

The New Growth Plan for the Western Balkans: A look into the framework and promises

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THE NEW GROWTH PLAN FOR THE WESTERN BALKANS: A LOOK INTO THE FRAMEWORK AND PROMISES

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1. INTRODUCTION

The last EU enlargement took place in 2013. More than a decade has passed since a single Member State joined the Union, and close to eight years since the UK voted to leave the historical integration project. Enlargement is widely perceived by Brussels as a key foreign policy tool within the EU's diplomatic and economic toolbox of engagement vis-a-vis third, partner countries. The absolute priority when it comes to using this tool is the Western Balkans. With an accession process that started way back when in 2003 Thessaloniki Summit, the Western Balkan six have been moving along the accession path, with its many ups and downs - be it due to the hesitations of EU or regional and domestic troubles amongst, or in-between, the candidate countries.

Regardless of neighborly disputes or setbacks, the enlargement of the Western Balkans and turning the EU 27 into EU 33 (recently 35 with Ukraine and Moldova) remains a foreign policy priority on both ends. After all, besides the advantages and socioeconomic benefits it would bring to the new Member States, it certainly is also beneficial to the EU itself. The stability emanating from the region's integration in itself, and with Western and Central Europe, would be undeniable and much sought-after since the start of Russia's war of aggression against Ukraine.

The most recent development on the Western Balkans' Road to meeting EU conditions for economic, financial, and political integration, and eventual accession, was the release of the [European Commission's New Growth Plan for the Western Balkans](#). Announced on 8 November 2023, the new Growth Plan sets forth a framework for socio-economic convergence between the EU and the Western Balkan countries. In this section, we will analyse if this new Growth Plan will indeed lead to a better enlargement process ahead. Specifically, in the case of Kosovo, we also assess the Plan's goals and instruments as put jointly with the Dialogue on Normalization of Relations, which will necessarily run in parallel to the new economic boost provided by the Growth Plan.

The Plan is built on the [premise that both economic convergence and fundamental reforms on the rule of law and human rights are pivotal for EU membership](#). On the former, it recalls on: "... the positive impact on a country's GDP and income levels that arise from the integration with the EU's single market, combined with EU Cohesion Policy".¹ It anticipates that such progress implies investments in the modernisation of the economies and infrastructure. On the latter, it argues progressing on fundamental reforms attracts private investments, drives employment opportunities, and generates sustainable economic growth. In turn, the Plan assesses that: "... the level and speed of convergence between the Western Balkan partners and the EU is not satisfactory" 'when it comes to socio-economic convergence.'² Among the six countries, Kosovo is the one displaying the lowest GDP per capita in purchasing power standards, with figures of around 24% - compared to 50% in Montenegro, 44% in Serbia, 42% in North

¹ European Parliament & the Council of the EU . "REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing the Reform and Growth Facility for the Western Balkans." *Official Journal of the European Union*, 25 Apr. 2024, <https://data.consilium.europa.eu/doc/document/PE-80-2024-INIT/en/pdf>.

² European Commission. "COMMUNICATION FROM THE COMMISSION: New growth plan for the Western Balkans." *Office for Official Publications of the European Communities*, 8 Nov. 2023, https://neighbourhood-enlargement.ec.europa.eu/document/download/8f5dbe63-e951-4180-9c32-298cae022d03_en?filename=COM_2023_691_New%20Growth%20Plan%20Western%20Balkans.pdf.

Macedonia, and around 37% in both Albania and Bosnia and Herzegovina.³ As the EU lingers on delivering the next enlargement wave, boosting progress has become a priority and a mutual interest between the Western Balkans countries and the EU Member States – in fact, the Plan puts it best by stating that: “Speed is now of the essence and the objective is for the growth plan to start making a real difference already next year”.⁴

In order to tackle this shortcoming of the official and potential candidate countries, the Plan puts forth incentives to boost the level of preparedness and speed of reform processes by providing benefits to mobilize reforms, leverage investments, and incentivize economic growth in each of the six countries of the region. The Plan is **based on four pillars**:

- (i) Enhancing economic integration with the EU single market on the basis of alignment of rules and opening relevant sectors;
- (ii) Boosting Western Balkans’ economic integration through the Common Regional Market initiative agreed at the 2020 Berlin Process summit;
- (iii) Accelerating fundamental reforms linked to accession clusters;
- (iv) Increasing financial assistance to reforms through a €6 billion instrument, the Reform and Growth Facility for the Western Balkans. Below, we shall break down each pillar to best analyse the structure of the Plans, and the conditions linked to the EU promises therein.

