

*Chapter Sixteen*

**The Elephant in the Room:  
Incomplete Security Sector Reform in Serbia and  
its Consequences for Serbian  
Domestic and Foreign Policies**

*Jelena Milić*

**The Socio-Political Context of Serbian Security**

*The Time of Milošević*

The dominant political context during the 1990s in Serbia was characterized by strong elements of authoritarian rule under Slobodan Milošević and the political elite around him, as well as by the break-up of Yugoslavia and the wars that erupted in the former Yugoslav republics and their consequences, including an exceptionally high level of war crimes and other crimes against humanity. The key political actors in this period in Serbia were ex-communist elites who replaced their communist ideology with a nationalist one; and the omnipotent state security apparatus, which was under the control of no other political authority. The defense industry and foreign trade came under the control of sons of generals and other high-ranking members of the security apparatus. The entire government became involved in illegal trafficking of cigarettes and petrol, due to economic sanctions imposed on Serbia after the outbreak of war.

*October 2000 and Beyond*

Milošević resigned in early October 2000 amid mass demonstrations pressuring him to accept his defeat in the September presidential election. Yet while his regime was defeated at the federal level (Federal Republic of Yugoslavia-Serbia and Montenegro), his structures remained in place in many important parts of the government. A few months passed before a new (Ser-

bian) government was formed, and remnants of the Milošević regime used the transition period to infiltrate the ranks of the new authorities or to preserve their positions in instances where the new authorities were slow to act.

The new Serbian government and the Western international community focused primarily on the economy, including privatization and fiscal and monetary reforms, and failed to advance any significant security sector reforms, despite common knowledge about the nature of the structures the new administration had inherited. The demand to fully cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY) was a daunting task for the new government, which faced the prospect of arresting and delivering considerable numbers of sitting officials in the police, army and intelligence services, over which the new government had failed to establish any meaningful authority. Substantial reform of the security sector was rendered even more difficult by political divisions between the pro-EU and modernization faction within the new Serbian leadership, led by Prime Minister Zoran Đinđić, and a faction centered around federal President Vojislav Koštunica, a nationalist social conservative who enjoyed far greater popular support in Serbia than Đinđić, and who had done little to prevent or end the wars of the Milošević period.

In addition, the non-violent movement Otpor, which played a significant role in toppling Milošević, turned its attention to corruption and positioned itself as the opposition to the new regime, rather than explaining to the wider public in Serbia why it was morally relevant and important for the new authorities to cooperate with the ICTY. As a result, domestic pressure on the new regime to take action remained modest. Otpor failed to understand that a common collateral danger of non-violent regime change is that a considerable number of those in the old regime responsible for intimidation and repressive tactics could remain in the government unless assertive actions are taken to remove them. Otpor failed to address this issue, which made it harder for Zoran Đinđić to assume authority over the security sector. Moreover, Otpor's effort to position itself as a moral force in Serbian society, and its attendant focus on corruption, served to diminish Đinđić's already-thin popular support.

### *The Đinđić Assassination*

Events related to the assassination would show that a mixture of individual's intelligence, politicians and organized crime groups were the

actors who played a paramount role in Serbian power politics in the early days of transition. The assassination of Prime Minister Zoran Đinđić on March 12, 2003 was carried out by a group consisting of certain members of the notorious JSO (Special Operations Unit), an elite special unit of the Serbian Service of State Security, as well as members of organized criminal groups and officials in the civilian intelligence agency. The assassination revealed the extent to which old structures continued to play a role in Serbian society, and that the new government had failed to clean out those structures as it focused on economic reforms.

Another factor hindering security sector reform was Montenegro's drive for independence. It is important to remember that Zoran Đinđić was a prime minister of only one of the two republics of Serbia and Montenegro, and that most of the security forces were under federal jurisdiction. Yet Montenegro, bent on complete independence from federal structures, showed little interest in reforming federal institutions, which helped war crime perpetrators and Milošević's elite to consolidate themselves within the army and its intelligence services. Meanwhile, the federal parliament, which was formally charged to control them, was composed from Milošević supporters from Montenegro and Serbia.

Given these circumstances, in a country that had yet to come to terms with its war crimes inheritance, Đinđić opted for questionable stopgap solutions that he hoped could provide for a more systematic approach later on. He set up a small alternative security structure of trusted persons and charged them with a variety of tasks, not all of which were legal or legitimate.

