



# EUROPEAN POLICYBRIEF



## HOW TO IMPROVE IMPLEMENTATION OF EU RULES IN THE WESTERN BALKANS?

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### INTRODUCTION

There exists to be a growing body of empirical evidence regarding the problem of implementation of EU rules (directives and regulations) in new EU member states and candidate countries, including Western Balkan (WB) countries. While laws are passed, many adopted rules tend to largely remain “empty shells” or “dead letters”. Thus, the focus of research and policy has begun to slowly shift from the formal transposition/adoption of EU rules into domestic legislation to actual effects of these rules in everyday life.

The wider and crucial question is under which conditions formal rule adoption leads to substantive changes in practice. One common suggestion relates to the law implementation capacities and administrative traditions of states. Even the best laws create little effect if law implementation bodies are not objective and competent, or if state administration lacks power (e.g., personnel, financial resources, time). Research indicates that domestic administrations in post-communist states tend to be weak and unstable. However, weak administrative capacity constitutes only part of the problem in relation to the implementation of EU rules.

The current study focuses on the effects of the adopted EU rules on domestic production and consumption of food, specifically in the area of pig and sheep home slaughter in three WB countries (Bosnia and Herzegovina, Kosovo and Macedonia) and in two EU member states (Croatia and Slovenia). The practice of pig and sheep home slaughter (HS) illustrates a range of areas of everyday life which are, on the one hand, subjected to newly imposed EU rules, and on the other, strongly connected to local traditions and modes of economic self-subsistence (e.g., brandy home production, selling of homemade cheese and sour cream, or growing of old and locally specific varieties of vegetables). For these kinds of practices, the question of rule adoption is perceived as especially important in domestic opinion since EU can come into conflict with established and widely applied domestic traditions.

The key findings of the study can be summarised in the following points:

**1. Western Balkan countries included in our research have a good track record in alignment of their domestic legislations with the relevant EU rules.**

Our research indicates that the countries observed have fully complied with the EU standards in terms of adopting appropriate formal laws and rules. The only exception we identify is in Kosovo, where the obligation provided by Council Regulation (EC) No 1099/2009 on the stunning of animals at the time of killing has been adopted as part of the Law on Food. However, their application is limited only to licensed slaughter houses and it does not apply to production of meat for private home consumption, meaning that home slaughter without stunning can be practiced without legal restrictions.

**2. With a notable exception of Croatia, the public media discourse did not draw much attention to EU regulation of home slaughtering.**

In Croatia some of the media articles on the topic feature sensationalist titles such as “The EU prohibits pig home slaughtering,” or “We should save pig home slaughtering.” In Croatia, and to a much lesser extent also in BiH and Macedonia, broader concerns were raised about the survival of traditional practices of production and processing of food and beverages, but also about consequences for (mostly rural) families.

**3. Meat from domestically slaughtered animals plays an important role in traditionally rooted exchange in communities and is generally perceived as being of substantially higher quality as compared to meat that is offered by retailers in the formal market.**

Our respondents expressed positive attitudes toward HS and highlighted the quality of meat from home grown animals. Thus, the EU inspired rules in this case are popularly perceived as interfering with deeply entrenched traditional practices of not only consuming meat and meat products (bacon, sausages, pork cracklings etc.) within the household, but also of sharing them with relatives, friends and neighbours or even selling them informally (on grey/black-market).

**4. The EU limits the use of meat from home slaughter to private consumption, however, the definition of private consumption is open to different interpretations at the state level.**

The EU legislation does not provide clear guides as to what private consumption entails or who exactly is allowed to be given meat from domestic slaughter. Our investigation suggests, however, that several official state agencies in EU member states limit private consumption to the members of the “immediate family”, and interpret the term immediate family as the members of the family who reside in the household, i.e. the people living permanently on the property. We found that this interpretation has been officially adopted in Croatia and Macedonia, where therefore any transfer of HS meat outside the household, even gifts to immediate family members who do not reside at the owner’s household, can be considered as illegal.

