

The “transforming power” of EU Enlargement policy in Serbia. An anthropological reflection

Francesco Florindi

Abstract

The enlargement process of the European Union contributed substantially to the harmonisation of legal systems over the continent. The article provides an anthropological critique to the way harmonisation to EU law is implemented in the Balkans, underlining the general lack of awareness by both Serbian government and the EU of Serbian social and legal systems. While applying the anthropological method to EU law’s effects in Serbia, the author investigates also the inner value of the EU project itself.

Introduction

“Modern State [...] appears as one of the most terrifying mythical creations.”¹

The Balkans have been open to different cultural influences from the different social systems the region was in touch with. The geographical position of the area favoured the creation of a complex diversity, which can be experienced even by the inexperienced traveller, who will surely notice an astonishing *mélange*, together with a certain coherence which wafts from Trieste to Istanbul.²

The dynamic of power is such, however, that several attempts have been made all along history to control the whole region, imposing over it the domination of a single power. For instance, the Ottoman Empire, implementing the millet system, tried to cool down possible nationalistic uprisings. In spite of the attempts to impose a new cultural system, the uprising eventually took place, acting as a trigger for World War I, a clash among super-powers willing to enforce their (political, economical, legal) control over the Balkans.

Nowadays, the EU presents itself as the most effective “factor of change” in the Balkans. Recently, Commissioner Füle affirmed, along with the last European Commission Directorate General for Enlargement (DG ELARG) Strategy paper,³ that

“through the SAA⁴ we [the European Commission] have brought the region to the

¹ M. ALLIOT, “Appartenances dites, appartenances tues”, in *Le Mutant d’Afrique*, n.2, 1982.

² For a comprehensive approach to travels in the Balkans, see M. CHIMENTON, “Balcanici, i viaggi e i viaggiatori”, in *DADA Rivista di Antropologia post-globale*, www.dadarivista.com, n. 1 Speciale *Antropologia del viaggio*, 2011, pp. 47-64.

³ EUROPEAN COMMISSION, *Enlargement Strategy and Progress Reports* 2011, http://ec.europa.eu/enlargement/press_corner/key-documents/reports_oct_2011_en.htm

⁴ Stabilisation and Association Agreement: it is the international legal framework used by the European Union to interact with countries willing to apply to EU membership. For more information see European Commission website at: http://ec.europa.eu/enlargement/glossary/terms/saa_en.htm

point that the membership of the European Union is a realistic objective, and it will soon become a reality for Croatia. [...] Croatia transformed itself because of the reforms undertaken – reforms made possible because the enlargement policy was followed.”⁵

The constitutional systems of Slovenia, Croatia, Serbia, Former Yugoslav Republic of Macedonia and Montenegro changed deeply in the last twenty years. Those changes have been undertaken by Balkan political elites willing to join the European Union. On its side, the EU suggested a wide range of changes to be implemented to bring in line Balkan countries’ legal systems with EU Member States’ ones. The Commission presented several documents with general evaluations of the applicant states’ legal systems, and suggestions to ameliorate their internal legislation, harmonise it with the EU and, as a final result, “import” EU values in Balkan societies. The European Commission took the rationale for those instructions from the so called *acquis communautaire*, the complex legal body of rights and obligations, the corpus of Law of the European Union produced all along the existence of this regional/international organisation.

Is it then correct to affirm, as commissioner Füle did recently, that the EU has fundamental importance as the major transforming power in the region? In order to check if it is so, we will analyse the case of Serbia.

A different methodological approach

So far, we have used the terms “law”, “legislation” and “legal system” as an international lawyer would have used them. However, for a more accurate analysis of the real effects of EU interference in the Serbian legal system, we should look at it from a different point of view and we shall be guided by a different approach.

Analysing the constitution of Serbia, it is clear that it endorses Westernised conception of State as unique regulator of the social life within the State borders.⁶ Along with this concept, it is up to the State to shape and modify the society under its power, to make it compliant with the ideological organisation of the State. Kelsen’s *Grundnorm*⁷ and Austin’s legal positivism⁸ suggest that law shapes society:

“The law of Western society traditionally is analysed as an autonomous logically consistent legal system in which the various rules are derived from more abstract norms. These norms, arranged in a sort of pyramid are derived from a basic norm or a sovereign’s will. Such analyses present a legal system as a logically consistent whole,

⁵ S. FÜLE, Keynote speech during European Policy Summit: “Balkans scorecard: Assessing the region’s key pointers”, organised by Friends of Europe, Bruxelles, 30/11/2011.

