

THE LEGACY OF PEACE

BOSNIA AND
HERZEGOVINA 20
YEARS AFTER THE
DAYTON PEACE
ACCORDS

EDITORS
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**FRIEDRICH
EBERT****STIFTUNG**

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FOREWORD

Judith Illerhues

The Dayton Peace Accords from 1995 brought an end to the war in Bosnia and Herzegovina. Twenty years later it is the right moment not only to sum up achievements, but also to reflect on the challenges Bosnia and Herzegovina faces today. The country is in a severe crisis, where the status quo has been prevailing for almost a decade with little progress in implementing important reforms. This lack of progress is expressed in an increasing political and economic instability and social inequality.

Extensive research has been undertaken to examine the underlying causes of the stalemate. Some scholars identify the constitutional norm, which derived from the Dayton Peace Accords, as a main hindrance to reforms. It is true that the Dayton regime allows for a strong influence of veto power in the decision-making process, which is not favorable for implementing comprehensive reforms. But unfortunately, this argument is too often used to justify the prevailing absence of reforms in the country and the maintainance of the status quo. Since a comprehensive reform of the constitution seems unlikely at this point, the question arises: to what extent do the current political and social challenges occur as a consequence of the Dayton constitution? And more precisely: what can be done

to achieve further progress in political and social reforms as well as in EU-integration in the scope of the Dayton context?

The complexity of these questions and the need for a better understanding and a constructive way forward for the country motivated the Friedrich-Ebert-Stiftung (FES) in Bosnia and Herzegovina to prepare this publication together with national intellectuals and researchers. As a political foundation, 'think tank' and platform for political dialogue, it is the core task of the FES in Bosnia and Herzegovina to contribute to analyzing sociopolitical challenges, developing recommendations for policy approaches and engaging with our partners in a constructive and open dialogue to discuss solutions.

This publication is the result of a joint effort by a team of intellectuals from various disciplines. Each author reflected on the topic from his or her own perspective and scientific background with the objective of specifying reform needs to address the current dilemma. They all started from analysis of the current situation in Bosnia and Herzegovina and then highlighted the question of what kind of reforms and actions are needed to strengthen political and economic stability, social equality and EU-integration in a sustainable manner.

The publication's objective is not to reach consensus on a single proposed way forward for the country. On the contrary, the idea is to assemble different – sometimes contradictory - views and to debate on a menu of options for Bosnia and Herzegovina to improve today's situation based on analysis of a state-of-the-art debate.

Our aim is to reflect the multifaceted public discourse and offer a platform for open discussion and exchange of ideas. The approaches and views presented in the essays may differ significantly, and they do not necessarily represent the editors' opinion. But we believe that a pluralistic – and thus democratic - society is based upon the open discussion of different opinions, varying from more conservative to more progressive approaches.

We would especially like to thank Mr. Amer Kapetanovic for his excellent contributions to the editing of the volume as well as all the authors for their valuable research, thinking and writing. We hope that their thoughts, ideas and insights provide readers with a better understanding of the current situation in Bosnia and Herzegovina. Their joint efforts are an encouragement for all of us not to be overwhelmed by the complexity of the situation, but rather to contemplate the opportunities and realistic scenarios for improvements 20 years after the signing of the Dayton Peace Accords.

INTRODUCTION

Amer Kapetanović

This publication is the result of intensive joint efforts by the German Friedrich Ebert Foundation (FES) Office in Sarajevo and a group of local intellectuals from Bosnia and Herzegovina, including authors, publicists and professors. Although published on the occasion of the 20th anniversary of the General Framework Agreement for Peace in Bosnia and Herzegovina, known as the Dayton Peace Agreement (DPA), the aim of the publication is not to celebrate this jubilee and write for this occasion but to use two decades of practical experience with the DPA in order to draw some relevant conclusions. This publication should be observed as a kind of introspection of local intelligence, which may not be greater than the international one, but which is most certainly adapted to the necessity of life in BiH as it is. The authors and the FES achieved agreement on such an approach immediately without any further ado due to the fact that, inter alia, there is not much that has not been said or written about this Agreement and any reiteration would actually be like writing in the sand. Therefore, we decided to focus on the issues that seemed insufficiently analysed, such as how to create a more functional state within the Dayton limitations without necessarily introducing Dayton II or substantial amendments to the Annex IV to the Agreement. Our intention is, therefore, to examine

if the non-functionality of the political systems in BiH within the Dayton framework is preconditioned by the constitutional norm, its absence or whether it is a result of many-years-long abuse, contortion of or even distancing from the Dayton Agreement as such. How much has this situation been instigated by clientelist political (un)culture, ignorant of the common good and which does not know how (or does not want) to fight for it but which puts forward some better particularisms, “purer” ideas and derived political systems? The events unfolding at the time when our authors were already working on their essays cleared up any doubts as to whether our course of enquiry was correct. A new referendum adventure in RS and a rather unspecific, divided and mild reaction by the international community even twenty years into the implementation of the Agreement made us doubt if we correctly read the user manual for the Dayton Peace Agreement and instructions on precautionary measures. Or the problem may be that there was no manual and that the international administrators wrote such a manual in fragments, as suited to the political moment or reality.

An equally important question discussed by this publication is whether an international agreement, regardless of how ambitious it is, should, could or has to stipulate to the last detail how a post-war, transitional state should function or should it only create a broad framework leaving enough room to define social and political relations in a way that they should be in a multiethnic country?

There are more questions posed than answers offered, as we are well aware how difficult it can be to find simple formulas for

the BiH “mal-union”. However, we have tried to answer some really important questions, offer possible solutions and also shatter some illusions that have kept us in the dark all these years.

We can only leave it to our readers to judge if we have succeeded in that.

In order to have our concept better understood, it is necessary to explain the structure of this publication for the purpose of better understanding its integral parts. A curse or a blessing of important topics is that they allow a number of analyses from a myriad of perspectives, each with its own justifications and reasons. We decided to organise this publication into three chapters and ten essays. The first essay by the analyst and journalist, Srećko Latal, is not included in any of the chapters but should serve as a common denominator for all three chapters and as a reminder of how the DPA was created and which transformations it underwent in the meantime. Latal carried out this demanding task combining the chronology of the development of two agreements (as the Washington agreement is of great relevance for the Dayton one) and analysing substantial omissions which lead to today’s situation in which we seem to have several Dayton agreements and several parallel political realities.

In the first chapter broadly dealing with the constitutional and political heritage of the DPA, Dr. Nerzuk Ćurak, professor at the Faculty of Political Sciences of the University of Sarajevo, analyses who and what “stole” the state from the agreement and examines the possible ways to return it into the overall social and political context,

not only through political will but also through the rule of law. A key requirement for that is the change of political culture, which prompted Dr Đorđe Vuković, professor at the Faculty of Political Sciences in Banja Luka to analyse the possibility of “constitutional patriotism” as the only way to return the state to the peoples and citizens through the rule of law. Development of the sentiment that “we are all BiH”, according to Vuković, requires ethnic emancipation (full realisation of ethnic identities) without suppression of civic principles and without forcing patriotism and respect for the coat of arms, flag, anthem and football national team. It should be given time, as it is difficult to force an emotion. Dr Goran Marković, professor of constitutional law, tries to give an organisational form to what is analysed by Ćurak and Vuković. To put it differently, Dr Marković in a very pragmatic manner examines the territorial organisation of the country, as one of the most difficult issues of the DPA, by analysing all three dominant options: maintaining a two-entity structure, introduction of a third entity and regionalisation of BiH in line with the principle of economically sustainable local self-government. Each of these models is analysed against the political reality as the axiom, i.e. its relevance is measured through its acceptability or unacceptability in given circumstances. He came to the conclusion that BiH has to be reorganised in order to be more cost-efficient, functional and thereby more successful in our attempts to return it to the people. How? This you should read in his essay entitled “Reorganising What’s Possible”. These three authors, although they had different topics, instruction and dynamics of writing, almost with one accord conclude the following - BiH can function better in the existing constitutional framework under three conditions: departure from political clientelism,

acceptance and emancipation of ethnic identities as small pieces in a larger mosaic, and territorial organisation within the limits of the acceptable and most functional. In a word, true reconciliation and uncompromising meritocracy in everything.

The second chapter focuses on the socio-economic heritage of the DPA, an issue that unjustifiably has been neglected all these years by the artificially-created stories about separation, unitarisation, majorisation, federalisation, etc. While politicians were engaged in spreading fear, the quality of the citizens' life has deteriorated. Workers are put on hold at work due to temporary lay-offs, the state is on hold, a better life or life itself is on hold ... This chapter opens with an interesting analysis by the renowned economic analyst Svetlana Cenić, who examines how political instability undermines the economic basis for all of us, thereby undermining any remnants of hope for the possibility of a healthy state for our descendants. The essay, written in a columnist's style, strikingly shows how we in BiH can all succeed together or fail together. There are no better entities, cantons, or cities which will be economically self-sufficient. Cenić does not avoid the question of whether this constitutional framework allows for economic recovery. She thinks it does, but under the condition that local authorities stop stimulating reforms and that international mentors stop imposing solutions which are in no way related to the BiH reality. The issues only outlined in the first essay are further elaborated by Marko Radovanović, an expert for macro-economic policy and BiH diplomat and Dr Žarko Papić, former SFRY diplomat and renowned expert for social policy and inclusion. Both of them, in an interesting manner, deal with the

issue of whether and how much a welfare state, as a social concept focused on the individual and not on the market, is contradictory to the reform measures BiH promised to implement, and how much the DPA is an obstacle to achieving that objective. They come to the same conclusion: not only is it possible, but it is also necessary. They both call for reindustrialisation and quantitative easing, i.e. smart management of monetary sovereignty and inflation, in order to release money for well-designed developmental projects. Achieving this requires changes of a certain number of laws, but it is not necessary to change the Dayton Peace Agreement. However, it is necessary to achieve consensus on the common good, which would imply that political elites will not abuse the monetary sovereignty to make up for budget deficits to “buy” fake social peace and actually “oil the clientelist machinery”.

The last (third) chapter deals with the possibility of Europeanisation of the Dayton context. In order for that to happen, it is necessary to Europeanise politics in BiH. Jasmin Mujanović, a PhD candidate at York University in Toronto and active intellectual advocating for political emancipation in BiH, believes that it is hard to expect that political elites will “euromancipate” (read: end the existing practices) by themselves. In his essay, which opens the third chapter, he sees civic awakening as a way out. The bottom-up pressure, combined with the strict European standardisation criteria imposed from the outside, simply reduces the manoeuvre space for continuation of the self-sustained politics which have forgotten to serve the individual. He particularly focuses on the models of internal bottom-up pressure and analyses the ‘February demonstrations’ as an important

turning point. Starting from this premise, Dr Hoda Dedić and Adnan Ćerimagić, both experts for EU issues with diplomatic experience and university specialisations, in their essays indicate what BiH has to and should do in order to move towards Euro-standardisation. In her essay 'Arithmetic of Bad Assumptions', Dr Dedić presents a comparative analysis of correlations of the EU conditionality and readiness of candidate countries to conduct reforms. She believes that with its new approach towards BiH, the EU managed to create balance in the conditionality, to separate difficult from easy issues and to focus on economic reforms. There is only one "little" requirement to be fulfilled – the coordination mechanism. This is dealt with in the essay entitled 'Imaginary World of Competencies' by Adnan Ćerimagić, who explains how much the absence of a joint work by municipalities, cantons, entities and state in the EU harmonisation activities has cost BiH millions in denied pre-accession assistance. He puts this politicised issue into the technical context where it belongs. All levels have to be harmonised with the EU acquis which is always better and less costly if undertaken in a coordinated fashion and not individually. This issue is not related to any conflict, division or transfer of competencies, but it focuses on a simpler working communication with the EU. Fear that this famous coordination mechanism would further centralise or decentralise competencies and thereby indirectly change the DPA, according to Ćerimagić, is just another attempt to block EU processes in the country where over 70% of the population supports the EU course.

In the course of the preparation and organisation of this publication, great assistance was provided by the FES BiH associates: Merima

Ejubović and Nermin Kujović. This publication would not have been possible without the Head of the FES BiH Office, Judith Illerheus, primarily thanks to her understanding of the complexity of this topic. Michael Weichert, a mainstay of the FES years-long engagement in BiH, was also there to provide assistance. On behalf of all of them and of the authors, I wish to all Bosnians and Herzegovinians in the country and abroad a happy 20th anniversary of the Dayton Peace Agreement, with the hope that in the next decade we will have enough wisdom to recognise the challenges, the courage to face them and the will-power to persevere.



AGREEMENT IN ITS LABYRINTH

| Srećko Latal

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: The search for peace or (just) the end of the war?

This introductory essay examines the circumstances under which the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement) was reached and the transformations it has undergone over the years. It explains how and why it normatively and perceptually changed, which ultimately resulted in the simultaneous existence of several Dayton Agreements. Depending on which political milieu is either acting upon or against the Agreement, Srećko Latal, an accomplished analyst and journalist of renowned news agencies at the time of the signing of the Agreement, depicts the course and wayward paths of the pre-Dayton, Dayton and post-Dayton times in a manner only direct participants or active observers and contemporaries could do. However, he avoids merely presenting the chronology of the peace agreement, which is the main focus of this essay, and goes further to point out some substantial failures due to which the debate about the Dayton Agreement is still, 20 years later, focused on negation-affirmation of the statehood of BiH, rather than discussing its better functionality. One of such failures, according to Latal, is that the international community never made the effort to have the Dayton Agreement officially adopted by the state and entity parliaments in BiH, a fact which is used by Milorad Dodik, President of RS, as one of the arguments to negate the existing legal framework in BiH. The BiH society enters its 20th year of peace with at least three visions of BiH, four perceptions on what possibilities the Agreement offers, and a devastated economic and social basis. We have come to understand that none of the actors can achieve anything on their own, nor can the international community, as the imposing of solutions is no longer an option, nor can the political elites, as the low level of political culture diminishes any possibility of achieving compromise at the domestic level – compromise is seen as a sign of weakness! Latal sees a long-term partnership between the international community and the authorities in the country in order to enhance the economic basis as a possible way out. That could mean an attempt to define a common denominator for the crisis in Bosnia and Herzegovina.

The Chronology of the (Dis)Agreement

As testified by a number of those who participated in preparation and organisation of negotiations that resulted in the Dayton Agreement, the turning points that led to the decision of the United States to initiate these negotiations were the fall of the UN protection zone in Srebrenica on 11 July 1995 and the ensuing genocide of over 8000 Bosniaks, the death of three American officials, Robert Frasure, Joseph Kruzel and Nelson Drew on 19 August 1995, who died trying to enter besieged Sarajevo and in the end, the second massacre at the Sarajevo market “Markale” on 28 August 1995, when several mortar shells killed 45 and wounded 75 citizens of Sarajevo.

According to the witnesses to this process, the mandate by which the then US President William Jefferson Clinton enabled the chief negotiator, the diplomat Richard Holbrooke, to make tactical decisions “as he went along” and without the approval by the American administration, was crucial to the success of these negotiations. Motivated by the increasing number of civilian casualties in BiH and equipped with a unique mandate, Holbrooke and his team launched one of the most intensive “shuttle” negotiations in history that included hundreds of meetings and thousands of hours on flights between Sarajevo, Belgrade, Zagreb, Berlin, Moscow, Brussels, Rome, Paris, London, Washington and other centers of power. Another crucial element in this process was the NATO air campaign targeting artillery positions and communication centers of the Bosnian

Serb army after their leaders rejected the UN and NATO requests to withdraw their artillery from around Sarajevo.

The air strikes, which began on 30 August and lasted until 20 September 1995, together with the military operations by the re-established coalition of the BiH Army, the Croatian Defence Council (HVO) and the Croatian Army (HV) soon resulted in a power shift and change of the territorial control within BiH. For almost the whole duration of the war, Bosnian Serb military forces had control over 70% of the territory of BiH, but by the end of September 1995, territorial control by Bosnian Serbs on one side and the Federation of Bosniaks and Croats on the other was almost equal, which proved to be one of the most important factors in achieving the agreement. Preparations for peace negotiations took place amid continuous military campaigns and increasingly high tension due to friction between the Bosniak and Croat military units and, on the other hand, because of the possibility of direct involvement of Serbia in the conflict if the Bosnian Serb military units were to lose Banja Luka or the corridor in the vicinity of Brcko.

Being pressured by NATO strikes, economic sanctions and American diplomacy, Serbian President, Slobodan Milosevic on behalf of the military forces of Bosnian Serbs, signed the ceasefire agreement in Belgrade on 04 October 1995. The Chair of the BiH Presidency, Alija Izetbegovic signed the same agreement in Sarajevo on 05 October 1995, which in addition to cessation of hostilities meant the end of the siege of Sarajevo and the beginning of final preparations for peace negotiations. Richard Holbrooke and his team carefully

prepared all crucial aspects of the negotiations, from location and arrangement of accommodation of the delegations to organisation of regular visits and phone calls by American and other Western officials who exerted continuous diplomatic pressure on the delegations of BiH, Croatia and Serbia.

The negotiations, held at the Wright-Patterson Air Force Base outside Dayton, Ohio, were officially opened on 01 November 1995. Faced with numerous crises caused by divergent positions and tensions both within and among the three delegations, the negotiations were on the verge of failure. Holbrooke and his team were already considering ending the negotiations when a compromise for the most problematic issue was reached – the final division of the territory according to which Bosnian Serbs received 49%, Bosniaks 30% and Bosnian Croats 21% of the territory of BiH. The Peace Agreement was initialled in Dayton on 21 November and officially signed in Paris on 14 December 1995.¹

In addition, one of the key issues was the control of the corridor outside Brcko, which in accordance with the agreement was

1 The Dayton Agreement comprises 12 annexes: Annex 1-A: Military Aspects of the Peace Settlement; Annex 1-B: Agreement on Regional Stabilization; Annex 2: Agreement on Inter-Entity Boundary Line, Annex 3: Agreement on Elections; Annex 4: Constitution of Bosnia and Herzegovina; Annex 5: Agreement on Arbitration; Annex 6: Agreement on Human Rights; Annex 7: Agreement on Refugees and Displaced Persons; Annex 8: Agreement on Commission to Preserve National Monuments; Annex 9: Agreement on Establishment of Bosnia and Herzegovina Public Corporations; Annex 10: Agreement on Civilian Implementation; and Annex 11: Agreement on International Police Force.

supposed to be resolved at a later stage through international arbitration. Many believe that this problem which had to be resolved outside the Dayton Agreement and which resulted in the establishment of Brčko District is one of the best examples of post-war reintegration.

Two decades after the Dayton Agreement was signed, there is an increasing divergence of opinion as to how much this document prevented² and how much it contributed to the problems that arose in later years.³ Some of the foreign officials who were involved in the preparation and/or implementation of the Dayton Agreement emphasise that this document was a compromise which did not satisfy any of the parties involved.⁴ However, the roots of the subsequent derogation of the Dayton Agreement can be found in the very essence of such a solution. Namely, the compromise included mechanisms that would protect Croats and Serbs in BiH from being overruled by a Bosniak majority, but a part of those mechanisms, particularly those pertaining to Bosnian Croats, were removed over time. On the other hand, Bosniaks were given mechanisms and

2 “The main objective of the Dayton Accord was to end the war. Looking at things from this perspective, it is easy to find mistakes, but in the course of the process of its implementation we did what the circumstances at the local and international scene permitted at that time”, says a high-ranking American diplomat.

3 “The Dayton Accord ended the war, which is excellent, but it also created conditions for all the problems we are facing today”, says a BiH official.

4 “Bosniaks wanted a state and they got it. Serbs wanted a republic and they got it. Croats wanted cantons and they got them”, says one of them.

guarantees that should have provided for return of refugees which would restore the multi-ethnic character of BiH. In spite of the fact that the return of refugees was theoretically and legally possible, it has not been entirely implemented due to unresolved security, political and economic issues and due to the indolence of politicians. A large number of refugees and displaced persons stayed in their new residences either in BiH or abroad. Today, it is considered that the process of the return of refugees is completed and that some of those persons may return to their pre-war homes when they retire but that their children and grandchildren are lost for BiH forever.⁵

From the beginning of negotiations to the first years of implementation of the Dayton Agreement, international officials were clear that Dayton's BiH is a legal successor to the Republic of Bosnia and Herzegovina and that Republika Srpska and Herzeg-Bosna are considered "rebel movements", which - as de facto entities - had to be involved, but could not have been recognised as states by the international community. Therefore, Holbrooke and his team insisted that the delegations of Bosnian Serbs and Croats were represented by the Presidents of Serbia and Croatia in the negotiations. Twenty years later, these provisions are used as the first line of defence of Bosnia and Herzegovina from the frequent threats of separation of Republika Srpska coming from the RS President Milorad Dodik. The

5 "Return of refugees was in the focus of Dayton when it was designed. Had the return been really implemented and people returned to their homes, RS would have been a different environment. That was the main premise of Dayton, which unfortunately was not realised. We cannot blame Serbs only, Croat and Bosniak leaders also share the responsibility", claims an international official.

legal fact that today's BiH was not created by unification of two states but through the change of the internal structure of the Republic of BiH represents the basis for legal protection of BiH from unilateral attempts aimed at changing its structure or borders. However, over the period of twenty years of implementation of the Dayton Agreement, both this document and its implementation mechanisms changed to such a degree that they again enabled unilateral threats to the existence of BiH.

The Evolution of the Dayton Accord – April in Butmir at Sejdić and Finci's

All the weaknesses and ambiguities of the Dayton Agreement surfaced already in the first months of its implementation. The first big turn in implementation of the military aspects of the agreement was a change in the mandate of the NATO Peace Corps in BiH in mid-1997, when the Stabilisation Forces, SFOR, started actively searching for and arresting persons indicted for war crimes by the International Tribunal for War Crimes in the former Yugoslavia in the Hague. Arresting war crime suspects helped, to a great degree, to remove some of the most radical officials from the political, military and police structures. However, even two years later no significant results were achieved in terms of the civilian aspects of implementation, and the international community decided to accelerate the progress. At the conference in Bonn, Germany in December 1997, the Peace Implementation Council, which supervises the work of the High Representative for Bosnia and Herzegovina, decided to accept a wider interpretation of the Dayton Agreement giving the High Representative powers to impose decisions in the situations when local leaders cannot reach an agreement, but also to sanction and if necessary to remove from position those officials who block implementation of the Agreement.

Only six days later, on 16 December 1997, the High Representative Carlos Westendorp used these powers for the first time to impose a strongly contested Law on Citizenship of BiH. This was only the first in a series of decisions that followed. On 04 March 1998, the first removal of a local official was done when the mayor of Stolac, Pero Raguž was removed from office. These and many other decisions meant a new phase in the evolution of the Dayton Agreement and engagement of the international community in BiH.

Although the international community frequently blamed leaders in BiH for selective implementation of the Dayton Agreement, it did the same. Some of the provisions of the Agreement that were neglected by the international community as it considered them to be less important, now 15-20 years later have serious negative consequences for BiH.

Looking from today's perspective, one of the key oversights was the failure of the international community to ensure that the Dayton Agreement be officially adopted by the state and entity parliaments in BiH.⁶ Failing to do that, BiH is stranded with the so-called octroyed constitution, which, 20 years later, is used by the President of RS, Milorad Dodik, as one of the legal bases for negation of the existing legal framework in BiH. Negating the historic continuity of BiH, Dodik claims that Bosnian Serbs have the right to separate from BiH in a referendum. On the other side, referring to the historic continuity of BiH, some of

6 "Neither entity nor state parliament adopted the Dayton Constitution. From today's perspective, it is something we should have done, but at the time we had other, more important priorities", claims an international official.

the Bosniak leaders claim that putting an end to the Dayton Agreement would mean a return to the legal system of the Republic of BiH.

In a similar manner, the Office of the High Representative refrained from implementation of a larger part of Annex 9, Agreement on Establishment of Bosnia and Herzegovina Public Corporations, which was considered to be far too demanding and would not yield sufficient benefit. Due to their income, ability to initiate projects, large number of employees and overall influence on the local community, public enterprises over the last 20 years have become one of the main mechanisms in the division of the country and keeping the corrupted governments in power.

On the other hand, the determination and engagement of the international community has contributed to the evolution of the original Dayton which, for a brief period of time, significantly improved the functioning of governments at all administrative levels, something which was achieved both through the activities of the governments and parliaments in BiH and through imposed solutions by the High Representative. A wide range of reforms were initiated that considerably changed both the Dayton Agreement and BiH itself. Both entities agreed to abolish entity armies and secret services and established joint armed forces and several security agencies. The Council of Ministers of BiH grew from two to nine ministries. In addition to the common currency, BiH introduced a common VAT system. One of the most significant changes of the Dayton Agreement took place in April 2002 when the High Representative imposed amendments to the entity constitutions introducing the term “constituent peoples”. Aimed to

equalise the rights of all three ethnic groups over the entire territory of BiH, this decision had far-reaching consequences for the Federation of BiH and the entire country, as it removed one of the mechanisms for protection of Croat political interests in the Constitution of the Federation of Bosnia and Herzegovina.

Up until 2003, very few people believed that BiH was capable of moving forward on its own. Therefore, the Office of High Representative launched a resolute action to reform and centralise police forces. This initiative, which divided the international community, was unanimously rejected by both the government and the opposition in Republika Srpska. Simultaneously, the American administration, which since its signing was the main guarantor of the implementation of the Dayton Agreement, was looking for an “exit strategy” from BiH in order to be able to dedicate itself to the growing crises in the Middle East and Afghanistan. The basis of such a strategy should have been reforms of the BiH Constitution initiated by the US in 2004.⁷

The so-called “April package”⁸ of the constitutional reforms, although disputed over its purposefulness, was at the time generally

7 “After the failure of the processes of return of refugees and police reform, emphasis was placed on constitutional reforms in order to change the state of affairs through larger measures. However, by criticizing the Dayton Constitution, we gave the local leaders room to question the substance of Dayton”, says an international official.

8 The April package included the reforms whereby the tripartite Presidency should have been replaced by an indirectly elected president with limited powers, with a larger part of the executive functions being transferred to the state prime minister. The House of Peoples would have been abolished and

accepted by the majority of the ruling parties and the public in BiH. However, in April 2006, it was rejected by two votes of representatives of two minor parties which used it for their promotion before the general election in October the same year. The April package was a unique and possibly for a long time the last opportunity to upgrade the Dayton Agreement by the ruling political elites.

After its failure, the so-called “Butmir package”⁹ of constitutional reforms in October 2009 and negotiations on constitutional reforms in 2012 concerning the Sejdić-Finci¹⁰ judgement showed that the

its functions transferred to the House of Representatives. These proposals, observed from the perspective of the situation in BiH in mid-2015 seem hardly attainable, while in 2006, many political parties thought of them as only cosmetic changes, which only indicates the degree of deterioration of the institutions and mechanisms in BiH in this period.

- 9 The US and EU offered a revised version of the “April package” through a series of high-level meetings with the leaders of political parties in October 2009. These amendments, known as the “Butmir package”, named after the Sarajevo airport where the meetings were held, were based on the solutions from the “April package”, taking into account subsequent comments by the Venice Commission of the Council of Europe. However, from the very beginning of the negotiations, it was clear that the political situation in BiH had deteriorated to such a degree compared to 2006 and that the positions and requests of the majority of political parties had radicalised so much that there was no readiness to achieve this kind of compromise. It was also obvious that a section of the text of the proposal was drafted in haste and some of the solutions were not sufficiently elaborated. This contributed to the failure of this proposal which never even entered the parliamentary procedure.
- 10 Sejdić and Finci v. Bosnia and Herzegovina is a court case before the European Court of Human Rights tried in the period from 2006 to 2009 based on two separate applications by Dervo Sejdić and Jakob Finci versus Bosnia and Herzegovina who, as members of minority communities, were not able to stand

political positions are even further apart and that there is not the slightest chance that agreement on further constitutional reforms would be achieved. Following the elections in 2006, the discourse and political positions in all of BiH were further radicalised. Milorad Dodik and Haris Silajdžić, the two political opponents at the time, pursued strong nationalist positions in their electoral campaigns, which soon spread to a large part of the political scene.

In spite of the failure of the “April package” and radicalisation of the political situation in BiH, in 2006, the American administration transferred the main responsibility for implementation of the peace agreement in BiH to the EU, which almost overnight “promoted” BiH from a country of frozen conflict and deep structural changes into a prospective candidate for EU membership. The then High Representative for BiH, Christian Schwarz-Schilling came to BiH with the mandate to declare the Dayton Agreement implemented and to close the Office of the High Representative.

