceptual stretching, and degreeism.<sup>3</sup>

However, if one has to present a general review of the literature on Europeanization, one can distinguish two main pillars. The first one regards the *theoretical approach* on Europeanization, trying to build a more general understanding of the topic, while the second one is an *issue related* approach with the intention of detailing it to very specific topics. The literature on Europeanization theoretical approach can be clustered first as literature around the concept of Europeanization which is primarily of an explorative character trying to better describe the process that the concept entails, and secondly as literature which aims on the explanatory character trying to find the causality of the Europeanization process. By choosing issue related approach on Europeanization, one can distinguish on the one hand a literature whose main focus is on very specific domains of political processes, e.g. policies, interest groups, political parties, and on the other hand a literature whose main focus is country-specific. The latter can be than grouped further to the literature that deals (exclusively) with the EU member states, with candidate countries or with non-candidate countries, but still on the EU proximity.<sup>4</sup> After the growing literature of Europeanization examining the impact of European integration process on domestic developments of EU member states, there was also a considerable literature dealing with the Europeanization process on the candidate countries. The literature on the candidate countries is characterized by its attempts not only to research the impact of EU enlargement on different domestic issues, but again, to theorize this process.

But, how do we define what term Europeanization essentially is? The literature today on Europeanization is struggling on finding an *all-inclusive* definition that can be academically widely accept

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2 Dorian Jano, *The Europeanization of Western Balkans*, VDM Verlag Dr. Muller, 2010, p. 11.

3 Claudio Radaelli, "The Europeanization of Public Policy", in: Kevin Featherstone and Claudio Radaelli (eds.), *The Politics of Europeanization*, Oxford: Oxford Univeristy Press, 2003, p. 28.

4 Dorian Jano, *The Europeanization of Western Balkans*, VDM Verlag Dr. Muller, 2010, p. 12.

ed. For that reason it is imperative to take a look at few definitions given in the past.

One of the earliest concrete definitions of Europeanization as a process once institutions are put in place was coined by Robert Ladrech: “Europeanization is an incremental process reorienting the direction and shape of politics to the degree that European Community (EC) political and economic dynamics become part of the organizational logic of national politics and policy-making.”<sup>5</sup> By organizational logic Ladrech here speaks of the adaptive processes of organizations to a changed or changing environment. In doing so, he emphasizes the role of adaptation, learning, and policy change.<sup>6</sup>

Risse, Cowles, and Caporaso, in their introduction to Cowles et al., have provided yet another definition: “We define Europeanization as the emergence and development at the European level of distinct structures of governance, that is, of political, legal, and social institutions associated with political problem-solving that formalize interactions among the actors, and of policy networks specializing in the creation of authoritative European rules”.<sup>7</sup>

Drawing upon Ladrech’s definition, Claudio Radaelli, professor of Public Policy Analysis at UCL, proposed the most quoted definition of Europeanization. He defined it as a “process of construction, diffusion, and institutionalization of formal and informal rules, procedures, policy paradigms, styles (ways of doing things) and shared beliefs and norms which are first defined and consolidated in the making of EU public policy and politics and then incorporated in the logic of domestic discourse, identities, political structures, and public policies”.<sup>8</sup> This definition stresses the importance of change in the logic of political behavior. Since Europeanization involves the domestic assimilation of the EU policy and politics, definition refers to processes of institutionalization. It also accommodates both organizations and individuals. It can be so applied both to the EU member states and other

5 Robert Ladrech, “Europeanization of Domestic Politics and Institutions: The Case of France”, *Journal of Common Market Studies* vol. 32, no. 1, UACES, 1994, p.69.

6 Ibid.

7 Maria Green Cowles, James Caporaso and Thomas Risse, *Transforming Europe: Europeanization and Domestic Change*, Cornell: Cornell University Press, 2001, p.3.