Firstly, let us **situate the Plan** and its pillars. While the new document indeed offers a new incentive and reconfirms the European Commission’s high interest in speeding enlargement processes with the Western Balkans, it is not to the detriment of other mechanisms. The Plan clearly states that it builds on the existing enlargement methodology adopted in February 2020 (*Enhancing the accession process - A credible EU perspective for the Western Balkans*)⁵. In turn, the Plan will not only be built off the existent methodology but also incentivize and feed the ongoing enlargement processes, regardless of which phase they are in depending on the country, since the Plan’s investments and conditions seek to accelerate the adoption of the EU *acquis* and implementation of domestic reforms. In this same way, the Plan will support accession chapters concerning regional stability in light of its strengthening integration within the Western Balkan region. The Plan’s structure and conditionality design is underpinned and intended to reinforce other mechanisms, such as the Western Balkans Investment Framework (WBIF), the Economic Reform Programmes, and the IPA III. In sum, the Plan heightens other, parallel mechanisms by bringing to the forefront and providing the Western Balkans 6 benefits of EU accession in advance of the actual accession.

We continue the analysis by diving into **Pillar I**, on enhancing economic integration with the European single market to drive economic growth and bring direct benefits to citizens of the Western Balkans. The European Commission states that upgraded integration could encompass the following areas: Free movement of goods, Free movement of services and workers, Access to the Single Euro Payments Area (SEPA), Facilitation of Road transport, Integration and de-carbonisation of energy markets, Digital Single Market, and Integration into industrial supply chains. These seven priority areas already encompass the mandate of the CRM, and regional integration therein would certainly feed the merit-based assessment the EU would do when

³ *Ibid.*

⁴ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

⁵ European Commission. "COMMUNICATION FROM THE COMMISSION: A credible EU perspective for the Western Balkans." *Office for Official Publications of the European Communities*, 5 Feb. 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0057>.

deciding to enhance economic integration ahead of accession. Therefore, for this to happen, a certain preparedness level is expected and requested from the candidate countries. Among them is the requirement for the six countries to have advanced along the Common Regional Market (CRM), as well as to demonstrate alignment with the EU *acquis* on each of the seven areas and adequate working institutional structures to formally implement this plan. In short, the EU made an interesting and appealing offer that would bring tangible improvement in the quality of life to citizens of the region, yet the expected return is that the governments commit and deliver more seriously on the *acquis* and the CRM to trigger such an offer of opening. Should this commitment be demonstrated and the European Commission assess it as such, the SAAs would be amended to provide for an extension of the rights and obligations of the EU *acquis* to the Western Balkans. “A notable change now is that the EC has clearly anchored the CRM within the EU integration process for the region. Previously, this process could have been interpreted as an alternative to EU membership. Now, it is explicitly framed as a prerequisite for accession. Thus, this change in the EC approach is a step in the right direction.”⁶

Pillar II is dedicated to reinforcing the Common Regional Market (CRM), based on EU rules and standards. Despite Western Balkan countries’ approval of this initiative back in 2020, political impasses delaying decision-making and slow-paced implementation have rendered the initiative quite hollow insofar. This Pillar adds impetus to its materialization, by stressing the economic opportunities it would bring to the region and its workers, and the closeness it would provide to the EU’s own single market in mirroring its rules. The Plan recalls that: “It therefore acts as a stepping-stone towards the EU’s single market in many sectors, and as a mechanism for making progress in the accession negotiations while reaping early economic benefits”⁷. This is why the Plan offers up opportunities for integration in the EU’s single market only if the region proves its commitment to and delivers on CRM-regional economic integration, be it through increased regional recognition of standards & certification or mitigating the negative impact of non-tariff measures, for instance.

Accelerating fundamental reforms is the focus of **Pillar III**. Here, Western Balkan countries are to identify a limited set of priority reforms – a Reform Agenda – based on existing recommendations from the European Commission insofar. The Agenda is expected to be detailed and consequential – “... broken down into qualitative and quantitative steps which will serve as payment conditions, i.e. upon achievement, they will trigger the release of funds under the new Reform and Growth Facility according to a pre-determined timeline”⁸. The intended reforms should make up the socio-economic reforms and specific reforms related to the enlargement process (i.e. rule of law, democracy, human rights, fundamental freedoms). Here the Plan is also clear in singling out the case of Serbia and Kosovo, highlighting the pre-condition that “Serbia and Kosovo engage constructively in the normalisation of their relations with a view to fully implementing all their respective obligations stemming from the Agreement on the Path to Normalisation and its Implementation Annex and all past Dialogue Agreements and engage in negotiations on the Comprehensive Agreement on normalisation of relations”⁹. Ultimately, the Reform Agenda lays the ground for pre-conditions in order to unlock more funds and benefits.

Finally, **Pillar IV** concerns the increased financial assistance the Plan provides for the Western Balkans, underpinning the provisions in the other Pillars. Since Pillars I-III imply

⁶ Jovanovic, Branimir. "New Growth Plan for the Western Balkans: Solid Foundations, Shaky Extensions." *European Policy Institute - Skopje*, Feb. 2024, https://epi.org.mk/wp-content/uploads/New-Growth-Plan-for-the-Western-Balkans_Solid-Foundations-Shaky-Extensions.pdf.