Concerned by the continuous radicalisation of Milorad Dodik, in the end of 2006, Schwarz-Schilling proposed a set of sanctions

for election to the Presidency of Bosnia and Herzegovina and House of Peoples of Bosnia and Herzegovina. The Court, on 22 December 2009, delivered a judgement in favour of Sejdić and Finci, ordering BiH institutions to amend discriminatory provisions in the BiH Constitution. The EU used this judgement to exert new pressure on BiH leaders requesting adequate constitutional reforms. Negotiations with regard to this matter were held for over a year in 2012 and 2013. However, it was clear from the very beginning that the leaders of the ruling political parties only stalled the process and that there was not any willingness whatsoever to achieve compromise.

against Dodik and his political party and submitted it to the Peace Implementation Council for consideration. Several days later, American diplomats informed Schwarz-Schilling that they would not support the proposed sanctions, as Kosovo was expected to soon declare its independence and the US did not want to deal with two crises in the Balkans at the same time. Ever since 2008, European officials have been trying to resolve the deepening crisis in BiH through the technical process of EU accession. However, even the latest initiative by British and German diplomats in the second half of 2014 has failed so far to stop the continuous derogation of Dayton and to return BiH leaders to the course of reforms and potential EU membership.

Indolence of the international community encouraged not only Dodik but also some other BiH politicians who started radicalising their positions. Some of the political leaders of Bosnian Croats, for the first time after a determined action of the international community against the attempt to re-establish Herzeg-Bosna in 2001, promoted this initiative in the campaign for the general election in 2010. Subsequently, this idea attracted increasing support by certain political milieus in neighbouring Croatia, even after Croatia became the 28th EU member in July 2013. Such radicalised positions of the leaders of Bosnian Croats were the last straw for the EU officials who unsuccessfully tried in 2012/2013 to negotiate reforms concerning the Sejdić-Finci case.¹¹

11 In the course of almost a year of negotiations, European requests pertaining to BiH Constitution reforms were reduced to a request for the simplest possible solution for the election of Presidency members and number of MPs in the House of Peoples. Not even a complete trivialisation of this reform led to

On the other hand, the constant radicalisation of Dodik's positions in 2011 resulted in his initiative to hold a referendum to question the authority of the High Representative and BiH Court and Office of the Prosecutor. This time, the current High Representative in BiH, Valentin Inzko, had the approval of the US and European administrations for a set of sanctions against Dodik. This was expected and Dodik had counter-measures, which included the withdrawal of all representatives of RS from BiH joint institutions. Open political conflict between Dodik and the international community was prevented at the last moment when the High Representative of the EU for Foreign Affairs and Security Policy, Catherine Ashton came to BiH and agreed a compromise with Dodik – putting the referendum initiative on hold and initiating the so-called Structured Dialogue on Judiciary Reform in BiH.

Escalation of the crisis in BiH continued over the next four years in spite of EU efforts to stop it and guide local leaders toward the economic and social reforms which would enable BiH to continue the process of European integration. In July 2015, Dodik officially

compromise. The main reason is that this issue was almost entirely “kidnapped” by Bosnian Croat leaders who tried to use this reform for the establishment of a separate Croat entity within BiH. In the end, European and US diplomats jointly prepared a new solution based on the American presidency elections though electoral votes, which was designed to accommodate Croats as it basically guaranteed election of the representative of the Croat Democratic Party (HDZ) in the Presidency. This solution was accepted by the representatives of Bosniaks and Bosnian Serbs, but it was rejected without any further consideration by the president of HDZ, Dragan Čović, which in practice meant the end of this European Initiative. The EU never officially said that the HDZ was the only political party that rejected the offered solution.

submitted a proposal to the RS National Assembly to re-launch the referendum initiative so that the referendum could take place in September. This proposal was accepted by the RS National Assembly. Bosniaks submitted a motion for the protection of vital national interests, and it will be decided by the Constitutional Court of RS and if necessary the BiH Constitutional Court.¹²

12 “We permitted Dodik to create an alternative Dayton Agreement because we expected the international community would succeed in the adoption of a new constitution. Today, that alternative Dayton exists, while the constitutional reform was abandoned”, says one international official.

Dayton(s) Today – Three in One

After all these numerous steps forward and back, it seems that Dayton has returned to its beginnings.¹³ In the absence of an authoritative international arbitrator, all local actors have again established their own rules of the game insisting on those aspects of the Dayton Agreement which suit them and ignoring all others. Each of the opposing sides stands by its radical positions, referring to their Dayton agreements. Milorad Dodik today accepts only the original Dayton from December 1995, which does not stipulate authorities of the High Representative, but he may soon question that too. Leaders of Bosnian Croats want at any cost to return to the situation from the period prior to 2002, when the amendments to the entity constitutions were imposed. Bosniak leadership still dreams of a centralised country with a voting system based on the principle “one man one vote”, which they think that the international community promised them a long time ago. The High Representative, who has interpreted Dayton ambiguities and shortcomings for years and guarantees the implementation of this

13 None of the international officials, including senior staff of the Office of the High Representative, was able to assess the current level of implementation of the Dayton Agreement, either as a percentage or in any other way. They all agree that some elements of this document have been neglected over the past 20 years but also that in some other segments, the Dayton Agreement has significantly departed from the initial concepts. Nevertheless, this progress was stopped and these aspects went backwards almost to the starting positions. Therefore many are of the opinion that the Dayton Agreement, without stronger engagement of the international community, is blocked or ruined.

Agreement, still claims that only the High Representative can judge which Dayton is the real one and which is not, but it seems that he has lost much of his influence.

Although the criticism by international officials is most frequently focused on radicalisation of the authorities in RS, other ruling structures on other administrative levels are not free of blame either.¹⁴ One of the indicators proving this fact is the list of a total of 80 violations of the BiH Constitutional Court Judgements in the period from 2005-2013, indicating that these judgements were violated by the institutions at the state level, in both entities and at the cantonal and municipal level.

The Office of the High Representative can, to a certain degree, be blamed for this situation, as over the past twenty years it often experimented or undertook activities without any quality control and played various games with local actors. In addition, responsibility can be sought in the rest of the international community which created today's BiH as it is, with all its ambiguities and contradictions and left it forgetting all the painful and expensive lessons it learned after the fall of Yugoslavia. However, the largest responsibility lies in the BiH society itself, which being divided, impoverished and irresponsible cannot find an exit from this Dayton labyrinth and keeps going around in circles inflicting ever more damage to itself.

14 "We are witnessing rather concerning trends, strengthening of the influence of radical Islam among Bosniak leaders, rebirth of the idea of establishment of a third entity among Croat politicians and further radicalisation concerning the separation of Republika Srpska", says one foreign diplomat.

New Approach

The complexity of the crisis in BiH, particularly in the context of the worsening regional and global situation, implies that there are no simple solutions to this situation. A part of the international community and local actors have so far focused on the shortcomings of the BiH Constitution and numerous requests for its reform, neglecting the historical context of the Dayton Agreement and the fact that its deterioration is not so much the result of its shortcomings but of a conscious decision of the international community to reject its own responsibility for implementation of this agreement, although it was its main element. Numerous attempts to pursue constitutional reforms over the past several years have clearly shown that there is not even a minimum of political willingness to do it and that there is not even one generally acceptable common vision of the future of BiH, which is quintessential for any substantial constitutional reform. There is no doubt that there is a need for a serious reform of the BiH Constitution, but in the current situation, any further criticism of the Constitution can only strengthen radical ideas claiming that this BiH is not sustainable and that it has to fall apart and be divided.

On the one hand, it is clear that the successful implementation of the Dayton Agreement depends on the active engagement of the international community and that the local society has never been ready to entirely take over the autonomous governance of the state. Further insisting on a total ownership of the processes, in a situation

where all three ethnic-political blocks play by different rules and have different visions of the country's past, present and future, threatens to further lead to destabilisation or even a break-up of the country, which would almost certainly result in new ethnic conflicts. This leads to the conclusion that, without stronger and more concrete international engagement, it cannot be expected that the further escalation of the crisis will be stopped or that there will be a gradual stabilisation of the situation in BiH.

On the other hand, it is obvious that any active engagement of the international community not accompanied by genuine involvement of the local actors could cause new complications and problems, while earlier problems would be only resolved temporarily, i.e. while the international community is willing to guarantee the functioning of the local institutions with its authority. The authority of the international community in BiH has been significantly diminished over the past nine years, and it is improbable it will be entirely regained without significant strengthening of military, security, diplomatic and financial resources, which is unlikely to happen considering that the world powers are engaged in much larger global crises.

In conclusion, although strengthened engagement of the international community in BiH is necessary, this should not and cannot mean a return to imposed solutions and dismissed local officials by Western diplomats. Instead, the international community should pursue a different approach combining the best aspects from both the active and passive period of international engagement. Instead of short-term and short-lived tactical solutions, this would require a

strategic and long-term approach, based on local ownership of reforms and focused, at the beginning, on strengthening of economic and social bases in BiH. However, it would also have to include long-term mechanisms for the protection of the Dayton Agreement by the international community until the BiH society is mature enough and ready to choose its own unique road to exit this labyrinth.

CHAPTER ONE

THE CONSTITUTIONAL AND POLITICAL LEGACY OF THE DAYTON AGREEMENT



STUDY OF RETURN OF THE STATE

Nerzuk Ćurak

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: Who stole the state from the Agreement?

This essay, like a cinematic flashback, takes us back into the past in one short sequence in order to clarify the zero-point of “disappearance” of the state from the peace agreement in Bosnia and Herzegovina and relate it to today’s context of the utter absence of the state from social and political reality. Nerzuk Ćurak, PhD, a professor at the Faculty of Political Science in Sarajevo, uses that silver thread to point out the wrong premises of different political approaches which are now trying to right a wrong by endeavoring to “bring the state back” into the Dayton Agreement by the use of force. He rather, and rightfully so, focuses on the importance of returning the state to Bosnians and Herzegovinians, Bosniaks, Serbs, Croats, and ‘others’, as well as to entities, cantons and municipalities. Dr. Ćurak clearly identifies how the pragmatic mind of the negotiation process has temporarily pushed the state into the background, which ethnic elites, encouraged by new constellations, obviously misunderstood for a convenient chance to completely remove the state – abolish, terminate or euthanize it, or on the other hand to force it and establish it as a platform for incinerating entities... Both sides are wrong! This essay, 20 years after the signing of the Dayton Peace Agreement, proposes the return of the state to Bosnia and Herzegovina, not through the rule of people, but with the assistance of the rule of law. Constitutional patriotism is also seen in this essay as an acceptable model which can be strengthened by the EU with its soft power of transition and the integration process. May we be helped to reach the unavoidable moment of general conclusion - we all are Bosnia and Herzegovina! Everything else, as the author points out, is in between!

Genesis of the Dayton equidistance

The Dayton Agreement stopped organized violence in Bosnia and Herzegovina. That is the most important attribution of this contradictory international treaty. Heralding peace, the said Agreement, on that already distant November 21, 1995, rose above all the previous attempts of the international community to forestall or rather to end the war. Cutileiro's mediation, the Vance-Owen plan, the Owen-Stoltenberg plan, the Washington Agreement and the Contact Group plan did not bring peace to Bosnia and Herzegovina, on the contrary they only inspired new cycles of violence. The cause of this utter failure of the peace mediators was more than evident. The United States of America approached the Bosnian-Herzegovinian issue in an irresponsible and conformist way, adapting their own diplomatic standards to those of others.

It was only when they took the leading role in the Bosnian crisis, subordinating other Balkan policies to their own and rationalizing the power and importance of London, Paris, Berlin and Moscow in the Bosnian conflict, that mediation in peace negotiations between the warring parties took a more serious turn and was transformed from an irresponsible international promenade into a serious and responsible US foreign policy instrument.

With a series of diplomatic maneuvers, skillfully using the carrot and stick (reward and punishment) negotiation technique,

Washington brought the war lords to the negotiating table, convincing its allies that the United States can and will end the war in Bosnia and Herzegovina with the responsible assistance of the international community. Where the sluggish European diplomacy failed, the aggressive foreign policy of the planet's leading power at the time succeeded. The peace agreement for Bosnia and Herzegovina was a great foreign policy success of the Clinton administration wherewith the White House humiliated other players in international politics, convincing them that the United States was the only contemporary world power which wields global strength.

That this was so was confirmed by Milošević, Tuđman and Izetbegović, the war leaders of the countries in conflict, who, even though reluctantly, ambivalently and with mixed feelings of triumph and defeat, were forced to sign their names onto the Dayton documents. Upon that certification of the treaty, the architect of the Dayton Peace Agreement, Clinton's envoy for special diplomatic operations, Richard Holbrooke could proudly ask the President of the USA to announce the end of the war in Bosnia and Herzegovina and the beginning of a long post conflict reconstruction of the country, for whose long-term survival in history the world's leading superpower was ready to pledge its supremacist authority.

Twenty years after, thanks to that authority among other things, Bosnia and Herzegovina has not slipped out of history, even though its internal design derived from the Dayton Agreement has allowed for the generation of narratives which compete in the irrational ambition to permanently prevent one authentic country from existing.

Nevertheless, in spite of the overwhelming intensity of political, intelligence and intellectual denial of Bosnia and Herzegovina by the Serbian, Croatian and Bosniak political elites, Bosnia and Herzegovina has survived thanks to the Dayton Agreement, even though the Constitution from the Agreement has given life to the generation of the idea that the country will not survive.

This primarily refers to the irritating handicap of the Constitution annexed to the Dayton Agreement, reflected in continuous possibilities of different interpretations thereof, without any wish of the participants in the process to raise the different interpretations to a higher level of consensual awareness of state-building. Rather accentuated casualness in interpretation of the Constitution is a consequence of the American pragmatic approach, which counted on the state to be built under continued US pressure, which should have, regardless of loose constitutional norms, resulted in strengthening of the state; why it did not we shall read in the arguments below.

Unfortunately, altered geopolitical circumstances, particularly after September 11, 2001 and the terrorist attack against the USA, have reduced American interest in Bosnia and Herzegovina, consequently the process of “stealing the state” from the Agreement could start without any hindrance within Dayton’s dual architecture, which includes perverting the entities into quasi states and their radical “statization” with the clear objective of the privileged ethnic elites to make duality of the state the final, permanent and undeniable maximum of statehood in Bosnia and Herzegovina. That would not be a problem if the objective of such political reasoning were

the building of a state (because a state can be constituted as a horizontal, and not just a vertical plane, if building a lawful community is the real objective), rather than its prevention, which causes the citizens of Bosnia and Herzegovina to suffer enormous damage, as they are left at the mercy of the egotism of political leaders whose nineteenth-century understanding of the state prevents people in Bosnia and Herzegovina from having a state at their service, a professional mediator with life.

Affirmation, emancipation, reformation

It was the process of de-Americanization of the American Bosnia and Herzegovina which, by reducing the very significant power of Washington, has given strength to secessionist and unitarist ideas of ownership of Bosnia and Herzegovina, and the clash of those two ideas has sent the state itself into limbo, a bayou in which it is impossible to accomplish anything important which shall not be annulled by the ghastly work of the entities on the destruction of their own state. It is the paradox of paradoxes. Although the contemporary Bosnia and Herzegovina is a radical expression of the power of the entities, which is to say the institutional normativity of Bosnia and Herzegovina is represented at the state level as the will of the entities, in actual political activities that same state is being destroyed by the same people who created it as it is. It is tragic that the state which is an expression of the will of the entities is interpreted, in the ethnic key, as a non-entity state, as a state on its own, as a third virtual entity in which actual entities are not represented at all. Such a political approach, which, unfortunately, went unopposed even by those whose mandate was to save the Dayton state (OHR), generated a political activity practice which enabled entities to steal the state for themselves believing that the Dayton Bosnia and Herzegovina as such is a state owned by the entities, and not a service for citizens. According to the Habermas version of constitutional patriotism, such a state should instead constitute a reasonable political community devoid of ethnic and entity purposes since such purposes have

already been honored by the institutional design of the state which favors ethnic and entity division.

However, in the Bosnian-Herzegovinian political galimatias, it is important to note, in reference to outside players which have influence on the state-building, that the USA, using multilateral instruments of international action, has managed during their twenty-year engagement in Bosnia and Herzegovina to disseminate their will for the survival and building of a minimalist state (but still a state) in Bosnia and Herzegovina, therefore it is noticeable today that the whole westernized international community (not just the USA), as the hegemon of the Agreement, has stood, with its entire threatening, soft and clever power, behind Bosnia and Herzegovina as a state which has to find the strength to emancipate itself and arise from the mud of understanding the Dayton Agreement as a negation of the state into the attitude which sees Dayton as a possible point of affirmation of building a self-sustainable political community.

A tendency which is noticeable in the year marking the twenty-year status of new Bosnia and Herzegovina, sponsored by, for Bosnia and Herzegovina, the most important international players (EU and USA), is the nth attempt to build a state in Bosnia and Herzegovina through synchronized strategies of strengthening the stability, market liberalization, institutional reforms and further development of civil society with a background idea of developing a process in which it will not be impossible to transform the political design of the state through consensus of all relevant players because it will be demanded not only by the majority of citizens wanting to join

the trans-Atlantic community of states, but because the institutional transformation will be demanded by life itself, which will, with the support of development of the democratic political culture, provoke the overcoming of artificial and irrational institutional arrangements.

This aforementioned opinion, which counts on an absolutely certain Euro-Atlantic future of Bosnia and Herzegovina, is not a result of my subjectivist belief that it shall be so, but it is rather an expression of objectified subjectivity on which future studies are based as a discipline which researches the future through the questions of future developments in the fields of politics, society, economics, technology, culture, ecology and population. Anticipation of the future political, political-geographic, economic and social model of Bosnia and Herzegovina is generated from understanding of the model of the future, as well as from the awareness that without incorporation of the activation and reform principle into the structure of the Dayton state, the Dayton state has no future, but only a bad past which constantly repeats itself. It is because of this that this initial visit to the future should be understood as a request to the opinion makers to create descriptions of the future society in Bosnia and Herzegovina, and the state in which that society will exist, with the aim of improving political and social planning and decision making.

Incorporation of the principle of the future into our present, *de facto*, brings the state back into the Agreement, together with the following question: to what extent is it possible, in the existing limiting conditions of affirmation of the Dayton-created Bosnia and Herzegovina as a genuine state capable of making decisions, to take

advantage of the potentials existing within the Agreement itself and to bring the state back into the Agreement following the idea that division into two entities is only a form of internal organization of the state, and not a negation of the state, in other words, that the entity-divided Bosnia and Herzegovina is an introduction into the future of the state, and not an introduction into the negation thereof. Therefore, let us try to offer arguments which bring the state back into the Agreement.

The integrating formula: we, ourselves (cantons, entities, ethnic groups, citizens) are Bosnia and Herzegovina

The (post)Dayton state “celebrates” this year (2015) its first twenty years. One of the key issues raised to the thinking people in the country, region, Europe, and the world, is – have those years been eaten by locusts, i.e. are those simply years in which the state has been eaten away, powerless before the power of the internal quasi-state subjects? In order to offer a part of the answer to this question, it is important to discern the constitutional place in terms of terminology which blocks the genuine building of the state. That is, are we setting up a difference between the Dayton and the post-Dayton Bosnia and Herzegovina. This is not a rhetorical question, or just a rhetorical question. The answer to this difference, if it exists, and we shall try to prove that it does, provides the nature of a new Bosnian-Herzegovinian paradigm.

What, actually, is the point of the dilemma being raised?

In terms of appearance, in everyday speech, political and journalistic discourse, there are no important distinctions between the Dayton and the post-Dayton definition of any form of reality in the recent Bosnia and Herzegovina. The Dayton reality was shaped by the geopolitics of the war, while the post-Dayton reality was shaped

by the geopolitics of the peace process. The Dayton model of understating Bosnia and Herzegovina was an out-of-war model, derived from the war, as seen from the perspective of war, conditioned by the outcome of the war, and it precedes the post-war model, as seen from the perspective of the upcoming peace process. The postwar (post-Dayton) model, unlimited by any duration period, has gradually freed itself from the war as its original cause, the out-of-war model is defined by the war, trapped in its final outcome. This difference in terms of terminology and concepts is attempting to interest all the participants in the political games in Bosnia and Herzegovina to adopt a win-win understanding of the politics, so that the post-Dayton narrative could become one of integration, and not of disintegration, and so that ruling political structures could finally produce one particular consensus which reconciles the idea of the post-Dayton Bosnia and Herzegovina as a more permanent category with the idea of building a genuine state. That, in its most general sense, is a guideline for the Peace Agreement, or more importantly for the Constitution created by the said agreement, to embrace Bosnia and Herzegovina as a state, and not as an empty concept under the auspices of the entities.

Operationalization of such an attitude would include new readings of the international engagement, with recommendations for that engagement to be radically passivized and passively radicalized. Radical passivation would include a long-term moratorium on changing the structure of the post-Dayton state, which strengthens the political players resisting centralization and unitarization. At the same time, the international community opens the process of

passive radicalization, i.e. it creates conditions within the existing post-Dayton framework of a long-term general political immobility to accelerate the processes which will turn the post-Dayton structure into a state which goes beyond its definition of being a simple mechanical sum of two entities. That is just the win-win strategy we need, as it was formulated by one of the leading theorists of strategy, Andre Beaufre, the spark of genius and that step was often taken. However, genius is most often only long patience. Divine or not, strategy must be accessible to thinking, reasoning... I believe that the essence of the strategy is in an abstract game, which relies on slowness, common sense and cunning mind in order to find a *modus vivendi* for building the state.

Metaphorically and symbolically, if we translate this request into the logic of building social trust as the most important element of the missing cohesive social capital, that would mean that when citizens living in the Republika Srpska say 'state', they do not talk about the entity, but about the state, and when citizens living in the Federation of Bosnia and Herzegovina say 'state', they do not talk about the state without any, or with three, entities, but about the state which is, which by its mere existence makes us recognize and acknowledge it as Comrade Lenin used to say. And to continue in the spirit of Lenin, what to do, then, how to make one step forward without making it two steps backward?

Detecting the causes of why the state has been drawn out of the Peace Agreement can help. The first level of detection includes realization that the state, as we already noted above, has been "stolen"

by the American pragmatic mind, convinced that a political community can be built on any platform of peace, if such building is stimulated by Washington with its comprehensive authority. In its initial sense that is true, if the said authority, regardless of different geopolitical changes and circumstances, remains loyal to its original intent, which is a long-term support of state-building using the strategies of selective multilateralism, pragmatic internationalism and bilateral alliance with Bosnia and Herzegovina. However, altered geopolitical circumstances have diminished the interest of the US in Bosnia and Herzegovina to the level of security management, actually up until the previous year, so the state-building collapsed. In the place where the security dilemma is stronger than the development one – the state, *de facto*, suffers the consequences of its trapped status, i.e. the form of existence of the state in the Peace Agreement is such that we talk about the absence of the state through its presence and the presence of the state through its absence. For example, let us take a look at the Armed Forces of Bosnia and Herzegovina. They are a typical example of absence of the state through its presence. The Armed Forces do not reflect the particular presence of the state, but rather its absence, although they are a state organization *par excellence*. Unlike the Armed Forces, the police structures are atomized, we can almost talk about a sort of anarchic synthesis of hierarchical institutions in which the absence of state prevails, but the state is, unwillingly, present through its absence, which is particularly visible in emergency situations. Such a form of existence of the state makes the Peace Agreement, in interpretation, older than the political community itself, which is, on the one hand, a marginalized absurdity, and, on the other, a triumph of the American pragmatic mind which

spread out onto the international community, demanding from the domestic players that they build a state which does not tolerate restoration of pre-Dayton narratives, as they are a waste of time, and, at the same time, it still treats the post-Dayton narratives as a continuation of the long historic existence of Bosnia and Herzegovina and not as a zero-point of state-building.

Instructions for interpretation of state

The microanalysis above implies US loyalty to its most successful post-Cold War international project (there has been no renewal of violence which is the key criterion for evaluating success) but, having in mind the a priori irrelevancy of Bosnia and Herzegovina on the geopolitical map of the world, the US loyalty to Bosnia and Herzegovina as of 2001 has been more of a value (silent stimulation to building a state in which differences are not an obstacle to a common point of view), security and economic nature, and less of a forcing and imposing nature, which has slowed down the building of the post-Dayton Bosnia and Herzegovina as a community, running as a US propelled engine. However, it is an encouraging piece of news that the USA, even though they abandoned Bosnia and Herzegovina to the European Union, and to a somewhat lesser extent to Turkey and Russia, is once again present with a new energy of loyalty to state-building, which was emphatically expressed by the US Ambassador to Bosnia, Maureen E. Cormack, in her speech during her Independence Day reception on July 1 this year in Sarajevo: "We see here in Bosnia and Herzegovina how this journey, one that has defined America's history, is not ours alone. Madeline Albright said two decades ago here in Sarajevo, that Bosnians and Herzegovinians, and Americans, are peoples of two countries united, "by the conviction that all races, creeds, and ethnic origins can live together productively, freely, and in peace." Indeed, that is who we are at our best - peoples of two countries, made up of many, who

honor and cherish our history and diverse traditions but who refuse to be bound by them. Working together within a diverse society, declaring independence from the burdens of the past, ensuring that the words democracy and opportunity mean something for all citizens: these are difficult challenges. But in so many respects, they are our common challenges.” These indeed are encouraging words in which we can read a conviction that America shall not tire and give up on Bosnia and Herzegovina as a community of all its ethnicities and people, which in turn will encourage political players in the country to stop with their irrational secessionist politics, but also with irrational unitarist politics, which is, although less visible, still present in the political and cultural milieu of the country as an intellectual poison.

The second level of argumentation concerns the impotence of the state to turn to its advantage the most negative feature of the Dayton Agreement, and that is the already mentioned possibility of different interpretation of the Agreement and its Annexes, which in my mind is a colossal oversight which allows ethnic players constant repetition of pre-Dayton narratives as the Dayton ones. Consequently as the second subject of stealing the state from the Agreement, we have interpretations of its political and legal norms as well as interpreters who, through legislative, executive and judicial authority structures, together with education and media support, have generated the conviction about the Dayton Agreement that it is something which is not permanently binding.

This irritating simplification of the international treaty creates a state in which prevail lawlessness, false legalization of political

power, constant accusations among the political players with all of them being convinced that the law is on their side, etc. That is the crucial process which has resulted in the retreat of the state to the margins of the Peace Agreement and the Constitution. In order to stop this practice, the OHR, as the guardian of the state in the post-Dayton period, on the wings of the Western political power, should, using the foremost legal minds, offer authentic interpretation not only of individual provisions of the Agreement when they become an issue because of anti-Dayton activities of the political players, but also a comprehensive user manual for interpreting the Dayton Peace Agreement and its Constitution, which would create conditions for reduction of different interpretations of the Peace Agreement in the field of politics. For example, why doesn't the OHR offer a binding interpretation of the constitutional preamble on the continuity of the state and its holidays? Should the Dayton-created state celebrate the holidays of the previous Bosnia and Herzegovina up until the Dayton Bosnia and Herzegovina passes its own law on holidays? Those in favor of integration would say yes, those against would say no. The goal of this proposal is to send to the addresses of political subjects a request to implement the constitutional norm, regardless of what that norm looks like.

Consequently, this approach should encompass all the contents of the Dayton Accords in order to protect the structure of the state and to reduce different interpretations of the same legal norm to a minimum. This, in turn, would strengthen the post-Dayton state which would finally be protected by a clear legal interpretation, which would imply that within the development of the constitutional

political culture, conditions are being created for merciless positioning of the Constitutional Court of Bosnia and Herzegovina as the indisputable instance which can build a subsuming capacity for the instruments of action of the international community, or the Court itself could become the subsuming institution for the OHR.

The aforementioned possibility of different interpretations of the Constitution and the decisions of the Constitutional Court of Bosnia and Herzegovina is the important factor which prevents the institutions of the international community from withdrawing from the country, as the Constitutional Court is far from reaching that decision-making level of the OHR, which, even though it rarely imposes any decision, still has that power behind its status. This is the power which enables the OHR to create conditions for a single interpretation of the constitutional norms, which means that the OHR has the right to protect the Dayton Constitution, but not ad hoc, instead it should be done in advance and comprehensively, following the ideas of Maurice Joly who ascribes the following thought to Machiavelli: "And where have you ever seen that a constitution, truly worthy of the name, truly durable, has been the result of popular deliberations? A constitution must come fully formed from the head of a single person or it is merely a work condemned to nothingness. Without homogeneity, without the liaison of its parties, without practical force, it would necessarily carry the imprints of all the weaknesses of the views that presided over its drafting. Once again: a constitution can only be the work of a single person; never have things been done otherwise; I can call as witnesses all of the founders of empire... Solon, Lycurgus, Charlemagne, Frederic II, Peter the Great." If this

approach is missing from the OHR's actions, then the conditions have to be created for the Constitutional Court of Bosnia and Herzegovina to have such an approach (to be one single head) without any possibility of political relativization, ignorance, and the like.