In retrospect, the Western international community has its own share of responsibility to bear for the atmosphere that was created before the Đinđić assassination, as Western officials did little to pressure Vojislav Koštunica or to highlight his past activities for a wider domestic or international audience, while simultaneously pushing Đinđić to arrest and deliver individuals to the ICTY, all in a situation of little to no reform or government security structures or implementation of any legal framework ensuring parliamentary control over such structures.

### ***The First Generation of Security Sector Reforms, 2003–2006***

This period can be marked as the beginning of the first generation of the security sector reforms, particularly in the armed forces. The principle of civilian and democratic control of the armed forces was introduced for

the first time as General Staff and military intelligence services were subordinated to the Ministry of Defense. A law regarding the police facilitated depoliticization and professionalization of the police forces. Still, there was insufficient political will to push thorough reforms, although several police and army generals were sent to the ICTY in the Hague in this period. Certain security reform measures were implemented unevenly due to tensions at the federal level between Serbian and Montenegrin elites, and within Serbia among the nationalist and pro-EU factions. Widespread corruption among political parties and government institutions kept state institutions weak and incapable of advancing significant democratization or any broader societal reforms.

### *The Second Generation of Security Sector Reforms, 2006–2010*

In this period reforms were justified mainly by the need to comply with international criteria, in Serbia's case benchmarks set by the EU.

In May 2006 Serbia and Montenegro finally split, giving Serbia greater opportunity to introduce more vigorous reforms. Yet in November 2006, as part of a fruitless attempt to prevent Kosovo's independence, Serbia adopted a new constitution that contained insufficient or conflicting provisions related to democratic oversight of the security sector.

The self-declared independence of Kosovo on February 17, 2008 was a turning point of the discourse from integration towards protection of state territorial integrity and sovereignty. The debate over security sector reform in this period was heavily conditioned by Serbian policy on Kosovo, which started to affect all other policies. All strategic documents adopted in this period were Kosovo-centric, and failed to address other security and defense challenges properly. Several relevant laws were adopted and an acceptable normative frame for democratic control as an important part of security sector reform was set in place, despite some weaknesses, particularly regarding good governance and transparency of decision-making. This period was marked by controversial reforms of the judiciary that failed to attract needed attention by the international community, which was focused elsewhere and was paying attention to Serbia only to ensure that it did not intervene militarily in Kosovo. As a consequence, international pressure on Serbia to engage in meaningful security sector reform waned during this period.

## **2011–2012**

The arrests of Ratko Mladić and Goran Hadžić in spring 2011 offered Serbia an opportunity to close some gaps in its efforts at security sector reform. Serbia professionalized its army in 2011 and has continued to introduce NATO standards. New and improved legislation expanding the mandate of parliamentary committees in charge of security and defense affairs is slated to enter into force in 2012. The European Union also has successfully conditioned Serbia to amend legislation related to ownership of the members' of parliament mandates (Mandates belonged until recently not to individual Members of Parliament but to their political parties, which significantly impeded their ability to act professionally and upon their judgment. Actually, prior to appointment MPs were obliged to submit blind resignations to their parties, which enabled the headquarters of political parties to control votes). New legislation, which gives members of parliament more freedom to exercise their mandates, can significantly improve work of the new parliamentary committees on security, defense and intelligence agencies, if individuals appointed to work in them are committed to the strengthening of institutions and the imposition of democratic control over the security sector.

Still, incomplete judicial reform, lack of harmonization of legislation throughout the security sector, and overall poor law enforcement remain important concerns related to the work and democratic oversight of the security sector in Serbia. The decision-making process on crucial issues is still made outside official institutions, which only serve to give them "democratic" cover. And when the decision-making process does occur within government institutions, it is often influenced by officials who are compromised by their activities in the 1990s and afterwards.

There are two possible explanations for Serbia's failure to push for more comprehensive security sector reform and more effective oversight: 1) Serbian authorities wish to do it but do not control the full security apparatus, or 2) they wish to impose control, but not to reform the sector, and are therefore acting to strengthen informal political parties' instruments of control, making unacceptable compromises along the way.

Serbian policy towards Kosovo, which tends to dictate the scope of all other policies, also significantly reduces Serbia's capacity to complete security sector reform. The lack of successful judiciary reform continues to affect the security sector. The continued presence of former perpetra-

tors, their accomplices, commanders and allies in Serbian security sector units, as well as in the judiciary and other parts of the Serbian administration, in political and business life, in the poorly regulated private security sector, and in the media significantly influences the overall political landscape within Serbia, including the scope of security sector reform and policies towards Kosovo, Bosnia and Russia.

