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## Organized crime and state capture in the Western Balkans

**Przestępczość zorganizowana i „zawłaszczenie państwa”  
w regionie Bałkanów Zachodnich**

**Abstract:** The main objective of the article is to show that the temporary symbiosis between centres of political power and organized crime leads to the development of permanent, corrupt and opaque networks. Focusing on the countries of the Western Balkans, the author points to the reasons for the development of organized crime in the region and then to the conditions created in the post-conflict period that resulted in the failure of effective attempts to stop organized crime and the corruption that facilitates it in these countries. The article also points out that the creation of symbiotic relationships between political elites and organized crime groups leads to a 'state capture'. The unresolved problems of corruption and organized crime, in turn, have a direct impact on these countries' EU-integration processes.

**Keywords:** state capture, Western Balkans, organized crime

**Streszczenie:** Głównym celem artykułu jest pokazanie, że przeciągająca się symbioza między ośrodkami władzy politycznej a przestępczością zorganizowaną prowadzi do rozwoju trwałych, skorumpowanych i nieprzejrzystych sieci wpływów i powiązań. Skupiając się na państwach Bałkanów Zachodnich, autor wskazuje na przyczyny rozwoju przestępczości zorganizowanej w regionie, a następnie na jej uwarunkowania powstałe w okresie powojennym, skutkujące niepowodzeniem w zakresie skutecznej walki ze zjawiskiem przestępczości zorganizowanej oraz towarzyszącej jej korupcji. W artykule wskazano również, że tworzenie symbiotycznych relacji między elitami politycznymi i zorganizowanymi grupami przestępczymi prowadzi do faktycznego „zawłaszczenia państwa” w regionie Bałkanów Zachodnich. Z kolei nierozwiązane problemy korupcji i przestępczości zorganizowanej mają bezpośredni wpływ na proces integracji europejskiej państw bałkańskich.

**Słowa kluczowe:** „przejęcie państwa”, Bałkany Zachodnie, przestępczość zorganizowana

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## Introduction

During the turmoil on the territory of the former Yugoslavia in the 1990s, there was a real 'boom' in activity by organized crime groups. In principle, any illegal activity generating a sufficiently large income has become the object of these groups' activity. War-torn, fragile states by their very nature become particularly prone to the pathologies of political and social life. As a consequence of war, economic sanctions and poorly thought-out and mismanaged reconstruction and development plans in the post-Yugoslav states, the disparity between rich and poor became more and more apparent, economies became less and less efficient and corruption became a permanent feature of the local landscape. As a result, in the 1990s, organized crime affected the countries of the former Yugoslavia to a much greater extent than it did in other Central and Eastern European countries.

Transnational organized crime has had a destructive impact not only on economies but also on the countries' institutions and the rule of law. The vast resources accumulated as a result of criminal activity made it possible to engage in clandestine financing of various (also legal) ventures. This is mainly due to the fact that the income obtained from criminal activities is not declared anywhere, is not included in any statistics and is therefore not registered with the relevant authorities. Experience shows that often the proceeds of illicit trafficking are used to fund political parties. From the point of view of criminal groups, such links with institutions or entities engaged in legitimate political, social or economic activities are of great importance. Not only do they provide protection against state action, but they also extend the group's operational capabilities (access to relevant information or resources, transfer of funds) and create the conditions for fuller exploitation of the proceeds of crime.

## 1. State capture – definitions and theoretical framework

The private sector per se may consist of a variety of both legal and illegal actors, thus influencing the nature of state capture. This means that 'state capture' can occur as a result of systematic corruption, but a state can also be taken over by criminal networks. Such symbiosis with criminal organizations is bound to have a far greater impact on governance and the functioning of the state. This is there-

fore particularly worrying given that organized crime and corruption are not marginal problems in the Balkan states. In that case, as James Cockayne warns, “These are no longer two distinct worlds – an up-world and an underworld, but a single strategic space in which state, criminal and other actors compete to govern.”<sup>1</sup>

Among researchers, it is generally agreed that the success of organized crime groups usually requires links to state structures and influence over political and financial structures. Corruption and the nexus of criminal networks are closely linked to governance mechanisms involving high-level officials in the executive, legislative and judiciary.<sup>2</sup> The link between rising levels of organized crime and public sector corruption was confirmed in a study by Edgardo Buscaglia and Jan van Dijk. Using qualitative and quantitative data analysis, they showed that countries characterized by weak rule of law, questionable judicial independence and increased political interference in the appointment of civil servants have higher levels of organized criminal activity.<sup>3</sup>

Jan van Dijk came to similar conclusions, showing that high levels of corruption and money laundering combined with a black market economy correlate strongly with the Organized Crime Perception Index. The results also showed that the prevalence of organized crime is higher in countries with weak rule of law, low integrity of the justice system and lack of accountable institutions. It should be borne in mind that methods of penetrating government structures and influencing elected officials range from bribery and financial contributions to financing the election campaigns of strategic candidates or joint investment opportunities. Nevertheless, corruption of public officials is not based solely on bribery but can take many different forms of support.<sup>4</sup>