**5. Some governments in the region have chosen to make the rules more stringent than they need to be.**

In Croatia, Kosovo and Macedonia, private consumption is restricted only to the household members of the owner of animals. In Slovenia, however, private consumption is defined as “*consumption of family members living in the household,*

*including relatives and hired workforce.*” The addition of “relatives and hired workforce” broadens the range of eligible parties to virtually all members of the owners’ social network. Importantly, according to a representative of Slovenian authorities who was directly involved in the transposition of the relevant legal act, there was practically no pressure from the EU to make the definition of private consumption any more restrictive. Thus, our findings suggest that EU rules provide more flexibility to accommodate local practices than is applied by national political elites in Croatia, Kosovo and Macedonia, who respond to EU requirements by imposing more restrictive rules than are necessary.

**6. The relative restrictiveness of the adopted EU rules is in some cases relatively incompatible with national public discourses.**

Even though Croatia accepted a much more restrictive definition of private consumption than Slovenia, the public debate in relation to the adoption of EU rules regarding HS was much more extensive in Croatia. Croatia, thus, created wide public discontent, while at the same time making the rules on HS more stringent than necessary.

**7. Large shares of the population of Bosnia and Herzegovina, Kosovo and Macedonia express concern about gold-plating practices<sup>1</sup>.**

Results from survey data suggest that in Macedonia around 54% of adults agree with the statement “*Our bureaucracy often introduces even stricter rules than the EU expects.*” In Kosovo, this share amounts to 41% and in BiH to 39% (Slovenia and Croatia were not included in the survey). Thus, the general public is relatively aware of the “gold-plating problem” and would probably support a stronger role of the EU in preventing such practices by domestic elites.

**8. Around half of the citizens of WB countries perceive the EU rules as potentially harmful for their tradition and good practices.**

We find that the highest share of agreement with this statement was found in Macedonia (52%), followed by BiH (48%) and Kosovo (45%). Interestingly, agreement with this statement is strongly correlated to the agreement with the statement on gold-plating. This means that people who perceive EU rules as threatening to local traditional practices tend to see at least part of the responsibility for this situation in their national governments and state institutions. Adopting excessively restrictive rules has demonstrably harmful consequences for both implementation of EU rules and Europeanisation of Western Balkans in general.

**9. Some adopted formal rules seem to remain “empty shells”.**

Based on our data this is especially true for Croatia, Kosovo and Macedonia. Our interviews with public servants, farmers and consumers of HS meat suggest that these actors do not take the limitation on HS meat distribution seriously. Transfer of HS meat within informal social networks (relatives, neighbours and acquaintances) is taking place on a regular basis and tends to be considered, even by the state authorities, as something acceptable. According to our respondents, including competent public servants, these practices pose a negligible threat in terms of public health and we found no reported serious sanitary problems related to regular traffic of HS meat through social networks or to HS practices in general. Furthermore, the transfer of HS meat within informal social networks is often seen as having important positive effects in terms of solidarity and social integration at the local level.

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<sup>1</sup> The European Commission defines gold-plating as the: “transposition of EU legislation which goes beyond what is required by that legislation while staying within legality”.

**10. The most frequently expressed reason for the weak implementation of EU rules relating to home slaughter was the lack of capacity of the state.**

State authorities in most cases complained that the limited number of veterinarians and inspectors prevents them from implementing rules effectively.

**11. Resources available to farmers are often problematic in relation to the rule on obligatory stunning.**

Farmers are, apart from religion-related sheep slaughter in BiH, in favour of proper stunning of animals if for no other reason than that this makes slaughter much easier. Our data suggest, however, that in many cases, especially in Kosovo and Macedonia, pig home slaughterers find it hard to afford the proper equipment and for this reason choose to apply traditional practices of stunning and slaughter.

**12. A socially dysfunctional potential overlap between interests of national governments and interests of their implementing agencies has been identified.**

While national governments may benefit from adopting relatively more restrictive legislation because they can present it as an achievement on the path of 'Europeanization,' implementing agencies may attempt to seek rent from a situation where virtually 'everyone is guilty.' In such a situation, the law can be turned against an individual small farmer at almost any time and it is 'the good will of the inspector' that keeps the small farmer functioning without a penalty. Such a situation creates perfect grounds for administrative corruption.

