

Reconciliation in the Western Balkans

The difficulty of emulating the EU model

SUMMARY

In 2017, the European Union turned 60, celebrating not only six decades of peace between its Member States but also integration – based on a framework for a peaceful European ethos – which helped bring reconciliation to its citizens that would have otherwise been impossible to achieve.

In the Western Balkans, which were torn apart by wars after the disintegration of the Federal Republic of Yugoslavia, conflicting narratives about the past continue to charge intra-regional relations with animosity, and a number of bilateral disputes await resolution. Just as the European Communities helped to bring peace to post-World War II western Europe, so does the EU promote the reconciliation process in the countries that were once part of Yugoslavia. A credible promise of accession to the EU for all Western Balkan countries gives them an incentive to improve their working relationships and work on reconciliation more vigorously.

Since 2017, the EU has renewed its attempts to infuse the Western Balkan countries' enlargement process with fresh energy. In a March 2018 statement, the EU High Representative, Federica Mogherini, said it was 'time to close the wounds of the past' and take steps to guarantee stability for the whole of Europe. The European Commission's new enlargement strategy of February 2018, apart from placing special emphasis on solving all bilateral disputes, highlights reconciliation as a prerequisite for EU accession, and envisages a dedicated flagship initiative.

This briefing aims to draw attention to the importance of reconciliation, both as part of the Western Balkans' EU integration process and as an answer to the region's widely perceived need to come to terms with the past. Civil-society representatives and experts often see reconciliation in the region as a prerequisite for building sustainable cooperation in many areas and a process that would help local youth to overcome their prejudices and restore their trust in their countries and region. However, achieving reconciliation requires cooperation in practice, something that will likely take decades to accomplish.



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EU integration and reconciliation

Reconciliation is seen as an [ambivalent concept](#) with flexible scope and limits. The political dimension of reconciliation mainly consists of offering a context that enables victims to access justice, while also eliciting the benefits of present and future cooperation and assuaging possible disagreements without demonising the other party. The [International Centre for Transitional Justice](#) points out that it is 'a complex set of processes that involve building or rebuilding relationships', 'which can occur at the individual, interpersonal, socio-political, and institutional levels'.

The history of EU integration offers an example of successful reconciliation, even if it has taken a long time to achieve and is an ongoing process. The word *reconciliation* does not feature in the [Schuman Declaration](#) of 1950, as Robert Schuman and Jean Monnet considered that practical cooperation would produce long-lasting peace and, eventually, reconciliation between former enemies. They saw reconciliation much more as the [product](#) of cooperation than as a theoretical premise. In the case of France and Germany, the main acts of reconciliation, such as the [Elysée Treaty](#) of 1963, the creation of the [French-German Youth Office](#) in 1963 and the famous 1984 [photograph](#) of President Mitterrand alongside Chancellor Kohl at Verdun, happened thanks to the two countries' decision to enter into various forms of political and economic cooperation. It took several generations for post-war societies to heal their wounds; this process was reinforced by the fact that European institutions and lasting peace offered a framework for reconciliation fostered by politicians, artists, activists and civil-society organisations.

In the Western Balkans, the EU faces a new challenge: promoting pre-accession cooperation and reconciliation at a time when EU accession is still only a distant prospect and tensions continue.

The obstacles to reconciliation in the Western Balkans

Divisions and controversies in the Western Balkans can be traced way back in history, yet had temporarily subsided while the Yugoslav federation was in existence. The death of Yugoslav President, Josip Broz Tito, in 1980 incited a series of [national revival movements](#) throughout the region, culminating in the collapse of Yugoslavia in the early 1990s. The Western Balkans were then engulfed in a series of violent conflicts, which saw the [loss of hundreds of thousands of lives](#) and triggered a mass flow of refugees and internally displaced people, whose situation remains to some extent [unresolved](#) to this day. The scale and intensity of the human suffering [left a mark on the whole region](#), and relations between states and communities were severely damaged. NATO and the EU helped end the military conflicts, and the prospect of EU integration became an important driver for the parties involved to normalise the situation and engage in reforms. Today, more than 20 years since the conflicts ended, a host of [divisive issues](#) remain to be addressed: delayed prosecution of war crimes and access to justice for victims, the unclear fate of missing people, [refugees and internally displaced people](#) (many of whom are still [without homes](#) and living in extreme poverty), border and statehood [issues](#), as well as diverging narratives of the past that continue to provoke lack of trust and mutual accusations.

