Rejecting the Neoliberal Balkan Land Grab Hypothesis: The Absence of the EU's Transformative Power in Land Use Governance in Bosnia and Serbia

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ABSTRACT

Amidst doubts that it still has transformative power to drive institutional change in the Balkans, structuralists claim that the 'neoliberal' European Union (EU) helps enable 'land grabbing' by driving the region to liberalize land governing institutions. Based on our field research in urban contexts we reject this supposed causal relationship. We examined the processes that enabled two recent high- stakes land deals in the capitals of Serbia and Bosnia–Herzegovina, both Balkan countries seeking EU accession. Using the Institutional Analysis and Development framework, we find the EU's transformative power absent in both cases. Instead, we observe national and local elites opaquely facilitating hand-picked investments and cooperating to change urban land-use rules. We thus argue that endogenous drivers, like the possibility of expanding rent-seeking in situations of unequal information access, better explain the Balkan land deal phenomenon; and that the generalization that the 'neoliberal' EU helps drive land grabbing needs serious reconsideration.

KEYWORDS

Land grabbing; governance; neoliberalisation; Europeanisation; institutionalisation; rent- seeking.

Introduction

For more than a decade, structuralist scholars have researched the rise of the 'global land grab'.[1] They typically understand this phenomenon as a historically continuous process of 'primitive accumulation', where increasing competition forces developing countries to open up to global capitalism. The process involves foreign investors that 'enclose' land through large-scale land deals, often with the help of self-serving elites.[2] In the post- socialist space, this dynamic was understood to be aided by promoters of the 'dominant ideology' of 'neoliberalism', who gave socialist successor regimes little choice but to liberalize, privatize, deregulate and consequently integrate 'into the Western capitalist core'.[3]

Following this literature, Mandaci and Tutan recently applied this ‘primitive accumulation–land grab argument’ to the Balkans by accounting for the region’s ‘contextuality’. Surveying late-Ottoman and post-socialist systems of land relations, they argue that the Balkans has been repeatedly ‘peripheralized’ as arable land gets concentrated in the hands of elites, and peasants displaced. They note how foreign competition gradually forced the region’s Ottoman rulers to integrate with ‘global capitalism’. Eventually, their land tenure system collapsed, thereby enabling ‘privileged nationals’ to concentrate land. They posit that this dynamic returned when communist land systems disintegrated in the 1990s. They evidence that now it was the ‘liberalization of land policies’ and ‘EU conditionality’ that enabled ‘cash-rich’ actors, notably from the Persian, Gulf, China and Europe, to accumulate Balkan land.[4] That is, the EU deployed its power to pressure Balkan governments to transform their institutions, and particularly, to liberalize their agricultural land laws, thus helping to bring about the latest Balkan land grab.[5]

We do not doubt that communist collapse created opportunities that empowered ‘a handful of individuals’ in taking ‘advantage of . . . legislation or . . . funds to channel into land investment’.[6] However, for reasons that we elaborate on in this article, we do doubt the causal relationship between EU conditionality and land grabbing in the Balkans. For one, Mandaci and Tutan recognize that their research is ‘limit[ed . . . to agricultural land grabs’ and based on second-hand case evidence from rural Romania, Bulgaria and Serbia.[7] Further, the extent to which the EU’s ability to influence land policies differs across Balkan countries and land governance areas remains under-investigated. We fill this gap by investigating two recent, high-stakes urban land deals and by surveying the EU’s role in them. Since urban land deals depend on institutional rules like spatial plans, we focus on this area of land-use governance.

Our research is thus driven by one main question and two sub-questions:

1. *What institutional changes, if any, are made in land-use governance to enable land deals in the Balkans?*
   a. What drives or inhibits these changes?
   b. What role does the EU’s transformative power play in the institutional change process?

To answer these questions, we use process tracing[8] and case studies[9] to analyse qualitative data alongside an agent-centric, rational-choice institutionalist approach. Our fieldwork was conducted in Sarajevo Canton (between October and December 2015) and Belgrade (between March 2016 and May 2016) and focused on the processes leading up to the two largest land deals in Serbia and Bosnia–Herzegovina's post-conflict history.

We do not find the kind of overarching, external influence that structuralists suggest the EU has on 'land grabbing'. Instead, we find that situational factors, like existing information access asymmetries, help expand rent-seeking opportunities. That is, these land deals are made possible as local elites can make institutional changes opaquely. We thus argue that endogenous drivers more powerfully explain the Balkan land deal phenomenon. That means we reject the hypothesis—what we call the neoliberal Balkan land-grab hypothesis—that a causal relationship exists between the EU's transformative power and land deals in the Balkans, at least in urban contexts.