The third level of argumentation concerns the European Union as the second segment of the pro-Western international community in Bosnia and Herzegovina with a key question: has the European takeover of the American project, without significant intervention in the project, even though the project itself (the Dayton Accords) defies the European political logic, set back the process of Europeanization of the Dayton-created Bosnia and Herzegovina? The perennial insistence of the EU on the normative-institutional-technical approach at the expense of building a politically stable state has degraded the position of the state, so much so that the broad democratic discussion on technical and normative aspects of Europeanization of the country has emerged as an opponent of the state.

I did not expect that analytic tools would lead me to a niche of paradoxes: through the EU's approach, democracy has been transformed into a resource against state-building. However, the geo-political circumstances of the contemporary world, although essentially negative, as they produce violence in different parts of the world, have influenced the change of the European paradigm towards Bosnia and Herzegovina, so that through new approaches such as the German initiative, the EU sends a message that the political criterion is becoming, 20 years after the Dayton Agreement, equally if not more important than the normative criterion, which will only serve

to strengthen the democratic potentials of Bosnia and Herzegovina as a state which, realizing that it is a state, and not that it is like a state expands its field for authentic manifestation of democracy.

However, as the sword of Damocles above all these opportunities which appear before this little Balkan fledgling, there stands a retrograde vector of anachronous, rotten, irresponsible, incompetent, parochial, corrupt, aristocratic quasi elites who perceive the chance of their existence and survival in blocking the development of a democratic political culture through organized ethnic deviation, with the aim of permanently reproducing irresponsible government which is on the other side of belonging to the belt of developed transatlantic democratic and working cultures. It is exactly because of the fact that the Dayton Peace Agreement and its constitution created the possibility of a strong destructive impact of the worst political structures on the constitutional norm, that we have to create conditions, about which I have tried to debate in this text, to replace the rule of people with the rule of law as an abstract impersonal principle, as that is the best way to prevent production of false, cronyist, familial, and quasi-aristocratic and I do not know what other reductionist states in which ethnic background will be the only competence important for social promotion. History is overflowing with graveyards of countries which were governed by the principle of the rule of people, but history is also full of the examples of countries which are among the most successful because they are governed by the rule of law.

Twenty years after constitution of the peace treaty for Bosnia and Herzegovina, I am an opti-pessimist. I build my optimism on

life signs which direct us incontrovertibly to the path of building the state which demonstrates its vitality even when all of its parameters are failing. That is enough for a smart person to build a community for themselves and others. I feel pessimistic because of inadequate decision makers who refuse to emancipate themselves and their voters, persuading them that the primal belonging to a tribe is more important than civic civility, freedom and justice.

Between those who have faith and those who do not there are agnostics. Between optimists and pessimists there are opti-pessimists. That is a rational choice 20 years after Dayton. In between.



FATE OF THE STATE IN THE CHARACTER OF THE PEOPLE

| Đorđe Vuković

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: How to Restore Trust in Democratic Institutions in Bosnia and Herzegovina?

Is the chronic instability of the Dayton political system in Bosnia and Herzegovina anchored in a major identification drama, wherein for two decades collective consciousnesses and their democratically elected political elites, instead of competing with one another to advance things for the public benefit, effectively engage in a merciless struggle to overthrow the existing Dayton order, so that each can build a “better one” for itself ? To what extent is this permanent crisis actually helping create a climate of general distrust towards other peoples, fellow citizens, the system itself, and politicians...? Perhaps the biggest problem is the latent dimension of the potential for conflict, present in the collective consciousnesses, political mentalities, and authoritarian attributes of the political culture. Of course, this happens elsewhere, but not always at the expense of the core democratization! There can be no core democratization in Bosnia and Herzegovina without a change in the political culture on both sides – not only among the politicians and government officials, but also in the non-governmental sector, in the media and among the citizens! Dr. Đorđe Vuković, assistant professor at the Faculty of Political Sciences in Banja Luka and a publicist, proposes a two-phase solution.

Emancipation of “Murderous Identities”

Two decades after the end of war, which does not cease to provoke various, almost insurmountable disputes over its causes and character, but manages to evoke shared consciousness of its being the most frightening and most tragic inter-nationality conflict in Europe since World War II, Bosnia and Herzegovina still seeks to achieve political stability, internal legitimacy, and balance and harmony between and among ethnic communities, and to build and strengthen civil society and democratic political culture.

Even though its political representatives repeatedly declare that social recovery and democratic prospect can only be achieved with strong support by major powers and membership in the European Union, Bosnia and Herzegovina is still burdened not only with galloping poverty, a devastated and ruined economy, and high levels of crime and corruption, but also with deep inter-ethnic antagonisms and distrust, utterly opposing interpretations of shared history, and even by controversial and mutually exclusive views regarding the model of internal organization and the constitutional framework based on the Dayton Peace Agreement. This agreement has put an end to the killings, but the conflicts have continued by other means, and are still ongoing, with changes in their intensity and dynamics. They are manifested in each political and social crisis, during electoral campaigns, in political debates, in media reports on current social issues and processes, and so on. Holidays, symbols,

and public ceremonies that heighten matters of state, regional, or religious importance habitually become pretexts for the flaring up of conflicts between nationalities. The latent dimension of the potential for conflict is embedded in the collective consciousnesses, political mentalities, authoritative character of the political culture, formal and informal modalities of socialization, widespread and ossified prejudices and stereotypes, and even in the nature of national identities as articulated at present and their inter-connectedness. Imperfections of the Dayton Agreement, constitutional ambiguities, voids and contradictions, and, above all, a distinctly low level, if not complete absence of the potential for democracy, not only on the part of the political elites, but also in large segments of the population, render Bosnia and Herzegovina fertile for inter-ethnic intolerance, verbal and physical violence, and continuing political instability. For twenty years, this potential for conflict has greatly benefited the political elites, who perpetuate, supercharge and manipulate it in order to rotate and/or stay in power, while the peoples and citizens alike sink into ever deeper agony and despair. Scientific, intellectual, and cultural communities not only fail to scrutinize the underlying causes of this situation and warn of their disruptive and devastating consequences, but also significantly contribute to the deepening and flaring up of intra-national and especially of inter-ethnic conflicts.

The question now arises as to how to change this situation and overcome the conflicts; how to build and strengthen democratic institutions and procedures while simultaneously achieving an appropriate degree of political unity and cohesion, which would ensure stable and prosperous life to the citizens and peoples in Bosnia and

Herzegovina, and, ultimately, their accession to the great community of the European nations. While many seek answers to these and similar questions in exhausting, often futile discussions of the daily politics on unconditional abolition or uncritical carving of the Dayton Agreement in stone, it is quite clear that core solutions are in the so-called software content, first of all, in a creative and responsible endeavor to make mutual relations civilized and cultivated and to take traditional collective identities as unavoidable and undeniable social facts, that get modernized and merged into a single, or, better yet, shared Bosnian-Herzegovinian political and cultural standard, which would be embraced as a superstructure over particular self-interpretations and self-identifications of national communities and would be based on mutual recognition, respect, and affirmation. A shared identity of Bosnia and Herzegovina does not exist, and its citizens and peoples are facing a dilemma of whether they want and are able to build it, in the time to come and with the existing level of political culture and the current ethnic-national and religious identifiers. The surviving identities are burdened by tragic historical experiences, distorted and neglected cultural modalities, ideological compromises, and challenges of daily politics. They have strong and grave potential for manifesting themselves as “murderous identities”¹ and

1 French-Libyan writer Amin Maalouf refers to “murderous identities”, where the identity of a person is reduced to a single belonging, thus encouraging people to engage in biased, intolerant, commandeering, and sometimes even suicidal behavior, turning them into “murderers or supporters thereof”. (For more details, see Maalouf’s book “In the Name of Identity” (Ubilački identiteti), Belgrade, Paideia, 2003)

“narcissism of minor differences”². In this social and cultural environment, it is easy to manipulate with war traumas, the fear of unitarization (most pronounced in most of the Serbs and the Croats) or fear of dissolution of the state (most pronounced among the Bosniaks), fear of losing national and cultural identity (pronounced in all three constituent peoples), etc. Ultimately, as a result of this state of collective consciousness, politics comes down to a zero-sum game, with no room for compromise, because any concession whatsoever to any one side is seen as a defeat of the other, happiness of one group means unhappiness of the other, while confronting one’s own past, accepting responsibility and diverging from wartime goals are deemed as treachery, and so on. For this reason, instead of continuing to broaden the differences and divisions on the issues of fundamental constitutional reforms, it would be much better to initiate the processes of true dialogue, enlightenment, cultivation and enrichment of the social environment, while reckoning in a decisive and uncompromising manner with primitive nationalism, chauvinism, authoritarianism, and utter unconcern. This is the task put before the political players, but it is also put before cultural and intellectual communities, education associations, schools and universities, non-governmental organizations, and every single individual.

2 This term of Sigmund Freud is very often used when describing identity dramas in the territory of the former Yugoslavia, in particular in Bosnia and Herzegovina. In his work *Group Psychology and the Analysis of the Ego*, Freud argues that cohesion of a group increases if it comes across an opposing group that is sufficiently similar or different to cement internal boundaries as external hatred. Groups that are difficult to tell apart insert violence in order to create identity boundaries and overemphasize their differences.

Authoritarian Heritage as Obstacle to Building of Democratic Institutions

A long time ago, the American political scientist Gabriel Almond, announcing the coming political and social processes in Eastern Europe, forewarned that the main problem would be inadequate political culture. This was later confirmed by the results of research³ carried out by the European Institute from Sussex in the countries facing accession to the European Union in the late 20th and early 21st century. Researchers Mary Kaldor and Ivan Vejvoda have pointed out that the major internal obstacle to the building of democratic institutions, rules, and procedures is the absence of democratic political culture, and that, when it comes to influence of external factors, at this particularly sensitive stage the accent is on the willingness of the West to help them resist regressing to totalitarianism, authoritarianism, and populism, which are still significantly present in these societies.

3 The research was conducted in 10 countries of Central and Eastern Europe (Poland, Czech Republic, Hungary, Slovakia, Romania, Slovenia, Bulgaria, Latvia, Lithuania, and Estonia). The experts studied the position and functioning of political institutions in countries that have, after the fall of socialism, demonstrated clear political will for democratization and European integration, in the period between 1989 and 2000. All of them are now members of the European Union. (For more details, see: Mary Kaldor, Ivan Vejvoda, "Past in the East, Future in the West: Democratization in Central and Eastern Europe" (Prošlost na Istoku, budućnost na Zapadu: demokratizacija u Centralnoj i Istočnoj Evropi), Zavod za udžbenike i nastavna sredstva, Belgrade, 2001).

Discerning between formal (pertaining to institutions and procedures of democracy) and substantial (political equality, separation of powers, and political culture of democratic participation) democracy, Kaldor and Vejvoda have found that for all ten countries, which were candidates for accession to the European Union, it can be said that to a significant extent they do meet the criterion⁴ of formal democracy, but there are many weaknesses when it comes to the markers of substantial democracy. This primarily pertains to insufficiently developed judiciary and inadequate law enforcement, politicized and clientelistic administration, strong government influence on the mass media, and even racism and xenophobia, which anchor populism, and sense of personal and collective insecurity. The researchers conclude that the absence of democratic culture in Eastern European countries is a direct consequence of the lack of active citizenry as a counterbalance for the said tendencies. Even though these countries have numerous non-governmental organizations, their role is quite weak. The consequences of their totalitarian political history are a low level of political engagement, mistrust in politicians and bureaucrats, and political parties which lack strong active membership.

Many research scientists from the territory of the former Yugoslavia (Ivan Šiber, Zagorka Golubović, Vladimir Vujčić, Vladimir

4 The researchers focused on a set of “minimum procedural conditions” defined by American political scientist Robert Dahl in his book “Dilemmas of Pluralist Democracy”, these being the following characteristics: 1) inclusive suffrage, 2) rule of law, 3) separation of powers, 4) elected officials, 5) free and fair elections, 6) freedom of expression and alternative sources of information, 7) associational autonomy, and 8) civilian control over national security.

Pavićević, Vojislav Stanovčić, Nenad Kecmanović, and others) have found strong elements of paternal relations, a conservative role of politics, mythological euphoria and religious exclusiveness to be fundamental attributes of the political culture prevailing in the territory of Bosnia and Herzegovina and its immediate surroundings. Common to the people who have for decades lived in the shared state are inflated traditional forms of ethnic consciousness, petrified social structure and a low level of social mobility, authoritarian relations in politics, in the work and family environment, etc. Political anthropologist Zagorka Golubović points out that the authoritarian regime⁵ is anchored in the authoritarian character of the society and authoritarian mentality, which is characterized by traditionalism, conservatism, conformism, prejudices, and stereotypes, so it does not breed persons ready to stand up for their rights. Without a culture of democracy in Bosnia and Herzegovina, the citizens cannot play an actual participatory role, and the system is doomed to undergo legitimacy crises. The function of the civil society is to mobilize people to defend their personal, political, and social rights, guided by the values of freedom, equality, justice, tolerance, solidarity, etc.

5 In her 2004 Article "Authoritarian Heritage and Obstacles to Development of Civil Society and Democratic Political Culture" (*Autoritarno nasljeđe i prepreke za razvoj civilnog društva i demokratske političke kulture*), Zagorka Golubović argues that populism and nationalism constitute the reference framework for an authoritarian order, in which charismatic leaders manipulate the masses and proclaim ethnic and national interests as general societal interests. "Such society is closed and hostile towards differences, to be able to defend its narrow ethnic or national identity before an alleged threat of penetration of other cultures and their values" (Golubović, p. 233).

In order to examine transitional processes in the Balkans, numerous historical determinants and complex dynamics of the link between boosted nationalism and democratic ambitions must be taken into consideration. In his book "Reflections on the Revolution in Europe" (1990), sociologist Ralf Dahrendorf explains the processes over the last decade of the 20th century by the theory of democratic revolution (swift and radical transformation). He uses this term in reference to the events in Berlin, Prague, and Bucharest, emphasizing, however, that the pluralist revolution of 1989 has not given birth to any substantial new ideas, but rather it constituted dismissal of hard existential reality and reaffirmation of old ideals. Dahrendorf argues that the social powers of the citizenry are essential for progress, as is freedom of choice, as both require entrepreneurial initiative and innovative spirit. Having observed the decadence of the old politics, the collapse of communism, and depletion of the social democracy, Dahrendorf believes social reforms have three phases. The first phase comprises constitutional changes and constitutional organization; this period takes approximately six months and constitutes the time for the jurists to act. The point is to find balance between the principle of separation of powers and the ability of the executive authorities to effectively do their job. The second phase encompasses political and economic reforms and it lasts approximately six years. This is a task for the politicians. In the final, third phase, where preconditions for freedom are created, the civil society plays the leading role. Without the citizens playing their role, jurists and politicians cannot do much. Citizenry must be built, with civilian, political, and social rights becoming the very core of the social and political community. Media must be free and pluralist, parties must

be funded fairly and be independent of the state, laws and taxes should encourage the funding of charitable foundations and various solidarity models, while the universities and cultural institutions should act independently from state funding. One of the chronic political absurdities in Bosnia and Herzegovina is the belief that a civil identity contradicts and excludes national ones.

Hence, state institutions, the political community, and civil society are equally responsible for the advancement of democracy. The most important impulse for the democratic culture comes from the civil society; at the same time, the existence of democratic political culture is one of the key prerequisites for its development. The political culture depends on the level of general culture of the citizens, the respect for individuals and guaranteeing of individual and collective rights, the willingness to defend freedom of thought and the spirit of critical reasoning, to affirm universal values, and also to practice individual and collective responsibility. Furthermore, it is very important that there are clear procedures for demission, revocation of government, and limited term in office. Although it sounds discouraging, building a civic society, according to Dahrendorf, takes at least six decades. Unfortunately, the first two were not a good start in Bosnia and Herzegovina! Its inhabitants have a particularly low level of the civil culture, there is an apparent absence of political competency and an undeveloped instinct for protection of constitutional order and laws, while there is widespread mistrust in the democratic principles and procedures, ignorance about their own role and the responsibility they have in the political system and political processes, and an unwillingness to permanently and actively participate in political life.

An entire horizon of diverse, free and authentic political opinions and positions is essentially lacking. It all comes down to ethnic/national ideologies, with occasional emergence of modest and rather inconsistent pseudo-citizen concepts. The involvement in politics basically comes down to voting, without recognizable engagement in the shaping, implementing, and controlling of public policy and in particular requests for accountability of those who fail to deliver on their promises and programs. Pressure on media, abuse of office, and omnipresent crime and corruption take place without real civil resistance, with the prevalence of fanatical party lines, on the one hand, and apoliticism, political abstinence, and apathy, which only too easily turn into vandalism and violence, on the other. Corruption in the political elites is hard to eradicate, this is due to the inability to form a truly independent judiciary, responsible media, and free and critical public opinion, failed reforms of public administration and modernization of institutions, and even widespread lethargy, as mentioned earlier. In this atmosphere, it is hard to hear and even harder to understand those who try to affirm ideas of constitutional patriotism, emotions of loyalty, respect for law, development of democracy, and building of a state wherein different cultures, religions, and political orientations constitute an advantage and wealth. Posing a serious threat is the presence and promotion by the media of prejudices and stereotypes, discrimination, hatred speech, and uncritical spreading of messages. In Bosnia and Herzegovina, people rarely choose their words carefully and rarely are they held accountable for those words! Without criminal and moral sanctions in place, there are frequent grave slanders and accusations at the expense of other peoples. Everywhere you can find confirmations for the basic

attributes of an undemocratic society, one that lacks tolerance for different opinions, suppresses freedom of expression, suffocates the political autonomy of individuals, celebrates authoritarianism and encourages subordination, strengthens fundamentalist religious beliefs, broadens political conflict, etc.

Identity Drama and Dimensions of Political Culture

For a broader and fuller review of the problems burdening the process of democratization of the Bosnian-Herzegovinian society and aggravating the efforts towards stabilization of its political system, of great value is the work of Harvard professor Sidney Verba, one of the leading authorities in the field of study of political culture and its impacts on a democratic society. As far back as 1965, he stressed the importance of four core questions of the political culture: 1. National identity, 2. Identification with one's fellow citizens, 3. Attitude towards governmental outputs (results), and 4. Type of government (political decision making process).

The issue of "national identity" is the most important political belief people have, and it constitutes the basis for their political identity. According to Verba, national identity is the degree to which an individual believes in his belonging to his state and its symbols (flag, hymn, etc.), and in political integration that enables successful functioning of the state. At the same time, the core issue is the so-called "identification with one's fellow citizens", i.e. awareness of connectedness with other people of the same political community and their shared culture. Democratic political culture directly depends on whether people have faith in their fellow citizens as political actors. This faith is crucial to horizontal integration and it reflects on government stability, decision making processes and methods, coalition forming, etc. It is a product of the historical heritage, but also of

the process of socialization and current political experience. On the other hand, political distrust leads to cynicism among the general public, and their holding on to and spreading of stereotypes and prejudices. For two decades now in Bosnia and Herzegovina, due to national narrow-mindedness and political shortsightedness, according to Sarajevo publicist Ivan Lovrenović⁶, inter-nationality divisions get carved in stone, and political tensions become part of daily life. Fear of compromise paralyzes political leaders of national communities, who do not dare proclaim giving up on their wartime goals, as that would set them out for political doom, with accusations of having betrayed their own people, the fallen victims, etc. This is why they mostly opt for the zero-sum policy. Vertical identification is a problem in many countries, but explicitly in those where central political symbols are in emotional conflict with ethnic and regional concepts. This issue has been present in Bosnia and Herzegovina since the first day of its existence as an independent state, while the Dayton Agreement or any new constitutional arrangement cannot in itself create the sense of political identity and identification with the state symbols. The current flag of Bosnia and Herzegovina was imposed by the then High Representative of the international community, Carlos Westendorp, in 1998, after political representatives of the constituent peoples failed to agree among themselves on its appearance; soon afterwards Bosnia and Herzegovina got its coat of arms, and in mid 1999, the state hymn was adopted. And yet, in over one and a half decades, the citizens of Bosnia and Herzegovina have

6 Lovrenović Ivan, Jergović Miljenko, *Bosnia and Herzegovina, „The Future of Unfinished War“* („Bosna i Hercegovina, budućnost nedovršenog rata“), Zagreb, Novi Liber, 2010. (co-publisher for Bosnia and Herzegovina: Synopsis, Sarajevo)

not developed the expected feelings for these symbols. The reasons for this should not be sought in the manner they came into being, but rather in the absence of sincere political will and readiness to affirm them as shared values and symbols of the state, accepted by its citizens and peoples. Instead, open and/or concealed ambitions to change the constitutional concept, from unitarian to secessionist aspirations, internal pre-compositions, new regionalization, calls for abolishment of the entities and calls to referenda on separation, and even continuous mutual disputes have led to ethnic/national and religious symbols having a dominant, even exclusive role in the collective identifications, while the need to build and cultivate the so-called constitutional patriotism gets ignored and discarded. Certainly, there is a broad range of historical, cultural, social, and political explanations as to why it is hard to reach consent on shared symbols in a state that, according to many authors, lacks internal legitimacy. A sense of belonging to a state regards cognitive, affective, and evaluative orientations of individuals, it is built on knowledge, and on emotional and value judgments, and regardless of the quality of such views, they must be acknowledged as political facts. Results of various professional studies⁷ in Bosnia and Herzegovina show that

7 This is a series of studies over the course of 2010 and 2011: focus groups of students at the universities of Sarajevo, Banja Luka and Mostar, surveys conducted in a number of towns in Republika Srpska and the Federation of Bosnia and Herzegovina, respondents were students of final grades of high school and university students. For more details, see: Majstorović D., Turjačanin V. (Eds.) (2011), *Under the Wing of the Nation. Ethnic and National Identity in Young People in Bosnia and Herzegovina (U okrilju nacije. Etnički i državni identitet kod mladih u BiH)*, Banja Luka: Centar za kulturu i socijalni popravak. Similar research was conducted by the agency Prism Research for the European Union in May 2013 (using the method of interview and random selection on

belonging to the state is mostly demonstrated by the Bosniaks, while belonging to the entities is felt strongest among the Serbs. Belonging to religion is the most important to the Croats, ethnicity to the Serbs, while all three constituent peoples equally refrain from identification with the broader, European framework, and they also dismiss the possibility of existence of the so-called multiple national identity (to develop, on top of their respective Bosniak/Serb/Croat identity, also a “Bosnian-Herzegovinian” national identity).

Two political scientists from Sarajevo, who have continued their scientific work outside of Bosnia and Herzegovina, Mirjana Kasapović in Zagreb and Nenad Kecmanović in Belgrade, have concluded that indeed the attributes of the political culture of national communities in the former Yugoslavia have contributed to its dissolution and to civil war and constitute one of the fundamental reasons for the Bosnian-Herzegovinian society being divided and the state regime being unstable. Kasapović argues that for centuries Serbs, Bosniaks/Muslims, and Croats have never jointly, permanently and massively advocated a shared state, and they only subsisted thanks to authoritarian regimes (the Ottoman Empire, the Austro-Hungarian Monarchy, and the Kingdom of Yugoslavia, later the Socialist Federal Republic of Yugoslavia). Kecmanović argues that the current state union of Bosnia and Herzegovina has not actually been created by

the sample of 1500 persons over the age of 18 across Bosnia and Herzegovina). It shows that the largest number of young people in Bosnia and Herzegovina takes most pride in their religious identity (90.6 percent), and only then in their national and civil identity, while most respondents older than 30 take pride in their ethnic identity (92.7 percent).

the will of its citizens, it is not a result of internal acknowledgment of those living therein, and it lacks a basic consensus of its constituent peoples. Since day one, the independence of Bosnia and Herzegovina is a ground for conflicts between centripetal and centrifugal orientations, from ambitions to establish control over the entire territory, centralize the government in the state and enable the dominance of one people⁸, to the threats of holding a referendum for separation of one entity from Bosnia and Herzegovina, to insistence on greater autonomy of cantons, creation of a third entity, or even new regionalization.

Hence, the three largest peoples in Bosnia and Herzegovina dispute over the form of the state regime, while undergoing an identity drama. Religious belonging and nationalism as an expression of ethno-cultural and pre-political unification of members of one community constitute the foundation for the shaping of a collective identity of the political community (statization of the nation). If during the entire last century, despite the enthusiasm of local peoples, who had managed to liberate themselves first from the Ottoman,

8 Even though there are fierce political and academic disputes on this thesis since the start of the conflict in Bosnia and Herzegovina, whose epilogue is not on the horizon, the said position flashes more or less openly in many public appearances of the Bosniak representatives. This was very obvious during the pre-census campaign in 2013 (President of the Bosniak movement and coordinator of the Coalition "The Importance of Being Bosniak" Sejfudin Tokić promoted this stand in a series of public addresses, where he was openly or implicitly supported by representatives of the political, academic, and cultural elite), and has had even more radical appearances in the course of 2015, when he referred to Bosnia and Herzegovina as the "Bosniak state", telling those who felt otherwise to move out.

and then from the Austro-Hungarian occupation, from Nazi and fascist aggressors during the World War II, and even over half a century of an authoritarian regime, atheist and communist propaganda, and controlled socialization, the Yugoslav national identity failed to develop, it is clear why for the last two decades the political identity of the “Bosnians and Herzegovinians” has failed to evolve. In support of this assertion, it is worth noting that according to the prewar census (1991), there were 4.4 million people living in Bosnia and Herzegovina, of which 43.5 percent declared themselves as Muslims (as of 1993, as Bosniaks), 31.2 percent as Serbs, 17.4 percent as Croats, while merely 5.5 percent of the population regarded themselves as Yugoslavs, and 2.4 percent as “Others” (Jews, Roma, Ukrainians, etc.). Upon the dissolution of Yugoslavia, Yugoslavs have disappeared. Bosnia and Herzegovina has been created without Bosnians and Herzegovinians. The identity drama plays a very important role in the stability of each state. It is only if and when it is resolved that the issue as to how that state should be organized can be addressed. A famous writer Miroslav Krleža predicted four decades ago that it would take much more thoughtful and organized efforts for all the components of the nationality mess to be shaped progressively in the collective consciousness, with the principle of national equality. A common “we” as a unified identity cannot be created in Bosnia and Herzegovina in the atmosphere of ethnic, national, ideological, and cultural antagonisms, on a declarative political view of alleged joint accession to the European Union or by rhetorically advocating the equality of the citizens before the law and affirmation of human and ethnic rights. National and political identity is formed within a state; in light of the absence of internal consensus on Bosnia and

Herzegovina, such identity is obviously hard to come by. If we accept Habermas's concept of "constitutional patriotism"⁹ and civil loyalty to the constitutional order as the basis for their identification with the state, we come across an obvious split in national and political orientations. Thus, denial of the Dayton structure of the nation state and totally open and quite obvious ambition to change it is increasingly rooting itself in the Bosniak corpus, while protectiveness of the Constitution, not because of a sense of loyalty to the shared state, but rather as a guarantee for the preservation of Republika Srpska is developing in the Serb community. Croat representatives often display a contradicting view on the constitutional order, from extensive loyalty to some provisions, to renouncing and insisting on changes to other legal provisions. At the same time, while a portion of Bosniak politicians shield themselves behind the civil order of Bosnia and Herzegovina and highlight the thesis of the "Bosnians and Herzegovinians" (which they fully compromised in the campaign "The Importance of Being Bosniak" in the course of 2013), the Serbs and the Croats do not accept state borders with their "parent states", but consider them as cuts between their national and political identities.

9 The idea, developed by famous German philosopher Jürgen Habermas in 1968, is based on open communication space, a public sphere in which citizens reason freely, which benefits their reciprocity, solidarity, and mutual recognition. Public reassessment of the past encourages promotion of universal values and development of democratic consciousness. The principle of citizenry integrates the political community and patriotism based on civil loyalty to the constitution guaranteeing freedoms and rights, and it does not emphasize cultural-historical and ethnic matters, which is particularly important for multicultural and multiethnic societies. The concept of constitutional patriotism, as a substitute for "compromised national identity" has been accepted by most prominent German and international intellectuals.

