

Farewell op-ed by Ambassador Peter Burkhard
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“Helping Serbia swim lengthwise”

Heritage of Socialism

When I arrived in Belgrade in December 2012, I was surprised not to find here the typical traits of the towns of Eastern Europe, so familiar to me since my first travels to socialist countries in the seventies and after decades of working in communist or former communist countries. Even at first sight – an impression that was confirmed later in many respects - it was evident that the country had not been cut off from cultural and intellectual developments in the capitalist West.

Only over time, however, did I realize the extent to which - under an apparent Western European surface - the efficient structure, organization and functioning of the State, but also the way of thinking and behavior of society and individuals, are hampered by the heritage of the socialist political and economic system, albeit a specific one. When now leaving, I find myself surprised by how strong this influence still is.

To me, the most striking examples of this influence are the weak budget constraints of public entities, from state-owned companies to local self-government units; the amorphous responsibility and accountability in all spheres of government and administration; the low degree of separation of powers, possibly due to the perception of this principle as something foreign and to the dominance of democratic centralism for many years; the societal focus on entitlements and the very weak sense of privacy.

Cultural Diversity

When travelling throughout the country, I was surprised not to find the type of settlements and housing I used to associate with Slavic people, who tend to leave a lot of space between their homes. Sure, there are Orthodox churches and monasteries, but the structures of towns and villages and the style and construction of houses, to me, are far more a reflection of roots in Mediterranean and Central European cultures than from the flatlands of the East. These roots, by the way, I also felt shining through in the structure of the Serbian language. Maybe - that’s obviously speculation – the heterogenic deeper roots of the culture of the titular nation facilitate the cohabitation of so many different cultures and languages in the Republic of Serbia.

Be it as it may, the exercise of culture and the use of language by national minorities profit from quite supportive conditions. This is the result of a legislative and institutional framework for national minorities, which Serbia has been developing in cooperation with its international partners, including the OSCE. In some respects, namely education, it might be even too forthcoming. The provision of full schooling in a non-state language – in Serbia’s case for eight minority languages - can be found in only a few other European States.

Let me clarify this point. The granting and exercising of these wide-ranging minority rights must be weighed against the need to integrate the diverse components of society. The goal should be a cohesive society, not an atomized one. Full schooling in a non-state language may result in practice in significant parts of the citizenry growing up without achieving full

proficiency in the State language. This, in turn, can lead to the self-segregation and auto-discrimination of citizens belonging to the respective minority communities. How can these citizens effectively exercise their rights and advocate for them, if they cannot communicate with the majority community? The OSCE Mission has been working with relevant partners on improving Serbian language teaching in some non-Serbian schools, and I am glad that Serbia is now committed to making an effort in this direction.

Rule by law instead of rule of law

When swimming laps in Olympic-size swimming pools in Serbia, I am always puzzled by the fact that many people swim across the pool and not lengthwise, as is customary in most European countries (and in fact worldwide) as a kind of unwritten but accepted common courtesy. Whatever the reason for this phenomenon, it may serve as an illustration for the fact that the Serbian society can hardly be described as rule-based. This is possibly one of the key reasons why the functioning of the State is based more on “rule by law” than rooted in “the rule of law”.

In such a conception, however, the law itself is conceived differently. It is seen less as a system that structures social interaction in a general and abstract way, based on principles, values and rights, and valid for all present and yet unknown future circumstances. Here, the focus lies more on purpose, on achieving certain goals and outcomes. Legislation is intended to solve concrete problems and whenever a new problem occurs, the legislator reacts with new legislation.

One of the downsides of such a purpose-oriented (as opposed to a system-oriented) approach, is that new laws are inconsistent or in conflict with other laws that aim at achieving other purposes. Going back to the picture of the swimming pool: swimmers are getting in one another’s way. In co-operating with our Serbian partners in the elaboration of new legislation in the areas of our mandate (police, judiciary, media, non-discrimination, national minorities etc.), we placed a particular focus on coherence with existent legislation. However, there is a need to establish stronger institutional mechanisms with a view to improving the quality and consistency of lawmaking.

Operating in silos

This consistency problem in law-making is reinforced by the structure and functioning of the Government, where issues are mostly dealt with within the individual line-ministries alone. Most of the issues that have to be regulated in modern societies would need a “whole-of-government” approach, which, however, is not supported by the current organizational and institutional set-up of the Government. There are attempts made to mitigate this “operating in silos”, on the working level, by the creation of ad hoc intergovernmental working groups for the elaboration of strategies, action plans and legislation, and on the policy-making level, by the creation of the Secretariat for public policy co-ordination. The latter is clearly a step in the right direction, but its institutional role would need to be strengthened.

Need for a more Weberian State apparatus

That Serbian people are particularly gifted team players is not only reflected in the success of Serbian teams in various team sports, I could also witness this myself quite often, for

instance when observing how the drivers of the ambassadors, on the occasion of official events, help each other with moving around cars in usually very tight spaces. To me, this is one of the positive manifestations of the relation-based character of the Serbian society; however, it has downsides when it comes to governance. At a course for UN Mission Leaders, an Indian four-star-general once commented to me that management based on person-to-person relations can function well only in structures up to 200 persons. Above that, “bureaucratic management” based on impersonal rules, criteria and procedures, is definitely superior. History has shown that a key element of successful examples of state development is a Weberian State apparatus. This apparatus is based on rules, a merit-based career system, objective criteria and competition.

In closing, upon leaving this country, where I have spent almost four years, my wish for Serbia is a quick transition to system grounded in Max Weber’s principles, a system geared towards serving the citizenry, without discrimination of any sort and without special attention to particular interests. A system governed by laws that do not swim crosswise, getting in one another’s way. A system, in sum, that will help Serbia fully exploit its remarkable human capital, where the best and the brightest can actively contribute, in each walk of life, to securing the country’s rightful place in Europe and beyond.