This contribution proceeds as follows. First, we review the existing literature on 'Europeanization' and the 'neoliberalization' to further justify focussing on institutional change in land-use governance in two urban land deal cases. Next, we discuss our concept of governance and the framework that we use to operationalize our hypothesis, the Institutional Analysis and Development framework (IAD).[10] We use the IAD as a foundation to test the hypothesis regarding the EU's transformative power and to assess the extent to which the EU's transformative power can be expected to change the interactions between relevant actors in land-use governance and enable land deals. The empirical section describes the processes that culminated in the land deals in Belgrade and Sarajevo. The fourth section analyses the data and discusses the implications of our analysis. We conclude with suggestions for further research.

Beyond the macro-focus of Europeanization and neoliberalization

Since the era of globalization 'began' in the nineties, new institutionalist scholars anticipated that national processes of policy-making and regulation would be influenced, or possibly subsumed, by new forms of economic governance emerging at other levels.[11] Some suggested the EU caused 'transformative effects'[12] on the institutional development of countries that sought to join it: the latter were seen to adopt rules that effectively 'Europeanized' their institutional framework.[13] Increasingly, however, scholars questioned whether this transformative power also meant 'institutionalization', a process where formal and informal EU rules become local 'rules-in-use'.[14] Instead 'deep structures'[15] were seen to constrain externally induced reform. Analysts began to explore the limits of the EU's transformative power. They studied domestic institutional changes in the Western Balkans and found enduring weaknesses in authorities' capability to reshape their institutions, as well as myriad failures to reduce the risk of opportunistic rent-seeking by politically and economically privileged actors.[16] Governing elites appeared to focus on perpetuating their control over economic resources[17] while ignoring EU 'member state-building' goals.[18] As cliques of government and private actors in the Balkans were seen to act contrary to basic accession criteria—such as enabling institutions that level the economic playing field and that help establish a rule of law[19] — the EU's transformative power appeared to be weak, absent or even counterproductive.[20]

Still, studies show the EU's weak impact on economic governance contrasts with its transformative impact on formal rule of law institutions. In Bulgaria and Romania, the EU can deploy direct conditionality in this field with the Cooperation and Verification Mechanism.[21] In the Western Balkans, it has less powerful institutional mechanisms to ensure these countries meet the EU's accession criteria.[22] Generally, Europeanization in the Western Balkans is characterized by *strong* impact on formal rule of law institutions but *weak* impact on informal institutions and underlying norms and practices that are necessary to reinforce and support institution building.[23] That said, this variation in EU influence across the Balkans and policy areas needs to be more comprehensively researched with regard to land governance. Table 1 offers a start: it maps the EU's different policies and requirements that may (have) influence(d) institutional rules governing land deals in the Balkan countries that formally committed to meeting EU accession criteria.

While Europeanization scholars have explored the limits of transformative power,[32] critical and structuralist scholars continue to look for examples where it does have impact. It has long been their view, that the EU enlargement process almost intrinsically involves deregulation and liberalization of economic assets. They have linked

Table 1. Potential EU influence on large-scale land acquisitions per Copenhagen criterion.

EU policy/requirement for EU accession vis-à-vis Balkan countries	Albania	Bosnia-Herzegovina	Croatia	Kosovo	Macedonia	Montenegro	Serbia	Romania	Bulgaria
Economic criteria									
Provide EU companies 'the right to use and rent real property' and 'to acquire and enjoy ownership rights over real property (but only if registered as [local] companies)'	Y >2009	Y >2015	Y >2005	Y >2016	Y >2003	Y >2011	Y >2013	N	N
Provide EU citizens equal land access[25]	N	N	Y >2013	N	N	N	N	Y >2014[26]	Y>201427
Accept lower average payments from CAP[28]	N/A	Y >2013	N/A	N/A	N/A	N/A	N/A	Y >2007	Y >2007
Political and rule of law criteria									
Accept EU special representative 'acting as a "voice" and "face" for the EU and	N/A	Y	N/A	Y >2008	N/A	N/A	Y >2008	N/A	N/A

its policies' in post-conflict areas[29]									
Support anti-corruption efforts specifically on land transfer fraud[30]	N	N	N/A	Y >2008 (EULEX)	N	N	N	N	N
Acquis Communautaire criteria									
Transpose environmental rules such as EU directive harmonizing information access on land use[31]	N	N	Y >2008	N	N	Y >2018	N	Y >2007	Y >2007

Legend:
Y = yes; N = no (not yet); N/A = not applicable.