1 J. Cockayne, *Hidden Power: The Strategic Logic of Organized Crime*, New York 2016, p. 8.

2 G. A. Antonopoulos, *The Greek Connection(s): The Social Organization of the Cigarette-Smuggling Business in Greece*, *European Journal of Criminology*, 2008, vol. 5, no. 3, pp. 263-288; E. Kleemanns, H. G. van de Bunt, *The Social Organization of Human Trafficking*, [in:] *Global Organized Crime: Trends and Developments*, D. Siegel, H. G. van de Bunt, D. Zaitch (eds.), Dordrecht 2003, pp. 97-104; D. J. Middleton, M. Levy, *The role of solicitors in facilitating 'Organized Crime': Situational crime opportunities and their regulation*, *Crime, Law and Social Change*, 2004, vol. 42, no. 2-3, pp. 123-161.

3 E. Buscaglia, J. van Dijk, *Controlling Organized Crime and Corruption in the Public Sector*, *Forum on Crime and Society*, 2003, vol. 3, no. 1-2.

4 L. Shelley, *The Unholy Trinity: Transnational Crime, Corruption, and Terrorism*, *Brown Journal of World Affairs*, 2005, vol. 11, no. 2, pp. 108-111.

This view is corroborated by investigations into groups of drug traffickers in Serbia to whom officials in several south-eastern European countries provided forged documents.<sup>5</sup>

Empirical research in transition countries shows strong links between organized crime and corruption in the public sector. These groups make extensive use of corruption to facilitate their criminal activities. The purpose of corruption may be to protect against law enforcement action (e.g. by obtaining information about impending audits, ongoing investigations, confidential data), to facilitate money laundering and to ensure legitimate investments based on illicit trade. It can therefore be concluded that organized crime uses corruption as a tool to protect its activities. In this sense, Božidar Prelević, responsible for police reform in the government of Zoran Đinđić, suggests that “detecting the perpetrators costs the mafia, but not detecting costs the state. And someone is paying for it”.<sup>6</sup> Corruption corrodes the state from within and allows crime to become acceptable and go unpunished. It also undermines public confidence in emerging democratic and economic institutions.<sup>7</sup> The link between crime and politics contributes to the erosion of the rule of law, making the possibility of state capture increasingly worrying. The problem arises particularly in those countries where the political and business decision-making processes are unclear and there is a very strong (or very weak) security apparatus combined with weak democratic control.

However, it must be remembered that politicians exploit illegal criminal networks just as much as organized crime groups exploit politicians. A relationship is formed when there are mutual benefits for both parties. For a politician or political party, establishing a link to an illegal network provides greater electoral capital through territorial control (using these networks to intimidate and alter their electoral base) and personal enrichment through joint business ventures

5 M. Vasić, T. Tagirov, *Kriminal, obični i državni*, Vreme, 17.08.2005, <https://www.vreme.com/cms/view.php?id=425322&print=yes> [25.10.2021].

6 B. Prelević, *Mafijašenje države*, Vreme, 27.06.2018, <https://www.vreme.com/cms/view.php?id=1607649> [25.10.2021].

7 E. Giatzidis, *The Challenge of Organized Crime in the Balkans and the Political and Economic Implications*, *Journal of Communist Studies and Transition Politics*, 2007, vol. 23, no. 3, pp. 331-333.

or illegal trade such as smuggling and money laundering or the seizure of land and state assets.

As a result, the relationship between political elites and organized crime groups is one of symbiosis. Political elites provide a protective umbrella for criminal groups and their activities, while criminal groups help political elites to get rich, and gain and maintain power. The criminals support elected politicians in their election campaigns (for example, by buying votes or encouraging local constituents to vote for a particular person or party) and in return, once elected, the person or party provides political cover for criminal activity. Roy Godson points out that “when the political establishment knowingly and regularly does business with the leaders of criminal organizations ... the differences between the two sets of players become less clear, and sometimes the political and criminal worlds intersect.”<sup>8</sup> In his work, Mark Galeotti also points to the mechanisms of how criminal groups are increasingly becoming political actors, where the aims and activities of these groups are so aligned that the political and criminal agenda are one and the same: “Rather than a nexus, there is fusion.”<sup>9</sup> In its most advanced form, organized crime is so deeply integrated into the economic, political and social institutions of legitimate society that it may no longer be recognized as a criminal enterprise. In the most extreme cases, the infiltration of politics by organized crime can lead to the mixing of a country’s political and criminal elites to the point where organized crime groups are able to wield political power. The aforementioned J. van Dijk points out that in many parts of the world, grand corruption and organized crime are two sides of the same coin. The relationship between organized crime and politics can be seen as a ‘systemic interaction’: an interaction between a representative of the criminal subsystem, i.e. the mafioso, and a politician from the political subsystem.<sup>10</sup>

8 R. Godson, *The Political-Criminal Nexus and Global Security*, [in:] *Menace to Society: Political-Criminal Collaboration Around the World*, R. Godson (ed.), London 2003, pp. 7-16.

