

'EU Strategy for Western Balkans Enlargement'

2018 MATRA Rule of Law Training Alumni Day Keynote Speech

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Let me start by thanking the Helsinki Committee, The Hague Academy of Local Governance and Leiden University, for organising this meeting with you, judges and prosecutors and other justice professionals from the WB. The meeting comes timely. A month ago the Commission adopted a new WB Strategy (A credible enlargement perspective for the Western Balkan).

The Strategy confirms the European perspective for all WB countries. At the same time the Strategy indicates that still a lot needs to be done before you can join. The strategy contains 6 priority areas (flagships), of which the first one is the strengthening of the rule of law in your countries. You all have a key role to play to ensure this.

In the new strategy the Commission is very clear, the rule of law is a key benchmark against which the prospects of your countries accession will be judged by the EU. In other words progress in the rule of law area will define the speed of your accession.

What needs to be done

Let me quote a few lines from the new strategy in terms of what needs to be done as regards the rule of law:

'The **independence, quality and efficiency of the judicial system** must be ensured. The independence of the judiciary and of individual judges is essential to ensure fairness and to hold the executive and legislative branches of government to account. This is a precondition for any democratic society based on the rule of law and for its economic development.'

Also '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. A **concrete and sustained track record in tackling corruption, money laundering and organised crime** should be established as a matter of urgency.'

But also on **Fundamental rights** 'more needs to be done to ensure they are fully implemented in practice. Particular focus is needed to safeguard the freedom of expression and independence of media as a pillar of democracy.'

All this requires a number of things:

At the highest legislative level ensuring that you as judges are independent and can work independently, and that you as prosecutors have the full autonomy to do your work. This needs to be enshrined in your **constitutions**, so that it is protected from a simple change of heart of your governments. But the constitution itself is not enough. It needs to be implemented correctly and to the spirit to **ensure an independent impartial professional judiciary**. You have to be vigilant that this is done correctly and speak up where you see that this is not the case.

It also requires the adoption of relevant laws that provide you with the right tools to do your work.

And it needs to be ensured that persons working in the judiciary are of the highest moral standards. A quite radical solution was chosen by Albania to address this systemic weakness in their judiciary by organising a vetting of all judges and prosecutors.

Finally, it requires results on the ground. Corrupt politicians and business people prosecuted and put in jail, organised crime eradicated. Not only your peoples need to gain trust in you that justice is always done. Also, the EU will want to be able to trust that the rule of law applies in your countries.

Why is it the first priority in the accession process? Simply because the EU is a borderless community with thousands of pages of legislation, ranging from consumer protection rules, to competition rules or environmental legislation. The EU is built on trust that every Member State applies the rules commonly agreed. If there is no rule of law in a country this is not ensured.

And by the way it is not only Member States, but also business that calls for this. They will not invest if they are not sure that their contracts will be upheld in court by an independent judiciary.

Each of your countries is at different stages of preparation, some still need to amend their constitution, others adopt specific laws, and all of you need to show concrete results.

Let me quote one further sentence in the strategy:

‘Strengthening the rule of law is not only an institutional issue. It requires societal transformation.’

And that is probably the hardest. This is where in particular those of you judges and prosecutors have to set the good example and show that it can be done. Use what you have learned. And don’t hesitate to stand up. If you personally have been put under pressure to take a decision in a certain direction, use the mechanisms in your judiciary or the international community to bring to light corruption attempts, resist them. And when you are called to elect your peers in Judicial or Prosecutorial Councils, elect strong people with a vision to turn the European values into reality and defend them.

Let's do it together

The Commission and Member States will support you in this process. We are not waiting anymore for the opening of chapters 23 and 24 in the accession negotiations to discuss and agree with your governments what needs to be done. You will see in the strategy that instruments so far used in the accession negotiations like detailed action plans, will be expanded to all your countries. Assessment of reform implementation will be enhanced, including through new advisory missions. And greater use will be made of leverage provided in the negotiating frameworks with those countries with who we are in negotiations, Montenegro and Serbia. And of course we will support your countries financially to ensure that you can do your work correctly.

Training and exchanges like today are an important element to establish this culture change.

The Commission works closely together with many partners like the Helsinki committee and Leiden University. I would like to mention one partner particularly, the Council of Europe and its Venice Commission. We take the work of the Venice Commission duly into account when we are assessing your legal and institutional framework. The Venice Commission also adopted in 2016 a rule of law checklist, which is a useful instrument. I recommend its lecture.

The way ahead

What is the way ahead?

On 16 April the Commission will adopt its country reports giving you an honest assessment on the progress we have seen to date and make useful recommendations for the next year to continue progressing in your approximation to the EU.

On 16 May there will be the Western Balkan summit in Sofia, which will be an important meeting between our heads of state, and where the EU will give further indications as regards our common journey forward.

You will all have read in your media of the year 2025 being mentioned in the Commission strategy. Let me be clear on this date. This is not the fixed date of any new accession. It is the date by which we consider that some of you can be ready for accession.

Whether your country will be ready, will also depend on you here in this room. As I mentioned, for the EU the rule of law is the first and most important condition your countries need to fulfil before they can join the EU. A former Commissioner for accession in the nineties, Commissioner Hans Van Den Broek, used to say '*the proof of the pudding is in the eating.*' In particular, your actions as judges and prosecutors are the pudding we will want to taste.

We will assist you so that you can do your job independently and autonomously, but you will have to do it! You have a great responsibility for the future of your countries.

I wish you lots of success and look forward to today's discussions and your ideas on how you can make a difference in your daily work.

I thank you.