Verba refers to the third dimension of democratic political culture as “governmental outputs”; it pertains to the trust in the methods of political processes of the state or government. People believe that the state (government), through their political processes and results, will somehow impact the quality of their life. If people do not believe in the effects of the state or do not observe them, this speaks of their political culture, and of the type of government. These expectations have value criteria. People expect not only positive impacts from the state, but also for those impacts to be more or less just, for the state to take care of the social security of individuals, etc. They expect freedom, equality, and justice from the state authorities. If the government believes people do not expect anything from it and they are mere subjects, then it will treat their needs in an irresponsible and authoritarian manner. Verba ties the fourth dimension of the democratic culture to the processes of political decision making and ruling. This regards the trust of people in the manner in which the government makes decisions, in which it should make decisions, and how it is done. In Bosnia and Herzegovina, there are ever more widespread beliefs that people enter politics for their own private benefit (their own personal interest), that the civil service comes down to job security and abuse of office. Instead of working in parliaments, deals and decisions are made in hotels or cafés, between leaders who make agreements they themselves do not believe in and which they sign without other members of their party knowing about or supporting them. The interests of the public and the people are subordinated to smaller groups. With such expectations and notions about the governance, a democratic prospect seems unattainable.

Symbolic Political Gestures and Core Meritocracy

After all the aforementioned, we go back to the question of how to achieve the degree of political unity and mutual relations that cultivates and encourages civil virtues, which advances the development of democratic procedures and political culture and conciliates and merges the existing collective identities into a shared Bosnian-Herzegovinian identity. The building of democratic political culture and affirmation of shared political identity in Bosnia and Herzegovina are key pre-requisites for its prosperous future, internal stability, long-term survival, and vitality of its citizens and peoples. The identity crisis and collective memories are the causes of most of its current problems, its traumatic past and chaotic challenges in the future. State stability is based not only on the Constitution and laws, but also on unwritten rules, habits, and “the laws of the heart”, mutual respect and trust of people, voluntarism, and loyalty to common interests and values. The character of people determines the character of the state, the fate of the nation. What has been ascertained by Plato, Montesquieu, Rousseau, and others still applies today. Instead of tiresome empty phrases about the Dayton Agreement being the biggest culprit and the cause of conflicts for many years and an obstacle to conciliation and progress, it is imperative to understand the opposite: the Dayton Agreement is a consequence of the nature of the inter-ethnic relations in Bosnia and Herzegovina, the surviving national identities, and the attributes of the political culture. Bosnia and Herzegovina is not unstable

because of its constitutional imperfection or expensive and complex apparatus, but because of burdensome political tradition, civil and political incompetence, lack of cultural enlightenment, as well as an authoritarian and non-democratic mentality.

It is futile and impossible to build a common identity on the renouncing of the Bosniak, Serb, and Croat identity, or even without a sincere affirmation of citizenry. It is imperative to cultivate and bring the existing identities together in order to start shaping a multiple, multi-layered Bosnian-Herzegovinian identity, at the heart of which are mutual recognition and respect, diversity of the unity and the unity of diversity, equality of peoples and religions, and also the strong and pronounced role of citizens, human rights, and freedoms. Traumatic experiences from the past and their actualization and abuse by the daily politics constitute the most serious obstacle to the process of conciliation and a constant threat of escalation of new conflicts. Instead of hopelessly turning back, counting dead compatriots and putting the blame on the opposing side, it is exceptionally important to cultivate the culture of remembering the past wars as a time of collective casualties and common tragedy. Such an endeavor requires two phases.

The first, short-term phase, serves to demonstrate the political will, to make a series of good and daring symbolic gestures, such as joint bowing to the victims on all sides, to appear in the public in full agreement on clear condemnation of any forms of hatred speech, calls to retribution, disrespect for constitutional foundations, personal and collective values, etc., to encourage joint celebration

of state, entity, and religious holidays, cultural and sporting events, and to stress universal principles and values, wherein a special role is played by the mass media. Public administration must not remain a denationalized sphere, booty in the deals of political parties and clans. Civil service should be fully serving the public interests and subjected to merciless de-clientelization; not only should citizens get closer to one another, but also it is necessary to promote (political) friendship between the citizens and the state¹⁰, by devising and preparing a distinct long-term strategic plan. The first one is the task for the political elites, the second one for universities, academia, cultural and artistic societies, freelance intellectuals, associations of writers and journalists, trade unions and veteran organizations, non-governmental sector, and in particular for the younger generation. Competency, responsibility and innovation must take the place of what has over the last two decades been flooded by pure amateurism, utter unconcern and demagoguery.

10 This notion was introduced by German political scientist and philosopher Dolf Sternberger in 1963, in a ceremonial speech on the occasion of the hundredth anniversary of SPD, titled "Friendship towards the State". The idea of friendship of citizens was developed already by Aristotle and Kant, emphasizing the importance of reciprocity, solidarity, unity, benevolence, etc., and the term used by Sternberger comes from Schiller. Even the professor of political sciences at the University of Munich, Henning Ottmann writes about friendship of citizens (see: Ottmann, H., "Friendship of Citizens" in *Politička misao* no. 3, 2010, pp. 80-90).



REORGANIZING WHAT'S POSSIBLE

Goran Marković

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: Problem Mapping, Map Solving

It is imperative for Bosnia and Herzegovina to undergo political/territorial reorganization. This should make the existing political/territorial organization more rational; however, as this essay will show, it would not be possible if the ethnic criterion is fully abandoned, as the society is strongly divided by this very criterion. Dr. Goran Marković, professor of constitutional law, believes that ethnic divisions in the society will not be overcome by forcing reorganization of the state, but, on the contrary, by developing direct democracy, by introducing a form of economic democracy, and by strengthening the principle of constituency of peoples at sub-state levels. He believes there is no constitutional ground for a third entity or for regionalization of Bosnia and Herzegovina, just as there is no political consensus at present on such a territorial reorganization of Bosnia and Herzegovina. Dr. Marković believes that legitimate requests by the Croat people may be achieved without the third entity, and that reorganization on the principle of regions as political/economic units would require a change in the constitutional concept from the federal to unitary, for which, in his opinion, there is no political consensus at present. A way out of the vicious circle of welded positions (the Serbs are in favor of a two-entity solution, the Croats of a three-entity one, while the Bosniaks advocate regionalization), according to Marković, is not to touch the existing two-entity organization, but rather to start a political/territorial rationalization of Bosnia and Herzegovina in the Federation by significantly reducing the number of cantons. The advantage of this is that a solution to the problem would depend on the ability to reach consensus by two, rather than by three national political elites. Another advantage of this solution is that the Constitution of the Federation of Bosnia and Herzegovina does not stipulate the political/territorial organization in great detail. It does not even provide for a precise number of cantons, which is prescribed by a separate law. The disadvantage is that a reduction in the number of cantons cannot be done by mere amendments to the law, but rather it requires a redistribution of power between the Federation and the cantons, which in fact involves rather serious amendments to the Constitution of the Federation of Bosnia and Herzegovina.

Some Thoughts Regarding Changes...

The political/territorial organization of Bosnia and Herzegovina is prescribed by Article I.3 of the Constitution, reading: "Bosnia and Herzegovina shall consist of two Entities: the Federation of Bosnia and Herzegovina and Republika Srpska." As the Constitution of Bosnia and Herzegovina does not specifically prohibit the possibility of establishing other political and territorial units, it is not impossible, in principle, to imagine a different political/territorial organization of Bosnia and Herzegovina. In political life, there is often mention of the establishment of a third, "Croat" entity. The Constitution does not prohibit making changes in this or any other way. Political elites often discuss (lack of) justification for changes to the political and territorial organization of Bosnia and Herzegovina. From this, discussions do not revolve around whether the Constitution permits changes to the political/territorial organization, but rather around three issues: Are changes to the political/territorial organization justified?; If justified, how should they be carried out?; and What should be the nature of the changes made?. The political elites, depending on which constituent people they represent, have taken three different positions on the issue. According to one view, the constitutional status quo should be preserved, i.e. the current two-entity political and territorial organization. In another view, the state should be divided into three entities. According to the third view, instead of the entities, the state should be divided into a certain number of regions. My opinion on

whether changes to the political/territorial organization of Bosnia and Herzegovina are warranted will be presented at the end of this paper, after we have examined all the questions that should be answered beforehand.

...and Nature of Changes to Territorial Organization of Bosnia and Herzegovina

In order to change the political and territorial organization of Bosnia and Herzegovina, it would be necessary to amend the Constitution of Bosnia and Herzegovina, or even to pass a new constitution. It would all depend on what the scope and nature of the changes would be. Article X of the Constitution prescribes the procedure for constitutional amendments. A decision to amend the Constitution is made by the Parliamentary Assembly of Bosnia and Herzegovina. This implies the application of the instrument of entity voting, and potentially, in case of a dispute involving a threat to a vital national interest, the instrument for protection of vital national interests. Even though the Constitution does not explicitly so require, a decision of this importance essentially requires a consensus by the national political elites.

Another modality of change would imply the holding of a new peace conference, which is advocated by the Bosniak and Croat political elites. Yet, this outcome is surely not possible, as there is no agreement among the international players to hold such a conference. Even if it were held, it would mean imposition of a new constitution, the second promulgated constitution in a row, which would not resonate well here or in the region. This solution, which is purely political, would mean total abolition of the constitutional

system of Bosnia and Herzegovina and, consequently, a break in the constitutional continuity. It would not be an expression of compromise and consensus of the national political elites, so it could not be deemed as just, or even sustainable.

Changes to the Constitution of Bosnia and Herzegovina could not be finalized by amending Article I.3. The establishment of new political/territorial units would certainly require constitutional definition of their rights and obligations. If a change in the political/territorial organization would mean mere establishment of the third entity, on which the Croat political elite insist, constitutional amendments would not necessarily be radical. They would have to encompass participation of the third entity in the government at the state level, but such participation would be based on the same principles on which the two entities currently partake in the work of the institutions of Bosnia and Herzegovina.

The establishment of the third entity would require solving of a difficult issue regarding the territorial demarcation between the entities. It is not clear whether the Croat political elite would accept a solution where the third entity would consist only of cantons or portions thereof in the current Federation, or whether it would also comprise certain municipalities from the territory of the Republika Srpska. Even if the third entity were established by dividing the Federation into two entities, the issue of the territorial demarcation would be hard to solve. For, besides the cantons with clear Bosniak and clear Croat majority, there are cantons in which Bosniaks and Croats are both represented by significant percentages in the population

structure. It would be hard to reach a compromise on the territorial demarcation in those cantons.

If a change in the political/territorial organization would mean regionalization of Bosnia and Herzegovina, it would be necessary to pass a new constitution, as in this case the federal regime would be replaced by a unitary one. In that case, the entire state organization would be based on entirely different principles, and the state bodies would have a different structure, composition, and election and decision-making procedures, given that the regions would have an entirely different legal nature (primarily, a smaller degree of autonomy) from the current entities. In order for a new constitution to be passed, agreement by the national political elites would be required. That would not be possible to achieve, as it is well known that the national political elites have opposing positions on the issue of the political/territorial organization of the state. Moreover, only one (Bosniak) political elite stands for the regionalization, while the other two stand opposed.

Two-Entity Status Quo

The principal argument against such political and territorial organization is that it is an expression of the war, and, as such, not legitimate. The second argument is that it represents an expression of national divisions and dominance of individual nations over certain portions of the state territory. In order for the constituent peoples to be equal and in order for the state to be civic, it is necessary to overcome the two-entity organization. When the issue of legitimacy is raised, the starting point is who believes the political and constitutional solution at hand to be legitimate. From the point of view of not only Bosniak and Croat political elites, but also of their peoples, the two-entity organization is not legitimate. However, it is legitimate from the standpoint of the Serb people and its political elite. Given that the Bosnian-Herzegovinian society is divided on this, the issue of legitimacy cannot be viewed merely from the perspective of political opinion of the majority of citizens as a set of abstract individuals, but also from the aspect of the constituent peoples as collective political units. As the society is not merely a set of citizens, but also a community of the constituent peoples, in fundamental political and constitutional matters it is imperative to have consensus among the constituent peoples. As such consensus is absent, the issue of legitimacy of the two-entity organization of Bosnia and Herzegovina remains unsolved. From the constitutional aspect, this means maintaining the status quo.

Another argument pertains to the domination of individual peoples. Domination of the constituent peoples in the entities is contrary

to the principle of constituency of peoples, which, following the Decision by the Constitutional Court of Bosnia and Herzegovina¹, assumes the participation of the three peoples in the government bodies not only at the state level, but also at sub-state levels. If the constitutions allow for effective participation of representatives of the three peoples in the entity governments, the issue of the two-entity regime of Bosnia and Herzegovina is no longer in the foreground. For, through the application of the principle of constituency of peoples, the entities have become multiethnic federal units, which can also be seen in their constitutional provisions.²

The first and basic reason speaking in favor of the two-entity state organization is its foundation in the constitution. In order to change it, amendments would be required to the Constitution or even adoption of a new constitution, which is not do-able. On the other hand, the two-entity state organization should be viewed in a different light after the said Decision by the Constitutional Court of Bosnia and Herzegovina has been rendered. It is true that prior to this decision it could have been argued that there was dominance of one or two peoples in the entities; however, after the issuance of the decision, such dominance has weakened to the extent that it enables the use of the instrument of vital national interest protection. This does not mean total absence of any dominance, given extensive

1 See: Decision by the Constitutional Court of Bosnia and Herzegovina in the Case no. U 5/98.

2 Amendments LXVI and LXVII to the Constitution of the Republika Srpska; Amendments XXVII and XXVIII to the Constitution of the Federation of Bosnia and Herzegovina.

disproportion in the numbers of individual peoples in the entities. Secondly, even if agreement by representatives of the three peoples were achieved to vacate the two-entity organization (which is not do-able), there is no agreement on what it should be replaced by. It is not possible (or even meaningful) to change the existing political and territorial organization without prior agreement as to what it should be replaced by. Thirdly, the abolishing of the existing political/territorial organization would be illegitimate from the aspect of one (Serb) constituent people's interest. Surely, it could be argued that the political/territorial setup of Bosnia and Herzegovina must be viewed from the aspect of the interests of all constituent peoples. In principle, this is true. However, the question is what if the interests of the three peoples are not only different, but also opposing on this issue. Then it is utterly impossible to resolve the issue of legitimacy of the existing or any other political/territorial organization. The problem remains unresolved for the time being.

Problem Not Solved by Third Entity

This option is advocated by the Croat political elite. It starts from the premise that the Bosniaks and the Serbs have “their own” entities, which is why the Croats should get an entity of their own. In their opinion, this would be a way for the Croats to finally achieve full equality. The issue of equality is hereby tied to the political/territorial organization of the state, under the principle of “three peoples – three entities”.

The Declaration “Bosnia and Herzegovina, Our Homeland”, which was adopted by the Croat National Assembly (HNS) at their 6th session,³ held on 28 February 2015, reads that the state of Bosnia and Herzegovina has failed to fulfill the aspirations of the Croat people, citing the following as some of the most important reasons for it: legalization, the Dayton regime, injustices inflicted by the war and persecution of the population, irrational territorial organization, denial of the right of the Croat people to be represented by its legitimate representatives, and inability to develop national and cultural identity of the Croat people.

As can be seen, rectification of a large part of these objections does not require territorial reorganization of the state. It would be

3 Declaration of the 6th session of the HNS, <http://hnsbih.org/deklaracija-6-zasjedanja-hns-a/>, 27.6.2015.

necessary to adopt amendments to the Constitution of Bosnia and Herzegovina which would provide for a different organization of individual institutions, or to amend certain laws. Participants in the Assembly themselves admit to this, citing constitutional and legal provisions that need to be amended within the existing constitutional system.

However, they also point out that it is necessary to carry out territorial reorganization, which should serve several purposes: 1) rational territorial organization, 2) creation of a symmetrical federal state, 3) equal respect for the constituent peoples, by consistent implementation of the principle of constituency of peoples cited in the Preamble of the Constitution of Bosnia and Herzegovina.

Achieving most of these goals does not require territorial reorganization of the state, but it does require making amendments to the Constitution. Equal respect for the constituent peoples may be achieved by amending certain constitutional provisions, primarily those pertaining to the election procedure for the Members of the Presidency of Bosnia and Herzegovina and the procedure for vital national interest protection. A more rational territorial organization may also be achieved by radical reduction in the number of cantons in the Federation of Bosnia and Herzegovina. A symmetrical federal state may be provided through a different legal solution to the principle of constituency of peoples in the entities. It is true that the principle of constituency of peoples is not exercised in the entities in the manner identical to what has been provided under the Constitution of Bosnia and Herzegovina. The respective entity constitutions

could actually provide for better exercise of this principle, so that the entities would be closer to having the nature of multiethnic federal units. If this were to happen, the symmetry of the Bosnian-Herzegovinian federalism would be almost fully achieved, as the rights of the constituent peoples would be identical or very similar in both entities to the rights they have at the state level. When speaking about their rights in this context, we refer to the ways in which they participate in the forming and work of the state government, i.e. to institutional solutions.

The Croat National Assembly believes that the establishment of a symmetrical federal state should be achieved at a new international conference, whereby Bosnia and Herzegovina would get a new constitution. This proposal was made because the Assembly understands that it is not possible to achieve consensus in the institutions of Bosnia and Herzegovina about the passing of a new constitution. Still, it remains unclear how such a consensus could be achieved at a new international conference if it cannot be done in the institutions of Bosnia and Herzegovina. There is no answer to this question or to the question of whether it would be acceptable to the Assembly participants if a constitution were adopted at this new international conference without the agreement of political representatives of one or even two constituent peoples.

The issue of the Croat third entity can only be discussed tentatively, given that the principle of constituency of peoples would have to be exercised therein, i.e. it, too, would have to be defined as a multiethnic federal unit. Hence, even though the entities are multiethnic

federal units in the constitutional context, it is not by chance that the Croat political elite advocates the establishment of the third entity, where the Croats would constitute the majority of the population. Although all the peoples would be constituent in this entity as well, and it would formally not be the Croat entity, it would be so in essence, as the Croat political elite would dominate in the institutions and decision-making processes. This would be possible for two reasons. The first reason is the national structure of the population, where the Croats would be dominant. The second reason is inadequacy of the mechanism for the protection of vital national interests in the entities.

As there are portions of the territory of Bosnia and Herzegovina where the Croats constitute a majority, the Croat political elite believes that a “Croat entity” is warranted. In this entity, the Croats would independently make decisions on the issues that are, under the Constitution of Bosnia and Herzegovina, within the responsibility of the entities. In other words, the Croats would get the same rights that the Serbs have, and basically that even the Bosniaks have, as the Croat political elite believes that the Croats are not equal in the Federation of Bosnia and Herzegovina. Furthermore, the citizens of this entity would elect their own representatives to the institutions of Bosnia and Herzegovina, which would guarantee them a status of equality, which is presently not the case, in particular with regard to the problem that has happened twice already in relation to the selection of the Croat Member of the Presidency of Bosnia and Herzegovina.

In this way, the Croat national issue in Bosnia and Herzegovina essentially comes down to a territorial question. The Croat political

elite believes that it will be solved if and when an entity will have been created wherein the Croats will constitute the majority and be able to independently make decisions on the issues that are in the responsibility of this entity (and of other entities).

This argument, however, cannot be deemed as justified. The establishment of a third entity does not in itself solve the Croat issue in Bosnia and Herzegovina, as it is also important what rights the Croats have in the institutions of the Bosnia and Herzegovina state. If the composition of and the decision-making process in the institutions of Bosnia and Herzegovina are not changed, there will still be problems with the decision making, as it can happen that the majority of Croat representatives in an institution are against a decision, but it still gets adopted. In other words, it is necessary for changes to be made to the decision-making procedure in individual state institutions.

Insistence on the forming of a third entity is conditioned by the aspiration to encircle a territory where entity government bodies would exercise the responsibilities of the entity provided for under the constitution of Bosnia and Herzegovina. Given that the consociational democracy at the entity level is unfinished, it means that the exercising of these responsibilities for the most part will be under the control of one political elite. The other two political elites will be able to use the mechanisms for the protection of vital national interests, but it is not certain to what extent they would succeed in it (as it depends on the concrete balance of political powers). The point of the idea of the third entity is for the three national political elites to territorialize their own political and social power, and for

the institutions of Bosnia and Herzegovina to serve as some sort of a diplomatic conference arena for negotiations and compromises.

What is standing in the way of such an outcome is the Constitution of Bosnia and Herzegovina. Formally and legally it belongs to the category of firm constitutions, which may be amended in a procedure more complex than the legislative procedure. Specifically, to amend the Constitution, it is necessary to have a two-thirds majority of those present and voting in the House of Representatives, as well as the consent by the House of Peoples, which is given in a regular legislative procedure. Furthermore, when amending the Constitution or adopting a new one, the issue of protection of vital national interests may be raised. This means that in practice, to amend the Constitution, there is a need to achieve consensus among the national political elites.

The second problem with this solution is that it does not resolve an important problem, which is the inadequacy of the mechanisms for achieving full equality of the constituent peoples. The Croat political elite claims that it is not fully equal either in the Federation or at the state level. The establishment of a third entity does not solve these problems. On the contrary, it would lead to a situation where this political elite, representing the largest constituent people, would dominate in the new entity. In other words, the existing mechanisms of domination or less than full equality would prevail; it would only be that each political elite would get a territory over which to dominate.

The third issue that comes up is the territorial demarcation. It is not easy to identify which municipalities in the Federation would be part of such a new entity. It would be particularly sensitive to determine the fate of Mostar. A difficult problem is also constituted by the two cantons in which both Bosniaks and Croats have relevant representation in the national structure of the population. In a divided society, in which both political elites put their claim to “historical” or “national” territories, or oppose the national division of the territory, the issue of entity demarcation can be considered a first-rate political problem.

Regionalization of Bosnia and Herzegovina?

Regionalization⁴, advocated by the Bosniak political elite, implies two basic changes: in the type of the state regime and in the political-territorial organization. In order to go ahead with regionalization, the state needs to no longer be organized federally, but as a unitary state⁵, with both entities being replaced by multiethnic regions. For such reorganization, it would be necessary to adopt a new constitution, as it implies a radically different

4 "Hence, we can define reorganization as a process of the creation of a new level in the vertical governmental setup, but this new level may be incorporated into the system of local self-governance. This is the case with Croatia, Czech Republic, Poland, or it may enjoy a status bordering on the status of federal units, which is the case with Spain". – Bojan Bojanić, *Regionalization and Regional State. Constitutional Aspects (Regionalizacija i regionalna država Ustavnopravni aspekti)*, Faculty of Law of the University of Prishtina, with a temporary seat in Kosovska Mitrovica, Kosovska Mitrovica 2013, 94.

5 Opinions diverge when it comes to the legal nature of a regional state. Some authors point out that the regional state is *tertium genus*, a form of state that is between the unitary and federal state, which means that the classical division of the state regime types into unitary and federal needs to be modified, acknowledging regional state as the third, specific option. – Miodrag Jovičić, *L'Etat regional*. Centre de promotion d'études juridiques, Belgrade – Institut du federalism Fribourg, Belgrade 2003, 10. Ibid: Marijana Pajvančić, *Constitutional Law (Ustavno pravo)*, Faculty of Law of the University of Novi Sad, Novi Sad 2014, 303. Other authors, however, still recognize only the division of the state regime types into unitary and federal state, believing that the regional state is a form of territorial decentralization, which is called territorial autonomy. – Ratko Marković, *Constitutional Law (Ustavno pravo)*, Faculty of Law of the University of Belgrade, Belgrade 2014, 361, 435-444.

constitutional setup. The basic problem with this option is the same as with the proposal for a three-entity setup: the absence of consensus on justification for such a political/territorial organization and the inability to adopt a new constitution. The problem is even bigger, as the three-entity organization would be supported by two national political elites, while regionalization is advocated only by one elite.

Proponents of the idea of regionalization believe its basic advantage to be that it enables division of the state into four, five, or seven multiethnic regions. When identifying the areas of the regions, the ethnic criterion should be disregarded, while taking into consideration other criteria, such as natural/geographical, economic, and traffic criteria. This would diminish the importance of ethnic divisions and consequences of the war. It is believed that the current political/territorial division is artificial, because, as a consequence of the war, it fails to take into account other criteria⁶. It is also emphasized that Bosnia and Herzegovina has no experience with federalism, but has many centuries of experience with regionalization⁷. It is of particular

6 "The constitutional model of the political/territorial organization is not in harmony with the regional/geographic structure of Bosnia and Herzegovina. The demarcation lines are a product of political compromise made in order to end the war. They have legally ensured the dissolution of the Bosnian-Herzegovinian physiognomy systems, geo-unities, geo-complexes, self-sustainable nodal-functioning regions, sub-regions, and areas, and transformed them into unsustainable and expensive functioning units." – Edin Šarčević, *Projection of B-H Constitution (Projekcija Ustava BiH)*, Centar za javno pravo, Sarajevo 2012, 6.

7 Elmir Sadiković, "Federalization: Solution for Bosnia and Herzegovina, or Step Towards Its Disintegration?" (Federalizacija: rješenje za Bosnu i Hercegovinu ili korak ka njenoj dezintegraciji?), *Tačno.net*, <http://tacno.net/novosti/doc->

importance that the regionalization eliminates the ethnic criterion in determination of the political/territorial organization, which criterion is believed to threaten the very existence of the state and to be a consequence of the war.

These arguments are worth analyzing. When it comes to prior experience with federalism and regionalization, it is worth noting that Bosnia and Herzegovina has neither. Just as it had never been organized as a federal state until 1995, neither was it ever a regional state. Sometimes regionalization is defined in very broad terms, so that it includes almost all forms of political/territorial organization existing in this area since the 10th century. Such arguments cannot be taken seriously. First of all, Bosnia and Herzegovina has only existed as a modern state since 1995. The Medieval Bosnian state cannot be taken as a raw-model, as it was not a modern, but rather a feudal state. Later, with the arrival of the Turks and the Austro-Hungarians, Bosnia and Herzegovina became an administrative area, organized, until the late 19th century, as part of a pre-modern state. Afterwards, Bosnia and Herzegovina was a part of Yugoslavia, and only in 1943 did it become a separate state unit.

The notion of regionalization refers to the setup of Bosnia and Herzegovina as a regional state. Regionalization implies division of the state into political/territorial units whose responsibilities are defined by the state constitution, which have their own legislative

dr-elmir-sadikovic-federalizacija-rjesenje-za-bosnu-i-hercegovinu-ili-korak-ka-njenoj-dezintegraciji/, 24.6.2015.

and executive government bodies (in some regional states, such as Spain, regions also have their own judiciary). This does not regard the regions as economic, but rather as political/territorial units. Regionalization clearly implies separation of powers between the state government and the regions comprised therein.

When analyzing the idea of regionalization, attention should also be paid to historical and political circumstances, as well as the nature of the society. Reasons for the creation of federal states are analyzed in detail in constitutional law theory.⁸ Historical and ethnic reasons constitute some of the basic reasons. Historical circumstances surrounding the creation of a federal state are very important for determination of the type of its state regime. In Bosnia and Herzegovina, the reasons that have led in Dayton to the adoption of the constitution we have today are well known. It is worth noting that they still persist. On the other hand, the multiethnic nature of the society is not in itself sufficient reason to have a federal state. However, if we add to the multi-ethnicity the fact that the society is deeply divided, and divided exactly (although not exclusively) along ethnic lines, it is clear why regionalization is not possible. It would be contrary to the nature of the society and the dominant social conflicts. Some authors believe that regionalization of Bosnia and Herzegovina conforms to the territorial-administrative-political tradition of the country.⁹ How-

8 Ratko Marković, 373–377.

9 See: Elmir Sadiković, “Regionalization of Bosnia and Herzegovina as Pre-requisite for Integration into European Union” (Regionalizacija Bosne i Hercegovine kao pretpostavka integracije u Evropsku uniju), *Yearbook of the Faculty of Political Sciences*, Sarajevo 2006, 152.

ever, even if we leave aside the issue of whether and to what extent such a tradition has ever been established (as the regionalization in the socialist Bosnia and Herzegovina, for instance, had a different nature from the current concept of regionalization advocated by certain authors and political elites), the fact remains that the war and post-war events have, to say the least, brought into question the possibility of relying on this tradition.