Europeanization with globalization, and thus identified a process that drives private sector actors to systematically demand greater market access,[33] eventually resulting in the 'neoliberalization of space' at multiple levels of governance.[34] Private sector actors could be expected to rely on a regional supranational institution like the EU to put pressure on governments to reshape institutions so that they had access to new economic assets in their jurisdiction. For example, Mandaci and Tutan refer to a report by La Via Campesina, a land-grab monitoring NGO that suggests that the subsidies of the Common Agricultural Policy [CAP] drive land grabbing, as the CAP 'explicitly favours large land holdings, marginalises small farms, and blocks entry by prospective farmers'.[35] Yet, while some evidence from Bulgaria, Romania and Serbia does suggest that foreign investors speculate on land prior to their having access to CAP subsidies, the CAP cannot be reliably isolated as the single most important factor driving land grabbing (see Table 1). Even La Via Campesina, which is strongly critical of the EU's role, recognizes that other drivers, including local 'real estate interests [and] tourism enclaves', are possible incentives besides the CAP.[36]

Like the Europeanization literature, we aim to extrapolate the relationship between national and sub-national agency on the one hand, and supranational factors on the other. However, we see a knowledge gap in that most Balkans-oriented studies of Europeanization and neoliberalization have kept a macro-level focus. Too few studies have zoomed in on the politics of institutional change at the micro-level in specific areas of governance. Even fewer have examined the relationship between supranational pressure to liberalize certain natural resources and the politics of changing rules governing those economic assets.[37] Due to their emphasis on the macro-level, scholars often appear to be at risk of overgeneralizing their conclusions[38] and/or rely on the analytically problematic concept of 'neoliberalization'.[39] Indeed, too few Balkan-focused studies examine processes leading to land deals in the Balkans in urban contexts. As indicated above, those who have tend to be structuralist and critical scholar researched land deals in rural settings.[40] A few *have* studied urban land deals in the Balkans, yet not with our focus on institutional change processes and whether supranational actors like the EU possess the strategic agency to drive such processes.[41]

We therefore propose to fill this knowledge gap and to zoom in on the role that domestic and supranational actors play in changing urban institutions that govern land, and specifically land use and land deals, in Western Balkan capitals.

Understanding land-use governance change: a rational-choice institutionalist approach

We define governance as 'the process by which the repertoire of rules, norms, and strategies that guide behaviour within a given realm of policy interactions are formed, applied, interpreted, and reformed'.[42] Governance may involve both state and non-state actors at multiple levels. It can concern situations where only a few closely knit actors dominate institutional change processes, as well as situations where multiple actors interact and cooperate at different levels, each with different roles to facilitate such processes.[43] Our research uses this concept of governance to understand how actors, situated in a particular context, engage with and shape the rules governing land use.

This concept and our approach to analysing institutional change is rooted in Elinor Ostrom's Institutional Analysis and Development framework (IAD),[44] with its focus on understanding the governance and use of natural resources,[45] like land. Instead of referring to the IAD framework in its full complexity, we take its three key flexible rational-choice assumptions[46]:

(1) That the dependent variable is the action situation (henceforth situation): a decision-making context where actors with different capabilities act vis-à-vis a particular resource as they 'observe information, engage in patterns of interaction, and realize (or fail to realize) intended outcomes from their interaction'.[47]
(2) That all actors involved are 'boundedly rational' in their decision-making. They may act selfishly or on behalf of collective interests, but 'do so under constraints of limited cognitive and information-processing capability, incomplete information, and the subtle influence of cultural predispositions and beliefs'.[48] That is, actors' information access is not assumed to be symmetrical, yet it can be manipulated by external variables.
(3) That actors are capable of learning from changes to rules governing a specific resource in a situation.[49] Such rules can be changed by three types of external variables (henceforth situational factors), which can alter actors' behaviour, patterns of interactions and outcomes in a situation. These are institutions (regulatory rules-in-use), community attributes (cultural predispositions) and the biophysical conditions (e.g., environmental aspects).[50]

These assumptions allow us to see the role that institutions play in both enabling and constraining agents to achieve strategic objectives vis-à-vis a particular resource, including a plot of urban land. Yet using the IAD gives further advantages.