Various features confirm this thesis. Violent events in North Kosovo, for instance, which the Serbian government sought to represent as the independent acts of indignant Serbian citizens, confirmed that Serbia maintains a strong police and intelligence presence in Kosovo, despite the provisions of UNSC Resolution 1244. Serb roadblocks, for example, were built with equipment provided by Serbian public companies, and thus are not solely an expression of the discontent of the citizens of North Kosovo, as Serbian authorities claim.

Serbia has also not yet initiated a comprehensive police reform, despite certain positive interventions in the field. More and more gaps are becoming evident in the Serbian police sector, for instance the failure of police in 2011 to protect a gay pride march, resulting in its cancellation; or failure by police and prosecutors to synchronize their work, which resulted in poor prosecutions, for instance of organized crime groups that had attacked the previous gay parade and had provoked confrontations during sporting events, or of paramilitary units that had set fire to the U.S., German and Croatian embassies after Kosovo's declaration of independence. There are well-founded suspicions that these units are actually an informal part of the police service, or at least receive support from some parts of the organization. In addition, police unions have openly challenged the authority of the Ministry of the Interior, for instance by refusing to provide security to the organizers and participants of the gay pride march and other similar events. A recent prison break attempt by some of Serbia's most notorious criminals demonstrated big gaps in the system.

Army General Ljubiša Diković was appointed chief of staff of the Serbian Armed Forces. Diković was a commander of a notorious unit that committed numerous war crimes in the spring of 1999 in the war zone in Kosovo. A dossier put together by a prominent NGO, the Humanitarian Law Center, that contained evidence about his brigade's whereabouts, testimonies from trials in the International Criminal Tribunal for the former Yugoslavia (ICTY) about crimes, and evidence that it left behind was

promptly dismissed by Ministry of Defense (MoD) officials along with demands for reconsideration of the appointment. Instead, NGOs who dealt with the issue were severely attacked by the MoD. The Western and international communities has been disappointingly silent about the scandal.

### **The Role of the ICTY and Domestic War Crimes Trials in Security Sector Reform**

While cooperation with the ICTY and domestic prosecution of war crimes have often been grudging and slow in coming, they have contributed significantly to security sector reform. Cooperation with the ICTY, which resulted in transfer of some active staff, as well of those retired but well connected and still influential, into ICTY detention, coupled with the ICTY's external scrutiny, has been the greatest single contributor to one extremely important track of security sector reform—the cleansing of compromised personnel from the Serbian security sector ranks. Unfortunately, this is not enough. Only a fraction of the personnel in the Serbian security services who were involved in committing crimes in the 1990s have been charged, much less convicted, by the ICTY or domestic courts.

### **The Role of the EU in Security Sector Reform**

The current EU approach to security sector reform is *ad hoc*, occasionally self-contradictory, and sometimes based on wishful thinking. This is not the case with other important fields related to Serbian progress towards the EU, which the EU thoroughly covers and presents in its annual progress reports. In its conclusion, the EC Progress Report for Serbia for 2010 merely states: “Overall, there was further progress towards completing the legislation providing for civilian oversight of security forces and implementing constitutionally guaranteed rights. However, civilian oversight, including the work of the relevant parliamentary committee, needs to be reinforced.” The EU of course, through the Commission's annual progress reports, covers many segments of security sector reform, such as reform of the judiciary and the role of parliament in democratic oversight. It also covers many aspects through the questionnaire it prepares for applicant countries. Nevertheless, it has failed to adopt a comprehensive approach to the security sector.

The incomplete nature of the process of security sector reform related to democratic oversight of military security and intelligence agencies, and of regulation in defense industry exports that are not in compliance with EU expectations and recommendations, is confirmed by the Serbian government itself, in its answers to the EU questionnaire. In its 2011 analytical report accompanying the EC recommendation that Serbia should be granted member state status, the EC merely noted, for the first time, that Serbian intelligence agencies have the mandate to participate in criminal investigations, which is not a practice accepted in most of the EU member states, and recommended that this should be changed.