⁶ Government of Serbia, *Constitution of the Republic of Serbia*, Belgrade, 2006. It can be consulted at: [http://unpan1.un.org/intradoc/groups/public/docum\[ents\]/unpan019071.pdf](http://unpan1.un.org/intradoc/groups/public/docum[ents]/unpan019071.pdf)

⁷ H. KELSEN, *Pure Theory of Law*, Union, Berkeley 1967.

⁸ J. AUSTIN, *The Philosophy of Positive Law*, Thoemmes Press, Bristol 2002.

devoid of internal contradictions, whose individual norms gain validity from their logical relationship to the more abstract legal principles implied ultimately in the sovereign's will and in a basic norm.”⁹

From an anthropological perspective, however, this approach is inconsistent. Even if the notion of “durable fundamental legal postulates” may provide a sense of political continuity in the presence of many visible changes, law should be considered as the practical “working out” of the values of a society, as firstly described by Malinowski and then theorised by Hoebel.¹⁰ Ergo, we shall assume that a fundamental norm lies under the sphere of values of a certain society; therefore Kelsen and Austin's arguments end up by being paradoxical for an anthropologist. Surely these theories might have contributed to the evolution of philosophy of law. Nonetheless, the attempt made by law experts to define social functioning through positive law failed. Both the role of the leader and the birth of social values depend on norms created within a society. Those norms regulate the functioning of the society through the enforcement of standardised behaviours, the violation of which implies a certain punishment. It is self-evident, then, that the factual correctness of Kelsen's and Austin's theories has to be indissolubly linked to the Western State-led modern society. Therefore both the *Grundnorm* and the legal positivism shall not be considered general, universally applicable theories. The overlapping of such theories to different legal systems would soften the pivotal role of societal interactions as producers and enforcers of legal systems.

Bearing this in mind, we shall discuss the supposed dichotomy between laws and customs. Vinogradoff expresses the concept perfectly:

“We are accustomed nowadays to the enactment of laws by the State; and we regard legislation – the deliberate elaboration of legal rules – as one of the principal functions of the State. It does not, however, require much learning in order to perceive that such conscious and direct legislation is of comparatively recent growth; it is the attribute of a definitely organized State, the result of a fairly advanced political civilization. In rudimentary unions, in so-called barbaric tribes, even in feudal societies, rules of conduct are usually established, not by direct and general commands, but by gradual consolidation of opinions and habits. The historical development of law starts with customs. Rules are not imposed from above by legislative authorities, but rise from below, from the society which comes to recognize them.”¹¹

Interpreting Vinogradoff's thought, customs arose from popular practice, in an undefined moment in time, placed within an unknown “mythical”, “pre-legal” past.

⁹ L. POSPISIL, *Anthropology of Law: A Comparative Theory*, Harper & Row, New York, 1971, p. 275.

¹⁰ B. MALINOWSKI, *Crime and Customs in Savage Societies*, Routledge, London, 1926; E.A. HOEBEL, *The Law of Primitive Man*, Harvard University Press, Harvard, 1954.

¹¹ P. VINOGRADOFF, *Customs and Right*, Instituttet für Sammenlignende Kulturforskning, Oslo, 1925, p. 21.

Therefore the spontaneous birth of customs precedes the creation of laws. There seems to be a chronological order between laws and customs. The breaking down of the “customs era” and the beginning of law history is represented by the enforcement of the written laws created by a sovereign subject, as result of the advanced civilisation the sovereign rules upon. Along with Vinogradoff, the (conflictual) co-existence of “civilised” and “uncivilised” societies within the same space, or better to say “when primitive societies are living their life before the eyes and under the control of more advanced nations” further confirms his arguments.¹²

Vinogradoff denies the ability of “primitive societies” to have any kind of political interaction among their members, since he believes that customs were the mere synthesis of habits practiced in the past. Malinowski’s methodological revolution and his early engagement in legal anthropology demonstrate the inaccuracy of Vinogradoff’s arguments.¹³ The Polish-born anthropologist describes how every society, despite its complexity, experiences various degrees of power bargain, interest defence and leadership. Therefore, Vinogradoff’s theoretic description of the birth of customs clashes with Malinowski’s scientific findings. Affirming that customs arose from mere traditions implies believing that there was no political bargain in the moment the “custom” was established. Politics, meant as the opposition of two or more leaderships, is at the very core of any society. We may even affirm, together with Gellner,¹⁴ that we cannot imagine a society without politics. The denial of any intentional intervention in the process of establishing customs means denying the political functioning of the society and, consequently, denying the society itself. The paradox of Vinogradoff’s positivist conclusions is evident.