Accountability for the violence committed remains a [contested issue](#) at national and regional levels, and there is neither consensus on its causes and nature, nor as regards appropriate redress for the victims. The different groups tend to see themselves primarily as victims and not as perpetrators,

The case of Northern Ireland

Between 1969 and 1998, almost [3 500](#) people died as a result of political violence in Northern Ireland, including after the [accession](#) of both Ireland and the United Kingdom to the European Economic Community in 1973. The free market and cross-border cooperation, developed in the context of EU integration, were underpinned by the [conclusion](#) of the [Good Friday/Belfast Agreement](#) in 1998.

In parallel, the EU started [providing financial support](#) for peace in Northern Ireland in 1989. Over the years, the programme has funded a wide range of projects, including in support of victims and survivors, young people, SMEs, infrastructure and urban regeneration, as well as projects in support of immigrants and in celebration of the ethnic diversity of society as a whole. Nevertheless, reconciliation and dealing with the past remain important [challenges](#) in Northern Ireland.

while war crimes continue to be instrumentalised for political ends. Most generally, public discourse and [biased](#) education on history in the individual countries continue to trigger feelings of resentment instead of contributing to better relations between neighbours.

In November 2017, Council of Europe Commissioner for Human Rights, Nils Muižnieks, [shared concerns](#) that 'reconciliation has stalled and is being superseded by mounting ethnic divisions and polarisation'. In the same tone, a former prosecutor for the International Criminal Tribunal for the former Yugoslavia (ICTY) [recently stated](#) that a quarter of a century after the conflicts, the region is not yet consolidated. In a [May 2018 report](#), human rights organisation, Impunity Watch, says that 'impunity for war crimes is ingrained throughout the Balkans'; 'truth-seeking is challenged by a one-sided public discourse of denial and revisionism, and reparations have been largely selective and politicised'. In addition, some analysts argue that reconciliation remains out of reach, as exemplified by the case of Bosnia and Herzegovina (BiH), where 20 years of efforts have brought no real healing, and there is an [ongoing](#) conflict of antagonist narratives.

In the 1950s, six former enemies, confronted by the Soviet threat, were able to rapidly agree on supranational cooperation and founded the European Coal and Steel Community. The Western Balkans do not face such a common threat that could force them to cooperate; however, the countries' process of accession to the EU serves this role to some extent.

The EU's approach to reconciliation in the Western Balkans

Similar to how things were handled between France and Germany, on the one hand, and within Northern Ireland, on the other, regional economic and political cooperation is key to the EU's approach in the Western Balkans. Because of the difficulties in dealing with the past in this region, the EU has also developed a comprehensive approach to reconciliation.

Commission country reports

In 2018, the EU focused renewed attention on the Western Balkan countries' accession process, accompanying it with stronger emphasis on reconciliation, seen as an inseparable part of the accession process. The European Commission's latest enlargement reports for the five former Yugoslav countries pay particular attention to reconciliation-related issues, such as cooperation with the ICTY, domestic prosecution of war crimes, etc. In all five countries, the Commission notes that the process is at a standstill. The fate of missing persons from the 1990s has yet to be resolved. Support for reconciliation is also part of the Sofia Priority Agenda, adopted as an annex to the [Sofia Declaration](#) from the May 2018 EU-Western Balkans summit.

The Commission's annual enlargement reports evaluate progress against criteria such as cooperation with the ICTY, domestic prosecution of war crimes, resettlement of internally displaced people and refugees, respect for human rights and protection of minorities. The latest enlargement reports, published on 17 April 2018, highlight ongoing [setbacks and standstills](#) in the domestic prosecution of war crimes, and delays in access to justice for victims of the conflicts in former Yugoslavia. A common message as regards the unresolved fate of missing persons who disappeared in the 1990s, is that it remains a humanitarian concern in the region. Regional cooperation and good neighbourly relations are once again highlighted as essential for the European integration process and for contributing to a climate conducive to addressing open bilateral issues and the legacy of the past. The Commission also commends Western Balkan governments for their continuing active support for the Coalition for Reconciliation Commission and the [Igman Initiative](#) on regional reconciliation.