9 M. Galeotti, *The Russian 'Mafiya': Consolidation and Globalisation*, “Global Crime”, 2004, vol. 6, no. 1, pp. 68-69.

10 J. van Dijk, *Mafia markers: assessing organized crime and its impact upon societies*, “Trends in Organized Crime”, 2007, vol. 10, no. 4, pp. 52-56.

In contrast to some countries where criminal groups act as parasites, in many Western Balkan countries, the relationship between state structures and criminal groups takes the form of joint ventures. The problem is also recognized by the European Commission, which in its Strategy “A credible enlargement perspective for the Western Balkans and an enhanced EU engagement in the region,” said of the Western Balkan countries, “Today, the countries show clear elements of state capture, including links with organized crime and corruption at all levels of government and administration, as well as a strong entanglement of public and private interests. All this feeds a sentiment of impunity and inequality.”<sup>11</sup> At the same time, the EU stated that this problem is the biggest obstacle to the integration of the WB6 countries into the EU.

## **2. ‘Golden era’ of organized crime in the Balkans**

In the former Yugoslavia, which lasted until the early 1990s, organized crime was basically non-existent. Despite some liberalization, the Socialist Federal Republic of Yugoslavia remained a one-party, semi-political state almost to the end. The closed socialist economy, the controlled market, the tight and well-controlled borders, the operation of only petty trade and specific relations with foreign countries did not allow organized crime to emerge and grow. Private enterprise was non-existent, property ownership was limited and money flows were under the strict control of state authorities. There were some residual forms of organized crime during this period, such as drug trafficking, but in terms of both scope and degree of organizational capacity, they were far removed from those that exist today. Other forms of organized crime (money laundering, human trafficking, illicit arms trafficking, smuggling of energy resources and human organs) either did not exist or occurred at only a negligible level.

The real heyday of organized crime came in the 1990s. The following have contributed significantly to this development: the ‘legacy’ of

<sup>11</sup> European Commission, A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, Strasbourg, 6.2.2018, COM(2018) 65 final, p. 3, [https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans\\_en.pdf](https://ec.europa.eu/info/sites/default/files/communication-credible-enlargement-perspective-western-balkans_en.pdf) [25.10.2021].

communist regimes; the sudden liberalization of trade (which was not accompanied by the necessary legal regulations); the fact that, due to the small size of national economies, national borders became the main mechanism for redistributing national wealth; and the geographical location of the region. However, decisive for the direction and scale of the development of organized crime in the Balkans was the impact of the armed conflicts that took place there after 1991.

The imposition of sanctions and embargoes on the warring republics (and especially the sanctions imposed on the Federal Republic of Yugoslavia), led to a situation where, in the name of the overriding objectives (the fight for independence and sovereignty), the leadership of the breakaway republics had to raise and arm the newly formed armies in the only way possible – illegally, using smuggling channels.<sup>12</sup> As a consequence, in those parts of the former Yugoslavia that actively participated in the war, smuggling channels (mainly illegal arms and oil imports) were established by state institutions (ministries of defence, secret services and customs agencies) and run by outsiders but closely linked to these institutions. Elites in the Yugoslav republics were actively involved in the development and organization of smuggling channels and protected and assisted those who were directly involved in their exploitation. This thriving ‘business’ was controlled in close cooperation between politicians, security structures and organized crime organizations. These actions required a partnership between political, commercial and criminal elites, which undoubtedly strengthened the ties between them.<sup>13</sup> In the early stages of the war, smuggling and illegal trade were widely perceived as necessary contributions to the promotion of national interests. They were therefore seen as covert operations organized by the state and not as criminal acts. As a result, the distinction between ‘national heroes’ and ‘criminals’ has become blurred. In addition, smuggling embargoed goods into post-Yugoslav countries has become an important source of income for various groups, from political leaders to people living in border areas. As a result, cor-

12 R. D. Kaplan, *Hoods Against Democrats*, The Atlantic, December 1998, <http://www.theatlantic.com/past/docs/issues/98dec/bulgaria.htm> [25.10.2021].