**13. In the case of home slaughter of animals, the partial implementation of EU rules can be best understood as spontaneous indigenization of formal rules.**

Spontaneous indigenization of formal rules is a process where actors of implementation of rules adapt them to local practices, habits and preferences. This process probably occurs mainly because these actors are members of local societies themselves. Our data confirm this notion through the main reasons that were given by public servants for the weak or partial implementation of the formal rule limiting HS meat to private consumption. First, public servants took into consideration the economic implications for the farmers engaged in home slaughter. Second, home slaughter was not considered problematic due to its very limited spread (quantity) and regulators were said to be focused primarily on the control of registered facilities. And third, traditional values and ways of life which are still functional were considered as something that should be preserved.

## POLICY IMPLICATIONS AND RECOMMENDATIONS

Based on our findings, we suggest that the EU should consider the following actions:

**1. Actively participate in the process of adjusting formal rules to local cultural values, norms and practices.**

Almost half of the population of WB countries see EU rules as threatening to their traditional practices. Such perceptions undoubtedly substantially harm the process of harmonisation of rules with the EU. Furthermore, insufficient indigenization of the EU rules tends to result in partial enforcement of these rules, which can have detrimental social effects (e.g. lower effectiveness of public institutions, higher frequency of corruptive practices, widespread pessimism, etc.).

Actors involved in the enlargement process should therefore more actively support indigenization of the imported rules, both administratively and financially. Such EU-supported indigenization, which should take into account both existing formal rules

and informal practices, should provide a relatively efficient tool for finding and implementing sufficient functional adjustment of EU regulations to domestic values, norms and practices. Probably, the most straightforward way of seeking for appropriate patterns of indigenization is through identification of actually followed rules. In cases of partial implementation, informal practices are often just modifications of formal rules.

## **2. Identify and minimize practices that resemble “gold-plating”.**

Adopting excessively restrictive rules has demonstrably harmful consequences for both implementation of EU rules and Europeanisation of Western Balkans in general. “Gold-plating” usually leads to partial implementation or non-implementation of the adopted rules, which erodes the principle of rule of law as laws are applied selectively. Excessively restrictive laws also tend to turn public opinion against the EU as such regulations can be perceived as threatening to local identity and common traditions. Therefore, there is a need for a proactive role of the EU in shaping national and local public discourses on issues related to transposition of EU rules. For instance, EU should address the potential public fears over “loss of national identity and traditions” that may endanger the process of Europeanisation by taking more active role in terms of following local public/media discourses and intervening in cases when needed. In the case of the distribution of meat from home slaughter, it would be quite easy to show that the pressure from the EU is substantially lower than what is often publicly presented.

## **3. Work on strengthening implementation capacities and resources of national agencies and administration.**

The EU should take a more active role in making sure that countries transposing certain EU legislation have the capacities to implement them in practice. In our study, it has been shown that some countries simply lack administrative power to effectively implement certain rules. Partial implementation is a probable consequence of insufficient state capacity. Public servants dealing with implementation in a particular field may be a good source of information about where and why partial implementation or non-implementation may be occurring. In the context of achieving the wider goals of the EU regulatory framework, it might be necessary to adjust some formal rules to allow for consistent implementation.

Not only the EU, but also local actors such as political elites, governments and NGO's, should play central role in improving the implementation of EU rules. It is crucial that these actors engage actively in the processes of transposition and adoption of EU rules.

### **RESEARCH PARAMETERS**

In order to study partial implementation of EU rules effectively, the research team decided to choose one specific field of practices where partial enforcement can be expected and which could be studied in a comparative manner. After considering different options, the team opted for legislation and practices regarding home slaughter of pigs and sheep as a widely present practice in the societies of the Western Balkans region.

The sample of countries for our investigation involved five countries of the former Yugoslavia with significant differences in their level of integration with the EU. Two of them are member states of the EU: Slovenia since 2004 and Croatia since 2013. Macedonia is a candidate state, while BiH submitted a membership application in 2016. Kosovo has not submitted a membership application.