### **More Intensive NATO Involvement—The Missing Link**

In contrast with other Eastern European and Western Balkan countries, Serbia is not in the process of NATO integration. NATO's 1999 intervention against the Federal Republic of Yugoslavia and its impact on the status of Kosovo, along with persistently negative messages from Russian officials, all continue to have a negative impact on public perceptions regarding eventual Serbian integration into NATO. Perceptions are so negative, in fact, that the ruling coalition even avoids serious deliberation on the issue. It is therefore hard to expect that this process will occur in the next several years. Yet it has been this very process that has been so important to the overall reform of—and imposition of democratic control over—the security sector in other transition countries. Currently NATO assistance, including that coming from Serbian membership in Partnership for Peace (PFP), is predominately focused on some aspects of defense sector reform. The introduction of certain NATO standards in the Serbian armed forces, along with their professionalization, is welcome. Yet these are related more to technical capabilities and interoperability than to the strengthening of the institutions in charge and their democratically controlled code of conduct. A few years ago Serbia and NATO set up the Defense Reform Group. After some initial hiccups, the Group accelerated its work during 2011. The Serbian MoD completed a new Individual Partnership Action Plan proposal in 2011, a more comprehensive method of cooperation with NATO, which is a positive development. Unfortunately, the proposal is currently languishing in the Serbian Ministry of Foreign Affairs, due to conflicts in late 2011 between KFOR

forces and Serbs from Kosovo in North Kosovo. This, along with other factors explained previously, leaves NATO with little leverage in Serbia.

### **The Role of the United States and Others**

Efforts by individual countries like the U.S. and Norway, intergovernmental agencies like the OSCE, or large international organizations such as the Geneva Centre for the Democratic Control of Armed Forces to help Serbia in this field have also been welcome, but they are limited in scope, as they cannot replace a comprehensive approach that includes, for example, the important role of the judiciary in a democratically-controlled security sector. Sometimes the interests of individual states in other areas prevail over their interest in further democratization of Serbia and genuine transitional justice and regional cooperation. This was most obvious after Kosovo declared independence from Serbia. In order to preserve peace and contain a possible military response by Serbia, the U.S. and most of the leading EU member states focused on reliable individuals rather than on democratically-controlled institutions. This marginalized efforts at comprehensive security sector reforms. This carries certain consequences, as evidenced by such problems as paramilitary group attacks on the gay pride march in 2010 and its subsequent cancellation in 2011; the emergence of paramilitary hooligan groups; violence in North Kosovo; failure to disclose and punish fugitives (and those who aided them) from the ICTY; and appointments of compromised personnel to high level positions.

### ***The Role of Russia***

Serbian and Russian bilateral relations are a mixture of non-transparent deals in the energy and security sector, which are clearly unfavorable for Serbia. Serbia, and Russian support for Serbian policy on Kosovo, is based on myths and fallacies, busted by both parties, and based on traditional Russian support of Serbia throughout history. Russia has openly been warning that it would object to Serbian NATO accession, but in reality it has been objecting and impeding Serbian EU integration too. It is important to bear in mind that many high-ranking personnel in the Army and military intelligence agencies are Russian scholars. Some recently retired people from this group are still very active in political life in Serbia, mainly via the myriad of newly-established think tanks and institutes

for security that are main partners of the Ministry of Defense, which has failed to demonstrate willingness to cooperate as such with organizations of civil society that advocate a Euro-Atlantic path for Serbia. Serbia and Russia agreed to build up a so-called humanitarian center in South Serbia, which was actually meant to be a Russian military base. The provisions on bilateral agreement on this were not publicly available and are a matter of speculation and concern.

### **Four Consequences**

First, Serbian authorities lack the will or capability to investigate, disclose, and prosecute those who have been supporting Mladić and other ICTY fugitives for so long, by what means they have done so and at what cost, as a precondition for more comprehensive security sector reform. Instead, the Serbian MoD provided its own assertion, solely on the basis of a brief internal investigation conducted by the Serbian Army and Military Security Agency of the Ministry of Defense, that the army and Military Security Agency had not been hiding Ratko Mladić since 2002. The ICTY, the EU and the U.S. should insist on an external investigation, but have not done so. Without continuous pressure by ICTY Chief Prosecutor Serge Brammertz and the EU, Serbia is likely never to discover who has been protecting the fugitives and how they have managed to do so for so long and at what costs.