⁷ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

⁸ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

⁹ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

investments in the economies, in infrastructure, and domestic efforts to implement reforms, the EU anticipates this to be a costly exercise. A (so-called) ‘carrot’ is extended to support these efforts by establishing a new Reform and Growth Facility (2024-2027). Throughout those three years, the Facility is expected to provide non-repayable support of up to €2 billion, and disburse loans up to €4 billion.¹⁰ The financial assistance and disbursements to the national budgets therein are subject to strict conditions of implementing the Reform Agenda mapped out by each country, together with the European Commission. This element of strong conditionality is highlighted in the document, especially since it is financial assistance provided for in addition to that already guaranteed in the IPA III. The document stresses it as ‘a payment mechanism based on achievements of key reforms taking into account recommendations from the latest Commission Enlargement Package’.¹¹ Putting the IPA III and Facility funds together and acting in complementarity, this financial add-on is unprecedented in its format and amount.

Tying socioeconomic progress to convergence with European integration processes and standards, the overall intent is to boost regional integration in order to in turn boost economic growth; and in turn region’s integration with the EU. This goal would also promote further domestic growth by mitigating the brain drain, in that local conditions in the Western Balkan countries would improve for business and citizens alike.

Can the New Growth Plan for the Western Balkans be expected to make for a smoother accession process? It remains to be seen. It has a long way to go on the matters of harmonizing its actions with other ongoing mechanisms and ensuring its impact only leverages that of others towards sped up implementations and reinforced political will of partner countries. Mechanisms multiplying and running in parallel add to bureaucracy and fatigue. However, the truth also lies in that the EU has stressed that enlargement from 27 to 33 (35) is and shall remain merit-based, which means reform implementation and alignment with the EU *acquis*. If processes are delayed and commitments have proved hollow, then the merit is not there. One can therefore argue that, to feed enlargement hopes all the while candidate countries’ domestic efforts are put in place to hit targets, the best the EU can do is put forth these types of plans. To incentivize and to offer more carrots, and the while recalling the same sticks. There is fatigue on both sides – one from partner countries hungry for accession and full-membership benefits, and another from an already-fragile Union requesting minimal socio-economic and financial provisions before welcoming new members. The Plan hopes to do what can be done at this stage – entertain accession hopes with more funds and renewed commitment as a means to hook partner governments into keeping up their nationwide efforts for alignment, integration and change.

2. THE REFORM AGENDA – WHAT IS THERE FOR KOSOVO

As noted above, accelerating fundamental reforms is the focus of Pillar III. Western Balkan countries, including Kosovo, have identified and agreed on a set of priority reforms – a Reform Agenda (RA) - based on existing recommendations from the European Commission insofar. During April 2024 the EU and the Government of Kosovo have officially adopted the Kosovo Reform Agenda.

Countries were required to design Reform Agendas, based on their growth strategies, Economic Reform Programmes, the revised enlargement methodology and enlargement reports, set to be adopted by the Commission through an implementing decision. The Agenda for Kosovo includes 5 policy areas, in each policy area specific components/sectors have been selected

¹⁰ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

¹¹ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

(though not all of them). Policy (priority) areas have been pre-determined by EU in order to create convergence between WB6. A measure for each policy area is planned to be achieved in a period of 6 months.

A total of 28 reforms have been envisaged and for each of them quantitative or qualitative steps have been defined. The reforms are expected to be detailed and consequential and will serve as payment conditions, i.e. only upon their fulfilment will the EU approve the release of funds under the new Reform and Growth Facility according to a pre-determined timeline.¹² During the negotiation of the indicators it was ensured that the indicators do not coincide (overlap) with the IPA indicators and that they complement other forms of EU assistance. However, different from IPA III which focuses on a performance-based programming process, the payment mechanism in RA is based on ex-ante conditionality. This is designed to incentivise and foster better implementation of key structural reforms by the Beneficiaries.¹³

From this regulation the growth facility will be implemented primarily through two delivery mechanisms¹⁴:

- i) Direct support to the national budgets of the Beneficiaries and
- ii) Support to infrastructure investments through the WBIF - loans. In case of sector budget support there will be separate negotiations, yet done within the framework of the plan.¹⁵ The loan agreements have not been initiated yet.

Article 6 of the regulation stipulates the allocation of funds, with an overall split of two thirds for loans and one third for non-repayable support (comprising grants, provisions backing the loans and other forms of support, and administrative assistance).¹⁶ Should Kosovo successfully complete the reforms within a four-year timeframe, it can benefit up to **945 million euros** until 2027 (a net value of 882.7 million). 2028 is set as a reserve year allowing space for an additional year, if there are delays or problems in the implementation of the agenda. The regulation envisages that the Commission may release pre-financing as per a timeframe decided by the Commission.¹⁷ Following the agreement of RA, in order to stimulate reforms, pre financing 7% of funds (the first tranche of funds) was expected to be transferred in June. For Kosovo that would be a total of approximately 32 million euros. Nevertheless, the release of funds is postponed for December of this year.