8 Claudio Radaelli, “The Europeanization of Public Policy”, in: Kevin Featherstone and Claudio Radaelli (eds.), *The Politics of Europeanization*, Oxford: Oxford University Press, 2003, p.30.

countries. Definition does not mention EU laws or decisions of a similar level, but EU public policy because it includes modes of governance which are not targeted towards law making, such as the open method of coordination. Definition stresses the making of policy, without assuming that there is a coherent, rational layer of EU decisions from which Europeanization descends.<sup>9</sup> It is grounded in an understanding of Europeanization as interactive process, and not a simple process of uni-directional reaction to Europe.

Europeanization entails not only the domestic adaptation to EU norms, laws, and rules (top-down), but also the changes in the dynamics of Europeanization as a result of domestic change (bottom-up). The top-down approach considers Europeanization as a reaction to the influence at the EU level and thus defines the concept as an independent, explanatory variable. Common to all top-down definitions of Europeanization is that they view the pressure to change at the EU level as a necessary condition for Europeanization to occur.<sup>10</sup> The bottom-up approach analyses the domestic level before the EU pressure begins and then follows participation of the country in negotiations at the EU level, ending with the process of implementing EU regulation. Instead of starting at the level of EU policies and then following their influence on domestic actors and policies, it begins and ends at the level of domestic political interactions.<sup>11</sup> In practice, bottom-up and top-down processes often take place simultaneously.

The theoretical added value of Europeanization lies primarily in the need to generalize on the mechanisms through which European political strategies, discourses, policies and institutions have affected domestic political systems. To this respect, Europeanization scholars have looked greatly into placing Europeanization in a *new institutionalism* theory.<sup>12</sup> Institutional approaches, as such, put at the center of their object of enquiry the role of institutions in decision-making processes and, more generally, in the functioning

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9 Ibid.

10 Goran Bandov and Nikolina Herceg, Research on Europeanization in Literature: From the Top-down Approach to Europeanization as a Multi-directional Process, *CADMUS vol. 3, no. 5.*, Cadmus Journal Services Inc., 2018, p.138.

11 Ibid., p. 137.

12 Maarten Vink and Paolo Graziano, "Europeanization: Concept, Theory, and Methods", in: Simone Bulmer and Christian Lesquene (eds.), *The Member States of the European Union*, Oxford: Oxford University Press, 2013, p. 39.

of political systems.<sup>13</sup> From this stance, Europeanization studies have mobilized all strands of the new institutionalist approaches- historical, rational choice, and sociological.<sup>14</sup> The construction and diffusion of EU ideas, and the socialization provided by EU institutions and policies, have constituted a motor of change in their own right. Political change may be less visible than in the other cases, but some authors like Checkel, have argued that this form of Europeanization may be as powerful as more conventional forms of Europeanization in more classic institutional and policy domains of the EU.<sup>15</sup>

To conclude, common sense indicates that Europeanization has something to do with the infiltration of the European dimension in national arenas of polity, politics and policy, a well good point raised by Mrs. Börzel. Trying to place, explain and connect Europeanization to already existing grand theory would definitely exceed the ambition of this paper, and at this point of time the absence of this direct connection might be seen as the gap in the currently existing literature. Its eclecticism simply stems from it not being a single theory, but rather a distinct set of research *foci*.<sup>16</sup>

### 3. THE RULE OF LAW AND THE WESTERN BALKANS

The WBs represent a unique laboratory for exploring a wide array of parallel tracked political processes. Over the past three decades, the region has experienced manifold state disintegrations, violent and non-violent conflict between and within countries, as well as a delayed transition to democracy and market economy. All of these experiences have been framed through the concurrent, overlapping, and conflicting dynamics of nation and state building, and aspirations to join the European Union.<sup>17</sup>

13 Ibid., p. 34.

14 See more at: Peter Hall and Rosemary Taylor, *Political Science and the Three New Institutionalisms*, *Political Studies* vol. 44, no. 5, Political Studies Association and Wiley, 1996.

15 Jeffrey Checkel, "The Europeanization of Citizenship?", in: Maria Cowles, James Caporaso and Thomas Risse (eds.), *Transforming Europe? Europeanization and Domestic Change*, Cornell: Cornell University Press, 2001, p. 183.

16 Kevin Featherstone, "Introduction: In the name of 'Europe'", in: Kevin Featherstone and Claudio Radaelli (eds.), *The Politics of Europeanization*, Oxford University Press, 2003, p. 20.