Firstly, we can focus on how actors reshape and differentiate their strategies in relation to institutions that regulate the resource,[51] without ignoring other situational (community and biophysical) factors that may exert influence on it.[52] Secondly, Ostrom's IAD framework does not presume that a particular actor, such as the supranational EU, has a priori a special influence on changing rules governing the resource.

This frees us to zoom in on the existing incentives and power configurations that may drive institutional changes that enable land deals. That is, we may consider what factors motivate them. In particular we can focus on the rents that can be derived from a natural resource like land. For with the IAD we can assume that natural resources like land can generate rents: both naturally (e.g., the value earned through its development) and 'artificially' with institutional rules. Institutional rules-in-use create rents by setting requirements (e.g., rules that effectively require potential land users to pay a permission fee to develop the land).[53] There are institutions, like spatial plans, that provide access to a whole range of (institutional) rents, and thus enable or constrain a broader range of social, economic and political interactions and outcomes. From this rational-choice institutionalist perspective, potential users of land can thus be expected to have an inherent interest in influencing the authorities with powers to enforce or change such powerful rules. For in urban contexts, where land tends be scarcer, spatial plans
(formally) determine which type of construction is allowed where.[54]

The IAD can also help us understand why and how certain actor(s) are able to reshape general rules that provide access to land rents, and why this may occur in ways that satisfy special interests and rent-seekers.[55] Rent-seeking involves groups or individuals seeking to secure privileged access to natural and artificial (land) rents through manipulation of the institutional rules that regulate them. The intent is to skew the economic playing field.[56] Combined with the assumption of bounded rationality, we may see why opportunities for rent-seeking can emerge. For example, if access to information is asymmetrical and unequal, e.g., because existing laws impede public disclosure of key data (e.g., authorities are not legally required to disclose the effects of proposed changes to land-use rules), then this may (all else equal) incentivize elected officials to take advantage by creating rent-seeking opportunities.[57]

In sum, the IAD provides a framework to analyse factors that influenced the processes we observed that led two land deals and how the different actors involved engaged and changed their strategies in these particular situations.[58]

The hypothesis

We thus have a foundation to test the hypothesis that the EU's transformative power is driving processes that change institutional rules that enable large-scale land deals, and to discuss to what extent we can expect to confirm this hypothesis in our two cases.

We can reiterate and expand on what we already noted about the hypothesis in two parts. First, the part on transformative power essentially relies on the assumption that domestic politics, including the processes that involve reshaping land-use rules, can be affected by external agents operating at a local, national, regional, and supranational level. Indeed, in the Western Balkans there seems to be evidence for this: For example, liberal state-building donors like USAID encourage local actors, like municipalities and national governments, to make land-use governance 'more predictable' and 'transparent' so to attract 'additional investment', such as in Kosovo.[59] From a traditional new institutionalist perspective, the EU stands out among external actors in the Balkans in terms of its supposed ability to drive institutional change in Balkans countries: it matters that these countries formally seek to accede and secure access to its market and co-decision-making power as an EU member state. These are 'external incentives' that may drive domestic actors towards institutional change and position the EU to use such prospective benefits as a form of leverage.[60]

The second part of the hypothesis comes from the structuralist point of view. Based on the assumption that the EU is an agent of 'neoliberalism' it can be hypothesized that when it exerts its transformative power, the EU pushes for deregulation, privatization and liberalization. Its power to drive domestic institutional change may be particularly strong in post-socialist contexts that are eager to attract capital.[61] As a supranational body, the EU can be expected to push for the 'neoliberalization of space' at different levels, and thus this may involve changes to land-use rules also.[62] Structuralists can thus anticipate that private investors from outside the region will be able to 'take advantage' after the EU has pushed for changes to rules that liberalize 'land purchases'.[63]

However, there are at least three reasons to be sceptical that the EU has 'transformative power' over processes of land-use governance change, and thus that it enables land deals in the Western Balkans, particularly in urban contexts.

