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Telephone +381 11 33 49 204, +381 11 30 39 380
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Ljubica Đorđević¹

Fakultät der europäischen rechtlichen und politischen Studien, Novi Sad

Demokratie im Stillstand: die geminderte Einflusskraft der Europäischen Union auf Demokratisierungsprozesse²

Zusammenfassung

Die Krise der EU hat ihre Kapazität als Demokratieförderer ziemlich reduziert. Die Politik der EU ist auf die Struktur - und Wirtschaftsprobleme fokussiert, und die Demokratieförderung bleibt im Hintergrund. Der EU ist es wichtig, das für ihre Funktionsfähigkeit notwendige Zusammenhalten der Mitgliedstaaten zu sichern, und sie weigert sich, sich bei Abweichungen von den demokratischen Standards in den Mitgliedstaaten einzumischen. Viel wichtiger erscheint jedoch die Tatsache, dass die EU ihr Interesse an der Demokratieförderung in den Nichtmitgliedstaaten verloren hat. Das Einflusspotenzial der EU-Erweiterungspolitik, die als zentraler Außenfaktor in der Demokratisierung der Staaten Mittel- und Osteuropa fungiert hat, ist durch die Ungewissheit einer nächsten Erweiterung erheblich geschwächt worden. Die Demokratisierungseffekte der EU-Nachbarschaftspolitik sind noch bescheidener, und sie deuten die Unfähigkeit der EU an, mit den Krisen in den östlichen (etwa der Ukraine) und südlichen (etwa Ägypten, Libyen oder Syrien) Nachbarn umzugehen.

Schlagwörter: Demokratie, Transformationsprozess, Europäische Union, EU-Mitgliedschaft, EU-Erweiterungspolitik, Europäische Nachbarschaftspolitik

1 Außerordentliche Professorin
ljubica.djordjevic77@gmail.com

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Die Krise der Demokratie: die EU im globalen Kontext

Der jährliche Bericht des wohlbekannten Freedom House über den globalen Stand der politischen Rechte und Bürgerfreiheiten 2014 war grauenvoll und sehr pessimistisch. Laut dem Bericht steht die Akzeptanz der Demokratie als globale Regierungsform unter der grössten Gefahr seit 25 Jahren (Puddington 2015: 122). Die Sorge um Demokratie wird zusätzlich verstärkt durch die Tatsache, dass das Freedom House in seinen Berichten seit 2006 einen kontinuierlichen allgemeinen Rückgang der Demokratie bemerkt hat. Nach den blühenden Jahren in der sogenannten *Third wave* ist zumindest seit Mitte 2000er Jahre eine trübe Zeit für Demokratie (und die Demokratisierung) entstanden. Jedoch herrscht in der Theorie keine Einstimmigkeit darüber, was (und ob überhaupt) mit der Demokratie los ist. *Larry Diamond*, ein prominenter amerikanischer Demokratietheoretiker, vertritt den Standpunkt, dass die Welt sich in einer milden aber langwierigen demokratischen Rezession seit 2006 befindet (Diamond 2015: 144). Zu diesem Standpunkt bietet Diamond vier grundsätzliche Argumente: einen wesentlichen und zunehmenden Anteil am Zusammenbruch einer demokratischen Ordnung; den Rückgang der Qualität bzw. der Stabilität der Demokratie in einer Anzahl von großen und strategisch wichtigen Schwellenländern; die Vertiefung des

Autoritarismus, auch in großen und strategisch wichtigen Staaten; und, zuletzt, die Schwierigkeiten in den reifen Demokratien, vor allem in den USA, und ihre Zurückhaltung in Bezug auf die Demokratieförderung weltweit (Ibid). Eine andere Betrachtung der Ereignisse rund um Demokratie (und Demokratisierung) bieten *Steven Levitsky* und *Lucan Way*, die die Trends in den letzten zehn Jahren als „net stability“ bezeichnen (Levitsky und Way 2015: 48). Nach diesen Autoren ist die Bilanz seit Mitte der 2000er Jahre nahezu gleich null, und die Behauptungen über einen weltweiten Rückgang der Demokratie ermangeln der empirischen Grundlage (Ibid). Das führende Argument dieser Autoren ist, dass das Bild über den Demokratiezustand etwas grauer aussieht, weil die Beobachter die Ereignisse in den 1990er Jahren eher durch die Rosa-Brille betrachtet und jede Form einer autoritären Krise oder Regime-Instabilität als Demokratisierung bezeichnet haben (Ibid). Jedoch gibt es keine Regel, dass nach dem Zusammenbruch einer autoritären Herrschaft ein Systemwechsel zur Demokratie sicher ist. Ganz im Gegenteil hat der Zerfall der autoritären Regime in den meisten Fällen nicht zur Demokratisierung geführt (Ibid.: 49). Es wäre

dann falsch zu behaupten, dass in den Staaten, die eine demokratische Transformation nicht ernsthaft eingeleitet haben, die Stabilisierung einer autoritären Herrschaft als demokratische Rezession zu betrachten ist (Ibid.: 52). Die Frage nach dem Zustand der Demokratie beantwortet *Schmitter* in einem gewissen Mittelweg und behauptet, dass Demokratie nicht im Rückgang sondern eher in einer Krise und im Prozess der Transition von einem zu anderem Typ ist (Schmitter 2015: 35). Es bleibt jedoch unklar, was dieser neuer Typ (oder sogar Typen) wäre, und ob jeder neuer Typ eine Verbesserung der bestehenden Modelle darstellen würde (Ibid).

Obwohl die Frage nach dem globalen Zustand der Demokratie sich nicht einheitlich beantworten lässt, könnte man zumindest zwei grundsätzliche Behauptungen machen. Die erste Behauptung bezieht sich auf den Mangel an Aufschwung, mit dem Demokratie konfrontiert ist. Der Demokratie fehlt ein Fortschritt und gewisser Aufschwung. Es sieht so aus, als ob Demokratie müde ist und sich in einem gewissen Stillstand befindet. Dies ist zu merken sowohl anhand der Qualität der Demokratie in einzelnen Ländern (auch in stabilen Demokratien) als auch an einem Rückgang der externen Demokratieförderung. Die zweite Behauptung ist etwas vage und bezieht sich auf die Herausforderungen, vor denen die Demokratie steht.

Eine der wesentlichen Herausforderungen für die Demokratie stellt ihre Glaubwürdigkeit als die beste bestehende Regierungsform dar. Die Demokratie ist ein Bündel von Regeln und Verfahren zur Konstitutionalisierung der politischen Gewalt mit einer starken Wertekomponente, in deren Kern Freiheit und Gleichheit stehen. Aus diesem Grund liegt Demokratie als Konzept jedem Mensch nahe und ist universell. Man kann sogar behaupten, dass keine Massenwunsch zu einer anderen Regierungsform als der Demokratie besteht (Schmitter 2010: 21). Folglich verbinden manche die bestehende Demokratiekrise nicht mit der Idee, sondern mit der Praxis der Demokratie. Die Frage ist jedoch, ob die mangelhafte Praxis nicht die Idee an sich gefährdet.

Für die globale Glaubwürdigkeit der Demokratie erweisen sich drei Probleme als besonders virulent: die Krise des Liberalismus als führende Ideologie der heutigen Demokratie, die (Un-)Fähigkeit des demokratischen Staates, Leistungen zu erbringen, und die Stärkung einer Alternative.

Die heutige Demokratie ist eine liberale Demokratie, und die Krise des Liberalismus beeinträchtigt zweifellos auch die Demokra-

tie in ihrer liberalen Form. Die Wirtschaftskrise hat den ökonomischen Liberalismus in Frage gestellt, aber auch die Frage nach Tauglichkeit des politischen Liberalismus aufgeworfen. Der ökonomische (Neo-) Liberalismus war unfähig, die Wirtschaftskrise zu verhindern (man könnte sogar behaupten, er hat zu ihr beigetragen), und der einfache Mensch hat sich gegenüber den Banken und Korporationen im Stich gelassen gefühlt. In einer solchen Konstellation ist er bereit, seine Freiheit, Unabhängigkeit und Individualität für ein wenig Schutz und Sicherheit zu tauschen (cp. Kagan 2015: 23). Und gerade diese Tendenz kann, übersetzt auf das politische Terrain, den politischen Liberalismus und die liberale Demokratie gefährden. Dies bestätigen plausibel die Rufe in etwa Ungarn oder der Türkei, die liberale Demokratie abzuwerfen und irgendeine Form illiberaler Demokratie anzunehmen. Hier steckt jedoch ein *contradictio in adjecto*, da die Demokratie, die gewisse (immer noch liberale) Werte nicht inne hat, von sich aus nicht demokratisch sein kann. Auch signifikant ist der Anstieg von populistischen und (rechts- und bzw. links-) extremistischen Parteien und Bewegungen, die am Beginn zwar der Demokratie beitragen (durch Artikulation von Wählerpräferenzen) können, aber auf lange Sicht die Demokratie in ihrer Substanz gefährden können (durch Ablehnung der demokratischen Regeln und Prinzipien). Der Liberalismus hat durch die Wirtschaftskrise seinen Ruf etwas verloren, aber die liberalen Werte wurden eher durch ein politisches (oder besser gesagt, Sicherheits-) Ereignis gefährdet. Der Kampf gegen den Terror hat das Verhältnis zwischen Sicherheit und Freiheit verdreht, indem die Freiheit in vielen Bereichen in Bezug auf die Sicherheit beschränkt wird. Nicht nur in autoritären Staaten wird die Sicherheit herangezogen, um die Freiheiten einzuschränken, wobei diese Tendenz besonders in solchen Staaten Anlass zur Sorge gibt, in denen die effektiven Mechanismen zum Schutz von Freiheiten nicht vorhanden sind.

Obwohl Demokratie dem „*good governance*“ nicht gleicht, hängt viel ihrer Glaubwürdigkeit von der Qualität der Ergebnisse ab, die sie liefert. Demokratie ist kein Selbstzweck, sondern bildet eine Regierungsform, die am besten geeignet ist, den Bedürfnissen der Bürgern nachzukommen. Die Fähigkeit der (demokratischen) Institutionen, den Erwartungen und Bedürfnissen der Bürger nachzukommen, ist eines der zentralen Elemente zur Legitimierung einer Regierungsform. Wie *Fukuyama* bemerkt hat, hängt die Legitimität vieler Demokratien

auf der Welt von ihrer Fähigkeit ab, eine Herrschaft von hoher Qualität zu leisten (Fukuyama 2015: 15). In diesem Punkt verflochten sich Demokratie und ein funktionierender Staat, der Staatsaufgaben möglichst in einer hohen Qualität erfüllen und den Bürgern die entscheidenden „*political goods*“ gewähren kann. Jedoch ist die Sache nicht so einfach und dieses Verhältnis nicht allzu selbstverständlich. Die Fähigkeit bestimmter undemokratischer Staaten (wie etwa China oder Singapur), Leistungen zu gewähren, hat die Annahme in Frage gestellt, dass nur ein demokratischer Staat ein funktionierender Staat sein kann. Der wirtschaftliche Aufschwung mancher autoritärer oder semi-autoritärer Staaten hat das Ansehen ihrer Modelle weltweit vergrößert und sie als funktionsfähige Alternative zur komplexen und schwerfälligen Demokratie positioniert. Die Falle besteht jedoch darin, dass ein undemokratischer Staat zwar gewisse „*political goods*“ gewähren und somit als ein funktionierender Staat erscheinen kann, aber nicht auf lange Sicht. Wie *Acemoglu* und *Robinson* in ihrem berühmten Werk „*Why Nations Fail*“ gezeigt haben, kann die wirtschaftliche Liberalisierung in einem undemokratischen Staat nur dann dauerhaft sein, wenn sie mit politischer Liberalisierung, ergo dem Abbau von extraktiven und Aufbau von inklusiven Institutionen begleitet wird. Bleibt das (politische) System unverändert, wird die anfängliche Leistungsfähigkeit des Staates verschwinden (*Asemoglu* und *Robinson* 2014). Das spezifische Verhältnis zwischen der Demokratie und dem funktionierenden Staat kommt in den Transformationsstaaten zum spezifischen Ausdruck, da das Scheitern in vielen dieser Staaten, einen funktionierenden Staat aufzubauen, zu einer Enttäuschung gegenüber Demokratie geführt hat (cp. Fukuyama 2015: 12).

Eine besondere Herausforderung für die globale Glaubwürdigkeit der Demokratie liegt darin, dass Demokratie nicht mehr „*the only game in town*“ ist. Hier geht es nicht um die Dichotomie Demokratie-Autokratie, in der Demokratie als gut und erwünschenswert und Autokratie als schlecht und unerwünscht betrachtet wird. Es geht um eine Alternative zur Demokratie, die die liberale Komponente abwirft und eine scheinbar demokratische Regierungsform auf andere Prinzipien fundiert. Diese Prinzipien sind vor allem Staatssicherheit, Zivilisationsvielfalt und traditionelle Werte (*Cooley* 2015: 50). Wie oben schon erwähnt, wird seit den Terrorangriffen von 2001 der Ausgleich zwischen Sicherheit und Freiheit weltweit zugunsten der Sicherheit verschoben, und in den 2000er Jahren hat man eine Globalisierung der verfassungswidrigen Maßnahmen zum Kampf gegen Terrorismus und zur

Stärkung der Staatssicherheit beobachtet (Ibid. 51). Und gerade dieser Kampf gegen Terrorismus und zur Absicherung des Staat wird in vielen (undemokratischen) Staaten zur Beschränkung einer Reihe von Bürgerfreiheiten ausgenutzt. Der zweite Wert dieser alternativen Regierungsform ist die Zivilisationsvielfalt und die Betonung der Staatssouveränität. In diesem Zusammenhang wird der Universalismus der liberalen Demokratie angegriffen, wobei die liberale Demokratie als Fassade zur Förderung der amerikanischen und westlichen Interessen angesehen wird (Ibid. 50). Deswegen wird auf die Zivilisationsvielfalt und das Prinzip der Nichteinmischung in die innerstaatlichen Angelegenheiten der souveränen Staaten großer Wert gelegt (Ibid. 51). Der dritte Wert in solchen, man könnte sagen „anti-liberalen“, Demokratien ist die Tradition. Im Lichte der Kritik gegen das westliche Demokratiemodell, wird der westliche Individualismus als moralisch verfallen kritisiert und verworfen. Im Gegenteil zur westlichen Dekadenz plädiert dieses Konzept für eine Wendung zur Nationalkultur, Erbe und Religion (Ibid. 52). Die prominenten Befürworter dieses Konzepts sind Russland und China, die es durch die Schanghaier Organisation für Zusammenarbeit³ aber auch durch ihre eigene Einfluss- und Wirtschaftskraft weltweit fördern.

Eines der bemerkenswerten Zeichen der Krise (oder manche würden eher sagen, der Stagnation) der Demokratie ist ihre Unfähigkeit in den letzten etwa zehn Jahren, sich weiter zu verbreiten. Es scheint, als ob zwischen einem Bündel von (mehr oder weniger) stabilen (westlichen) Demokratien und einem Bündel von (mehr oder weniger) stabilen Autokratien eine Palette hybrider Regime schwebt, die irgendwie auf der Achse Autokratie-Demokratie dazwischen geblieben sind. Und gerade die Unfähigkeit solcher Staaten, einen klaren Aufbruch zur Demokratie zu machen, wird als eines der plausibelsten Zeichen der Stagnation der Demokratie angesehen. Vielmehr hat das Fiasko des Arabischen Frühlings, der zunächst als potenziell großer Anreiz zu einer neuen Demokratiesierungswelle gelobt wurde, eine bittere Enttäuschung gebracht und klar gezeigt, dass ein globaler demokratischer Schwung („*democratic momentum*“) fehlt. In einem globalen Kontext, in dem die Sicherheit und die Wirtschaftsstabilität in der politischen Agenda der westlichen Demokratien dominieren und in dem die nichtdemokratischen Mächte

3 Mitgliedstaaten dieser Organisation sind neben Russland und China noch Kasachstan, Kirgistan, Tadschikistan und Usbekistan. Beobachterstatus haben Afghanistan, Indien, der Iran, die Mongolei und Pakistan. Dialogpartner sind Weißrussland, die Türkei und Sri Lanka, <http://www.sectesco.org/EN123/> (abgerufen am 9. September 2015).

intensiv ihre Regierungsmodelle geopolitisch exportieren, bleibt die Demokratie und bzw. die Demokratieförderung in einer Sackgasse.

Im Sinne der oben geschilderten Schwierigkeiten, mit denen die Demokratie konfrontiert ist, erweist sich die Frage nach der Stellung der EU in einem solchen Kontext. Die Antwort auf diese Frage ist zweiseitig und betrifft sowohl die inneren demokratischen Kapazitäten der EU bzw. ihrer Mitgliedstaaten als auch die Kapazitäten der EU als Außenfaktor, die Demokratiesierung in der Welt zu fördern. In Bezug auf die inneren demokratischen Kapazitäten lässt sich zweifellos argumentieren, dass es der EU an sich am Demokratiedefizit mangelt, aber dass ihre Mitgliedstaaten als stabile Demokratien anerkannt werden. Und zwar wird das Demokratiedefizit der EU mit der hohen Demokratiequalität in ihrer Mitgliedstaaten kompensiert. Oft wird plädiert, dass die EU ihre demokratische Legitimität nur teilweise unmittelbar (durch das unmittelbar gewählte Europäische Parlament), aber vielmehr mittelbar über die Legitimationskette in den Mitgliedstaaten schöpft, und somit ihren demokratischen Charakter an die demokratischen Mitgliedstaaten anlehnt. Jedoch hat die Übertragung von immer mehr Zuständigkeiten von den Mitgliedstaaten an die EU, die nicht mit der Bereitstellung von klaren und effektiven Kontrollinstrumenten begleitet wird, nicht nur das Demokratiedefizit der EU vertieft, sondern auch die EU selbst in eine existenzielle Krise gestürzt. Die ständige Vertiefung der EU-Integration hat die Bedenken über deren Ziel und Zweck ausgelöst, und das bestehende Konzept der EU wird als unhaltbar in Frage gestellt. Es wurde versucht, die konzeptuelle Krise durch eine neue vertragliche Basis (den Verfassungsvertrag) zu klären, aber dies ist gescheitert. Auch der 2009 in Kraft getretene Vertrag von Lissabon, der viele Normen aus dem gescheiterten Verfassungsvertrag übernommen hat, hat keinen neuen Impuls für die EU gebracht und die politische und institutionelle Krise der EU nicht gelöst. Die seit 2009 andauernde Euro-Krise hat die Sache noch verschlechtert, da sie einerseits den Fokus auf die finanziellen Aspekte der Integration gelenkt und die gemeinsamen Werte, auf denen die EU beruht, im Hintergrund gelassen hat, und andererseits das Zusammengehörigkeitsgefühl und die Solidarität zwischen den Mitgliedstaaten aufs Spiel gesetzt hat. Durch die ansteigende Flüchtlingskrise könnte sich die Lage noch verkomplizieren, wenn es der EU nicht gelingt, eine einheitliche Politik festzulegen und eine „europäische“ Antwort

auf die Krise anzubieten. Die Flüchtlingskrise könnte sich jedoch auch positiv auf die EU auswirken, wenn sie dazu beiträgt, die Werte-Dimension der EU hervorzuheben.

Eine der wesentlichen Folgen der Krise in der EU ist die Verminderung ihrer Kapazität als Demokratieförderer. Wegen der Krise beschäftigt sich die EU mit sich selbst und mit eigenen Strukturproblemen, und sie drängt die Fragen der Qualität der Demokratie in den Hintergrund. Ihr ist es wichtig, das für ihre Funktionsfähigkeit notwendige Zusammenhalten der Mitgliedstaaten zu sichern, und sie weigert sich, sich bei den Abweichungen von den demokratischen Standards in den Mitgliedstaaten einzumischen. Auch in Bezug auf die Demokratieförderung in den Nichtmitgliedstaaten hält sich die EU ziemlich zurück. Bisher hat sich zwar die EU-Erweiterungspolitik als ein sehr einflussreiches Mittel zur Demokratieförderung erwiesen, aber da die Krise der EU auch ihre mögliche weitere Erweiterung in Frage gestellt und auf ungewisse Zeit verschoben hat, ist dadurch die Einflusskraft der EU erheblich gesunken. Ohne eine Beitrittsperspektive ist das Demokratisierungspotenzial der EU eher bescheiden, wie es das Scheitern ihrer Nachbarschaftspolitik plausibel gezeigt hat.

Ein Blick von Innen: die negativen Tendenzen in den einzelnen EU-Mitgliedstaaten

Die EU ist konzipiert als eine Werteunion, wie es in Art. 2 EU-Vertrag (EUV) rechtlich verankert ist. Laut Art. 2 EUV gründet sich die EU auf bestimmten Werte, und zwar der Achtung der Menschenwürde, Freiheit, Demokratie, Gleichheit, Rechtsstaatlichkeit und der Wahrung der Menschenrechte, einschließlich der Rechte der Personen, die Minderheiten angehören. Es handelt sich um grundlegende Werte, die an sich Voraussetzung und Basis für die Existenz der EU sind (Calliess 2011: 32). Diese Werte-Dimension der EU wird zusätzlich dadurch gestärkt, dass nicht nur die EU an die genannten Werten gebunden ist, sondern dass sie allen Mitgliedstaaten gemeinsam sind. In dieser Weise wird die EU als ein Klub der Staaten konzipiert, die nach demokratischen Prinzipien verfasst sind.

Die im Art. 2 EUV verankerten Werte sind die zentralen Elemente der modernen (demokratischen) Verfassungsstaatlichkeit. Jedoch bilden diese Werte kein uniformes und komplettes Regierungsmodell,

sondern sei stellen die Ecksteine oder Kernelemente eines demokratischen politischen Systems dar. Obwohl nach Art. 2 EUV diese Werte allen Mitgliedstaaten gemeinsam sind, hängt die Art und Weise, in welcher sie in den Mitgliedstaaten durchgesetzt werden, von dem verfassungsrechtlichen Rahmen und der politischen Tradition und Kultur des jeweiligen Mitgliedstaates ab. Die generelle Formulierung der Werte in Art. 2 EUV lässt den Mitgliedstaaten genug Ermessensspielraum, sie in eigener nationaler Ordnung zu konkretisieren, bietet aber wiederum genug Inhalt, um als Maßstab für die Beurteilung der politischen Systeme der Mitgliedstaaten zu dienen.

Durch die Einbeziehung bestimmter Werte in die Struktur der EU werden Anforderungen an die innerstaatliche Ordnung der Mitgliedstaaten gestellt, und vom Staat wird erwartet, demokratisch verfasst zu sein. Mit diesem Demokratie-Gebot wird ein Konstrukt geschaffen, dass alle EU-Mitgliedstaaten demokratisch verfasst sind. Im Grunde genommen ist diese Behauptung korrekt, aber man sollte beachten, dass die Qualität der Demokratie nicht in allen EU-Mitgliedstaaten gleich ist. Manche EU-Mitgliedstaaten sind entwickelte und stabile Demokratien, in manchen EU-Mitgliedstaaten sind nicht alle Bereiche der demokratischen politischen Ordnung völlig konsolidiert, und wiederum in manchen EU-Mitgliedstaaten, die als völlig konsolidiert betrachtet wurden, merkt man retrograde Tendenzen. Die Euphorie der Osterweiterung hat ein verdrehtes Bild über den EU-Beitritt als die abschließende Phase im Demokratisierungsprozess und die EU-Mitgliedschaft als Garantie der Demokratie erzeugt. Jedoch zeigen die Krise in der EU, sowie die generelle Krise des liberalen Konzepts, dass der Demokratisierungsprozess nicht endgültig ist, und dass auch in den sogenannten konsolidierten Demokratien eine gewisse Dynamik besteht, die nicht nur zur Verbesserung sondern auch zur Verschlechterung der Qualität der Demokratie führen kann. Die gesunkene Wahlbeteiligung, die ständige Absenkung von bürgerlicher Beteiligung an politischen Parteien, Gewerkschaften und Berufsverbänden, das Bestehen der Kluft zwischen den Bürgern und der politischen Elite und ein niedriges Niveau des bürgerlichen Vertrauens in die gewählten Funktionäre und die Politiker allgemein, sowie die ansteigende Unzufriedenheit mit der Funktionsfähigkeit der Institutionen erweisen sich als prägende Schwierigkeiten, mit denen auch die stabilen Demokratien in der EU konfrontiert sind (Schmitter 2012: 45; Rupnik 2010: 108). Ein solcher Kontext bietet den populistischen und nationalistischen Parteien eine gute Gelegenheit, eigene Programme als einzig wahre Alternative anzubieten, und die Wahlergebnisse in der überwiegenden Mehrheit der EU-Mitgliedstaat-

en zeigen deutlich, dass sich Populismus und Extremismus in Europa etabliert haben.⁴ Zu all diesem erweisen sich auch die Herausforderungen in Bezug auf die soziale Integration der Minderheitengruppen als einer der wesentlichen Schwachpunkte der europäischen stabilen Demokratien (Carothers 2015: 69).

Obwohl die Demokratie in den „alten“ EU-Mitgliedstaaten an bestimmten Schwächen leidet, steht die Qualität der Demokratie in den „neuen“ EU-Mitgliedstaaten unter einer viel größeren Lupe. Vor dem „Fall Ungarn“ wurden Rumänien und Bulgarien stets als Problemfälle und als Beispiel der EU-Mitgliedstaaten bezeichnet, in denen nicht alle Segmente der politischen Ordnung demokratisch konsolidiert sind. Noch mehr wird anhand des EU-Beitritts Bulgariens und Rumäniens die EU-Politik der „*conditionality*“ als vage und willkürlich kritisiert, da diese Staaten die Beitrittskriterien beim EU-Beitritt nicht völlig erfüllt haben. Die Erfahrungen mit dem EU-Beitritt Bulgariens und Rumäniens, und die Erwartungen, dass die Demokratiemängel schneller und leichter beseitigt werden, wenn diese Staaten in der EU sind, zeigen noch, dass die EU-Mitgliedschaft an sich den Demokratisierungsprozess weder ersetzen noch zauberhaft vollenden kann. Man könnte sich auf jeden Fall fragen, in welcher Richtung sich die Prozesse in Bulgarien und Rumänien entwickeln hätten, wären diese Staaten 2007 nicht zur EU beigetreten, aber es bleibt jedoch sicher, dass die Qualität der Demokratie in diesen Staaten immer noch von den „europäischen Standards“ abweicht. In seinem Bericht „Nations in Transit“ für 2015 bewertet das Freedom House Bulgarien als „*semi-konsolidierte*“ Demokratie. Das politische System Bulgariens erweist sich in den letzten Jahren als instabil, wie es die Wechsel von drei Regierungen und zwei Übergangsregierungen und zwei vorgezogene Wahlen in weniger als 18 Monate zeigen. Die Ineffizienz des politischen Systems und besonders des Gerichtswesens behindern den Kampf gegen Korruption und organisiertes Verbrechen.⁵ In demselben Bericht wird Rumänien ebenso als „*semi-konsolidierte*“ Demokratie bewertet. Besonders wird hervorgehoben, dass bestimmte Säulen des demokratischen Regierens, und zwar vor allem die Unabhängigkeit des Gerichtswesens und der Medien, nach wie vor schwach sind. Zudem wird betont, dass das Regieren auf der nationalen Ebene parteiisch und oftmals instabil und die poli-

4 Ausführlich in der Internetseite <http://www.zeit.de/feature/populismus-extremismus-europa#kapitel2> (abgerufen am 9. September 2015).

5 Ausführlich in der Internetseite <https://freedomhouse.org/report/nations-transit/2015/bulgaria> (abgerufen am 9. September 2015).

tische Korruption verbreitet ist.⁶ Indikativ ist auch ein Gutachten der Venedig-Kommission für Rumänien, in dem das Fehlen von Respekt für Institutionen und die Missachtung des Prinzips der loyalen Zusammenarbeit zwischen den Institutionen als besonders problematisch betont wird (Venice Commission 2012: Zi. 74). Laut diesem Gutachten werden die Institutionen in Rumänien personalisiert, und die Amtsinhaber werden als Vertreter der politischen Kräfte angesehen, die sie für den Posten nominiert haben (Ibid). Von Amtsinhabern wird erwartet, die Stellung bestimmter politischer Partei zu favorisieren, und die parlamentarische Mehrheit findet es gerechtfertigt, die von der früheren parlamentarischen Mehrheit designierten Amtsinhaber aus dem Amt zu entlassen (Ibid). Ein zusätzliches Problem ist die angespannte Beziehung zwischen den Institutionen und vor allem zwischen dem Präsidenten und der Regierung, die in den Phasen der sogenannten Kohabitation besonders brisant ist. Als eine „*semi-konsolidierte*“ Demokratie bezeichnet der Bericht von Freedom House „Nations in Transit“ für 2015 auch Kroatien. Interessanterweise wird im Bericht ausdrücklich betont, dass die EU-Mitgliedschaft keinen Anreiz zur Durchführung der Reformen gegeben hat. Die politische Szene in Kroatien ist durch die langjährige Konfrontation zwischen zwei dominanten Parteien gekennzeichnet und in gewissem Maße blockiert. Eine solche Konstellation und die Unfähigkeit beider Parteien, mit der Wirtschaftskrise umzugehen, haben bei den Bürgern zur Desillusionisierung in Bezug auf das politische System geführt. Es ist bemerkenswert, dass mehr kroatische Bürger an den Bürgerinitiativen teilnehmen, was zwar entmutigend ist, aber ebenso die Spaltungen in der Gesellschaft zeigt.⁷ Unter den EU-Mitgliedstaaten bezeichnet das Freedom House nur noch Ungarn als „*semi-konsolidierte*“ Demokratie. Seit ein paar Jahren steht Ungarn im Zentrum der Aufmerksamkeit und wird als Problem-Fall und in gewissem Maße als schwarzes Schaf in der EU betrachtet. Die Ereignisse in Ungarn haben gezeigt, dass auch in einer sogenannten konsolidierten Demokratie Oszillationen und retrograde Tendenzen möglich sind. Der Fall von Ungarn unterscheidet sich von der Situation in Bulgarien, Rumänien und Kroatien dadurch, dass in diesen Ländern die Demokratie noch nie konsolidiert war. Ungarn wurde aber stets als ein Beispiel einer erfolgreichen Transformation und einer gelungenen Synergie von

6 Ausführlich in der Internetseite <https://freedomhouse.org/report/nations-transit/2015/romania> (abgerufen am 9. September 2015).