17 Soeren Keil, Introduction: Europeanization, State-Building and Democratization in the Western Balkans, *Nationalities Papers* vol. 41, no. 3, Routledge, 2013, p.345.

European Union in its Article 2 of the Treaty on European Union (TEU) is said to be founded on many values, including the value for the rule of law, albeit Article 2 does not provide for its definition. The Union has ever since been in search for a definition that would suit all member states and then new, at a time candidate, countries. European Commission delivered on an analysis in which it defined the rule of law as present when “all public powers always act within the constraints set out by law, in accordance with the values of democracy and fundamental rights, and under the control of independent and impartial courts. The rule of law includes, among others, principles such as legality, implying a transparent, accountable, democratic and pluralistic process for enacting laws; legal certainty; prohibiting the arbitrary exercise of executive power; effective judicial protection by independent and impartial courts, effective judicial review including respect for fundamental rights; separation of powers; and equality before the law”.<sup>18</sup>

Article 7 of TEU therefore provides “a legal and political early warning system in case of a risk of breaches of EU’s core values, and a sanctions mechanism in the event of a serious and persistent breach by a member state”.<sup>19</sup> Nonetheless, there can be seen some considerable hurdles for the Union to be involved. First as to substantive application, action may only be based where there is a clear risk of a serious fissure of the rule of law. Second, there are procedural hurdles, whereby action may be initiated only if four-fifths of the member states agree there is such a clear risk of a serious breach. Lastly, with regard to punishment, at the first instance, only warning is available and if the Council considers that the situation deserves more serious reaction, then a state’s membership rights may be suspended.<sup>20</sup> The criticism of EU’s guardian role of the rule of law does not seem to stop there. Union can be challenged by the governments it targets through the early

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18 Communication From The Commission To The European Parliament, The European Council And The Council, Further strengthening the Rule of Law within the Union, European Commission, Brussels, 04/04/2019; COM (2019) 163 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52019DC0163&from=EN>

19 Theodore Konstantinides, *The Rule of Law in the European Union. The Internal Dimension*, Hart Publishing, 2017, p.45

20 Helena Raulus, “The Growing Role of the Union in Protection of Rule of Law”, in: Flora A.N.J. Goudappel and Ernst M.H. Hirsch Ballin (eds.), *Democracy and Rule of Law in the European Union. Essays in Honour of Jaap W. de Zwaan*, ASSER Press, 2016, p.28.

warning mechanism for using an abstract given conception of the rule of law as the perfect excuse to legitimize the penetration of EU into national affairs without express Treaty authorization, which can then lead to negative government propaganda about the actual role of the EU.

To sum it up, the rule of law appears to stand as a pillar in four distinctive areas of EU identity and activity. First, as a fundamental value upon which the EU itself is founded. Second, as a requirement of the trust indispensable for the functioning of the internal market. Third, as an important element in the Union's external relations and fourth, as an eligibility criteria for EU membership.<sup>21</sup> It can be noticed that with the passing of time throughout the 90s, the rule of law in WBs countries has progressively weakened. Weak governments, incapable or unwilling to impose the rule of law, have enabled the general non-respect of legislation, therefore making lawless activities become common practice at all levels. The absence of substantial judiciary reforms has also led to increased corruption within the judiciary, and the enforcement of informal rules where personal contacts become of primary importance.

Most WBs countries, according to various international organizations, are still considered the most corrupt among all transition countries. This is however not specific to the WBs, but is also common in countries in Central and Eastern Europe, appearing as a by-product of the process of radical economic reforms implemented as part of the transition to a market economy. Today in their Constitutions, all of the WBs countries confess to the rule of law as either one of their fundamental values (Republic of North Macedonia), by declaring their country is based (Serbia, Montenegro, Albania) or operates (Bosnia and Herzegovina) under the rule of law, or stating that country is being governed with the full respect for the rule of law (Kosovo). "The top-down institutional promotion of the rule of law employed by the EU, empowered by the golden carrot of full membership has generated unique, broad-based, and long-term support for reform and progress toward EU membership in the WBs. However, the results of the ongoing efforts relating to the rule of law have thus far led to redistributive, capacity-related,

