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PROMOVIMI I SUNDIMIT TË LIGJIT DHE LUFTA KUNDËR KRIMIT NË VENDET E BALLKANIT PERËNDIMOR

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Përmbledhje

Ndërtimi i sigurisë juridike dhe mundësimi i drejtësisë së vërtetë si kusht për shtetet demokratike mbetet një sfidë për vendet në tranzicion, dhe veçanërisht për vendet e Ballkanit Perëndimor. Kriminaliteti si fenomen negativ është shkaku kryesor që dobëson nxitjen e shtetit të së drejtës, prandaj njohja e nivelit të kriminalitetit në shoqërinë e vendeve të Ballkanit Perëndimor do të përcaktojë nivelin e luftës kundër krimit nga njëra anë dhe nga ana tjetër nxitjen e shtetit të së drejtës. Krijimi i një mjedisi të sigurt ka një rol të veçantë për shoqëritë demokratike. Sa sfidë është procesi i promovimit të sundimit të ligjit për vendet e Ballkanit Perëndimor, sa kanë kontribuar në luftën kundër kriminalitetit dhe sa janë përqendruar në strategjitë qeverisëse për të rritur sigurinë juridike në vendet e Ballkanit Perëndimor; janë pyetjet hulumtuese të shkresës shkencore, që përmes analizës së legjislacionit dhe nga ana tjetër do të pasqyrojmë rastet në praktikë që rezultojnë të tregojnë shtetin e së drejtës dhe mënyrën se si vendet e Ballkanit Perëndimor kanë luftuar kriminalitetin. Në Ballkanin Perëndimor, promovimi i shtetit të së drejtës mbetet për t'u përballur me sfida institucionale, si në plotësimin e boshllëqeve ligjore, ashtu edhe në aspektin e vendosjes së parimeve kushtetuese të këtyre vendeve. Vendet e Ballkanit Perëndimor në lidhje me kontributin dhe përqendrimin në luftën kundër kriminalitetit janë të vështira për t'u kapërcyer nga këto vende.

Fjalë çelës: *Shteti i së drejtës; Kriminaliteti; vendet e Ballkanit Perëndimor; Promovimi; Legjislacioni.*

PROMOTING THE RULE OF LAW AND FIGHTING CRIME IN THE COUNTRIES OF THE WESTERN BALKANS

Abstract

Building legal security and enabling genuine justice as a condition for democratic states remains a challenge for countries in transition, and especially for countries in the Western Balkans. Criminality as a negative phenomenon is the main cause that weakens the promotion of the rule of law, therefore knowing the level of criminality in the society of the Western Balkan countries will determine the

level of fighting crime on the one hand and on the other hand the promotion of the rule of law. Creating a safe environment has a special role for democratic societies. How much of a challenge is the process of promoting the rule of law for the countries of the Western Balkans, how much have they contributed to the fight against criminality and how much have they focused on governing strategies to increase legal security in the countries of the Western Balkans; are the research questions of the scientific paper, that through the analysis of the legislation and on the other hand we will reflect the cases in practice that result in showing the rule of law and how the countries of the Western Balkans have fought criminality. In the Western Balkans, the promotion of the rule of law remains to be faced with institutional challenges, both in filling legal gaps and in terms of establishing the constitutional principles of these countries. The countries of the Western Balkans regarding the contribution and concentration in the fight against criminality are difficult to overcome by these countries.

Keywords: *Rule of Law; Criminality; Western Balkan countries; Promotion; Legislation.*

Introduction:

Since the breakup of Yugoslavia, the Western Balkans region—which includes nations like Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia—have been going through a difficult transition towards stable democracies. Promoting the rule of law—a cornerstone of democratic governance—and successfully fighting crime are essential to this shift. But the road to achieving real justice and legal security is still long and difficult, with recurring obstacles standing in the way of advancement.

The root cause of these problems is criminality, which not only threatens the rule of law but also the stability and economy of the area. Recognising the complex relationships among law, government, and crime is essential to tackling the many challenges facing the Western Balkans.

This paper aims to investigate the intricacies involved in advancing the rule of law and combating criminality in the Western Balkan nations. Through an exploration of theoretical frameworks and real-world applications, it seeks to illuminate the fundamental forces influencing the legal system and governance tactics.

Key questions to be explored include: How significant is the challenge of promoting the rule of law in the Western Balkans? To what extent have these countries contributed to combating criminality, and what strategies have they employed in this endeavor? Moreover, what institutional hurdles and governance deficiencies impede progress in fostering legal security and upholding constitutional principles?

Through a comprehensive analysis of legislation, case studies, and empirical evidence, this paper seeks to provide insights into the complex relationship between the rule of law and crime in the Western Balkans. By identifying both challenges and opportunities, it aims to contribute to ongoing discussions and initiatives aimed at strengthening democratic institutions and fostering a safer and more just society in the region.