13 Ч. Христов, *Секретните служби и преходът*, София 2004 [Ch. Khristov, *Secret Services and Transformation*, Sofia 2004], p. 57.

ruption has infiltrated law enforcement agencies and political elites in these countries.<sup>14</sup>

The Yugoslav experience shows that the temporary symbiosis of power and organized crime in the process of creating new states leads to a permanent transformation of state/national interests into private ones and encourages the development of corrupt, opaque and crime-ridden societies.<sup>15</sup> Post-conflict, with regimes that were actively involved in developing and organizing smuggling channels remaining in power, virtually no attempt has been made to stop cross-border crime and the corruption that facilitates it. In Croatia, Bosnia and Herzegovina, Montenegro and Serbia, where due to specific circumstances (the most important being involvement in the war) the same regimes persisted for almost a whole decade, any attempt to control the flow of smuggled goods from which organized crime made its biggest profits was only cosmetic, if made at all.<sup>16</sup> Even in countries where governments have changed (Albania, North Macedonia, Bulgaria) attempts

14 *Партньори в престъпността: рисковете от симбиозата между сектора за сигурност и организираната престъпност в Югоизточна Европа*, София 2004 [*Partners in Crime: The Risk of Symbiosis Between the Security Sector and Organized Crime in Southeast Europe*, Sofia 2004], pp. 101-102.

15 Cross-border organized crime networks, established semi-officially with the knowledge and often even the active participation of top government officials, were soon 'privatized' by well-placed individuals and groups within or closely associated with the ruling elite. The process of privatization in all South-Eastern European countries was already underway by 1992 and was largely completed by 1995 (the only exception being Kosovo, where the process could be observed from 1997 with the emergence of the Kosovo Liberation Army as an important regional player until the NATO campaign in 1999). During the same period, channels initially established for smuggling mainly arms and oil were expanded to include other goods such as drugs, stolen vehicles, cigarettes, alcohol and other goods. See: *Corruption, Contraband and Organized Crime in Southeast Europe*, Sofia 2003, <https://csd.bg/publications/publication/corruption-contraband-and-organized-crime-in-southeast-europe/> [25.10.2021].

16 Additionally, Kosovo and Bosnia and Herzegovina are clear examples of how organized crime has contributed to state building. Peter Andreas argues that "the Bosnian state probably would not exist (or certainly not in its current form) without the help of criminals, traffickers in illegal goods and smugglers violating the arms embargo." Kosovo would stand little chance against the Serbs if it were not for the smuggling of arms by the Kosovo Liberation Army or the resources the latter has amassed through drug trafficking and extortion. See: W. Kemp, *Crooked Kaleidoscope: Organized Crime in the Balkans*, Geneva 2017, p. 16, [https://globalinitiative.net/wp-content/uploads/2017/07/OC\\_balkans.pdf](https://globalinitiative.net/wp-content/uploads/2017/07/OC_balkans.pdf) [30.10.2021]; P. Andreas, *The Clandestine Political Economy of War and Peace in Bosnia*, "International Studies Quarterly", 2004, vol. 48, no. 1, p. 33.

have been made to combat smuggling and organized crime, but in most cases these efforts have been ineffective.<sup>17</sup>

In this situation, organized crime was provided with the conditions to develop in the post-conflict period. Unlike in the transition countries of Central Europe, where the old party nomenclature converted political capital into economic capital, in the Balkans, the financial capital accumulated during the war was converted into political influence in the post-conflict period. The criminal structures that emerged and developed during the war infiltrated political systems, administrations and law enforcement agencies, hampering the economic and political development of these countries.

At the same time, organized crime in south-east Europe has taken the following steps towards integration into business and politics:

- thanks to the financial resources obtained from criminal activity, participation in privatization processes, attempts to take control over the import and export of certain goods, the creation of monopolies in the most profitable sectors of the economy, etc.;
- taking control of the black economy (income from petty crime, illegal employment, car theft, prostitution, etc.);
- redistribution of profits (import and export of raw materials and commodities, wholesale of agricultural and industrial production, investment in financial institutions, tourism, etc.);
- exploiting new methods of financial crime (cybercrime, credit card fraud, cryptocurrencies, etc.);
- the creation of sustainable corruption networks through the redistribution of dirty money among organized crime lobbies in law enforcement, justice, administration and power structures.

The combination of legal with illegal and criminal business methods has created a new 'economy of crime' as a quasi-economic system ("big players in the shadows and criminal business"<sup>18</sup>) that, thanks to the creation of corruption networks, is tolerated by state institutions and law enforcement agencies. This results in a number of pro-

17 An attempt by Serbian Prime Minister Zoran Đinđić to violate the interests of criminal groups and the secret services infiltrated by them ended in a successful attempt on his life.

18 K. von Lampe, *Criminals are not alone: Some observations on the social microcosm of illegal entrepreneurs*, [in:] *Crime Business and Crime Money in Europe. The Dirty Linen of Illicit Enterprise*, P. C. van Duyne, A. Maljevic, M. van Dijk, K. von Lampe, J. Harvey (eds.), Nijmegen 2007, p. 154.

visions not being enforced, which in turn gives rise to the need for new regulations, although their effectiveness also remains questionable. Particularly disruptive to efforts to counter the criminal economy is the inefficiency of the justice system, which is only partly due to imperfect legislation. In practice, organized crime not only went unpunished but also used the justice system to eliminate competitors through corruption.