On 24th of April, the EU Parliament adopted the draft legislative resolution on the establishment of the Reform and Growth Facility for the Western Balkans.¹⁸ On May 7th, the Council gave its final green light to setting up a Reform and Growth Facility for the Western Balkans.¹⁹ The regulation states that the countries (beneficiaries) shall submit a duly justified

¹² European Commission. "Proposal for a Regulation on establishing the Reform and Growth Facility for the Western Balkans." *Office for Official Publications of the European Communities*, 8 Nov. 2023, https://neighbourhood-enlargement.ec.europa.eu/system/files/2023-11/COM_2023_692_Proposal%20Regulation%20Reform%20Growth%20Facility%20Western%20Balkans%202B%20annex.pdf.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

¹⁶ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

¹⁷ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

¹⁸ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

¹⁹ European Council. "Reform and Growth Facility for the Western Balkans adopted." *Office for Official Publications of the European Communities*, 7 May 2024, <https://www.consilium.europa.eu/en/press/press-releases/2024/05/07/reform-and-growth-facility-for-the-western-balkans-adopted/>.

request for the release of funds in respect of fulfilled payment conditions twice per year.²⁰ The Commission reserves the right to withhold the funds should a negative assessment regarding fulfilment of any condition be made as per indicative timetable.²¹ The same article stipulates that the withheld funds would only be released once the Beneficiary has duly justified and manages to prove that it has taken all the necessary measures to ensure satisfactory fulfilment of the relevant payment conditions. If it fails to do so, the Commission reserves the right to redistribute the amounts among other countries of WB.²² This measure was intended as a way of instigating healthy competition among candidates and incentivizing timely and orderly implementation.

In order to prevent mismanagement of Union funding under the Facility and in particular fraud, corruption, conflicts of interest and irregularities a multi-level system of audit and controls is envisaged. First, as part of the RA's the reform of the audit and control systems of the Beneficiaries are to be performed and second, the Commission reserves the right to undertake detailed systems reviews of the national systems for budget implementation during any phase of the project cycle.²³

To date, only the Reform Agendas have been prepared by the respective governments of the Western Balkan countries in communication with EU.

As per the proposal to establish the facility many important aspects are to be defined as part of subsequent agreements - the Facility Agreement, the Reform Agendas, and loan agreements - following the approval and entry into force of the regulation.²⁴ This includes relevant mechanisms of control, supervision, monitoring, evaluation, reporting and audit of Union funding under the Facility, rules on taxes, duties and charges and measures to prevent, detect, investigate and correct irregularities, fraud, corruption and conflicts of interest. Similarly, a loan agreement is to be concluded with each WB country laying out specific provisions for the management and implementation of funding provided in the forms of loans.²⁵

As far as coordination is concerned, there is no concrete guidance regarding the coordinating structure of the agenda. Most of the countries, including Kosovo, are using the existing European Integration institutions. There are no special arrangements planned for more concrete structures to manage & execute finances. The implementation and monitoring structure can be set up as an annex.

The negotiations for the RA were led by the cabinet of the Deputy Prime Minister. The team involved representatives of five main ministries (MIET, MoE, MEST, MoIA, MESPI) and the Assembly of Kosovo. Each institution delegated a member of the Minister's cabinet or representative of the Department for European Integration and Policy Coordination Department (DEIPCD). Following the agreement of the Reform Agenda, the DEIPCD's of the respective ministries are working on defining the targets for each reform as well as its costing.

The draft regulation does not envisage Assembly's approval of the reform agenda. To date, according to the Government of Kosovo, the agenda is set to be approved only by the Government. As far as progress tracking is concerned, the establishment of a "Facility scoreboard" is envisaged which shall display the progress of the implementation of the reform agendas of the Beneficiaries.

²⁰ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

²¹ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

²² European Parliament & the Council. "Regulation of the Growth Plan." 2024.

²³ European Parliament & the Council. "Regulation of the Growth Plan." 2024.

²⁴ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

²⁵ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

3. THE REFORM AGENDA – POTENTIAL ISSUES THAT CAN HAMPER THE IMPLEMENTATION

According to the Commission, the aim of the Growth Plan is to enhance the convergence of the Western Balkan economies with the EU. The proposal highlights various benefits that the measures envisaged in the plan and the proposed facility would bring to the region. However, the proposal to establish the Reform and Growth Facility for the Western Balkans was put forward in a rather fast track pace. This means an impact assessment was not prepared ‘due to the political urgency’ in approving the plan.²⁶ Given the absence of an impact assessment or an analytical document it is almost impossible, at this stage, to assess the extent to which the intended €6 billion in support from the facility is likely to contribute to the achievement of the facility’s main objectives of accelerating economic integration and convergence of the Western Balkan countries’ economies with the EU.”²⁷ Nevertheless, “...a staff working document presenting the evidence behind the proposal will be prepared within three months of the initiative’s adoption.”²⁸ This section aims to highlight certain issues that can follow the implementation of the RA’s in general and in Kosovo specifically. Given this is a complex process and a work in progress, there are several aspects yet to be defined and approved. Some of the issues elaborated below highlight the necessity to clearly define the methodology in evaluating the fulfilment of RA priorities, the capacity of public administration in Kosovo to implement the reforms, extra conditionality for Kosovo and Serbia among others.