7 Ausführlich in der Internetseite <https://freedomhouse.org/report/nations-transit/2015/croatia> (abgerufen am 9. September 2015).

innerstaatlichen Reformen und der EU-Integration gelobt. Zudem haben die Berichte des Freedom House „Nations in Transit“ im Zeitraum von 2009 bis 2014 Ungarn als eine konsolidierte Demokratie bewertet. Jedoch ein paar Jahre nach dem EU-Beitritt begann die Lage in Ungarn sich zu verschlechtern, und etwa eine Dekade nach dem EU-Beitritt ist Ungarn zu einem „*semi-konsolidierten*“ Demokratie abgestürzt. Seit 2010 wird in Ungarn ein Segment der liberalen Demokratie nach dem anderen erodiert. Der erste Schritt war die Verabschiedung eines drakonischen Mediengesetzes. Dann wurde 2011 eine neue und nationalistisch geprägte Verfassung verabschiedet, die „checks and balances“ untergraben hat (Müller 2013: 140). Dank der regierungsunterstützenden Zweidrittelmehrheit im Parlament werden die Gesetze schnell und ohne große Beratung verabschiedet (Freedom House 2015). Zudem wird in vielen Fällen eine Zweidrittelmehrheit zur Verabschiedung von Gesetzen eingefügt, und somit die Funktionsfähigkeit künftiger Regierungen beeinträchtigt, die dieser Voraussetzung nicht nachkommen können (Ibid). Ein besonderes Problem stellt die Berufung von loyalen Unterstützern in die Ämter, die unparteiisch sein sollen, und zwar für ein langfristiges Mandat (Müller 2013: 140, Freedom House 2015). Besorgnis erregend sind vor allem die Berufungen im Gerichtswesen und insbesondere im Verfassungsgericht (Ibid). Bis 2013 hat das Verfassungsgericht als Kontrollinstrument gegenüber der Regierung fungiert, aber dann ist seine Zuständigkeit reduziert und seine Zusammensetzung an die parlamentarische (Regierungs-) Mehrheit angepasst worden (Freedom House 2015). Zu all diesem stößt Ungarn auf scharfe Kritik wegen der negativen Einstellung gegen die NGOs und kürzlich besonders wegen der menschenunwürdigen Behandlung von Flüchtlingen. Als Antwort auf die Kritik wird in Ungarn das liberale Konzept als unwirksam und überholt angegriffen, und es wird betont, dass den heutigen Herausforderungen nur vom Staat nachgekommen werden könne, der auf illiberalen und nationalen Grundfesten aufgebaut sei.⁸

Die Demokratieschwächen in einzelnen EU-Mitgliedstaaten und vor allem die retrograden Tendenzen in Ungarn stellen das Konzept der EU als einer Werteunion und besonders die Kopplung zwischen der EU-Mitgliedschaft und dem demokratischen Charakter der innersta-

8 Ausführlich in „Prime Minister Viktor Orbán's Speech at the 25th Bálványos Summer Free University and Student Camp“, <http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/prime-minister-viktor-orban-s-speech-at-the-25th-balvanyos-summer-free-university-and-student-camp> (abgerufen am 9. September 2015).

atlichen Ordnung in Frage. Betrachtet man das spezifische Verhältnis zwischen der EU und ihren Mitgliedstaaten und eine Mischung von supranationalen und souveränen Elementen in der EU, so wirft sich die Frage auf, ob die EU den demokratischen Charakter der Mitgliedstaaten überhaupt überprüfen kann. Falls die Antwort ja wäre, stellt sich als zweite Frage, ob der EU gewisse Instrumente zur Verfügung stehen, mit denen sie auf die Abweichungen von demokratischen Standards in den Mitgliedstaaten reagieren kann, und ob solche Instrumente wirksam sind.

Die EU-Mitgliedstaaten haben alle ihre Verfassungen, innerstaatlichen spezifischen Verfassungsordnungen und politischen Systeme, sowie ihre eigene politische Kultur und Tradition. Trotz der Mitgliedschaft in der EU und den damit verbundenen Souveränitätseinschränkungen bleiben die EU-Mitgliedstaaten allein dazu befugt, eigene Verfassungsordnung festzusetzen. Und zwar führen die Unterschiede in den verfassungsrechtlichen Regelungen in den EU-Mitgliedstaaten zu einem gewissen verfassungsrechtlichen Pluralismus in der EU (von Bogdandy und Schill 2011: 10). Dieser verfassungsrechtliche Pluralismus wird auch vom EUV anerkannt, indem in Art. 4 Abs. 2 geboten wird, dass die EU die jeweilige nationale Identität der Mitgliedstaaten achtet, wobei diese Identität „in ihren grundlegenden politischen und verfassungsmäßigen Strukturen, einschließlich der regionalen und lokalen Selbstverwaltung zum Ausdruck kommt“. Jedoch verlangt das Bedürfnis nach Funktionsfähigkeit der EU von den Mitgliedstaaten nicht nur die loyale Zusammenarbeit (Art. 4 Abs. 3 EUV), sondern auch ein gewisses Niveau von Homogenität. Und gerade in Art. 2 EUV wird dieses Homogenitätsgebot festgeschrieben. Durch die Identifizierung bestimmter Werte im EUV, auf denen die EU gegründet ist und die ihren Mitgliedstaaten gemeinsam sind, wird der Ermessensspielraum der Mitgliedstaaten im Bereich der verfassungsrechtlichen und politischen Ordnung in gewissem Maße eingeschränkt und für die EU der Weg eingeräumt, sich auch in diesem Bereich einzumischen. Mit der Kodifizierung der Werte eines demokratischen Verfassungsstaates im EUV wird eine eventuelle Verletzung dieser Werte EU-rechtlich relevant und könnte als eine Verletzung des EU-Rechts qualifiziert werden. Diesen rechtlichen Charakter gewinnt die Norm in Art. 2 EUV besonders durch Art. 7 EUV, der einen Sanktionsmechanismus im Falle der Verletzung von EU-Werten vorsieht.

Der Sanktionsmechanismus in Art. 7 EUV wird in drei Phasen bzw. Instrumenten konzipiert. In der ersten Phase kann die EU präventiv handeln, und zwar dann, wenn die eindeutige Gefahr einer schwerwiegenden Verletzung der in Art. 2 EUV genannten Werte durch einen Mitgliedstaat besteht. In einem solchen Falle kann der Rat der EU einen Feststellungsbeschluss erlassen oder Empfehlungen an den Mitgliedstaat richten, um das Eintreten einer solchen Verletzung zu verhindern. Die zweite Phase wird dann aktiviert, wenn eine schwerwiegende und anhaltende Verletzung der in Art. 2 EUV genannten Werte durch einen Mitgliedstaat vorliegt. In einem solchen Fall wird der Feststellungsbeschluss vom Europäischen Rat erlassen. Aufgrund eines solchen Feststellungsbeschlusses kann der Rat der EU entscheiden, dem Mitgliedstaat bestimmte Rechte auszusetzen. Und gerade diese Aussetzung von Rechten stellt die dritte Phase im Sanktionsmechanismus dar.⁹

Durch die Normierung in Art. 7 EUV wird auf der EU-Ebene die Reaktion der EU auf die Verletzung von demokratischen Werten in einem Mitgliedstaat institutionalisiert, und einer grundsätzlich politischen Entscheidung eine rechtliche Form gegeben. Der Standpunkt der EU und ihr Verhalten hängen ab von der politischen Stellung der am Verfahren beteiligten Akteure, und die im Rahmen von Art. 7 EUV getroffenen Entscheidungen sind in ihrem Kern politisch.

Bisher hat die EU noch nie den Sanktionsmechanismus des Art. 7 EUV aktiviert. In einigen Angelegenheiten wurde die Anwendung des Art. 7 EUV (informell) in Erwägung gezogen, aber die EU hat sich eher für diplomatischen Druck entschieden. Der erste solche Fall bezog sich auf Österreich (sog. Fall-Haider) und wurde mit der Teilnahme der rechtspopulistischen Freiheitlichen Partei Österreichs an der Bundesregierung ausgelöst. Die Reaktion der EU bzw. ihrer Mitgliedstaaten wurde nicht im Rahmen des EU-Rechts sondern des Völkerrechts institutionalisiert, indem die EU-Mitgliedstaaten bilaterale Sanktionen gegen Österreich eingeführt haben.¹⁰ Die autoritären Tendenzen in

9 Ausführlich über den Sanktionsmechanismus siehe: Ruffert, M. (2011) „Art. 7 EUV“. In: Callies, C., Ruffert, M. (Hrsg.) „EUV/AEUV: Das Verfassungsrecht der Europäischen Union mit Europäischer Grundrechtecharta. Kommentar“, München: Verlag C. H. Beck, S. 153-162.

10 Ausführlich in: Budo, G. (2014) „EU Common Values at Stake: Is Article 7 TEU an Effective Protection Mechanism“, *Documents CIDOB*, S. 3-4, [online] http://www.cidob.org/en/publications/publication_series/documents_cidob_new_era/eu_common_values_at_stake_is_article_7_teu_an_effective_protection_mechanism (abgerufen am 9. September 2015).

Ungarn seit 2010 und besonders die Verabschiedung der neuen ungarischen Verfassung haben starke Kritik in den EU-Institutionen in Bezug auf die Verletzung von EU-Werten ausgelöst,¹¹ aber Art. 7 EUV ist nicht angewendet worden. Mit der Aktivierung von Art. 7 EUV wurde auch gegen Rumänien gedroht, und zwar als Reaktion auf die Gefährdung des Rechtsstaatsprinzips in politischen Konflikten zwischen dem Präsidenten und der Regierung und auf die Politisierung des öffentlichen Fernsehenders und der wichtigen Institutionen (Budo 2014: 5), aber dieser wurde nicht aktiviert. Auch die Vertreibung von Roma aus Frankreich hat gewisse Reaktionen in den EU-Institutionen provoziert, aber die Möglichkeit einer Aktivierung von Art. 7 EUV war nicht im Spiel.¹²

Die Möglichkeit der Einmischung der EU in die innerstaatliche Ordnung der Mitgliedstaaten zum Zweck des Schutzes der demokratischen Werte wird zweifach kritisiert. Einerseits wird die Möglichkeit einer solchen Einmischung an sich kritisiert. Es wird behauptet, dass wegen des Demokratiedefizits die EU keine Glaubwürdigkeit zum Demokratieschutz hat; dass kein uniformes europäisches Modell einer liberalen demokratischen Ordnung besteht, das als Prüfstab dienen könnte, dass eine solche Einmischung an sich paternalistisch und somit illiberal ist und dass nur kleine und kraftlose EU-Mitgliedstaaten einer solchen Einmischung unterstehen würden (Müller 2013: 138). Andererseits wird die Einmischung der EU als gerechtfertigt angesehen, aber der bestehende in Art. 7 EUV verankerte Mechanismus wird kritisiert. Es wird argumentiert, dass die Demokratie in der EU hauptsächlich von den Mitgliedstaaten abgeleitet wird, und damit ist für die EU an sich von großer Bedeutung, dass ihre Mitgliedstaaten demokratisch verfasst sind. Die EU-Integration hat zu einem mehrstufigen Regierungssystem geführt, in dem die Ebenen (supranationale, nationale und subnationale) verflochten sind und sich gegenseitig beeinflussen. Aus dieser Interdependenz erfolgt auch das EU-Interesse am demokratischen Charakter der Mitgliedstaaten und ihre Befugnis, bei einer Abweichung

11 Im Januar 2012 hat die Europäische Kommission entschieden, das Verletzungsverfahren gegen Ungarn einzuleiten, und zwar in Bezug auf die Unabhängigkeit der Zentralbank, die Absenkung der Altersgrenze für die obligatorische Pensionierung von Richtern von 70 auf 62 Lebensjahre und die Unabhängigkeit der Datenschutzbehörde. Die Europäische Kommission hat auch von der ungarischen Regierung zusätzliche Informationen über die Unabhängigkeit der Justiz verlangt. Darüberhinaus hat das Europäische Parlament zweifach eine Resolution verabschiedet, mit der es Ungarn zur Einhaltung der EU-Werte (Budo 2014: 4-5).

12 Ausführlich in Budo 2014, 6-7.

von demokratischen Werten in einem Mitgliedstaat zu reagieren. Es bleibt jedoch fraglich, ob Art. 7 EUV einen wirksamen Schutz gegen Demokratie-Verstöße bietet. Bisher hat Art. 7 EUV seine Kraft als eine „*nuclear option*“ (Müller 2013: 146) erwiesen. Seine Wirkungskraft beruht auf der Furcht der Mitgliedstaaten, dass er einst gegen sie eingesetzt werden könne (Ibid). Der in Art. 7 EUV verankerte Mechanismus ist zwar als letztes Mittel konzipiert, aber ihm fehlt die Kraft eines regelmäßigen Überwachungs- bzw. Frühwarnungssystems. Zudem ist er politisiert und souveränistisch und bei der jetzigen Konstellationen in der EU fast unmöglich anzuwenden.

Ein Blick von Außen: die Demokratisierungseffekte der Erweiterungs- und Nachbarschaftspolitik der EU

Als eine Union, die 28 europäische Staaten mit fast einer halben Milliarde Bewohner umfasst, stellt die EU einen der wichtigsten Akteure auf dem europäischen Kontinent und sicherlich eine Regionalmacht dar. Als solche spielt sie eine wichtige Rolle in der europäischen (und in gewissem Maße internationalen) Politik und gehört zu den führenden externen Förderer der Demokratie. Ihr Einflusspotential schöpft die EU (oder zumindest hat sie es geschöpft) aus ihrer politischen Stabilität (bzw. der ihrer Mitgliedstaaten) und aus wirtschaftlichem Wohlstand, sowie aus der hohen Qualität der „*politischen goods*“, die den Bürgern geliefert werden. Dieser Wohlstand, der auf einer politisch und wirtschaftlich offenen Gesellschaft beruht, war wesentlicher Anreiz für die Transformationsländer, die in der EU geltenden Prinzipien in der Erwartung zu übernehmen, leichter und schneller die angestrebte Prosperität zu erreichen. Dieser Anreiz wurde (und wird) in europäischen Staaten durch den Wunsch nach Mitgliedschaft in der EU ergänzt, die als eine Erfolgsgarantie angesehen wurde (wird).

Das wichtigste Mittel der EU zum Einfluss auf die Demokratisierungsprozesse in den Nichtmitgliedstaaten ist die Beitrittsperspektive, die jedem europäischen Staat generell offen steht. Laut Art. 49 Abs. 1 EUV kann jeder europäische Staat, der die in Art. 2 EUV genannten Werte achtet und sich für ihre Förderung einsetzt, beantragen, Mitglied der EU zu werden. Diese Bindung der Mitgliedschaft in der EU an eine bestimmte Qualität der innerstaatlichen Ordnung wird auch in den Kopenhagener Kriterien hervorgehoben, da von dem Beitrittskandidaten erwartet wird, eine institutionelle Stabilität als Garantie für de-

mokratische und rechtsstaatliche Ordnung, für die Wahrung der Menschenrechte sowie den Schutz von Minderheiten verwirklicht zu haben. So formulierte politische Kriterien umreißen das Modell, das ein Staat einrichten soll, um der EU betreten zu können, und somit stellen sie eine Richtlinie für die Beitrittskandidaten für die Umsetzung der innerstaatlichen Reformen dar. Somit werden in den EU-Beitrittskandidaten der Demokratisierungs- und der Beitrittsprozess eng verbunden und verflochten. Die Beitrittsperspektive bringt den Demokratisierungsprozess in einen bestimmten Kontext, in dem die Etablierung einer liberalen demokratischen Ordnung nicht nur ein Ziel an sich, sondern ein Segment der Vorbereitung des Staates für die EU-Mitgliedschaft ist. Auf diese Weise wird das Ziel der innerstaatlichen Reformen durch die Anstrengung der EU-Mitgliedschaft bestimmt, da die Reformen an die Ausbildung einer mit der EU kompatiblen staatlichen Ordnung gerichtet sind. Die Integration in die EU unterstützt den Reformprozess zumindest zweifach. Einerseits kann die EU-Integration zur Legitimierung bestimmter Reformen dienen und zur Bewältigung von Reformwiderständen beitragen. Andererseits kann der Integrationsprozess den Reformplan, vor allem Reformbereiche und -tempo, bestimmen und die Reformen in gewissem Maße zum erwünschten Ziel lenken. Diese Verflechtung des Reformprozess mit der EU-Integration kann die Erfolgsaussichten der Reformen zwar erhöhen, bleibt aber nicht ohne Probleme. Die Koppelung der Reformen an die EU-Integration beeinträchtigt teilweise den demokratischen Charakter der Reformen, indem die einheimischen an den Reformen beteiligten Akteure die Reform nicht mehr als ein eigenes Projekt ansehen, sondern sie die Reformen bloß als Antwort auf die von der EU gestellten Beitrittsvoraussetzungen durchführen. Die Verantwortung für die Reformen wird an die EU übertragen, womit ihre demokratische Legitimität geschwächt wird.

Die blühende Zeit für die EU-Erweiterungspolitik war die EU-Erweiterung um die Staaten in Mittel- und Osteuropa. Gerade zum Zweck dieser Erweiterung hat die EU ihre Erweiterungspolitik gründlich ausgearbeitet, und die Mitgliedschaft in der EU klar und deutlich an die Erfüllung politischer Kriterien gebunden. Die Transformationsprozesse liefen in den Staaten Mittel- und Osteuropas parallel zur Integration in die EU, und die EU hat sich als wichtigster Außenfaktor in den Reformen in diesen Staaten erwiesen. Die wichtigste positive Auswirkung der EU bzw. der EU-Integration auf den Demokratisierungsprozess in den Staaten Mittel- und Osteuropas war es, diesem Prozess eine Richtung zu geben. Beispiele der Regimenzusammenbrüche weltweit zeigen

deutlich, dass der Zusammenbruch eines autoritären Regimes für die demokratische Transformation zwar notwendig aber nicht ausreichend ist. Oft kann es vorkommen, dass ein Staat in der Transformation steckenbleibt und den Demokratisierungsprozess durch Stabilisierung einer Form hybrider Regime oder defekter Demokratie erschöpft. Die Transformation in den Staaten Mittel- und Osteuropas wurde als „*return to Europe*“ vorbestimmt, und ganz von Anfang an wurde sie an die Ausbildung einer Ordnung nach dem westlichen Muster abgezielt. Die EU-Beitrittsperspektive hat dann diese Absicht befestigt, und die auf die Erfüllung von Beitrittskriterien zielende EU-Erweiterungspolitik hat zum Demokratisierungserfolg in diesen Staaten zweifellos beigetragen (Schmitter 2012: 44). Jedoch ist der Einfluss der EU auf die Transformationsprozesse in den Staaten Mittel- und Osteuropas nicht idealistisch zu betrachten. Die EU-Erweiterungspolitik in Bezug auf diese Staaten war erfolgreich, weil diese Staaten die Integration in die EU angestrebt und die liberalen demokratischen Werte akzeptiert haben. Hätten sie die Transformation in einer anderen Richtung durchführen und eine von der liberalen Demokratie abweichende Ordnung aufbauen wollen, dann hätte die EU keinen wirksamen Mittel gehabt, dies zu hindern. Zudem war die EU-Osterweiterung erfolgreich, weil der geopolitische Kontext günstig war. Zur Zeit der Osterweiterung wurde die globale Politik durch die Dominanz des Westens gekennzeichnet, so dass die Osterweiterung ohne Widerstände (vor allem von Rußland) verlief. Eine nüchterne Bewertung verlangt auch die Übernahme der „westlichen“ Institutionsmodelle, um den Beitrittskriterien nachzukommen. Nach dem Zusammenbruch des Kommunismus waren die Staaten Mittel- und Osteuropas mit dem Problem der funktionsunfähigen bzw. fehlenden Institutionen konfrontiert. Die einfachste Lösung dieses Problem war es, die Modelle aus den westlichen Demokratien zu übertragen, für gleich ob sie den nationalen Umständen entsprächen. Mit diesem institutionellen Transfer wollten die Staaten einerseits auch die Funktionsfähigkeit dieser Institutionen übernehmen, aber ebenso der EU ihre Bereitschaft zeigen, dem Klub anzugehören. Dies führte aber gelegentlich dazu, dass die Institutionen in Beitrittskandidaten formell den institutionellen Mustern entsprachen, aber nicht funktionsfähig waren (Grabbe 2006: 70). In diesem Sinne scheint auch der Befund von *Mungiu-Pippidi* interessant, dass im Bereich der „*good governance*“ eine Mehrheit der Staaten aus Mittel- und Osteuropa im Beitrittsverfahren nur einen kleinen Fortschritt gemacht hat, und seitdem meistens stagniert (Mungiu-Pippidi 2014: 20). Nach diesem Befund haben die

EU-Erweiterung und die Förderung des „good governance“ nur geringen Einfluss auf die Regierungsführung in den Staaten Mittel- und Osteuropas, genauso wie die langjährige Mitgliedschaft in der EU den Regierungscharakter in Italien und Griechenland nicht grundsätzlich geändert hat (Ibid., 20f).

Mit dem Beitritt Kroatiens in 2013 hat sich das EU-Einflusspotenzial im Rahmen der Erweiterungspolitik ziemlich erschöpft. Die EU ist mit der eigenen Krise und (In-)Stabilität beschäftigt, und es herrscht Erweiterungsmüdigkeit. Es bleibt offen, ob die EU überhaupt neue Mitgliedstaaten aufnehmen wird und, falls ja, zu welchem Zeitpunkt. Obwohl der Erweiterungsprozess nicht aufgegeben wird und fünf Staaten den Kandidatenstatus genießen, ist der Erweiterungselan eher gering. Mit der Absicht, ihren Einfluss auf dem westlichen Balkan zu bewahren, bietet die EU den Staaten dieser Region eine Beitrittsperspektive, aber hält die Beitrittsmöglichkeit auf lange Sicht. Die Region wird weiterhin als instabil betrachtet, und die Aufmerksamkeit liegt vor allem auf ihrer Stabilisierung. Dies führt zu einer widersprüchlichen Konstellation, indem einerseits die EU-Integration der Staaten dieser Region wegen ihrer Instabilität behindert ist, andererseits aber diese Instabilität teilweise aus der fehlenden klaren EU-Perspektive heraus entsteht. Dies kommt besonders im Falle Mazedoniens zum Ausdruck, das seit 2005 den Kandidatenstatus genießt aber seit Jahren keinen wesentlichen Schritt in der EU-Integration gemacht hat. Der Staat hat sich inzwischen ziemlich isoliert, die nationalistische Rhetorik gestärkt, und letztendlich in eine ernsthafte politische Krise gestürzt. Seit 2014 hat die Freedom House Bewertung für Mazedonien von einem „semi-konsolidierten“ Staat zu einem „*transitionalen Regirungsform/hybriden Regime*“ drastisch heruntergestuft. Ein Problemfall ist auch Bosnien, das sogar den Beitrittsantrag nicht gestellt hat. Dieser Staat ist durch interethnische Trennungen ausgezehrt und leidet unter ernsthafter Funktionsunfähigkeit. Auch Bosnien hat Freedom House als „*transitionale Regirungsform/hybrides Regime*“ bewertet. In Bosnien wird der Demokratisierungsprozess mit dem „Postkonflikt-Management“ verflochten, wobei die demokratische Transformation blockiert erscheint. Und bei dem fehlenden Demokratisierungsanreiz von außen (vor allem von der EU), bleibt dieser Staat in einer gewissen Grauzone. Albanien ist auch nicht auf der Schnellspur in die EU-Mitgliedschaft. Erst 2014 wurde Albanien der Kandidatenstatus verliehen. Vom Freedom House wird Albanien auch als „*transitionale Regirungsform/hybrides Regime*“ bewertet. Als prägende Probleme in der albanischen Ordnung identifiziert das Freedom House die Kor-

ruption, die magelhafte Rechtsstaatlichkeit und die scharf polarisierte politische Szene.¹³ Dieses etwas graue Bild über den Demokratiestand im westlichen Balkan heitern teilweise Montenegro und Serbien auf, die beide das Freedom House als „semi-konsolidierte“ Demokratie bewertet. Die EU-Beitrittsverhandlungen wurden mit Montenegro 2012 eingeleitet, und bis März 2015 wurden 18 Verhandlungskapitel vorläufig abgeschlossen, und die Eröffnungsbenchmarks wurden für sieben Kapitel festgestellt. Jedoch stellt das Freedom House fest, dass Montenegro 2014 nur einen kleinen Fortschritt in Beitrittsverhandlungen gemacht hat.¹⁴ Neben den Problemen im Wahlprozess identifiziert das Freedom House die Politisierung der Staatsverwaltung als prägende Schwäche in Montenegro. Im Falle Serbiens sieht die EU-Integration auch etwas verschleppt aus. Im Jahre 2012 hat die EU Serbien den Kandidatenstatus zugewiesen, und im Januar 2014 wurden die Beitrittsverhandlungen eröffnet, aber bisher wurde kein Beitrittskapitel eröffnet. Die EU fokussiert ihre Politik zu Serbien auf das Verhältnis zwischen Serbien und Kosovo, und es scheint, als ob der ganze Integrationsprozess von diesem Punkt abhängt. Die EU übt ihren politischen Druck auf Serbien überwiegend in Bezug auf die Normalisierung der Beziehungen mit Kosovo aus, wobei die Frage der Qualität der Demokratie im Hintergrund bleibt. Mit der Qualität der Demokratie in Serbien beschäftigt man sich auf bürokratischer Ebene, aber auf der politischen Agenda der EU bleibt sie im Schatten der Kosovo-Frage. Am diesem Beispiel wird offensichtlich, dass die EU großen Wert auf die Stabilität der Region legt und den Demokratiesierungsprozessen unterstützt, solange diese zur Stabilität beitragen oder sie nicht gefährden.

Das Verschleppen und die zeitweise Blockierung der Transformationsprozesse in den Staaten des westlichen Balkans hat zur Enttäuschung über Demokratie und zu einer gewissen Apathie geführt. Die Bürger haben die Hoffnung auf ein besseres Morgen langsam verloren, und sie akzeptieren den Status quo als ihr Schicksal. Ein solcher Kontext wirkt sich negativ auf die Demokratisierung aus, da ohne Bürgerinitiative oder zumindest ohne eine starke bürgerliche Unterstützung Demokratisierung schwierig durchzuführen ist. Zudem wirken diese Enttäuschung und Apathie auch begünstigend auf die Stärkung von autoritären Tendenzen, da einerseits die Bürger das Interesse an der Politik verlieren

13 Ausführlich in der Internetseite <https://freedomhouse.org/report/nations-transit/2015/albania> (abgerufen am 10. September 2015).

14 <https://freedomhouse.org/report/nations-transit/2015/montenegro> (abgerufen am 10. September 2015).

und sich nicht als politische Akteure betrachten, und andererseits ihre Hoffnungen in eine starke politische Figur setzen, die im Kontext fehlender Kontrollmechanismen leicht zur autoritären Herrschaft rutschen kann. Die Unfähigkeit und bzw. die Unwilligkeit der EU, der Region einen stärkeren Anstoß zur Demokratisierung zu geben, haben langsam die Gleichgültigkeit gegenüber der EU und der EU-Integration provoziert. Die Dauer und die Komplexität der EU-Integration haben bei den Bürger in der Region Misstrauen erregt, dass ihre Staaten überhaupt EU-Mitgliedstaaten werden. Zudem haben die Krise in der EU und die politischen und wirtschaftlichen Schwierigkeiten in einzelnen EU-Mitgliedstaaten Zweifel gestärkt, ob die EU-Mitgliedschaft die Probleme lösen würde und ob sie wirklich erstrebenswert ist. All dies schwächt das EU-Einflusspotenzial in der Region, und lässt Raum für andere Akteure (vor allem Rußland und China) zu agieren.