The use of corruption by organized crime groups raises further social, political and economic problems in the form of:

- exacerbating the socio-economic problems of transition by draining public resources;
- undermining the transition to a market economy by destroying fair competition, the potential for free private initiative and consequently driving honest business players out of the market;
- redistribution of national wealth through corrupt privatization, financial and tax fraud, trade and the resulting import monopolies, etc.;
- participation in international corruption and criminal networks, with the consequence that the region is integrated into an international criminal infrastructure;
- creating a negative image of the region among foreign business and political partners, which creates obstacles to its integration into the European Union;
- the impact of dirty money on politics is particularly negative due to the financing of political parties and election campaigns;
- state capture, which poses a risk to the stability of democratic institutions.<sup>19</sup>

One of the most important consequences of the wars was the creation of new states. Both the youth and size of these new actors made them particularly vulnerable to criminal infiltration. Transnational

19 D. Anastasijevic, *Organized Crime in the Western Balkans*, Paper presented at the First Annual Conference of Human Security, Terrorism and Organized Crime in the Western Balkan Region, HUMSEC, Nov. 2006, [https://www.files.ethz.ch/isn/102340/1\\_Anastasijevic.pdf](https://www.files.ethz.ch/isn/102340/1_Anastasijevic.pdf) [30.10.2021]; V. Perry, S. Keil, *The Business of State Capture in the Western Balkans: An Introduction*, "Southeastern Europe", 2018, vol. 42, no. 1, pp. 1-14; M. Popovikj, *Corruption: The Western Balkans' Achilles Heel?*, ISPI, 16.05.2018, <https://www.ispionline.it/en/pubblicazione/corruption-western-balkans-achilles-heel-20518> [25.10.2021]; K. Krasniqi, *Organized Crime in the Balkans*, "European Scientific Journal", 2016, vol. 12, no. 19, pp. 204-220.

crime has seriously affected the functioning of these states. Building stable state institutions with adequate powers and resources to combat organized crime takes time and money. The small populations of these countries mean that de facto such competence has been given to a relatively small number of people. Criminal organizations therefore only needed to corrupt a small number of people to be able to act with impunity. Small countries also have little revenue (if only from taxation), which makes it very difficult for them to compete with well-resourced criminal groups. Thus, organized crime and corruption began to seriously undermine the normal functioning of the countries in the region.<sup>20</sup>

### **3. Organized crime and state capture**

Until a few years ago, it was popular among ministers or other high officials from the Balkan countries to say “every country has a mafia, but only in our country the mafia has a state.” This extremely pessimistic statement was based on the fact that (unlike in Western Europe and even in some Central European transition states) organized crime in the Balkans developed through active (sometimes covert and sometimes open) cooperation with the security sector and law enforcement agencies. In other words, while in other parts of Europe, organized crime operated despite the efforts of law enforcement agencies trying to combat it, in most south-eastern European countries it operated and (albeit to a lesser extent) continues to operate through these institutions.

According to the Global Organized Crime Index published this year, the countries of the Western Balkans top the organized crime index in Europe.<sup>21</sup> The threat of organized crime has also been recognized by the governments of these countries. This phenomenon appears in the strategic documents of all the Western Balkan countries

20 R. Woźnica, *Wpływ konfliktów w byłej Jugosławii na kierunki rozwoju transnarodowej przestępczości zorganizowanej na Bałkanach*, [in:] *Bałkany Zachodnie między przeszłością a przyszłością*, P. Chmielewski, S. L. Szczesio (eds.), Łódź 2013, pp. 273-275.

21 Respectively: Montenegro 1st place, Serbia 2nd place, Bosnia and Herzegovina 4th place; Albania 8th place, Northern Macedonia 12th place, Kosovo – no data. See: Global Organized Crime Index, <https://ocindex.net> [25.10.2021].

and the fight against it is considered a priority.<sup>22</sup> However, the captured state is not interested in actually combating organized crime, limiting itself to sham activities designed to show progress in this field in reports prepared for/by international organizations or to publicize the few successful cases. This is confirmed by the Global Organized Crime Index, in which, assessing the commitment and effectiveness in combating organized crime,<sup>23</sup> the Western Balkan countries were placed came low on the list.<sup>24</sup> Corruption is another problem closely linked to organized crime. These two pathologies are linked, as organized crime groups corrupt the relevant public officials to achieve their goals. Meanwhile, for most countries in the region, corruption as such is not considered a security threat, risk or challenge.<sup>25</sup> The only exception is the Albanian National Security Strategy, which links the phenomenon of organized crime to institutional weakness, corruption and the politicization of public institutions.<sup>26</sup> Meanwhile, a 2020 study by the United Nations Office on Drugs and Crime (UNODC) on organized crime in the South-East Europe, providing an analysis of the types of enablers that organized crime groups use to facilitate their activities, identified corruption as a key enabler of organized crime in the region. The influence of other factors, the use of violence and the use of modern information and communication technologies, mini-