Serbia: The [2018 report](#) on Serbia urges it to further promote European values in public debate and in education, and to establish an atmosphere conducive to meaningful regional cooperation. The report recalls that high-level officials' and state bodies' actions and messages have a key impact in this regard, particularly pointing to instances when ICTY-convicted war criminals were given access to public fora (for instance, one was nominated as guest lecturer at the military academy). It voices

concern over the lack of cooperation as regards the ongoing case against Serbians having shown contempt of court and recalls that Serbia needs to fully and unequivocally implement the ICTY's rulings and decisions. The report also notes that Serbia's new war crimes prosecutorial strategy has been 'severely delayed', its legal framework is preventing some war crime victims from exercising their rights, and wartime sexual violence has not been adequately addressed.

Bosnia and Herzegovina (BiH): The [2018 report](#) acknowledges a positive trend in the prosecution of war crimes cases involving sexual violence, but notes that the number of indictments has decreased. The significant backlog of unprocessed war crime cases is a question of concern and the report urges the adoption of the draft amendments to the national war crimes strategy to ensure a more efficient distribution of cases between the different levels of governance and to allow new criteria and timelines for processing the most complex cases to be established.

The [2018 report](#) on **Kosovo** notes that the judicial system has been faced with an increasing workload, after the EU Rule of Law Mission in Kosovo (EULEX) started handing cases over to local prosecutors. It also warns that the lack of completed war crime case files, the low number of prosecutors working on war crimes, and insufficient cooperation between Kosovo's and Serbia's prosecution offices are jeopardising access to justice. Significant concerns remain about Pristina's willingness to investigate, prosecute and judge war crimes cases involving former Kosovo Liberation Army members. The report also draws attention to the victims of sexual crimes: despite progress, the timeframe of Kosovo's relevant law still excludes those who suffered conflict-related sexual violence after 20 June 1999. The report also notes that the Inter-Ministerial Working Group on Dealing with the Past and Reconciliation has effectively stopped working. The EU, alongside the United Nations Development Programme (UNDP), has promoted the protection of Kosovo's [cultural heritage](#), including mosques and Orthodox churches, as an element of reconciliation; for this purpose, the EU has set aside an additional €2 million in funding.

For Serbia and Kosovo, reconciliation is not only an internal affair but also a matter of finally putting bilateral relations on a more normal footing. Since 2011, with the help of EU mediation, the two sides have [resolved](#) some of their technical issues, but disagreements prevent normal day-to-day interaction between them in areas such as trade, energy supplies and cross-border travel. Bilateral EU-mediated talks are currently stalled, with Kosovo insisting on Serbian commitment to recognition and Serbia demanding that Kosovo lift its 100 % tariffs before talks can resume.

Montenegro: the [2018 report](#) points out that six of eight new cases opened by the Special Prosecutor's Office in 2016 are still in the preliminary investigation phase, and that the country needs to further step up its efforts to fight impunity for war crimes. The judicial decisions reached so far have contained legal mistakes and shortcomings in the application of international humanitarian law.

The question of reconciliation goes beyond intra-regional bilateral issues. In the case of North Macedonia, the EU was instrumental in the conclusion of the [Prespa](#) agreement, through which Greece and the former Yugoslav Republic of Macedonia agreed on the new name 'North Macedonia' for the latter. This agreement is an important step, as it resolves longstanding bilateral issues and will facilitate [contacts](#) and exchanges between the two countries.

At the regional level

To complement the existing [Copenhagen criteria](#) for EU membership, in 1999 the EU launched the [Stabilisation and Association Process](#) (SAP), which guides the Western Balkans' accession process. The SAP highlights 'the principles of peace, justice for war crimes, reconciliation, anti-discrimination, and good neighbourly relations'. Due to the legacy of war, the EU has placed [emphasis on regional cooperation](#), thus linking the WB aspirants' progress on the EU path with '[coming to terms with the past and improving relationships with neighbours](#)'. In particular, full cooperation with the ICTY (known as the 'Hague conditionality') became an [EU requirement](#) in 2005, at the start of Croatia's EU

accession talks. It thus became an important aspect of transition towards the EU specifically for Croatia (an EU Member State since 2013), Serbia, BiH and Kosovo.