The cases of five still-unresolved violent deaths of conscript soldiers in Serbian military facilities during 2004–2005 could add to the costs of inaction. In all five cases, the military investigation units claimed suicides (three cases in Leskovac area military facilities in 2004–2005), or murder and then suicide afterward (case of two elite guard soldiers in a military barracks in Belgrade in 2005), despite forensic and other findings that point to murders. Despite evidence that supports suspicions that these deaths are directly linked to Serbian army units' or individuals' provision of assistance to Mladić in his evasion, or are related to cover-ups of other illegal activities, the approach taken by military and judicial authorities toward these cases has been very disturbing. The manner in which these cases were conducted implies that even the current authorities are not prepared to hold accountable some individuals under their formal command. Instead, they are inclined to fatally undermine investigative procedures in order to conceal the responsibility of their subordinates for their suspected

omissions and crimes, going even so far as to eliminate witnesses to their criminal acts.

Second, the commitment of Serbian authorities to regional reconciliation is poor, as demonstrated by their policies and their behavior on the ground. Unfortunately, it seems that Serbian authorities, even those labeled pro-EU and pro-NATO, deem the arrests of Ratko Mladić and Goran Hadžić as a gesture of closing one chapter rather than as the basis for an ideological and personal break with the policies of the 1990s. There is no acknowledgement that these very structures led to the commission of war crimes. Nor is there acknowledgement of the need for further reform of the entire security sector. Such an acknowledgement would, however, be the best test of Serbia's expressed wish for reconciliation with its neighbors.

Serbia has also pursued frivolous legal cases against Bosnians, most recently against Jovan Divjak. The justifications given by Serbian authorities for such actions were based on misrepresentations of the facts and do not contribute to regional reconciliation. There is a trend of politicization of the Office of the Prosecutor for War Crimes, whose focus has shifted significantly from the prosecution of those with the ranks of Serbian security forces to those who committed crimes against Serbs.

Serbia has no clear attitude toward the fact that the Republika Srpska (RS) government has been financing an organization in charge of negating the crimes of Srebrenica for three years, ignoring the transparent scientific methodology of data acquisition on the number of victims and cause of their deaths, as required by relevant international organizations. Support by the ruling Democratic Party for the establishment of a regional commission to determine and disclose the facts about war crimes committed in the former Yugoslavia (RECOM) is rhetorical and lacks substance.

Third, Serbian authorities are not prepared to close comprehensively existing gaps in Serbian security sector reform, either in terms of structure or personnel, or to improve democratic control of the armed forces and intelligence agencies. Despite extensive evidence justifying the need for a more thorough approach to security sector reform, there is great discrepancy between the rhetoric of Serbian officials and the actual situation in the sector. Unfortunately, it is very unlikely that this topic will emerge as an important one in the upcoming 2012 general election in Serbia.

Fourth, the Serbian government is unwilling, unable, or slow to act to change its policies towards Bosnia and Hercegovina and Kosovo. By its policy on the Kosovo issue, as conducted until early 2012, demonstrating not only the flawed foreign affairs orientation of the country but also the lack of reform in the security sector, Serbia has shown that it still cannot be considered a reliable partner of its immediate neighbors or to the EU, and that it acts in a proper direction only as a response to EU pressure. The president of Serbia, Boris Tadić, has repeatedly asked that the EU apply the same standards to all applicant countries, and has recently reminded the EU on several occasions of the Copenhagen criteria. But he conveniently forgets about the conditions for the Western Balkan countries defined in Thessaloniki and Zagreb regarding their obligation for full cooperation with the Hague Tribunal and dedication to regional cooperation. Serbian authorities tend to neglect the fact that the Copenhagen criteria also imply the ability of the applicant country to undertake all commitments arising from membership, including implementation of the goals of political, economic and monetary union. So far, by its voting in relevant international bodies, Serbia has not demonstrated its readiness to address the political interests of the Union. Serbia's attitude to the EULEX mission in Kosovo is similar.

In December 2011 the Council of the EU decided to postpone its decision on Serbian candidature for the EU membership bid, giving the Serbian government clearly articulated tasks that it had to meet in order to achieve that status. Once again, the EU demonstrated that a policy of clear conditions and well-articulated incentives is the best way for both sides to move in a common direction. Serbia has made a significant effort to meet the mentioned conditions and managed to reach an important agreement with the Kosovo government on representation of Kosovo in regional forums and on integrated border management. The council of the EU rewarded both parties in early March 2012, Serbia with the status of the candidate for membership (without a set date for the beginning of the negotiation process, but with tasks to be met prior to that) and Kosovo with further actions related to its EU perspective. Still, Serbia has to prove that it is a reliable negotiator and partner in the process. The main challenge is its general attitude towards Serbs in North Kosovo and the parallel institutions it maintains there, as well as its ability to implement agreements reached with the Kosovo government. Bearing in mind that Serbia was the party in the negotiation that insisted on UNSC Resolution 1244, it

would be difficult for it to carry out forthcoming elections in the territory of Kosovo as it did during the previous election period.