First, the empirical evidence that the EU enabled land deals seems weak in the Balkans, particularly in urban contexts (as indicated above). Mandaci and Tutan make the sweeping claim that 'all' Balkan countries 'allow leasing of the land to foreigners'; without providing clear evidence for this[64] or field researching local power configurations and dynamics in specific cases. As such, it remains unclear how in specific situations these changes occurred, what local actors are particularly influential, whether land is truly liberalized and whether other factors impede unrestricted foreign land investment. For example, changes to land-use rules may be politicized for local (environmental, political or economic) reasons,[65] and that the politics of land deals may be complicated by competing (local) demands and civil society responses.[66] Empirically, EU-supported studies of agricultural land markets after the accession new of member states indicate that these often developed slowly, in spite of apparent liberalization during the EU accession process. Land use and land ownership rules frequently remained restrictive and systems providing the information about those rules weak.[67] This meant higher transaction costs that impeded land sales and changes in land use.[68] Some therefore suggested that post-socialist (Europeanizing) elites liberalized only ostensibly, and actually aimed to make institutional changes that redistributed land towards rent-seekers and political allies.[69]

Second, supporters of this hypothesis, like Mandaci and Tutan,[70] appear to insufficiently account for the possibility that the EU's transformative power—and the 'neoliberal' ideology that it purportedly promotes—may be in 'crisis'.[71] Unlike Romania and Bulgaria, Western Balkan governments have so far only had to grant EU companies rights to use, rent and acquire real estate if the latter are registered as a local company (under the Stabilization and Association Agreements).[72] In recent years, the outward pressure to Europeanize and liberalize markets generally appears to have diminished: not just in the Balkans but across the post-socialist space. Countries often slowed with advancing liberalizing policies and after the global financial crisis started backtracking when 'these policies were no longer . . . bring[ing] economic returns such as . . . investment'. For governing elites the 'political calculations and incentives changed': 'rapidly adopting neoliberal policies became less compelling' to them and EU protests to backsliding fell on deaf ears.[73] Moreover, other international organizations like the IMF (in which EU member states have a key say) also openly questioned whether 'neoliberalism' had not become an 'oversold' idea.[74] As the 'ideological' consensus and external incentives to drive liberalizing reforms across the post-socialist space seem to have changed,[75] we have further reason to doubt that EU is driving the liberalization of land-use rules and thus enabling Balkan land deals.

Thirdly, the EU seems to lack capacity to drive land-use governance change. The EU acquis has some rules on governing land use, such as on public information provision.[76] Yet, the EU only expects aspiring member states to comply with these rules once the relevant accession negotiations are formally opened.[77] The EU also supports environmental impact assessment (EIA) laws, and the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental matters. Yet those rules, while pertaining to land-use governance, have been found to have a limited impact in Bosnia and Serbia in terms of institutionalization and changing actual practices.[78] Moreover, large EU funds that could motivate changes in land-use governance, such as the EU Regional Development Fund,[79] are not yet relevant at the current stage of accession for the examined candidate states.[80] Some EU pre-accession funds for land-use reforms exist, yet evidently only in Kosovo.[81]

If we can reject the hypothesis it would indicate that the phenomenon of Balkan land deals cannot be simply ascribed to an external force that pressures peripheral economies to liberalize and that more careful empirical inquiry is necessary. Concretely, it would suggest that the structuralists are wrong to see Balkan land deals as evidence of EU-driven 'neoliberalization', at least in the context of urban land-use governance.

Belgrade

The Belgrade Waterfront development was proposed in 2014 as a real estate project that would regenerate Belgrade's Savamala district: an old town district that, as of May 2016, was still a mixed space, comprising private residential properties, private businesses, informal settlements and public space. The development was presented as a public– private partnership between three actors—the Mayor of Belgrade, the Government of the Republic of Serbia and an Abu Dhabi-based developer, Eagle Hills—and a joint investment. However, which exact amounts of money would be invested by each partner remained unclear. It was only formally stated that the Abu Dhabi investor would invest around 50 per cent of the required funds into the development of Belgrade's Savamala district.[82]

The city's mayor was central to make this new urban development possible. Formally he could approve changes to usage of public space. However, to implement this luxury real estate development, the mayor needed the Serbian government to designate the project as 'one of strategic national interest'. This would facilitate the processes of making changes to the land rules governing the Savamala area of Belgrade and re-appropriating it. This he did successfully. The spatial plans and rules-in-use were changed in a way that left the mayor a large degree of control over the planning and implementation of the development. With the consent of Belgrade's mayor's office and the labelling of the project as one of 'strategic national importance' by the Government of Serbia, the third- party partner, Eagle Hills, was allowed to put forward their own plan for the project without consulting the relevant planning agencies. Eagle Hills could thus circumvent dealing with a formal application procedure. That also meant there would be little opportunity for the public or professionals to consult city planners about the proposed development.[83]