- 22 K. Djokic, *EU, NATO and Beyond: The Security Dynamics of the Western Balkans*, [in:] *The Balkans: Old, New Instabilities*, G. Fruscione (ed.), Milan 2020, p. 78.
- 23 The following were taken into account: the quality and transparency of governance, international cooperation, the legal system for preventing and combating organized crime, the judicial system and detection, law enforcement, the system for combating money laundering, the support systems for witness and victims, prevention.
- 24 In a list of 44 European countries, the Western Balkan countries are ranked as follows: North Macedonia 32nd place, Albania 36th place, Serbia 37th place, Montenegro 38th place, Bosnia and Herzegovina 42nd place, Kosovo – no data. See: Global Organized Crime Index...
- 25 U. Zvekić, *Corruption and Organized Crime Threats in Southern Eastern Europe*, <https://globalinitiative.net/wp-content/uploads/2016/07/zveki-corrupcion-and-organised-crime-threats-in-southern-eastern-europe-2016.pdf> [25.10.2021]; *State Capture Assessment Diagnostics in the Western Balkans 2020: Risks and Policy Options*, "Policy Brief", 2020, no. 10, <https://seldi.net/publications/policy-briefs/seldi-policy-brief-10-state-capture-assessment-diagnostics-in-the-western-balkans-2020-risks-and-policy-options/> [27.10.2021].
- 26 Strategjia e Sigurisë Kombëtare të Republikës së Shqipërisë, Tirana 2014, pp. 4,6,11,25, [https://www.mod.gov.al/images/PDF/strategjia\\_sigurise\\_kombetare\\_republikes\\_se\\_shqiperise.pdf](https://www.mod.gov.al/images/PDF/strategjia_sigurise_kombetare_republikes_se_shqiperise.pdf) [25.10.2021].

mally facilitate the functioning of organized crime.<sup>27</sup> Corruption and the undermining of institutional powers prevent institutions from responding to security threats such as organized crime and providing even basic services to citizens. This means that without an effective anti-corruption policy, it will not be possible to reduce the influence of organized crime groups on the politics and economies of the Western Balkan countries.

The international community was aware of these problems, which is why support for stability in the region was linked to the fight against organized crime and corruption.<sup>28</sup> In order to ensure progress in these areas, the European Union has applied a conditionality formula for candidate countries. Consequently, the fight against organized crime has been, at least according to politicians' declarations, one of the priorities of Balkan governments for almost a decade. However, this commitment has often been merely declaratory, as the results so far have been very mixed due to insufficient effectiveness in enforcing the regulations adopted. Some countries have even gone so far as to falsify their reports by showing that they are making greater efforts than they actually are.<sup>29</sup> Consequently, a legal and institutional framework was created that allowed the Western Balkan countries to show progress in these areas, but the actual fulfilment of this framework left much to be desired. As long as the prospect of enlargement was considered credible and alive, governments had an incentive to invest efforts in dismantling organized crime networks, which have traditionally been better organized than governments themselves. With the advent of so-called enlargement fatigue and the absence of a certain European future for the WB6, these incentives have disappeared. As a result, coupled with the lack of a real drive to combat organized crime in the Western Balkan countries, citizens' hopes of living in crime-free societies also began to fade.

27 *Measuring Organized Crime in the Western Balkans*, Vienna 2020, p. 10, <https://www.unodc.org/documents/data-and-analysis/OC/Measuring-OC-in-WB.pdf> [24.10.2021].

28 W. Bartlett, *International assistance, donor interests, and state capture in the Western Balkans*, "Journal of Contemporary European Studies", 2021, vol. 29, no. 2, pp. 184-200.

29 P. van Ham, *Gridlock, Corruption and crime in the Western Balkans*, The Hague 2014, <https://www.clingendael.org/sites/default/files/pdfs/Gridlock%20Corruption%20and%20Crime%20in%20the%20Western%20Balkans.pdf> [25.10.2021].

The above-mentioned UNODC report states that the number of proceedings initiated against members of organized crime groups has increased sixfold in the Western Balkan countries. The paradox, however, is that at the same time, the number of convictions has halved. This means that the efficiency of legal proceedings has fallen twelve-fold. The report said this “suggests a gap in the collection of evidence, the effectiveness of prosecutions and the proper adjudication of organized crime cases.”<sup>30</sup> One possible reason is the state capture of the judiciary, whereby law enforcement agencies (under political pressure) arrest and prosecute members of organized crime groups to demonstrate their resolve to the EU and to citizens, while very few cases of serious organized crime result in a conviction. As Florian Bieber and Marko Kmezić have noted, “Balkan courts are autonomous and independent only in legal terms. In practice, the functions of the courts are constrained by political influence, inefficiency, nepotism and corruption.”<sup>31</sup> The European Commission also pointed out in its 2018 report that criminals too often keep fraudulently acquired assets even after prosecution.<sup>32</sup>

Studies carried out by independent journalists and documented by international organizations reveal direct links between politicians and the criminal world or even cases where criminals themselves hold political office. In Montenegro, President Milo Đukanović,<sup>33</sup> for almost

30 *Measuring Organized Crime in the Western Balkans...*, p. 5.