In order to sort out the duality of customs and law, we shall consider Moore’s theory of semi-autonomous social fields.¹⁵ It postulates the co-existence of several legal systems operating simultaneously upon the individual. Therefore, the individual belongs to different social systems at the same time, each applying different norms on the individual. This approach is particularly valid for complex State-led societies, where the individual is under the coercion of several social constraints, administrative impositions and cultural boundaries.

The semi-autonomous social field theory is also useful to study social changes and their effects on law production and law enforcement:

“The cumulative effects of legislative tinkering is a compound of preconditions in the regulated social field itself, direct effects of the legislation, secondary effects and, also, the direct and secondary effects of many other simultaneous events and process which were not necessarily legislated into being.”¹⁶

¹² *Ibid.* p. 21.

¹³ B. MALINOWSKI, *ibid.*

¹⁴ E. GELLNER, *Anthropology and Politics: Revolutions in the Sacred Grove*, IX, Oxford, 1995.

¹⁵ S.F. MOORE, *Law as Process*, Routledge & Kegan Ltd, London, 1978.

¹⁶ *Ibid.* p. 10.

Moore grasps the reality, affirming that the legislation of the State (the process of intentionally creating a new norm) does not affect automatically the society upon which the law has been imposed. The potential influence of new law on the society is mediated, changed and modified by existing legal layers, which interact with each other. As a result, the attempt of the State to regulate a matter simply by creating a new law faces solid resistance and is opposed by the complex reality of legal systems, layered one over the other and merged one into the other. Due to this “filtering” action, the simple creation of a new law does not guarantee to the State that a law will modify the social behaviour of part of the society or of its whole. Moreover, if there will be any effects springing from the new law, these are more likely to be different from the original aim of the State, which, by definition, presumes the immediate homogeneous enforcement of the aforementioned law on the society.

To be more precise, a semi-autonomous social field is

“defined and its boundaries identified not by its organization [...] but by a processual characteristic, the fact that it can generate rules and coerce or induce compliance to them.”¹⁷

The means by which the legislator enforces the law might raise a further argument against the anthropological interpretation of legal systems. Classic positivist theory of law relies on the monopoly of the use of force obtained by the Western European States as winners of the 17th century clash between “interest groups” in Europe. The rise of modern European royal dynasties was achieved through the violence of war, leading this new élite to the conclusion that such violent acts were the ultimate source of legitimisation and power. Implying the monopoly of the use of force as the only possible existing power able to create society-shaping laws denies the rather less violent, but equally enforcing and enforceable, power of social values.

As a matter of fact, there is solid anthropological literature supporting the co-existence of different pressures exerted on individual behaviour, able to implement rules without the use (or the threat) of violence.¹⁸

In the end, we should think of modern States outside Europe as the result of the application of an ideology on societies other than the ones which generated it. As Palmisano brilliantly resumed, analysing the new Afghan constitution:

“I acknowledge, then, that there is no justice without law, but I observe that there is justice without a code. This form of justice depends on the relationship between law and power - the code is a clothing of the law, the state is a form of power. Law and

¹⁷ *Ibid.*, p. 57.

¹⁸ As a reference, please see: M. ALLIOT, “L’anthropologie juridique et le droit des manuels”, in *Archiv für Rechts und Sozialphilosophie*, n. 24, 1983; E. LE ROY, “Le modèle européen de l’État en Afrique francophone. Logiques et mythologies du langage juridique”, in *Décolonisation et nouvelles dépendances*, Presses Universitaires de Lille, Lille, 1986; N. ROULAND, *Anthropologie juridique*, Presses Universitaires de France, Paris, 1988.

code do not always coincide, and the “legitimacy” of the code is of limited interest as a source for the promotion of order: between “proclaimed legitimacy” and “established order” I can see no identity which may be accepted ipso facto by social actors. If social actors and their perception of justice system rebuilding programmes are ignored, state law will have little chance of seeing its provisions absorbed and accepted.”¹⁹

Given the holistic nature of the State, we are inclined to think that such organisation could represent a natural modification of traditional societies, or at least, that it would be effectively able to control those societies.