Nevertheless, there were two groups that objected to this course of events and who resisted the proposed development. The first group of actors were the city planners. Some city planners believed that the way the project was being implemented undermined professional codes of conduct. They also asserted that it did not conform to existing planning practice. The second group of actors that opposed the Eagle Hills development were citizens of the city. Some of them owned property on or near the Savamala which had to be acquired by the city authorities.[84] With members of civil society who objected to the proposed privatization of public space, they formed an opposition movement: Ne Da Vimo Beograd (Don't drown Belgrade). Their aim was to obstruct the planned development and launch a public protest to the actions of the mayor's office.

The EU's role was less clear. It observed that citizens and activists had lodged formal complaints in a public hearing discussing the planned development, yet the construction of Belgrade Waterfront went ahead. It also was aware that they had raised concerns about the environmental degradation caused by the development and the possibility that the development represents a large-scale rent-seeking operation. Yet these allegations were not fully substantiated. The EU therefore decided against intervening in this case, particularly since it concerned an area of governance where it lacked formal rules and regulations. If it would intervene, it was going beyond the EU's 'non-political' role in accession countries.[85]

The implementation of the spatial plan for Belgrade Waterfront did not follow a typical trajectory. Since Belgrade lacked a history of any significant foreign investment, particularly in construction and development of luxury spaces, the Eagle Hills plan took many by surprise when it was announced and accepted by the municipality in 2014. Advocates of the development argued that it presented an opportunity to modernize Belgrade and transform the Savamala area into a modern and luxurious living space. Crucially, advocates promised that Belgrade Waterfront could attract significant future investment and thus transform Belgrade into a modern European city.[86]

Opponents of the plan responded by highlighting the lack of evidence that the development would bring significant economic benefit to the city. They questioned the project's funding, believing that tax payers' money was being used to fund it.[87]

Citizens and city planners made various formal requests for information and clarity on the project. Yet municipal authorities and Eagle Hills declined to answer. Information access asymmetry thus persisted: activists were left without access to hard facts that could enable them to (more) strategically engage and effectively respond to the development.[88]

In addition, the Belgrade Waterfront development revealed how closely intertwined many of Serbia's key political actors were. The Mayor of Belgrade's personal ties with the Prime Minister Vucic appeared to help advance the project (the current President of Serbia) (the mayor previously worked as an economic advisor to the Prime Minister's office, tasked with securing new investment in Serbia. Prior to this, the mayor had headed the influential Agency for Privatization): Vucic spoke in support of the project on numerous occasions and was present at the unveiling of the project to the public.[89]

A key event incident occurred on the night of 24 April 2016.[90] Masked men had come to the Savamala area, and demolished property buildings. This caused public outrage. Ne Da Vimo Beograd and the political opposition put immense pressure on the Mayor's office, bringing the Prime Minister to intervene. He insisted those responsible for the demolition would be found and held to account.[91] Whilst the perpetrators of this incident remained at large, the mayoral office was blamed. The former prime minister, and now President Vucic announced that Belgrade's mayor would not stand for re- election due to the political fallout caused by the incident.[92]

Yet the Belgrade Waterfront development continued. Significant concerns about the transparency of land use in Serbia were raised: activists who opposed the development had questioned who will truly fund the development, who will benefit and whether the planned development will ever be completed.[93] Others expressed alarm about its environmental risks. Yet these concerns remained unaddressed at the time of research.

Sarajevo

In October 2015 the mayor of Trnovo, a small municipality in Sarajevo Canton, in the Federation of Bosnia–Herzegovina (FBiH), and Buroj, a Dubai-registered real estate company, signed a 99-year lease for a large-scale land investment in the old city hall. The project, Buroj Ozone was to be built in a pristine mountain meadow, called Precko Polje, 32 kilometres south. The project intended to become the largest Tourist City in Eastern Europe. With ownership over Precko Polje divided between smallholders (70 per cent), FBiH (15 per cent) and Trnovo municipality (15 per cent), Trnovo's mayor would need to declare the project in the public interest and expropriate the other landowners to implement the deal. Before he could do so, key rules-in -use needed to change; particularly the local spatial plan. Otherwise, the investor would not be formally allowed to use the land at Precko Polje and build a tourist city.[94]