Transitional justice

The values to which the EU is committed (human rights, democracy, rule of law) make it an important player in the field of [transitional justice](#), i.e. the remedying of large-scale human rights abuses in countries emerging from a period of conflict. The 2015 EU [policy framework](#) confirms that the EU considers transitional justice a priority for candidate and potential candidate countries, particularly through compliance with the relevant [Copenhagen criteria](#) (rule of law, human rights protection, judicial reform, respect for minorities). In the pre-accession phase, the EU attaches particular importance to fighting impunity of war crimes, ensuring that the rights of all victims are respected (with particular reference to refugees and internally displaced persons), and ultimately ensuring that the conflicts of the past cannot reoccur. Through its [Instrument for Pre-accession Assistance II](#), the EU supports civil society in seeking truth and promoting reconciliation.

The International Criminal Tribunal for the former Yugoslavia

A key part of transitional justice efforts is operated through the prosecution of war crimes, crimes against humanity and genocide. For this reason, the EU backs the work of the ICTY as an important element of reconciliation.

The [ICTY](#) was created in 1993 by the UN Security Council, with EU support. It set itself the objectives of providing justice, deterring human rights atrocities and advancing peace. Accordingly, it dealt with war crimes that took place during the conflicts in Yugoslavia in the 1990s. The tribunal was the first court to undertake the prosecution and adjudication of the gravest international crimes since the post-WWII Nuremberg and Tokyo trials. It [ended its work](#) in December 2017, leaving a '[complex legacy](#)' for the post-Yugoslav societies, yet to be thoroughly assessed.

The ICTY [indicted 161](#), sentenced 90 and acquitted 19 individuals, with some cases being more controversial than others. [Radovan Karadžić](#) and [Ratko Mladic](#) were among the most wanted fugitives, who evaded justice for years. Finally, in 2016 the ICTY sentenced Karadžić to 40 years of imprisonment for genocide, war crimes and crime against humanity, which he has [appealed](#). Shortly afterwards, in November 2017, the ICTY [convicted](#) Ratko Mladic of genocide, crimes against humanity and war crimes, and gave him a life sentence. The remaining appeals, retrials, and contempt-of-court cases are to be dealt with by the UN's [Mechanism for International Criminal Tribunals](#) (IRMCT), which will also assist the local war crimes prosecution offices in the Western Balkans. Meanwhile, the new [Kosovo Specialist Chambers](#) based in The Hague will prosecute former Kosovo Liberation Army members for alleged crimes committed during and after the 1999 war.

The ICTY had an impact on the Western Balkan countries' national courts, urging these countries to create their national tribunals, launch their own investigations into war crimes, and incorporate much of the ICTY's legal practice and case law into their own legal systems. However, the ICTY's approach has not been widely accepted in Western Balkan societies, where it is perceived as '[externally imposed](#)'. Over the years, reactions across the region have often been divisive and counter-productive for reconciliation; this has been witnessed even in relation to recent cases, where ICTY verdicts have been called 'unjustified'. In defence of the ICTY, its former President, Carmel Agius, recently noted that the court's [mandate was not to provide reconciliation](#), but truth, through the 'large collection of determined facts' it produced.

The EU policy for transitional justice in the WB has also been criticised, particularly for lacking the holistic approach called for in the 2015 [EU policy framework](#). While cooperation with the ICTY has yielded results (for instance, indicted persons were transferred to The Hague and major cases were completed), it has been interpreted [controversially](#), as a one-sided approach giving priority to retributive justice (prosecuting war crimes) as opposed to restorative justice (addressing victims' needs). Academics also [suggest](#) that the EU has not created a clear strategy to link enlargement

conditionality with a demand for support to reconciliation initiatives outside the judicial sphere of international or domestic transitional justice or refugee return.