However, as we have just demonstrated, there are several different legal systems underneath the State. It is worth analysing those layers and their functioning in Serbia to better comprehend the role of supranational international subjects as the European Union and their responsibility in Serbian legal systems’ transformations.

The harmonisation of Serbian law to the *acquis communautaire*

Since 2004, the Serbian government undertook multiple radical modifications of its legal apparatus, following the suggestions coming from the European Union. The objective of those suggestions was to overcome the political stalemate occurring in the Balkans right after Milošević’s fall. The objective was to eliminate the political deadlock offering each and every country in the region the possibility to “progress” economically and socially within the Union. Thus, a profound revision of Serbian law took place and by 2006 the Serbian parliament adopted a new constitution, in line with European standards.²⁰

Nevertheless, after several years of continuous adaptation to EU-inspired regulations, the objective of a complete EU integration remains far.²¹ Serbian government (as the great majority of governments) presumes that social planning is possible and susceptible to conscious human control. Exerting an impressive effort to harmonise Serbian law to the EU, Serbian government undertook the implementation of such new norms, although there was a clear lack of social demand for such “renovation”. As a result several Member States noticed the discrepancy between legislation and implementation, and expressed their concern over Serbian inability to put into effect laws so quickly adopted.

¹⁹ A.L. PALMISANO, “For the future of Afghanistan”, in Palmisano A.L. and Picco, G. (eds.) *Afghanistan. How much of the past in the new future*. Quaderni di Futuribili, n.8, Gorizia, 2007, p.17.

²⁰ See Venice Commission report on Serbian constitution: EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), *Opinion on the Constitution of Serbia*, Strasbourg, 2007. See also, *Social Challenges of European Integrations: Serbia and cooperative experiences*, vol. 2, USEE Novi Sad, Novi Sad, 2010.

²¹ EUROPEAN COUNCIL, Council conclusions on enlargement and stabilization and association process, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/126577.pdf, Brussels, 2011; EUROPEAN COUNCIL, Conclusions of the European Council, 9 December 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/126714.pdf, Brussels, 2011.

In general, the most controversial issue is not the modification of the law itself, but its implementation which seems to depend on more subtle factors than just the “nom et esprit de la loi”. In particular, the European Commission underlined that, although a substantial reform of the legal system took place, the implementation of such norms in Serbia is still insufficient:

“Particular attention needs to be paid to the areas of [...] judiciary and fundamental rights, justice, freedom and security and financial control.”²²

For the sake of our analysis, we shall focus our attention on corruption, a wide-spread phenomenon in Serbia, affecting all the aforementioned areas.

Corruption: litmus test of Serbian multi-layer legal systems

The European Commission clearly denounced the wide-spread diffusion of corruption practices in Serbia. The Serbian Government, willing to facilitate the integration process, has issued a whole series of laws meant to block corruption. Nevertheless, corruption practices have not been affected by those measures: during our last research period in Serbia we registered several corruption cases and collected some important witnesses of social groups applying corruptive behaviours. We shall report here one episode, which took place in 2009 after Kosovo’s unilateral declaration of independence.

Travelling on the bus from Trieste to Belgrade, it was immediately noticeable that the number of passengers was quite high, the majority of them Serbian citizens. A Kosovar citizen, carrying a freshly issued Kosovar passport, was also part of the group. The bus had to cross several borders on the way to Belgrade: Slovenia had already signed the Schengen treaty, so the usual passport control was not necessary. After several hours of travel, the bus reached the border between Slovenia and Croatia, the “border of the European Union”, where an accurate passport control took place. Croatian customs authorities questioned the validity of the Kosovar passport, which anyway was bearing a visa delivered by an EU state. According to EU law,²³ the visa was valid in the EU. However, the Croatian customs officers, not accustomed to Kosovars passports, blocked the bus for about two hours, while controls over the identity of the Kosovar were particularly zealous.

The delay accumulated during the control was unbearable, for the bus company and for the travellers. The driver and the co-driver agreed that a similar

²² EUROPEAN COMMISSION, *Conclusions and Recommendations of the Commission’s Opinions on the membership applications by Serbia*, Brussels, 2011, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_conclusions_2011_en.pdf.