The Bosnian-Herzegovinian society became nationally divided in 1990, and after the war, it has exhibited all the markers of a segmented society, within the meaning given to such societies in the works of Arend Lijphart.¹⁰ Political/territorial organization of a state must be harmonized with the nature of the society. And it has to be harmonized with it not because someone wants it to, but simply because it could not be functioning otherwise, without continuing and deep political crises.

Two national political elites want to have political/territorial units that would be shaped primarily by the ethnic criterion. One of the political elites (the Serb one) has already achieved this and wants this achievement to prevail; the other (the Croat) political elite wants to achieve the same goal. In this situation, it cannot be expected that

10 See: Arend Lijphart, *Patterns of Democracy (Modeli demokratije)*, Službeni list–CID, Belgrade–Podgorica 2003; Arend Lijphart, *Democracy in Plural Societies (Demokracija u globalnim društvima)*, Globus–Školska knjiga, Zagreb 1992; Arend Lijphart, "Consensus and Consociational Democracy, Cultural, Structural, Functional, and Rational-Choice Explanations", *Scandinavian Political Studies*, Vol. 21, 2/1998; Arend Lijphart, "Constitutional Design for Divided Societies", *Journal of Democracy*, Vol. 15, 2/2004.

the constitutional order should be radically changed in a way that would satisfy the goals of only the third (Bosniak) political elite.

A particular problem with this option, even if it were achievable, would be to embed the principle of constituency of peoples in the constitution. As the society is multinational and divided, constituent peoples would aspire to achieve their equality in the state and regional institutions. However, advocates of the regionalization of the state do not have a unified position on whether and how the constituency of peoples should be guaranteed. This is best seen by examination of program documents of the political parties that advocate regionalization, these being the Social Democratic Party (SDP), Party of Democratic Action (SDA), and Party for Bosnia and Herzegovina (SBiH).¹¹ While SDP believes that political institutions should be organized in a way that the constituent peoples are not only represented, but also in a position to protect their vital interests,¹² SBiH advocates the establishment of a “clear” political regime of liberal or majority democracy, where the citizens, but not the constituent

11 Positions of the national political parties on this issue have been analyzed in detail in: Goran Marković, “Bosnian-Herzegovinian Federalism” (Bosanskohercegovački federalizam), Službeni glasnik–University Press, Belgrade–Sarajevo 2012, 389–406.

12 This party believes that the Parliament of Bosnia and Herzegovina should be a two-house parliament, with the protection of vital interests being exercised in the House of Regions. Vital interests would be defined in a similar way as they are now defined by the entities’ constitutions. – *Proposal of Constitution of the Republic of Bosnia and Herzegovina, Articles 40, 45, 48*, http://www.ustavnareforma.ba/files/articles/20101015/187/bs.%20SDP_%20BiH_Ustav_RBih,%2001.%2003.%202009.pdf, 25.6.2015.

peoples, would be the political subjects.¹³ If even the “regionalists” do not agree on how to ensure equality of the constituent peoples, this diminishes the number of those who would vote in favor of a “regionalist” constitution in the Parliamentary Assembly.

Another issue related to the idea of regionalization is the division of responsibilities between the state and the regions. Although it is possible to have deviations in practice, there is a rule in theory that federal units in a federal state have bigger responsibilities than the regions in a regional state. Since federal units perform all the functions of the state government and have their own legal systems, which they administer independently, provided that it is harmonized with the federal laws, it is logical that such quasi-state political/territorial units have a larger degree of independence than the regions in a regional state, which is merely a modified form of a unitary state.

Despite the transfer of responsibilities, which has led to a significant increase in the responsibilities of Bosnia and Herzegovina, the entities still have significant responsibilities. Territorial reorganization in terms of the establishment of regions would surely imply increased responsibilities of the central government. Advocates of

13 In the document *Draft Constitution of Bosnia and Herzegovina*, this party has formulated the idea that the Parliament should be composed of the House of Representatives and the Senate, which would be representative of the regions. They would send equal number of representatives to the Senate; however, the *Draft Constitution* does not prescribe the rules for parity or proportional representation of the constituent peoples, or the procedure for protection of vital national interests.

the regionalization themselves emphasize this.¹⁴ Bearing in mind that there is no agreement on the transfer of responsibilities in federal Bosnia and Herzegovina, which would, by their scope and nature, be significantly smaller than what is proposed by the advocates of regionalization, it is not to be expected that a consensus would be achieved on substantial transfer of responsibilities to the state. Regionalization of Bosnia and Herzegovina would certainly imply centralization of the state government, although this still does not mean, and cannot mean, that the state would be organized as a centralist state.

14 "It is necessary to expand constitutional responsibilities of the institutions of Bosnia and Herzegovina, in order to enable the unity of its economic, legal, and political system, such as the customs system, labor relations and social security, labor law and pension system, defense and security, education, culture, financial and banking system, etc. For, by defining very narrow responsibilities of the state of Bosnia and Herzegovina as exclusive responsibilities and by leaving very broad responsibilities with the entities, the Constitution of Bosnia and Herzegovina has thereby helped strengthen the statehood of the entities at the expense of Bosnia and Herzegovina. The abolition of the entities and cantons would definitely lead to essential changes in the responsibilities of the bodies of Bosnia and Herzegovina." – *Program of SDP BiH*, http://sdp.ba/datoteke/uploads/dokumenti/PROGRAM_SDP_BiH.pdf, 25.6.2015. In the document Proposal of Constitution of the Republic of Bosnia and Herzegovina, which has been adopted by the Social Democratic Party of Bosnia and Herzegovina, Articles 36 and 37 enumerate the exclusive responsibilities of the Republic and of regional communities. The responsibilities of the Republic are significantly larger than the responsibilities the institutions of Bosnia and Herzegovina have under the Constitution of Bosnia and Herzegovina. A similar solution is proposed by the working group of Forum of Tuzla Citizens. See: Draft Constitution of the Republic of Bosnia and Herzegovina, Arts 89 and 92. http://www.fcjp.ba/templates/ja_avian_ji_d/images/green/Forum%20gradjana%20Tuzla.pdf, 25.6.2015.

Changing the Washington Regime to Preserve the Dayton Regime

Given the absence of consensus regarding amendments to the Constitution of Bosnia and Herzegovina, a solution to the problem can only be sought within the framework of the existing constitutional order. It is not clear how Article I.3, stipulating the two-entity organization of Bosnia and Herzegovina, could be amended, let alone other constitutional provisions, which prescribe the composition and the procedure for the election of and decision making in political institutions.

The question is what could be a compromise and possible solution. In my opinion, the two-entity organization of Bosnia and Herzegovina cannot be changed, hence a solution that would be based on its abolition should not even be considered. Within the two-entity organization of Bosnia and Herzegovina, it is possible to consider change in the territorial organization of the Federation. This solution is possible for a number of reasons. First, the Constitution of Bosnia and Herzegovina gives the entities almost unlimited right to self-organization, which is conditioned only by the respect for certain basic principles of the constitutional order (such as, for example, the principle of the rule of law, protection of human rights or free and democratic elections). However, these principles do not directly affect the political/territorial organization of the entities. Therefore,

the solution should be sought in the amendment of the Constitution of the Federation of Bosnia and Herzegovina.

A solution that is based on amendments to this constitution has both advantages and disadvantages. An advantage is that a solution to the problem depends on the ability to achieve consensus by two, rather than three national political elites. Although it is not always so, in principle it is easier to achieve agreement in such a situation. Another advantage of this solution is that the Constitution of the Federation of Bosnia and Herzegovina does not prescribe in detail the political/territorial organization. It does not even give a precise number of cantons, which is stipulated by a separate law.

This does not mean that the political/territorial organization of the Federation can be established by simple modification to a Federation law that would reduce the number of cantons. This is the weakness of this proposal. However, such a solution would lead to the creation of a simpler and cheaper state apparatus, while the constitutional status of the canton would be unchanged. However, given that the responsibilities of the Federation are not few, this would not contribute to the solving of the essential question discussed here. In order to have a real change, it is necessary not only to reduce the number of cantons, but also for the cantons to get more responsibilities, which would approximate them to the status of current entities. This means that, by amending the Federation constitution, a significant portion of the responsibilities should be transferred from the Federation to the cantons. In this way, the cantons would get larger territory, they would be economically more sustainable, their

operation would make more sense, and they would have a greater degree of autonomy, which would approximate them to the degree of autonomy enjoyed by the entities. The transfer of responsibilities would be carried out by transferring the exclusive responsibilities of the Federation onto cantons as their exclusive responsibility, or there would be shared responsibility of the Federation and the cantons.

In my opinion, the Federation should have two cantons – one with a majority Bosniak population and the other with a majority Croat population. Mostar, a city of great political relevance, where a significant number of both Croats and Bosniaks live, should have the status of a district, as it would not be possible to decide which canton it would belong to. As the cantons would have more responsibilities than they do under the current constitution, their constitutional status would be close to the status of the current entities. This would create a political/territorial unit that would, by territorial expansion, number of inhabitants, economic strength, and responsibilities, be significantly larger than the current individually observed cantons with a Croat majority, and the majority of the population would be Croat. This would be the Croat quasi-entity. Of course, it would not send its representatives to the government bodies of Bosnia and Herzegovina, nor would it have all the responsibilities of an entity, but it would, on the other hand, have all the functions of the state government, it would have its own legal system, institutional system and financial autonomy. It would have its representatives in the institutions of the Federation, and through them it would elect representatives to the institutions of Bosnia and Herzegovina.

Certainly, the changes could not pertain solely to political-territorial reorganization. They would have to encompass the procedure for the election of and decision making in individual institutions of the Federation of Bosnia and Herzegovina. This regards, primarily, the institution of the President of the Federation, as well as the composition and decision-making procedure of the Government. Changes to this portion of the constitution are necessary in order to achieve full equality of the constituent peoples. Without these changes, political/territorial reorganization would not be enough, as it would fail to provide all the necessary mechanisms for the protection of interests of the constituent peoples in the institutions of the Federation, which would still have responsibilities in certain matters.

We cannot elaborate on these questions in great detail in this paper. We can only name several particularly sensitive ones. The first question is the procedure for the election of president and vice-president of the Federation, which is defined in the 2002 constitutional amendments in a way that does not always ensure the election of legitimate representatives of individual peoples.¹⁵ The second question is the composition of the Federation government, which could comprise delegates, as is the case with the Government of the Republika Srpska. This means that the Government would comprise

15 Amendment XLII prescribes that the candidates for president and vice-presidents of the Federation may be nominated by one third of the delegates of each caucus of the constituent peoples. If the houses do not agree on the list of the nominees for the president and vice-presidents, a decision may be made by only one house. There is a possibility here for this decision to be made by the House of Representatives, by outvoting on national grounds.

only those delegates that were previously elected to the Parliament. Such a solution would prevent nomination to the Government of ministers who are members of minor Croat parties, who do not enjoy the support of the electorate, but were elected to the Parliament with minimum support by the voters. This would resolve the problem of “illegitimate” Croat ministers, such as the situation that took place in the last convocation of the Parliament, when a minor Croat Party of Rights (HNS) entered the Government. The third question regards the procedure for the protection of vital national interests, which should be prescribed in a manner that legitimate representatives of each people can prevent the taking of a decision they deem detrimental to their vital national interests.

CHAPTER TWO

THE ECONOMIC AND SOCIAL LEGACY OF THE DAYTON PEACE AGREEMENT



THE BOSNIAN- HERZEGOVINIAN PATH

| Svetlana Cenić

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: How to Jump Start the Economy?

Has the combination of physical reconstruction, deregulation, privatization, and macroeconomic stabilization over the past two decades been a proper and adequate recipe for the economic transition of Bosnia and Herzegovina? It appears not and, surely, it lacks one major dimension – transformation of ownership that would be based on meritocracy, rule of law, and zero tolerance for corruption. Has this consequently led to giving support to economic reforms only in principle and rhetorically, merely to the extent they fit into the political ethnic/national agendas? According to Svetlana Cenić, a renowned economist (both theoretician and practitioner), author and publicist, this permanent political instability is the underlying cause of a serious economic decline, which can be expressed as billions of dollars worth of losses in gross national product. Whose interests, then, are served by creating such instability? The answer to this question may help answer the main question explored by this essay: Is it possible to achieve economic progress under this constitutional framework? Ms. Cenić believes it is, provided that it is a brand new, Bosnian-Herzegovinian path!

Poor Statistics between Two Agreements¹

Two decades into the Dayton Agreement, the Stabilization and Association Agreement – SAA has finally come into force (1 June 2015)². This would not be so strange if this temporal correlation, or perhaps discrepancy, did not call to mind the period right after the war, when international organizations, through their projects and consultants, and with the support and cooperation of national authorities, were introducing democracy, privatization, and a judiciary system, reforming public administration and basically building capacity. How successful were these projects? The data indicate that Bosnia and Herzegovina (BiH) has not yet caught up with its pre-war gross domestic product (GDP), that the standard of living has been dropping for the last seven years, and that the SAA has come into force as much as eight years after being signed!

Today, BiH is further in debt than ever, it has a record number of unemployed, it is the only country in the world with “temporary

1 The data used in the text result from various researches conducted by the author. The accuracy of data is a sole responsibility of the author.

2 The Stabilization and Association Agreement (SAA) is an instrument providing formal mechanisms and harmonized criteria that enable the EU to work with BiH on approximation of its standards to those of the European Union. BiH started the SAA negotiations on 25 November 2005, initialed the agreement on 4 December 2007, and signed it on 16 July 2008. The ratification in the EU was finalized on 21 April 2015, and it came into force on 1 June 2015.

layoffs”³, it has poor world ranking with regard to corruption and investment into science (research and development)⁴, it is a country with a great many private and state universities, but the number of persons with a university education does not exceed ten percent, while the illiteracy rate does. The absolute poverty rate in BiH, denoting citizens with a monthly income under BAM 205, was around 14 percent in 2014, encompassing around 538,000 inhabitants, rendering it the largest in the region, while the percentage of relative poverty is 18.5. On the other hand, there are 512 millionaires, i.e. persons with an average balance in the bank of one million convertible marks (511,000 Euros) or more, currently living in BiH. According to the report by “Wealth X”, there are 85 multimillionaires living in BiH, ranking it the thirtieth country in the world, while the wealth of its millionaires is assessed at USD 9 billion.

3 The term temporary layoff is a general reference to employees in collapsed companies (operating with losses and undergoing or having undergone transformation of ownership), whose salaries are not paid, nor are taxes and contributions on salaries. Such employees await resolution, they keep getting promises, they cannot register as unemployed, because on the paper they are employed, nor can they receive social aid, or even look for new jobs because their breaks in service are not bridged and contributions not paid.

4 There are no reliable data on how much funds are allocated to research and development in BiH, but it is well known that the percentage is basically in the range of a statistical error, although the percentage somewhere between 0.07 and 0.08 percent of the GDP is often (ab)used. For comparison, the document Europe 2020 promotes the goal of spending three percent of GDP on R&D. Developed countries in the world spend even more, so, for example, Israel spends 4.21 percent, Korea 4.15 percent, Japan 3.49 percent, Taiwan and China 3.12 percent, Finland 3.32 percent, Sweden 3.30 percent, Denmark 3.06 percent, etc.

The absolute poverty rate in this (2015) and next year might increase even further, given our financial situation, with the caution that the number of people living in squalor may exceed 670,000 of the total of 3.7 million inhabitants (according to preliminary results of the October 2014 Census).

The current B-H economy is still a transitional, quasi-market economy, lacking strategic planning, modern administration, and closer cooperation with scientific research institutions, and being highly dependent on politics. Positive cases do exist (companies in the municipalities of Tešanj, Gradačac, Gračanica, Teslić, Goražde), but private entrepreneurs tend to evade the political “radar”, which is actually even possible in the Federation of BiH (FBiH), having several centers of power, while it is almost unattainable in Republika Srpska (RS), where all decisions are made at one place.

Ethnic Annexation of Public Corporations...

For twenty years now, the Dayton Peace Agreement, in particular the part with the Constitution of BiH, serves for our use, abuse and excuse. The Bosnian-Herzegovinian Constitution is a structural part of another legal document, while its brevity, experts in constitutional law assert, is indicative of its normative deficit. Not to mention that this very important document includes references to other documents, more specifically, to 15 international documents on protection of human rights and fundamental freedoms, rendering it somewhat confusing, and hard for a regular citizen to comprehend. This leads to frequent manipulation with accusations that, for instance, the Bosniak side wants a unitary BiH, even though such a thing would be impossible in a country with a two-house parliament, as would be secession, or formation of new administrative/political units.

The bête noire of potential transfer of responsibilities to the state-level institutions, even without actual reduction in the powers of lower-level authorities (the Entities), purely as a matter of one address and coordination, has been present in the political rhetoric of the Serb representatives, even though giving consent to an agreement on transfer of responsibilities should be handled through the respective entity's regulations, which is not stipulated by the Constitution of BiH. The Constitution does not permit transfer from the state to the entity level, as this is not the purpose of Article III/5.a), i.e., a state responsibility may not be transferred to the entities by any agreement.

However, in dealing with the issue of forming the ministry of agriculture and rural development (and setting up a separate payment agency to ensure transparency) at the state level or the Council of Ministers for the purpose of using IPA2 funds and as a coordination mechanism, it is clear that a technical problem becomes a political one, and even the 2014 Resolution of the European Parliament, seeking that BiH immediately establish a ministry of agriculture, is being ignored. Is the Dayton Agreement being used as an excuse, or is it simply being abused? By failing to have one address (under one roof), by failing to form IPARD⁵ structures, BiH has already lost financial resources from the IPA funds, while financial resources are practically frozen for the next three years, for the very reason of having ignored EU requirements.

The Constitution particularly covers economic rights and freedoms. Article I/4 guarantees the freedom of movement of goods, services, capital, and persons throughout the territory of the state. The term “state” is a reference to public authorities at all levels: from the central, rooftop government to municipal government, so the question arises as to whether private, natural and legal entities are obliged to abide by Article I/4, as all freedoms have one thing in common – they constitute an obligation on the part of the state.

5 IPARD is a pre-accession program of the European Union for the period from 2007 to 2013. It is a constituent part of IPA (Instrument of Pre-accession Assistance), its component of “Rural Development”. The main goal of the IPARD program is promotion of the agricultural sector by strengthening the competitiveness of agricultural products.

The Dayton Peace Agreement has not been ratified by the Parliament. When mentioning this, in particular Annex 4, whether to stress the “spirit of the Dayton Agreement” or to oppose changes, it should be noted that there are certain provisions that have never been met, such as, for example, Annex 9: Agreement on Establishment of Bosnia and Herzegovina Public Corporations. Article I reads that a Commission on Public Corporations shall be established, Article II that a Bosnia and Herzegovina Transportation Corporation is to be established, and that “within thirty days after this Agreement enters into force, the Parties shall agree on sums of money to be contributed to the Transportation Corporation for its initial operating budget”. Under Article III, the Parties (the Entities of the Federation of BiH and the RS) may decide to “use establishment of the Transportation Corporation as a model for the establishment of other joint public corporations, such as for the operation of utility, energy, postal, and communication facilities”. In BiH today, there are no joint public corporations, but rather two entity public railroad companies, three electricity distribution companies, two public postal corporations, two public corporations for highways, etc. Everyone has created their own corporations, which are mostly ethnically staffed, while political elites control “their own” space and do not allow for meritocracy to take care of the public good.

While this constitutional right to create joint public companies for the benefit of the general public has been completely worn down and out in clientelistic zeal, the other one, the right to create special relationships with neighboring states, has been trivialized under corrupt politics, and as such, for many years has been used to

needlessly channel negative energy for all three sides. Article III/2.a of the Constitution of BiH guarantees the entities the right to also establish “special parallel relationships with neighboring states”, although the responsibility for foreign affairs, inclusive of contractual relations with neighboring states, lies with the state (Article III/1.a). It seems that eventually, real life has invalidated the need for special and parallel lives (beyond ethno-cultural issues and identity), having done so in the field of exact economics. Republika Srpska has the Agreement on Special and Parallel Relationship with Serbia, but when looking at the level of foreign trade exchange, its import from Serbia is twice the figure of the export to Serbia (2013 data from the Chamber of Commerce of Republika Srpska: the import from Serbia BAM 765,443,000, and the export BAM 414,504,000), while it is the other way around with Croatia: the export is BAM 322,387,000 and the import BAM 189,404,000. If clientelism in the first example and nationalism in the second one were prevented, current statistics and facts would have been much more favorable.

... and Twenty Years of Attempted Economic Reforms

From the signing of the Dayton Peace Agreement to date, the prevailing position of the international community has been that building of a stable market economy upon the ruins of war can be achieved by a combination of physical reconstruction, deregulation, privatization, and macroeconomic stabilization. Depending on the local ambient and particularities, each of these components can play a role in economic reconstruction and transformation, but even if combined and taken together, they constitute an incomplete and inadequate answer to the reform challenges. None of these strategies, for instance, is focused on organized crime and corruption, as the biggest challenges of a post-conflict society.

Very poorly devised privatization and liberalization have benefited those with good political connections, prone to corruption. Furthermore, the conventional reform approach has not sufficiently focused on the social dimension and the connection between peace building and employment, as well as social welfare, not only of the population affected by war traumas, but also of demobilized soldiers and returnees. Finally, although there is broad consensus that “liberal political and economic principles offer the most promising model for the reorganization of war-shattered states” (Paris, R. 2001, “Echoes of the ‘Mission Civilisatrice’: Peacekeeping in the Post-Cold War Era”, 103), the international community has failed to master the skill of transformation of war-devastated states into democratic, stable market economies.

Insistence on privatization is argued for depolitization of the economy and creation of the basis for economic recovery and growth. When it comes to the post-Dayton BiH, neither of these goals has been achieved. What was seen by international advisors as apolitical - swift and clean transfer of assets from the state into private hands - has become a corrupt playground for a power struggle, along ethnic lines, which has neither stimulated economic growth, nor promoted intra-ethnic conciliation. It has long become clear to all the players that such transformation of ownership should not have been done without first having established the rule of law.

Complex ties between politics and economy in various post-conflict situations indicate, as could be expected, that the efforts towards economic reform cannot be taken outside of the broader political context, just as it is imperative to carefully weigh the impacts of political decisions on the economy. The post-Dayton Bosnia is a particularly difficult case, because three transitions have been taking place simultaneously, but with a varying degree of intensity. With significant international assistance, Bosnia has been undertaking uncertain transition processes, facing numerous political blockades, heading not only towards democracy and capitalism, but also towards the consolidation of the state.

At the moment of affixing signatures onto the Dayton Peace Agreement, GDP per capita had fallen below USD 500, which is approximately 20 percent of the pre-war figure, while unemployment was at around 80-90 percent, and the same percentage of the population was dependant on international humanitarian aid. The

World Bank has estimated the value of destroyed infrastructure at around USD 25-30 billion, with the additional burden being the debt inherited from the former state. The Dayton Constitution provides for the establishment of the Central Bank, with a currency board in place for the first six years. Two decades into the Dayton Agreement the currency board is still effective. Unfortunately, with dysfunctional political elites and continuous provocation of conflict merely to win daily political points, things could not have been done otherwise, in order to avoid potential abuse of the Central Bank or the currency exchange rate every time the money runs out; and, because of not having an exchange-rate regime, import has mostly stayed cheap (conditionally speaking), export expensive, while we produce goods that can hardly compete in quality with foreign goods.

In its 1996 Report, the World Bank recommends that the B-H government should put primary focus on the establishment of a legal, regulatory, and institutional framework to enable the functioning of the free market, as well as on the provision of goods and services, such as defense, public order, basic education, and health care⁶. In other words, since the very start, B-H authorities were seen as chief partners in the economic transition processes, which meant breaking up with the past, and the postwar period marking a fresh start of a new economic order, in partnership with responsible and dedicated political elites. But, in the case of BiH, these were the same wartime political elites, with the same problems. The main order of business in

6 World Bank (1996), *Bosnia and Herzegovina: Toward Economic Recovery*, Washington DC; World Bank.

the post-Dayton era was multi-ethnicity vs. apartheid, unity vs. divisions, and consolidation of their own political power, which basically meant no change from the pre-Dayton period. And it is in this light that the attitude of B-H political leaders towards economic transition should be viewed: they supported economic reforms in principle and rhetorically, while in practice its progress and speed depended on broader political goals of individual leading parties, and it was subjugated to the complexity of various national policies in the state. This has inevitably created a complicated relationship between the international and national authorities. In a nutshell, the international strategy for transition towards market economy focused on two elements: an internationally financed phase of infrastructure reconstruction to the pre-war level and reform policies aimed at creation of a favorable climate for private entrepreneurship. In other words, the international aid for the reconstruction was to be replaced by private investments as key driving forces behind economic reconstruction. This strategy has encountered two challenges: the cooperation and willingness of the B-H government to create conditions that would strengthen private sector, no matter how incompetent or unwilling B-H political elites truly are, and reliance on the private sector, as the driving force behind the economic transition, accepting the fact that for the time to come, BiH will not have the efficient institutions and political stability necessary to attract private investments.

Political Instability - Economic Regression

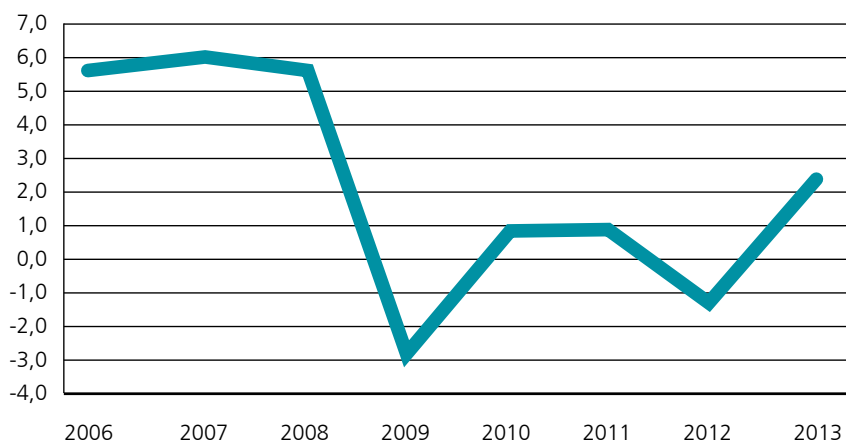
Looking at the postwar economic indicators, it is exactly the parallel between political stability and growth in GDP that is interesting. With a very modest base after the war, GDP has seen growth to a lesser or smaller extent; in the period from 1999 to 2006, the smallest growth in the real GDP growth rate was seen in 2003, as a result of the 2002 General Elections, with the forming of government and implementing of constitutional reforms in the RS. The process of the constitution of legislative and executive authorities in the Federation of BiH after the results of the October 2012 Elections took a very long time, due to indecisiveness among parliamentary parties as to who will form a coalition with whom, which was only reinforced by some representatives of the international community, who, after having a rather passive stand during the pre-election period, tried to influence the formation and personal/party composition of the new government, only to abandon the idea later. Of course, much time had been wasted. The process of constitution and formation of the Council of Ministers took almost four months and lots of time was wasted on constituting and taking measures from within the responsibilities of the state.

All of this has had an impact on both the economy and economic indicators; something similar was repeated after the 2006 Elections and, in particular, after the 2010 General Elections.

Indicators	1999	2000	2001	2002	2003	2004	2005	2006
Nominal GDP (bn EUR)	4.9	5.5	5.9	6.5	6.9	8.5	9.3	10.5
GDP per Capita (EUR)	1,385	1,449	1,561	1,713	1,794	2,219	2,417	2,731
Real GDP Growth Rate (%)	10.0	5.5	4.5	5.5	3.0	6.0	6.7	7.1
Increase in Industrial Production (%)	1.6	8.8	12.2	9.2	4.8	9.0	10.0	11.0
Average Monthly Net Pay (EUR)	188	190	209	228	247	258	275	300
Annual Inflation Rate (%)	-0.9	4.8	3.1	0.4	0.6	0.4	2.1	6.1
Unemployment Rate (%)	39.3	39.7	40.3	40.9	42.0	43.2	31.1	30.0
Total Amount of FDI (mn EUR)	166	159	133	282	338	534	421	556
FDI Share in GDP (%)	3.4	2.9	2.3	4.3	4.9	6.2	4.5	5.2

Source: Central Bank of BiH, Agency for Statistics of BiH, FIPA

And since 2006:



Real GDP Growth Rate, Agency for Statistics of BiH

The campaigns in the 2006 General Elections were monopolized by constitutional amendments, with the political parties positioning themselves in two groups: the first group comprised the political parties of SDA, SDS, HDZBiH, SDP, and SNSD, defending the package of agreed constitutional amendments, either as merely the first stage or as a maximum concession, while the second group consisted of the political parties of SBiH and HDZ1990, advocating more radical constitutional amendments. The fear induced in the majority of the Bosniak people was the fear of dividing the state and of the secessionist intentions of the other peoples; the fear in the majority of the Serb people was that of abolition or significant reduction in the responsibilities of the RS, while in the majority of the Croat people it was the fear of

ethnic inequality and vulnerability. Once again the dominant topic was the announced possibility for having a referendum in the RS. In 2006, the Value Added Tax (VAT) was introduced, revenues rose above all expectations, so nobody was seriously addressing economic issues, except for making lots of promises. The same was true for the year after, and the sale of Telekom RS to neighboring Serbia brought revenues to Republika Srpska in the value of almost one budget, so no one gave any thought to what unrealistic promises and allocations meant in the long run. The administration was growing in both entities, as well as in the state institutions, but then came the sobering up and plunge of GDP in 2009. Even though the banking sector was not experiencing any problems, nor was it in need of a bailout, and even though the import share in the GDP was on average around 18 percent, to date the political excuse for the many-year decline and stagnation is “the world economic crisis” and consequences thereof, while there is no mention of political stability as the reason for lack of both national and foreign investments and the fall in industrial production.