Noch offenkundiger ist das Scheitern der „Fassaden“-Erweiterungspolitik der EU gegenüber der Türkei. Die Türkei hat eine lange Geschichte der Beziehungen mit der EU, aber der Kandidatenstatus wurde ihr 1999 erteilt, und die Beitrittsverhandlungen wurden 2005 aufgenommen. Bisher wurden 14 Beitrittskapitel eröffnet, und nur eines wurde provisorisch geschlossen. Das Beitrittsverfahren wird stark durch die Beziehung der Türkei zu Zypern beeinträchtigt, so dass keines von den bestimmten acht Kapiteln, die für die Einschränkung der Türkei gegenüber Zypern von Bedeutung sind, geöffnet und kein Kapitel vorläufig geschlossen wird, solange die Türkei das Zusatzprotokoll zum Assoziationsabkommen nicht vollständig umgesetzt hat. Ein zusätzliches und zwar wesentliches Hindernis auf dem türkischen Weg in die EU ist ein bestehender Widerstand in der europäischen Politik und Gesellschaft(en), einen islamischen Staat in die EU-Mitgliedschaft aufzunehmen. Die EU wird kulturell oft als eine christliche Union betrachtet, und es wird gefragt, ob die Türkei dazu gehört. Beim Mangel einer klaren politischen Entscheidung zur Aufnahme der Türkei in die EU ist es nicht verwunderlich, dass der Erweiterungsprozess bescheidene Effekte auf die Demokratisierung in der Türkei hat. Seit ein paar Jahren befindet sich der Demokratiestand in der Türkei im ständigen Rückgang, wobei dieser Staat in den Freedom House Berichten als „teilweise frei“ bewertet wird.¹⁵ Eine Tendenz zur Abweichung von demokratischen Modellen wird in der Türkei auch mit dem außen-

15 Ausführlich in der Internetseite <https://freedomhouse.org/report/freedom-world/2015/turkey> (abgerufen am 10. September 2015).

politischen Kurswechsel begleitet. In diesem Sinne hat der türkische Präsident mehrmals die Idee geäußert, die Verhandlungen mit der EU abubrechen und die Mitgliedschaft in der Schanghaier Organisation für Zusammenarbeit zu beantragen (Cooley, 2015: 58f). Und auch diese Abwendung von der EU und Hinwendung an Rußland und China weist deutlich die Verringerung der Anziehungskraft der EU-Erweiterungspolitik auf.

Die EU-Nachbarschaftspolitik ist auch ein klarer Beweis, dass ohne eine absehbare Beitrittsperspektive das Einflusspotenzial der EU auf die Demokratisierungsprozesse eher bescheiden ist. Vielmehr hat sich die EU-Nachbarschaftspolitik als funktionsunfähig erwiesen, und es ist der EU misslungen, sich als einen stabilisierenden Außenakteur in Krisensituationen zu positionieren. Die EU-Nachbarschaftspolitik umfasst 16 östliche und südliche EU-Nachbarn, die fast alle mit dem Mangel an Demokratie konfrontiert sind. So kann man in den Staaten in der östlichen Nachbarschaft keine demokratische Regierungsform identifizieren. Nach der Bewertung vom Freedom House sind Aserbaidshan und Weißrussland als konsolidierte autoritäre Regime, Armenien als ein semi-konsolidiertes autoritäres Regime, und Georgien, Moldawien und die Ukraine als transitionale Regierungsformen/hybride Regime zu betrachten. Zudem wird keiner dieser Staaten als „frei“ bewertet. Aserbaidshan und Weißrussland sind als „nicht frei“, und alle anderen als „teilweise frei“ bewertet. In der Region werden das EU- und das russische Interesse konfrontiert, so dass die EU-Einflusspotenzial gemindert ist. Diese Konfrontation ist besonders stark in Georgien, Moldawien und der Ukraine, in denen allen die nationale Politik mehr oder weniger auf der Achse „pro EU“-„pro-Russland“ gespalten ist. Die Angelegenheit ist in der Ukraine extrem, insoweit als die Frage der Unterzeichnung des Assoziierungsabkommens mit der EU nicht nur Proteste auslöste, sondern in einer Kettenreaktion auch zum Krieg geführt hat. Die politische Szene in Moldawien ist auch gespalten und, wie es die Wahlen 2014 gezeigt haben, geprägt einerseits von den Parteien, die zu europäischer Integration aufrufen, und andererseits von den Parteien, die die Beziehungen zu Russland bevorzugen. Georgien steht ebenso in einem geostrategischen Spiel zwischen der EU und Russland. In erster Linie zeigt sich dies am Problem von Abchasien und Südossetien, die völkerrechtlich als Teil georgischen Territoriums betrachtet werden, aber über die Georgien keine faktische Macht ausübt. Diese Gebiete werden von Russland unterstützt und als unabhängige Staaten

betrachtet. Russland hat zudem versucht, die Integration Georgiens in die Euro-Atlantische Strukturen zu verhindern. Interessanterweise haben aber die Ereignisse in der Ukraine die georgische außenpolitische Orientierung nicht geändert, sondern eher bekräftigt, und Georgien hat im Juni 2014 ein Assoziierungsabkommen mit der EU unterzeichnet.¹⁶

Die Entwicklungen in den Staaten der Östlichen Partnerschaft zeigen, dass ein klarer politischer Wille zur Integration in die EU eine wichtige Voraussetzung für die Eröffnung des Kanals für den EU-Einfluss ist. Besteht in einem Staat keine mehr oder weniger klar artikulierte Bereitschaft zur Integration in die EU, kann sich die EU nicht als wichtiger Außenakteur im Demokratisierungsprozess positionieren. Die EU kann zum Demokratisierungsprozess nur dann beitragen, wenn in dem betreffenden Staat ernsthaft beabsichtigt wird, eine demokratische Ordnung aufzubauen und dabei die europäischen Modelle als Muster zu nutzen. Zudem zeigt sich, dass die EU nicht der einzige Außenakteur in den politischen Prozessen in Europa ist. Der Erfolg der EU im Falle der Osterweiterung auf die Staaten Mittel- und Osteuropas war teilweise das Resultat spezifischer geostrategischer Verhältnisse und der Tatsache, dass keiner der wichtigen Weltakteure (und vor allem Russland) diesem Projekt widersprachen. Die Sache wird aber dann wesentlich kompliziert, wenn die Außenakteure im Demokratisierungsprozess entgegengesetzte Interessen haben. Die Konsolidierung Russlands und Chinas hat nicht nur zu einem geostrategischen Wettbewerb geführt, sondern auch die Anziehungskraft solcher Regimetypen in vielen Transformationsstaaten wesentlich erhöht. In einer solchen Konstellation erweist sich die EU eher als schwach oder zumindest desinteressiert, sich in die Demokratisierungsprozesse in den „Wechselstaaten“ intensiv einzumischen.

Die EU-Nachbarschaftspolitik erwies sich noch funktionsunfähiger im Falle der Südlichen Partnerschaft. Von neun erfassten Staaten sind sechs nach der Bewertung vom Freedom House nicht frei (Algerien, Ägypten, Jordanien, Libyen, Syrien), zwei teilweise frei (der Libanon und Marokko) und zwei frei (Israel und Tunesien). Ein positives Beispiel und Ausnahmefall ist Tunesien, dem gelungen ist, den Arabischen Frühling zur Demokratisierung zu benutzen. In Tunesien wurde eine fortschreitende Verfassung verabschiedet, die Regierungqualität hat sich durch eine auf Konsensus basierte Übergangsadministration ver-

16 Ausführlich in der Internetseite <https://freedomhouse.org/report/nations-transition/2015/georgia> (abgerufen am 10. September 2015).

bessert, und freie und faire Parlaments- und Präsidentenwahlen wurden durchgeführt.¹⁷ Andererseits ist der Arabische Frühling als Demokratisierungsversuch in anderen Staaten gescheitert. Vielmehr hat der Zusammenbruch der autoritären Regime in Ägypten und Libyen nicht zur Einleitung eines Transformationsprozesses geführt, sondern eher Anarchie und Staatenzerfall provoziert. In Syrien wiederum hat sich der Kampf zum Sturz des Regimes in einen Bürgerkrieg entwickelt, und im Staat herrscht Chaos. Im Lichte der ständigen Instabilität der Region scheint die Demokratisierung auf lange Frist verschoben. Der Arabische Frühling wurde als eine Chance angesehen, die Region in Richtung zur Demokratie zu wenden, aber er hat gezeigt, dass der Zusammenbruch eines autoritären Regimes für die Demokratisierung nicht ausreicht. Er hat auch gezeigt, dass ohne klare Vorstellung von einem gewünschten demokratischen Modell eine neue demokratische Ordnung schwer zu institutionalisieren ist. Um diese Vorstellung zu haben, benötigt man einen Konsens von innen, und die Unterstützung von außen, und beim Arabischen Frühling fehlte beides. Und es ist immer noch so.

Schlussbemerkung

Die Krise der EU hat ihr Potenzial als Demokratieförderer ziemlich beeinträchtigt. Die Politik der EU ist auf die Struktur- und Wirtschaftsprobleme fokussiert, und die Demokratieförderung bleibt im Hintergrund. In Bezug auf die Krise der Demokratie in einzelnen Mitgliedstaaten hält sich die EU eher zurück, und auch in der Politik gegenüber Nichtmitgliedstaaten mangelt es ihr an effektiven Mitteln, die Demokratisierung in diesen Staaten stärker zu unterstützen. Die Erweiterungspolitik, die sich bei der EU-Osterweiterung als wesentlicher Außenfaktor bei Transformationen in den Staaten Mittel- und Osteuropa erwiesen hat, ist inzwischen zu einer Form ohne Substanz degradiert, und als solche erzeugt sie eher bescheidene Demokratisierungseffekte in den Staaten des westlichen Balkans und der Türkei. Die Demokratisierungseffekte der EU-Nachbarschaftspolitik sind noch schlechter, wie es die Lage vor allem in der Ukraine und in Libyen in extremer Weise zeigen. Andererseits sollte man jedoch gegenüber der EU nicht zu kritisch und fordernd sein, da sie Demokratisierungsprozesse in (souveränen) Staat-

17 Ausführlich in der Internetseite <https://freedomhouse.org/report/freedom-world/2015/tunisia> (abgerufen am 10. September 2015).

en nicht durchführen kann. Die Verantwortung für die Demokratisierung liegt vor allem bei den einheimischen Akteuren, und die EU kann den Prozess nur unterstützen und fördern. Und das wesentliche Problem liegt gerade darin, dass die EU sich von dieser Aufgabe im Endeffekt zurückgezogen hat.

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Democracy in a Stalemate: Decreased Leverage Potential of the European Union on Democratization Processes

Summary

The findings of the Freedom House about the democracy decline since 2006 as a global trend have provoked debate about the quality and vitality of democracy in the world. For some democracy is in decline, for other it is lacking progress, and some would argue that democracy is in transition. However it is obvious that democracy today is facing some challenges and is not quite in the best shape. The most significant challenge relates to its credibility as the best form of government, which is decreasing. The credibility of democracy is weakened by three factors: the lack of a solid ideological basis (in the context of the crisis of liberalism), the inability of democratic governments to meet the needs of the people, and the rise of alternative (pseudo-democratic) forms of government as a role model. The crisis of democracy affects its ability to widespread, as the lack of significant progress in democratization of autocracies or façade democracies in the past decade plausibly shows.

The focus of this paper lies on the EU and its capacity to act as a democracy promoter in the context of democracy in crisis. One aspect of the problem is the capacity of the EU to intervene if a member state deviate from the democracy standards. Article 2 EUT oblige the member states to respect main principles of the democratic governance, and Article 7 EUT provides the EU with the mechanism to intervene if a member state violates values set out in Article 2. Although the membership in the EU is linked to the democratic form of government (Article 49 EUT and Article 2 EUT) the quality of democracy varies among the EU member states. Most significant examples are Bulgaria, Croatia, Hungary and Romania which all Freedom House rates as "semi-consolidated" democracies. But also in the EU stabile democracies one can identify some weaknesses such as low voter turnout, mistrust in the political elites, rise of extremist parties, etc. The EU has never activated the mechanism of Article 7 EUT but it has occasionally used its soft power to intervene if a member state violates democratic principles. However, the crisis of the EU has weakened its leverage and shifted its concerns on the very core of the EU and its functioning. For the EU it is important to provide consensus among the member states necessary for its functioning, and it is restrained to interfere with the quality of democracy in some of the member states. The other aspect of the problem is the capacity of the EU to act as a democracy promoter in the non-member states. The crisis of the EU has significantly reduced its interest and partly its capacity to stimulate or promote democratization in the non-member states.

The leverage of the EU-Enlargement policy, as a central external factor in the democratization of the states in Central and East Europe, has significantly decreased due to the uncertainty of a new enlargement. A clear and foreseeable membership perspective, as the central instrument of the EU leverage, is nowadays uncertain, and the “membership-enthusiasm” both on side of the EU and of the candidate counties (i.e. Albania, Macedonia, Montenegro, Serbia, and Turkey) is not quit high. Even more, the EU focuses predominantly on the stability of the candidate counties and at the moment it shows less interest on the quality of democracy in these countries. The result is a bunch of countries which are lost in transition and permanently on the edge of the crisis.

The European Neighborhood Policy (ENP) also indicates the limitations of the EU leverage without the membership perspective. The EU has not succeeded to position itself as a stabilizing external player and to push its eastern and southern neighbors towards democracy. The ENP focuses on 16 counties, which are almost all no democracies. Some of them are even failed states (Egypt, Libya, Syria and partly the Ukraine) and the EU has shown incapability to deal with the crises in these countries.

However, it would be unfair to overcriticize the EU and to make it responsible for the failure or stalemate of democratization in specific states. The EU cannot execute democratization in (sovereign) states. The responsibility for the reforms and the democratization lies predominantly at the domestic players, and the EU can only promote and support the process. The main problem lies exactly in the fact that the EU shows disinterest and reservation regarding its role as a democracy promoter.

Keywords: Democracy, Democratic Transition, European Union, EU Membership, EU Enlargement, European Neighbourhood Policy



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Miroslava Filipović,
EDUCONS University, Sremska Kamenica¹

Sonja Bunčić,
Faculty of Technical Science, University of Novi Sad²

Supranational Governing Regime for the Global Economy³

Abstract

Since the onset of the current world economic crisis, whose effects continue to reverberate, the Group of Twenty has taken a premier role in world economic governance. The group, which represents the major part of world economic flows, has been negotiating on a multistructural set of rules and recommendations in order to devise a new regime for the world economy. In light of this, the paper asks two critical questions: what are the values and norms of this new regime-in-the-making, particularly as they are manifest in new financial regulation, and how are these supranational norms to be put into (national) practices? The paper presents a brief history of regime-making in the period 2008 to 2014, and examines several soft-law models of supranational norm-creation in order to assess success in its implementation. The paper concludes that the G20 regime-in-the-making could prove successful in devising supranational economic policy for the present interconnected world economy if it takes the governance achievements of other such regimes into the account and if the members' but also non-members' national economic differences are taken into account to a

1 Professor
miroslavafilipovic@yahoo.com

2 Professor
sonja.buncic@gmail.com

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greater extent. Otherwise, this new structure of norms might become another instrument for the sole benefit of industrialized countries.

Keywords: global economy, governance, regime, regulation, G20, soft law

Introduction

In recent decades it has become obvious that the world needs new arrangements for international governance, arrangements more suited for it's a world in which the long-standing dominance of the advanced industrial countries is being contested by emerging economies. However, it was not until the eruption of the global economic crisis in 2008 that major actors started to take a more active approach towards devising a new world regime by converting the Group of seven (G7) into the Group of Twenty (G20). At the same time, as Farer and Sisk (2010: 4) point out, all too often, international actions undertaken as 'afterthoughts of disaster' result, at best, in 'increments in global governance'. Certainly, conversion of the G7 into the G20 was not as dramatic a development as many might imagine: after all, the G20 began life as a meeting of finance ministers in the aftermath of the East Asian Financial Crisis in the late 1990s in which, as Wade (2007) concludes, the G7 sought to push for a new global regime he calls an 'unstoppable check-list' to operate a standards-surveillance-compliance system.

Since 2008, a plethora of ideas, proposals and plans of differing merit and consequence, have been put on the table, but not many of them have had a practical impact. These ideas and proposals converge around two basic dilemmas/challenges for all the involved actors: how to prioritize economic goals and devise world economic norms, and how to devise a system to have such agreed norms implemented in practice.

The G20 has positioned itself in the center of these attempts to create a new international governance system aiming at the creating a global economic policy forum (focusing on the financial issue-area), setting certain grounds for more coordinated national economic policies and maybe building a basis for a world economic policy in a distant future. But, in the world of today, with firm state/legal boundaries that cut across the global economy, the soft law system may open opportunities for such coordinated policies to be successfully implemented on the national level.

This paper aims at presenting briefly the evolution of global agenda developed by the G20, in the period 2008-2014, and outlining basic

principles and norms of a possible new international economic governance regime built upon the agenda. Upon that, the paper will examine recent legal models of soft law which could prove very effective in the regime implementation, as well as compare the activities of the G20 and the three soft law models. As the implementation of any international/cross-border agreement critically depends on how and by whom the norms with extraterritorial reach have been designed, the paper aims to fill the gap not only in the research of multilateral organizations' agendas, such as the G20's, but also in comparing the existing experience with soft law models and their use in other issue areas where supranational regulation is required.

Global governance and politics

For a number of years now, national and international actors have been implementing various measures to deal with the current crisis. Three phases in national and international economic policies can be identified: in the period 2008-2009 there was a widespread use of both fiscal and monetary policies to stimulate demand; from 2010 to 2014 most governments (supported by the IMF and the G20) embarked on fiscal consolidation and quantitative monetary-policy easing to promote lending and liquidity; finally, in 2014, fiscal policy became more neutral as neither taxes nor government spending sought to affect demand, while monetary policy of most countries continued to be easy.

Nevertheless, as is increasingly widely recognised, the crisis will continue for several more years unless certain structural changes in the global economic/financial order are devised and implemented (Filipović 2011). Setser (2008) and Bernstein (2009) point out changes occurring with regard to major actors, i.e. the differences in governmental actors' values and foreign policy goals that underlie global movements of capital, eroding capabilities of contemporary governmental actors and politics in general to deal with global challenges.

As Wade (2009) concludes, historical examples (e.g. Great depression or two oil shocks of the 1970s) show how severe economic crisis contributes to economic regimes' changes and inter-state relations, as well as redistribute wealth and power. Other authors justifiably emphasize that the global crisis revises frameworks of the political settlements in terms of using (neo)liberalism as a power technology to help transform

capitalism (Palma 2009). It particularly needs to be emphasized that, since 2013, measures have started to focus on goals other than recovery, including sustainable economic growth, employment and further tightening of coordinated financial regulation, trade, green economy, inclusion, energy, etc.

Multinodal politics (Cerny 2007: 2) of today's world features various issues domains crosscutting each other and a multitude of actors, not only governmental ones, emerging on the supranational scene. Cohen (2010) goes further and describes the structural changes as favorable conditions for the emergence of public-private hybrid regulatory regimes. Fifteen years before the crisis, John Ruggie underlined that the present level of world 'fluidness' requires its total remake (Ruggie 1993: 2). As the global economy and its various subsystems present some of the major areas of concern today, and as there are general calls for new/updated regulatory arrangements to be created (Sorensen 2006: 7-9), the concepts of global governance and regimes have to be briefly explained.

Global governance literature has widely used James Rosenau's definition: 'global governance is conceived to include systems of rule at all levels of human activity – from the family to international organizations – in which the pursuit of goals through the exercise of control has transnational repercussions' (Rosenau 1995: 13). Dingwerth and Pattberg (2006: 186) distinguish between 'global governance as a set of observable phenomena, and global governance as a political program', as two complementary ways of approaching and understanding it. Such a description has proved particularly useful in analyzing the activities of the G20. Karns and Mingst (2009: 3-4) develop the concept of global governance on the basis of the description provided by the Commission on Global Governance in 1995. It has to be emphasized that, in addition to hard law (rules), international organizations and extemporized arrangements, Karns and Mingst include specific norms of soft law in the components of global governance, i.e. in the process of new 'ordering', as a continuous process (Josifidis, 2014: 598) and a way to surmount the obstacles built by hard-law boundaries. This primarily refers to the hard law being 'naturally' or traditionally confined to space and actors within state boundaries/jurisdiction.

Jordana and Levi-Faur (2004) underline that global governance comprises all mechanisms of social control as distinct from specific forms of governance with authoritative rules, monitoring and enforced

compliance. As Josifidis and Losonc argue, 'Order... is constructed; it represents a societal construct, and is a result of intersecting processes of conflict and cooperation in interdiscursive relations of society.' (Josifidis and Losonc. 2014: 598). Kratochwil (2013) gives another dimension to regulation, especially from the international legal aspect: '...the real problems of praxis lay in the dilemmas created by colliding duties or in bringing a concrete problem under different descriptions which require (justify) different norms.' (2013: 3). Instead of forcing the application of existing norms which derive from universal principles of market economy and economic regulation, Kratochwil concludes that it would be more appropriate to create new agreements on certain shared practices.

These views had previously been extensively developed by regime theories of international relations, exemplified by Krasner (2007) who defines regimes '... as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in the given area of international relations' (Krasner 2007: 3). Regime theories were particularly 'flourishing' in the early years of economic globalization, during which self-regulation in many economic sectors of industrialized countries was on the rise, and non-state actors (predominantly, private transnational corporations and associations) were seemingly taking over the regulatory torch from governments⁴. Thus, the rise and development of the regime theories and practice can be viewed as responses to the need to understand supranational issues and their regulation in the absence of a single pole/power/regulatory authority.

Experimentalist governance/regime theories have further analyzed regimes in the contemporary world, arguing that in the absence of a single hierarchical structure of norms to govern a transnational issue area, the regime complexity increases. Providing that the national legal systems are not obstructed, such regimes can in reality successfully function through specific linking of their components. If broad goals and metrics are agreed among the stakeholders, if the stakeholders are given a certain level of discretion in achieving the goals and they regularly report on the progress, then there is a basis for a continuous interaction

4 See, for example, The International Council of Securities Association or International Association of Bond Dealers (today, International Capital Market Association), both of whom have worked extensively in devising and promoting global norms and rules for cross-border securities trading.

of actors, revision of goals and actions, and finally for a supranational regime to emerge (Overdevest, Zeitlin 2014). Such a situation, exemplified by the European Union's Forest Law Enforcement Governance and Trade (FLEGT, hereinafter: the Forest Plan) initiative, which will be later presented, may be of significant importance in analyzing available modes to govern the global economy. Although such complex regimes face a multitude of challenges and operational problems, a number of positive effects may be identified, as argued by Keohane and Victor (2011): an advancement of supranational regulation of a complex issue area, may come from the progress reached on specific issues therein, which will in turn make more stable (wider) grounds for a future, comprehensive regime regarding the whole issue area to emerge.

The next part of the paper provides a brief analysis of one of the global actors – G20, and its activities to update existing or create new rules and norms for the global economy. Although theoretical views on global governance differ, most of the literature emphasizes its several key components: supranational arrangements, sets of rules and norms, actors' expectations, different layers and actors in the process, and necessary display of a certain level of representativeness, inclusiveness, efficiency, adaptability and fairness (Biersteker 2011). The analysis that follows takes these criteria as the basis for assessing the role of G20 in creating global regulatory arrangements.

Global economic agenda of the G20

Although the G20 has placed itself in the center of the efforts to deal with the current crisis, joining of forces among the leading industrial states to deal with economic challenges is nothing new. Without going too far back in the history, let us remember that the 'original' precursor to the G20 was the Group of Six (G6) which has led to a later formation of the Group of Seven (G7) and the Group of Eight (G8). Following the 1971 collapse of the Bretton Woods system of exchange rates ('closing the US gold window' and the free float of many other currencies) and the oil crisis in 1973, the G6 was formed by the finance ministers and central bank governors of the UK, US, France, West Germany, Italy and Japan in 1975. Even thirty years ago, it was evident that major industrial states should mutually assess their economic policies and closely monitor the growing internationalization of economic activities. In 1976, Canada has joined the group and it became G7, while Russia became its

member in 1998 thus forming the G8. Since then, the group has started also to hold annual summit meetings. The G6/G7 period was characterized mainly by their efforts to stabilize global currency markets and manipulate the US dollar value (firstly to depreciate it, then to stop its uncontrollable decline) to support economic recovery.

As a response to the financial crises in 1999, finance ministers of the major industrialized (first of all, Canada and the US) decided to invite emerging market countries to join a new group in order to introduce regularity to the cooperation and increase its level, particularly regarding fast-growing emerging market economies. This is how the G20 has emerged.

Since then, the G20 has grown into a major forum for discussing world economic issues and pooling efforts in producing new agreements for the global economic system. Several reasons may have contributed to this development: the crisis of 2008 has forced major economies to foster international cooperation on global economic and financial issues (favourable conditions); the member states of the G20, despite many criticisms, manages and controls a major part of the global economy⁵ (representativeness); since 2008, the group has gathered not only finance ministers but also the members' leaders (increase in its legitimacy); the group itself has improved its structure and relations with other international governmental and non-governmental actors (adaptability), and has managed to deliver certain results upon numerous commitments made by the members' leaders (efficiency). Such an expanded and vigorous role of the G20 '... is due to proliferating shocks that exposed the new, equalizing vulnerabilities of all countries, the failure of other international institutions to cope, the rising capabilities and increasing openness of the non-G7 members, the domestic political cohesion that participants brought, and their rational attachment to a compact G20 club at the hub of a global governance network in an interconnected world.' (Kirton 2014, 45)

A particular feature of the G20, as an international organization, is that it belongs to the group of discursive organizations. 'The term Discourses refers to general and enduring systems for the formation and articulation of ideas in a historically situated time.' (Fairhurts and Putnam 2004: 8) Such organizations do not make explicit and mandatory de-

5 According to some estimates, the G20 represents about 2/3 of the world's population, 85 per cent of global GDP and over 75 per cent of global trade (Source: https://www.g20.org/about_g20/g20_members, accessed 27. 11. 2014)

cisions regarding its members (the so-called decisional organizations), but set general guidance upon an agreed set of values/actions and the level of members' commitment most significantly influences such an organization's success.

The G20's agenda development

Global political deliberations within the group have reached their peaks on the leaders' summits: the G20 summit meetings in Washington (2008), London and Pittsburgh (2009), Toronto and Seoul (2010), Cannes (2011), Los Cabos (2012), Saint Petersburg (2013) and Brisbane (2014). Despite the fact that it had probably been planned to present the G20 actions as a show-room for united and orchestrated action, the five-year experience actually resulted in a series of compromises between the different agendas of the Anglo-Saxon pole and the continental European 'league', while only a few of the developing countries' proposals have been accepted (for example, a radical change of the IMF voting structures and shares, or the creation and introduction of a new international liquidity currency). Once again, their overlapping but differing agendas pointed out that contemporary politics is one of detachment (Kratochwil 2007: 5), 'cool loyalties' and 'thin' patterns of solidarity.

During these last five years, the G20 agenda has changed its priorities and the values ranking (Filipović 2011), under various paths of influence and on the basis of different individual values and agendas of the actors involved (Filipović 2012). Despite the particular actors' different agendas, a body of principles and rules (mostly in the financial area) has started to emerge, shedding some light at a possible new world economic and financial order. Some authors stress that such an order should regulate all financial and capital markets worldwide, offer emergency funding, manage excessive indebtedness, guide national economic policies toward global stability and ensure a fair and effective international monetary system (Ocampo and Griffith-Jones 2010). A number of action plans and numerous proposals and measures to counter the current crisis were adopted at the summits.

The G20 agenda has evolved as the crisis effects widened in scope and depth. These changes have not only involved changing the agenda items (e.g., from private actors' risk taking to sovereign financing) and rankings (e.g., from the prominence of financial regulation in 2008 to

that of employment in 2011), but also changes to the agenda's comprehensiveness (from financial regulation in 2008 to monetary and fiscal coordination in 2011 and employment in 2012 and 2013, and further to sustainable global growth in 2014), its geographic focus (from the US in 2008 to Europe and the East in 2011, to Latin America in 2012 and Europe again in 2013, and to Australia in 2014) and modes of the Group's functioning (from the top leaders to specific ministerial meetings, newly formed tracks of work and the internal working groups).

The analysis of the changing/widening G20 agenda may also point out that, contrary to the traditional believes, the market principles and GDP as a measure of their effectiveness, may not hold any more. '... Prosperity in human societies can't be properly understood by looking just at monetary measures, such as income and wealth. If the real measure of a society's prosperity is the availability of solutions to human problems, growth cannot simply be measured by changes in GDP. Rather, *it must be a measure of the rate at which new solutions to human problems become available*. If prosperity is created by solving human problems, a key question for society is what kind of economic system will solve the most problems for the most people most quickly' (Beinhocker and Hanauer 2014: 2).

The underlying objective of the first three summits (Washington, London and Pittsburgh 2008/2009) was to establish rules of cooperation and coordination in financial regulation across and within national financial systems. That was particularly highlighted in Washington at the time when the current crisis was still developing its full force. The final document of the summit⁶ presented an Action Plan focused on several objectives, such as improving transparency and accountability, developing sound regulation, promoting financial markets' integrity, strengthening international cooperation and reforming international financial organizations.