The redrawing of spatial plans had long been difficult in Canton Sarajevo. The Dayton Peace Agreement (DPA) fractured the capital's spatial planning authority. The Canton's Spatial Planning Agency was primarily responsible for redrawing the spatial plans for the greater Sarajevo area, while only the Canton's prime minister and assembly would need to approve them. However, the DPA left the FBiH the authority to redraw high-level spatial plans, while the authority of the Sarajevo Canton's outlying municipalities like Trnovo was not fully determined. This created potential for contestation over changing land-use rules. Indeed, when the FBiH attempted to realize a pre-war plan to make the area surrounding Precko Polje a national park, local mayors sued FBiH for neglecting to secure their approval. Ibro Berilo, Trnovo's mayor was among these mayors, and they won the case.[95] His concern had not been about how this might hinder (real estate) development per se, but about who would have the right to decide (land use) at a local level.[96]

About a year after Berilo's court victory, in late 2014, Buroj's CEO approached him with a proposal to build a tourist city with a capacity for 200,000 at Precko Polje. Evidently, Berilo trusted the real estate developer even if he lacked an identifiable construction portfolio[97] and verifiable financial means to build such a large site.[98]

Buroj offered to pay for redrawing the spatial plan. In return, Berilo promised the needed political backing. Soon they secured the support of the Canton's prime minister, who could help ensure that the Spatial Planning Agency would devise a plan permitting the construction of a tourist city in Precko Polje. The Bosniac President of Bosnia– Herzegovina, Bakir Izetbegovic, also supported the project, even if he had no official competence over land-use rules. Yet Izetbegovic, who was also SDA party leader, could help overcome obstacles to institutional changes deemed necessary for enabling the deal. Figures like him, and the canton's prime minister, could coordinate the authorities and parties that decided land-use rule changes.[99] The SDA was the Canton's leading government party, and could thus help Berilo to the majority required to pass the needed changes to land-use rules. Additionally, figures like Izetbegovic were experienced in enabling large-scale land deals. Over the past decade, he had given his support to comparable real estate projects in Sarajevo, including several that had involved Gulf state developers. These included the city's most prominent developments, like malls. To observers of Sarajevo's construction market, it thus seemed that large-scale construction projects like Buroj Ozone, required political facilitation by such influential power brokers.[100]

Moreover, the deal was a potential means to garner votes in the October 2016 local elections. Buroj promised that the tourist city would cut the local unemployment rate by creating local jobs for Bosnians.[101] Berilo himself went further, saying the project would help Canton Sarajevo bring in ‘more visitors than Dubrovnik’[102]; and convert his municipality into ‘the richest town in Bosnia–Herzegovina (and) . . . in the Balkans.’[103]

However, as the deal entered its implementation phase, much about it remained opaque. For example, while the deal’s contract was published, it remained unclear how the financial guarantees of Buroj would be verified and how competing bids for the construction rights at Precko Polje would be launched[104] fairly (given that Berilo and Buroj had already agreed that Buroj would finance the redrawing of the spatial plan). There thus appeared to be cause for concern about that the deal might create opportunities for rent-seeking. Indeed, public criticism emerged regarding the lack of transparency offered by cantonal and Trnovo officials. Particular alarm was raised about the potential risks to the environment and public health hazards.[105]

Activists and opposition politicians confronted Berilo about this opacity, especially about the rigorousness of the environmental impact assessment and addressing of risks that Buroj would contaminate the Sarajevo water supply, at a public consultation about the new spatial plan for Precko Polje.[106] However, in Canton Sarajevo, mayors could choose to not answer questions during such consultations.[107] In this case, Berilo only replied that those demanding information and clarification actually wanted a national park in the area.[108] This alleged lack of transparency did not lead to a broader public outcry, nor investigation about possible violations of (EU) environmental law or the Aarhus Convention.[109] Nor did the EU intervene: it was only heard indirectly praising the signing of the Buroj deal.[110] After the public consultations Berilo could formally propose to Trnovo’s municipal council to declare the project in the public interest and start the expropriation process. Less than 2 weeks before the October 2016 municipal elections, in which Berilo would be re-elected mayor, Buroj Ozone’s foundation stone was placed at Precko Polje.[111]

Analysis

In both cases, we see three key actor types involved in reconstructing rules-in-use in land-use governance: a gulf-state investor, the mayor’s office, and one or more political facilitators at the national (cantonal) government-level. These last two actors appear to expand their control over urban land use from the formal institutional positions of authority that they hold.