Embedding reconciliation in a wider framework: Berlin process

The [Berlin process](#), launched in 2014 to reinvigorate EU-Western Balkans cooperation, has given impetus to regional political cooperation, brought tangible results in economic cooperation and connectivity, and helped establish the Regional Youth Cooperation Office (RYCO) modelled on the [Franco-German Youth Office](#), created in 1963 to boost cooperation between young French and German citizens. Reconciliation is not a novelty in this format; it was included as a topic in the first two Western Balkans summits in Berlin and Vienna respectively, with the 2014 [Berlin](#) and 2015 [Vienna](#) final declarations expressing hope that the framework of the process would contribute to lasting reconciliation. The 2016 [Paris final declaration](#) focuses on reconciliation through youth cooperation, while the 2017 [Trieste final declaration](#) explicitly [mentions](#) the Civil Society WB Forum's recommendation for setting up a Regional Commission tasked with establishing the facts about all victims of war crimes and other serious human rights violations committed on the territory of the former Yugoslavia from 1 January 1991 to 31 December 2001 (RECOM).

The positive dynamics that the Berlin process has triggered made experts see it as the right framework for setting the establishment of a RECOM as a [priority](#) of the London summit in July 2018. According to Western Balkans civil-society representatives, setting up a truth-and-fact-finding commission would be 'a game changer' for the region. The region's leaders signed [joint declarations](#) on regional cooperation, missing persons and war crimes, committing themselves to further improving neighbourly relations, resolving as many missing persons cases as possible, and acting to end impunity and overcome the legacy of the past.

Civil society at large, thus far the main driver for putting the issue of reconciliation on the agenda of the region's leaders, continues to play a fundamental role in insisting on progress in the reconciliation process. Although it needs support from the EU and regional leaders, its engagement is essential, not least because it can foster dialogue within the societies and feed the understanding of why reconciliation is important into the collective consciousness.

Renewed momentum: EU enlargement strategy

In February 2018, the Commission published its new [enlargement strategy](#), in which it states that further efforts towards reconciliation are crucial to firmly anchor peace and ensure lasting stability in the region. The strategy sends an overarching message that the time to address open issues has come, and that all countries need to commit to and take full ownership of reconciliation – a process that cannot be imposed from outside. The text specifically underlines the need to avoid statements and actions fuelling inter-ethnic tensions, as well as nationalist narratives. It notes that the process of transitional justice is incomplete – an issue that needs to be addressed urgently. Education and culture are singled out as deserving more attention, as a way of giving youth 'a perspective for the future, not the past'.

In the annex to the strategy, the Commission presents an [action plan](#) for six new flagship initiatives. One of these is dedicated to reconciliation and good neighbourly relations, and envisages six main actions. In the first place, it foresees providing support for the set-up of a RECOM to establish facts about war crimes and other human rights violations committed on former Yugoslav territory. The five other actions focus on fighting against impunity; finding a regional solution to resolve the issues of missing persons and landmines; expanding the scope and reach of the RYCO; introducing an intra-regional mobility scheme; and enhancing cooperation in culture and sport.

The RECOM initiative

Restorative forms of justice, as pointed out above, appear to have received less attention, although dealing with the past is a task that goes beyond criminal justice, as a [2013 Berghof report](#) suggests.

Although some Western Balkan countries have created national truth and reconciliation commissions, truth-seeking on a national level has not been as successful as expected. Diverging narratives about the past and failure to establish the facts objectively allow [conflicting memories and emotions](#) to be easily revived and exploited throughout the region. As victims, perpetrators and witnesses in the Western Balkan context are on different sides of national borders, a regional approach (a RECOM) is seen as better suited to the situation. As a result, in 2008, a number of NGOs launched a project to establish a regional truth commission – the [RECOM Coalition \(Koalicija za REKOM\)](#). Its objective is to list the names of all war victims, establish the circumstances of their death or disappearance, and collect information about the camps and other centres of forced detention. So far, the initiative has sparked significant debate in the region and faced many challenges.

Regional Youth Cooperation Office

Giving young people opportunities for mobility in the region and access to objective education on history is essential in any reconciliation attempts. Attention on youth in recent years has led to tangible results, particularly under the [Berlin process](#). In 2015, the Western Balkan states signed a joint declaration on establishing a [RYCO](#) that would 'promote the spirit of reconciliation and cooperation between the youth in the region'. Its mandate is broad, covering areas such as education, science, economy and culture, and also the promotion of tolerance, cohabitation and respect for human rights. The [Agreement on the establishment of the RYCO](#) declares that the office supports the vision of a diverse region, in which young people have 'an awareness of the past'.