Methodology:

This study employs a mixed-methods approach to analyze the promotion of the rule of law and the fight against crime in the countries of the Western Balkans. The methodology is structured as follows:

Case Studies: A selection of case studies will be employed to illustrate the implementation of legal frameworks, governance strategies, and crime prevention initiatives in the Western Balkans. These case studies will be drawn from a range of sources, including legal proceedings, law enforcement

actions, and judicial decisions.

Statistical Analysis: Quantitative data on crime rates, law enforcement capacity, and judicial performance will be collected from national and international databases. Statistical analysis will be conducted to identify trends, patterns, and correlations relevant to the study objectives.

Qualitative Interviews: Semi-structured interviews with key stakeholders, including government officials, legal experts, civil society representatives, and law enforcement personnel, will be conducted to gain insights into the challenges and opportunities associated with promoting the rule of law and combating crime in the Western Balkans.

Document Analysis: Legal documents, legislative texts, and policy papers will be analyzed to assess the adequacy of legal frameworks, institutional mechanisms, and governance strategies in addressing the rule of law and crime-related issues in the region.

By employing a multi-method approach, this study aims to provide a comprehensive understanding of the complexities surrounding the promotion of the rule of law and the fight against crime in the countries of the Western Balkans. It seeks to generate actionable insights and policy recommendations to inform future interventions and initiatives aimed at strengthening democratic governance and enhancing legal security in the region.

Rule of Law Dynamics: Comparative Analysis of Western Balkan Nations

Source: World Justice Project (Project, 2023)

Based on the provided index scores for the rule of law in the Western Balkan countries, it appears that Montenegro and Kosovo have the highest scores at 0.56, indicating a relatively stronger rule of law compared to the other countries in the region. Bosnia and Herzegovina and North Macedonia follow closely behind with scores of 0.51 and 0.53 respectively. Albania and Serbia have the lowest scores at 0.48.

These scores offer valuable insights into the strengths and weaknesses of each country's legal and judicial systems. While Montenegro and Kosovo seem to have made significant progress in promoting the rule of law, there is still room for improvement in all countries, particularly in addressing issues such as corruption, judicial independence, and enforcement of legal norms. It's worth noting that these scores provide a snapshot of the rule of law and may not capture all nuances and complexities within each country's legal framework.

However, they serve as useful benchmarks for policymakers, civil society organizations, and international partners to identify areas for targeted interventions and reforms aimed at strengthening the rule of law in the Western Balkans.

Assessing Criminal Justice Performance: A Comparative Analysis of Western Balkan Countries

Source: World Justice Project (Project, 2023)

Based on the provided criminal justice index scores for the Western Balkan countries, it is evident that Bosnia and Herzegovina, along with Montenegro, have the highest scores at 0.47, indicating a relatively stronger performance in terms of their criminal justice systems. Kosovo follows closely behind with a score of 0.46, while North Macedonia trails slightly with a score of 0.44. Albania and

Serbia have the lowest scores at 0.38 and 0.39 respectively.

These scores highlight variations in the effectiveness and efficiency of criminal justice systems across the region. Bosnia and Herzegovina and Montenegro appear to have made notable strides in areas such as law enforcement, judicial processes, and crime prevention. Kosovo, North Macedonia, Albania, and Serbia, while not far behind, still face challenges in addressing issues such as corruption, capacity-building, and access to justice.

It's important to recognize that these scores offer a snapshot of the state of criminal justice and may not fully capture the complexities and nuances within each country's legal and law enforcement apparatus. However, they serve as valuable indicators for policymakers, law enforcement agencies, and civil society organizations to prioritize areas for reform and investment in order to strengthen criminal justice systems in the Western Balkans.

CRIME STATISTICS IN WESTERN BALKANS

Country	Years	Crime Rate (Y)%
Albania	2009-2018	44.33
Kosovo	2009-2018	46.76
Montenegro	2009-2018	37.08
Serbia	2009-2018	40.6
Bosnia and Herzegovina	2009-2018	42.55
North Macedonia	2009-2018	27.65

Source: Linear trend of the WB countries (Selmonaj & Morina, 2021)

Kosovo and Albania have exhibited a high level of crime, with the crime rate ranging from 44.33% in Albania to 46.76% in Kosovo. North Macedonia has marked one of the lowest crime rates in the region, with a rate of 27.65%. This could be interpreted as an indicator of a lower level of crime compared to other Balkan countries.

Even though Albania, Kosovo, and North Macedonia are geographically close and have faced similar challenges in the post-war period, the crime rate varies significantly among them, suggesting that factors other than historical and socio-economic context may influence these differences.

Bosnia and Herzegovina, Serbia, and Montenegro have average crime rates, but they may have experienced similar challenges during this period, despite differences in the crime rate.