An horizontal lecture of the various report produced by the European Commission would be useful. See EUROPEAN COMMISSION, *Enlargement Strategic Papers, 2005-2011*, Brussels, http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm.

²³ P. CRAIG, G. DE BURCA, *EU Law, text, cases, and materials*, Oxford University Press, Oxford, 2008.

situation at the Serbian border should somehow be avoided. It would have been evidently impossible to ask the Kosovar citizen to leave the bus while crossing the Pannonian plains in the middle of the night. Therefore, the bus drivers decided to collect money from all passengers so as to bribe the custom officials at Croatian/Serbian border. This decision was put in action by the co-driver, without previous consultation with any of the passengers. The drivers' decision was thus implemented immediately. The co-driver, using a basket, moved along the cabin waving the basket at the passengers in order to collect the money. Most of the passengers were aware of the situation, and contributed silently and generously. In some cases, a brief exchange of information took place, usually about the expected amount of "the donation". In fact, the amount was left to the judgement of the passengers themselves. Nonetheless, when the co-driver approached us to collect our shares, we asked him about the amount to pay: he suggested that the donation should be "2-3 euro; 5 if you want to be sure".

After a few hours, the bus reached the Croatian-Serbian border. The Serbian official collected our passports directly on board and went back to the customs office, followed by the co-driver carrying a black plastic bag with "the donation". He came out just few minutes after, with all the passports stamped, ready to move finally towards Belgrade. Of course the "donation" remained in the hand of the Serbian custom officer.

The silent assent of most of the passengers, the quickness in the decision made by the drivers together with the acceptance of "the donation" by the Serbian official demonstrate that corruption is considered a reliable way to solve a possible controversy. The clash that could have occurred between the Kosovar passenger (who had paid the ticket and was thus rightfully claiming the transport service) and the Serbian official would have compromised the possibility to reach Belgrade on time for all the passengers.

In fact, passports issued by Kosovo government are not recognised by Serbia.²⁴ The Serbian official should have applied the State legal system, ordering the immediate stop of every individual with non valid travel documents, including our Kosovar. However, since the custom officer did not apply those norms, it seems logical to question which rules he followed. This episode clearly demonstrates the existence of at least one more system of social norms to which the Serbian official was paying respect.

As a result, we can identify several legal systems within the situation described. The first is the temporary binding system of donation established among the passengers of the bus. The decision clearly came out from a political resolution derived from the mediation between the "leaders" of the group: the two bus drivers. Non-compliance with the decision would have meant a fracture within the group which could have led to confrontation with the Serbian customs officer and the probable loss of any chance to reach Belgrade in reasonable time. The decision thus met the interest of all passengers, and was implemented quickly and efficiently.

²⁴ Serbia officially considers Kosovo as part of the State, in spite of Kosovo unilateral declaration of independence. See: REPUBLIC OF SERBIA, *Constitution of the Republic of Serbia*, Belgrade, 2006.

The second legal system exerted the biggest pressure on the Serbian custom officials. It is what we may refer to as “positive Serbian government law”, meaning the legislation created by the Serbian government. Both the officer and the Serbian citizens/passengers have to pay tribute to such law.

We can also detect a third legal system, which prevails over the positive Serbian law, blatantly and easily ignored by the official. We can affirm that this third system prevailed since the officer operated in spite of the two fundamental norms of the positive Serbian law: the Serbian constitution (recognising *de facto* the Kosovar passport) and the Serbian brand-new anti-corruption legislation.

Conclusions

The third legal system has its roots in the local traditional political organisations analysed by Cvjić, Bohem and many others.²⁵ and it is still noticeable in the behaviour of groups in Serbia. As reported by Ziegler,²⁶ international criminal organisations in the Balkans are still working (pretty well) applying the fundamental structure of the *zadruga*,²⁷ the Serbian traditional family household organisation.

As a matter of fact, we experienced the State’s failure to regulate a matter (anti-corruption), even when the State’s provisions in question were in full compliance with several other international obligations and with a positively hierarchically superior legal system (the constitution).

The tacit assent of the bus passengers demonstrated the efficiency of the solution found by the drivers to the possible controversy. We can identify the drivers as the leaders of the group: they were able to tackle a probable issue, to translate the legal problem into a non-legal enforcing measure (the bribery) which was accepted and validated also by the counterpart (the customs official). The mutual exchange of favours is not regulated by an explicit legal system, but it is a non-legal obligation, as described by Moore.