Officially, Serbia's policy on Bosnia is that it is allegedly committed to the unity of Bosnia, but evidence to the contrary continues to mount. In the wake of the EU's decision on Serbia's candidacy bid, several high-level officials have been undermining this position without provoking the intervention of either President Tadić or his government, but neither has the Western international community, focused as it is solely on conditions imposed on Serbia and its dialogue with Kosovo. In practice, Serbia equates Republika Srpska with the Bosnian state by meeting with the RS leader in the absence of state or Federation representatives, by openly proposing the partition of Kosovo and Bosnia, and by undermining ICTY sentences and findings related to the role of Serbian forces in the war in Bosnia and by calling for the termination of further trials for war crimes.

### ***How to Move Forward***

The EU decision to grant Serbia the status of candidate for membership is a welcome step, as Serbia has made some important steps in early 2012 that many describe as a turning point in the EU direction and the beginning of discontinuity with the Kosovo policy it has conducted until very recently. Still, the EU should not forget that it rewarded both sides with progress in the integration processes based on the parties' willingness to reach some agreements, undermining some of its standard criteria in other fields. Even the European Commission's analytical report for Serbia for 2011 was slightly softer on the judiciary, corruption and protection of religious rights than expected.

It is becoming more and more obvious that current gaps in security sector reform seriously affect other internal policies in Serbia, including those subject to harmonization with the EU legislation, and its foreign orientation and relations in general. These issues constitute a knot that genuine pro-EU forces in Serbia cannot untangle without much stronger EU support and involvement, with clear requirements and rewards for achieving them.

There is a need for a comprehensive EU approach in evaluation and assistance to Serbia to complete its security sector reform. Without that reform, all other reform attempts, including those related to Serbian preparedness for EU candidacy status, will be severely impeded. Oddly

enough, this program of reform is rarely mentioned in the context of Serbian-EU integration. A comprehensive EU approach for overall security sector reform should be in place. The EU has at its disposal tools to assume this approach. By combining its Common Foreign, Security and Defense Policy and Enlargement Policy, the EU can better connect its “technical” with “political” conditions, and make it easier for Serbia to understand and meet them.

The EU has demonstrated its capacity to tailor the enlargement process, recognizing the specific circumstances of the applicant countries, by—for example—including full cooperation with the ICTY for Western Balkan countries, while maintaining its own standards. A similar logic should be applied in the case of Serbia and the need for security sector reform.

In the case of Serbia, it should map out and analyze the achievements of the security sector reform process overall. Based on these findings, the EU should shape and present its expectations regarding the future steps that Serbia should take, as it does in the other fields of primary concern, such as the fight against corruption and organized crime. These steps should include demands for disclosure and punishment of those who aid ICTY fugitives and the continuation of investigations for war crimes and crimes against humanity in front of domestic institutions. Without this additional effort, the EU risks significantly undermining all material and political support provided to Serbia and the region to date.

When Serbia starts the process of negotiation with the EU, which may happen as early as September 2012 if Serbia dismantles parallel structures in North Kosovo, reaches a deal in the energy and telecommunication fields with Kosovo and addresses more vigorously judicial reform, the EU should insist that security sector related chapters be among the first to be addressed, as the postponement of these issues will impede progress in other fields covered by negotiation. The destiny of Serbian parallel institutions in North Kosovo and their eventual integration into Kosovo institutions as well as Serbia’s willingness and ability to enable KFOR and EULEX to work fully in the North should be analyzed in the context of Serbia’s ability to put still-uncontrolled parts of the security sector under its control. These factions will most likely be the main source of resistance to implementation of agreements recently reached with Kosovo and the EU. Evidence is mounting that they are significantly influencing the

policies of Serbs in the North, often forbidding and blackmailing them to be more forthcoming to Kosovo institutions, KFOR and EULEX.

The U.S., in its January 2012 revision of its Defense Strategy, has announced a continuation of its presence in the region of the Western Balkans and that the EU remains the key strategic partner in the region. It is crucial for the further consolidation of the region that the EU and the U.S. adopt common approaches to challenging issues, adopt common goals and devise similar or complementary methodologies to achieve them. This will diminish the influence of those in the region who seek to build their political positions by spreading fears of either Serbian intervention in Kosovo or the violent dissolution of Bosnia. Additionally, it could help the U.S. to focus more on strengthening institutions in Serbia and promoting more transparent decision-making processes, rather than relying on persons in charge of relevant institutions and turning a blind eye to some appointments of high-level staff, with the Ministry of Defense being the most clear example.