The 2010 General Elections continued in the same tones, on the same matrix. The topics dominating the elections were: laws or parliamentary initiatives regarding the census, ban of fascism, state holidays, ban of the Wahhabi and burkas, a referendum in the RS, etc., propelled by entirely different political views of what is “my” and what is “your” fascism and radicalism, and by disagreements on historically important events, with the referendum coming as a threat from the RS during every election, ever since the SNSD came into power in 2006. Then, there were various developments, such as the Mostar Fair, an economic event, where, in a speech at the opening of

the fair, BiH Presidency Member Haris Silajdžić talked about political evaluation of regional relations; the Istanbul Declaration, a document wherein the presidents of Serbia, Turkey, and BiH (Tadić, Erdoğan, and Silajdžić) presented a joint vision of an approach to regional issues; a visit by the leadership of the Bosniak Party of Democratic Action (SDA) to Belgrade; judgments by international courts with regard to the declaration of independence by Kosovo and restitution of military housing; an act of terrorism (an attack by members of the Wahhabi movement on the police station in Bugojno); war heritage, such as the Ganić case (his arrest in London upon an arrest warrant issued by Serbia), Srebrenica and genocide denial, commemoration of those killed in the Dobrovoljačka Street (an attack on the column of the Yugoslav National Army withdrawing from Sarajevo in 1992) and in an area known as Malta in Tuzla (also YNA, on the one side, and military volunteers and the police, on the other), the burial of General Delić, a prominent officer and war-time commander of the Army of BiH; and similar topics, all of them present in BiH during every election, and, that year there was also the support by the SNSD party for the election of the Croat member of the state presidency with Croat votes, and advocating the third entity and peaceful dissolution. A curiosity that followed this election was the unconstitutional mathematics surrounding the election of the FBiH Government, such as waiting for the determination of the Council of Ministers for some 16-17 months, and consequently, for the budget of the state institutions.

Periods of political stability were always marked by stronger growth in production, and, consequently, by greater growth in GDP, without even having major reform processes or announcements thereof.

Reforms on Remote Control

For many years, the World Bank and the IMF (and later even the EU) did not need to “impose” any solutions. The governments were actually happy to receive from these organizations policies they could follow, without bearing any responsibility for the consequences of economic and political measures. After a minor discontent, reforms would get written and measures accepted and promoted very quickly. It is clear even from the pre-election campaigns that economic topics never prevail, while party programs would get written in broad terms, with the usual: we will thrive, we will fight for, we will insist, etc. From constitutional amendments, defense reform, police reform, judiciary reform (the least successful), public administration reform, to the enforcement of the Judgment by the Court in Strasbourg in the Sejdić & Finci case, there were periods of cooperation and dealing with economic problems. Relaxation of the political rhetoric and demonstrable cooperation inevitably loosen the economy, and this is immediately reflected in the growth of industrial production.

The British-German Initiative emerged in November 2014, with a reference to the Compact for Growth. The Compact for Growth and Jobs officially appeared on the web on 11 October 2014, reading: “In late May, a Forum for Prosperity and Jobs convened interested parties and the broader citizenry of Bosnia and Herzegovina to identify a package of six concrete and urgent measures that would re-ignite the process of modernizing the economy”.

It was announced with pomp that the EU and the international community would now generally focus on economic reforms, setting aside political reforms.

Some reforms were talked about for months, especially the new labor law, whose text did not appear in public, and which was eventually adopted in late July 2015 by both Houses of the FBiH Parliament, without the blessing of the trade unions or the general public. It was first adopted by the House of Peoples in the form of a draft bill, and the day after it was sent as a bill in summary procedure to the House of Representatives, something which is unprecedented in parliamentary practice. Furthermore, the summary procedure refers to the passing of a law when it is concluded that its adoption in regular procedure would be detrimental to the Federation. In the Parliament, this is discussed as a preliminary issue, before deciding on the agenda. Public debate is the procedure of getting the opinions of the citizenry, interested bodies, scientific and professional institutions on a draft bill or on other issues of special relevance to the Federation of BiH. An initiative may be submitted by authorized bill sponsors or caucuses, and the bill may be sent into parliamentary procedure after the elapse of 20 days from the day it was distributed to the delegates. Following the logic of the parliamentary procedure, citizens were sent the message that the passing of the Labor Law in regular procedure would be detrimental, that the issue of the Labor Law is not of special relevance to the Federation of BiH, and that members of the Parliament had to be familiar with the text before the session, which was not the case for the general public. By supporting this method of sending the Labor Law in the parliamentary procedure and its adoption, the EU

Delegation to BiH basically scored an own goal or autogoal against the European processes with the general public, in particular after the EU Special Representative Lars-Gunnar Wigemark expressed his support to the Government of FBiH with the words: "The system we now have is quite rigid, it is remnant of Titoism, to be frank. We have to ask ourselves do we want to go back to those times or do we want something more modern, " given that in Sweden the highest degree of protection of labor rights is provided, while the majority of citizens, in particular in the Federation of BiH, basically still stand at attention to the mention of Tito's name. Even the name of the main street in Sarajevo has not been changed from the Marshall Tito Street.

In any event, economic reforms were due to officially start on 11 June, when even Commissioner Hahn was supposed to come for the ceremonial signing. On 9 June, the President of the Council of Ministers called on all representatives at all government levels in BiH to fulfill their promise and sign the agenda that arose from what was promised and agreed upon by entity governments, the Brčko District, and the Council of Ministers of BiH, with major support by the European Commission and international financial institutions. The text was still unavailable to the general public and, by voting along entity lines in the BiH Parliament, the delegates from the Federation of BiH voted against this document being discussed and made available for viewing. Finally, it became clear to everyone that the document of the Reform Agenda was written in English, and subsequently translated into the local languages. It was even more clear that, while the EU insists on economic reforms, political elites evade their responsibilities and work, taking recourse to well known

accusations, reacting with the lowest of political passions and mutual accusations, pushing aside any serious work to consolidate the state and the economy or to fight major corruption and crime.

For two decades, the governments in BiH have been doing the same thing: simulate their support for the reforms, the initiatives for which always come from the outside, from an international element in the transition processes or from the European Union, as a goal. For two decades, someone else has been doing the homework for the national political elite, without anyone being held liable. This means that everything that has been done in the state from the moment the Dayton Peace Agreement was signed to date was done from the outside in. The international community was forced to condition further material and technical assistance upon local cooperation on reform processes, and it has increasingly empowered itself by simply imposing key elements of the economic transition package. In order for BiH to become a serious state with responsible political elites in the conditions of a market economy and stronger entrepreneurial private initiative, it is necessary, first and foremost, that the process must go from the inside out. International support and financial and technical assistance may only be sought when national forces initiate reform processes themselves, when they clearly agree on the steps inside the state and identify the implementing actors, without any abuse of the Dayton Agreement provisions and after presenting mechanisms for removal of blockades in advance.

Even if the path chosen and agreed upon - by and between all levels of the state - is wrong, it will be their own path, with full commitment to assumed international obligations.



BOSNIA AND HERZEGOVINA'S QUANTITATIVE EASING

Marko Radovanović

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: The Welfare State

To what extent if any does the welfare state as a social concept, holding in its centre the human rather than the market, stand in contradiction with the reform measures BiH has committed itself to? The inherited concept of the social welfare state from the former SFRY has become fiscally unsustainable, yet the question remains whether now it should be irreparably dismantled or cleverly reformed? In the following period Bosnia and Herzegovina should not only perform a rationalization of the welfare state (reforms of the tax system through a decrease of income tax and better aimed social expenditures), but also should stabilize public finances through its reduction. Thereby, what would follow is a possible increase in competitiveness, a nominal increase in the number of the employed, as well as a reduction of purchasing power and an additional increase in the income inequality due to transfer of “wealth” from the hands of consumers (workers and the public sector) into the hands of manufacturers. The analysis written by Marko Radovanović, economic analyst who specialized in macro-economics at Queen Mary University of London, offers a warning that an unsparing abolition of the social concept in BiH could lead to intensified inter-ethnic tensions, because, in BiH, it is fairly easy to channel social injustice into “ethnic” injustice. The author therefore urges all to be wise. It is necessary to create inter-ethnic consensus on joint industrial and export policy and homogenized development strategy, as well as on concrete corresponding measures in fiscal (and possibly monetary) policy. This is where the possibility for serious analysis is offered to the BiH economic brains on some sort of BiH quantitative easing, or to put it in more simple terms, how to employ existing domestic capital into development goals. The Dayton Constitution is not an obstacle for such a venture. The obstacle must be looked for in the “narcissism of small differences” that feeds the (lack of) political (dis)agreement culture.

Welfare then and now – context for a new paradigm

In majority of the countries with a capitalist economy system, the welfare state¹ is a limited form of social protection which, in its essence, represents a means of softening the market shocks and volatility. Since Bismarck and Disraeli, it represents a conservative response to inequality and social endangerment of a large portion of the society that had been integrated into a capitalist economy system. Naturally, the role of the welfare state is conditioned by various socio-economic contexts, which have been switched several times in the past 30 years in Bosnia and Herzegovina, thus we are at the brink of yet another change. Full employment and the relatively positive macroeconomic image of SFR Yugoslavia up until the 1980s had enabled the creation and maintenance of wealthy pension and disability funds, universal health care and social protection as well as free education. The welfare state in SFRY was not a reaction to, but rather a backbone of the functioning of the entire system.

In the post-war context of Bosnia and Herzegovina, this model was hardly sustainable, primarily due to the consequences of war destruction, political fragmentation, economic collapse and new market imperatives, that have caught up with Bosnia and Herzegovina and its budgets on its road of “transition”. Due to the drop in the economic activity and base of contributors, legislative fragmentation

1 Social state or *welfare state*

and political occupation of parts of the social protection by organized political actors, the remnants of the welfare state in BiH are currently defined by a lack of fiscal sustainability.

Creation of an open economy based on the growth of export is often cited as a long-term development goal of Bosnia and Herzegovina.² In that context, the goal of this analysis is not to simply contemplate the proactive development role of the welfare state, but to offer specific arguments benefiting the thesis that the welfare state is necessary in the framework of the existing economic development in Bosnia and Herzegovina. At the doorstep of the reforms that await us³, it is time to start considering the welfare state as an active asset of development policy, and not as a parasitic system that stands in the way of economic recuperation.

In general, the development of the welfare state in BiH may be divided into three phases: the time of SFRY, post-war transition and the upcoming neo-liberal reforms.

After World War II, in the SFRY there ensued a period of rapid industrialization and modernization. This process resulted in a significant abandonment of agriculture and in the forty years after WWII, the agricultural portion of the SFRY society was reduced from 67.2%

2 [BiH Export Council, 2011](#)

3 [FBiH Government and BiH Council of Ministers have adopted the Reform Agenda which was developed in cooperation with the EU and the IMF, See: Reform Agenda, 2015](#)

to 19.9%.⁴ This dynamic created the conditions for the initial development of social policy and planted the seed of the welfare state in SFRY. The initial focus of the social policy at the time was on the war disabled, children and youth, and, in time, there was an increase in the number of institutions providing care for the youth, as well as an increase in the number of people gaining the right to a disability allowance, family pension or rent and child benefits.

The mid-1950s saw a time of appeasement in the external pressures exerted by the Soviet Union and a greater opening towards the West. The economic situation started to recuperate significantly and, beside improved openness, there was an obvious departure from a centrally planned towards a social market economy. Parallel to this process, self-government was taking hold in practice, which increased the number of actors whose interests were to be taken into account while considering social policy. In the late 1950s, several factors contributed to the rapid spread of the role of the welfare state in SFRY, primarily industrialization, economic growth and self-government. Services were being professionalized, and in addition to the disabled and the youth, there were more and more services provided, including education, social and health protection of the elderly and the retired citizens. The laws on health (1954), pension (1957) and disability insurance were passed within such an environment. Stronger economic activity and full employment enabled the funds from which the welfare state obligations were paid according to the pay-as-you-go principle, and these funds could offer quality care for

4 Puljiz, 2005

the unemployed, the disabled and the sick. This model, with certain modifications, survives until this day in Bosnia and Herzegovina (and in the majority of the other former SFRY countries).

The economic problems that affected SFRY in the late 1970s forced the government at the time to tackle the reform of the social system. It became increasingly apparent that with the growing debt, inflation, negative balance of payments and holes in the budget, the welfare state of the time was not sustainable. However, the reform process was interrupted by the events of the war.

After 1995, the focus of political actors in Bosnia and Herzegovina, and of the international community, had completely disregarded the reform and development of social policy that would be adapted to the context of Bosnia and Herzegovina. There are several reasons for this: the urgent need to reconstruct the country, decentralization of political decision-making on social policy, a clientelistic relationship towards well-organized interest groups (such as war veterans), and political collapse and corruption of others (for example: unions).

The existing social policy system in BiH, which, despite the above problems, survived by inertia, is currently facing significant difficulties in its sustainability. The drop in economic activity, high unemployment rate and the spread of the “informal” business sector continue to exert pressure on the redistributive model of the pension and disability insurance in BiH (i.e. pay-as-you-go). This system, which was conditioned, in theory, upon a relatively high ratio of employed to retired people (ideally 3:1) and favourable demographic trends, means

that pensions are paid from current contributions of employers and the employed, and the means from the funds are not invested. According to the 2009 report of the International Labour Organization (ILO)⁵, for every 100 retirees in BiH, there are 123 employed, which means that for every 1 BAM of gross monthly salaries, 0.30 BAM goes for monthly pensions. The rate of contributions for pension and disability insurance within the monthly salary in Republika Srpska is 18.5%, while in FBiH that rate is 23% (17% covered by the employee, and 6% by the employer). The average monthly pension in BiH amounts to 350 BAM, while the minimal pension amounts to 50% (in the RS) to 60% (in FBiH) of the average pension. People with 40 years of pension insurance covered have a guaranteed pension in the amount of 80% (in FBiH) and 100% (in the RS) of the average pension.⁶

These kinds of macroeconomic movements and contribution systems resulted in destabilization of funds, therefore, it is necessary to partially finance the Pension and Disability Insurance Fund (PIO RS Fund) of Republika Srpska from the RS Budget. In 2015, the transfers made to the PIO RS Fund made 8.1% of the budget expenditures or 190 million BAM⁷, which was partly financed by issuing treasury bills to the RS commercial banks. On the other hand, the Pension and Disability Insurance Fund of the FBiH manages to maintain the level

5 ILO, 2009, p. 7

6 Rašidagić & Maglajlić, 2011, p. 23

7 The RS National Assembly, 2014

of current payments of pensions without subsidising from the FBiH Budget, but with significant delays of the payments.

In the past 20 years, political clientelism has resulted in favoritism of certain interest groups compared to others. The solid political organization of these groups (such as the war veterans) and a system based on rights rather needs, has led to the fact that, in Bosnia and Herzegovina, close to 63% of all non-contributory transfers fall onto benefits acquired by the war veterans⁸. This, in itself, does not constitute a problem; however, coupled with the fact that the ratio of transfers received by the wealthiest and the poorest fifth of the population is disproportionate, it becomes clear that the current welfare state in Bosnia and Herzegovina requires significant rationalization, regulation and de-politicisation.⁹

Health insurance and health protection are facing similar problems to those of pension and disability funds. The fragmented state of the health system (particularly in the FBiH)¹⁰ additionally amplifies its lack of efficiency and sustainability. At the moment, there are 13 ministries and 13 health funds at the level of BiH in which mandatory contributions are flowing in, in the amounts of 12.5% of gross

8 World Bank, 2009

9 Here depoliticization implies liberation from political pressures and influences.

10 This fragmented state results from handing over significant competencies to the lower levels (primarily to the cantons) in the area of fiscal policy, and which are derived from the constitutional and legislative structure of BiH. Therefore, it is possible that in BiH there are 13 ministries of health (2 at the entity level, 1 in Brčko District and 10 at the level of the cantons).

salary in FBiH (with an additional 4% paid by the employer) and 12% in Republika Srpska. This fragmentation of the health system leads towards the multiplication of institutions, their inefficient geographic distribution and to an increase in administrative and operating costs.¹¹ Furthermore, due to great decentralization, the funds of the wealthier cantons can afford better health care unlike those with weaker economic activity. Even though the health funds are covered from mandatory contributions, investments and improvement of health institutions and equipment depend on budget assignments for capital investments, while corruption and “informal payments” are widespread in the entire health system.

Based on the above-mentioned characteristics of social policy in transitional BiH, the following conclusion is inescapable: In the past 20 years, the welfare state in BiH has become fiscally unsustainable, and the reform process which was initiated in the 1980s has never been completed. The drop in economic activity, inefficient use of funds and political clientilism, has pushed the remnants of the welfare state to the very edge of sustainability. This is one of the reasons (along with ideology-motivated attacks) why the welfare state in BiH, and in other developing Western Balkan countries, is considered to be an obstacle rather than a predisposition and instrument for creation of development.

11 Rašidagić & Maglajlić, 2011, p. 24

Repression, manipulation, control...

Further in the text, particular attention will be given to the new socio-economic context which appears on the horizon in the form of a proposed Reform Agenda. This review will be based on two assumptions: 1. the long-term development strategy in BiH is the frequently proclaimed export based growth, and 2. there is a clear possibility for reforms and economic development without altering the Dayton Peace Agreement. One of the basic theses of this text, which we will try to demonstrate, is that social policy and the welfare state are not simply parasitic remains of the past that stand in the way of recovery, but rather they are necessary elements of future development strategy in the context of Bosnia and Herzegovina.

If judging by what has been presented so far, within the frame of existing economic reforms comprised in the so-called Reform Agenda (which is based on Compact for Growth and Jobs and conditions set by the International Monetary Fund and the World Bank)¹², Bosnia and Herzegovina should, in the upcoming period, not only

¹² Reform Agenda, 2015: This is a set of socio-economic reforms viewed, by the European Union and the International Monetary Fund, as necessary conditions for progress towards the EU and acquiring the next tranche of the stand-by arrangement. The reforms should nominally create a more competitive economy in BiH and, through flexibilization of the labour market, increase the number of the employed. Some of the areas covered by the reforms are: public finances, business climate and competitiveness, labour market, social protection, public administration, rule of law and fight against corruption.

perform a rationalization of the welfare state (reforms of the tax system through a decrease of income tax and better aimed social expenditures), but also it should stabilize public finances through its reduction. While rationalization and an increase in efficiency are long overdue, the question arises whether the reduction of expenditures for the welfare state is an adequate strategy for a country like Bosnia and Herzegovina, where even the slightest economic volatility can be manifested in increased ethnic tensions.

As was previously stated, the long-term development of Bosnia and Herzegovina is steering towards growth, based on an export economy. Notwithstanding the fact that official policies have never clearly defined development goals or means, the small size of the local market and the proximity of larger neighbouring markets (the EU), is steering the BiH economy towards opening up and increasing exports. This strategy undoubtedly leads towards transfer of wealth from one group of actors towards another. Taking into consideration the announced reforms, it is to be expected that a portion of wealth will change hands from the consumers (workers) and the government into the hands of producers in this process. In that sense, it is necessary to debate the role of the welfare state. In order to better illustrate the potential road of BiH, it is necessary to name several examples with basic elements of development policy for export-oriented countries.

Development strategy based on export is a model which has been used since the 1960s when Japan and Germany, and later the East Asian Tigers (Taiwan, South Korea, Singapore and Hong Kong)

underwent rapid export-oriented industrialization. The three basic characteristics of this economic policy are:

- Suppression of wages (and increase of the difference between productivity rate and wages);
- Manipulation of currency value;
- Control and regulation of the country's financial market.

In the aforementioned cases, these three measures have resulted in an increase of competitiveness of German and East Asian products in the world market, but also in the reduction of the purchasing power of their consumers and the transfer of wealth towards producers. Nevertheless, the relatively generous social policy in these examples (particularly in the case of Germany and Japan), played a proactive development role. The drop in wages, as well as the drop in the value of money due to manipulation of the currency value, was replaced with the development of a more generous welfare state both for the consumers and the producers. According to an OECD Report¹³, the share of social policy expenditures in the OECD countries is constantly rising, and contrary to the stereotypes, export-oriented Germany is spending a larger percentage of its gross national income (GDP) on social policy than, for instance, Greece, Portugal or even Norway.

As observed by Dani Rodrik¹⁴, there is a robust positive correlation between the degree of openness towards foreign trade and the increase of state expenditures within those countries. The larger the

13 OECD, 2014, p. 1

14 Rodrik, 1998

share of the overall trade (import plus export) in the GDP of a country, the larger the share of the state sector as well. A possible reason for this is something Rodrick calls his compensation hypothesis: loss of standards and “import” of external volatilities and global risks are compensated for through creation of shock-absorbing mechanisms within the country (primarily through development of the welfare state). Therefore, the examples from East Asia (South Korea and Taiwan) point to the fact that social policy is not necessarily a mere result of opening one’s economy, but that it can be used as an institutional instrument of development¹⁵.

For example, in Germany, the real wages (nominal wages minus the rate of inflation) have been stagnating for the past 20 years, and in the time period between 2004 and 2008 they were even dropping.¹⁶ Taking into account the growth of productivity, this is just one part of an explanation to the fact that this country has weathered through the world economic crisis and managed to maintain an enviable level of economic activity. Another part of the explanation, which is of relevance in the context of Bosnia and Herzegovina, is a presence of a relatively strong social policy in Germany. Even though we stand as witnesses to the rise of inequality in this country, it still retains many elements of a strong social state through free education, quality health protection and relatively generous social protection.¹⁷ This turn

15 Kwon, 2007

16 Dauderstädt, 2012, p. 6

17 *ibidem*, p. 8

of events in Germany is not a by-product of an economic strategy, but rather one of its cornerstones.

Let's apply the aforementioned strategy in the context of Bosnia and Herzegovina. Considering the fact that, in Bosnia and Herzegovina, the manipulation of the currency value and financial restrictions are currently dimmed (yet not impossible),¹⁸ there is still the primary aspect of export-oriented development policy available, which is the suppression of wages. Precisely this should be the result of one of the basic demands in the set of reform suggestions, which the political actors in BiH and the international community, at the time of the writing of this text, are still debating.

Listed as essential goals of the suggested reform measures are the increase of competitiveness and economic growth. Some of the suggested measures will, in many ways, affect the social policy in Bosnia and Herzegovina, yet it remains questionable whether they will create preconditions for long-term development. Therefore, among other things, reduction of the income tax (the so-called tax wedge – pension, disability and health insurance, and unemployment insurance), a pay freeze in the public sector, separating health protection and services for the unemployed, and an increase of the retirement age limit are being suggested, and, through changes in the Labour Law, so is the abolishment of collective agreements

18 There is a significant internal and external pressure against abolishing the current policy of the BiH Central Bank – i.e. its Currency Board. Control of financial market in BiH would be hard to reach politically due to lack of harmonization with the EU guidelines and regulations.

concluded for an indefinite period of time, giving preference to fixed-term employment contracts.

The aforementioned measures are some of the first steps toward suppression of wages, with the goal of increasing the competitiveness of the BiH work force. Nevertheless, the reforms will still mainly be based on the reduction of what was left of the welfare state, thus producing an unsustainable model of export-oriented growth. If we take as an example the reduction of the income tax, it is to be expected that directly after that there will be an increase in the (formal) employment rate, primarily due to the fact that a part of the existing workers in the informal sector ("gray economy") will cross into the formal sector and thereby expand the contributory base. Therefore, on the one side, we have reduction of the tax rates and, on the other, an increase in the number of the insured. The ratio of these two factors will determine whether the Pension and Disability Funds and Health Funds will face even greater difficulties. Having in mind that an in-depth rationalization will be necessary in many spheres in order to jump start the BiH economy in time, as well as the fact that the existing funds are financed according to the principle pay-as-you-go, chances are that not enough money will be flowing into these funds. An additional measure that should compensate for the loss of these means is an increase in the VAT rate, which is a regressive form of taxation and will disproportionately affect negatively the poorer strata of society.

Both of the measures mentioned above: the reduction of income taxes and the increase of VAT, can result in a significant decrease of

consumption as well. In the case of the former, the consumers will want to save more in fear of an uncertain future regarding old age and possible illness, and in the case of the latter, they will have a lower portion of their salary left at their disposal.

The nominal goal of the Reform Agenda is to raise competitiveness and utilize the “comparative advantages” of BiH that rest on the cheap and relatively well-qualified work force. Still, as stated above, the suggested measures are based on social policy transformation and carry within themselves an inherent contradiction due to which the work force in BiH will probably become more competitive in the short run, but at the expense of a long-term and more viable competitiveness that could be achieved with parallel strengthening and rationalization of the welfare state (as in the case of Germany and other export-oriented countries).

Social inequality and ethnic divisions

Every reform process in Bosnia and Herzegovina must take into account the fact that ethnic divisions exist. The upcoming wave of socio-economic changes may address this issue on two fronts: by remaining within the framework of the Dayton Agreement and by reducing the social tensions in BiH, thus minimizing the possibility for them turning into ethnic tensions. Savings measures and reduction of the welfare state carries within itself a dangerous possibility of channelling those tensions through the “lines of lower resistance”, or, in the context of BiH, through ethnic divisions. The complicated structure of the Dayton Agreement has been used many times as an alibi for cessation (or lack of initiation) of the reforms which are possible within the legislative framework with a sufficient dose of political will and coordination. It is apparent that the socio-economic status quo is not sustainable and that a significant rationalization of economic and social policy in BiH is necessary. Still, current reform suggestions have at their core a different redistribution of already deficient funds, while a sustainable development policy would have to be based on the increase and rationalization of utilization of funds. Naturally, all coherent reform steps in this direction are conditioned by the existence of political will and a significant amount of policy coordination of the three constituent peoples.

Taking into account the previously mentioned possibilities of the negative consequences of a restrictive fiscal policy and reduction of

social programs for the overall development of BiH and interethnic relations, the new development paradigm should arise from the “zero-sum” frame, and, in the context of economic and social development, an attempt to “increase the portion of the cake” for all social actors in BiH. The new social contract in BiH should start from an inter-ethnic consensus, through an industrial and export policy of the country, to development strategy and specific, appropriate measures in fiscal (and eventually monetary) policy. The industrial policy should, among other things, clearly define the export-oriented branches and thus enable a proactive state policy for their promotion. In parallel with these efforts, the state should, through rationalization of the money it has at its disposal, and through clear fiscal and careful monetary policy for the purpose of development, “increase the portion of the cake”. It is necessary to separate and strategically employ the existing local capital in development goals. BiH needs direct foreign investments, but the historic fact remains that those investments do not come to countries with no economic growth. This growth must be created with common efforts through clear strategies. In this sense, the welfare state is just one, but an essential part of a development strategy of a small and open, export-oriented economy.