Upon intensive pre-summit deliberations and numerous formal and informal meetings within and outside the group, the G20 London Summit in April 2009 produced three declarations targeting the economic recovery, the financial system and resources needed to implement the plan of recovery⁷. The Global Plan for Recovery and Reform underscores two basic elements in order to attain a sustainable growth: an

6 Full text of the document available at <http://www.g20.org/images/stories/docs/eng/washington.pdf>

7 Official text of the documents available at <http://www.number10.gov.uk/Page18914>

effectively regulated market economy and strong, supranational institutions. This summit was very important as it produced the inaugural set of norms planned to guide building of the foundation of a new international economic regime. Four different types (or levels) of norms can be identified in the G20 London Summit documents: global standards (most binding, applicable to all countries: related to accounting standards and principles), internationally-agreed norms (subject to separate agreements: financial system regulation), best practice (desirable, recommended: activities of credit rating agencies) and a consistent approach (most flexible: basic principles of national financial regulation, for example, coverage and boundaries).

The Pittsburgh Summit⁸ pointed out to a number of undergoing changes. As a sign of expanding the political community, the G20 should take over from the G8 the role of being the central/premier forum for creating a new global economic architecture. Secondly, leading intergovernmental financial institutions should be reformed to give more power to fast-growing economies. In addition, the group's agenda underwent first of its major changes: a consensus was reached to incorporate macro-prudential concerns about system-wide risks (primarily those related to the structure, soundness and vulnerability of the global financial system) into international regulation.

In 2010, the summits in Toronto⁹ and Seoul¹⁰ proved that, if the G20 was to become an architect of global economic revival, it was not sufficient that it reacts to financial distress and devise new financial regulation. Steering macroeconomic policies came as a necessary and critical extension of the group's agenda. It was necessary because the already agreed norms had proved too limited and partial in their effects, and it was critical because such an extension of a supranational agenda inevitably would strike domestic monetary and fiscal policy. Regardless of a significant economic potential of coordinating fiscal policies, major industrialized states have shown a high reluctance to act in that manner. Notwithstanding numerous commitments made, the national fiscal wall was to remain in place and this might have defined the final frontier in developing the Group's joint policies.

8 For details, see: <http://www.g20.utoronto.ca/2009/2009communique0925.html>

9 The G20 Toronto Summit Declaration, at <http://www.g20.utoronto.ca/2010/to-communique.html>,

10 The G20 Seoul Summit Declaration, at https://g20.org/wp-content/uploads/2014/12/Seoul_Summit_Leaders_Declaration.pdf

Contrary to the previous meetings, the G20 agenda in Seoul focused more on development issues, economic revival, employment and social protection¹¹. Surprisingly, the leaders committed to developing a common view of global economic problems, which might point to the birth of a set of principles or underlying values upon which a new global economic regime would be built and which would define the regime basic characteristics (Krasner 2006). The Seoul Summit was assessed as successful due to its 'globally predominant, internally equalizing capabilities among members of the group' (Kirton 2010: 7). This is particularly true if advances in national financial regulation and safety nets are reviewed, but much less true for reforms of international financial organizations, supporting the arguments of Keohane and Victor (2011) regarding the possibility of different pieces of progress for different segments of a regime. It may also serve to support the arguments of Higgot (2004) and Mueller and Lederer (2003) that discursive organizations such as the G20 may be building a new road to multilateralism are supported. It seems that not only discursive organizations may prove more effective than decisional ones in securing regime implementation, but discursive multilateral organizations such as the G20 may prove more capable of reaching a consensus among contesting poles in a wider issue area (in this case the world economy).

The final declaration of the 2011 Cannes Summit¹² reiterates members' growing concerns about the slow recovery, high unemployment and rising sovereign risks in the euro area. The summit resulted in certain changes as to the way the group functioned: a G20 Task Force on Employment has been set up, many multilateral organizations (e.g., IMF, ILO and World Bank) were invited to join the group's activities, international monetary stability and excessive currency reserves started to be targeted, and a new regulatory category of market participants has been created - global systemically important financial institutions (G-SIFIs). One may understand this as a new 'reality-check' for the G20: although it has positioned itself as a center for global economic governance (backed by a 90% share of the world GDP), the issues may be beyond reach of such an informal, minilateral group (Grevi 2010: 3).

The 2012 Summit in Los Cabos resulted in significant agenda development, with five priority areas: economic stabilization and reforms,

11 Full text of the final document available at <http://www.g20.org/images/stories/docs/eng/seoul.pdf>

12 Available at <http://www.g20.org/images/stories/docs/eng/cannes.pdf>

financial system strengthening and financial inclusion, remodeling the international financial architecture, improving food security and reducing the volatility of commodity prices, and promotion of sustainable development, green growth and sound environmental policies. Furthermore, efforts were invested to broaden the dialogue with many other groups of actors: the UN, international organizations (already evident at the Seoul summit), business sector (B20¹³), experts, civil society, youth organizations, etc. (Discussion Paper of the Mexican Presidency of the G20, 2012).

The 2013 G20 Summit in Saint Petersburg was held at the time when differences in the global economy had started to widen: recovery of major industrialized was contrasted to slowing the recovery of the rest. The Russian presidency of the G20 focused on measures to support sustainable, inclusive and balanced growth and job creation, and a new tone that emphasizes the need to develop mutual confidence, enhance the principle of fairness and create an overall set of rules could be detected in the Official G20 Leaders Declaration after the summit.¹⁴

The 2014 Brisbane summit of the G20, amidst tensions about Ukraine, sanctions against Russia and the Ebola outbreak, further widened the agenda scope. The new set of issue areas was organized towards achieving three broad aims: the promotion of strong, sustainable economic growth and employment (by supporting the private initiative); increasing the resilience of the world economy (not just the G20 members) to future shocks and crisis, and strengthening global institutions relevance and work.¹⁵ The need to produce positive spillover effects to other group's members and the rest of the world was accentuated. The inclusion of a number of geopolitical issues (e.g. climate change, the Ebola and pandemics, Ukraine, etc.) clearly pointed out that the whole of the international community faces today numerous non-economic challenges and that the G20, if it strives to become a 'world government' must stretch over its members' economic boundaries/interests¹⁶.

13 The Business 20 (B20) is a gathering/forum of international business community, as part of the G20, created to solicit business views and recommendations regarding the issues the G20 is dealing with.

14 From: <http://www.g20.utoronto.ca/2013/2013-0906-declaration.html>

15 Details available from https://www.g20.org/g20_priorities

16 For critical reviews, see for example Kirton, J (2014). *The G20 Discovers Global Health at Brisbane*. Available from <http://www.g20.utoronto.ca/analysis/141115-kirton-ebola.html>, or Bracht, K., Kurik, J. (2014). *Sticking to the Core, Ignoring the Current*:

The G20 performance and accomplishments

When examining the performance of G20 summits, various aspects and criteria need to be taken into consideration, e.g. the state of the world economy, particular crisis consequences in some regions (like the Eurozone crisis), the scope of the group's agenda, number of commitments, the level of compliance, etc. Researchers from the University of Toronto (Kirton *et al.* 2012) have analyzed the performance on the basis of several criteria: support given to specific G20 measures in domestic political interplay, outlining directions for principles and norms that should be internationally adopted, adequate decision making process (to deliver clear collective commitments of binding nature), the members' compliance level, and the development of global governance (both within the G20 and in relation to other international organizations). From all these aspects, one can conclude that a general performance of the G20 has improved since the first summit in 2008, although such a trend has not been even in all aspects. For instance, the general level of commitment was the highest after the first summit in 2008 (+0.67), then it gradually declined (London, Pittsburgh, Toronto in the range +0.23 to +0.28), improved again in 2012 (+0.55) but slightly declined in 2013 and 2014 (+0.44)¹⁷. (Kirton 2012: 2, Bocknek *et al.* 2014: 2).

In the period 2008 to 2012, the G20 members' individual compliance averaged to +0.34. The highest compliance was attained with the regard to the IMF reform, the economic growth and employment (in 2013/2014), while the commitments made in the areas of structural reforms and financial regulation were much less complied with. In the period 2008 – 2014, the domain with the lowest level of the G20 commitments has been the trade, i.e. commitments to refrain from protectionism (-0.35).

Referring to Krasner's understanding of international regimes as a possible form of global governance (Krasner, 2006), let us make an attempt to outline some of the basic principles and norms of a global economic policy defined by the G20¹⁸. Markets should remain open

The Brisbane G20 Summit. Available at <http://www.g20.utoronto.ca/analysis/141116-kulik-bracht.html>.

17 University of Toronto G20 Research Group assesses the compliance level in the following way: +1 is full compliance, 0 is partial compliance or work in progress, while -1 is non-compliance with the agreed commitment.

18 A summary of all the commitments, area by area, made in the period 2008-2014 can be found at: <http://www.g20.utoronto.ca/compliance/commitments.html>

and liberalized (including the norms of diminishing state intervention, structural reforms of labor market and tax systems, etc.), as well as international trade (with the norms to eliminate protectionist barriers). States should carry out a balanced fiscal policy (through the norms of fiscal deficit reduction and debt stabilization). International liquidity is of the utmost importance for the global economic revival (hence, international financial institutions should be modernized, liquidity surveillance should be reinforced, etc.). Financial regulation should be improved and coordinated across boundaries to allow for the financial markets' integrity and transparency (with the norms of global accounting standards, higher capital base for banks, integrated stress testing mechanisms, etc.). 'The G20 can further promote financial regulation through enforcement of the new rules at the national level and the establishment of a monitoring system by the relevant international institutions on the mandate from the G20. Such 'leadership by example' can help boost the G20 status as an effective and legitimate global governance forum' (Mapping G20 Decisions Implementation 2012: 7). Nevertheless, the comprehensiveness of the proposed regulation varies between the segments of a new global regime, supporting the argument of Keohane and Victor (2011) that regulatory advancements can be made in distinct parts of a transnational issue area even in the absence of a single, unified regime.

The varied levels of comprehensiveness and of regulatory advancements can be attributed to several reasons. Firstly, the G20 (as opposed to the G7/G8) brings together many more national political/economic programmes and agendas, so compromising is far more difficult than among the leaders of seven/eight countries. Second, the G7/G8 creates a particular environment that allows close consultations and personal contacts (with an expected high level of compliance afterwards), which is almost impossible to achieve during the G20 meetings. Third, having BRICS countries in the group might be seen not only as openly respecting their growing economic/political strength but also as acknowledging that the seven industrialized countries are not a single 'pole' of the world development any more. Having this in mind, one might not be surprised that different types of proposals coming from BRICS (and other developing 'challenger' countries in the group) and asking for more radical changes in the world economic and financial system¹⁹ have

19 Since 2008, BRICS countries have openly challenged the current international financial architecture (mainly, the structure, voting system and activities of intergovernmental financial institutions, the role of the US dollar as international liquidity, pres-

influenced a varying degree of the regime's regulatory advancement. Finally, another difference between the G7/G8 and the G20 norms are that the former have mostly remained in the declarative, neo-liberal conformance area, with some exceptions related to standardization and monitoring of macroeconomic data (Wade 2007), while the latter are mostly followed by concrete actions plans, on country-by-country basis, developed in conjunction with other international organizations as well.

So, norms were designed and commitments made, but what is left as a critical component in devising a global economic policy is their implementation at the national level.

Soft law as a legal concept

As noted, dynamic global economic relations of today require new instruments of their governance/regulation. Traditional and numerous international legal instruments, like international conventions and treaties, have been devised and put in practice to manage transnational issues. In line with their nature, such international instruments have always needed to be incorporated into national, hard law. However, recent history of international relations has emphasized the significance of other instruments, such as strategies, guidelines, conclusion, recommendations, and 'white papers', sometimes termed 'administrative non-binding rules' created to manage/regulate certain issue-areas. Such non-binding rules are today known as the concept of soft law.

There is yet no universally accepted academic definition of soft law. Hard law is based on the legal norm as a rule of conduct, implementation of which is guaranteed by the state and therefore it is based on obligation. In contrast, the concept of soft law has not yet been fully developed, but it includes a wide range of modalities, such as principles and tenets, model laws, recommendations. Amongst numerous attempts to define soft law, three clear theoretical directions can be identified.

Some authors consider the issue of legal obligation as the key criterion in defining soft law: due to the absence of obligation in soft law norms, it cannot even be considered a law (Arend 1999: 25). Others

tures put on them to adjust their currency policies, etc), and have organized several summits of their own, culminating in 2014 with foundation of New Development Bank, as opposed to the IBRD and the IMF.

advocate a view that even though it does not have a binding character, soft law shapes expectations and behavior of subjects (Guzman 2005: 591). Snyder, for example (1995: 51-87) defines soft law as a set of rules without legally binding power, but which nevertheless produces certain legal consequences in practice. Yet other authors (Abbott, Snidal 2000: 421-456) explain soft law as rules created with the expectation that they will be given the force of law either through national legislation or binding international agreements, i.e. international rules as a basis for developing domestic legal rules (Mayer 2010).

We can conclude that soft law is a complex and contradictory phenomenon with positive and negative sides. Its existence blurs the boundaries between positive law and agreements, i.e. it creates norms without integral obligation, wherein particular emphasis is placed on the principle of good will in honoring the obligations undertaken by agreement (Bunčić 2012: 281). There is no doubt that soft law is a concept used in an interdisciplinary and transdisciplinary discourse - somewhere at the intersection of law, economics and politics (Vuletić 2011: 1012). In this context we could conditionally define soft law as a non-binding normative framework, implementation of which is conditioned by the will of the norm's addressee. In this way, it is easier to distinguish it from mere political promises because the lack of the legally-binding character of its norms does not imply a complete absence of the obligation in the material sense. Advantages of soft law can also be derived from various, non-legal modalities of its enforcement and sanctioning (moral pressure, warning, reprimand, naming and shaming, conditioning, granting or denial of assistance) that may produce strong influence on the conduct of the addressee.

One can distinguish three basic functions of soft law. The first function is a pre-law function, when soft law paves the way for the creation of hard law provisions. The second function is a law-plus function, when soft law is used for filling legal gaps and interpretation of hard law. The third function is its para-law function when it compensates for the lack of hard law provisions, under the condition that these two laws are complementary and their interaction produces positive outcomes (Peters, Pagoto 2006: 22-24). The functions of soft law have indeed proved to be quite useful when rules are to be designed and implemented in complex/complicated structures with transnational issue-areas.

Possible models of soft law implementation

One of the most important questions, raised at the beginning of the paper, is how to ensure a higher degree of implementation of internationally-agreed rules at the national level. An excellent example in this regard is the EU, as a community of 28 states, particularly when it comes to the implementation of the EU-agreed rules at the national level. Analyzing different methods used in the EU to create and implement the supranational regulation, one can identify wide common grounds to the work of the G20.

The realization of the EU Lisbon Strategy relies on a particular soft-law implementation model - Open Method of Coordination (OMC). This model presents the most flexible approach in managing the EU. It relies on a set of mutually agreed indicators and metrics that allows the members to pursue the realization of the defined goals in different ways, the latter not being legally prescribed at the EU level. The model has different applications in various issue-areas, such as the employment, social inclusion and health protection. The differences in its application include a varying time table, types of the expected results, number of participants and role of the common institutions, as well as the level of already existing harmonization in the issue-area.

It is possible to identify another model of supranational governance through soft-law in the area of the EU fiscal coordination (EUFC), regarding the implementation of the Lisbon Treaty (which is itself considered a hard law). The EU fiscal coordination system relies primarily on the soft-law instruments, such as general guidelines for the members' economic policy and the multilateral surveillance of their fiscal policy. However, certain regulatory elements in the fiscal area are of a binding-nature, for example the level of fiscal deficit (Lisbon Treaty: Excessive Deficit Procedure) and the EC's actions when this level is exceeded. In this way, the model is a specific combination of hard- and soft-law instruments, called the theory of hybridity (Trubek, Cottrell and Nance 2005)²⁰.

Another example of soft law implementation is the 2003 EU's Forest Law Enforcement Governance and Trade Action Plan (the Forest Plan), aiming at improving forest sustainable management and reducing ille-

²⁰ Theory of hybridity argues that certain regulatory areas/domains (particularly regarding cross-border issues) need or allow both hard and soft-law processes to operate simultaneously and to affect the same actors,

gal logging It includes numerous private and public actors, as well as actors outside the EU through Voluntary Partnership Agreements (VPAs). The initiative covers a number of interrelated issues, such as legal forest management, improved governance, trade in legally produced timber, promotion of public procurement policies and private sector's voluntary codes of conduct, appropriate finance to support such conduct and procedures, etc. This model of soft law implementation has been emphasized as an example of an effective supranational regulation of a complex issue-area (Overdevest and Zeitlin 2014). From the experimentalists' view, the Forest Plan is an example of a new governance model that might prove useful also for other transnational issue-areas, due to its particular nature. Such a governance architecture is highly flexible and a 'learning' one: common, provisional goals are set and revised if necessary, based on the experience of the governance subjects in reaching the goals by alternative routes. In the case of the Forest Plan, common, broad goals have been set and progress metrics developed. Local subjects (i.e. lower-than-central, regulatory actors) from both public and private sector enjoy a high level of discretion to pursue the agreed goals. Monitoring and reviewing processes have been established to compare progress achieved through different routes taken by local actors. Finally, the goals, metrics and procedures are revised and new actors brought in, if necessary. Beyond the forest sector, the EU uses this model also for the regulation of energy, telecommunication, food safety, etc. The relation between such a soft-law model and the traditional hard-law governance is exemplified by the Voluntary Partnership Agreements component of the initiative: these legally binding international agreements are concluded with non-EU stakeholders in the related issue-areas. Despite its usefulness, this component of the model widely opens the opportunities for non-equal treatment of other countries/actors and the related discrimination.

From the presented models, one can conclude that soft law certainly provides a framework for new, supranational governance concepts to emerge. Although the examples may seem quite similar, there are significant differences among them. The Open Method of Coordination and the Forest Plan models do not feature explicit and concrete goals and the related rules, as the model of EU fiscal coordination does (Theory of Hybridity), but only overall goals (the Open Method of Coordination) and provisional, not precisely defined goals (the Forest Plan). The Open Method of Coordination and the Forest plan also do not rely on formal binding documents, with defined standards and prescribed instructions

to be deployed at the national level, as does the EU fiscal coordination. On the other hand, latter does not include various types of actors and stakeholders, as the other two models do (particularly the Forest Plan which heavily relies on private actors), but depends on states and their hard-law implementation force. The EU fiscal coordination is a highly centralized and structured model that draws its efficiency from the state power and hard-law norms. However, it does not always function with high effectiveness because it does not take into greater account national goals/contexts, and is only exceptionally open for revision. Contrary to that, the other two models seriously consider local conditions (to a different extent) and are open to revision of the goals and methods, but sometimes they are too slow to start and develop. So, each of the models has its positive and negative sides, but in comparing them one must bear in mind that they have been created for very different issue-areas and purposes.

The presented models also seriously challenge the three basic assumptions from the beginning of our research: the Westphalian system of states (not capable of dealing with complex, supranational issues), national policies (also not adequate for responding to cross-border issues and their linkages), and hard-law norms (necessarily bounded by borders and difficult to harmonize). Recent theories of hybridity have paved the way for defining soft law as a mixture, i.e. the interaction of soft and hard law. One of the consequences of such interaction will present a new challenge in the form of soft law 'hardening', which may lead if not towards the creation of a hard legal norm, then certainly to custom building and uncertainty reduction (Bunčić, Filipović 2011: 3754-3755).

Soft law and G20

This paper focuses on the use of soft law instruments by the G20, as one of the ways to create and implement a future, global economic regime. The main legal instruments used by the G20 are 'communiqués' and 'declarations', which represent the instruments of soft law. These legal documents are usually published at the end of the summit and inform the general public about the agreements reached.²¹ These non-binding communiqués also contain information about future initiatives and tasks of the international bodies responsible for their implementa-

21 See, for example: *Communiqués*, G-20, http://www.g20.org/pub_communiques

tion. In order to give them more strength and ensure their implementation, the G20 has formed working groups in charge of various issue areas (international accounting standards, prudential management, etc.) and has also strengthened links with other international organizations (such as the International Monetary Fund, the Organization for Economic Cooperation and Development, etc). In addition to the obligation of harmonizing the adopted rules, the working groups are required to monitor the implementation of the agreed and report on the implementation success. The range of soft law instruments expands due to public announcement of the reports of the G20 working groups²², as well as due to the display of progress compared to the previous summit.²³ Noncompliance of the G20 members (government by government) in relevant areas is particularly emphasized, thus putting more pressure on the concerned governments, clearly showing that soft law is used somewhere at the intersection of law, economics and politics. Such pressure has not only been directed to a simple achievement of the agreed goals because their total accomplishment is assessed as unrealistic. The recent practice of the G20 has included a new instrument of soft law – active discussions, aimed at constantly persuading all member states to adjust their national legal and economic system to the globalization process²⁴. A deeper analysis of this new instrument shows that soft law instruments are indeed instruments at the disposal of industrially developed countries.

When the G20 activities are examined in the context of the present models of soft law implementation, a number of conclusions can be drawn. The present activities in creating and implementing a G20 global economic regime display characteristics of all the three models: mostly from the EU fiscal coordination model, than the Open Method of Coordination and least from the Forest Plan. Today, the greatest similarity (at least from the formal aspect) can be observed between the EU fiscal

22 See: The G-20 Working group 1: Enhancing Sound Regulation and Strengthening Transparency, at i–ii, xvii, 1, 22, 40–41 (Mar. 29, 2009), http://www.g20.org/Documents/g20_wg1_010409.pdf;

G-20, G20 Working Group on Reinforcing International Cooperation and promoting Integrity in Financial Markets (WG2) 11–12, 36–37 (2009), http://www.g20.org/Documents/g20_wg2_010409.pdf

23 See: The G-20, Progress Report on the Economic and Financial Actions of the London, Washington and Pittsburgh, G20, Summits (2010), http://www.g20.org/Documents2010/07/July_2010_G20_Progress_Grid.pdf

24 See, for example, The G-20's Accountability Assessment framework, available at <http://www.mofa.go.jp/files/000059856.pdf>

coordination model and the G20 activities. The group membership is restricted to states and international governmental organizations. The overall goals are more or less concretely defined, depending on the area, referred to previously as principles or basic values of the G20 regime. Instructions have been given or they are widely known (e.g. there are only a few methods to curb fiscal deficit in order to achieve the basic goals). A great part of the nationally-based activities, stemming from the G20 conclusions, needs hard-law backing from their own legal systems, although the conclusions themselves are not legally binding.

The similarity between the Open Method of Coordination and the G20 activities can be identified in the implementation area. The method has four levels of implementation. The first level is the European Council's (EC) adoption of the objectives and guidelines for their implementation. It might be compared to the adoption of common objectives established at the G20 summits. The second level is the EC's determination of quantitative and/or qualitative indicators for evaluating the implementation effectiveness. In the case of the G20, this might be the level of various working groups that monitor the implementation progress. The third level of the method is the implementation of agreed goals on the national and/or regional level, but in line with the specific conditions therein. Compared to the G20, this level is a major distinguishing line. In the case of the G20, this level of implementation has been reached only in certain areas (as noted, the binding rules from the London Summit), such as international accounting standards and payments. For other issue-areas and particular issues, regardless of numerous conclusions, one cannot identify the third level of the Open Method of Coordination model. The fourth level of the method is the final level at which mutual evaluation of the achieved results is made by the EU Council, through the work of the European Commission and independent bodies.

Bearing in mind critical differences between the EU and the G20 (the first being a formal union of states while the second is an informal international governmental organization of a decisional character), it is obvious that the full application of the Open Method of Coordination through the four levels cannot be replicated by the G20 but the use of the experience should be instrumental. This primarily concerns mandatory implementation of the agreed goals: the EU can enforce the implementation while the G20 lacks that capacity. Secondly, the process of agreeing on common principles and goals among the EU members has

been formalized to an extent much higher than within the G20, thus allowing (at least, formally) for equal powers of the EU members. Thirdly, the level of differences (economic, political and legal) among the EU members is certainly lower than the one among the G20 members, thus facilitating the process of defining common goals and their implementation.

On the other hand, the main advantage of the Open Method of Coordination is its flexibility. The method is not a rigid implementation process and differs with regard to the field of application and the desired level of alignment. Using this experience the G20 may improve the process of cooperation among the member states, not only in the formulation of the communiqués but also in establishing common goals more precisely. Each member state may then find it easier to make more detailed plans of possible implementation and achieve a wider progress in implementation of the agreed objectives (Meyer, Barber, Luenen 2011: 18). In addition, the G20 may include all the members in the deliberation process, that should be continuous and not only in times of the summit preparation. In this way, the present mechanisms for the summit preparation and adoption of common positions would be transformed into an institutionalized mechanism that would foster the implementation of the agreed objectives. In addition to the fact that the Open Method of Coordination lacks legally binding features, there are critical structural differences among the G20 member states. So, specific circumstances within the group do not allow the application of the principle 'one measure for all'. Overcoming of such difficulties probably requires further work on combining this method with other soft law instruments.

Finally, if the G20 activities are compared with the Forest Plan model, not many similarities can be found at present. It might be that a regime, for such a complex issue-area as the world economic policy is, cannot be built on a set of provisional goals (for example, 'let us plan for a reduction of unemployment and see what happens later'). Hypothetically speaking, if the Forest Plan cycle of learning from experience had been applied, it would have probably caused further deterioration of global economic conditions. Furthermore, if a high level of discretion had been granted to the G20 members in achieving the overall goals, for example in managing the current account deficits, this would have seriously impacted numerous other economies, thus endangering the realization of the overall goals. Still, certain developments regarding the G20 go in line with some the Forest Plan features, for example, an increasing involvement of other-than-state stakeholders (civil and business groups,

youth, academia, etc). In addition, similarities can be found regarding the G20 success in regulating particular parts of the issue-area, and the related (though segmental) advancement of a new, world economic regime.

Conclusion

The current crisis has significantly intensified a world-wide debate on global economic governance and the need for a new global economic/financial order or regime. Despite numerous differences among the ideas and the actors of the debate, two basic dilemmas are crucial: how to devise norms for the global, interdependent economy (with a proper governance structure to oversee their implementation), and how to devise a system to have the agreed norms implemented in practice. The paper's main hypothesis has been that a new economic world order or regime is being created by the G20, and that its implementation could be successful if soft law instruments were used more consistently and taking into the account the existing experience in using such law model.

Although the enlargement of G7/G8 into the G20 was presented as a decision taken by the leading industrialized countries, it can be today also viewed as an evolutionary process and not simply 'growth' of the two groups. One of the reasons behind such a conclusion may include inter alia the fact that neither the US nor other challenger-countries (like, e.g. China, Germany, Russia) could superimpose their economies/states as the 'imperial' ones – with all 'prerogatives' this status may include, such as the national=world currency, basic rules of a world economic regime, etc. Simultaneously, most of the leading economic/political actors in the world of today acknowledge the fact that the uneven and combined development of competing national economies have created a multicolor world wherein national economic and political differences are here to stay for a significant time in the future. So, a new age of multi- or minilateralism (bearing in mind that the G20 is a limited-membership group) may be seen a way to further economico-political dialogue on the regulation of economic flows in this interconnected and interdependent way. The more such differences are acknowledged, negotiated over and built in soft law instruments to make them regulatory applicable, the more this new regime, advanced by the G20, will be effective in achieving the overall goals of a less uneven but still combined economic development in the world.

As to the main hypothesis of the paper, a certain level of success in building such a global economic regime can indeed be detected in the work of the G20, although this success has not been even in all issue-areas. This new global regime would be based on several principles, such as: open and liberalized markets, unrestricted international trade, balanced fiscal policies, strengthened system of international liquidity, financial regulation coordinated across boundaries, etc. However, the success in elaborating and implementing the principles has not been even: most of the regulatory advancements have been made in the financial area while least commitments have been made to keep international trade free from protectionism. Even so, these developments could form a basis for a new supranational governance regime to emerge.

The G20 may have taken the lead in creating a global economic policy forum, but in the world of today, wherein the Westphalian borders limit the impact of hard law, the soft law concept may open opportunities for such coordinated policies to be successfully implemented on the national level. Recent theories of hybridity have paved the way for defining soft law as a mixture, i.e. the interaction of soft and hard law, thus increasing the probability of successful implementation of the agreed principles and goals. Nevertheless, the G20's activities in creating and implementing a new regime for the global economy may further improve if positive experience from other supranational governance concepts and models are taken into the account, from the developed but also developing world. Finally, the effectiveness of such a new regime could also benefit from a more balanced approach towards national differences (level and structure of economic development, national economic goals, peculiarities of national legal systems, etc.) taken regarding not only the group's members, but also the rest of the international community.

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Uroš V. Šuvaković,
University of Priština with the temporary seat in Kosovska Mitrovica,
Faculty of Philosophy, Department of Sociology¹

Orientation towards EU Integration and Existence of Euroidentity – Serbian Students Attitudes^{2 3}

Abstract

This paper is based on the empirical research conducted among students in Serbia, at two universities: University of Belgrade and University in Priština with the temporary seat in Kosovska Mitrovica. Results obtained show that the issue of EU accession and the feeling of European identity are not one and the same thing. While students show a closely pro-European orientation, the percentage of accession support varies due to the influence of various factors (developments in Kosovo and Metohija, various statements by EU officials that are perceived as conditionalities for Serbia). However, when asked if they had some supranational identification, i.e. if they felt like Europeans, a small number of them identified themselves as such. This finding on the absence of a European identity combined with a positive orientation regarding the accession to the EU affirms Brzezinski's thesis from his interview with D. Rothkopf (July 2014) that the "EU then turned out to be, in the end, essentially a distributed arrangement in Brussels involving money and quid pro quos, but very little sense of common purpose".