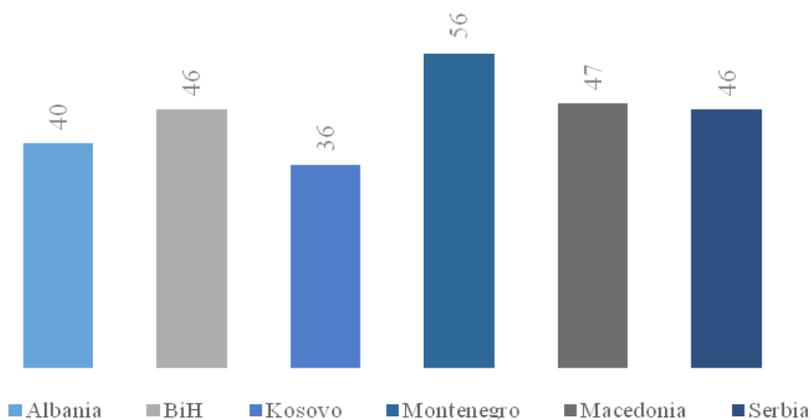
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21 Marko Kmezić, "EU Rule of Law Conditionality: Democracy or 'Stabilitocracy' Promotion in the Western Balkans?", in: Jelena Džankić, Soeren Keil and Marko Kmezić (eds.), *The Europeanisation Of The Western Balkans. A Failure of EU Conditionality?* Palgrave Macmillan, 2019, p.94.

and short-term outcomes rather than sustainable and transformative change in the current EU aspirants”<sup>22</sup>.

In the rule of law field, according to the WGI’s percentile rank from 0 to 100 that indicates rank of country among all countries in the world, with 0 corresponding to the lowest rank and 100 corresponding to highest rank, WBs for the available decade (2008-2018) show a somewhat decent stand Montenegro with the highest, and Kosovo with the lowest rank (see Figure 1).

Figure 1: Rule of law in the WBs for a 2008-2018 period.



Source: The Worldwide Governance Indicators (WGI), available at: <http://info.worldbank.org/governance/wgi/>

## 4. THE STATE OF CORRUPTION IN SERBIA AND MONTENEGRO

### Short Overview

As in the case of Europeanization and the rule of law, there is no single and fully agreed upon definition as to what constitutes corruption. The most common definition of individual corruption in present literature is that it is “the abuse of public office for pri-

<sup>22</sup> Ibid. p.87.

vate gain”.<sup>23</sup> Corruption is almost always defined as a deviation from the norm because it presupposes that authority or office are entrusted to someone not to promote private gain of any kind (for self or others), but to promote the public interest, in fairness and impartiality.<sup>24</sup>

Since the 90s, anti-corruption measures have been crucial for accession to the EU, since corruption undermines the basic democratic values, stability of institutions, and economic growth necessary to meet the Copenhagen criteria.<sup>25</sup> However, at the start of the accession talks, corruption in the context of the WBs was only mentioned after organized crime, which was considered the primary concern for the region. The importance of corruption started to rise around the time of the Berlin Process in 2014, when a *zero tolerance policy* on corruption was considered vital for achieving sustainable economic growth. It is a strong belief that WBs countries might be more prone to corruption due to the culture of informal business dealing which developed in the wake of communism.

## 4.1. Serbia

At the outset of the transitional reforms, Serbia faced a legacy of endemic corruption. From old Yugoslavia, Serbia inherited a very politicized sector and widespread party patronage, further compounded by the authoritarian reign in the 90s. Serbia therefore entered the transition reforms in the 2000s with a dysfunctional and nearly non-existent anti-corruption framework. The corruption was present in the executive branch, the judiciary, police and the legislature. With no doubt, the fight against corruption was paramount for a successful transition towards a market-based economy which would be based on a functioning rule of law. Even with EU's presence at this time, Serbia's first step toward fighting corruption was noticed in a different international playground, specifically in its joining the Group of Countries against Corruption of the Council

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23 Vito Tanzi and Hamid R. Davoodi, Corruption, Public Investment, and Growth, *IMF Working Paper no. 97/139*, IMF, 1997, p. 5.