a. Evaluation of fulfilment of RA priorities

The regulation²⁹ envisages that the Reform Agendas should contain a set of payment conditions relating to the intended reforms. The Commission will assess the Reform Agendas and approve them through a Commission implementing decision. Yet it is very important that the criterion for triggering the “full or partial release of funds” is clearly defined. To address this, the Commission should consider developing **internal guidance for the methodology** to be used in evaluating the fulfilment of the priorities defined in the Reform Agendas; considering that they are a precondition for the release of payments. The guidance also should envisage the approach of the Commission in case of any potential reversal of the conditions previously fulfilled. This would mitigate cases of regress in priority areas in cases of political instability or frequent changes of governments.

The Kosovo Reform Agenda includes qualitative and quantitative steps, one per 6-month period (per policy area), and concrete payment provisions if the step is to be achieved. Baseline indicators are provided in order to allow for proper monitoring and measuring of fulfilment or implementation however, there is no reference provided. This raises doubts regarding the validity of the baselines.

It is worth noting that some of the reform priorities are designed to be fulfilled in several steps. This means in such cases, the Commission is to clarify/define how the payment will be disbursed if the measure is only partially achieved.³⁰ This question remains relevant also for

²⁶European Commission. “Proposal of the Regulation for Growth Plan.” 2023.

²⁷ Austrian Parliament **Opinion 01/2024** concerning the Proposal for a Regulation of the European Parliament and of the Council on establishing the Reform and Growth Facility for the Western Balkans, 8.11.2023. Explanatory memorandum in the proposal, p. 5.

https://www.parlament.gv.at/dokument/XXVII/EU/172140/imfname_11338778.pdf

²⁸ European Commission. “Proposal of the Regulation for Growth Plan.” 2023.

²⁹ European Parliament & the Council. “Regulation of the Growth Plan.” 2024.

³⁰For example: E-procurement system and Kosovo Financial Management Information System (KFMIS) are fully interoperable. Multi annual contractual commitment recordings are provided.

partial fulfilment of measures in general. In addition, it is unclear how the payment provisions have been defined as some relatively simple policies/decisions are to benefit equally with more complicated ones.

b. (Un) satisfactory capacities of the administration to implement reforms

The structures that will manage and oversee the implementation of the reform agenda in Kosovo are yet to be defined. This is crucial as the structures must ensure there is proper coordination and monitoring that safeguards the fulfilment of reforms.

Another issue that prevails especially for Kosovo, is the **unsatisfactory administrative capacities**, that have been significantly diminished by high employee turnover rates. This raises concerns related to the absorption capacity of the administration to benefit from the available funds by successfully undertaking the committed reforms. The Commission has not yet clarified how it plans to mitigate the risk to sustainable implementation posed by the weak administrative capacities. This becomes even more problematic considering the existing ongoing processes under public administration in Kosovo which might bring additional complications vis-à-vis the poor capacities. Currently, there is an ongoing process of internal reorganization, job classification as well as rationalization of agencies and this undeniably influences the capacities of line ministries to implement the reform agenda. There is a real risk that administrative reorganization combined with labor shortages will result in incapacity of the fulfilment of this ambitious and unprecedented agenda.

GLPS has consistently followed the public administration reform and raised its concerns related to all legislative efforts and other processes that relate to the reform³¹ which impede the functioning of public administration and are to pose a challenge in successfully implementing the RA. Among others, GLPS considers that decentralizing recruitment procedures, including top management positions, poses significant challenges for the human resources units within public institutions, given their limited experience and lack of necessary trainings for carrying out these recruitments. By failing to fill the positions gaps, in undertaking duties in the administration can be created hence impeding the pace of reforms. The pace of reforms may be substantially impeded by the failure to fill the open positions.

Second, the saga of the Government functioning with **Acting Positions** has continued throughout three years of its term. Out of 16 ministerial institutions including the Office of the Prime Minister – only four have appointed Secretary Generals with full & valid mandates, while the rest operate with acting ones.³² This issue remains a significant concern, and GLPS has urged the government to take action to address this negative phenomenon.³³ Moreover, the recent law extending the mandate for acting senior officials from six months for up to two-year period is a clear tendency to legitimize and normalize this risky phenomenon. Furthermore, the

³¹ Group for Legal and Political Studies. "Reflecting on the third year of Kurti II: Setbacks and Achievements in Rule of Law, Public Administration and Foreign Policy". *Group for Legal Political Studies*, Apr. 2024, <http://www.legalpoliticalstudies.org/wp-content/uploads/2024/04/GLPS-PolicyAnalysis-Three-Years-of-Kurti-II-1.pdf>.