As Serbian citizens, most of the passengers of the bus should have been aware of Serbian legislation against corruption. Nonetheless, we experienced the ease with which the passengers endorsed the drivers’ solution to the problem. This demonstrates how the recently issued regulations on corruption were not taken into consideration by the passengers. On the contrary, all of them recognised the drivers’ leadership and endorsed their “corruptive policy”.

It is indubitable that the acceptance of such practice as a conflict resolution tool has roots in the traditional Serbian political and legal tribal organisation. Since legal rights and duties originate from social interactions, it is self evident that the social interactions between the passengers and the drivers take precedence over the

²⁵ J. CVJIĆ, *La Péninsule Balkanique. Géographie humaine*, Paris, 1918; C. BOEHM, *Insult and Danger: Anthropology Among Navajos, Montenegrin Serbs, and Wild Chimpanzees*, Harvard University Press, Cambridge, 2010.

²⁶ J. ZIEGLER, *I signori del crimine*, Tropea, Milano, 2000.

²⁷ M.E. DURHAM, *Some Tribal Origins, Laws and Customs of the Balkans*, London, 1928.

relationship between the passengers and the State. Quoting Moore:

“It is only in so far as law changes the relationships of people to each other, actually changes their specific mutual rights and obligations, that law effects social change. It is not in terms of declarations, however ideologically founded.”²⁸

The values behind the acceptance of corruption practices lie under the traditional organisation and functioning of Serbian societies, based on the *zadruga*. The *zadruga*, although practically extinct, still represents a far more tight social structure than the one created artificially by the State.²⁹

However we shall not believe that the *zadruga*'s organisation and values have been transmitted unchanged through time. The system of values described by Cvjić and Boehm has been exploited by contemporary politicians in order to create ideological justification for very strong modern social and economic interest.³⁰ Even so, those values are not merely a survival of a traditional past, but represent a cultural pattern still present.

Corruption is a process able to highlight the existence of several legal systems, which belong to different semi-autonomous social groups. Denouncing a corruptive behaviour represents, for the individual, the automatic exclusion from the peculiar semi-autonomous social group and could endanger the existence of the group itself. Such exclusion could have immediate consequences, the importance of which is taken in higher consideration by the individual, even higher than the threat of the use of force claimed by the State.

The lack of a deep analysis of Serbian traditional social values lead the government to the “slavish” application of EU-inspired regulations in the country. Lacking an anthropological awareness of the different legal layers present within the Serbian society, the government-endorsed legislation failed to produce the desired effects. Moreover, the insistence to submit laws aiming to modify Serbia's social functioning, paired with the mentioned vacuity, managed to make the Serbian government even more unpopular, up to the point, one could argue, that it is attempting to operate the N-th social engineering endeavour in the Balkans.

Bandow recently said on the matter that:

²⁸ S.F. MOORE, *ibid.*, p. 70.

²⁹ As described by Boehm after his research in the '70 in C. BOEHM, *Blood Feud Interpreted in the Light of Decision Theory*, San Diego, 1987; and as more recently pointed out by A.L. PALMISANO 2009:39-44.

³⁰ Prof. M. Popović depicted a comprehensive legal and sociological analysis of the political exploitation of traditional values in Serbia and Montenegro by Slobodan Milošević. See the interview to Prof. Popović in F. FLORINDI, *La nascita della Repubblica del Montenegro: fondamenti giuridici e nuovo contesto socio-politico*, forthcoming. See also: M. POPOVIC and F. KOVACEVIC *The Yugoslav Space Twenty Years Later: Historical Progress or Retrogression?*, Podgorica, 2011.

“Years of insistence by Washington and Brussels that the ignorant locals shut up and do what they are told has failed.”³¹

It is our belief that a further modification of Serbian legal corpus has to take in due consideration the rich and complex set of legal layers within the Serbian society.

Most probably the same remarks should/could be directed to all governments.