24 Alina Mungiu Pippidi, *Controlling Corruption in Europe*, Berlin: Barbara Budrich Publishers, 2013, p. 9.

25 Velina Lilyanova, *Anti-Corruption Efforts in the Western Balkans, briefing European Parliament*. European Parliamentary Research Service, 2017, p.3.

of Europe (GRECO) in 2003 in order to harmonise corruption laws with the international standards. Serbia's commitment to making this work is best seen in creating specialized agencies. Still, the corruption was high, progress was always seen as slow and patchy due to the lack of political will to curb corruption. Because of the scarce progress in the fight against corruption the trust in political institutions soon slumped across the region, amounting to levels far below the, at the time, average level in the EU.<sup>26</sup>

In 2010, six years before opening the two crucial negotiating chapters, Serbia was on its steady way to reform in order to lower the corruption. In its 2010 *Action Plan for Fulfillment of Priorities [...] with The Aim of Accelerating Candidate Country Status*, Serbia stated that there has been a little progress in the investigation and prosecution of corruption cases with the number of final convictions remaining very low. In the same document it is said that it was upon the Ministry of Interior to introduce a reliable mechanism for lodging complaints against corruption and protecting citizens who report corruption. Following years the fight against corruption had been a top declarative priority for Serbia. However, Commission in its 2014 Report on Serbia, covered a long list of shortcomings. It warned that the National Anti-Corruption Strategy and action plan for 2013-2018 "had yet to mirror the strong political impetus to fight corruption"<sup>27</sup> and that the Agency continues to underperform in areas such as dealing with requests to investigate conflicts of interest and also adding that it "needs to carry out in-depth verification of political parties' financing."<sup>28</sup> Rule of law in its entirety cannot be measured in numbers, however corruption sometimes can. That is done by having dealt with successfully closed cases. Cases such as real-life citizens' corruption experiences and state budget expenses as an outcome of corruption in the public procurement sector. These cases do not appear in large numbers, but when they are numbered, then they are perceived as a good fight in order to combat corruption. On the other hand, cases such as effects of nepotism or cases of bigger corruption, are

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26 Ognian Shentov, Ruslan Stefanov and Boyko Todorov, *Anti-corruption reloaded: An assessment of Southeast Europe*, SELDI, 2014, p. 48.

27 European Commission, *Serbia Progress Report 2014*, Brussels, 08/10/2014; COM (2014) 700 final. [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2014/20140108-serbia-progress-report\\_en.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2014/20140108-serbia-progress-report_en.pdf)

28 *Ibid.*

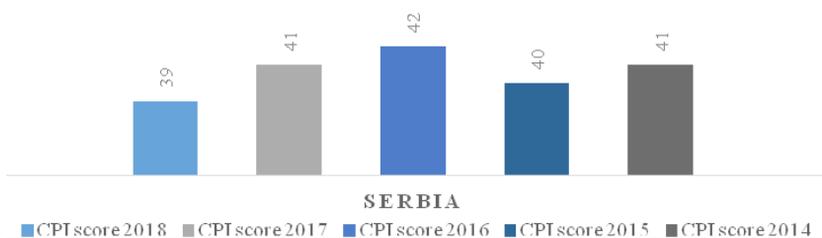
quite difficult to assess. Europeanization is the strongest in its aim to strengthen the rule of law.