31 *The Crisis of Democracy in the Western Balkans. An Anatomy of Stabilitocracy and the Limits of EU Democracy Promotion*, M. Kmezić, F. Bieber (eds.), Balkans in Europe Policy Advisory Group Policy Study, March 2017, p. 43.

32 In this paper on page 4, the European Commission says: “The authorities must dismantle criminal networks and their economic bases more effectively, making systematic use of financial investigations and applying more targeted tools like the precautionary freezing of criminal proceeds, third-party confiscation, the reversed burden of proof on holding certain types of assets, non-conviction-based confiscation to tackle inexplicable wealth, full ownership disclosure requirements for companies, and enhanced judicial cooperation.” See: European Commission, A credible enlargement perspective for and enhanced EU engagement...

33 Former Yugoslav communist, became leader of Montenegro in 1991. Under his rule, Montenegro, formally part of Yugoslavia, was cut off from the other countries of the former Yugoslavia by a customs and currency barrier (the monetary unit of Montenegro is the euro). On his initiative, a referendum was held in 2006 which resulted in Montenegro leaving the confederation with Serbia. The 30 years of Đukanović’s rule did not provoke opposition from either the EU or the US because he pursued a completely pro-Western course. Moreover, the West also turned a blind eye to Đukanović’s overt criminal activities. In 2003, Italian prosecutors accused Đukanović of links to organized crime involving the illegal smuggling of cigarettes into Italy.

three decades of uninterrupted rule, has built what could be called a mafia state.<sup>34</sup> The term mafia state was also applied to Kosovo after the Council of Europe published a report in 2011 accusing Hashim Thaçi<sup>35</sup> and his political entourage of “violent control over the trade in heroin and other narcotics” and of holding important positions in “Kosovo’s mafia-like structures of organized crime.” The Western Balkans are also full of less obvious cases of direct links between political elites and criminal networks. Investigative journalists associated with OCCRP (The Organized Crime and Corruption Reporting Project) provide numerous examples of such links.<sup>36</sup> In Albania, commonly

The Montenegrin leader was then accused of having a direct link with the leader of the notorious Italian Camorra, Paolo Savino. However, the court did not charge Đukanović because, as the leader of an independent state, he had immunity. Đukanović was also charged with links to drug trafficking. The Đukanović government has granted citizenship to internationally wanted Balkan drug baron Darko Sarić. Another drug baron – one of the leaders of the Albanian drug mafia, Nasser Kelmendi – also took refuge in Montenegro for a long time. Montenegrin ports on the Adriatic have been actively used by criminal groups for smuggling. Many prosecutions have been brought and subsequently suspended in Italy, the US and many European countries. If Đukanović is stripped of his political immunity, he will be summoned to court and will most likely receive a conviction.

- 34 According to Hungarian sociologist Bálint Magyar, a mafia state is ruled by a ‘patron’ and his court – to use another terminology, the boss and his clan – who appropriate public funds and state institutions for their private use and profit. The normal state of affairs is the assumption that the state acts in the public interest, and if this is not the case it is an anomaly. According to Magyar, the mafia state operates in its own way. It does not take over all state institutions, but only those that are necessary for profiteering. Therefore, some structures continue to operate as if they were part of a normal state. However, “The state itself, at the top, acts as a criminal organization.” See: B. Magyar, *Post-Communist Mafia State: the Case of Hungary*, Budapest 2016, pp. 5-10.
- 35 According to Carla Del Ponte, former prosecutor of the UN International Tribunal for the former Yugoslavia, Hashim Thaçi, former Prime Minister (2008-2014), Minister of Foreign Affairs (2014-2016) and President (2016-2020) of the Republic of Kosovo, was involved in organization of kidnappings and illegal organ harvesting. In Dick Marty’s report, published on the Council of Europe website in mid-December 2010, Hashim Thaçi was named as the head of a Kosovo Albanian criminal group that smuggles weapons, drugs and human organs. 24 June 2020 the Kosovo Specialist Prosecutor’s Office has announced that it has prepared charges against Hashim Thaçi, former Speaker of the Kosovo Parliament Kadri Veseli and several others for crimes against humanity and war crimes, including murder, kidnapping, persecution and torture. The Specialist Prosecutor’s Office noted that it decided to report the preparation of the charges because Thaçi and Veseli had repeatedly tried to obstruct the work of the Kosovo Specialist Chambers. On 5 November 2020, Thaçi resigned from his position as president after an indictment against him was confirmed. See: M. Ristic, *Two Decades on, Kosovo’s Guerrilla Boss Thaci May Finally Face Trial*, Balkan Insight, 25.06.2020, <https://balkaninsight.com/2020/06/25/two-decades-on-kosovos-guerrilla-boss-thaci-may-finally-face-trial/> [25.10.2021].
- 36 Among others in Albania, former Interior Minister Saimir Tahiri, in cooperation with the police chief of Vlora, provided information to facilitate the criminal groups’ drug trafficking. Tahiri was accused of providing information to traffickers and ‘removing obstacles’ while in office from