Keywords: accession to EU, Euro-identity, students' attitudes, Serbia

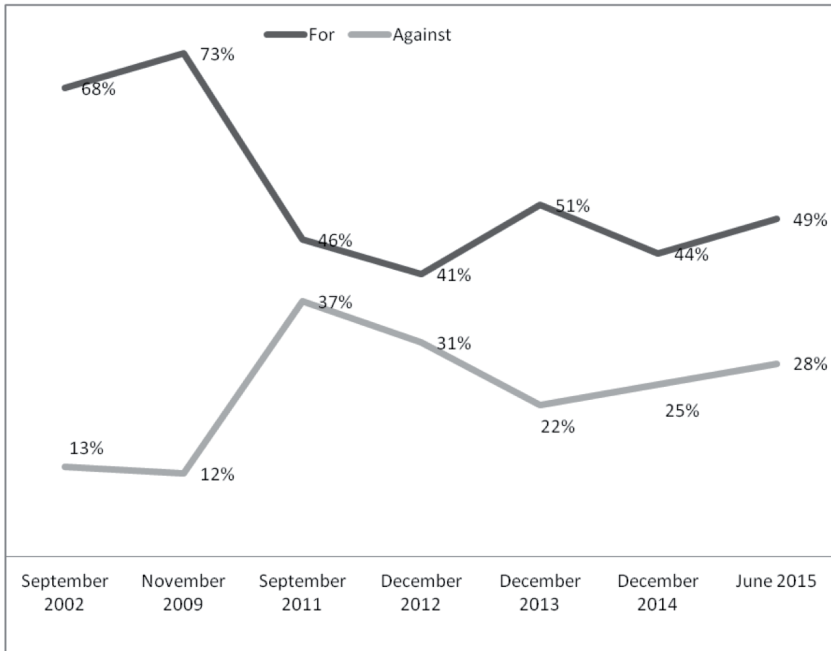
1 Associate professor
uros-s@eunet.rs

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3 Statistical processing of survey data was done by colleague Jasmina Petrović, from Faculty of Philosophy in Niš and their graphical presentation was done by Aleksandra Šuvaković, from FILUM in Kragujevac. I am grateful for their help.

The issue of EU integration is one of the key issues in the Serbian society today. It is the subject of everyday scientific, practitioners', but also general social debate and accession to the EU is the goal that has been set as non-alternative by all post-2000 Serbian governments, partly with the exception of Kostunica's 2003-2007 government (Šuvaković, 2010). Even the definition of the Republic of Serbia as the state that is "based on ... affiliation to the European principles and values" was included in Article 1 of the new Constitution of the Republic of Serbia when it was adopted (2006). If it is known that the adoption of the new Serbian Constitution was the matter of consensus of the leaders of parliamentary parties, then there is no doubt that the orientation of the political elite in Serbia is pro-European as largely demonstrated in practice. However, regarding the orientation of the general population of citizens above the age of 18 (voters), the situation is not so clear-cut. According to the public opinion poll from December 2014 (European Integration Office, Government of the Republic of Serbia, 2015), only a relative majority of 44% of citizens would vote "for" the accession of Serbia to the European Union if the "referendum is held tomorrow", 25% would be against, 21% would not vote, while 10% replied that they did "not know" how they would vote. Compared to such attitudes of the Serbian public opinion recorded in the December 2014 poll, the survey from June 2015 showed that the number of those who would vote "for" increased by 5%, but the number of those who would vote "against" also increased by 3%, while the number of abstainers, as well as those who did not know how they would vote, dropped by 4%, respectively (European Integration Office, Government of the Republic of Serbia, 2015). However, if the trend of support for Serbia's accession of the EU is observed over a longer period of time, then a considerable decline in citizens' support to accession can be noted: in answer to the question about the accession to the EU in a referendum that is "held tomorrow", in September 2002, 68% would have circled the answer "for", 13% "against", 10% would not vote, while 9% replied with "I don't know"; within the entire period in which opinion polls were conducted the maximal percentage of "for" votes was obtained in November 2009, 73% "for" and 12% "against", while for the first time support dropped below one half in September 2011 – 46% "for" and surged to a high 37% "against". Henceforth, the votes "for" have oscillated between 41% (December 2011) and 51% (last time in December 2013), and reluctance towards EU accession between the minimal 12% (November 2009) and the maximal 37% (September 2011).

Graph 1: *If a referendum was organized tomorrow, with the question “Do you support membership of Serbia in the European Union?” – How would you vote?* (General population of citizens above the age of 18)⁴



It is possible to draw several conclusions from Graph 1: the trend of Euro-optimism in Serbia within the general population above the age of 18 has been declining since November 2009, when it had an absolute peak in the last 13 years, with support to Euro-integrations of Serbia falling under 50% for the first time in September 2011, when the highest percentage of explicit resistance to the accession of Serbia in the EU was recorded. Since then, only once, in December 2013 better-than-ever support (51%) to accession of Serbia to the EU was recorded. Moreover, the latest poll showed an increase in both supporters and opponents to Serbia's accession to the EU, which is an indicator of a deepened division on this issue within the Serbian society.

We were, however, interested in the orientation of students regarding the accession of Serbia to the EU. In that scope, we wanted to in-

⁴ Graph compiled by the author based on the data from public opinion polls: “European orientation of Serbian citizens: Trends” (Government of the Republic of Serbia - European Integration Office 2009, 2014 and 2015)

investigate a) if there is a discrepancy regarding the general population; b) what students consider to be “European values” in connection with “Euroidentity”, and what they understand as “Serbian values” in connection with “Serbian identity” and if there are compatibilities between the values that they experience as elements of European, and of Serbian identity; c) do they identify themselves as “Europeans”, i.e. which supra-national identity do they assign to themselves, except the national; d) what are the students’ expectations from EU accession.

The selection of the student population for the research on attitudes toward EU integration and Euroidentity is not a coincidence. They represent the most educated segment of society and in the near future should become the driving force of social development, expansion of democratic cultural patterns and ideas of tolerance. For this reason, it is justified to note how they experience European integration, whether as something that they imply as part of their own identity, something that would be useful at a certain moment, or if they reject it as undesirable. The research was conducted in 2014 among the students of the greatest Serbian University – University in Belgrade and among the students of the only University in the territory of the southern Serbian Autonomous Province of Kosovo and Metohija – University in Pristina with the temporary seat in Kosovska Mitrovica (hereinafter referred to as: the University in Kosovska Mitrovica). The conditions in which the students of these two Universities live and study differ significantly: the University of Belgrade is in the capital of Serbia with a population of 2 million, radiating openness, cosmopolitan spirit, multinational in its ethnic composition. The last war events are related to the NATO aggression in 1999 to which the ruins in its downtown area are the only reminder. Students in Kosovska Mitrovica live in a city ethnically divided along the Ibar river (the northern part is Serbian, the southern part is Albanian), and, almost without exception, have in their families someone who was killed in 1999 or in subsequent ethnically motivated incidents (from murders to injuring and fights) and the level ethnic distance of Serbian students toward Albanians is extremely high (Šuvaković, Petrović 2014). However, a common element for both Universities is a very similar ethnic structure: 93.1% of students in Belgrade declare themselves as Serbians, 2.2% as Montenegrins, 0.7% as Bosnians/Muslims, or Roma, respectively, 1.5% did not want to declare their nationality, while others are members of other ethnic communities living in Serbia; in Kosovska Mitrovica 91.3% of students declare themselves as Serbians, 3% as Bosnians/Muslims, 2.7% as Gorani, 1.5% as Montenegrins, 0.6% as Roma

and 0.9% of students did not want to declare their nationality. Besides, since Kosovo proclaimed its so-called “independence”, the media, but also political statements of higher or lower ranking European officials have been sending the message that recognition of that “independence” will be an additional condition that the EU will set before Serbia in order to accept its membership.

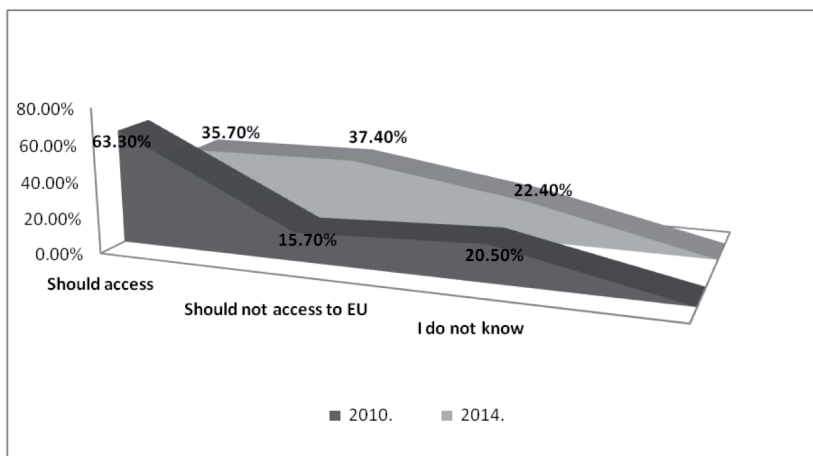
The research was conducted by survey based on a sample of 413 examinees in Belgrade and 345 examinees in Kosovska Mitrovica. Sampling in Belgrade was performed in two phases: all four groups of faculties⁵ are represented proportionally to their participation in the student population, then at least two faculties were chosen from each group and students from these faculties were questioned. Students of all 10 faculties in Kosovska Mitrovica were questioned proportionally to their participation in the student population. The same sample and data-collection methodology were used in our previous researches: among the the University in Belgrade students in 2010, and among the University in Kosovska Mitrovica students in 2009, 2012 and 2013. The results from these surveys will be used just to show changes and trends in students' attitudes.

However, regarding the student population at the University in Belgrade and the University in Kosovska Mitrovica, our research results provide a picture that is, to some extent, different from the one obtained from the research of general population. As shown in Graph 2, the orientation of Belgrade students in 2010 was distinctly pro-European with an absolute majority, while in 2014 the relative majority of Belgrade students was oriented anti-EU integration (the difference is only 1.7% in favor of the opponents of Serbia's EU integration, so it can be considered that powers are equal). However, regardless of the small difference, prevalence of the opponents to EU integration among Belgrade students represents a deviation regarding the general population, where such a result has never been recorded since such surveys were initiated (2002). Such a result is even more marked among students in Kosovska Mitrovica (Graph 3): while the relative majority (44.7%) of the local students considered in 2009 that Serbia should accede to the EU, in 2014 the absolute majority of them (61.8%) would vote “against” Serbia's EU-integration and only 17.6% “for”. Therefore, we may say that there is correlation between the decline of support to EU integration among the

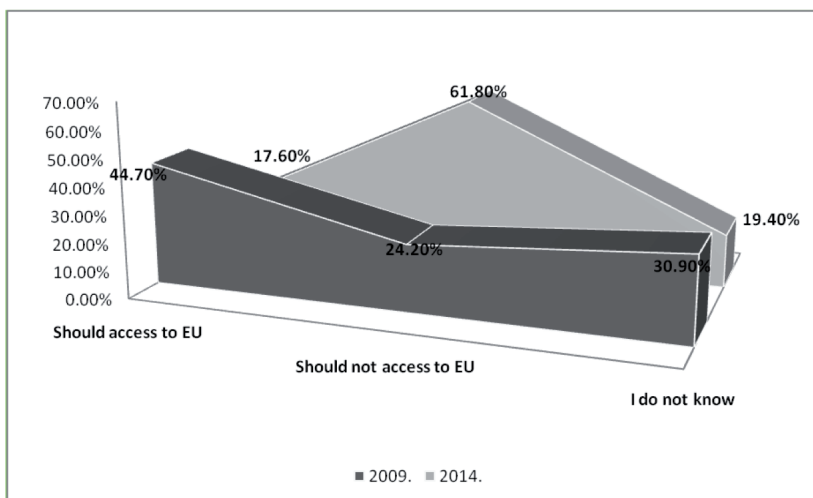
5 University in Belgrade consists of 36 faculties, arranged in four groups: social-humanistic, technical-technological, medical and science

general population and the decline of support to accession of Serbia to the EU among students, as well as that such decline in support is more significant at student population.

Graph 2: *If conditions were the same as for other states that are already EU members, in your opinion, what should Serbia do? (Students of the University of Belgrade)*

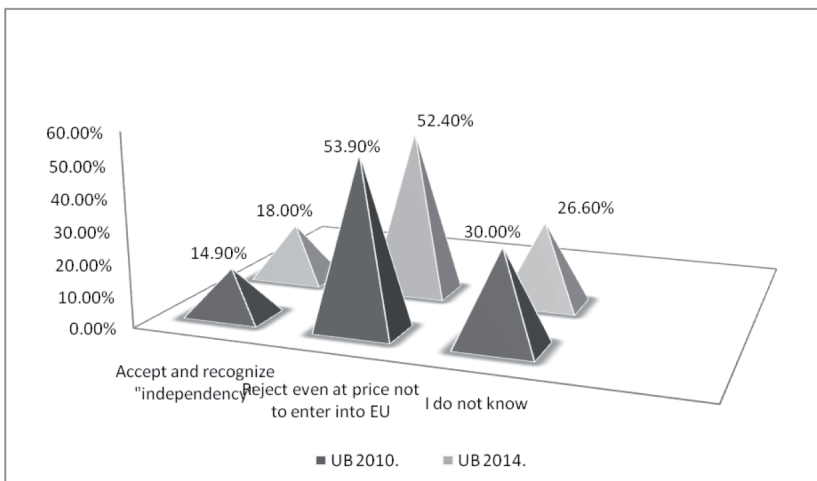


Graph3: *If conditions were the same as for other states that are already EU members, what should Serbia do in your opinion? (Students of the University in Kosovska Mitrovica)*

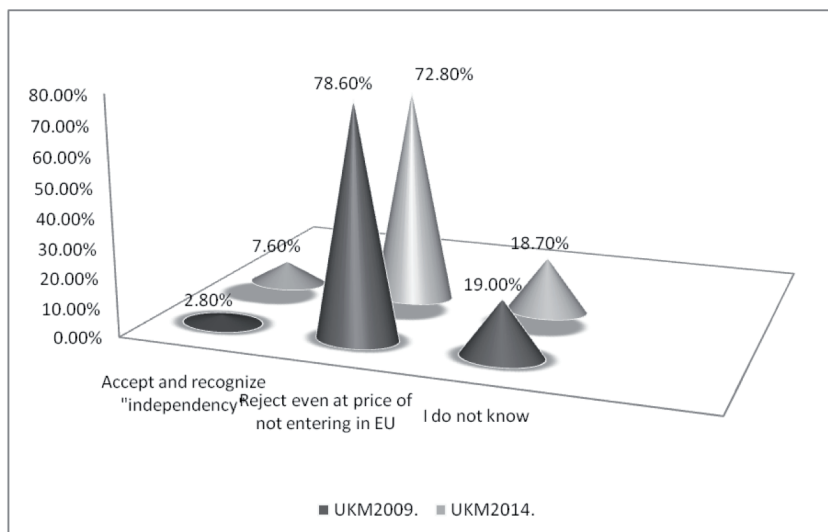


In our research conducted in 2013, two weeks before the signing of the Brussels Agreement, we already established an overwhelming resistance of students in the north of Kosovo to EU integration of Serbia (51% “against”, 31.8% “for”). However, it is evident that the Brussels Agreement not only consolidated but also amplified the resistance among the students from the north of Kosovo to Serbia’s EU integration. Certainly, one of the reasons is their concern regarding the implications of this Agreement for the survival of Kosovo and Metohija within the Republic of Serbia, i.e. fear that it will attempt to integrate the Serbian community into the so-called “Kosovo society”, which was resolutely rejected by the local students from the Serbian north of the province. This attitude is clearly shown in Graph 5, which captures the response to the question on what stance Serbia should take if the EU posed recognition of the so-called “independence of Kosovo” as a condition for its EU integration. Almost $\frac{3}{4}$ of the students of the University in Kosovska Mitrovica stated that “Serbia should dismiss that condition and declare that it will never accept independence of its southern province, even if it never joins the EU”, while the same attitude is shared by slightly over one half of Belgrade students (Graph 4).

Graph 4: *What stance should Serbia take if recognition of Kosovo independence by Serbia should be posed by the EU as a condition for our accession to the Union? (Students of Belgrade University)*



Graph 5: *What stance should Serbia take if recognition of Kosovo independence by Serbia should be posed by the EU as a condition for our accession to the Union? (Students of University in Kosovska Mitrovica)*

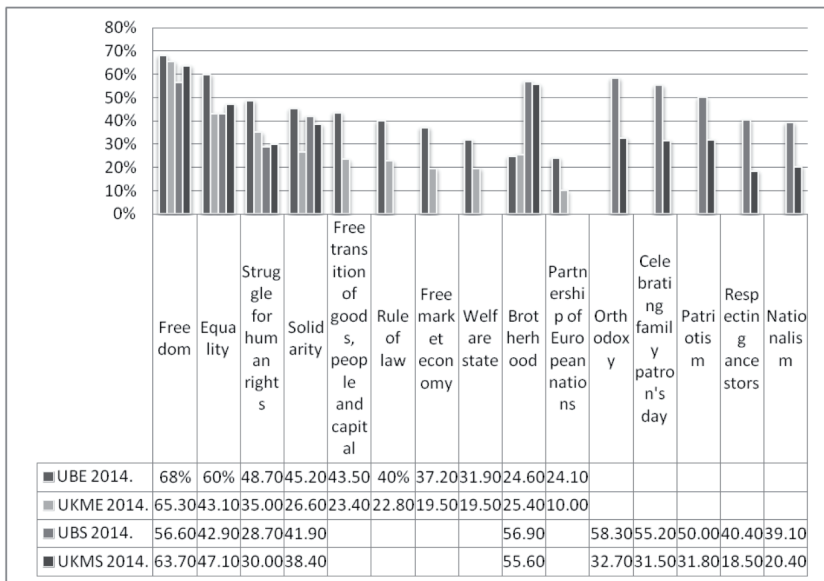


These findings lead to the following conclusions: Serbian students in 2014 changed their opinion and in greater or smaller extent – depending on the social environment where they live and work – are against EU integration of Serbia; if recognition of the so-called “independence of Kosovo” by Serbia is posed as the condition for EU integration, our former finding is confirmed that “students of both Universities absolutely think that Serbia should reject such the request and declare that it will not recognize the independence of Kosovo even at the cost of not acceding to the EU” (Šuvaković, Petrović 2010: 296). In previous researches, this attitude had support higher by several percentages. However, this does not change our conclusion regarding the resolve of students to reject waiving of the part of the territory of Serbia (Kosovo and Metohija) in favor of EU integration.

Given that the considerable differences in students’ attitudes to EU integrations were recorded within the period of only a few years, we assumed that one of the reasons was that their attitude to the membership in the Union was not well established by value. In that regard, we were interested to find out which values Serbian students viewed as part of being “European” and which ones they considered “Serbian”. For this

purpose, we asked students two separate questions, offering them a list of 17 “European” and 20 “Serbian” values, with a possibility of an open answer. Out of the offered values, 14 of them were repeated on both lists, to some “European” values “Serbian” equivalents were offered (in three cases: Eurocentrism = Serbian nationalism, partnership of European nations = parliamentarianism (sabornost, conciliarity) and Euro-patriotism = Serbian patriotism), and three more values were added to the list of Serbian values that are often found in researches as Serbian identity elements: orthodoxy, celebrating the family patron saint’s day and respecting ancestors.

Graph 6: Top ten values that Serbian students perceive as “European”, or as Serbian



The values that Serbian students (though in different percentages) perceive as both European (UBE and UKME) and Serbian (UBS and UKMS), which can be seen in the Graph 6, are: all the values of the French bourgeois revolution – liberty, equality, fraternity, also advancement of human rights and solidarity. The economic-neoliberal (free market economy, free movement of goods, people and capital) and certain social values (rule of law, welfare state, fraternity of European nations) are perceived only as European⁶, while on the other hand, the

6 In an EU-wide research conducted in 2014, it was requested from examinees to rank the EU's biggest achievements. "Over half of Europeans continue to rank the

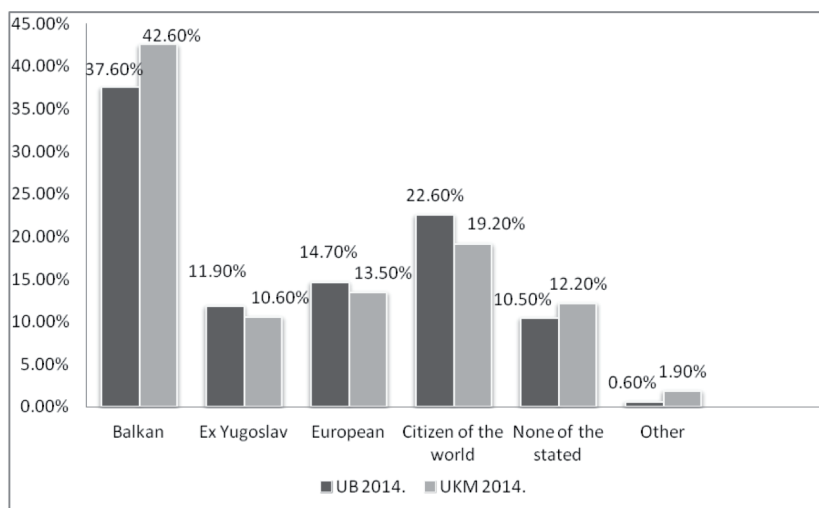
religious-traditional values are treated as Serbian identity elements. It should be pointed out that e.g. Euro-Atlantic integrations, as the foundation of the European partnership, are not considered as something that characterizes either European or Serbian values and is not among the top ten values in either of the two groups of values⁷. This can be explained by the reproval of NATO aggression on Serbia in 1999 and severe losses (both human and material) that it caused, which is much more attributed to the policy of the US than the EU. The evidence we gained about what Serbian students perceive as common values largely explains their attitude to EU integration. If they consider that the most important value (both European and Serbian) is – freedom, and if it is threatened by EU's demands for the recognition of the Kosovo "independence", it seems logical that they should in this context question EU integration, as they perceive it as "double standards" – the EU wants freedom for itself, but takes it from us; if the common value is the pursuit of human rights and human rights of the Serbs at Kosovo are jeopardized every day, it is logical that students are against EU integration, since this also represent double standards –the right to preserve own state has not been denied to anyone, except to Serbia; if the EU tries to impose foreign policy on Serbia (e.g. request for introducing sanctions against Russia due to Ukrainian crisis), if it constantly places new demands as "conditions" for integration, it comes as no surprise that those whose

free movement of people, goods and services within the EU as the most important (58%)... followed by peace among the Member States of the EU, rated as the most important by 53% of respondents⁷. The same research showed that after these EU's Achievements the following follow (in order of importance): Euro (27%), student exchange programs such as ERASMUS (25%), political and diplomatic influence of the EU in the rest of the world (24%) and the economic power of the EU (24%) as the EU's most positive results. "However, relatively few people mention the level of social welfare in the EU (17%), or the Common Agricultural Policy (12%), while about one eighth of respondents (13%, +1) say spontaneously that there are no positive results of the EU" (Europeans In 2014: 95). The results of this research actually show that Serbian students made a correct conclusion regarding which value – achieved result in the EU is considered as the most important. That value, like the greatest part of those that follow, is not among the top ten Serbian identity values in the opinion of the polled students. As it can be seen, all the values of the EU citizens that are considered the most important results achieved by the EU are of instrumental character, partly with exception of the peace among the Member States of the EU that may be considered also as the fundamental value.

- 7 Essentially, a community must be able to organize its own defense by establishing the distinction between "us" as a community and "them" – as a precondition of existence of identity. However, due to the influence of the US and its attempt to preserve its hegemony through the NATO, the creation of a European defense policy, whose appearance some authors equalize with "defining the European identity" (Andonov 2013; 185), is far from reality.

highest values are “freedom” and “patriotism” are opposed to it, etc. On the other hand, the message that they send is that the values of (neo) liberalism are much less important for their identity and project them only as the “European values” (free market economy, free movement of goods, people and capital, rule of law) while considering traditional Serbian values, such as religion, tradition, patriotism, etc. as closer.

Graph 7: Identification of Serbian students with a supranational identity⁸



However, such an understanding of values surely does not illustrate the autarchy at Serbian students, which is evidenced in Graph 7. It is just the absence of expressed self-identification – the European. Both in Belgrade and in Kosovska Mitrovica, respondents were more prepared to define their identity in the broader regional (Balkans), then completely cosmopolitan context, as citizens of the world, but only in the third place as Europeans⁹ (about 1/7 of student population in both

8 When formulating the questions to which the answers are showed in Graph 7, our starting point was the possibility of plural identity. As in Eurobarometer, there are options for “nationality” and “European”, we asked students how they identified themselves other than their national identity, avoiding the mistake we note in the following footnote.

9 Kohli also pointed to such finding in general population of the EU15, establishing that “feeling primarily a world citizen is today a more frequent answer in the EU than feeling primarily a European citizen” (2000: 129). Such a pro-cosmopolitan attitude of the EU citizens is connected with the fact that “positive ideals of Europe that focus on democracy and human rights – such as those of ‘constitutional patriotism’ – tend

University centers) and in the fourth place as former Yugoslavs. Such a finding can be explained as due to several factors: a) since it is obvious that the values mostly identifiable as "Serbian" are related to Orthodoxy, it is completely natural that the supranational "identity choice" should be Balkanian, considering that the greatest number of states in the Balkans are dominantly populated with Orthodox Christian citi-

to be universalistic in substance, which means that they do not lend themselves to drawing any kind of boundary between 'us' and 'them'. There may be reasons for exclusion on the level of political practicalities, but on the level of moral principle exclusion has no basis" (Kohli 2000: 129). Of course, it should be noted here that the idea of constitutional patriotism, pleaded for especially by Habermas (1992), was actually the idea of American constitution makers that was inoculated in Europe only in the Constitution of Germany, regarding the history of that nation in the 20th century. The attempt to transfer such the experience to the level of the EU has failed with rejection to bring the Constitution of Europe, firstly in France, than in the Holland. This, however, surely does not mean that democracy and human rights are not in the group of European values. On the contrary, one might freely say that Europe is their birthplace, from where these were spread throughout the world. This outspread has made that they gained almost a universal character. Of course, the way of their spreading was different in Europe and America concerning other parts of the world, where these were accepted or imposed (Dugin 2013: 234), therefore their content was not identical, especially the forms of accomplishment, but it was similar and – implicit. Therefore, these values cannot be the characteristic difference between "us" and "them", which would characterize only the "European identity", and just the relation to otherness, even since Gofman's researches (1963), is the basis of creating identity. According to the latest researches, only 2% of the EU citizens declare themselves only as "European" as distinct from the only national identification that 42% of the EU citizens use to define their identity. National + European definition of themselves use 48% and European + national only 5% of the EU citizens (Europeans in 2014: 103). The option "world citizen" was not offered in the questionnaire, which represents a serious methodological objection, since the Eurointegration cannot be equalized with the cosmopolitanism. To be European and to be cosmopolitan is not the same. "Cosmopolitanism as a hegemonic motif of European origin is, I should emphasize, strongly rejected here. One very important reason for this rejection is the "eternal" persistence of strong, if uneven, nationalism in Europe. In fact, nationalism is one of the more prominent characteristics of contemporary Europe" (Robertson 2014: 17). Pichler leaves the possibility that "identifying with Europe could thus be an expression of cosmopolitanism in comparison to nationalistic or patriotic perspectives. Moreover, identifying with particular aspects of Europe could highlight important differences between cosmopolitan identities and non-cosmopolitan ones" (2009: 8). Therefore, Delhey, Deutschmann, Graf and Richter (2014) were right when they suggested establishing new indicators for measuring progress in the creation of Euroidentity, not only regarding national state – Europe, but also Europe – world. "By positioning Europe between the nation-state and the world, it manages to incorporate effects of both de-nationalization and globalization" (2014: 370). Among Serbian researchers, Đurić also considers that the developing tendencies of the contemporary Europe – are regional (2003: 72).

zens¹⁰, that there are stronger spiritual and cultural bonds, closeness both geographical-regional and historical/traditional - the joint past and sharing similar faith in the present; b) the European identity¹¹, or Euroidentity, has not yet been established even in the EU member-states, therefore it is not clear what are its basic determinants, so it is understandable that a relatively small number of students determine themselves that way considering the number of students who declared to be in favour of the EU integration of Serbia. Not only is it not completely clear what Euroidentity involves – although it is evident that until now it has not been established otherwise than a multilevel identity (see Kohli 2000: 115-116; Vukčević 2011; Šuvaković 2014: 266), but it is possible to distinguish between different concepts of establishing and developing the EU. Starting from Habermas' distinction between ethical and moral norms (1996: 255-259), where the former are values and good of one community connected with its cultural and political patterns, the specific connections that connect the members of that community, and the latter have universal character and are independent from the special identities, Sjørusen points to a different meaning that is attributed to the idea of Europe in different concepts of EU construction, and the consequent problem of Euroidentity. She distinguishes three concepts, as follows: value-based entity' based on ethical-political discourse and the sharing of mutual, characteristic values and good that are indicators of such a concept, rights-based entity, based on moral discourse and rights and justice as indicators of such a concept, and finally problem-solving

10 Of course, with the exception of the Balkan part of Turkey (its European part, 5% of the territory is in the Balkans), Muslim-Croatian Federation as one of the two entities of Bosnia and Herzegovina and prevailing part of Albania.

