

Policy Brief

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Deepening and Expanding the Scope of the Commission's Reporting of Developments in the "Functioning of Democratic Institutions" in WB6

Introduction

This paper is an integral component of a broader initiative aimed at enhancing the Commission's assessments within the "Functioning of Democratic Institutions" (FoDI) subarea. It builds upon prior work [identifying the inconsistencies](#) present in the Commission's reporting on the Western Balkans (WB6) while also [proposing methods to quantify the findings](#) by cross-analysing the most renowned international democracy indexes. This paper goes further, as its primary objective is to identify and advocate for the introduction and integration of additional essential policy elements into the Commission's reporting within the FoDI domain. Doing so would result in the deepening and expansion of the Commission's reporting and assessment scope, thus providing a platform for a more detailed, precise, and realistic evaluation of the state of affairs on the ground. Such a comprehensive and in-depth examination is essential for fostering a deeper understanding of the challenges, strengths, and dynamics of democratic institutions within the assessed region, but also as a contribution towards increasing the overall credibility of the Commission's reports.

Methodology

The paper adopts a systematic structure that encompasses five sub-chapters of the FoDI ("Elections", "Parliament", "Governance", "Civil Society", and "Civilian Oversight of Security Forces"), with each section of analysis comprising two key parts – one focusing on deepening the Commission's analysis of the already covered policy elements, and the other on expanding the Commission's scope of assessment. By adopting this dual approach, the paper strives to offer a well-rounded evaluation and recommendations framework that encompasses both the expansion of existing aspects and the inclusion of previously omitted elements. The end goal is to rectify gaps in the Commission's reporting, advocating for a more comprehensive and holistic approach to evaluating the "Functioning of Democratic Institutions" subarea.

In order to uncover ways for deepening and extending the Commission's scope, the research takes a several-stepped procedure. First, the paper relies on the findings from a paper analysing the consistency levels of the Commission's reports, i.e., the "maximalist" list that compiles all policy elements included in WB6 reports in the FoDI. Second, once all elements present in the Commission's reports are identified, the authors proceed to examine reports and indexes from renowned international organisations that cover in detail the functioning of democratic institutions. The authors of this paper also extend the list of necessary elements as part of their own independent observation. The purpose is to identify relevant elements that could be incorporated into the Commission's reporting (see Annex for a detailed overview of proposed additions together with sources for each addition). Among the analysed reports and indexes are the following:

- Freedom House's Nations in Transit and Freedom in the World reports,
- Economist Intelligence Unit Democracy Index,
- Varieties of Democracy indicators list,
- Bertelsmann Transformation Index,
- Institute for Democracy and Electoral Assistance (IDEA) Global State of Democracy Index,
- ODIHR election monitoring missions' reports,
- The United States Department of State Report on Human Rights Practices.

Third, after identifying relevant elements from other indexes, and engaging in a thorough literature review, the authors analyse how exactly these elements can fit within the Commission's reporting. It is worth noting that these elements are methodically categorised into two distinct groups. The first group encompasses elements that the Commission already addresses within its reports but may require updates and refinements, i.e., *elements requiring supplements*. The deepening of scope would lead to a more thorough exploration and elaboration, allowing for a more nuanced understanding of the analysed issues. Conversely, the second group consists of elements that were absent from the Commission's reports, i.e., *critical missing elements*. Doing so allows for extending the scope of the

Commission's assessment, allowing for a more comprehensive understanding of the state of play in WB6. In short, the entire paper is made in the form of recommendations so as to provide a precise and detailed roadmap for the Commission to follow when it comes to the enhancement of its future enlargement packages in the subarea of the FoDI.

Improving Five Subareas of FoDI

"Elections" - Creating Conditions for a Free Choice

Although the Commission is quite consistent in its reporting in the "Elections" subchapter, there remains room for refinement of the policy elements already covered. It is necessary to delve deeper into the work of national electoral bodies and electoral administration, assessing their independence from the incumbent government and scrutinising their formation and member selection processes. Addressing the adequacy of training for members of electoral commissions is equally vital to ensure the integrity of elections. In assessing election day incidents, a thorough analysis should encompass overcrowding, family voting, secrecy breaches, group voting, non-registered voter participation, intimidation, vote buying, and polling station violence. Furthermore, when discussing the civil society organisations' (CSOs) role during the electoral period, the Commission should equally take into account the findings of CSOs with electoral monitoring experience as it does with the ones made by OSCE/ODIHR, as the former are more familiar with local idiosyncrasies. Adding these sub-elements would collectively paint a more accurate picture of the election process and its challenges.