CONSENSUS ON THE COMMON GOOD

Žarko Papić

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: Social (in)justice, (in)equality of revenues

There are multiple levels of social inequality in Bosnia and Herzegovina caused both by the war and by inadequate policies over the last twenty years. The country has been in deep recession since 2008, with high unemployment rates and galloping debt levels combined with decreasing GDP, where 49.2% of the GDP is spent by public administration on all levels. In a word, it is facing a very unfavourable macroeconomic situation. Dr. Žarko Papić, expert for social policy and humane social inclusion, presents a range of statistical and comparative analyses that are a cause for concern, but at the same time, they provide an answer as to the reasons for the demonstrations in February 2014. However, they also indicate that there is only one possible way out: BiH has to finish the transition that had been stopped by the war. This has to be accompanied by the development and implementation of a policy which would enable dynamic growth, employment, competition, etc. within the reformed system. Simultaneously, this includes such policies that would ameliorate the negative consequences of overall trade liberalisation. Like the authors of the two previous essays, Papić sees an opportunity in cautious implementation of the reform agenda in order to avoid copying of a neoliberal template, as BiH would not be able to cope with something like that. Therefore he calls for reindustrialisation and quantitative easing, i.e. smart management of monetary sovereignty and an inflation programme in order to release cash for well-designed developmental projects. This does not require any change in the Dayton Peace Agreement. What it requires is a consensus on the common good.

Deepening Global Inequality...

Generally speaking, the early 21st century was characterised by a severe economic and financial crisis. It was the first crisis of the process of globalisation, wherefore it was logical to expect that it would have a global impact. The very process of globalisation has all the elements of neoliberal economy and “market fundamentalism”, which are the main causes of the globalisation crisis. What is this all about? In theory, globalisation should have enabled free movement of capital, goods and labour and globalisation of common goods. The first two aspects, without any doubt, contributed to the integration of the world economy. The absence of globalisation of the common good (health, education, ecology, social progress, poverty reduction, etc.) resulted in an increase of poverty and inequality at the global level.¹

In the sense of neoliberal economy, low purchasing power of the population of entire continents, growth of production and

1 Criticism of the neoliberal concept of globalisation by numerous authors is reflected in the opinion of J. Stiglitz: “However, the issue that is commonly debated—namely, whether we should be “for” or “against” globalization—is not the salient one. As a practical matter there is no retreating from globalization. The real issue is the conduct of the international economic organizations that steer it. If we continue with globalization as it has been managed in the past, its agenda driven by the North for the North, reflecting the North’s ideologies and values, the future will not be bright. There will be a backlash in the developing world and increasing conflict with the developed world. There will be greater global instability and rising doubts about the value of a market economy.”

accumulated capital in the developed parts of the world were focused on the consumers in developed countries, while their consumption stimulated “soft” credits on a mass level. The financial “bubble” (credits and other financial products) in 2012 amounted to nine times the value of the annual GDP in the entire world.² The bubble had to burst, which happened in the US in 2008, after which the financial “tsunami” hit the rest of the world. What is called the “financial crisis” is only the tip of the iceberg, and its manifestation represents a much more serious crisis. However, this is not only a crisis of neoliberal economy. The crisis initiates the process of deterioration of the existing “manner of production”, which if simplified, could be described as a consumer society and its globalisation with entirely unequal distribution of resources at the global level. The financial crisis stole the limelight from other elements of the crises, such as the crisis of today’s production, food crises, and the energy and environment crisis.

2 F.Čaušević, *Globalizacija, Sjevernoistočna Evropa, i Svjetska Ekonomija* (Edition: Routledge, Abingdon, Oxon, UK, New York, USA, p.23, January 2015)

... and Causes of Inequality in BiH

In addition to the global causes of inequality, there are specific causes of inequality in BiH. Due to financial and social consequences of war devastation in the period from 1992 to 1995 which are still visible, this is particularly pertinent to the group of internally displaced persons. And there are widespread social problems, from poverty to the loss of basic social values among the population. Discrimination against marginalised groups, including marginalisation of constituent peoples who live in a territory where they are a minority is also very present. Quality of health care and the education system significantly deteriorated, and citizens have almost no influence on politics (lack of participatory democracy, exclusion of citizens and, for many, the nonexistence of the possibility of choice). In addition to all of the above, BiH is currently facing tedious tasks within comprehensive reforms related to accepted obligations from the “new EU approach” (German-British initiative) and the Reform Agenda for Bosnia and Herzegovina. However, BiH has not even completed the process of the three-fold transition which began immediately after the war and implies: a) transition from war to peace and building of new joint institutions, b) transition from a one-party system to democracy within a complex national structure affecting functioning of institutions, and c) transition from command economy to market economy. The reasons for such strategic delays should be sought in a very complex state structure, defined by the Dayton Peace Agreement (Annex IV, BiH Constitution) and political parties which are currently more cartel-type interest-based organisations than true political organisations with a

clear programme-based profile. Corruption, nepotism and organised crime are reasonably expected manifestations of such a situation.

All of the above, combined with the neoliberal imperative of the “Washington consensus”, resulted in the state of a permanent economic and even political crisis. BiH has been in deep recession since 2008. According to the World Bank, its GDP roughly reached the 2008 levels only in 2013.

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
WB	5.4	-2.9	0.7	1.0	-1.2	2.5	0.4	1.5	2.5	3.0
IMF	5.6	-2.7	0.8	1.0	-1.2	2.1	0.7	3.5	3.7	4.0

The IMF expected a faster recovery than the World Bank, partly because the IMF expects investments for reconstruction after the May 2014 floods. BiH lags behind the developing and emerging economies in Europe which recovered much faster after 2009.³

On the other hand, the BiH public debt reached 11,249 million KM by the end of September 2014, which is an increase of 822.32 million KM compared to the end of 2013. The external debt is 8120 million KM, which represents an increase of 711.35 million KM compared to the end of 2013. Over the past seven years, the external debt increased by approximately 90%. The internal debt amounted

³ IMF, Report no. 14/189 Bosnia and Herzegovina, July 2014, p. 20.

to 3129 million KM and it increased by 110.97 million KM compared to the end of 2013. Payment for the external debt increases from year to year. For example, in 2008 it was 230 million KM, while in 2014 it will amount to 760 million KM, which represents an increasing fiscal problem. Due to the lack of IMF instalments, the last quarter of 2014 saw a significant increase of the internal debt (entities emit government and treasury bonds). In 2014, the public debt made up 46% of the GDP, while in 2011 it stood at 40.8%.⁴ The key problem is not the debt but the ratio of the public debt to the GDP. There are two far more serious problems:

- Increasing indebtedness and simultaneous decrease of the GDP;
- A large percentage of the debt is used for public spending, e.g. to cover budget deficits. On the other hand, only 11.2% of the new external debt is utilised for economic activities.

The crucial problem of the BiH economy is large public spending on overall administration (all levels of government), which will, according to IMF estimates, amount to 49.2% of the GDP in 2014.⁵ The excessive debt, both external and internal, influences the payroll taxes (taxes and contributions) for employees, which increases costs of labour by approximately 72%, stimulates unreported employment and hinders employment in the formal economy. A total of 194,883 persons are employed in the public sector (administration, education, health), which constitutes 27% of the total number of employed persons. 13% of GDP is spent on their salaries and together with

4 Data taken from an unpublished research report by Svetlana Cenić, January 2015

5 IMF, *ibid*, p. 20.

material costs and compensations, the amount reaches 20% of GDP. The BiH economy cannot maintain such a disproportionate, expensive and inefficient administrative apparatus.

On the other hand, salary levels and overall transfers for education and health care are inadequate. A radical decrease in public spending would enable development of the real sector and accelerate GDP growth. BiH is also characterised by the unequal position of employees in the real, private sector, particularly in the “gray” economy and employees in the public sector (administration and companies with majority state ownership). The labour market in BiH recovered slightly in 2014,⁶ with a modest increase in employment and decrease in unemployment. The average number of the employed grew by 1.2%⁷ in the period from January to September 2014, amounting to a total number of 698,900 employed persons.⁸ The official unemployment rate in the period January-September 2014 was 44.1%⁹, when the total number of unemployed persons was 550,200. The unemployment rate calculated in line with ILO methodology remained at 28%.

The high unemployment rate directly jeopardises the pension system, as the ratio between employed and retired persons is 1:1.1 and

6 DEP „Bosna i Hercegovina – Ekonomski Trendovi za period januar-septembar 2014.“, December 2014

7 The growth rate changed compared to the same period in the previous year.

8 Temporary data, source: BHAS

9 Administrative unemployment rate is by 0.3% points lower compared to the same period in 2013.

the current system needs a ratio of 1:4 in order to function properly. On the other hand, according to data of the Labour and Employment Agency of Bosnia and Herzegovina, the unemployment rate among young people reached concerning levels and in 2014 it was 62%, which is 3.6% more compared to 2013. The fact that 56.3% of the working-age population is inactive represents a significant problem, and the other 43.7% are either employed or looking for a job. That is even a larger problem than the unemployment itself considering that BiH has the lowest rate of labour market participation (or activity) in Europe.¹⁰

The major reason for the lack of motivation to be active in the labour market is the system of social protection (particularly for veterans) where a certain status guarantees benefits, which does not stimulate activation in the labour market, as well as diaspora remittances. However, passivity in the labour market is, according to 64.2% of respondents, caused by the fact that it is impossible to find a job without personal contacts or political connections. Passivity is also a remnant of the former socialist understanding of employment, as 52.1% of respondents think that the state should provide employment for everybody (and 45% of respondents think that the state should provide a favourable environment for employment).¹¹ It is clear that the transition of the mind-set of people was actually never completed.¹²

10 See: Compact for Growth and Jobs, p.6.

11 Prism research, *ibid*.

12 See: RCC, "Balkan Barometer 2015" Business Opinion Survey – Analytical Report, Sarajevo, May 2015 <http://www.rcc.int/pubs/24/balkan-business->

Economic stagnation influences the rise of the average net salary in BiH. The average net salary in the period January – September 2014 was 829 KM with the nominal growth rate of 0.5% y/y, while the real growth was somewhat larger due to deflation. The average net salary in BiH grew at a slower pace at the end of 2014 than at the beginning of the year.

At the same time, according to Eurostat data, the real individual consumption in BiH is only 37% of the EU average (only Albania is worse, ranked with 33% of the EU average).

Poverty Dynamics

BiH, even 20 years after Dayton, faces an unfinished transition and unfinished democracy. Generally speaking, this is the cause of deepening inequality, increasing social tensions, and increased poverty, and it represents a grave obstacle to economic and social development. Social injustice, in such a situation, is accompanied by “systematic discrimination” in certain segments of social life, particularly in terms of social policy and employment:

- Discrimination against disabled persons compared to disabled war veterans (in terms of disability categories and benefits),
- Territorial discrimination in terms of certain social benefits (e.g. 5 cantons in the FBiH pay child benefits at different rates, while 5 cantons do not pay child benefits),
- Employment discrimination in the public sector based on political affiliation; ruling political parties employ their “soldiers” and not professional and qualified persons,
- Discrimination in the Constitution and Election Law, particularly against the “Others” (Sejdić-Finci case), etc.

There are different methodologies to measure the poverty rate. For developing and transitional countries, what matters most is the absolute poverty line. In 2011, 23.4% of the population lived below the absolute poverty line¹³ (according to the BiH Agency for

13 The absolute poverty line is 271KM a month per one adult person in a household taking into account prices in 2011. The second adult person and children are weighted using the OECD 2 equivalence scale (the oldest person

Statistics). This is a significant increase compared to 2007 when 18.6% of the population lived below the absolute poverty line.¹⁴

If, hypothetically speaking, we extrapolate the poverty growth (measured against the absolute poverty line in the period from 2007 to 2011 for the period from 2007 to 2014) then 27% of the population in BiH lives below the poverty line, 26% in the FBiH and 29% in RS. This “dry” statistic can easily be visually presented by indirect indicators: increased number of people dumpster diving, astonishing increase of the number of gold-buying shops (which means that all family resources have been spent and it is time to sell the engagement ring), offers in classified ads, etc. At the same time, new data indicate that the social protection system deteriorated over the previous period. In 2011, the poorest one fifth of the population in BiH received only 17.3% of the overall budget transfers for social protection (not payroll related) (in 2011 this was 3.88% of the GDP in BiH) (social benefits, civilian disabled persons, child protection, civilian war victims, disabled veterans and veterans), while in 2007

in the household is weighted with factor 1, other adult persons with 0.5, the first child with 0.3, the second child with 0.2 etc). This means that the absolute poverty line for a family of four, parents and two children, is 569KM, which is believed to be enough for minimum existence.

- 14 The situation in the entities is identical (FBiH in 2011 – 22.7% and in 2007 – 17.4%, RS in 2011 – 25.3% and 20.2% in 2007). See: IBHI/Maastricht Graduate School of Governance. „Siromaštvo u BiH 2011 – Trendovi i dostignuća i Indikatori adekvatnosti ciljanja budžetskih transfera za socijalnu zaštitu u BiH 2011” and „Budžetske novčane naknade za socijalnu zaštitu u BiH – Šta funkcioniše, a šta ne”, Sarajevo, 2013 and „Budžetske novčane naknade za socijalnu zaštitu u BiH – Šta funkcioniše, a šta ne”. T.Dmitrović, IBHI, Sarajevo, June 2014

the poorest one fifth of the population received 18.3% of the budget transfers.

On the other hand, the wealthiest one fifth of the population received 20% of these transfers in 2011. Accordingly, the social protection system increases inequality. This system was assessed as socially unjust by 80.3% of the respondents (the poor do not receive enough aid).¹⁵

The social protection system in BiH does not reduce poverty, as can be seen if one compares the growth of poverty with the decrease of the percentage of transfers from the social protection system allocated for the poorest population. The system is based on status and its relatively large budget is not intended to keep the “social peace” (as seen in the demonstrations in 2014) but to maintain political power through the “buying” of voters.

Enhanced targeting of beneficiaries and benefits in accordance with real needs is only one aspect of the reform of the social protection system, and it cannot remain within the existing limits of civilian benefits. Therefore, the system requires a comprehensive change, starting from the establishment of a database, unified register of all beneficiaries and labour activation strategies, in cooperation with the social care centers, employment bureaus, etc.

15 Prism research, *ibid.*

Demonstrations

Discontent among citizens in BiH, particularly among employees of the companies ruined in the privatisation process, has been simmering for several years now. Regular demonstrations organised in front of governmental buildings at the cantonal or entity level, blocking of traffic and even hunger strikes have become a regular sight. The authorities did not take the demonstrations seriously and the sporadic support to the companies hit by the crisis only prolonged their agony.

In Tuzla, which once was a large industrial center in BiH, workers organised protests in front of the Tuzla Canton Government every Wednesday from the beginning of 2014, which yielded no results as they never managed to establish effective communication with the Government representatives. On Wednesday, 5 February 2014, with the support on social networks, protesters clashed with the police, which led to the culmination of violence and setting of the municipal and cantonal government buildings on fire. It is important to emphasise that the protests were of a social character, with the protesters demanding that the Government take responsibility for the situation and demanding the resignation of responsible officials. Demonstrations in Tuzla continued the next day.

The wave of demonstrations hit all major cities in the Federation of BiH: Sarajevo, Mostar, Bihać, Bugojno, Travnik, Goražde, Tešanj, etc. Sarajevo demonstrations on 07 February were instigated only by

social discontent, without any nationalist or political connotations. The demonstrations were violent, culminating in the buildings of the BiH Presidency and Sarajevo Cantonal Government being set on fire. A similar scenario happened in Bihać and Mostar.

The authorities reacted in a confused manner, with the use of the police. Different police agencies later blamed each other for insufficient involvement and reaction. Under the pressure of the demonstrations, four cantonal governments resigned but only one government, the Tuzla Canton Government, was actually changed, while the other four governments remained in power in the so-called “technical” mandate.

The key message of the demonstrations, that the social and economic problems in BiH have to be urgently addressed, was not understood by the local authorities.

On the other hand, international organisations heard the message clearly, primarily the EU, which designed a new approach for BiH focused on economic and social reforms. A forum for prosperity and employment was organised in May 2014, followed by a series of comprehensive activities resulting in the Compact for Growth and Jobs (July 2014). As a final step, all governments in BiH at the beginning of 2015 signed documents committing themselves to undertake comprehensive economic and social reforms. This resulted in the draft “Reform Agenda for Bosnia and Herzegovina” prepared in May 2015.

For a long time, unions in BiH were “under the umbrella” of political parties, following the outdated logic from the socialist period.

It is important to point out the establishment of new, independent unions (“Solidarity” in Tuzla, with a symbolic name). One cannot be an optimist when it comes to the active role of the unions in BiH (numerous organisations, division along entity lines, history of inactivity). However, reform of labour legislation can instigate significant involvement of the unions in social dialogue with a specific conservative “anti-transitional” role. The existing labour legislation needs to be changed, as it protects employees in the public sector (whose unions are best organised), while workers in the private sector are protected only to some extent. Accordingly, unions, regardless of their declarative fight for workers’ rights, do not enjoy a good reputation, particularly because of their passive role in the context of the demonstrations of workers of failed companies.

The Road to Recovery

Considering the fact that the process of transition in BiH was never finished, it is necessary without further delay to initiate comprehensive reforms of the economic and social system, i.e. to complete the transition. This has to be accompanied by the development and implementation of policies which would enable dynamic growth, employment, competition, etc. within the reformed system. Simultaneously, this also means such policies that would ameliorate the negative consequences of overall trade liberalisation.

These radical processes will take place in circumstances of high social tensions, and the question is whether the governments will be willing to create “new policies” that can open new social issues in the first years of their implementation. Therefore, developmental policies have to match the reality in BiH, a country in transition and development. For example, the neoliberal matrix should not be routinely copied because it, too, is facing a crisis. Development of human development matrices, the UNDP concept, is significant for BiH, having in mind the high rates of poverty and inequality. One of the main problems in this process is the existing fixed currency rate (KM and EUR) and currency board which does not allow the BiH Central Bank to define monetary policy. There are reasons both for and against the currency board. On the one hand, it prevents inflation, which is very important because of the psychological consequences of the pre-war inflation for citizens in BiH. On the other hand, strengthening the financial potential through a rational monetary

policy could create new cash flow to revive the economy. This was done in January 2015 by the European Central Bank which allocated 60 million EUR a month for the EU economy. The inflation rate of 6% a year is considered to be a desirable stimulus for economic growth.

The real problem stems from the fact that it is difficult to assume that there will be efficient control of the monetary policy, e.g. inflation, in the complex political and administrative structures in BiH.

Precisely speaking, the policies should be focused on:

- The real sector, more precisely, on industry (“re-industrialisation”). This also implies increased competitiveness, primarily radical improvement of the business environment and support for technological development.
- Introduction of corporate management in state-owned companies and their de-politicisation.
- General reduction of public spending (which is not an adequate model to overcome the crisis in the EU) is not a solution. It is necessary to change the structure of spending – public spending, particularly in administration, should be significantly reduced while spending for public investments should be increased. This will result in reduction of overall public spending. This will enable growth of employment and will change the structure of employment through the “transition” of unproductive employment in the public sector to productive employment in industry.
- The opening of our market to domestic products, primarily agricultural products, which means protection by all forms of non-tariff protection.

- Development of the social protection system into a system of social inclusion through activation of vulnerable and minority groups in the labour market, in specific ways tailored to meet the needs and abilities of vulnerable groups.
- Development of new methods to improve allocation of civilian contributions from the budget in order to direct them to the poor and endangered. A better targeting mechanism would assist in addressing the above problems and provide support for the transfer from the politicised rights-based system to an objective approach based on needs, which will improve benefits for those in need.

The Compact for Growth and Employment in Bosnia and Herzegovina can be considered to be the first step towards completion of the transition process. It defines six preliminary objectives.¹⁶ These objectives are further elaborated and accompanied by proposals for concrete measures which will enable their comprehensive implementation. The key points of the Compact that carry risk are related to the reform of labour legislation (collective agreements) and decrease of taxes and contributions. It is expected that unions, health funds and pension funds would resist such moves. On the other hand, another serious risk can be seen in the reservations expressed by the ministers in RS concerning the resources for preparation and consequences of the Compact. It is to be expected that the RS Government will prepare its entity programme of reforms and, from what has been said in the public appearances of the FBiH Government Prime Minister, it can be expected that the FBiH will choose to pursue “soft” reforms.¹⁷

16 The Compact for Growth and Employment in Bosnia and Herzegovina, June 2015, p. 5 -11

17 TV1, talk show „Tema“, 5 February 2015: announcement of a new agenda of the FBiH Government; F.Novalić –candidate for prime minister

CHAPTER THREE

EUROPEANISATION OF THE DAYTON CONTEXT: EU AND THE FUTURE OF BIH



FROM THE BOTTOM UP, FORWARD

Jasmin Mujanović

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: In search of a European future?

It is quite worrying that, twenty years after the Dayton Peace Agreement, we still read well-argued narratives about the serious democratic deficit in BiH. This is not quite the sort of democratic deficit (lack of trust in political parties and institutions) which can be encountered in most parliamentary democracies in the world nowadays but rather a deficit of citizens' participation in the social and political processes because the citizen has been "exiled" from democracy by means of various clientelistic-collectivist methods. It is within this that the potential for criticism of the Dayton system is the most pronounced. Yet what is important and discernable from this analysis is that the absence of democracy does not stem so much from the Dayton constitutional framework as it results from the rigid political (anti)culture, political clientalism and the practice of political sponsorship that has become an end in itself. The author deftly draws the line between the sophisticated requirements of the Euro-Atlantic processes and the inability of ethno-nationalist "kleptomania" (which regularly engages in theft of the public interest) to meet these sophisticated requirements.

Jasmin Mujanović, PhD candidate in political science at York University in Toronto, sees hope in the outbreak of civil unrest that instils "democratic fear" into the heart of the political elites and reminds them of the reason for their existence – to serve the common good of their citizens. According to him, it is here that the emancipation of politics in BiH begins, along with the possibility of an authentic European future for BiH. Emancipation is a painful process in which the political elites are exposed to double pressures - active and participatory pressure by the citizens who demand a more functional country and pressure by the international community to align the implementation of these reforms with European standards.

Zero sum democratization

Much as the signing of the Dayton Peace Accords in 1995 itself, the potential membership of Bosnia and Herzegovina (BiH) in the EU and NATO twenty years since the end of the war should represent the beginning, not the end of a continuous process of democratization.¹ However, in the official political discourse in BiH, the Dayton Agreement and the EU-NATO “package” are considered the final chapter(s) of that process. Yet the fact remains that for BiH to survive (and thrive) as a state and a society, there is no alternative to EU and NATO membership. The question thus becomes: how can BiH join the Euro-Atlantic community if a significant part of its leadership does not support the integration process or even seems to be fundamentally opposed to the country’s membership? What is required, I argue, is consistent popular democratic intervention.

The political elite of BiH actively seek to convince the citizens that politics and democracy must be understood as a closed domain of the said elite, not as the arena for discussion which involves all citizens who make up this country. Those who came to power in the wake of the war and its consequences, as is the case with virtually the entire political establishment in BiH, are clearly not interested in a politics whose basic atom consists of the participation of all citizens

1 Dr. Marina Antić and Dr. Dario Čepo provided much help in the preparation and writing of this paper. I am very grateful for their efforts.

rather than fear and hatred. It is this approach to politics that makes this elite an anti-democratic oligarchy.

Therefore, thinking about the “European future” of BiH implies being able to distinguish between the two types and concepts of politics. On the one hand, you have the existing political system of BiH: a system that is defined in terms of institutional discrimination and a sectarian constitutional order presided over by an echelon of international observers and dominated by a single local class of “ethnically-colored” oligarchs. This BiH is neither capable nor worthy of membership in the world’s leading political, economic, and security organizations. Therefore, the primary contribution of this paper is its attempt to describe the possibility of having a different type of politics in BiH. Here I will make a case for a perspective on politics and democracy as a “participatory exercise”, i.e. as a way of collective social management through which “the many” are able to challenge and overturn the selfish machinations of the ruling minority. This vision of democracy follows the theorist Sheldon Wolin, among others, who claims that “a free society composed of diversities can nonetheless enjoy moments of commonality when, through public deliberations, collective power is used to promote or protect the well-being of the collective.” The manner in which these “moments” can be transformed into a permanent evolution leading to a genuinely democratic society will be the main focus of this paper.

At this point, we must point to the growing tide of social unrest and conflict that have engulfed BiH since 2012: from the park protests in Banja Luka and the “Baby Revolution” in Sarajevo to the civil

unrest and the plenum movement during 2014. These trends primarily represent evidence of failure of the current approach to “peace implementation” and democratization, as it has been carried out by the country’s leaders and segments of the international community. However, more important is the fact that these protests represent a model of the manner in which the citizens themselves can and must become the leading units of popular democratization in BiH.

In other words, while this paper recognizes the specificity of the post-war context in BiH, I still maintain that democratization of this society is not possible without the citizens’ intervention, i.e. the democratization of BiH is not possible as long as the citizens are not a relevant political factor in this society. This dynamic will become a reality only when elites in this country come to expect a reaction in the form of organized civic political movements willing and able to confront them for their incompetence. As such, this paper will analyze the manner in which these movements are formed and maintained, as well as their key role in the process of substantive democratization.

Political clientalism in its labyrinth

In order to fully understand the nature of the existing constitutional system in BiH, the work of Asim Mujkić is instructive. Mujkić claims that, although the Dayton constitutional order superficially resembles a parliamentary or representative democracy, this does not exist as such in its essence, and that Dayton hides a deep oligarchic political culture within itself. In reality, “legitimate, free and fair” elections in BiH are used to take away all political initiative from citizens as individuals (Mujkić 2007, p. 113). Mujkić calls BiH an “ethnopolis,” since the Dayton regime bestows political rights almost exclusively on the basis of ethnicity and thus negates all other forms of political association and mobilization. In this regard, the case of BiH is unique in the category of so-called “illiberal democracies” (Zakaria, 1997).

The greatest tragedy in all of this is the fact that the suffocation of democratic principles within the framework of the existing representative regime in BiH has been too often implicitly endorsed by Brussels, Washington, and the West in general. For at least the first ten years after the war, the international community was intimately involved in the everyday politics of BiH. However, two decades after the signing of the Dayton Peace Agreement, we now stand on the brink of a social and societal implosion.

Yet in order to truly understand this criticism, it is also necessary to critically assess the concept of “democracy” in the first place. I use that term in the same manner as other “radical democrats”: by

making a clear distinction between politics as an exclusive practice and politics as an inclusive act. Nevertheless, Wolin thinks that this second conception of democracy is only possible in transitory “fugitive moments” (Wolin 1996). However, I would argue that even the mere “moments” of this genuine participation are only possible when we, as ordinary citizens, look for means to make those moments permanent.

This conception of democracy is based not only on participation but also on a certain type of popular antagonism. This means that participatory understanding of democracy rejects inherent elitism of all representative regimes and in particular the ethnically-colored chauvinism of the Dayton regime in which, as Mujkić reminds us, the performance of free elections and political representation obscures the process of the total economic plunder of citizens by elites. In this respect, particularly in light of the virtual obsession with rarely defined “reforms” in the official political discourse of BiH, it is necessary to remind ourselves, as James Scott argues that:

Most of the great political reforms of the 19th and 20th centuries have been accompanied by massive episodes of civil disobedience, riot, law-breaking, the disruption of public order and, at the limit, civil war. Such tumult, I would argue, not only accompanied dramatic political changes but was, often, absolutely instrumental in bringing it about. Representative institutions and elections by themselves, sadly, seem rarely to bring about major changes in the absence of the force majeure afforded by, say, a great economic depression or international war... Ordinary parliamentary politics,

then, is noted more for its immobility than for facilitating major reforms (Scott, 2012, p. 16-17).

Scott's intervention on the sources of genuine democratic inertia is crucial since he, along with Carrie Manning, reminds us, that the problem with BiH is not merely one of "bad leaders" which can be solved by having "good leaders" (Manning, 2006). According to Manning, this is not a question of "installing the right elites," as has been the preferred approach of segments of the international community in BiH, but rather the recognition of the fact that any serious concept of democracy must be based on the practice of civic involvement and participation. This is the democratic practice that brings us to the moment of rupture, i.e. the moment when the need for major restructuring becomes unavoidable. Indeed, it should be obvious at this point, even to the majority of laypersons that the possibility of institutional reform in BiH has been systematically phased out. It follows that only a break with all existing arrangements can reconstitute BiH as a democratic polity. Accordingly, even a cursory analysis can demonstrate that the nature of the socio-economic and socio-political crisis which dominates BiH as a sovereign state is of institutional origin.

By referring only to the extremely fragmented electoral system within the Dayton constitutional order, we can easily conclude that in the modern "democratic" system in BiH there is essentially no need for the elites to seek electoral votes outside their own ethnic communities. Thus, elections in BiH represent little more than quasi-competitive censuses. Moreover, as official politics are dominated by a small number of parties, and stable employment in the state apparatus is available

only to those affiliated with these groups, clientalism and corruption are rampant and destroy all remaining impulses for reform. Given that one third of the employed labor force works in the public sector, among the highest such percentages in the world, the majority of households in the country depend on revenues which are directly related to institutionalized corruption and clientalism.