³² Shamolli, Naser. "The Phenomenon of Acting Positions Within the Public Administration." *Group for Legal and Political Studies*, May 2023, <https://www.legalpoliticalstudies.org/wp-content/uploads/2023/05/The-Phenomenon-of-Acting-Positions-within-the-Public-Administration-Naser-Shamolli.pdf>.

³³ Klan Kosova, "GLPS: 11 ministries and the Office of the Prime Minister operate with Acting Secretaries." *Klan Kosova*, 4 May 2024, <https://klankosova.tv/glsp-11-ministri-dhe-zyra-e-kryeministrit-funksionojne-me-ushtres-detyre-te-sekretarit/>.

new draft LPO³⁴ envisaged a mechanism whereby decisions regarding current Acting Officials are to be adjusted within a month, thereby perpetuating this practice.

Third, the removal of the minimum threshold requiring **at least 2 candidates** to meet the qualifications for senior management level remains highly concerning, and undermines fair competition – a key pillar of meritocracy. Providing full discretion to public institutions in accepting public officials from the reserve list – as outlined in paragraph 3 of Article 67 – poses significant risk. Given that no legal obligations were determined, institutions may refuse these officials with no explanation whatsoever.

The fourth issue is that of the **mandate of public officials**. As per paragraph 3 of Article 17, the draft law reinforces limiting the mandate for the current public officials at low and mid-level management categories. This approach contradicts the Constitutional Court's ruling on this matter. This is not a common practice in countries that exercise career system in national bureaucracies. Without guarantees for meritocratic and long-term promotions there are little incentives for civil servants to have loyalty to the institution.

In line with GLPS, a similar observation was also made by the European Commission in its 2023 EC Country Report, highlighting that the amended law risks creating and exacerbating existing gaps in public administration capacities. The Commission recommended that the new Public Officials Law be revised in line with the principles of modern public administration.

Despite this law coming into force in February 2023, the **process of job classification** has yet to be completed. Beyond a legal requirement, this process is essential to ensure fair expenditure of public funds in accordance with the law.

A strategic framework with clear objectives has also been established in this field, as outlined in the Public Administration Reform Strategy, emphasizing the organization, accountability, and transparency of public administration. In terms of legal framework, **the Law on the Organization and Functioning of State Administration and Independent Agencies (LOFSAIA)** and its subordinate legislation outline the principles and regulate the organization and functioning of public administration and independent agencies. The implementation of this law in practice is minimal, despite its adoption five years ago.

c. Disagreements between the Executive and Independent institutions on how reforms should be done

Internally, in each Beneficiary country relevant organization structures have to be established with the working groups, with a monitoring mechanism that will allow for whistleblowers in case of delays and gaps.

Many measures envisaged in RA include inter-institutional efforts and coordination hence the success in implementing such measures depends on the efforts of all institutions involved. This necessitates very good coordination mechanisms and accountability instruments, which in many cases is lacking in Kosovo. An example of issues arising relates to measures in the policy area related to rule of law. Some of the priorities lie under the responsibility of Ministry of Justice (MoJ) jointly with the Kosovo Judicial Council (KJC) and Prosecutorial Council (KPC). An example of issues that could arise in successfully implementing reform priorities/measures is the **Joint declaration of commitment for a justice system reform which is envisaged to be implemented under the reform area in Judiciary**. The declaration foresees approving important regulations that

³⁴ Office of the Prime Minister. "Draft Law on amending and supplementing Law no. 08/L-197 on public officials." *OPM*, 8 Mar. 2024, <https://kryeministri.rks-gov.net/en/blog/draft-law-on-amending-and-supplementing-law-no-08-l-197-on-public-officials/>.

relates to strengthening the legal framework in the areas that include performance evaluations, recruitment processes, disciplinary mechanisms, verifications and due diligence, professional development, asset declaration and status of judges and prosecutors, drafting of the Law on Civil Servants in the Administration of Courts and Prosecutor's Offices, implementation of recommendations from the TAIEX mission to combat organized crime and corruption, and other aspects related to the justice reform. The progress however has been unsatisfactory given KJC and KPC have left the sessions of the working groups due to disagreements with MoJ on certain requests Councils have proposed. Given the recent experience it is very likely that misunderstanding and issues that will impede this measure will arise and could risk delaying its fulfilment hence the funds.

d. Ambiguity in terms of what will be funded by loans and what by grants as well as the link of the RA with other pillars of the NGP