In a word, the Western international community should finally admit that the elephant is in the room and help Serbia do something about it.

### **Potential Lessons Learned in Serbia and the Western Balkans for MENA countries**

Middle East and North African (MENA) countries can learn from the experience of the Western Balkans and Serbia, maybe even more than from Eastern European countries. Despite many initial differences in terms of regime change in the MENA countries in comparison to the Western Balkan countries, there are also some broad similarities among them that did not exist between the Western Balkans and the Eastern European countries.

A number of important distinctions between the Socialist Federal Republic of Yugoslavia (SFRY) and those Eastern European countries that were members of the Warsaw Pact helped to determine the profile and the dynamic of their respective transitions in the late 1980s and early 1990s. These distinctions included

- Lack of a fear of Soviet influence; lack of experience with the consequences of Soviet influence as a driving force towards the

EU and NATO (citizens of the SFRY had more freedom of movement, better standards of living, fewer bans on foreign cultural influences, and less oppressive intelligence services);

- Lack of a social consensus on a direction and a future type of society;
- More ethnically and confessionally diverse states, with less influential organized religions and churches;
- Unresolved border issues; and
- The fact that lifting the lid on oppressive regimes in the Eastern European countries did not unleash an uncontrolled burst of aggressive nationalism as it did in most of the Western Balkan countries.

Slovenia was an exemption from the beginning of the crisis in the SFRY. It was more ethnically and confessionally homogenous, with a stronger consensus on its future orientation and without a relevant Serbian minority. Macedonia also preserved itself from being involved in a bloody war mainly because it did not have a significant Serbian minority, and later because the Western international community became better equipped and more sensitive to prevent or stop emerging armed ethnic conflicts.

These distinctions became even greater with the bloody dissolution of the SFRY. Eastern European transitions were marked by dismantlement of the intelligence apparatuses and the social expulsion of those involved in breaches of human rights (the lustration process); rapid accession towards NATO and the EU, each of which required institutional reforms and generated mutual pressure regarding security sector reforms; and peaceful settlement of territorial/national issues, for instance in the case of the Czech Republic and Slovakia. Serbian, Croatian, Montenegrin and Bosnia and Herzegovina's transitions, on the other hand, were highlighted by war crime inheritance, territorial disputes and poor economic circumstances, due to the long wars, sanctions, and revival of Russia as an regional actor. Croatia accelerated its reforms after the Dayton peace agreement, Macedonia did so after resolution of disputes with its Albanian minority in 2001, and Montenegro moved ahead after the peaceful dissolution of the Federal Republic of Yugoslavia, formalized in 2006 after a three-year-long official transitional period. Transitions in Serbia and Bosnia and

Herzegovina have been additionally impeded by the fairly nonfunctional Dayton Peace Agreement and the open issue of the further status of Kosovo. The Serbian transition has been also challenged by the NATO intervention in 1999, which caused strong anti-Western sentiment among many citizens.

As in the Dayton triangle of Western Balkan countries (Serbia and Montenegro now, Croatia, and Bosnia and Herzegovina), in MENA countries violence by state institutions did occur during the transition period. The issue of the excessive use of force by states against their citizens, whether in combat with ethnic or political enemies, is a main common feature. This is why MENA countries will most likely have to address the issue of transitional justice in a much tougher manner than was the case in Eastern European countries with lustration efforts that did not even envisage prison sentences but rather simple elimination from public posts.

After the end of the war in late 1995, the Western Balkan countries of the Dayton triangle found themselves in the geographic and then political proximity of the EU and NATO, which enabled them to decide whether they would join these structures. Croatia and Montenegro reached wide public consensus on Euro-Atlantic integration, which—in the case of Croatia—helped them complete their integration process, or kept them on track, as in the case of Montenegro. Serbia and Bosnia and Herzegovina maintain majority support for EU integration (a majority of citizens in Bosnia and Herzegovina also support NATO integration, although officials in Republika Srpska have second thoughts). Yet whereas support for Euro-Atlantic integration was viewed as a sign of democracy taking hold in Eastern European countries, and then in Slovenia, Albania, Croatia and Montenegro, this simple equation does not necessarily hold for Serbia or Bosnia and Herzegovina. Vested political interests in both countries are in fact wary of such integration, fearing that further democratization will strip them of the benefits they currently receive from nondemocratic practices.