11 There are several problems associated with the definition of this idea: in everyday conversation, Europe is reduced to the EU, which eliminates from this idea 20 or so states and even more nations that geographically belong to Europe, including Russia, with which Serbians have very close spiritual, cultural, political and economic ties; "European values" are reduced to insufficiently clearly defined values, more ideals, on which the EU is based. Serbian students are right in saying for some of them that they are "European". However, in practice, the most accomplished ones are just those liberal that subordinate "the old lady" to the rule of high, especially financial, capital (see Bourdieu 1998), and students do not embrace such values as Serbian. On that point, there is no accordance; due to the extreme unpopularity of NATO in Serbia, the authorities in Serbia constantly explain that it is possible to be a member of the EU but not of NATO, which in practice resulted with a completely wrong perception among students that "Euro-Atlantic Integrations" are not within the "European" values. In practice, there are EU member-states that are not NATO members, but "there is not a single transitional state that has not joined NATO during the process of its accession to the EU" (Šuvaković 2014: 199).

entity that is based on pragmatic discourse, whose indicators are utility and efficiency (Sjursen 2012: 507). On the basis of the analysis of EU enlargement, she concludes that it is possible to establish the EU so that “there may well be ‘more’ to the EU than what is entailed not only in a conception focused on the EU as a problem-solving entity, but also in a conception based on rights”. With an assumption that a kind of loyalty to Europe might be expected, which is not so solid as the loyalty to nation-states¹², Sjursen indicates that a joint denominator might be found in the idea of a collective European self-understanding (Sjursen 2012: 517); c) cosmopolitanism is not unfamiliar for Serbian students and it is evident that a certain number of them feel that way and that their number is even greater than the number of those who consider themselves as Europeans. That is because the “citizen of the world” is clearer, concerning the undefined identifier of European. It also comprises Europeanism, as shown by the finding that even 45.5% of those who identify themselves as “citizens of the world” are stated that they are in favour of Serbia’s EU integration, but it is not limited only to Euroidentity. This is not the case with those who identify themselves as Balkanian or ex-Yugoslavs, where the relative majority is against the accession of Serbia to the EU (students of the University in Belgrade). In case of the students from the north of Kosmet, opposition to EU integration has absolute majority in all the categories of supranational identity, except with those who consider themselves as Europeans. It is important to notice that among the Belgrade student population that defines its supranational identity as European, only 50% is for the accession to the EU under the same conditions that were applied also to other new member-states, while that percentage among the students in the north of Kosmet is only 21.6%. Conditionalities regarding the recognition of the so-called “independence of Kosovo”, render this percentage even lower. This corroborates our thesis that it is wrong to identify Euroidentity with EU citizenship, i.e. that such a reduction of the European identity concept means the reduction of the number of those committed to it, at least based on the attitudes of Serbian students. European values are civilizationally more important and more entrenched than what is presented as the EU values, and even more than what is considered as European values in practical operations of the EU bodies. Besides, even expectations of Serbian students from the accession of Serbia to the European Union do not give

12 Our researcher Branko Rakić also observes that member-states have always put their interests before the common, European every time when they considered it justified (see Rakić 2009: 238-252).

rise to Eurooptimism. To questions if unemployment, living standard of citizens, economic growth, preservation of national identity and culture, social security, personal safety, social disparities between the rich and the poor, environmental pollution, corruption, organized crime, emigration of citizens, immigration of foreigners to Serbia, influence of Serbia in the world and influence of foreigners to events in Serbia would increase, remain the same or decline – students in Belgrade in all the categories responded that they will “remain the same” in percentage from 74.1% (influence of Serbia will remain the same after accession to the EU) to 35% (emigration of our citizens abroad will remain the same after accession to the EU). Out of 14 categories in total, only in 5 the answer of absolute (but relative) majority was not that the situation will remain the same even after the accession of Serbia to the EU, as follows: 1) in case of unemployment reduction (32.7% think that it will be reduced after the accession to the EU) and 2) reduction of environment pollution (35.1%), then 3) increase of economic growth (37.5%), but also 4) increase of emigration of our citizens abroad (51.6%) and 5) increase of foreigners’ influence to events in our country (50.9%). Therefore, even within the 5 categories where changes are expected, i.e. it is expected that the situation will not remain the same, it may be established that expected changes for better are only in cases 1) – 3), while those that we marked with 4) and 5) are changes for – the worse. Students in Kosovska Mitrovica consider that after the accession of Serbia to the EU in all categories everything will “remain the same” within the percentage of 61.5% (the same social security) to 45.7% (the same level of emigration of our citizens). Out of 14 categories, they expect changes in 6 of them (while the relative majority of answers is also that the situation will “remain the same”), as follows: increase of unemployment (expect 27.6%), reduction of preservation of national identity and culture (37.2%), reduction of environment pollution (26.1%), increase of corruption (29.1%), increase of emigration of our citizens abroad (40.9%) and increase of foreigners’ influence to events in our country (43.9%). It is obvious that the only positive change that is expected is the reduction of environment pollution.

On the basis of surveys conducted, it is possible to establish that the attitude of Serbian students regarding the EU integration process of Serbia is moderately negative. It is in correlation with the decreasing trend of Eurooptimism within the general population of voters in Serbia, but it is more drastic and the trend turns away to Euroscepticism. There are several reasons for this, some of them being the following:

1. Expectations of students regarding the changes in the society after the accession of Serbia to the EU are very moderate and, regarding progress, limited only to some categories of social life. Dominantly, they consider that, after the accession of Serbia to the EU, everything will “remain the same” and in some categories that changes will be even for the worse.
2. Unlike political elite, for whom the process of EU integration is a dogma that cannot be questioned, students’ population seriously questions it if the condition for the accession of Serbia into the EU is the request for the recognition of the so-called “independence of Kosovo”. If the relinquishment of Kosovo is not a condition for the accession to the EU, then the relation to EU integration is not so negative and it is possible to reasonably assume that the trend towards Euroscepticism is possible to reverse to Eurooptimistic. This is not just a reflection of the students’ patriotic attitude, but also an expression of orientation for the rule of law, finally the result of their moral imperative (it is not moral to sacrifice a part of the whole for the rest to accomplish a goal).
3. We should not omit that, in part, the domination of Euroscepticism among students is also the result of doubts in the accession to the EU within a reasonable time, given the experience of Serbia over the past 15 years, when it faced several new obstacles to EU integration, while its political elite since 2000 has constantly claimed that Serbia is just about to accede to the EU.
4. The values identified by our research as common – both European and Serbian – are the values of the EU’s past and not its present. “Current Europe is no more inspired by ideas, it has already heard so many of them and listens to so many of them. We do not admire brilliant thoughts, but directly ask ourselves what is their value for life” (Spidlik 2007: 6). The stance on Greece as the member of the EU, the attitude to immigrants, the role of the EU in aggressive wars etc. refute in practice the proclaimed principles of “solidarity”, “advancement of human rights”, “brotherhood”, etc. On the other hand, the most important values for Serbian students, beside the already indicated common ones, are of religious-traditional character and these are experienced in high percentage characteristic of the Serbian national identity, but they hardly have anything to do with the EU.

5. With reference to the above, we can freely say that still there is no clear perception among Serbian students regarding what the “European values” are. For example, they experience the Euro-Atlantic Cooperation in a very small percentage as a European value, although it represents the foundation of the European partnership. However, this is no wonder, since numerous other researches show that Euroidentity is in its inception, even if it has experienced regression to the extent that it is hard to speak about it as political, social identity. Numerous findings of other authors and researchers also indicate this, including Brzezinski, who said that “I think the notion of a united Europe was very understandable in the immediate wake of the World War II. Then visionary European statesmen faded away. Where are the fathers of Europe that really believe in the European identity? And the EU then turned out to be, in the end, essentially a distributed arrangement in Brussels involving money and quid pro quos, but very little sense of common purpose” (Brzezinski 2014).
6. A clearly expressed distinction has been confirmed, especially among students in Belgrade, between self-identification as European and orientation towards EU integration. There are more of those oriented toward EU integration than those who identify themselves as Europeans, which is only the third supranational choice for students (except the national one - being Serbs). They feel more like Balkanians and world citizens than Europeans, which indicates clearer determination of these identities, but also closer connection of Serbian identity values with Balkanian, even cosmopolitan, than with abstract European. Among those whose identity elements are self-positioned as “citizen of the world”, “ex-Yugoslavs” or Balkanian, there are supporters of the EU integration process. It cannot be explained by determinations of identity elements (except partly in case of cosmopolitans), but maybe it can be explained by pragmatism: expecting reduction of unemployment, economic growth, reduction of environment pollution, more travelling abroad. On the other hand, among those who identify themselves as Europeans, there are also those who are against EU integration, which again might have its cause in a not fully developed European identity and its limitations only to the membership in the EU. The message that they actually send is that they are Europeans in terms of ideas, values, and that it is

not necessary for such identification that their country, Serbia, becomes member of the EU.

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Miroslav Lj. Brkić¹
Faculty of Political Sciences, University of Belgrade

Dragana V. Stanković²
Faculty of Political Sciences, University of Belgrade

People with Intellectual and Mental Disabilities in Social Care System in Serbia between Path Dependency and the Pursuit of Deinstitutionalization

Abstract

Despite reform efforts toward deinstitutionalization of social protection system in Serbia, encouraging the development of alternative community-based services in the community as well as the pressure from the international community in the European Union integration process, the care system for persons with intellectual and mental disabilities is still characterized by high rates of institutionalization and present waiting lists for accommodation in social protection institutions. The article will attempt to answer the question why the existing system of social protection, despite the formal commitment of the government, is not based on the basic principles of deinstitutionalization, which are the foundation for accomplishing the rights of people with intellectual and mental disabilities in accordance with international standards and policies in this area. Bearing in mind the complexity of the social protection system, the subject of this paper will be the analysis of the factors which inhibit or prevent the process of deinstitutionalization. The authors will argue that the reasons are twofold - structural and cultural, while for the identification and explanation of the major obstacles that hinder the deinstitutionalization process will be used institutional arguments. Continued reliance on institutional care of this

1 Professor
miroslav.brkic@fpn.bg.ac.rs

2 Assistant professor
dragana.stankovic@fpn.bg.ac.rs

social group shows “*path dependency*” in which the responses of the system are rooted in the socialist past. Understanding this historical impact is crucial for the further reform of the social protection system.

Keywords: people with intellectual and mental disabilities, social care, institutionalization, path dependency, residential accommodation

1. The Initiators of the Reform of Social Protection Toward Deinstitutionalization

The democratic changes which have taken place in the political arena in the year 2000 were followed by reforms of different systems as response for overcome and rigid, in normative, as well as in functional sense, the existing sectors and institutions. The transition from socialism to capitalism has brought changes in many spheres – economy, politics, justice, security, social security systems, social protection, etc. These reforms have taken place (and are still going) within a wider geo-political context, presented in the pursuit of joining the European Union, what has imposed the need for harmonization of national legislation with international standards in all abovementioned areas.

The protection and promotion of the rights of persons with disabilities has been one of the areas where the reform has been particularly encouraged and enforced by the international community. Basically, the idea behind was that the democratization of society should be supported and followed by an efficient system of social protection (Strategija razvoja socijalne zaštite 2005). In addition, the specific needs for social protection system reform have emerged out of the identified and inherited problems from the previous period. Some of the main reasons for this reform, largely related to persons with disabilities were: underdeveloped network of community-based social services, passivity of the users in the system, insufficient development of services provided by non-governmental sector, paternalistic, bureaucratic and inefficient social welfare institutions, etc. (*Ibid.*). Already in 2005, Social Welfare Development Strategy recognized the problem of frequent placement of people with disabilities in institutions as a consequence of insufficiently developed social services in the community. “Due to the high degree of centralization, insufficient funds in the budgets of local municipalities and lack of interest for the social protection system, community-based services are not developed accordingly to the needs of citizens. This led to the preference of institutional accommodation services even though

it was not necessary; division of institutions based on categories of beneficiaries, and inadequately satisfaction of the needs of a large number of users. [...] A broadly defined and applied the rights on accommodation in an institution, along with underdevelopment of community support services, has led to an institutional isolation of many beneficiaries, whose needs could be better met by other types of services" (*Ibid.*: 7). These considerations had been the reason why deinstitutionalization has been set as one of the priorities and requirements for the reform of social protection system.

At the same time, the international community required the harmonization of Serbian legislation with international standards in the field of protection of the rights of people with (intellectual and mental) disabilities as one part of the process of European integration, with the aim to improve their status in society and respect for fundamental human rights. Therefore, the harmonization of legislation with EU regulations has been marking the last 15 years.

During this period, numerous international documents were ratified.³ The key importance for the group of people with disabilities is The Convention on the Rights of Persons with Disabilities which became legally binding in 2009 after its ratification and enactment of the law on its ratification. The Article 19 of the Convention constitutes a major impetus to the process of deinstitutionalization since it explicitly emphasizes the right on inclusion and community living for people with disabilities.

Implementation of the reforms and harmonization of national legislation with international, contributed to progress in human rights exercising and creating of more accessible environment for people with physical disabilities. Particularly significant results were achieved in the deinstitutionalization of children without parental care, with promoting of and enhancing the foster families. However, the status of persons with intellectual and mental disabilities was not changed significantly.

A significant number remains institutionalized in social protection institutions which are at the same time the subject of numerous criticisms of domestic and international organizations carrying out the ac-

3 Some of the most important instruments of international law on which are the basis of human rights protection for people with disabilities and ratified by Serbia are: the Universal Declaration of Human Rights, European Social Charter, UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (not legally binding) International Convention on the Rights of Persons with disabilities, the European Social Charter, Recommendation on a coherent policy for people with disabilities, etc.

tion to protect the rights of these persons. These criticisms points on violation of the whole spectrum of their rights, such as poor housing conditions and work of institutions where people are deprived of liberty (Milovanović, Marković 2013), inhumane and degrading treatment of beneficiaries in these institutions (MDRI 2007), lack of privacy and autonomy of beneficiaries in decision-making processes affecting their lives, the lack of adequate treatment and isolation (MDRI-S 2012), as well as general neglect and lack of care (Milovanović, Marković 2013). It can be fairly said that people with intellectual and mental disabilities living in institutions are one of the most marginalized and socially excluded groups and “far greater victims of unequal opportunities, social exclusion and negligence than persons with disabilities living in the community” (Marković 2014: 96).

2. The Institutionalization of Persons with Intellectual and Mental Disabilities in Serbia

Although one of the goals of social protection system reform was reducing institutionalization and commitment to protection of the beneficiaries in the least restrictive environment, there were no significant results to occur. Accommodation in residential social protection institutions is still dominant form of care for these people due to a lack of community services which would enable them to live in their natural environment. Despite the aforementioned progress in legislative sphere, a number of institutionalized people remain very high for years.

According to data from 2005, the year which represents the beginning of the reform of social protection systems, 17 residential institutions for persons with intellectual, mental and physical disabilities were accommodated a total of 5574 beneficiaries (Strategija razvoja socijalne zaštite 2005). The number of beneficiaries of social protection institutions remains almost the same and high with slight differences for years now. According to the Republic Institute for Social Protection, 5 700 beneficiaries lived in institutions for persons with intellectual and mental disabilities at the end of 2012 (Republički zavod za socijalnu zaštitu 2013). Other sources point out that the number is much higher. Thus, the report submitted by Ombudsman (2015) states that approximately 8 345⁴ people with intellectual and mental disabilities are placed in residential institutions.

4 This number includes adults who are accommodated in 4 institutions for children and youth with disabilities, 15 social protection institutions for adults with disabili-

On the other hand, network of community-based social services has not being significantly developed over the past year what has further undermined the deinstitutionalization process. Although the lack of these services has been reported already in the first reform documents, social services that would enable people with intellectual and mental disabilities to stay in their natural environment have not been sufficiently available and well-targeted. In addition, the level of development of municipalities directly affects their availability and quality (Brkić, Stanković, Žegarac 2013). Support services for independent living and daily services in community, as the most important groups of services⁵ for enabling life and integration of people with intellectual and mental disabilities in the community, as well as in preventing their institutionalization, are not sufficiently available to this category of beneficiaries.

Although one of the reform goals reflected reduction of institutionalization, data show that even after more than a decade there was no significant progress when it comes to persons with intellectual and mental disability. These people make up about half of institutionalized beneficiaries and often remain in the institution for life (Brkić, Jugović, Glumbić 2014). Therefore, when assessing the scope of deinstitutionalization process, “could be concluded, that after 14 years, the real process of deinstitutionalization is still at the very beginning. Even one might argue that in this way (for example, the new legislation in the field of mental health, author’s remark), are made only preliminary steps (apparently some of them even and wrong) that are necessary to start deinstitutionalization, and that in fact, this process has not yet started” (Milenković 2014: 11).

The frequent choice of institutional placement shows that this form of care remains the primary module of protection for this category and resists during the years despite strong criticisms of human rights violations, inefficiency, high costs and negative effects on the bio-psycho-social well-being of individuals.

ties, and in 5 psychiatric hospitals, while excludes people residing in other institutions such as psychiatric wards and clinics.

- 5 Law on Social Protection (2011) defines the following groups of services (Article 40): 1. Services of assessment and planning, 2. Daily community services 3. Support services for independent living, 4. Counseling-therapeutic and socio-educational services, and 5. Accommodation services.

3. Path Dependency in Protection of Persons with Intellectual and Mental Dissabilities

One of the reasons for the slow or imperceptible progress and improvement of the system towards increasingly deinstitutionalization is certainly the lack of community-based services, and therefore the impossibility for people with intellectual and mental disabilities to satisfy their basic needs in non-institutional environment. The main features of services network remain their territorially uneven distribution, insufficient coverage and very often unsustainability as most of them are based solely on project funding.

Second, but no less relevant cause lies in the past and political system of Serbia. Socialism, with its concept of state care about the people, collectivization and favoritism of large care institutions as well as the medical model of disability⁶ as “an individual model of disability which significant component is medicalization” (Oliver 1996a: 31) has been not only the core of the ideas and practices of institutionalization, but also a *critical juncture* in the history of this country. The critical junctures in social policy development are periods of political possibilities when some social changes with potentially long-lasting impact on society could occur (Haker 2002). According to Hacker (*Ibid.*: 52) this “*window of opportunity*”, when the likelihood of a successful event or change is the greatest, was an opportunity for further development of some alternative forms of care for persons with intellectual and mental disabilities or services which existed in all previous periods at least in their rudiment forms in a broader sense. Instead, removing and hiding people with this type of disabilities in institutions from the rest of society, with the belief that it is precisely the place to be for the best possible care, remained the dominant approach.

The transition period, which was followed by unclear standards and visions in the transfer from one system to another, has led to taking over the old model, which was developed in socialism, and the survival of its mechanisms up to date, with the outlines of a new discourse that is based on the social model of disability⁷ and respect of the rights of

6 Medical model emphasizes personal deficiencies, abnormalities and limitations in functioning, and it is based on medical diagnoses and recovery measures and treatment.

7 The social model of disability, in the broadest sense, defines “clear focus on economic, cultural and environmental barriers faced by persons that other people perceive

people with intellectual and mental disabilities on development, life and participation in the communities.

Disability policy in this period was primarily marked the influence of 3 actors: post-socialist state, developing non-governmental sector and European Union. While the post-socialist state was no longer strong enough to provide full protection and all benefits that were available in the previous period, and non-governmental organizations were being formed and dissolved with the (non)availability of donors, the impact of external factors in the form of fulfillment of requirements in the process of preparation for EU accession proved to be the most important generator of new ideas and practices. At the same time, as this impetus primarily came from “outside” authority (UN, EU ...) within a wider geo-political context of the opening of negotiations with the European Union, these factors did not constitute sufficient *critical mass* to put this question on the top of political agenda. The issue of rights of people with intellectual and mental disabilities generally has little impact on the political agenda when compared to policies on other vulnerable categories. The reason can be found in the fact that most of these beneficiaries are deprived of legal capacity,⁸ and therefore also electoral incapable.

In addition, as institutionalism is deeply culturally rooted in the social protection system in Serbia, it can be said that the current organization of the social care of persons with intellectual and mental disabilities is consequence of past events, structures and decisions which became deterministic in some way for its further development.

Cultural patterns are being repeated over time and thus becoming the habits or dominant behavioral norms that are internalized as given routines that are no longer the subjects of revisions (Zucker 1977, according to Ebbinghaus 2005). Slow shift from institutional to non-institutional care and support for those people can be attributed to the absence of systemic and structural reforms at different levels due to “*path dependency*” (Howlett 2009). It is path dependency that may interfere and hinder the recommended changes of disability policies (Agotá, Váradi 2013).

as having some type of disability - whether physical, mental or intellectual” (Oliver 2004: 21).

8 According to statistics, in all cases regarding the decisions on the legal capacity of persons with intellectual and mental disabilities, even in 93.93% of cases were resolved on complete deprivation of legal capacity, while only in 6.08% of the cases the procedure was terminated with a partial deprivation of legal capacity (Strategija prevencije i zaštite od diskriminacije, 2013).

Selection of existing paths might be due to some past investments (Bennett, Elman 2006), which among others can be reflected in the unwillingness of professionals working in the social protection system to accept the novelties if it would question their position, competence and expertise. In addition, the transition to a different form of care and support and development of new services in the community instead of institutional care, can be *a priori* viewed as a major cost due to the complexity of the measurement of complex conditions in the community and service effects which makes it difficult to conduct an analysis of the cost and effects (cost effectiveness analysis) of transition to community forms of protection.

For these reasons, once functional trajectory, can legitimately survive over the time despite its dysfunctionality from the perspective of new paradigm that stresses human rights and social model of disability. In fact, it was functional from the viewpoint of the medical model of moving or hiding people in institutions. Despite establishment of a model based on human rights, it still maintains in its dysfunctionality due to fear of novelty, lack of professional competence, organizational institutional culture and the socialist legacy from the previous period.

An additional reason for the failure of the deinstitutionalization process can be explained by the introduction of one more category of Pierson's (2000) analysis of factors that undermine the reforms and create a path dependency - *the lack of collective action*. Conditions for collective action are minimal from multiple and complex reasons. Radical change in the policies affecting people with intellectual and mental disabilities can be politically unpopular because stigma, partially emerged from their institutionalization, has always followed this social group. These people are often rejected by their families, who are still convinced that institutions can provide the best care and support for their members. On the other hand, the absence or weak contacts with family members and the community, as well as the lack of guardian's and case manager's interest are the cause for the existence of small number of organizations dealing with the representation of interests of people with intellectual and mental disabilities, advocacy, monitoring and policy development with aim to improve their position.

Additionally, another inhibitory reason are dominant actors at all levels (medical staff, professionals in the social protection system, political parties, families, local community) who have no interest in forming a coalition because of their routinized behavior and thus once estab-

lished institutional system works as a stable and desirable and as such is replicated.

Common, the fundamental basis of all these factors are deeply rooted belief that better care for people with intellectual and mental disabilities can be provided in institutions what arises from the strong paternalistic relations toward beneficiaries by professionals. The process of deinstitutionalization brings the idea of community and autonomy of the beneficiaries while delegitimizing their previous practice, what makes this paradigm shift not familiar and strengthens previous institutionalized patterns contained in beliefs, values, processes and knowledge.

Institutional isomorphism is not being copied because the institutions are efficient but because they are considered as legitimate and appropriate (DiMaggio/Powell 1983, according to Ebbinghaus, 2005). Starting from these assumptions, deinstitutionalization may occur either through processes of normative and cognitive changes that imply delegitimization of institutions because of a dwindling fitting into real context (Ebbinghaus, 2005) or a paradigm shift when new ideas question the established routine (Lieberman 2002, according to Ebbinghaus 2005).

4. Instead of Conclusion

Based on the previous analysis, several problems can be identified in this transition from one to another form of care. First, the introduction of new “policy” or their transfer from the EU level has no much sense and impact in the old institutional context as it is the Serbian social protection system. In addition, the full acceptance of the social model of disability, or model based on human rights demands the transformation of institutional structures and creation of the new ones. At the same time, the approach change is needed, and all these processes are undoubtedly linked and long lasting. Contradictory present aspirations towards change with the presence of path dependency are very often typical for the transition process and post-socialist contexts.

Previous analysis also shows that abandonment of the path dependency is only possible by changing the institutional culture with the new one that would respect the right of persons with intellectual and mental disabilities on life in the community, considering them to be capable of functioning in an open setting/environment, with more or less inten-

sive support. One of the basic requirements is weakening the structures which support the institutionalization, as well as changing the approach to beneficiaries towards greater individualization and institutional care by key stakeholders - professionals in the social protection system, because “once when all within the institution are convinced in the need for implementation of reforms, it will be possible to overcome the resistance of those who are outside (outsiders)” (Brunsson & Olsen 1997: 25), primarily wider social environment, and local communities. Changing the institutional culture is essential and among the political elite who has to shift from the formal to practical commitment to the deinstitutionalization process and realization of human rights.

Implementation of the envisaged social protection system reform changes in the direction of deinstitutionalization is further complicated by the necessity of cooperation and attitudinal changes of different stakeholders – starting from the professionals who work directly with beneficiaries, through the organization of the institutions and establishment of cooperation between the various administrative and political bodies such as the relevant ministries are (responsible for health and social protection, for instance). In addition, it can be blocked by previous inefficient service providers (such as the social protection institutions itself) or interest groups, as well as the lack of experts’ capacities for establishing a set of quality services.

Starting from the social psychology of human groups assumption that a change of attitude and approach is possible through intergroup contact (contact between in-group and out-group)⁹ consisting of 4 interrelated processes (1. Learning about the outgroup/the external group, 2. Changing behavior, 3. Generating affective ties/relationships, and 4. In-group reappraisal) (Pettigrew 1998), it can be concluded that professionals in social protection, political elites and public are in their early stages of change.

Specifically, (direct or indirect) participation in the discourse on human rights, obligations to continuing professional education and development, the abandonment of medical model of disability as well as the legislative changes towards deinstitutionalization resulted in the adoption of new knowledge and, consequently, the beginning of attitude change. When this new knowledge about the new (out) group reduces negative perceptions of this group, the suitable ground will be created

9 In-group is a social category or group that person belongs or identify with while an out-group is outside group with which person doesn't identify.

for the elimination of prejudices and change of the approach and relationship with this group (*Ibid.*: 6).

However, in order to achieve fully successful transition from institutional to non-institutional care of people with intellectual and mental disabilities, it is necessarily needed the radical change that would mean the approach focused on the users (user-centered approach). Such approach would imply respect of the basic principles which should be foundation of the social protection system but also of the deinstitutionalization process, such as: the participation of beneficiaries, respect their integrity and dignity, the best interests of the users, the least restrictive environment, the principle of normalization and social role valorization, etc.

Finally, besides overcoming these contradictions and reorganization of the system as a whole, intense development of community-based social services for people with intellectual and mental disabilities is required for their remain in local communities and provision of support in everyday functioning.

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Saša Marković¹

University of Novi Sad, Faculty of Education, Sombor

Snežana Besermenji²

University of Novi Sad, Faculty of Sciences, Novi Sad

Demographic Circumstances in Serbia: Exaltation and Resignation as two Extremes of the National Identity Crisis

Abstract

One of the far-reaching consequences of Serbia's involvement in crucial global events and regional conflicts of the twentieth century was its demographic re-composition. The unstable geopolitical situation in the Balkans, which was intentional, drove the people living there into confronting situations, in which they had to act accordingly. The politics of the elite that ran the country (mis)used various models for dealing with its population—from traditionalism and sacrificing, through migration and colonization, to modernization and cosmopolitanism. Each of these models has had its highs and lows. The extremes of these models testified more to senseless wanderings than to a responsible demographic policy. This resulted in an unenviable and almost irreversible demographic decline in Serbia. Unlike today, in the early twentieth century the Serbian nation was considered as one of the youngest in the world, relative to its population size. In this paper we shall present numerous warnings of our contemporaries that the issue of preserving the population is far more important than short-sighted social ideas of the emotionally driven. Unfortunately, this attitude is usually interpreted as an unpatriotic act of dubious intentions. It often took very little time to go from exaltation to resignation. Events have shown that the identity often lacked stability. The

1 Associate professor
milnik.markovic@gmail.com

2 Professor
atena2100@yahoo.com

irrational elements in creating the identity in Serbia has been and remained one of the greatest challenges of a responsible population policy.

Keywords: identity, emotion, demographics, responsibility, politics.

Identity Crisis and Ways in which it affects the Demographics

During the twentieth century the demographic circumstances in Serbia also reflected the geopolitics of the country. Although the last century was considered by some (Hobsbaum 2002) as a “short century”, the brief analysis of the censuses conducted during that century shows that Serbia went from the country with the youngest population to one of the countries with the oldest population. The changes in the demographics of Serbia were accompanied by numerous political, economic, commercial, existential, spiritual and religious changes. Serbia went from a monarchy to a republic; from national euphoria to national disintegration; from agrarianism to forced industrialization; from political fragmentation to integrated vision; from subsistence economy to consumer snobbery; from sustainable production to consumer nihilism; from traditional religiousness, through ideological ungodliness, to controversial neo-spirituality; from social revolutionaries to religious fundamentalism; these are just some of the numerous determinants encountered by those researching the identity of this region (Dimić 1998).