Article 6 provides for the allocation of funds, with an overall split of two thirds for loans, hence at least half (50 %) of the envisaged total of €6 billion is to be channelled through Western Balkans Investment Framework (WBIF).³⁵ The loans-related part necessitates for additional negotiations and parties will have to decide which or what kind of projects are to be covered by loans. As per Article 15, the reforms to be implemented, the areas to be supported by investment as well as the payment conditions stemming from the Reform Agenda, including the indicative timetable are to be set by the Commission through an implementing decision.³⁶

The Commission might decide to leave it up to the countries to decide what reforms or project they want to fund with loans and what with sectoral budget funds.³⁷ As per Article 17 of the Regulation, the Commission will enter into a loan agreement with the Beneficiary which would involve signing a loan agreement which shall lay down the maximum loan amount, the availability period and the detailed terms and conditions of the support under the Facility in the form of loans. The loans are expected to have maximum duration of 40 years as of the signature of the loan agreement and a provisioning for the loans at the rate of 9% is envisaged upon making available any funds falling on page 7 of the Regulation. The approved regulation stipulates that: "The Reform Agendas should also include a preliminary list of planned investment projects intended for financing under the WBIF. Those steps should be planned for no later than 31 August 2027, although it should be possible for the overall completion of the measures to which such steps refer to extend beyond 2027 but not later than 31 December 2028."³⁸ Yet, the approved RA does not include any list whatsoever as far as planned investment projects are concerned.

This said, it is of paramount importance that the government carefully assesses which projects are to be funded by loans and which by budget support. In this regard, the timespan of the projects must be estimated carefully so it does not exceed the timespan of the agenda. Moreover, it is very important that when estimating the timeframe of the projects, the institution takes into account issues that can arise in tendering procedures. This includes the appeals procedures of economic operators, cases when the board of Procurement Review Body (PRB) is non-functional due to lack of appointment of board members which could create a vacuum, as it did in the past, in treating the appeals, among others.

³⁵ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

³⁶ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

³⁷ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

³⁸ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

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It is worth noting that the decision-making in WBIF for Kosovo is pending as of the date they have not examined the Kosovo's application at all due to prevailing EU measures.⁴⁰

Kosovo Government in particular has to be **careful with timelines**. It has to set realistic & achievable goals within the Reform Agenda timeframe especially bearing in mind that the EU restrictive measures imposed on Kosovo are still in place. This is particularly important for capital investment projects. Most of the road infrastructure projects have been severely delayed. The construction of the Pristina - Mitrovica regional road that started in 2009 has not yet been completed. Since then, now for 15 years, the project was followed with problems, specifically, a segment of about ten kilometres, out of a total of 40 kilometres, still remains unfinished.⁴¹ On the other hand, the construction of the Pristina-Gjilan highway started in 2018. This project also ran into problems and is far behind the schedule and is unlikely to be concluded this year. In addition, the same had an initial cost of over 40 million euros lower than what was foreseen with the budget allocation law of 2023. More specifically, in 2018, it was envisaged to cost 87 million euros. However, in the Budget Law of 2023 it is stated that the total value of this highway is about 129 million euros.⁴² This suggests that not only such projects are severely delayed but also their costs are not properly valued and underestimated. The costs of poor planning by the government are ultimately paid off by the citizens which hampers their living standards, hence achieving the opposite aim of the Growth Plan.

e. Integration of regional cooperation in the RA

Although the Commission has now explicitly included the CRM within the EU integration process, contrary to the past when it was viewed rather as an alternative to EU membership, it is ambiguous where the regional cooperation will be placed. Currently, it is not reflected anywhere in the reform agenda (not even in chapter I of trade). Consequently, it is unclear whether it will be part of conditionality related to the release of funds. To date, although very promising as an initiative, it has failed to make a significant impact in practice primarily due to unresolved political disputes among several WB countries, and in particular the Kosovo-Serbia dialogue. The new Growth Plan, respectively the RA, aims to resolve obstacles arising from lack of progress in the dialogue by explicitly recognizing progress and a final agreement as a precondition to benefit from the funds envisaged in the GP.

³⁹ European Commission. "Proposal of the Regulation for Growth Plan." 2023.

⁴⁰ Interview with OPM official. May 2024.

⁴¹ Radio Evropa e Lirë. "Një kontratë e re për rrugën me telashe të vjetra - Kur kryhet rruga drejt Mitrovicës?" (A New Contract for the Road with Old Problems – When Will the Road to Mitrovica be Finished?). *Radio Free Europe*, 10 Feb. 2024, <https://www.evropaelire.org/a/rruga-prishtine-mitrovice-/32812631.html>.