Once the lid was lifted on oppressive regimes in the Western Balkans and in many MENA countries, ugly religious and ethnic totalitarian ideologies have appeared. Eastern European countries were not devoid of similar tendencies, but they managed to keep them under control by building wide support for civic liberties, rule of law and respect for human rights, and above all strong institutions that could protect and sup-

port that consensus. EU and NATO integration processes were crucial elements in this transformation.

Although at first blush the rallies of the Arab Spring evoked superficial media comparisons with the fall of the Berlin Wall and the Iron Curtain, the transitions in Eastern European countries were conducted, by and large, under far more predictable and favorable conditions, and aided by the attraction and realistic possibility of EU and NATO membership, than the transitions either in the Western Balkans or in the MENA countries. The Western Balkans slid into bloody wars mainly because of Serbian nationalism, the rejection of a possible peaceful dissolution of the SFRY, and Serbia's deployment of the federal army to stop it. Serbian nationalists rejected the prospect of democratization and related support by the Western international community, slowing down the processes of democratization in most of the Western Balkan countries, as explained earlier. Even in the wake of Milošević's ouster in October 2000, amidst mass demonstrations carried to living rooms around the world, subsequent developments have demonstrated that early hopes for transformational change in Serbia proved to be premature.

CNN's "victory of democracy effect" or the latest "CNN victory of democracy by social media effect," convenient for broadcasting and based on initial significant moments in regime replacement processes, are good for busting up and mobilizing masses, but they can be counterproductive. Such media spectacles may convey a false impression on how much has been achieved and, even more importantly, how much is still to be done. The transition towards democracy will have to be conducted with many different actors of society, many of them not necessarily subscribing to human rights and the rule of law as primary features of democracy. This is often inconsistent with the media's description of protesters, although they can opt for non-violent means. If the impact of initial activities is exaggerated, then all inevitable setbacks can cause additional pessimism, leading to the possible dissolution of movements.

The Serbian case shows that different actors committed to change should stick together, despite their differences, if common enemies are entrenched and a lowest-common-denominator vision for their country is in place. The Serbian case also shows that although economic and social issues are important, they should not become the main focus of transitional processes. Security sector reform must become a priority as soon as

regime change starts. The army, police, militias and the security services cannot remain ensconced in official institutions, which is the case in many MENA countries, even though they push for reforms in other fields. Sooner or later, in order to make sustainable progress, security sector reform must be tackled, despite alluring offers of coexistence by remnants of the old regime.

Addressing the future role of the security apparatus early in MENA countries is even more pressing, as EU and NATO integration mechanisms are not available to help them consolidate. Other members of the Western international community have limited resources and capabilities in comparison with EU and NATO integration processes. The rule of law—which must be prioritized first among citizens—cannot be built up without ensuring that all the institutions of state power are truly subject to the law.

Pro-democratic forces in MENA countries should not let themselves being intimidated by the prospects of the Muslim Brotherhood and similar parties in control of parliaments, as long as they are willing to get involved in a process that tends to evolve towards more democratic change of power. Despite the setbacks, frustrating compromises, and other pressing issues, such as a poor socioeconomic environment, they should start making a permanent case for building independent, strong institutions and procedures that have oversight over the military as a precondition for successful security sector reform as soon as possible. Mechanisms of transitional justice, which must be set up bearing in mind the level of abuse demonstrated so far, can significantly help security sector reform in MENA countries, as they did in the Western Balkans. Without a radical break the former regime, particularly if the transition is sparked by non-violent movements, it is hard for newly-established governments to clear from the security sector ranks any compromised staff, who will also be most likely be able to actively resist reforms, due to legal obstacles and a weak judiciary.

Transitional justice mechanisms, like ad hoc local or regional tribunals, can give reforms legitimization and legalization. Despite all the flaws in the ICTY set-up structure, despite all the inevitable setbacks that emerged during its work, one thing is certain: the Western Balkans today is a better place thanks to the results of the ICTY. One can only wonder if Montenegro, Serbia, Bosnia and Herzegovina, and Croatia would have

managed to reach their current levels of transition if the ICTY had not been set up, and if the political leaders of regimes that produced so many crimes against humanity and their main culprits were not put on trial and sentenced.