The rule of law and the fight against corruption and organised crime are the crucial areas in which the Western Balkan countries need to show tangible results in order to make more progress on their EU path (Mandl, 2021).

We have presented the main terrorist threats and attacks that have occurred in countries like: Bosnia and Herzegovina, Croatia, North Macedonia and the Kosovo province, also presenting the complexity of factors that have contributed to the present geopolitical climate (TĂRTEAȚĂ, 2021).

Over the years, Kosovo and Bosnia and Herzegovina (and to a lesser extent Albania and Macedonia) have raised concerns about the possible rise of Islamic terrorism in the region (Michaletos, 2013). However, that high unemployment and continued ethnic and religious strife, combined with the growing (political and financial) presence of the Gulf States in the region, may change matters for the worse (Teodorovic & Synovitz, 2013).

The region itself remains bogged down in the traditional problems of crime and corruption, and seems unable and unwilling to strengthen the RoL (Ham, 2014). The fight against organized crime has been at the forefront of the agendas of Western Balkan governments for about a decade now. However, this

commitment has often been merely declarative, influenced by external actors, such as the EU through the accession process involving the Western Balkans Six, emphasizing the need to address organized crime more effectively.

While EU accession perspective was still considered credible and alive, governments had incentives to invest efforts in dismantling the organized criminal network, which traditionally has been better organized than the governments themselves. With the onset of so-called enlargement fatigue and no clear European future for the Western Balkans Six, these incentives were lost.

Legislative Act For Criminal Justice

Albania has several legislative acts related to criminal justice. Let me provide you with an overview of some key legal documents related to criminal law in Albania:

1. Criminal Procedure Code (CPC) - The Criminal Procedure Code

Key provisions include: Independence of the Court; Presumption of Innocence; Restrictions of Personal Freedom

Criminal Code: - The Criminal Code defines criminal offenses and their penalties.

Other Relevant Laws:

1. Law on the Prevention and Combating of Organized Crime, Trafficking, and Corruption
2. Law on Disciplinary Measures for Judges and Prosecutors
3. Law on Domestic Violence

Kosovo

Criminal Code of the Republic of Kosovo:

The Criminal Code defines criminal offenses and their corresponding sanctions. It ensures that actions violating human rights, freedoms, and other protected values are subject to criminal penalties. The code is based on the Constitution of the Republic of Kosovo and international law.

Law on Central Criminal Records System of Kosovo:

This legislation institutes the primary database for criminal records in Kosovo. It regulates the management, disclosure, and rehabilitation of data concerning convicted individuals. The system complies with European Union laws and guarantees the availability of pertinent information.

Juvenile Justice Code:

The Juvenile Justice Code focuses on criminal justice for juveniles. It is based on the Kosovo Constitution, international agreements, laws, and other acts adopted by the Kosovo Government. The code is structured into six parts and 22 chapters.

Montenegro's criminal justice system is governed by the Criminal Code of Montenegro.

North Macedonia:

1. Proposed Criminal Law Changes (2023):
2. Law on Criminal Procedure (2018):
3. Criminal Code of North Macedonia (2009, as amended 2018)

Bosnia and Herzegovina (BiH) has undergone significant reforms in its criminal justice system since the early 2000s.

1. Criminal Legislation of Bosnia and Herzegovina:

- The Criminal Code of Bosnia and Herzegovina (adopted in 2003) constitutes the cornerstone of the country's criminal justice provisions. It encompasses substantive, procedural, and enforcement aspects of criminal law.

Serbia has a well-defined legal framework governing criminal justice. Let's explore the key aspects:

1. Criminal Code of Serbia: The Criminal Code of Serbia is a comprehensive legal document that defines criminal offenses and their corresponding penalties. It was published in the "Official Gazette of the Republic of Serbia" and has undergone several amendments and additions over the years.

Legislation regarding crime in the Western Balkan countries is a complex and evolving field, which is continuously undergoing improvement and harmonization with international standards, particularly those of the European Union. These countries have a rich historical experience and their own unique challenges in the fight against organized crime, corruption, drug trafficking, and human rights violations. In most cases, crime legislation is drafted in accordance with international standards and aims to enhance the capacity of the justice system to pursue and punish criminals, as well as to protect the rights and freedoms of citizens.

These legislations include regulations for the police, prosecution, courts, as well as for prison systems and the rehabilitation of convicts. An important aspect of crime legislation in these countries is the alignment with EU standards, considering their perspective of accession to the European Union. This harmonization process aims to ensure that these countries have an appropriate and effective legal system to combat crime and to ensure a fair and safe society for all their citizens.

However, challenges in implementing this legislation remain significant, including the lack of sufficient resources, corruption in the justice system, and challenges in international cooperation in the fight against organized crime. This requires continuous effort and strong commitment from local and international authorities to strengthen the rule of law and ensure a safe environment for all citizens.