As the election framework is extensive, it is essential to incorporate several novel elements that would go beyond the election day. Firstly, a thorough examination of the inter-election landscape is paramount, providing crucial context for understanding the electoral dynamics. This should include the role of external powers, particularly the EU's systemic rivals, in supporting or obstructing certain parties/candidates, including noting the resilience to external influence. When addressing the election campaigns, it is important to assess campaigns led on social media due to their vast reach, the scale of impact they can potentially have and the lack of legal regulation, which creates possibilities for the spread of misinformation. Secondly, investigating and reporting on obstacles related to ballot access, such as registration challenges faced by parties, coalitions, and candidates, would shed light on potential barriers to political inclusivity. Furthermore, the Commission should consider a dedicated section on complaints and appeals, to provide insights into the resolution of election-related issues. Additionally, addressing fraud allegations and evaluating their impact on the electoral process is essential for maintaining transparency and integrity. In that context, assessing the election review process and the provision of voter education by electoral administration bodies would represent an added value. By including these policy elements, the Commission can offer a nuanced and holistic assessment of the state of elections within the FoDI framework, thereby enhancing its overall quality and relevance.

"Parliament" - Giving Voice to People's Assemblies

Like the previous subchapter, "Parliament" is quite consistent and developed, yet, there are elements that require additions. Specifically, in evaluating transparency, reports should analyse how legislative bodies control their own resources. Additionally, addressing any obstruction of Parliament's work by the ruling majority, such as abuses of the Speaker's power and unequal treatment of opposition, should be further detailed. This should include assessing the effectiveness of legislative investigations into the executive's actions. This element would address the likelihood of investigations commencing and leading to an unfavourable outcome for the government. Examining media access within parliamentary premises and MPs' freedom to interact with the media is important in this context, too. Finally, instead of just focusing on the percentage of laws adopted under the urgent procedure, the reports should go deeper by assessing the impact of these laws. This is important, as a decrease in the number does not necessarily imply that the most consequential ones were not part of the urgent procedure. Being more explicit, therefore, would allow different political currents in WB6 with tangible reference points.

As some parliaments in the region are still rather weak in comparison with strong executives, it is warranted to expand the scope of the sections that cover their work. Firstly, assessing the foreign relations of the Parliament and its interactions with other parliaments, particularly if these are related to the EU's systemic rivals, holds significant relevance in understanding a country's diplomatic outreach and cooperation on the international stage. The parliamentary involvement in OSCE, Council of Europe, or other international parliamentary fora should be included as well. Secondly, it is imperative to include an evaluation of citizens' trust in the parliament. This key indicator reflects the institution's legitimacy and effectiveness in representing the will of the people. Measuring and reporting on public trust levels provides valuable insights into the health of a nation's democratic infrastructure. Lastly, it is important to incorporate an assessment of cooperation between the parliament and CSOs, including the responsiveness to citizens' initiatives. This dimension reflects the openness and responsiveness of legislative bodies to the needs and concerns of their citizens. In short, adding these expanded elements to the assessment framework can contribute to a nuanced evaluation of the parliament's work.

“Governance” - Towards Local Empowerment

“Governance” represents the most encompassing subchapter in FoDI. Yet, its current state exhibits noticeable **inconsistencies** and has the potential for increased precision. Firstly, it is necessary to engage in deeper scrutiny of the division of power and jurisdiction within the executive branch, and between the branches, highlighting instances when the executive has operated beyond constitutional limits and significantly disturbed the democratic balance of power. While reports mention women and minority participation, youth involvement should be incorporated as well, specifically checking whether the country is aligning with the EU’s youth engagement focus. This includes a closer examination of youth participation at both central and local levels, and the government’s efforts to facilitate their participation. Lastly, in local governance evaluations, it is warranted to assess polarisation between local governments and central authorities, particularly in those local municipalities in which the political opposition holds power. With these changes, the Commission has the potential to enhance its ability to provide valuable insights and recommendations for policy improvements in areas that impact both urban and rural areas.

Expanding the Commission’s scope in the “Governance” section can elevate the importance of local developments in its reports. Assessing the impact of local media and grassroots activism on local governments, including the countermeasures taken by the latter, would allow a better understanding of the state of play on the ground. Furthermore, evaluating the adaptability of local institutions to the specific needs of minorities and vulnerable groups is imperative for evaluating the extent of inclusive governance. Citizens’ support and trust in the government should also be a focal point, as these factors are indicative of the government’s legitimacy and effectiveness. Lastly, monitoring and addressing (potential) foreign interference in policymaking that has local spillover effects is warranted, particularly considering that the EU’s systemic rivals are increasing in presence in the WB local communities. Incorporating these dimensions into the Commission’s reports will provide a broader view of governance, including better insight into local concerns and challenges, of utmost importance for any country seeking to join the EU’s multi-level governance arena.