Initiatives on teaching history across the region

In 1999, the Centre for Democracy and Reconciliation in Southeast Europe (CDRSEE) launched a significant initiative addressed at young people. Through Instrument for Pre-Accession (IPA II) financing, the European Commission has invested €1.5 million in a project to create joint history books in the Western Balkans – the [Joint History Project](#). Inspired by the idea that young people are the key to reconciliation, the project aims to change the way history is taught in schools across the region. The project is centred on providing history teachers with teaching materials that convey multiple perspectives of the same events, and on ensuring that these materials be put to use across the region. In November 2016, [two new volumes of history workbooks](#) were presented at the European Parliament. Their goal is not only to challenge and revise ethnocentric history lessons but also to encourage critical thinking and debate. As in the case of [French-German](#) or [Polish-German](#) history books, an important question is to understand if and how they are in fact used by teachers.

Another project entitled 'Learning history that is not yet history' has culminated in the [launch](#) of a dedicated website, the [Devedesete.net](#) (the 1990s). It contains materials (such as Hague Tribunal verdicts and documentaries) intended to help teach subjects related to the 1990s wars, 'a period that is remembered in different and often very contradictory and mutually exclusive ways'.

Balkan Transitional Justice initiative

The Commission also supports the regional [Balkan Transitional Justice initiative](#), launched by the Balkan Investigative Reporting Network ([BIRN](#)). It aims to contribute to reconciliation by raising awareness among citizens and promoting best practices among local media outlets, while also allowing local media to republish high-quality contributions through a regional network of journalists trained to cover all aspects of the process.

Over the 2018-2020 period, the transitional justice initiative focuses on [building the capacities of local media and civil society](#) to promote reconciliation and intercultural dialogue, in partnership with [Impunity](#)

BIRN achievements

The documentary [The Unidentified](#) – produced by the Balkan Transitional Justice programme – won the best short documentary [award](#) at the 2016 South East European Film Festival in LA.

The [War Crimes Verdicts Map](#) is an interactive tool designed by the BIRN to provide an overview of the court rulings on crimes committed during the 1990s wars in the former Yugoslav territory.

The BIRN has also produced a 10-minute radio programme entitled 'Roads to Justice', and a six-episode TV series, released as a feature-length film entitled 'The Majority Starts Here'.

Source: [Balkan Investigative Reporting Network](#).

[Watch](#). The BIRN is expected to produce investigations across the region, televised debates in Kosovo and BiH, and a focus on the newly established Specialist Chambers in The Hague.

The European Parliament's position

The EP has been a [consistent supporter](#) of the Western Balkans reconciliation process and the ICTY's work. In 2009, it adopted a [resolution on Srebrenica](#), urging the commemoration of the anniversary of the Srebrenica-Potočari act of genocide by recognising 11 July as the official commemoration day in the EU and the Western Balkans. The EP urges all Western Balkan countries to make efforts to come to terms with their past. In its [2015 resolution](#) on the 20th anniversary of the Srebrenica genocide, the EP reiterated the need for greater focus on domestic war crime trials, and recalled that 'regional cooperation and the European integration process are the best way to promote reconciliation and to overcome hatred and divisions'.

In its resolutions, the EP has also continually expressed support for the region's RECOM initiative, seeing it as complementary to the judicial process. The EP's latest resolutions address the Commission's 2018 country reports. In resolutions on [Bosnia and Herzegovina](#), [Kosovo](#), [North Macedonia](#) and [Serbia](#), all adopted on 29 November 2018, the EP recalled the role played by reconciliation. The EP [commended](#) the work done in Bosnia and Herzegovina, including by the inter-religious council, and called for respect for the victims and 'reminds all political leaders and institutions in BiH that they have a responsibility to assess war-time events objectively, in the interests of truth, reconciliation and a peaceful future, and to avoid misuse of the judiciary for political purposes'. In [Kosovo](#), the EP called for more support to reconciliation, especially through cultural projects. In [North Macedonia](#), the EP recognised that the Prespa agreement is a signal for stability and reconciliation. In [Serbia](#), the EP commended the role played by the Regional Youth Cooperation Office (RYCO) and its local branches.

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