The methodological approach was grounded in the model of Europeanization, whereby initial research questions were structured according to the basic stages of the process (EU rules → Adoption of EU rules → Implementation/enforcement of EU rules → Behavioural change).

In conducting the empirical work, we applied five research methods:

### **1. Legal documents analysis**

In applying this method, we first searched texts of EU directives and regulations relevant to the home slaughter of animals. In the next step we analysed these legal contents in view of the theoretically and legally most relevant issues (e.g. regulations on selling/donating meat, or regulations on stunning animals before slaughter) and derived basic legal frames that were used for further analyses. In the third step, we analysed relevant legal documents at the national level and compared national regulations with EU directives and regulations.

### **2. Analysis of related media content available online**

This method was used only as a supplementary tool in order to assess national public discourses in relation to the adoption of the EU rules. Researchers searched the internet in their local languages for media content on this issue.

### **3. Interviews with relevant public officials**

A total of 17 interviews were conducted. In BiH we conducted four expert interviews. Two of them were with veterinarians (one from the Veterinary Office of BiH and one from Inspections), one with a Muslim religious authority, one with a certified butcher and one with a controller of halal slaughter. In Croatia we interviewed the Head of Veterinary Inspection Service, an employee of the Institute for Judicial and Administrative Veterinary Medicine and an employee at one of the local veterinary stations. In Kosovo interviews were conducted with one veterinarian, one expert on EU law harmonization working in public administration, and a director of unit at the Food and Veterinary Agency. In Macedonia four interviews with experts/public servants from the Agency for food and veterinary were conducted: one interview was conducted with the head of the inspection unit, one with the head of the sector for legal affairs and two more were conducted with other civil servants within the Agency. In Slovenia, we interviewed three public servants, all employed at the Administration of Republic of Slovenia for food safety, veterinary and plant protection: one senior official from headquarters in Ljubljana, one specialized official for disposal of SRMs from headquarters in Ljubljana, and a higher official from a local branch of this institution.

### **4. Interviews with producers and consumers of meat from domestic slaughter**

This method enabled us to effectively identify practices on the ground and identify gaps between formal institutions and practices on this basis. Altogether, we conducted 33 interviews with farmers and 25 interviews with consumers of meat originating from HS. We set a minimum of six interviews per country for both categories of respondents together. The number of interviews varied, depending on possibilities in each individual country, from six in Kosovo to twenty-two in Slovenia. All interviews were conducted between November 2016 and February 2017.

### **5. INFORM targeted survey of representative national samples from six Western Balkans countries.**

The survey was conducted in three countries analysed in this report (BiH, Kosovo, and Macedonia) and also in Serbia, Montenegro and Albania. The entire sample consisted of 6,040 respondents aged 18 years or more. The relevant variables from the acquired dataset were statistically analysed in accordance with the research goals.

## PROJECT IDENTITY

<b>PROJECT NAME</b>	Closing the Gap Between Formal and Informal Institutions in the Balkans (INFORM)
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<b>CONSORTIUM</b>	Centre for Empirical Cultural Studies of South-East Europe – CECS – Nis, Serbia Center for Intradisciplinary Social Applied Research – CISAR – Sarajevo, Bosnia and Herzegovina Institute for Democracy “Societas Civilis” - Skopje – IDSCS – Skopje, Macedonia Institute of Ethnology and Folklore Research – IEF – Zagreb, Croatia Center for Historical and Anthropological Research – QKHA – Tirana, Albania Riga Stradins University – RSU – Riga, Latvia School of Slavonic and East-European Studies – SSEES UCL – London, United Kingdom Social Research Kosova – SRK – Prishtina, Kosovo University of Maribor – UM – Maribor, Slovenia
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<b>WEBSITE</b>	<a href="http://www.formal-informal.eu/home.html">http://www.formal-informal.eu/home.html</a>
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<b>FURTHER READING</b>	Lavrič, M., Senjković, R., Prica, I., Gjuzelov, B., Kumalić, I., Damjanovski, I., Luci, N., Obad, O., Klanjšek, R., Godina, V.V. and Krasniqi, V. (2017) Partial enforcement of EU rules in five countries of Southeast Europe: The case of pig and sheep home slaughter.