referred to as “the first drug state in Europe, where all legal institutions have been infiltrated by the power and wealth of the illegal drug trade,” links to organized crime groups have been alleged against the current Prime Minister Edi Rama.<sup>37</sup> In turn, the Socialist Movement for Integration – the party of Albanian President Ilir Meta – is closely linked to Clement Balili, a man whom Greek law enforcement authorities call the “Pablo Escobar of the Balkans.”<sup>38</sup> Giorgio Fruscione, analysing the actions of the Serbian authorities in the face of the Savamala affair, the Krusik ‘deal,’ and the threats against KRIK’s journalists, shows how Serbia has turned into a ‘captured state’ in which the line between the ruling elite and criminal groups is blurred.<sup>39</sup>

## Conclusions

The Balkans are now considered a bastion of international organized crime. This is not an unfounded opinion: after the violent break-up of Yugoslavia in the early 1990s, large-scale trafficking in human beings, drugs, alcohol and fuel developed in this area. In the post-conflict period, practices at the interface of politics, business and organized crime – tax evasion, smuggling or embezzlement of public funds – have hindered political stability and economic development in the Balkan states. The link between state weakness and bad governance and the incidence of organized crime is obvious. The established permanent links between the centres of political power and organized crime leading to the development of corrupt networks have meant that no effective attempts have been made in the Western Balkan countries to combat organized crime and the corruption that facilitates it. Governments with links to organized crime groups and who benefit from

2013 to 2017 in exchange for a 30% share of the profits. OCCRP journalists also documented similar cases of supporting drug production and trafficking in Kosovo, Bosnia and Herzegovina and Montenegro. See: *Court Documents Show Close Ties between Former Minister Saimir Tahiri and Convicted Drug Traffickers*, Exit News, 28.10.2019, <https://exit.al/en/2019/10/28/court-documents-show-close-ties-between-former-minister-saimir-tahiri-and-convicted-drug-traffickers/> [25.10.2021].

37 *Handbook of Organised Crime and Politics*, F. Allum, S. Gilmour (eds.), Cheltenham 2019, p. 89.

38 “Balkans’ Escobar” Sentenced to 10 Years in Prison, Exit News, 08.05.2019, <https://exit.al/en/2019/05/08/balkans-escobar-sentenced-to-10-year-in-prison/> [01.11.2021].

39 G. Fruscione, *Much More than a Captured State: Top Serbian Institutions Scandals*, ISPI, 15.10.2021, <https://www.ispionline.it/en/publicazione/much-more-captured-state-top-serbian-institutions-scandals-31687> [25.10.2021].

these relationships cannot be expected to be determined in their fight against these very organizations. In this way, a symbiotic arrangement has been created in which the political elite provide a protective umbrella for criminal groups and their activities, while criminal groups help the political elite to get rich, gain and maintain power. The creation of such relationships leads to state capture, when influential individuals or groups use corruption to shape state policy and the legal system, looking after their own interests.

Hope for change may come from public fatigue and questioning of the current elites, combined with a consistent EU policy. In Kosovo, after a long reign of war-era leaders, the new prime minister, Albin Kurti, won an election running a joint campaign with incumbent president Vjosa Osmani in which both “share a determination to end the endemic occupation of the state by a corrupt elite.”<sup>40</sup> In 2020, the monopoly of the Democratic Socialist Party was broken and the party found itself in opposition for the first time since 1991. In addition, it is the external players (in this case the EU) who are able to influence these elites (usually through economic pressure or the threat of delaying the accession process). For many years, the EU has prioritized stability in the region over democratization processes, which has translated into support for authorities with links to organized crime, given that local elites have focused on maximizing power and wealth rather than democratizing states. The change in the EU’s approach in recent years has meant that unresolved problems with corruption and organized crime have a direct impact on these countries’ EU integration processes, and politicians presenting themselves as reformist and pro-EU will be forced to take real (and not just sham) action to prevent and fight corruption and organized crime.

40 P. Wintour, *Candidates in Kosovo election call for alliance against corruption*, The Guardian, 08.02.2021, <https://www.theguardian.com/world/2021/feb/08/candidates-in-kosovo-election-call-for-alliance-against-corruption> [01.11.2021].

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