The support of the construction of identity was found in the depictions of the past. During the Ottoman slavery people used the oral tradition to instill hope in themselves in order to persevere in difficult times which will be overcome by the renewal of the Serbian state as it existed in the Middle Ages. The duration of heritage was conditioned by the magnitude of sacrifice that has been endured. In this way the subsequent generations are supposed to be inspired by the restoration of the state and the hardships of day to day life are made bearable. The church, in these circumstances, was the center of all social thoughts concerning freedom. Its mission inevitably reflected on the nature of identity. Within the framework of institutional religion among the Serbs, national identity was preserved and carefully guarded, with the intent that the faithful generation, through acquisition by tradition, identify with their past and the aspirations that were then being formed. It was a transition that linked both modernization and the preserved traditional heritage. In this way the church among the Serbs, like the Orthodox churches in other Balkan nations, allowed the infiltration of Enlightenment ideas. “The importance of the Orthodox Church in the history of our nation

is very great. It was for roughly a thousand years, until the 19th century, the almost only carrier and representative of education, and therefore it set the most important foundations for cultural progress ... And most of all, it is because of this contribution, that the national consciousness of our people is so strongly built, developed and preserved, as well as our peoples irresistible urge for freedom and unification..." (Grujić 1995: 1). Even though it guarded its dogmatic integrity and the teachings of the Holy Father, the Serbian Orthodox Church did not prevent the development of rational approaches to scientific development of both natural and social sciences. "It is my deep assurance that science without religion is often one-sided, harsh, and even cruel. On the other hand, faith, theology and religion without science can be usually blind, haphazard, can be converted into a sort of superstition, even, we can say, magic... Modern science is, in the opinion of many scientists, and even scholars of natural sciences, the heritage of Christianity." (Bigović 2010: 132,134) The foundation of national identity, interpreted in this way, met with the modern epoch that came after the French revolution - ready and active.

The beginning of the struggle for national affirmation, as well as the reformation and liberation of the state, called for the modernization of the conceptual and ideological experience. Serbia opened up to Europe. European paragons sought support not in showcasing, but in studying the past. Serbia turned to this direction, and prominent contemporary scientists noticed this (Ranke 1991). However, national romanticism had its own approach on how to view the past. It stimulated research, but also sought a foothold in the emotion that could be offered by heroic rhetoric. "Society was founded on hero-worship. All the dignity of doing, on which human society was based, was, as we might call it a heroarchy." (Karlajl 1903: 16) The past of the Serbs was an inspirational starting point for profiling heroes of the people. The resulting memory was acceptable to the population which has, in anticipation of education, accepted a convenient fiction. A possible problem can be seen in the idea that education could be permanently replaced by a fiction. The risk was acceptable if the elite were responsible, and not self-interested. (Marković 2015) This became a controversy which was not accepted, even though its existence was not denied. The outcome of its own vista of this controversy could have (as in some historical moments has) been the acceptance of exclusivism as a principle for success and encountering other cultures. This breakthrough in the approach to values could have formed an unbearable zealousness that presented its possessiveness as altruism.

“Kosovo” as a Backdrop and the Temptation of Suggestiveness

Historical memory plays an important role in the development of the identity of a people. All the great European civilizations turned towards the incentives from their past in the hope that they will give them a less painful present and a less uncertain future. By historical memory, it is most often meant the memory of certain historical events that have, in the consciousness of a nation, surpassed reality and offered moral principles whose aim is of an eschatological nature. In this context the narrative of Kosovo was born in the Serbs. Historically focused on the year 1389, when the battle between the army of Prince Lazar Hrebeljanović and the Turkish army under the command of Sultan Murad, and later his son Bayezid (Pitulić 2012) this narrative assumed, in national folklore the face of a cult that, relying on faith as the bearer of values, determined the devotees of good, i.e. God, and those who have had different intentions. The resulting cultural paradigm, quite understandably, was dependent on Christianity as the origination of the meaning of human life. The central character of faith, Jesus Christ was a martyr for the sake of orthodoxy, and his followers, how the people saw them, were Christians who were willing to even sacrifice themselves for their Christian faith. Hence, the Kosovo tradition as well as the so-called “Kosovo cycle”³ only made sense in the Christian interpretation, and its influence in the preservation of identity was reflected in the adherence to the faith of their ancestors - Orthodoxy, respectively the Eastern teachings of the Byzantine theology which had its own unique folk expression, ridden with some challenges in its interpretation. Byzantine Orthodox Christianity was so deeply rooted in their lives, that it could not have been removed by neither foreign subjugation, nor by the popular worldly ideology. But this also meant the emergence of “national” churches, especially after the disintegration of the Byzantine Empire in pieces, as Obolenski called it, “Byzantine commonwealth.” (Majendorf 2008: 293,294) The acceptance of this religious doctrine was often faced with the challenge of the independence of the national church, which often, egoistically interpreted, supposed the national interest within the universalism of the Christian doctrine. “Ethnophyletism is a political leviathan which repeatedly tries to adjust religion to its constrained political objectives, while its supporters stubbornly insist that an active po-

3 See further in: *Косовски циклус*, http://www.rastko.rs/knjizevnost/usmena/kosovs-ciklus_c.html#_Toc473119801.

litical life is the only way to actualize the ideas of Christianity in society, which in turn, will inevitably collapse without them.” (Marković, Besermenji 2013) This was an introduction to the biased national identity that evolved by restraining and degrading others. “Modern nationalism has globalized national consciousness of the eastern-European people and so has disrupted their sense of Christian universalism.” (Majendorf 2008: 293, 294) The proceeding discourse about values was enthroned on a reduction that reevaluates everything and accepts only that which is convenient.

Reality has long been transfixed into legend - a suitable image that keeps the silhouette of freedom. It was written about by those writers, in the coming centuries, who hoped that freedom may one day come. Lazar became both a victim and martyr who by self-sacrifice defeats a life of servitude. “We can die, but as men. We lose our lives, but with honor ... Let from your mind, from your invincible Slavic blood, escape all thoughts of surrender and slavery.” (Orbin 1968: 142) There has been a continuity of oral tradition and literary style in which Kosovo is only experienced through the “category of Martyrdom.” (Bogdanović 1991: 191) The eclectic approach towards freedom did not leave room for the nuances of human nature. The willingness to sacrifice oneself for freedom was an inescapable path towards an independent state, and this notion was often emphasized. “Every nation is the government of it self; hence the Serbian nation has the right to take care of itself and to govern itself on the hearth which it has redeemed with its blood ... history testifies that the Serbs are characterized by a spirit of freedom and the overall capability for political independence.” (Jovanović 1863: 21) National commitment, defined in this way, was often not acceptable to the leading powers as a political strategy of small nations burdened by the exaggeration of their own geopolitical significance. The Balkans was a synonym of unpredictability, or synonym of “intractable and unpredictable energies of the Balkan people.” (Todorova 1999) Although the criticism was mostly unfounded because the experience of other European nations also faced the challenges of heatedness, sometimes their observations might have produced a more positive effect. This was, in our opinion, an authentic expression of the democratic conscience in moments when the national idea mutated into national frustration. “The Serbian national and state-building idea was so ingrained in the consciousness of the Serbian people that it was ready for mass casualties in an uncompromising bloody battle, even at the cost of self-destruction, in conditions in which the enemy was superior by far.” (Šešelj 2002: 976) The pledge

of Kosovo, in its essence, did not foster this kind of devastating eschatology. It was not the meeting place of odium, but the meeting place of patriotism. In this context, the man who accepts the Kosovo Testament is a Christian crusader and not a secular hero. (Lubardić 2009: 83) He is consistent but not rigid, and he sympathizes with the enemy, his ambition is not based on defiance, but the understanding even of the actions of those who sin. Due to his compassion, he forgives, and others need to accept that they are not right for their own edification and no one's gloating. "Fierce, but never violent" (Randelj 2014) he opposed but was not occupied by hatred. The political ideology that came from him, was supposed to first purify its efforts and then present them to those who contested them, in the hopes of finding a viable compromise acceptable to all... "If you wish to achieve freedom with war, then first wage war against thyself, and if you successfully end this war, you'll see that all other wars are superfluous." (Velimirović 2000: 67).

This thought was shared by many of our prominent thinkers whose words were often foiled or remained cocooned in the memory of their few admirers. It was a prototype discourse that calls out and opposes the identity based on the stereotype of Serbian "folkophilia." This discourse offers the generosity in which "Srbuje samo onaj koji pametno Srbuje" or in other words "a true Serb is a clever Serb." "One ought to be radical only in intelligence, reasonable in kindness. Politics is not found in loaded words but in wise solutions." (Pekić 1991). Today's distinguished artists offer a new perspective in which the discourse of the sanctified Kosovo is transformed into the discourse of the "Stolen Kosovo." "Stolen Kosovo, in our spiritual life, will play a bigger role than that of sanctified Kosovo. The stolen is more important than the sanctified." (Bečković 2015). This matrix remains tightly bound to the "category of Martyrdom" and its political experience can still be seen as exploitation of the basic cultural values and ranges of the Serbian people. This provides the potential for the construction of biases, which results in the continuity of unstable identity, and a possible demographic devastation. Populations with a suggestive approach that prefer emotion, in this context, still have open possibilities.

The Temptations in Achieving Identity

The absence of the continuity of cultural values is immediately apparent when considering the aforementioned characteristics of the so-

cial situation of the Serbs during any period of the twentieth century. This is why at any of these moments the identity, as an expression of these values, remained trapped between the hope in its achievement and failures in reality. Wanderings due to the insufficiently developed expression of values remained the only constant. At the beginning of the twentieth century, the Serbian elite sought to express itself in the cultural values it found while studying abroad. The Western influence was predominant (Ković 2003), and it made the essence of the leading social thought of the Imperial Russia, despite Slavophilism (Vuletić 2007). "It is very moving to listen to all those professors, many of whom graduated from the Sorbonne. They know more about our literary movements than ninety-five percent of the literate population of France" (Male 1999: 96). National effort was a common denominator for all these creative accomplishments, regardless of their differences of expression. Social thought was a reverberation of the past. The narrative of the values recognized in historic events was similar to the model used by many European countries. Thus the national expression transformed from romanticism and folklore into an ethically codified approach, which relied on the popularization and expansion of education. "The awakened nation, teeming with creative power and spiritual vigor, could be introduced into a modern civilization only by progressive, educated, and highly moral teachers" (Palavestra 2013: 25).

A schematized approach, underlined with emotions and inspiration, often lost its footing in the rational and analytical assessment when it went from a written context to a political decision. Swept by the environment of populism, and eager to realize the interests of their people, the responsible persons were more inclined towards rashness than deliberation. Warnings, if any, were seldom heard, not to mention heeded. "The true national feeling cannot be the one of hate towards other nations or of overestimation of its own value and rights at the expense of underestimating the characteristics and rights of other nations. Where a nation is concerned, the adoration, cult and overestimation of oneself are as bad as it is in an individual. The jingoistic tendencies correspond to the demagoguery of politics" (Cvijić 1907: 29). In such moments, apart from individual efforts, the intelligentsia did little to direct the guiding principles of the society. Due to its malleability and in order to achieve its narrow-minded individual gains, it conceded to be part of the folklore instead of critical thought. In this context the intelligentsia cunningly wrote about what the political elite expected, instead of what a responsible attitude entailed (Rajs 2005). "Jovan Cvijić was

right when he wrote of superficial and timid efforts of our intelligentsia” (Dvorniković 1995: 111).

The rift between the idea and its execution gave room to arbitrary interpretations. Many protagonists came forward who shaped their vision of modern Serbia based on European social ideas, which they embraced in a modified form, pursuant to their various motivations. Fierce and honest in their intention to understand and define the national interest, the young became liberals, anarchists, socialists, radicals, Bakuninists, religious reformers, etc. All of them shared the thought of decisive actions and of life “insidea crucial historic moment”. For them, waiting was not the result of caution and responsibility, but of weakness and lack of ideological commitment. Drawing from the model of the national and revolutionary Europe of the nineteenth century, a great number of young Serbian intellectuals advocated the realization of the national idea *hunc etnunc*, regardless of any cultural and political repercussions and international circumstances.

In such occasions, the support for often megalomaniacal undertakings was sought within the large family of the Serbian peasant. The high birth rate among Serbs was used as grounds for numerous projects. The revolutionary youth and the national elite that supported them had demands for the realization of the national task that bordered with ruthlessness. In those visions, the size of the population was the first and principal factor that provided security and guaranteed the achievement of the goal. The limits of this particular factor were put to the test as the appetites of the national struggle grew, and its methods became more radical and more explicit. The apotheosis of the Serbian household represented the only clear image in the Serbian national feeling. It was meant to induce an outpouring of national sentiment that was to be more powerful than the undeniably present patriotism, which in turn was indispensable in order to realize the Yugoslav state project.

Despite palpable political instability, the military and political success of the Kingdom of Serbia until 1914 was used as an inspirational starting point for both national megalomania and integration idealists who longed for South Slavic unification. The Kingdom of Serbia achieved great military success during the First World War. However, the loss of life was staggering and, as it turned out, the lives were laid down for an incomplete political construction of a Yugoslav state. From that moment on, the ambivalent nature of the national expression came to the fore. The warnings regarding the priority of cultural integrations

rather than political linkage, which the renowned Slovenian intellectual Tomaš Masarik gave to the Slavs living in the Balkans, proved, in spite of disbelief, to be timely and well-intentioned. The national enthusiasts and naïve idealists showed strong Machiavellian tendencies by accepting any price in order to achieve the goal. Moreover, they were ready to sacrifice even themselves. They justified the disregard for their fallen comrades, regardless of their number, with a unique pledge that connected both the living and the dead. Often those who survived loathed those who had fallen, for they deemed that their dedication will never be equal to that of the fallen. From this cult of heroism grew a form of heroic consciousness that created a dynamic approach to the meaning of life, and left no room for hesitation or change of heart.

Such nature of the revolutionary idealism required singular social circumstances in order to be nurtured and developed. This form of idealism was expressed through militant and poorly disciplined formations that presented themselves as bearers of the national idea, without consideration for any other type of commitment to the Serbian national feeling. Caution and reason were interpreted as dejection, fear, and betrayal. Political crises, diplomatic tensions, and war added to the affirmation of those who were leaning towards this type of idealism. The political support for thus expressed national values was based on a populist approach and simplified demagoguery regarding complex situations. This approach nurtured an irrational motivation that often transformed patriotism into militant nationalism. "Members of the Black Hand were enthusiastic nationalists who believed in the historic mission of Serbia, and were ready to dedicate themselves to this mission. However, this patriotic fervor smothered any form of critical thought. Like sleepwalkers, they became numb to difficulties and dangers. They demanded action at any price, and sooner rather than later. This unbridled dynamism made them so impudent during peacetime that the Government did not know what to do with them, and so audacious during wartime that they paid for it with their lives" (Jovanović 2005: 69). Fuelled by social circumstances that positively affected it, this type of nationalism was experiencing exaltation. On the other hand, any form of harmonized approach led to disappointment and resignation due to failure in realizing the original concept.

This resulted in an uneven amplitude of identity that, simply by being there, revealed essential weakness of an infantile and immature society. "The pace is never slow or constant; a hero breathes only in the

extremes: ultimate strain or ultimate inaction. What was once a virtue is now a flaw” (Dvorniković 1995: 11). These strong opposites in the identity indicated excitation and its resulting imbalance. These states of identity prompted certain researchers, with whom we concur, to write about an “intoxicated” state of our national idea. “Our national sentiment often seems impulsive and explosive. We tend to be occasionally overwhelmed, and thus oscillate between the periods of sanguine enthusiasm and terrible apathy. These changes resemble something that can be observed in alcoholics. There are entire regions that once lived in a state of infinite excitement, but are now representatives of pessimism and skepticism” (Dedijer 1910). This peculiar restlessness of spirit resulted in the elusive nature of our nation’s identity. The people did not have a clear enough impression of themselves, and overwhelmed by the images of heroism they were burdened by the impressions of heroic past, sacrifices, undignified life in subjugation, and the need to lay one’s life for freedom. A person who accepted life and resisted the ingrained mythological images was ostracized as a destroyer of recognized values. This unity, which did not accept other forms of thinking, was transformed in certain religious interpretations into necessary rallying around national tasks of freeing the territories and the people. War was the scene in which those who were committed to the national cause recognized themselves. It was a challenge in form of joy, but also in form of commitment of every citizen of Serbia.

The nation surrendered to that idea regardless of the expected and disproportionate sacrifices, but parts of the elite, the very people who formulated the national identity with the character of tremendous dedication, had reservations towards their own project, but were ready to utilize it once the people had realized it. Those people had an answer to any and all temptations that the country faced, and some called them the know-it-alls. Their pseudo knowledge was something that people readily believed in, due to the unrest that was a direct consequence of the failure to understand the times they lived in. The accepted vision was a simulacrum of the highest values that guide a society, but in reality the accepted norms contained numerous flaws and weaknesses. “Semi-cultural fog instead of cultural illumination – this is the most stimulating environment for the know-it-alls” (Dvorniković 1999: 144).

(Un)attainable Identity

The balanced weighing and rationalization of ideas could subdue the euphoria, and turn the sense of commitment to one's nation and country in to a stable continuity of achieved values. A stable social and political environment had a rational and responsible approach to problems, which prevented the enthusiasm of big goals. This represented hope for the longevity of identity and its foundation in the achieved blend of traditional and modern. The demographic circumstances of the Serbian people also depended on this blend. Bringing down the historical discontinuity and precedents to a minimum could stimulate the development of the society and stable demographic configuration. The challenges that came with the twentieth century, which was marked by unattained nationalist goals and ideologies, led to the reexamination of values. Tradition was under scrutiny. It was faced with the desire to be changed. New ideologies offered new values and tried to incorporate them into the already existing traditional framework. Zeal was the main position towards the recent past. Following the Second World War, the identity of Serbs wavered between the unacceptable interpretation of the previous era and requirements of the new era's ideals. The already decimated population was forced into new hardships. The disregard towards its own people remained constant, even within the newly established elite. History recognizes many "encounters" or "collisions" between the traditional and the modern. What can be referred to as a paradigm of such experience can testify to the destructive power and supremacy of one over the other? "We could say that this boils down to the tension between continuity and change; between the tendency to establish lasting and steadfast forms in which human life is to express and renew itself and tendency to dispel any strict schematization of man's relationship with himself and other people" (Đurić 2009: 93). In this concept, tradition was just another name for order, regularity, and existing state of the society, while the energy of the modern age, which was most often transformed into revolutionary demands, wanted to change the existing status quo. As a consequence, the society often found itself in the vicious circle of actions and reactions, the ambiguities and arrogance of which prevented cross-generational dialogue, and only incited conflict. Each new elite hastily sought to impose as authentic its own designs for modifying the society. In this framework, the value that aspired to establish its continued existence and the identity of traditionalism had

to demonstrate practical wisdom, and bear the burden of multigenerational scrutiny.

Ever since the so called “Serbian revolution” at the beginning of the nineteenth century, the Serbian society has had a continuous problem of reaching the social consensus regarding the values that the Serbian people incorporated during their history. The last three decades – which have been marked by the attempts at social re-structuring; from the single-mindedness of communism, to blind nationalism, to riotous transition – failed to secure the democratization and culturalization of the Serbian society, and instead reduced those values to their bare essentials. What is left is a dried up echo of the tradition that we failed to recognize, and to which our political elite refers only when attempting to preserve the power, since it is the source of financial prestige. In such a simulacrum of social structure, invariable leadership and ketman subordination dominated, while the charismatic power of political idols was reduced to a mirage - a “phenomenon of the charismatic stylization.” (Stojanović 2014) The result is rigid formality, contaminated customs, paranoid autism infused with depression, and demographic collapse (Đurić 1997).

The restoration of past values happened at the time when the communist social order began losing its identity. It was led by the existing elite, which was adjusting, and hence all of the original ideas had been distorted. The thirst to prove the “repressed” truth crippled the cultural breadth, customs and education, and turned tradition into an unscrupulous instrument of the political elite. The same transformation also awaited the “Socially accepted activities” of returning to religion and national values. “Decades of communist intolerance, even hate towards anything religious in Serbian people, as well as the unjustified smothering of any national tendencies within the Serbs, especially the wealth of Serbian tradition, undoubtedly contributed to the explosion of that same type of intolerance and hate, this time expressed not against themselves but against other nations and their religious affiliations” (Jerotić 2004: 189). The political elite used this spiritual ambivalence of the Serbian intelligentsia. Powerless and antagonistic, Serbian thinkers and their leaders exhausted each other in mutual accusations regarding the return of and search for the lost identity. This created new cultural content that was in part reflection of the past and in part authentic revisionism of available cultural con-

tents. Contemporary values failed to respond to the complexities of reality, and instead mirrored the past without much analysis or reflection. This clash with reality paved the way to a fictional identity. The utilitarian approach inevitably undercut the identity and reduced it to a tool for achieving personal gains. What was ignored was that the “cultural process of mankind is an abstract of a higher order than the development of an individual, and thus harder to present clearly” (Freud 1970: 351). Although the past was glorified, the stereotype of nationalism did not allow it to be rationally fathomed. The provocative self-critical declarations, though well-founded, mirrored the discrepancies between tradition and innovation. Their encounters suggested new quality, and not new sensationalism and mythomania.

Instead of Conclusion

Parallel to this type of political elite, a number of thinkers promoted a syncretism of traditional and modern, and demanded for the Serbs to be part of the modern world and not isolated from it. The outdated historicism or rational nihilism led today's Serbian society to a cross-roads, from where it does not know where to go, because it does not know whence it came. The young live in despair, and are confused by the lack of the well-trodden paths of traditional values. Those that decide to stay in the country often show inclination towards extremes, either nationalism or syncretistic internationalism. Both alternatives are equally destructive, and pose a grave threat to the survival of the society in modern times. A return to a familiar cultural identity should be the path of a society that did not fail itself or its ancestors. “Where a nation's culture is concerned, one needs to take into account various parts of that society's spiritual life: not only its science, but also its morals and religion, literature and arts, its politics and laws, military and commerce, customs and entertainment” (Jovanović 2005: 42). Taking into consideration its complexities, the Serbian society needs to discover its identity and on the eve of the twenty-first century demonstrate a consensus on how to interpret it.

The identity of a nation inevitably affects its demographics. The ambivalent identity of the Serbian people affected numerous social phenomena, such as forced and voluntary displacement, conflict, impover-

ishment, social destruction, lack of prospects for the young, ideological stupor, cultural despondency, etc. All these phenomena affect the country's demographics. The negative context of the aforementioned social phenomena cannot promote the prosperity of a nation, nor improve its demographics. A stable and universally accepted identity, free of exaltation and resignation, is a prerequisite of an orderly society that shows demographic progress. Then, eventually, even the Maltus warning (Maltus 1798), over two centuries old, regarding the overpopulation of the planet would be recognized in Serbia – is this not the way out of hopelessness to unhappiness?

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Snežana S. Đorđević¹
Faculty of Political Sciences, Belgrade

Dora Z. Petronijević,
MA, PhD student, University of Singidunum, Belgrade

Housing Policy and Housing Market in Serbia

Abstract

This article analyses housing policy and the quality of housing market in Serbia. Housing policy is analyzed in connection with policy of spatial and urban planning and building and construction policy, focusing on the housing availability as vital need in everyday life for each person, family and community in general. Numerous researches show that this policy field in Serbia has been pretty neglected, letting citizens alone to find their way on housing market. Above all that, this policy field is centralized, poorly coordinated between state and local government, and local government as important actor, still doesn't have enough competencies and capacities for this kind of activity. The analysis of housing market focuses on the most important factors that influence the housing demand and supply. Through empirical research was predicted how long it will take for housing to be approachable to population. The aim of this paper is to show the possible way for development of housing policy in Serbia, to procure more affordable housing market for citizens, upgrading the quality of their lives. The main methods used in this study are: analysis (quantitative and qualitative), comparative analysis, empirical research, and predictions of future developmental scenarios. The paper has two parts: housing policy and housing market.

Keywords: housing policy, urban and spatial planning, zoning, building, housing market, incomes, housing prices, mortgage, housing loans.

¹ Professor
snezana.djordjevic@fpn.bg.ac.rs

1. Spatial and Urban Planning

Good spatial and urban planning is a precondition for good regulation and development of housing policy. Good planning means good management of land, zoning (social and functional), creation of friendly investment environment, procuring houses accompanied with adequate public goods necessary for good quality of life.

The process of spatial and urban planning in Serbia has numerous weaknesses: this field is neglected, centralized, local governments have poor competencies and capacities and in this process citizens' needs for housing are forgotten. There is deficiency of plans, and even when they exist, they are often not implemented.

Numerous analysis pointed out that Serbian Spatial plan is highly detailed, limiting local government in adoption of national standards to local community's needs. In such a way flexibility and functionality of local plans has been sacrificed. There are recommendation that this plan ought to be more flexible and should consist of basic recommendations and principles, allowing local governments to adjust local urban plans to real community needs. (Radetić, Vujačić 2013: 10-13)

Local governments often lack planners, as well as money to make a plan. They rarely include citizens, professional organizations and NGOs in the planning process and therefore, the housing availability for each settlement is neglected data. Additionally planning documentation is not easily understandable and "friendly" enough to stimulate and provoke participation of local community.

The state has to modernize and upgrade the quality of planning activities. It should upgrade the quality of coordination of planning processes,² monitor the process of implementation of the adopted plans and strengthen the network of inspections.

2. Housing Policy and Construction Policy

State and local government in Serbia neglected the problem of housing availability, although it is of vital importance for citizens. Procuring good housing policy demands great capacities which are not easy to develop after the whole decade of civil war, political conflicts and

2 ...stressing the importance of housing question.

economic destruction. State and local governments are rebuilding its potentials slowly.

Generally speaking state should procure legal state, rule of law, democratic rules and institutions and market economy as basic conditions for welfare and development. State and local government, through various activities and instruments³ can create stimulative environment for development of housing market.

3. Regulation

Legislation in the field of housing is “under reconstruction” after 2000. *Law on Planning and Building* as the most important one for this sector, has been stipulated in 2003, and changed by amendments in 2009, 2011 and 2013. These changes often contradicted each other, causing confusion, and numerous problems.

Housing policy in Serbia is still pretty centralized, although some regulations strengthen local government’s capacities to develop housing policy: the *Constitution* (2006) gave them the right on building land and the *Law on Public Property* returned property to local government (2011).⁴ The *Law on Housing* and the *Law on State Survey, Cadastre and Registration of Property Right* (1992) allowed citizens to buy their apartments (that were public property) cheaply. Since housing purchase is a huge investment, and few citizens can afford it, the fact that 89% of housing is privately owned makes the situation in this field much better.

State has made some efforts to increase housing availability for a wider scope of population. *Law on Mortgage* (2005) stipulated housing loans,⁵ and National Corporation for Insuring Housing Loans (2006)

3 With *strategies, plans, legislation and tax policies* government can influence both housing demand and supply. Good procedures and efficient and skillful administration are important factors for this policy field *etc.* It is also important to develop system of housing loans with loan insurance, and instruments of tax policy like property tax, tax deductions and subsidies. See: <http://www.investopedia.com/articles/mortgages-real-estate/11/factors-affecting-real-estate-market.asp#axzz2GGZKE2YF>, accessed on October 28th 2015.

4 Local property was taken from local governments in 1995. The returning process is also pretty slow and up to now most local governments succeeded only to make evidence of their property.

5 See: *Law on Mortgage*, Official Gazette of the Republic of Serbia, Number 115/2005, 60/2015, 63/2015.

insures the approved mortgage loans,⁶ making them cheaper for the borrowers (citizens) and safer for the lenders (banks). These measures lead to constant increase of subsidized loans, which now represent the largest part of the total amount of housing loans.⁷ (Urošević *et al.* 2012: 261).

State paid special attention to socially vulnerable groups. It stipulated the *Law on Social Housing* (2009),⁸ and established Republic Agency for Housing (2011), in order to develop social housing program and to coordinate its implementation.

Besides better circumstances for buying flats, it is still hardly affordable for citizens. Only 10% of households (data from 2009)⁹ can take loan on market, without public subsidies, which stays a basic problem of housing sector in Serbia (Ristić 2013: 4-10).

4. Comparative Analysis of State Role in Housing Supply

The government role in the housing supply varies throughout the world. Generally, in Anglo-Saxon countries, the government role is low, and can be seen in some subsidies or incentives for affordable housing built by private companies (Bardhan *et al.* 2012: 6). In social-democratic countries the role of the public sector (state and local government) is higher, procuring a certain number of housing units for the population. In many European countries the social and public housing programs are very developed. Therefore, Scandinavian countries, Netherlands, Germany, Austria, etc. built a huge public housing fund, and rent it to citizens under very affordable prices. Vienna (capital of Austria) with 220.000 housing units is a good example of the importance of local government in this process. In Singapore, Korea and China the government plays a very important role in housing market supply.

6 It insures the loans for construction, purchase or renovation of housing properties. See: *Law on Mortgage*, Official Gazette of the Republic of Serbia, Number 115/2005, 60/2015, 63/2015.

7 That proves that the government has achieved its goal to make the apartments more accessible for its citizens, by creation of NCIHL.