“Civil Society” - Facilitating a More Conducive Environment

Civil society is the anchor of the EU integration process of the WB, as the long-lasting generator of homegrown support for EU membership; yet, generating quality assessments and scrutiny of the government’s efforts often comes at a cost, which is why this aspect of FoDI requires further refinements. Firstly, alongside the right to freedom of assembly and association, it is essential to cover the freedom from extensive political intimidation or smear campaigns as well as assess media access for civil society organisations, including the assessment of their sustainability due to high dependence on project-based funding. This expansion would provide valuable insights into the autonomy and independence of these organisations. Moreover, while the reports acknowledge attacks against civil society, they should also delve into how the government responded to the complaints in the wake of the attacks and the specific actions it took to remedy the damage. Understanding the government’s reactions and measures taken in the face of such challenges provides a more holistic assessment of the environment in which civil society operates, shedding light on the government’s commitment to protecting and facilitating an enabling environment for the development and work of civil society.

To further expand the assessment within the Civil Society section of the Commission’s reports, it is essential to incorporate additional dimensions that offer a more comprehensive view of civil society dynamics. Firstly, the reports should consider the presence of GONGOs (Government-organised NGOs), as they play a significant role in some countries, such as Serbia, where they serve as an extension of the government and receive funds from the government in opaque and often irregular granting procedures – all while openly discrediting the work of CSOs in the public. Additionally, the level of citizens’ trust in CSOs should be another aspect of evaluation, especially since their legitimacy is often actively undermined by governments in the region. This should include the assessment of the government’s efforts to rectify the reputational damage done to CSOs. In addition, evaluating the engagement of young citizens in civil society activities provides valuable insights into the vibrancy and inclusivity of the civil sector. By incorporating these dimensions into the Commission’s reports, a more comprehensive and nuanced assessment of the civil society landscape can be achieved, facilitating more targeted policy recommendations and a deeper understanding of the role of civil society in democratic development.

“Civilian Oversight of Security Forces” – Upholding Safety of Democratic Landscapes

As shown in [previous work](#), the assessment of the subarea “Civilian Oversight of Security Forces” is in the most critical state in the Commission’s reports. Consequently, there are several steps the Commission can take to deepen its assessments in this subarea. Firstly, it is imperative that civilian oversight of security forces becomes a standard component of each country’s report. This inclusion ensures that the state of civilian oversight is consistently assessed, highlighting its significance in democratic governance. Next, the Commission should clearly highlight the organisational scheme of the bodies that, in accordance with their competencies, control various aspects of the operation of security forces. Understanding this matter is essential for assessing the effectiveness and independence of oversight mechanisms. Additionally, the assessment should delve into whether security forces are susceptible to capture by the state or ruling party. Evaluating the degree to which security forces remain independent from political influence is crucial for ensuring their role in safeguarding democracy.

Once these “basic” elements are incorporated, the Commission has room to expand its traditionally limited scope in this subchapter. This includes transparency in public procurements, such as the acquisition of arms and equipment for security forces, as well as services. Moreover, reports should encompass media access to security-related information, specifically examining the presence of well-defined standards for access and whether certain media outlets were denied access for unjustified reasons. Assessing the transparency of these aspects sheds light on the openness and accountability of security institutions. Another important dimension to consider is how each country deals with misconduct and abuse of power by security forces, that is, to measure its resilience to abuse of power. Evaluating the mechanisms in place for addressing such issues contributes to a more comprehensive understanding of the government’s commitment to upholding human rights and the rule of law. Moreover, assessing the progress and reforms made by each country toward meeting European standards in civilian oversight of security forces is crucial. In short, the evaluation of these elements would provide insights into a country’s commitment to aligning its practices with internationally recognised standards, contributing to a safer and more democratic environment.

Towards More Advanced Enlargement Packages

As the Western Balkans continue to grapple with the “elements of state capture”, the Commission’s role in guiding these countries to overcome their endemic issues becomes of paramount importance. It is imperative for the Commission to elevate its efforts and embrace the role of mentorship, becoming the true driving force behind the enlargement process. This need is exacerbated by the shifting geopolitical dynamics that demand a proactive stance. Maintaining the ‘old school’ approach to country reports, which implies the same scope and depth of analysis regardless of the prioritisation of the *Fundamentals* in the 2020 Revised Enlargement Methodology, is bound to fail in producing the desired results. The main change since the introduction of the Revised Methodology, namely the clustering of chapters, represents just one step forward in a long race toward the goal of full membership for the Western Balkans in the EU. It is, therefore, high time that the Commission reconsiders its approach to its country reports, particularly in the FoDI subarea.

