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Southeast European Leadership for
Development and Integrity

The new approach on Enlargement: *good ideas in need of a captain*

The European Commission's proposal for a revised approach to Enlargement takes on board key proposals for SELDI's Regional Anticorruption Reports and Policy briefs, including:

- » a stronger focus on political engagement and economic fundamentals;
- » mainstreaming of anti-corruption efforts in more policies and not just in anti-corruption institutions and the judiciary;
- » a continuous evident clear engagement to reforms from local elites;

- » tackling third countries' malign influence;
- » protecting the important EC – civil society relations, including their financial underpinning from unexpected distress.

The vitality and EU commitment to the new approach will be tested soon at the EU – Western Balkans Summit in Zagreb in May 2020. Their impact would ultimately depend on the leadership, the will, and the skills of the EU to make democracy deliver for the region.

From *acquis* approximation to solving problems

One of the hallmarks of the new approach to Enlargement is increased political engagement in the process, for which SELDI has advocated in its December 2019 [Regional Anticorruption Forum in Skopje](#). This can be beneficial if used to build upon the compliance and approximation with the *acquis* work towards resolving substantive governance problems in the region and in individual countries. The point of a well-laid plan is that, at the end of the process, the candidate country, or then a forthcoming member state, is resilient to backsliding. Approximation with the *acquis* is a second-tier or underlying issue in this respect. In the experience of SELDI this division between political and technical governance issues in Enlargement translates into tackling state capture and high-level corruption vs. petty bribery and everyday corruption. One of the explanations for the [observed backsliding in the spread of corruption](#) in the region in the period 2016 – 2019 is the entrenchment of state capture practices backed up by illiberal foreign influence. The latter two could not be tackled with technical means.

This means that the goal of accession is a level of institutional capacity as well as societal conditions which can withstand incursions and temptations against democratic governance with systemic corruption or by illiberal actors. This is currently not the case in any of the Western Balkans countries, even in the core area of [anti-corruption institutions \(agencies/authorities\)](#). The lack of sustained clear capacity build-

ing and definition of authority in anti-corruption agencies in the region shows deep seated fear and lack of will in local elites to create strong, independent institutions. But it also demonstrates the lack of a clear blueprint, instruments and leverage on the part of the EU to push such reforms past the tipping point.

In the area of integrity, this implies independence and capacity of regulatory and oversight institutions given preventive or repressive authority in enforcing compliance. Currently, the WB6 countries display weak performance in this respect in many areas of regulation, thus offering avenues of exploitation for the benefit of private interest.

The cluster-based approach proposed by the Commission brings an opportunity to achieve holistic interventions and help current and forthcoming candidate countries in solving entrenched governance problems. However, the cluster roadmaps should be planned and based on a sound theory of change. The Commission should be careful of not providing a subset of the most critical issues per *acquis* chapter to formulate these roadmaps. Instead, it should focus on the most significant, crosscutting problems and set up real-life performance indicators signalling change visible to the citizens. These signals need to be made clear and acknowledged by all the relevant EU actors, including the EU institutions, local delegations, political party families and member states.

Involving Civil Society

The EU should utilise existing tools of analysis, monitoring and evaluation developed by civil society to identify vulnerable areas and subsequently verify progress or backsliding. More importantly, the EU should consult not only domestic authorities but include civil society when defining the end goals and the cluster roadmap.

Ensuring further democratic legitimacy of the Enlargement process calls for the EU to use triangulation in the process, involving stepping up of the external efforts, local civil society organisations and reformist minded politicians from the governments and the opposition in the region.

Presently, civil society is the most comprehensive repository of know-how both on providing solutions and assessments of development, and on aiding reforms and change on the ground. The EC has acknowledged the vital role of the civil society in Enlargement by safeguarding the scope and intensity of funding for its organisations even in events of country backsliding.

With the help of civil society, the European Commission can more easily link goals from separate chapters into cross-sectional (i.e. cluster) benchmarks which make sense and can attain the necessary resilience of institutions.

For example, SELDI could help the EU [mainstream innovative instruments](#) for [monitoring corruption victimization levels](#), improving individual public institutions' governance, and [identifying, and tackling state capture](#) (and its versions policy, regulatory, media, judiciary, etc. capture).

The EC has to ensure that such third party instruments would be more easily linked to the assessment of progress on rule of law fundamentals.

At the same time, the EU should increase the overall direct support from Brussels to the private sector and to civil society in monitoring the developments in the rule of law. Currently, civil society is active in analysing corrupt practices, judiciary and criminal justice, procurement and many other vulnerable areas.

This should continue and the EU should press for civil society to be allowed easier access to the respective government institutions. In particular, the EU needs to focus on regional efforts that encourage peer learning and ensure synergies across countries.

Developing Societal Resilience

State and EU investments in institutional reforms have long been an available instrument in the accession process. However, the new approach signals an increased awareness and intention to accompany these investments with interventions in economic development.

This is a welcome addition. It needs to be balanced with more EU governance levers, e.g. planning and tendering out network infrastructure in the region directly from Brussels with cross-European competitive bidding.

Sustainable fight against systemic corruption or democratic backsliding cannot be achieved amidst widespread clientelism present in WB6. The political will to not exploit clientele links cannot guarantee sustainability if public institutions are the biggest employer and procurer, without proper detailed oversight and enforcement. The risks will remain and wait for someone to use them.

Thus, the economic development must be a cornerstone of the accession intervention and not an expectation of improved governance. It will increase the independence of businesses from politicians and make voter loyalty more costly to maintain through clientelism or pork-barrel politics.

The EU needs to seek out and actively promote investment opportunities in the region, as well as press for the universal adoption of European corporate governance models, such as for example OECD rules in the management of state-owned enterprises.

However, while economic development is acknowledged in the presented communication, it is hard to see any specific new approach in aiding the WB6 economies.

There is a danger that while candidate countries engage in reforms in the following decade, their human capital will be depleted by migration and many of their peoples will become EU citizens before their respective countries.

Back to Predictability

The predictability of advancement caused by delivery of results should be the essential principle of the new approach, amidst the improved political foundations of the process. Increasing the complexity and expectations about the reforms in the candidate countries should be accompanied by clear assessment criteria.

This should prevent different interpretations about the state of affairs by the Commission, Member States, Candidate countries and external independent actors in civil society.

While it is important to set ambitious and complex goals, which would first and foremost benefit the citizens in spite EU accession, the predictability will provide an incentive structure for painful reforms, which often, are costly on the short-term.

Hence, the EU needs to set a target Enlargement date for its own institutions and member states should commit to it, reviewing annually if it is getting closer or being pushed further out.



The project is implemented by:

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Coordination and Executive Secretariat

Macedonian Center for International
Cooperation
PO Box 55 st. "Nikola Parapunov" 41a
Skopje, North Macedonia
Tel: +389 2 3065 381
Fax: +389 2 3065 298

Knowledge and Outreach

Center for the Study of Democracy
5 Alexander Zhendov Str.
1113 Sofia, Bulgaria
Tel: +359 2 971 3000
Fax: +359 2 971 2233
Email: seldi@online.bg