⁴² Lajmi. "Nuk u dolën fjalët se autostrada Prishtinë-Gjilan do përfundojë në afat, Aliu: Ka pasur probleme të paparashikueshme" (Their Promises Are Not Fulfilled on Prishtina-Gjilan Highway, Aliu: There Were Unexpected Problems). *Lajmi*, 11 May 2024, <https://lajmi.net/nuk-u-dolen-fjalet-se-autostrada-prishtine-gjilan-do-perfundoje-ne-afat-aliu-ka-pasur-probleme-te-paparashikueshme/>.

f. Extra conditionality for Kosovo

In addition to agreeing to a reform agenda, the draft regulation envisages additional preconditions for the support under the Facility. More precisely, *“the Beneficiaries (shall) improve, uphold and respect”, among other conditions, effective democratic mechanisms, including a functioning multi-party parliamentary system, safeguard free and pluralistic media and fight against disinformation, and the rule of law. In addition, the EU Parliament included the precondition that relates to the “alignment with the Union’s common foreign and security policy, including the adoption of restrictive measures against Russia”*.⁴³

This said, differently from the rest of WB countries, Kosovo and Serbia’s benefit from the plan is also linked to the **success of the dialogue** facilitated by EU. The positive aspect to this conditionality is that both Kosovo and Serbia are equally subject to it, as opposed to EU measures which are imposed only on Kosovo. More precisely, Article 5 outlines a unique precondition that concerns Kosovo and Serbia stating that both Serbia and Kosovo shall *“engage constructively in the normalisation of their relations with a view to fully implementing all their respective obligations stemming from the Agreement on the Path to Normalisation and its Implementation Annex as well as all past Dialogue Agreements and engage in negotiations on the Comprehensive Agreement on normalisation of relations.”*⁴⁴

Hence in addition to the assessment that the Commission will undertake, in relation to Serbia and Kosovo, the High Representative of the European Union for Foreign Affairs and Security/Vice-President of the Commission, in capacity as Facilitator of the Dialogue on Normalisation of relations between Serbia and Kosovo, will provide his/her assessment as well.

Yet how the conditionality will unfold in practice is yet to be seen as no clear indicators have been presented. It is however unclear and broadly defined which leaves room for interpretation. On one hand, this would allow the EU to consider the conditionality met only if minimal efforts are shown. On the other hand, there could be member states that can insist the conditionality is not met if they want to use it as a political instrument to impose certain solutions or progress in the dialogue.

4. CONCLUSIONS

The New Growth Plan was initiated at a moment when the whole Western Balkans was disillusioned with a quick and meritocratic accession into the European Union. Therefore, it has the potential of incentivizing the candidates in continuing with the difficult but necessary reforms in the European Integration field. It combines regional integration with the European integration and in that way, both aims to converge the economic standards, but also overcome bilateral political issues. The final draft of the Regulation lays out a credible path towards financial incentives for the beneficiaries, provided that they fulfil the conditions attached to democratic and economic standards. It is now up to the candidates to come up with a feasible plan to undertake those necessary reforms in a timely manner.

As of the writing of this article, the Kosovar government has already submitted an ambitious plan and is yet to start its implementation. However, there are potentially numerous setbacks in the implementation phase that may cripple the process and penalize the financial rewards. First, the government has not appointed a special body to coordinate the efforts to fulfil the agenda and instead it will operate with the existing EU integration structures. Normally, this would not be a pose a problem, however, the civil service is already plagued with shortages that are exacerbated by the new laws that de-centralize hiring, legitimize acting positions and create

⁴³ European Commission. “Proposal of the Regulation for Growth Plan.” 2023.

⁴⁴ European Commission. “Proposal of the Regulation for Growth Plan.” 2023.

time-limited mandates for low and mid-level leaders. The long-term damaging effect of these policies may hinder Kosovo's progress in the Reform Agenda. Also, it is yet to finalize the projects for which it seeks the financial support of the Plan through WBIF.

Differently from the rest of WB countries, Kosovo and Serbia's benefit from the plan is also linked to the success of the dialogue facilitated by EU. The positive aspect to this conditionality is that both Kosovo and Serbia are subject on equal terms to it, as opposed to EU measures which are imposed only on Kosovo.

That being said, there are also some potential concerns on the EU side as well. Although pre-financing sounds as a good idea to initiate reforms, its dispensation without any prior policy change may actually serve as a counter-effect for reforms. The premature execution of funds may disincentive governments from implementing reforms and feed into a sense of entitlement to EU funds due to geopolitical concerns instead of merit-based rewards.

Despite all the potential setbacks, the New Growth Plan is indisputably a favourable development for the Western Balkans. After more than two decades have passed since Thessaloniki Summit, it is finally time for the EU to show leadership in the region and provide a credible path for membership. The Plan is a positive step in this direction and causes optimism for the near future. The ball is now in the regional governments' court. It is now up to them to set aside the daily politicking and start implementing much-needed reforms.

Policy Analysis

Policy Analysis in general is a policy advice paper which particularly aims to influence the key means through which policy decisions are made in both local and central levels of government. The purpose of Policy Analysis is to address, more in-depth, a particular problem, to examine the arguments related to a concerned policy, and to analyze the implementation of the policy. Through Policy Analysis, Group for Legal and Political studies seeks to stimulate wider comprehensive debate on the given issue via presenting informed policy-relevant choices and recommendations to the key stakeholders and parties of interest.



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