Priorities in the fight against corruption given by the most important body, the Anti-corruption Agency, for 2019 are as follows. First, in the area of political corruption it is crucial to deal the issues such as: putting legal limitations of public officials' campaigning and establishing of independent oversight of rules related to the future elections and campaigns. Second, in terms of the anti-corruption plans it is important to better identify reasons for non-achievement of National Anti-corruption Strategy 2013-2018 goals, and to adopt new Strategy that would contain accountability measures. Also, thorough revision of the Action Plan for Chapter 23 is needed, perhaps by adding new activities and providing more precise indicators of success. Finally, in prosecuting and punishing corruption public prosecutors should investigate all suspicions on corruption and they should not wait for anyone to submit criminal charge. Prosecutors should publish information about the outcome of every investigations, including in the case that where no criminal charge was identified. Even further, there should be a legal duty to prepare and publish explanatory note for all decisions, including the government conclusions. To reduce the corruption and to improve the rule of law in Serbia it is important to stop with the practice of contracting based on interstate agreements where transparency and competition may be excluded (this being closely connected to the *Savamala* case).<sup>29</sup> According to the CPI, the corruption since the starting period of Europeanization process, that being the time from when Serbia had opened its negotiations (2014), seems to be on the same level (Figure 2.) with a very little deviation.

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29 Anti-Corruption Agency, *Annual report of the ACA 2018*. <http://www.acas.rs/wp-content/uploads/2019/05/ACAS-2018-REPORT-1.doc>

Figure 2. Corruption Perceptions Index for Serbia for 2014-2018.



Source: Transparency International

## 4.2. Montenegro

Montenegro, at fewer than 700,000 inhabitants is the smallest country engaged in accession talks, but also the most progressive in terms of membership negotiations. Improving the anti-corruption fight was included among the seven key priorities put forward by the European Commission before the opening of membership negotiations. The dominance of corruption has been one of the major concerns in Montenegro's EU accession process. Current institutional framework for the fight against corruption in Montenegro is described by relevant institutional organizations and experts as too broad and dysfunctional, it is not giving visible results, and it is a target of the European Commission and international organizations' critics. In 2015 Commission gave few directions Montenegro should look at in order to prevent corruption. That was to be done by establishing a fully operational anti-corruption agency by 1<sup>st</sup> of January 2016 and by establishing track records in combating corruption, in particular in high-level cases.<sup>30</sup> Institutions that are dealing with overpowering of political corruption and coordinating work of the anti-corruption institutions such as Directorate for Anti-corruption Initiative, Commission For Prevention of the Conflict of Interests and State Electoral Commission, are facing lack of the funds for their work, lack of human and technical capacities, and legal frame that regulates their work is disabling

30 European Commission, *Montenegro Progress Report 2015*, Brussels, 10/11/2015, SWD (2015) 210 final. [https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/pdf/key\\_documents/2015/20151110\\_report\\_montenegro.pdf](https://ec.europa.eu/neighbourhoodenlargement/sites/near/files/pdf/key_documents/2015/20151110_report_montenegro.pdf)

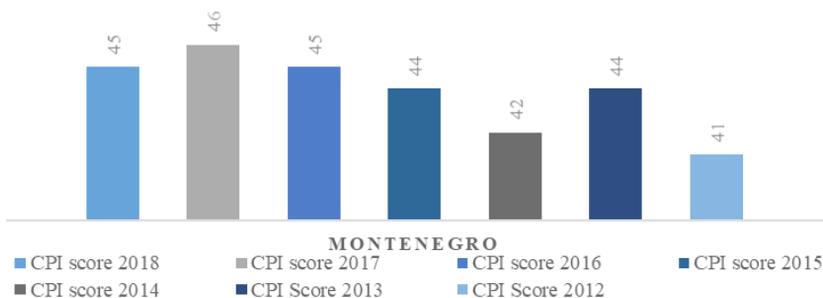
their actions in that degree that it makes obtaining of significant results, impossible.