As presented in the paper, the assessment of WB6’s functionality of democratic institutions has space for notable improvement, both in terms of deepening the points of analysis and expanding the scope of assessment.

- In the “Elections” subchapter, there is a need for a more detailed and comprehensive analysis to provide a more accurate assessment of inter-election processes and challenges, while employing more straightforward language and clearly drawing attention to the problems noted by international and domestic observers of the election process.
- In the “Parliament” section, the reports require additions to address elements such as legislative body transparency, obstacles to parliamentary work, media access, legislative investigations, and the impact of urgent procedures on lawmaking.
- Within the “Governance” subchapter, while further consistency and precision are warranted, particular focus is needed on scrutinising the division of power within the executive branch between branches, and between local and central levels, while including youth participation, monitoring of local media and activism pressures, adaptability of local institutions, citizens’ trust for the government, and foreign interference in policymaking.
- Regarding “Civil Society,” it is crucial to expand the assessment to include freedom from political intimidation, media access, government responses to attacks on civil society, the growth of GONGOs, citizen trust in CSOs, and youth participation in the civil sector, to provide a more comprehensive view of civil society dynamics.
- Lastly, in the “Civilian Oversight of Security Forces” subarea, to start with, the Commission should include this section in all candidates’ reports, without exception. It should, then, specify the responsible oversight bodies, evaluate security forces’ susceptibility to state capture, assess the transparency of public procurement related to the security sector, analyse the extent of media access to security-related information, address misconduct and abuse of power, and evaluate progress towards meeting European standards in civilian oversight.

Annex – An Overview of Policy Elements (and Sources) per Subchapter in FoDI to be Added in Commission’s Reports

“Elections”	
<i>Added element</i>	<i>Source</i>
Independence of electoral bodies from the incumbent government	V-Dem Freedom House
Training of members of electoral commission	ODIHR
Overcrowding at polling stations	ODIHR V-Dem
Family voting	ODIHR
Secrecy breach	ODIHR
Group voting	ODIHR
Non-registered voter participation	ODIHR
Intimidation	ODIHR V-Dem Freedom House
Vote buying	ODIHR V-Dem Freedom House
Polling station violence	ODIHR V-Dem
Recommendations and findings by CSOs	Authors’ observation
Campaign on social media	Author’s observation
Foreign interference	Freedom House
Ballot access	V-Dem
Complaints and appeals	ODIHR V-Dem
Fraud allegations and their impact	V-Dem ODIHR
Electoral review process	Authors’ observation
Voter education by electoral administration body	ODIHR

“Parliament”	
<i>Added element</i>	<i>Source</i>
Legislative controls its own resources	V-Dem
Abuse of speaker’s power	Authors’ observation
Unequal treatment of opposition	Freedom House
Effectiveness of legislative investigation into executive’s actions	V-Dem
Media access to parliament’s proceedings and work	Authors’ observation
MP’s freedom to interact with the media	Authors’ observation
Size of impact of laws adopted under urgent procedures	Authors’ observation
Parliament’s international work	Authors’ observation
Public trust in the parliament	V-Dem
Cooperation between the parliament and CSO	Authors’ observation

“Governance”	
<i>Added element</i>	<i>Source</i>
Division of power and jurisdiction within the executive and between branches	V-Dem
Youth involvement/participation	Authors’ observation

Polarisation between local and central authorities	V-Dem
Impact of local media and grassroots activism on local and central governments	Authors' observation
Countermeasures taken by local government against local activists	Authors' observation
Adaptability of local institutions to the specific needs of minorities and vulnerable groups	Authors' observation
Citizens' trust in the government	V-Dem
Foreign interference in policymaking	V-Dem

"Civil Society"

Added element	Source
Freedom from extensive political intimidation or smear campaigns	V-Dem
Media access for CSOs	Authors' observation
Government's response to attacks against CSOs	US State Department Report on Human Rights Practices
GONGOs (Governmental NGOs)	Bertelsmann transformation Index
Citizen's trust in CSOs	Bertelsmann transformation Index
Government's effort to rectify the reputation damage done to CSOs	Authors' observation
Youth participation	Authors' observation

"Civilian oversight of security forces"

Added element	Source
Specific body/institution responsible for oversight	US State Department Report on Human Rights Practices
Capture of security forces by the state/ruling party	Authors' observation
Transparency of public procurement related to the security sector	Authors' observation
Media access to security-related information	Authors' observation
Abuse of power by security forces	US State Department Report on Human Rights Practices
Assessing the progress and reforms towards meeting European standards	Authors' observation



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