Bibliography

M. ALLIOT, “Appartenances dites, appartenances tues”, in *Le Mutant d’Afrique*, n.2, 1982

M. ALLIOT, “L’anthropologie juridique et le droit des manuels”, in *Archiv für Rechts und Sozialphilosophie*, n. 24, 1983

J. AUSTIN, *The Philosophy of Positive Law*, Thoemmes Press, Bristol 2002

D. BANDOW, “Failed Social Engineering in the Balkans”, in *The American Spectator*, 2011, <http://spectator.org/archives/2011/11/03/failed-social-engineering-in-t/1>

C. BOEHM, *Insult and Danger: Anthropology Among Navajos, Montenegrin Serbs, and Wild Chimpanzees*, Harvard University Press, Cambridge, 2010

M. CHIMENTON, “Balcanici, i viaggi e i viaggiatori”, in *DADA Rivista di Antropologia post-globale*, www.dadarivista.com, n. 1 Speciale Antropologia del viaggio, 2011

P. CRAIG, G. DE BURCA, *EU Law, text, cases, and materias*, Oxford University Press, Oxford, 2008

J. CVIJIC, *La Péninsule Balkanique. Géographie humaine*, Paris, 1918

M.E. DURHAM, *Some Tribal Origins, Laws and Customs of the Balkans*, London, 1928

EUROPEAN COMMISSION, *Enlargement Strategy and Progress Reports 2011*, http://ec.europa.eu/enlargement/press_corner/key-documents/reports_oct_2011_en.htm

EUROPEAN COMMISSION, *Enlargement Strategic Papers 2005-2011*, http://ec.europa.eu/enlargement/how-does-it-work/progress_reports/index_en.htm, Brussels

EUROPEAN COMMISSION, *Conclusions and Recommendations of the Commission’s Opinions on the membership applications by Serbia*, http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_conclusions_2011_en.pdf, Brussels, 2011

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), *Opinion on the Constitution of Serbia*, Strasbourg, 2007

EUROPEAN COUNCIL, *Council conclusions on enlargement and stabilization and association process*, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/126577.pdf, Brussels, 2011

EUROPEAN COUNCIL, *Conclusions of the European Council, 9 December 2011*, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/126714.pdf, Brussels, 2011

³¹ D. BANDOW, “Failed Social Engineering in the Balkans”, in *The American Spectator*, 2011, <http://spectator.org/archives/2011/11/03/failed-social-engineering-in-t/1>.

- E.A. HOEBEL, *The Law of Primitive Man*, Harvard UP, Harvard, 1954
- E. GELLNER, *Anthropology and Politics: Revolutions in the Sacred Grove*, Oxford, 1995
- H. KELSEN, *Pure Theory of Law*, Union, Berkeley, 1967
- E. LE ROY, “Le modèle européen de l’État en Afrique francophone. Logiques et mythologies du langage juridique”, in *Décolonisation et nouvelles dépendances*, Presses Universitaires de Lille, Lille, 1986
- B. MALINOWSKI, *Crime and Customs in Savage Societies*, Routledge, London, 1926
- S.F. MOORE, *Law as Process*, Routledge & Kegan Ltd, London, 1978
- A.L. PALMISANO, “For the future of Afghanistan”, in *Afghanistan. How much of the past in the new future*. Quaderni di *I Futuribili* n. 8, Palmisano, Antonio L. and Picco, Giandomenico (eds.). Gorizia: ISIG, 2007
- A.L. PALMISANO, “Cultura e politica nel Kosovo: una prospettiva antropologica”, in Dabbeni, G.; Palmisano, A.L.; Tonchia, T. (a cura di) *Atti del Convegno di Studi “Le radici classiche nella cultura giuliana e nella civiltà europea ed extra-europea”*, Centro Studi Heliopolis. Trieste, 9 ottobre 2008. Trieste: Edizioni Goliardiche, 2009:39-44
- M. POPOVIC and F. KOVACEVIC, *The Yugoslav Space Twenty Years Later: Historical Progress or Retrogression?*, Podgorica, 2011
- L. POSPISIL, *Anthropology of Law: A Comparative Theory*, Harper & Row, New York, 1971
- REPUBLIC OF SERBIA, *Constitution of the Republic of Serbia*, Belgrade, 2006.
- N. ROULAND, *Anthropologie juridique*, Presses Universitaires de France, Paris, 1988
- P. VINOGRADOFF, *Customs and Right*, Instituttet für Sammenlignende Kulturforskning, Oslo, 1925
- USEE NOVI SAD, *Social Challenges of European Integrations: Serbia and cooperative experiences*, vol. 2, USEE Novi Sad, Novi Sad, 2010
- J. ZIEGLER, *I signori del crimine*, Tropea, Milano, 2000