The new rulebook on the internal organization of the Anti-corruption Agency was adopted in October 2018, providing for increased administrative capacity of the Department for Prevention of Conflict of Interest and Control of Political Party Financing. The Agency established a connection to the Central Population Registry and Securities Commission for the purpose of controlling income and asset declarations. The newly established access to the registry of fines and misdemeanor records enables the Agency to record misdemeanor orders. As in Serbia, Montenegro's Agency continued addressing the limited impact of the Law on Lobbying through awareness raising and outreach to public administration, local self-government and Parliament. In 2019 Montenegro Report, it is also said that country has some level of preparation in the fight against corruption, but that limited progress has been made. Indictments for corruption-related offences were lodged in 12 cases of high-level corruption against 31 individuals, including mayors and public officials, and two legal entities. Trials are ongoing in 24 other cases of high-level corruption against 61 individuals and three legal entities. But, the high number of cases ending with plea bargains further raises concerns about transparency and consistency of the courts' sanctioning policy. It is interesting to notice that data extracted from Commission's Montenegro Reports, for time period of 2016-2018, does not acknowledge area in the field of corruption where *no progress* was made whatsoever. Of the 30 cases of inexplicable wealth the Agency opened in 2018 (2017: 24, 2016: 49), it has so far closed 28 inquiries. However, it does not appear that these efforts have contributed to the detection and prevention of corruption, since no irregularities were found.<sup>31</sup> According to the CPI, the corruption since the starting period of Europeanization process, that being the time from when Montenegro had opened its negotiations (2012), seems to be on the same level (Figure 3.) with barely noticeable change.

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31 European Commission, *Montenegro Progress Report 2019*, Brussels, 29/05/2019, SWD (2019) 217 final. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-montenegro-report.pdf>

Figure 3. Corruption Perceptions Index for Montenegro for 2012-2018.



Source: Transparency International

## 5. CONCLUDING REMARKS

In order for this fight against corruption to succeed, there needs to be effective cooperation between all relevant anti-corruption, judicial and law enforcement bodies. But, as shown above, lack of institutional cooperation which cannot operate without some political interference, is indeed a common feature for both WBs case countries. To that point the primary obstacles to reform in such captured states are not technical or financial, but political and human. Rule of law reform will succeed only if it gets at the fundamental problem of leaders who refuse to be ruled by law. To this very day, countries like Bulgaria and Romania are on the *no* satisfactory track in curbing the corruption. More than 10 years ago, on the exact same day they joined the EU, European Commission established a Cooperation and Verification Mechanism (CVM) as a way to assess reform against corruption. But, the most important role of this mechanism was to alleviate the reluctance of many member states to admit Bulgaria and Romania to the EU.

Nonetheless, both case countries are showing willingness in order to fulfill all of the EU requirements. Still, it does take two to tango. To that point, European Union is there to give a clear direction in order to correctly align all the *aquis* in this area with already existing rules on the EU level, but more importantly, countries as the ones in need for this direction, need to work harder in order to seize the corruption at all levels. Europeanization of the WBs is

still an ongoing, long and perhaps exhausting, but very thorough process. The WBs countries themselves are in the process of constant transition, and thus unable to respond to a non-stop changing demands in a timely and adequate manner. They are trapped in a constantly evolving negotiation process. However, there is no getting involved in the entire process of negotiation for accession if a country is not willing to fully cooperate with what the Union has to say, in order to come to the one outcome they strive for, the full membership to the EU.

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ЕВРОПЕИЗАЦИЈА ЗАПАДНОГ  
БАЛКАНА, ЈАЧАЊЕ ВЛАДАВИНЕ  
ПРАВА И БОРБА ПРОТИВ  
КОРУПЦИЈЕ

Сажетак

Циљ овог рада је да прикаже како је европеизација имала учинак на област владавине права у земљама Западног Балкана. Ипак, владавина права је веома широко подручје, које се састоји од много подобласти у светлу Европске уније (а и генерално), и бављење свима њима би било превише широко и у неким периодима чак и превише компликовано. Њихова анализа би свакако превазишла дозвољени максимум овога рада. Овај рад, поред веома кратког прегледа области владавине права у земљама Западног Балкана, ће се такође ближе фокусирати на борбу против корупције, и у циљу још ближе конкретизације, нагласак ће бити на две државе Западног Балкана са тренутним статусом кандидата, Србији и Црној Гори. Резултати представљени у закључном делу су донекле и очекивани, имајући у виду историју и тренутно стање ових двеју студија случаја, као и Западног Балкана уопште. Веома потребна реформа у области владавине права, и посебно у области борбе против корупције, је неопходан услов за ове земље.

**Кључне речи:** Европеизација, Западни Балкан, владавина права, корупција, Србија, Црна Гора.

\* Овај рад је примљен 27. јануара 2020. године, а прихваћен на састанку Редакције 15. фебруара 2020. године.