Other actors opposed to the development persistently lack information and formal channels to contest the development. Consequently, they attempt to influence proposed spatial plans through informal (Serbia) and formal means (Bosnia), but without affecting them.

The EU was notable in its almost complete absence. Activists confirmed that they had not engaged substantively with the EU delegation in Serbia and Bosnia. In Serbia, no formal EU intervention occurred whatsoever. EU delegation officials openly acknowledged their non-response. They were keen to justify this on the basis that this type of land deal did not contradict or undermine the formal accession criteria, and so the EU had no justification to act.[112] In Bosnia, no evidence was found that officials were formally monitoring the land deal.

Consequently, we see two situations where domestic elites appear to dominate the institutional change process: they control access to land-use institutions to begin with and existing rules allow them to maintain information access asymmetry. They thus appear to exercise a high degree of discretion to reconstruct land use.

Both cases therefore suggest that current pre-existing institutional arrangements poorly constrain elite actors in changing land-use governance opaquely and excluding others from the process. Civil society, while active, are still unable to prevent elite actors from circumventing established land-use restrictions. The fact that the EU was not involved underscored our scepticism that the EU has significant transformative power over processes to change land-use rules. We therefore have reason to reject such a hypothesis. Our analysis has four implications.

First, the fact that we see powerful national-level political actors exerting influence on two high-stake real estate deals, working in cooperation with mayors and local officials, implies that such actors are crucial for getting land developments off the ground. Their lack of formal competences in transforming land-use rules also suggests they structurally possess important informal roles, particularly as political facilitators and power-brokers of land deals.

Further, the lack of inclusiveness and transparency in changing land-use rules implies public oversight is too weak to constrain land deal-making, even if these deals were declared to be in the public interest. Elites can successfully resist pressure to include non- elites, thus making flexible readjustment of existing rules of land governance possible. Even when activists opposed to these deals had (formal) opportunity to access information about the deal and to demand that governing elites answer questions about the funding and sustainability of the project, no real response came. Where large public protests did arise (as in the Belgrade case), the deal itself was not politically stymied, showing that contestation did not make a difference.

Third, the opaque nature of the deals and processes of changing land-use rules makes rent-seeking appear as a key driver of change. As institutions are changed with limited due process and transparency, domestic elites seem to expand control over rent-seeking opportunities. This at the same time seems to handicap civil society in mobilizing a strong response. Moreover, the deals seem to allow elites to legitimize themselves as job- creators and to position themselves for re-election (especially in the Bosnian case). Both cases thus shed light on local suspicions that changes to land-use rules are mainly about facilitating rent-seeking and consolidating governing elites' political and economic control.

Finally, the lack of direct EU involvement in terms of monitoring, technical assistance or strategic advocacy suggests that its transformative power is especially weak in transforming land-use governance. Governing elites can change land-use governance in an exclusive, opaque and poorly accountable way. They thus appear to be able to ignore the risk that their actions endanger their countries' progress towards EU accession. Far from enabling the liberalization of urban land, the EU thus appears to help lock in current power configurations by allowing political elites to maintain information asymmetries and to make personalized institutional changes for hand-pick investors.

In short, all of the above suggests that endogenous, rather than external drivers are significant in influencing the institutional change processes that enable large-scale urban land deals in the Balkans.

Conclusions

Our research suggests two directions for further inquiry.

First, to better inform the debate on Balkan land grabbing we need more samples from rural *and* urban contexts. Based on our field research on two prominent urban land deals we reject that Balkan land deals are linked with the EU's supranational pressure to liberalize land and the institutions that govern its use. To comprehensively grasp the phenomenon, more research on Balkan land deals is needed, yet particularly in urban contexts.

Second, further research on comparable Balkan land deals could also help gauge the variation in EU behaviour towards them. This would help assess the extent to which the EU permits governing elites in the region to abandon the EU-favoured form of capitalism and natural resource governance. Our findings show that existing information access asymmetries and power configurations remain (or are reinforced) when the EU plays no transformative role in the politics of changing urban land use and enabling high-stakes land deals. The EU may thus unintentionally contribute to increasing the risk of social contestation, environmental harm, and rent-seeking. Moreover, by enabling an opaque foreign investment, national leaders appeared to unabashedly ignore their commitments to the EU—namely to level the playing field for investors, and to improve environmental protection, transparency and the rule of law. Bosnian and Serbian leaders might thus have been risking their country's EU accession prospects by enabling these land deals in this way, but for the EU's absent response.

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