Conclusion

The provided data encompasses various aspects of the legal and criminal justice systems in the Western Balkan countries, shedding light on the rule of law, criminal justice effectiveness, and crime rates across the region. In terms of the rule of law, Montenegro and Kosovo emerge with the highest scores, indicating relatively stronger adherence to legal principles. Bosnia and Herzegovina and North Macedonia closely follow, while Albania and Serbia lag behind with lower scores. These scores provide insights into the strengths and weaknesses of each country's legal frameworks, highlighting areas for improvement such as combating corruption and enhancing judicial independence.

Regarding criminal justice, Bosnia and Herzegovina, along with Montenegro, demonstrate the highest performance, followed closely by Kosovo and North Macedonia. Albania and Serbia show lower scores, indicating challenges in areas like law enforcement and access to justice. These scores underscore variations in the effectiveness and efficiency of criminal justice systems, guiding policymakers and organizations in prioritizing reforms and investments. Analyzing crime rates over a decade in the Western Balkans reveals significant disparities. Kosovo and Albania exhibit higher crime rates compared to North Macedonia, which marks one of the lowest rates in the region. This variance suggests that factors beyond historical and socio-economic contexts may influence crime levels.

Despite geographic proximity and similar post-war challenges, crime rates differ significantly among these countries. Bosnia and Herzegovina, Serbia, and Montenegro show average rates, indicating potential shared challenges despite differing crime levels. The legislative landscape surrounding crime in these countries is complex and continuously evolving, with a focus on aligning with international standards, particularly those of the European Union. Efforts to combat organized crime, corruption, and human rights violations are central to legislative agendas. However, challenges persist, including resource constraints, corruption within justice systems, and international cooperation hurdles.

Overall, while progress has been made, ongoing commitment and collaboration are crucial to strengthening the rule of law, enhancing criminal justice systems, and ensuring a safe environment for citizens across the Western Balkans.

Recommendation

Based on the analysis of rule of law, criminal justice effectiveness, and crime rates in the Western Balkans, here are some key recommendations to tackle challenges and improve legal and justice systems:

1. **Combat Corruption:** Implement comprehensive anti-corruption measures, including transparent procurement, whistleblower protection, and independent anti-corruption agencies.
2. **Strengthen Judicial Independence:** Safeguard judges and prosecutors from political influence, enhance judicial training, and promote merit-based appointments.
3. **Enhance Law Enforcement Capacity:** Invest in capacity-building, training, modern equipment, and coordination among agencies, with a focus on community policing.
4. **Improve Access to Justice:** Expand legal aid services, simplify procedures, and promote alternative dispute resolution to ensure equal access to justice.
5. **Address Socio-Economic Factors:** Tackle underlying issues like unemployment, poverty, and inequality through targeted social welfare and economic development programs.
6. **Enhance International Cooperation:** Strengthen collaboration with international partners to combat transnational crime through information sharing and joint investigations.
7. **Promote Legislative Reform:** Continuously update criminal legislation to align with international standards, focusing on areas like anti-money laundering and cybercrime.
8. **Engage Civil Society:** Collaborate with civil society organizations to monitor systems, advocate for reform, and promote public awareness of legal rights.
9. **Support EU Integration:** Utilize the EU accession process for reform and capacity-building, aligning with EU requirements and utilizing funds and assistance.
10. **Invest in Data Collection:** Enhance data collection mechanisms and establish reliable crime statistics databases for evidence-based policymaking and monitoring progress.

Implementing these recommendations can help Western Balkan countries strengthen their legal and justice systems, uphold the rule of law, and create safer societies. Collaboration among governments, civil society, and international partners will be crucial in achieving these goals.

References

1. Ham, P. v. (2014). *Gridlock, Corruption and Crime in the Western Balkans*.
2. Mandl, L. (2021). *REPORT on cooperation on the fight against organised crime in the West-*

ern Balkans. Bruxel: European Parliament.

3. Michaletos, I. (2013). *Southeastern European Organized Crime and Extremism Review*.
4. Project, W. J. (2023). *World Justice Project*. Retrieved from WJP Rule of Law Index: <https://worldjusticeproject.org/rule-of-law-index/global/2023/Serbia/>
5. Selmonaj, D., & Morina, F. (2021). THE EFFECT OF UNEMPLOYMENT ON THE CRIME RATE: COMPARATIVE ANALYSIS BETWEEN WESTERN BALKAN COUNTRIES AND SELECTED EU CONTRIES (2012-20218). *Odyssey Conference*, 440-461.
6. TĂRTEAȚĂ, C. (2021). HUMAN SECURITY, TERRORISM AND ORGANIZED CRIME IN THE WESTERN BALKANS. *Romania and the new dynamics of international security*.
7. Teodorovic, M., & Synovitz, R. (2013). *Balkan Militants Join Syria's Rebel Cause*.