8 State has focused on helping the most vulnerable social groups, as a priority. The most important instruments for social housing have been developed after 2005, and they include: upgrading legal frame for social housing, building public housing fund, establishing local housing agencies, local housing strategies, etc. See: *Law on Social Housing*, Official Gazette of the Republic of Serbia, number 72/2009.

9 Having in mind economic crises, this percent now can be even lower.

In the most countries 2/3 of the population owns their housing.¹⁰ It is interesting that Germany has the lowest homeownership rate (52.6%) in EU and it has very developed rental sector.¹¹ Serbia, on the other hand, has very high homeownership rate¹² which is common characteristic for Eastern¹³ and Southern¹⁴ European countries.¹⁵

In general, the homeownership rate in most of the EU countries has been stable. In some countries, the steady growth is driven by *policies that have encouraged homeownership* such as tax incentives for home purchases and policies that have stimulated sale of social housing. (Pit-tini, Laino 2012) The *increase of number of households*¹⁶ in EU is mainly caused by population aging¹⁷ and increasing divorce and separation rates. The researches have shown that single adults and couples without children are most common form of household.

Good planning and good functional zoning in each local community is the base for adequate building. It is in charge of local government to procure good land preparation for building.

5. Role of Local Government in Land Preparation for Building

Comparative experiences in developed countries show that local governments pay great attention to land preparation for building. Models and the way of procuring this kind of services can be different, but in spite of this, the process is standardized. At the very beginning local government makes zoning of their space and precisely defines housing

10 The average homeownership rate in Euro Area 18 is 66.5% and in EU 28 is 70%.

11 Similar situation is in Austria with 57.2%.

12 According to data given by *Statistical Office of the Republic of Serbia* (Census 2011), 89.75% of housing owned by one private owner, and 98.25% owned by one or more private owners.

13 For example: Rumania and Slovakia have homeownership rates higher than 90%, and Lithuania 89.9%, Croatia 88.5% and Slovenia 76.6% (Source: *Hypostat* 2015).

14 The highest homeownership rate among Southern European countries have: Malta (80.3%), Spain (78.8%), Greece and Cyprus (74%) and Italy (73.2%).

15 See more: Data for EU countries in: *Hypostat* 2015; and for Serbia in: *Statistical Office of the Republic of Serbia*, Census 2011.

16 The number of households in EU countries has increased from 193 million in 2005 to 202.8 million in 2009.

17 17.4% of Europeans have exceeded the age of 65.

zones in adequate parts of the settlement. Land preparation means that each building lot should be supplied with infrastructure (like: streets, parking lots, waterways, sewage, electricity, heating, gasways, phone, internet & cable network, green spaces etc) before the building process. On well prepared lots, procured with good infrastructure and facilities, it is easy for investor to build cheaply and quickly¹⁸ (Đorđević 2008: 333-334).

The architectural style of buildings is also standardized by regulation. It includes: the height of the objects, materials, design, etc. Usually, investor can choose between several types of buildings, which can be visually nicely combined in the settlement.¹⁹ Through this instrument local government procures nicely designed settlements and lovely city.

In great part of Europe, local governments prepared land for building by local public enterprises (Scandinavia, Germany, France, Austria, Italy etc), although with the reforms of public sector in 1990s, the space is widely open for private enterprises as well. (Greene 2002, Wollmann 2008, Pollitt, Bouckaert 1995).

On the other hand, Anglo-Saxon world (USA, Australia, Great Britain) includes private enterprises in this process. Local governments in these countries offer tenders for land preparation, and mostly private enterprises take part in them.

Local governments in Serbia have abandoned process of land preparation for building. They obligated each investor alone to prepare the lot for building, which turned out to be expensive and highly time-consuming. This policy results in variety of practical solutions which leaves some settlements without basic infrastructure.²⁰ It significantly increases the cost of building process and decreases availability of housing for citizens, both in quality and in price. (Mojović, Žerjev 2010: 7) The other side of the problem are ugly, chaotic settlements with variety of buildings in types and styles, sometimes without basic facilities and infrastructure.

18 Therefore it is possible for a great number of municipalities to issue building permits to investors for private building *in one week* and for business buildings *in three weeks*.

19 It is often precisely defined in which elements investor has to follow given standards and in which s(he) can be original.

20 Even parts of Belgrade (capital of Serbia) are left without sewage and waterway system (settlement Galenika in Zemun municipality during 1990-ties, and settlement Kaluđerica up to now, etc.).

Good building and architectural standards should be adopted in Serbia in order to upgrade the beauty of settlements and the quality of life in them. Having in mind rich comparative practice, Serbia still has to choose the optimal model for itself. Meanwhile, two the most urgent problems in this field are left to be solved: informal (wild) building and lotting, and very time- demanding procedure for issuing building permits.

The practice of *informal (wild) lotting and building* has flourished in the 1990s when criminal behavior and voluntarism have been tolerated. Even now field of urbanism and construction is poorly regulated and protected from this practice.²¹

Serbia belongs to countries with the longest procedure for *issuing building permits* (between 183 countries in the world, Serbia was for a while at 179th place and in 2015 it upgraded up to 139th place).²² The new changes in the Law on Planning and Building (2014) are focused on simplification of building permits' issues in order to shorten procedure and to decrease corruption.²³

6. Housing Markets: Factors Influencing Housing Prices

Housing can be regarded as a "shelter", but also as an investment. The growth of housing industry induces the development of many financial, building and development institutions that support the industry. From the social point of view, it is believed that homeownership encourages stronger social networks, better educational achievement rates and lower crime rates. (Brueggeman, Fisher 2005: 172, Kahr, Thomsett 2005) For these reasons in many countries governments encourage homeownership through different incentives.

The housing market is very complex, and there are numerous *local, national* and *global* factors that influence the behavior of housing prices.

21 Some experts suggest that legalisation is a transitional measure to standardisation of lotting and building, stipulating severe punishments for any attempt of informal lotting and building.

22 See: <http://www.doingbusiness.org/data/exploretopics/dealing-with-construction-permits>.

23 The Law itself can't automatically have such consequences. Under-law regulations are important together with change of political culture (development of democratic culture and participation).

Housing market is highly influenced by *local environment*, which means that even in one country, the behavior of housing prices can vary in different cities or regions. These differences are caused by relative desirability of regions, and their ability to attract business, and consequently to employ its citizens. By acquiring housing, individuals also automatically acquires some *public goods* which contribute to their quality of life, like: the quality of schools, health care, transportation, level of safety (crime rates), cultural life and events, presence of parks and recreation centers, noise level, etc. (Brueggeman, Fisher 2005: 187)

The *national (or regional) factors* that influence *housing demand* are demographics, employment rate, the level of income, quality of mortgage system, level of interest rate for housing loan, and tax policy.

The demographic structure (age distribution, marital status, family/household size), and population's life habits highly influence the level of demand and the type of the demanded housing properties. Population growth, influenced either by high birth rate, or by migrations, leads towards higher housing demand. On the other side, population decrease (in case of Serbia) decreases the level of housing demand.

In Serbia young population is especially vulnerable because they have the highest rate of unemployment. Therefore they hardly can afford housing, create their own family, have children and live independent life.²⁴

In order to finance the housing purchase one has to be *employed* and to have *steady and adequate income*. Since the majority of people cannot finance the housing purchase by cash, most of them take housing loans. For that reason the important factors influencing the housing market are the levels of *interest rates* for housing loans and the *quality of the mortgage system*. *Tax policies* (on local and national level) can also have an important positive or negative influence on the demand, depending of the policy.²⁵

The following graph shows how each of these factors influenced Serbian housing demand before and after the crisis in 2008 (Petronijević 2015).

24 That decreases their chances to create their own family.

25 For example in Serbia, exemptions from taxation on the first flat for 40m².

Table 1. Housing demand in Serbia

Factors	Before 2008	After 2008
Demographics	-	-
Income	+	+
Employment	first -, than +	-
Mortgage loan terms	+	-
Fiscal policy and government support	+	+

6.1. Mortgage system

*Mortgage loans*²⁶ allow individuals to buy a property more easily. The mortgage systems around the world are very diverse: *flexible mortgage system* allows very favorable conditions for loan borrowers (for example, USA), while *restrictive mortgage system* has strict conditions for loan borrowers (for example, Germany and Japan). The flexible mortgage system is more simulative for housing purchases in comparison with the strict one which decreases the availability of loans for borrowers. On the other side, in the 2008 crisis, the countries with stricter mortgage system have been much more immune to the creation of housing prices bubbles.²⁷

Serbian mortgage system is closer to strict one. *L-to-V* is a ratio between requested loan value and the estimated value of the real estate property. In Serbia it is equal to 60 which means that the borrower can only finance 60% of the value of the housing (that s(he) intends to purchase) by the loan, and the other 40% s(he) has to provide him/herself. The higher the ratio, the easier it is for borrower to take a loan, but the likelihood of the lender's loss increases.

Most of the loans have *adjustable interest rate* pattern and are usually indexed on *EURIBOR* or *BELIBOR*.²⁸ In most banks the adjustment period is *6 months*, or even *3 months* which increases the level of insecurity for borrowers. All these facts lead to conclusion that Serbian

26 Serbian: *stambeni kredit* (the housing that is bought by this loan is seen as the base value for the mortgage loan).

27 During the crises in 2008 the housing prices in Germany in Japan stayed stable.

28 EURIBOR (Euro Interbank Offered Rate) is the interest rate used by banks when they lend money to one another in Euros. BELIBOR (Belgrade Interbank Offered Rate) – same as EURIBOR but for loans in Dinars.

lenders (banks) have transferred a greater part of the interest rate risk to the borrowers.

The other important risk that the borrowers in Serbia are facing is a *currency risk*. Citizens of many developed countries are not facing this risk, but in Serbia it turns out to be very important. This risk appears because citizens are receiving their incomes in Dinars²⁹ and are paying their loans in Euros or some other foreign currency. If Dinar's value significantly decreases compared to the currency in which the loan is approved, the borrower might face serious problems in loan repayment.³⁰

In this context it should be mentioned that econometric research has been performed and it showed that both, *average population income* and *Dinar/Euro exchange rate*, jointly Granger cause *housing prices* (case of Belgrade).³¹

Serbian borrowers are also required to pay *prepayment penalties* if they decide to repay their loan in shorter time period than it is stated in the contract. These penalties are introduced due to the *prepayment risk* that lenders are facing. Prepayment risk is a risk that the loan will be pre-paid when the interest rate falls below the loan contract rate. (Brueggeman, Fisher 2005: 73) One could discuss the justification of this penalty, because, with prepayment, borrower's default risk is removed, and potentially bank can reinvest this money under same or better terms (if interest rate increases). In 2011 National Bank has limited the level of prepayment penalties to maximally 0.5% (if the prepayment period *shorter than one year*) or maximally 1% (if the prepayment period *longer than one year*).

From all of the above, it can be concluded that loan terms, combined with present economic situation are not very stimulative for the housing demand.

29 Citizens' incomes are usually not pegged to any foreign currency.

30 This problem has appeared quite recently in Serbia with the loans denominated in Swiss francs. With constant increase of the Swiss francs' value, the number of the defaulted loans has been constantly increasing.

31 The research has been performed on the housing prices in Belgrade (as capital of Serbia it has the highest number of housing transactions) in the time frame between 2007 and second quarter of 2015. The data has been available on quarterly basis so the sample size equalled to 34 observations.

6.2. Housing supply

Housing can be provided (supplied) both by private and by the public sector. The housing supply is determined by the costs of land, construction (labor and materials) as well as by financing costs. All these costs are directly connected with broader economy. (Bardhan, Edelstein, Kroll 2011: 9) At local level, the supply costs can be also influenced by different land-use regulations, standards and restrictions, such as: zoning, building codes, environmental factors, physical differences in land terrain and the variations of these factors between locations. (Brueggeman, Fisher 2005: 186)

According to the Census, Serbian housing stock has increased in last ten years (2001-2011). However, when it comes to building trends there has been a construction slowdown after the crisis in 2008 but after 2011 there are some signs of the construction market recovery.

The prices of labor and construction materials in Serbia are *moderate or low*. Average construction cost for housing in Serbia is around 550 EURO/m² (Jakšić 2013: 48-49). Financing costs and the costs connected to paperwork (for example, for building permit)³² can significantly increase the building costs. Presently, the average prices in Serbia are around 850 Euro, and in Belgrade on average they vary between 1035 Euros/m² in Rakovica and 1700 Euros/m² in Stari Grad.³³ Discrepancy between construction cost and high housing prices in Belgrade can be also explained by investors' expectation of very high profits, especially in more central parts of the city.

7. Expected Development of Housing Market and Prices in Serbia

The further research focuses on prediction of further development of Serbian housing market using Price-to-Income ratio (P-to-I).

Price-to-income is a good indicator of the *housing availability* for the citizens. It is a ratio between the housing price and the level of the yearly household income. High level of this ratio would imply that housing is

32 Very slow procedures for paperwork acquiring can stimulate bribery. In that case bribery would increase the building costs, which would influence the final price of housing.

33 Source: *National Corporation for Insuring Housing Loans* (NCIHL). This source only includes prices from the housing transactions made through insured loans (it doesn't include transactions made by cash or uninsured loans).

too expensive for citizens. In order to determine if the value of this ratio is too high or not, we need calculate the optimal level P-to-I as a guidance³⁴ (Milićević 2012).

The factors that influence the level of optimal P-to-I are: the *housing loan terms* (in this research: 20 years maturity and 6% interest rate) and *Loan to Value ratio (L-to-V)* is equal to 60. The optimal P-to-I for Serbia based on these assumptions is calculated in the following way: The average income in Serbia according to National Bank's data is 379.3 Euro (2014 average). By the underwriting rules, the loan payment should not be higher than 1/3 of the monthly income, which in this case means that it should not be higher than 126.4 Euro. On a yearly basis that is 1.517 Euros. If one assumes that the loan was made at 20 year term, the maximal level of the issued loan can be equal to 30.344 Euro. If the interest rate is equal to 6% we assume that half of the payment is used for the interest payment, so only the remaining half will be used for the loan amortization (15.172 Euro).

If we assume that L-to-V ratio is 60%, then the maximal price of the apartment should be 25.287 Euro (15.172 Euro: 60 = x : 100, after the calculation we get that x=25.287 Euro). The average housing size in Serbia is 74m², so its price should not exceed 25.287 /74, which equals to 342 Euro/m². In order to get the optimal value of P-to-I ratio one should divide 25.287 Euro with average yearly earnings of 4.551,60 Euro. We get optimal P-to-I equal to 5.56. In 2014 P-to-I in Serbia and Belgrade were around 15, and in other Serbian regions around 11. These values are much higher than the calculated optimal value. This means that at present the housing in Serbia is overpriced, and therefore few citizens can afford to buy the dwelling.

The housing and mortgage market in Serbia are presently *underdeveloped*. As long as the prices stay on such high level, the housing demand will have to be low, and therefore the housing market can not seriously develop. One of the consequences of the small and undeveloped housing market, among other things, is the discrepancy between housing quality and prices. When the levels of P-to-I ratios decrease to its optimal level, one could expect the increase of housing demand and an increase of market liquidity. In such a way the above mentioned problem could also be resolved. These conclusions can lead us to wonder how long it would take for P-to-I ratios to reach their optimal level.

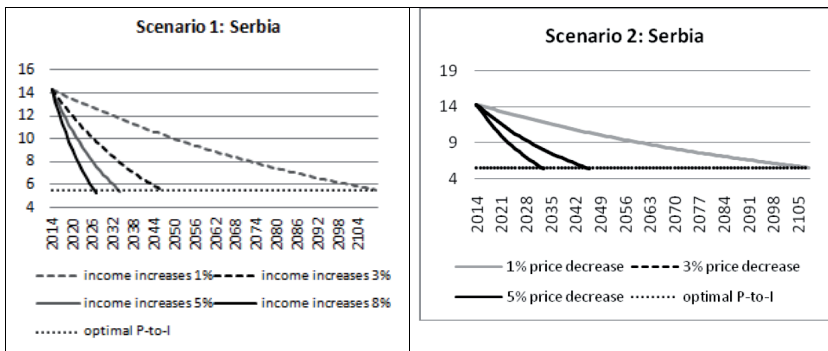
34 Methodology for calculating implicit optimal P-to-I has been offered by Goran Milićević (2012).

The answer on this question is not easy; however, after making certain assumptions regarding the behavior of housing prices and incomes, one could make three prediction scenarios.

7.1. Scenarios 1 and 2: Scenarios with one fixed variable

In first two scenarios one of the observed variables will be fixed, and the other will vary. The first scenario will assume that the *housing prices will not change* and that the *average income will be constantly increasing* at certain rate³⁵ (Petronijević 2015). The second one assumes that the *income will stay constant*, and that the *future housing prices will decrease*. The results are presented in the graphs below.

Graphs 1 and 2. Time period necessary to reach optimal P-to-I Ratio: Scenarios 1 and 2



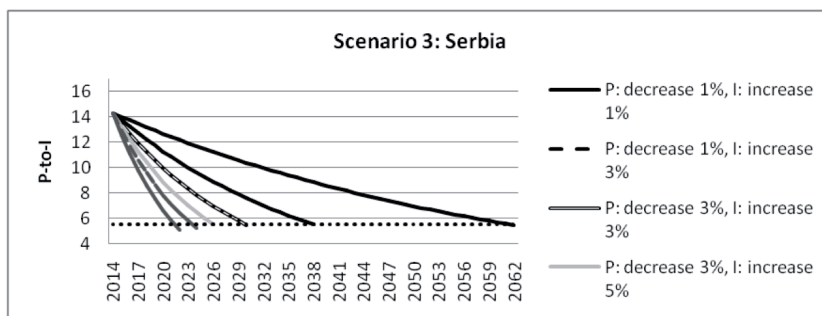
The results of these two scenarios are very similar. The least optimistic outcomes in both scenarios show that it would take over 90 years to reach optimal P-to-I value. When it comes to the optimistic ones: if the income yearly increases by 8% (1st scenario), optimal P-to-I ratio of 5.26 would be reached by year 2027. If annual housing prices yearly decrease 5% (2nd scenario) optimal P-to-I level (5.40) will be reached by year 2033.

³⁵ In order to find the appropriate expectations for future income rates' behavior, the average annual income changes in Serbia in time frame between 2002 and 2012 have been compared with incomes in EU transitional countries. Through comparison with these countries it has been concluded that in Serbia, the average yearly income increase above 8% is very unlikely. For that reason, the observed increase rates in this scenario will be: 1% (more pessimistic expectation), 3% and 5% (more realistic expectations) and 8% (optimistic expectation). Calculations are based on data provided by Eurostat: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_nt_net&lang=en.

7.2. Scenario 3: Housing prices decrease & income increases

In the *third, most optimistic scenario*, it is assumed that *housing prices will fall* while the *average income will rise*. The following graph shows how quickly P-to-I ratio will approach its optimal value, depending on the combination of different housing prices decrease rates and average income's increase rates.

**Graph 3. Time period necessary to reach optimal P-to-I Ratio:
Scenario 3**



*P represents housing prices, and I represents average income

If the most optimistic outcome comes true (housing prices decrease 5% and income increases 8%), the optimal P-to-I ratio will be reached by 2022. If the least optimistic one occurs (housing prices decrease 1%, and income increase 1% in one year), the optimal P-to-I ratio will be reached by 2062.

Although the most optimistic, this scenario confirms that the period of reaching the optimal P-to-I ratio will be lengthy, except in case of very favorable circumstances. One also has to keep in mind that in real life it is possible that the combination of the behaviors of these two variables can influence the stagnation or further increase of P-to-I ratio. In these cases, the necessary period for approaching the optimal P-to-I ratio will be longer than in any of the previous scenarios.

The analyzed scenarios have shown that the optimal level of P-to-I ratio can be reached in most optimistic case in around 7 years, and in the most pessimistic one, in more than 90 years. How long will it take in reality depends primarily from the level and quality of Serbia's future economic development. The adequate economic development would increase the employment rates and the level of earnings. The increase of earnings would lower the P-to-I rates, and the housing availability

would increase. This could lead to increase of the housing demand and to further development of housing market.

8. Resume

Having in mind that *availability of housing for citizens* is the main topic in this paper, we can conclude that:

Housing policy in Serbia has to be more sensitive to citizens' needs and demands, more based on evidence and to procure *better quality of data bases*. It should be, more responsible to professional standards and public interest, more transparent, and to procure more inclusive decision making process for citizens. For state and local governments it is of a great importance to develop partnership and coordination in planning, creating and implementing of housing policy, together with permanent upgrading competencies and capacities of local government in this field.

Global economic crisis together with contemporary *political instabilities* in the world (wars, migration crisis, etc) imposed and increased the problem of homelessness and poverty. Housing availability turns out to be an increasing problem even in welfare states. In Serbia this situation can be only even more challenging.

Loan terms, combined with present economic situation in Serbia are not very simulative for the housing demand. The *housing and mortgage market in Serbia are small and underdeveloped*. Even though NCIHL's loan insurance and tax incentives improve the borrower's position, only economic development can seriously improve housing availability for citizens.

Present housing *prices in Serbia are unsustainably high having in mind the average incomes* (the calculated P-to-I ratio for Serbia turned out to be very high). Very good indicator is that only 10% of population can afford to buy housing, even with the loan. The performed scenarios have shown that reaching "optimal" housing availability in Serbia can be a very time consuming process that could, in some scenarios, take even more than 90 years.

At the same time, Serbia has a high homeownership rate meaning that a substantial part of population has their own housing. Young people stay too long in their parents' house, postponing their independent

life, or forming the family. People, most frequently afford their own housing by dividing house in two or more smaller units, by widening small units through selling the old one and paying for extra space, or by inheritance. All these activities are less challenging than buying the entire housing.

However the long term solution for this problem is an economic development that would result in the increase of employment rates and increase of incomes. Economic development and political stability would also lead to decrease of interest rates and to more favorable loan terms for borrowers. Only when the housing becomes attainable for citizens, can the housing market develop.

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- National Bank of Serbia (<http://www.nbs.rs/internet/cirilica/80/index.html>)
- Eurostat (http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_nt_net&lang=en)
- Hypostat 2015 (European Mortgage Confederation, 2015, "Hypostat", European Housing Finance Review, Brussels http://www.hypo.org/PortalDev/Objects/6/Files/Hypostat_2015.pdf)
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Dušan Dostanić¹
 Institute for Political Studies, Belgrade

Against the Crisis of time: Portraits of conservative thinkers



Daniel Fühling (Hg.)

***Gegen die Krise der Zeit: Kon-
 servative Denker im Portrait***

Ares Verlag, Graz, 2013, 280 p.

It is safe to say that the publishing house Ares from Graz is

among the rare few dedicated to the publishing of conservative literature. In their catalogue, we can thus find re-issues of classical conservative texts (such as Spengler's *The Hour of Decision*), but also books by prominent post-war conservative authors, including Caspar von Schrenck-Notzing, Hans-Dietrich Sander or Friedrich Romig. On its beaten track, the publisher has already released two collections featuring profiles of famous conservatives. These are: *Conservative Profile: Ideas and Praxis in Politics among Radetzky, Karl Kraus and Alois Mock*, edited by Ulrich Zellenberg and *Conservatism in Austria: Strands, Ideas, Persons and Associations from the Beginning to the Present*, co-edited by Ulrich Zellenberg and Robert Rill. Both volumes primarily examined conservatism in Austria, reviewing the ideas of major Austrian conservative thinkers, but also policies of the House of Habsburg, conservative parties

¹ Research associate
 dusan_dostanic@yahoo.co.uk

and associations. It was in these footsteps that the volume: *Against the Crisis of Time: Portraits of Conservative Thinkers*, edited by Daniel Fühling, was delivered. However, this collection is also different from its precedents. First, it is no longer only about Austrian conservatives, or even solely about European authors. We can find essays on Plinio Corrêa de Oliveira, Nicolás Gómez Dávila, Ivan Ilyin, Russell Kirk, Aleksandr Solzhenitsyn, Michael Oakeshott, Julius Evola... and thus, the book also takes into account British, Russian and Latin American traditions of conservatism. Among the Austrians profiled are Johannes Messner, Hans Sedlmayr, Gerd-Klaus Kaltenbrunner and Othmar Spann in separate essays, while Erika Voegelin's thought is reviewed together with Leo Strauss' in the same text. If we add essays on Arnold Gehlen, Ernst Jünger, Günther Maschke, Arthur Moeller van den Bruck, Edgar Julius Jung, Günther Rohrmoser, Wilhelm Röpke, Carl Schmitt and Robert Spaemann, we can note that German-speaking conservatives remain overwhelmingly featured. The second point that sets this collection apart from the previous ones is its time scope. More specifically, while the earlier two collections referred to the time from the "beginning" of conservatism in Austria "to the present",

or "from Radetzky to Mock", this volume captures only 20th century conservatives, both pre- and post-war. The third difference from the previous collections pertains to the selection of the authors featured. While previous collections included politicians, officers, artists or clerics who often did not have much to do with politics, nor did they participate in the framing of conservative thought, we now see persons who, to varying degrees, are all distinct political thinkers.

As the editor points out, in the selection of contributors special attention was paid to their strong knowledge of the subject, or ideas of the author they portrayed, as well as their empathy for the topic, as opposed to simply paraphrasing another person's ideas. In this respect, it is fair to say that this is a book on conservatives written by conservatives or at least authors who are pro-conservative. Hence the authors, apart from the afore-mentioned Zellenberg, also include Sebastian Maass, Hanns Pichler, Michael Wladyka, Dirk Budde and others.

In his editorial, Daniel Fühling, makes reference to difficulties experienced in determining conservatism and the conservative position and in this context, he underscores the supervivial spirit of our era which, with very

few exceptions, prevails among the academia and the public. Also, the editor does not disguise his intention that this collection should attempt to rehabilitate conservative thinking. He argues that the present era is not only unfavourable for conservatives, but we are witnessing the intentional discreditation of the classical and Christian traditions, or cultivation of prejudice against conservatism. The term "conservatism" given in the introduction is rather broadly defined. The editor chose to do so in order to include different representatives of the conservative world view, while accepting the historical tensions among the authors featured. Therefore, in this volume we can find such diametrically different authors as Russell Kirk and Julius Evola, Michael Oakeshott and Ernst Jünger, Wilhelm Röpke and Ivan Ilyin.

The definition of the term „conservatism“ assumes that this is a school of thought emerging at the time of the the French Revolution as a reaction to the rationalist, unhistorical and anti-life philosophy of enlightenment in all its variations. For two hundred years now, conservatives have been fighting with the hubris of the modern man and his chronic lack of touch with reality. It is clear that the editor is more interested in conservative thinking associated with the tradition

of the conservative revolution, which seeks to „create things that are worth preserving“ as Arthur Moeller van den Bruck put it, than in conservatism that advocates for the *status quo* and yearns for by-gone times.

Criticism that the modern age is out of touch with reality, in Fühling's opinion, implies the question about the essence of man. In the definition of conservatism, the editor raises the anthropological question, stating that the conservative worldview regards man as a whole, without reducing him to some specific aspects. Hence, for conservatives, man is not only a material, biological or political being, but above all *homo religiosus*. Beyond that, conservative anthropology views man based on the anti-individualistic principle, as a community being. In other words, man, with all his characteristics, is always viewed from the conservative perspective as part of the larger body of community, family, nation... Also, conservativist anthropological realism will perceive man as an imperfect, deficient and weak being that is evil-prone. On this issue, conservatism has always stood in opposition to all egalitarian ideas on human equality. Another important point of conservative anthropology is the belief in human inequality. Contrary to the opinion that regards con-

servatism solely as an inert and unreflexive insistence on keeping things as they are and refusal of any change, Fühning thinks that conservatism is inseparable from the perception of life as a struggle which may not necessarily pay off in the earthly life. With regard to the first characteristic of conservative anthropology that man is *homo religiosus*, conservatives struggle is not aimed at trivia, but at eternal values such as family, nation and God.

In this way, Fühning artfully bypasses the formalist perception of conservatism that any insistence on preserving a given state of affairs is conservative, or the debate whether conservatism implies the wish for return to the (better) past, as well as getting involved in outlining every single conservative canon and theme. Instead, with conservative anthropology in the foreground, it is possible to accept as conservative different visions of order framed on the same anthropological premises.

Given this broadly formulated definition of the conservative position, the editor emphasizes that all authors included in this collection have not lost any of their relevance even today. The authors portrayed should remind us of the traditional foundations of a sound order.

However, the collection cannot be said to provide very detailed

profiles of authors, since essays hardly exceed twenty pages. Thus the reader who is already familiar with the subject, will hardly find any new or unknown information. But, this was not after all the intention of the editor, who attempted to provide a survey of the 20th century conservatism, to introduce some neglected and forgotten authors to the public, to stimulate reflection and prompt further reading, rather than elaborate individual ideas.

Citing and Referencing

We welcome articles reporting research on substantive topic, concepts, and/or methodologies in all fields of political science. Authors of single country cases are strongly advised to consider the theoretical and comparative implications of the case. All articles are refereed by domestic and international experts in the field. Deadlines for sending the manuscripts are: **March 15** (for Issue 1) and **September 15** (for Issue 2).

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Intext reference: (Lijphart 1984: 44).

Journal articles

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Example: Thelen, K. (1999) "Historical Institutionalism in Comparative Perspective", *Annual Review of Political Science*, 2: 369-404.

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For books which are edited give the editor(s) surname(s) and initials, followed by **ed.** or **eds.**

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