Of course, trust in the system is non-existent for these reasons, with 45% of registered voters who abstained from voting in the last general elections (IDEA 2015) . Such a low turnout favors the existing authorities which have been able to win elections through only the votes of their most loyal supporters. As these voters are economically dependent on the patronage of those parties, they cannot and will not support any sort of “reformers” in the elections. Thus, the existing elites are restored to their positions, starting the cycle all over again. Within the framework of these arrangements, alternatives seem impossible. Voters have repeatedly given their support to nominally reformist parties, social democrats and anti-nationalists of various kinds. On several occasions, these reformist forces formed government or were leading members of ruling coalitions at every level of government. But since the nationalist parties within this constitutional system are able to block any reform program with less than 15% of the vote (e.g. the HDZ), reformist parties would have to secure more than 90% of the votes in order to have any real chance of implementing their platform. This is, of course, an essentially impossible goal in almost all legitimate democratic systems and the same is true of ours.

The Arithmetic of (ir)responsibility

Given these institutional barriers, substantial changes in BiH can, in the end, originate only “outside” of the confines of the existing political structures, by which I mean through the actions of non-parliamentary democratic movements. In this sense, already visible cracks in the edifice of the Dayton constitutional order are indicators of possible forms for the change process to proceed. After all, the more time passes between the war and the present time, the more the state of the country’s economy and the lack of competence of its governing bodies become incomprehensible for the citizens. However, there are growing expectations on the part of the citizens regarding the distribution of resources of various kinds, i.e. expectations in terms of having a socially responsible state that can provide healthcare, education and basic infrastructure. Still the ruling coalitions fail to respond to these demands, as they focus mostly on their intra-oligarchic conflicts and, of course, their economic plundering. Yet due to entrenched clientelistic and corrupt relations, as well as the fragmentation of the electoral system, changes through elections are hardly possible. Elected reformist governments prove that they cannot or do not want to implement the necessary changes time and again. Meanwhile, the international community cannot or does not want to push through the necessary institutional changes. Frustration grows to the extent that it overtakes widespread feelings of disillusionment and apathy. At this point, it is just a matter of time before the accumulated rage explodes.

The “Baby Revolution” of 2013 was a formative episode in this process (Dedović 2013). We can recall that the demands related to this protest were simple: parents of new born children asked for the adoption of a new law that would allow their children to receive a citizen ID number and, thus, come to be recognized as actually existing citizens. Naturally, the problem was not just the fact that ill children without an ID number were unable to receive treatment at home and abroad, but rather the fact that new borns were deprived of the basic right to citizenship, for want of a solution which the politicians were unable and unwilling to arrive at. In other words, the quest for citizenship was not some abstract desire, but the right to a legal personality, guaranteed under the BiH Constitution, and which ultimately represents a fundamental human right in the modern world.

The next outburst of dissatisfaction, partly inspired by unsatisfactory outcomes of the previous episode, came in February 2014 in the form of a series of social protests which have been the most significant civic mobilizations since the end of the war. While disaffected citizens set fire to the buildings belonging to the government and political parties in Tuzla, Sarajevo, Zenica, Mostar, at least four cantonal governments resigned. By Bosnian standards, this was an unprecedented wave of accountability, even if the resignations in question mainly came about due to the politician’s vested interest in political survival. For the first time in a generation, the political discourse of BiH was marked by the growing recognition on the part of political elites of the possibility of widespread civil unrest as a result of their policies. In short, the people had finally decided to directly intervene in the political process.

Yet, even before the fires were extinguished, thousands of citizens across the country began to gather at ad hoc meetings, the plenums, at which they presented not only their demands for the remaining governments but also, began to develop a completely new political discourse. As one local activist put it, plenums were, in essence, “teaching people with PTSD to participate [in politics]” (Noni, 2014). Within the framework of the plenums, citizens had the opportunity to publicly voice their grievances and to together participate in the public deliberation of issues, as well as collectively formulate new, meaningful, and practical demands of those in power.

However, a combination of the media and police pressure, as well as the devastating floods in May 2014 which prompted the plenums to divert their energies towards organizing volunteer and fundraising actions, meant that the initial surge of political energy soon fizzled out. Even the timing of initial protests was “unfortunate” in one important sense: they took place just nine months before the 2014 elections. Elsewhere, it might have prompted the candidates to address the causes of protests themselves, to address the issues raised by the protesters. Unfortunately, in BiH this timing resulted only in the monopolization of media space by political campaigning, false promises, mudslinging, and outright hate speech, resulting in the brushing aside of all the substantive concerns raised by the events in February.

Positive tensions

The causes of the February protests and the Baby Revolution are still present. Corruption, poverty, and unemployment are endemic, while the entire system is dominated by nearly the same oligarchs. It is therefore logical to assume that similar protests will take place again. Indeed, the question is merely when and how, not whether they will happen.

Meanwhile the integration of BiH into the EU legal system remains a necessary but insufficient condition for the democratization of the country. While it would be incorrect to treat the Euro-Atlantic project in BiH as a “panacea” for all social ills, institutional reforms alone do not represent a sufficient precondition for substantial democratization. Nevertheless, EU support for reforms in key sectors can still provide a meaningful push towards the realization of a broader process of civic engagement and civic activism. An ideal scenario for the full democratization of BiH is one which includes pressuring the elites from above and below, in other words a process engaged in by both the citizens of BiH as well as by the international community. This is especially important since the international community still has the mandate to act on key issues of state and institutional capacity building in BiH. The reform of the judiciary and police institutions of BiH, as just one example, represent an instance in which the interests of the EU and its own security line up with and BiH’s need for a functional state apparatus. Without these reforms, neither EU nor

NATO membership is possible for the country, a fact by which, in the final analysis, both Europe and BiH are imperilled.

In addition, similar “units for change” are available in other key areas, particularly in the field of agriculture (Bassuener and Weber 2014). BiH desperately needs a state-level ministry of agriculture, a policy supported by most BiH’s Serbs, yet opposed by the government of Milorad Dodik in Banja Luka which resists further “centralization” of power at the state level. All this indicates that though the international community cannot reform BiH in place of its citizens, it can act decisively in terms of helping with the establishment of some key institutions which future democratic movements later expand and strengthen.

This point gets us back to the issue of prospective democratic movements in BiH. It is important to emphasize that the assumption regarding the “failure” of the plenums to fully reform the society through one episode of unrest stems from a fundamentally naïve analysis (Bardos 2014). Nevertheless, this feeling of disappointment should be taken into account. We must ask though, what were the plenums and what could they have ever reasonably become?

For starters, the plenums can be best understood as “temporary autonomous zones” as suggested by Hakim Bey (Bey, 1991). These are simultaneously physical but also conceptual spaces that make it possible for people to gather, to cooperate and deliberate, as could be seen in the example of our plenums. It is a fluid concept that encompasses a range of activities, from the widespread and

permanent squatter and occupation movements which we have seen in Barcelona or Athens, to temporary occupations in the style of the Occupy Movement (Graeber 2013). In these circumstances, citizens and activists can “liberate” a physical territory in order to defend it, to organize themselves within its confines and to grow their movements from a solid foundation. In addition, it is within these spaces that the process of the development of a participatory democracy actually begins and evolves. Although the goal is social transformation in general, the focus in the meantime in any given moment is also on laying the foundations of future institutions. In the academic literature, this is called “prefigurative politics” (Shantz 2010; Milstein 2010).

In other words, the democratization of BiH requires the emergence of democratic movements that are able to establish horizontal (non-hierarchical) participatory structures, such as the plenums.. These new popular assemblies must become experiments in democratic public management in and of themselves and cannot in the process sacrifice substantive democratic participation to vanguardist “leadership” cliques. Moreover, these assemblies must remain fully autonomous from the state, even if their existence will eventually be legitimized or even integrated within the state apparatus. This process is to be expected but it should be delayed for as long as possible. The best way to delay this is through the creation of mobilized and organized social movements as we have seen in Latin America for instance (Azzelini and Sitrin 2014). But while the emergence of the plenums during the February protests represented a major step forward for BiH, because their creation coincided with the proverbial

withdrawal from the streets, the popular assemblies soon ceased to exist as a threat to the establishment. In short, democratic institutions and democratic practices cannot exist when the political elites themselves are not compelled to respond to them in the first place and when they have not had a necessary sense of responsibility instilled in them by “non-institutional actors,” which is to say the citizens themselves.

What is being proposed here is largely derived from the experiences of social movements from all over the world (Collis 2012; Piven 2012; Gelderloos 2013). It is based on historical revolutionary developments, both those on larger and smaller scales, which took place during the 19th and 20th century and that were responsible for the establishment of existing liberal-democratic regimes. In this regard, my argument is essentially a conservative one. Even if our aim is to “merely” establish a system of liberal parliamentarism, we must be aware of the fact that the bourgeois (civic) state begins and exists in constant tension with the more progressive democratic elements within the society at large. The “democratization” of particular political regime cannot meaningfully proceed if there are no substantial confrontations or substantial debates along the way. Accordingly, the democratization of such a regime cannot even truly begin if the ruling elites maintain dominance over the state and political process to such an extent that even elections are nothing more than a mere rotation of posts. Even a representative democracy requires a plausible range of autonomous civic organizations. Republics dominated by aristocracies, to paraphrase Machiavelli, turn into tyrannies all too quickly without the presence of a genuine plebeian resistance.

As such, genuinely democratic institutional actors, such as political parties, can only emerge following the success of citizen-led democratic movements willing to confront the existing regime in all its multifaceted forms at both the ballot box and in the streets. In short, substantial change, on both great and small, can only be initiated from below.



THE ARITHMETIC OF BAD ASSUMPTIONS

Hoda Dedić

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: Is there a possibility for a turning point on the road to the EU (from zero to hero)

Why did the ethnic concept and discourse “ensnare” Bosnia and Herzegovina on the road to Europe, when they are in no way mutually exclusive, presuming, of course, that things are done in an emancipated way where every collective identity has its place but not an absolute supremacy? It seems as though the “abuse” of the ethnic has slowed down the reaching of a consensus without which there may be no EU process. Furthermore, at one stage, this has provoked an even greater intervention of the international community in order to strive to maintain system functionality, only to have it all end at point zero of the realization that BiH cannot enter the EU while foreign tutors are at the wheel. And then, instead of a smart approach, there came a period of no approach, probably due to fatigue and more pressing issues. Dr. Hoda Dedić, EU expert with a doctorate in political science from the University of Sarajevo and a specialization from the University of Vienna, describes this period of both domestic and foreign lack of interest as a time of wandering conditionality when anything could have become a condition for the European process. Dr. Dedić draws valid conclusions for the concept of the EU conditionality in Bosnia and Herzegovina by comparing examples of how EU conditions in various countries have influenced the consolidation of the EU process. She is of the opinion that it is a good thing that the EU has managed to establish a balance of conditionality and to separate the difficult from the easy and the relevant from the irrelevant issues through a new approach. According to the author, the Dayton Peace Agreement is not an obstacle for speeding up the EU integration process; however, the Dayton narrative about the blockade as the only means to protect the national interest is an obstacle. Perhaps the European narrative about the culture of compromise as the most powerful tool for protection of everyone should be put to the test. This is the key precondition to come out of the declarative consensus of how everyone in BiH wants to enter the EU, and towards a working consensus of how everyone should work on this without tongue in cheek.

European road trapped inside ethnic discourse

The dynamics of the EU integration process of Bosnia and Herzegovina arises from several specific aspects of political and social development of Bosnia and Herzegovina in the post-Dayton period: the nature of the political system and the constitutional construction of Bosnia and Herzegovina established by the Dayton Peace Agreement, the possibility for reaching interparty consensus, and the role and authority of the international community set by the Dayton Peace Agreement. The political system pluralisation in BiH, established after the first multi-party elections in 1990, was predominantly achieved on the basis of ethnicity. The result of the political party “ethnic grouping” was the elimination of the necessity for the political parties to seek wider public support. Sufficient support received through their respective ethnic groups resulted in a consequent subordination of individual, civil interests, and has encouraged the political leaders to maintain their survival by insisting on representing the collective ethnic interests. The aftermath of such modus operandi of political parties was the absence of inter-party consensus on all important issues of political development of the state, and the participation of political parties in the government was reduced to partnership without any sort of program coalition or responsibility. The complexity of the constitutional architecture of Bosnia and Herzegovina based on the Dayton Peace Agreement has contributed to the continuity of the socio-political dominance of ethnic nationalism. The elements that define the Constitution of

Bosnia and Herzegovina, as enshrined in Annex IV of the Dayton Peace Agreement, are based on the supremacy of collective rights, and consequently on proportional representation of the constituent peoples as a fundamental principle of the political decision-making process.¹ In its Opinion on the Constitutional situation in Bosnia and Herzegovina and the Powers of the High Representative, the Venice Commission deems that the decision-making mechanisms at BiH level are not efficient or rational but cumbersome and with too many possibilities of blocking the taking of any decision.² Similar assessments are comprised in the EU Progress Reports for BiH,³ European Parliament Conclusions⁴ and the Resolution of the Council of Europe's Parliamentary Assembly.⁵

1 The Constitution of Bosnia and Herzegovina, Act III, Paragraph 1, Responsibilities of and Relations between the Institutions of Bosnia and Herzegovina and the Entities.

2 Opinion on the Constitutional Situation in Bosnia and Herzegovina and the Powers of the High Representative CDL-AD (2005) 004, 62nd Plenary Session, 11-12 March 2005, Point no 42.

3 The 2009 EU Progress Report on BiH explicitly states recommendations on the necessary changes of the BiH Constitution. Compare the 2009 European Commission Progress Report on BiH, Commission Staff Working Document COM {COM(2009) 533} final, Bruxelles 14.10.2009, SEC (2009) 1338.

4 Decision of the European Parliament of 23 October 2008 on the signing of the Stabilization and Association Agreement between the European Community and its member states on the one side, and Bosnia and Herzegovina on the other.

5 The Resolution 1855 of the Council of Europe's Parliamentary Assembly "The Functioning of Democratic Institutions in BiH" of January 25 2012.

Having in mind the number of the laws that have been passed so far, the decision-making mechanisms in the BiH Parliamentary Assembly that were established by the Constitution are, without a doubt, complicated and inefficient. However, political practice indicates that entity voting and the protection of the vital national interest (BiH Constitution, Article IV/3.c, e and f) is not exclusively a consequence of the Constitution. The Constitution does not stipulate when these mechanisms are to be applied. Their application stems from the Rules of Procedure of both houses of the BiH Parliamentary Assembly. This is how entity voting became ethnic voting as a consequence of the operating of political parties.⁶ This is why the EU commission reports speak of the “abuse” (and not use) of entity voting provisions which prevent the implementation of reforms and lead toward BiH stagnating in the European integration process.⁷ Draft laws, the implementation of which required the implementation of institutional changes at the state level were mostly rejected either through the majority’s veto or through entity voting. The nonexistence of a consolidated democracy created conditions for constant intervention of the international community in the form of decision making by the High Representative of the international

6 Also compare Kunrath, B. (2010): “From *Protection Measure* to Barrier to Further Action: Entity Voting in Bosnia and Herzegovina”, Collection of papers “Bosnia and Herzegovina 15 years after Dayton” Faculty of Political Science p.25, and Bieber, F./Keil, S. (2009): “Power-Sharing Revisited: Lessons Learned in the Balkans?”, *Review of Central and East European Law*, 34, p. 337-360.

7 European Commission 2009 Progress Report on BiH, Commission Staff Working Document, COM {COM(2009) 533} final, Bruxelles 14.10.2009., SEC (2009) 1338, p.7

community in BiH. The minimal elements of BiH statehood were established through decisions made by the High Representative pertaining to establishment of institutions at the state level⁸ and introduction of state symbols. Entity Constitutions were amended, and citizens were enabled to move freely throughout the entire area of BiH. A single city administration was established for the city of Mostar. Almost all of the initiatives for reforms of BiH post-Dayton political development were initiated “externally”. They are not a result of political elite consensus in BiH, and they would not have been possible without the participation of the international community. From 1997 until the end of 2014, the international community’s High Representative for BiH had imposed a total of 948 decisions with executive power. The frequency of exercising the Bonn Powers has decreased with time, particularly after the announcement in 2006 that the Office of the High Representative for BiH will be closed, and the reform of the BiH Constitution was stopped at the attempt (Table 1). Along with the decrease of the “intervention assistance” of the international community, there is a significant hold up in the implementation of the reforms as a precondition for further development of the EU integration process of BiH. During its four-year mandate from 2006 until 2010, the Parliamentary majority failed to perform a single significant reform in the BiH EU integration process. Stagnation in the implementation of the reforms and the Europeanization process continued in the mandate period

8 Establishment of the State Border Service (DGS), State Investigation and Protection Agency (SIPA), Indirect Taxation Authority, institutional strengthening of the BiH Council of Ministers from three to nine ministries.

2010-2014.⁹ Due to lack of reforms in the mandate period 2010-2014, primarily pertaining to the non-implementation of the European Court of Human Rights verdict in the case of “Sejdić-Finci”¹⁰, in December 2013, the EU Directorate for IPA funds denied Bosnia and Herzegovina 45 Million Euros of aid from the IPA funds.¹¹ The EU integration process of Bosnia and Herzegovina has followed the dynamics of articulation of influences of the international community in BiH. In comparison with the other Western Balkan countries, Bosnia and Herzegovina has made the least amount of progress in the EU integration process, and it is the only country without the status of a candidate.¹²

9 Compare the European Commission Progress Reports on BiH in the process of European integration from 2007 until 2014.

10 Through the verdict in the “Sejdić-Finci” case from 22nd December 2009, (cases no. 27996/06 and 34836/06), the Grand Chamber of the European Court of Human Rights in Strasbourg found that Bosnia and Herzegovina is in violation of the European Convention of Human Rights and Fundamental Freedoms. The Court found the denial of rights to BiH citizens to run for state Presidency or House of Peoples in the BiH Parliament, if they do not belong to one of the three constituent peoples in BiH, to be discriminatory.

11 Compare „Oslobođenje“, 9. December 2013.

12 On July 1st 2013, Croatia became a fully pledged member of the EU. Montenegro and Serbia have both opened the negotiation process for EU membership. Macedonia and Albania are both candidates, but have not yet opened negotiations for membership. BiH is a state with the status of potential candidate for EU membership.

The wandering conditionality

After the failure to adopt amendments to the Constitution in April 2006, and failing to reach an agreement on changes to the Constitution within the scope of the so-called Prud and Butmir Processes in 2009, there has been no serious attempt to reform the BiH Constitution.¹³ Due to absence of active participation of the international community in the BiH reform processes, the BiH Europeanization process became chaotic. The subsequent negotiations that were led, in an attempt to reach an agreement on the minimum content for constitutional reforms and to provide at least formal implementation of the European Court for Human Rights ruling in the “Sejdić-Finci” case, were held outside the BiH institutions and turned into informal debates of leaders of political parties that

13 The talks between the leaders of the Party of Democratic Action (SDA), the Croatian Democratic Union (HDZ) and the Alliance of Independent Social Democrats (SNSD) that were held in Prud, in the Municipality of Odžak, developed into long-term negotiations. The debated issues were those necessary for meeting the conditions of the Peace Implementation Council and for Constitutional changes the goal of which is for the state to become more efficient and to join the European Union. Further down the line, the negotiations came across completely opposing points of view of the political leaders. The Butmir negotiations began on October 8 and 9, and then resumed on October 20 and 21, 2009. They were held just before the 2010 parliamentary elections which is why the majority of the parties had no interest in reaching a consensus. For more details see the Report of the International Crisis Group: “Bosnia’s unfinished transition: Between Dayton and Europe”, Europe Report 198, 9th March 2009, online: http://www.crisisgroup.org/~media/Files/europe/s_incomplete_transition_between_dayton_and_europe_serbo_croatian.ashx.

formed the majority in the Parliament. This led to further destruction of the democratic role of the BiH Parliamentary Assembly. The lack of necessary consensus produced crises in decision making, crises of government, and finally, crises of expectations¹⁴ – expectations citizens had of the politicians and the international community, that the politicians had of the international community, that the international community had of the citizens and, supposedly, for the politicians. The insistence of the international community on the application of the conditionality principle in the sense of simply meeting the form without the essential effects, often led toward a deepening of the political crises. A study on the application of the European Union conditionality principle on the examples of Latvia, Slovakia and Turkey¹⁵ confirms several important points from the aspect of the efficiency of applying this principle in Bosnia and Herzegovina. First, only substantial effects of the negotiations, primarily clear incentive for EU membership, have been proven to be an efficient mechanism of the democratic conditionality principle. Second, the incentive for achieving full EU membership was more efficient if the political expenses of the targeted governments were lower. The point is, the political actors “calculate” whether the effects of the membership are “worth” the reform implementation. Third, the greater the influence

14 Compare Džihic, V. (2010): “Europe in Bosnia and Herzegovina - Bosnia and Herzegovina in Europe: Where Have We Stopped and Why, and How to Get Going Again?”; Collection of papers “Bosnia and Herzegovina 15 Years after Dayton”, Faculty of Political Science, p.242.

15 Schimmelfenning, F., Engert, S., Knobel, H. (2003): “Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey”, JSMS 2003, Volume 41. Number 3, p. 495-518.

the citizens have (social mobilization), the greater is the possibility that the conditionality principle will be efficient. None of the prerequisites which were to enable the functioning of the European Union conditionality principle in the case of Bosnia and Herzegovina were ever set.¹⁶ Therefore, the insistence of the European Union on formal institutional reforms, without visible effects, has not produced the desired results. This preferential treatment in the solving of the political crisis in BiH, followed by the denial of the European means from the IPA funds for BiH, was not only insufficient to initiate the necessary reforms, but has, to a great extent, devalued the essence and the meaning of the Europeanization process.

16 Although there is significant citizens support for BiH membership in the EU (over 78% according to all relevant research), the will of the citizens fails to be articulated in the political decision-making process. Compare the public polls conducted by UNDP, Gallup Balkan Monitor, as well as the data of the BiH Directorate for European Integration, www.dei.gov.ba (according to the IPSOS Public Affairs research).

How to proceed?

An important foreign-policy prerequisite for further development of the European integration process of Bosnia and Herzegovina was established through the shaping of a new approach of the EU towards the Western Balkan countries and through the German-British initiative for Bosnia and Herzegovina. This change in the approach of the European Union towards BiH came after the social unrest that had escalated in several BiH cities in February 2014.¹⁷ Through this new approach, the European Union intends to support the macroeconomic, fiscal and financial stability of the states in the region and thus enable the results of the integration process to become more substantial and “tangible” at this stage. The pre-accession funds (IPA II) will be directed towards supporting the implementation of sectoral reforms. The European Union Enlargement Strategy for 2014 and 2015¹⁸ speaks of three pillars of the new EU approach towards the Western Balkans: insisting on the rule of law and fight against corruption, promoting economic rule, and public administration reform. The European Union has also provided strong financial support to projects of

17 The citizens have expressed their disappointment with the economic situation (unemployment rate of over 40%) and the lack of reforms, through protests in several BiH cities. The protests resulted in the resignations of several Prime Ministers of the governments of Sarajevo Canton, Tuzla Canton, Zenica-Doboj Canton and Una-Sana Canton.

18 http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-strategy-paper_en.pdf

infrastructural connection building in the Western Balkan countries – the Connectivity Agenda.¹⁹

Furthermore, through the German-British initiative²⁰ a special approach was designed for BiH. The standards that Bosnia and Herzegovina needs to establish in the European integration process and the implementation of the EU Acquis remain the same, but the order in which they have to be implemented has changed.²¹ BiH politicians were expected to create a document to demonstrate their commitment that they will, in the long run, implement the reforms which will lead towards a more functional state and prepare it for EU membership. After the members of the BiH Presidency signed a joint Declaration on the commitment of political leaders in BiH to implement the necessary reforms within the process of BiH joining the EU, the Declaration was adopted in the BiH Parliamentary Assembly as well,²² and

19 See Joint Statement of Western Balkan 6 Ministerial Improved Connectivity and the Strong Core Network, online: <http://www.seetoint.org/wp-content/uploads/downloads/2015/04/Final-statement-WB6-250315.pdf>

20 On November 4th 2014, the Ministers of Foreign Affairs of the United Kingdom and the Federal Republic of Germany referred a letter to the High Representative of the Union for Foreign Affairs and Security Policy and to the EU Enlargement Commissioner, in which they advocate this new approach of the EU towards BiH. At the meeting of the EU Foreign Affairs Council held on 17th November 2014, the Ministers of Foreign Affairs of the EU member countries supported this initiative.

21 Implementation of the decision of the EU Court of Human Rights on the “Sejdić-Finci” case remains obligatory, but it is no longer a condition for the entering into force of the Stabilization and Association Agreement.

22 Session of the House of Representatives of the BiH Parliamentary Assembly, February 23rd, 2015.

not long after that, the Council of Europe adopted the Decision for the Stabilization and Association Agreement to enter into force.²³ In the later stages, after certain progress has been made in the reforms, the European Union will consider the request of BiH to join the EU.²⁴

In this way, the conditionality principles dealing with the issues on which it is hard to reach a compromise, like amending the BiH Constitution, have been pushed back, aiming to make progress in the process of Europeanization of BiH, or achieving tangible results, primarily with regard to economic development. Creating momentum in the integration process or the expected substantial results of the process, such as improvement of the economic situation and implementation of projects that can enhance the living standard of the citizens have facilitated a reaching of -- for now and only in principle -- a consensus of the parliamentary parties for integration of BiH to the EU. The BiH Council of Ministers has made the Decision on the establishment of a team that will create a document on BiH coordination mechanisms in the EU integration process.²⁵ The Economic Reform Agenda for BiH was also adopted with a list of measures and plans for the second half of 2015 and the first quarter of 2016.

23 The Council adopted the Decision on April 21st and the Stabilization and Association Agreement came into force on June 1st 2015.

24 When requesting the opinion of the European Commission on the membership request, the Council will ask the Commission to pay special attention to the implementation of the verdict of the European Court for Human Rights in the "Sejdić-Finci" case.

25 The 9th Session of the BiH Council of Ministers of June 2, 2015.

By focusing on the “politics of what’s possible”, the initiation of a more dynamic flow of the integration process would imply meeting several important internal political assumptions. In order to avoid the projected effects in the integration process becoming pure institutionalism without substantial changes, one needs to keep in mind the necessity of creating capacities for consistent implementation of reforms. This implies the transfer of the necessary legislative and executive powers to the state level institutions in order to establish compatibility with EU standards. The BiH Constitution does not stipulate the principle to ban the transfer of competencies to the state level, which brings this condition to the process of shaping a true working consensus of political parties for the implementation of necessary reforms in the integration process. Laws, decisions and reforms only make sense if they can be implemented. Only functional institutions can meet the integration process requirements, and further down the line, the requirements of EU membership. In fact, EU membership without capable institutions would bring more damage than gain. Having in mind that the EU membership negotiation process does not imply negotiations on the merit of things, in other words, it is simply not possible to negotiate on the set standards, but only about the manner and time-frame for adopting the standards, then any procrastination in assuming this obligation represents political inconsistency.

Another assumption deals with establishing procedures for simplified adoption of laws in the work of the BiH Parliamentary Assembly. A minimal content of this assumption would be realized through changes in the Rules of Procedures of the BiH Parliamentary Assembly. Laws tackling the meeting of the Stabilization and Association Agreement

obligations would be adopted through accelerated procedures, thus narrowing the scope for the application of entity voting within the parliamentary proceedings. The maximal, and optimal, assumption would be achieved through the adoption of a European integration clause in the BiH Constitution. This type of content of constitutional provisions, that is, endorsing the European integration clause for EU membership as a country's constitutional goal, is the practice in the majority of the EU member states. The introduction of the integration clause establishes a constitutional foundation for transfer of sovereign rights to the EU level, it establishes the subsidiarity principle and standardizes the provisions of internal responsibility in a coordination system, that is, the involvement of all levels of government in reform implementation procedures in order to adopt the European laws. Therefore, this pertains to the instrument of harmonization and implementation of the EU legislation which is particularly common in federal systems. "Constitutional amendments in various federal or regional member states are clear signs of adaptation of federal and regional structures to multi-level administration dynamics and challenges which are characteristic of the European integration process."²⁶

The EU-specific integration clause comprised in the Constitution of the Republic of Croatia,²⁷ which pertains to the rights arising from

26 Wolk, J. (2009): *Balancing the Idea "United in Differences": Federalism and Constitutional Reform in Bosnia and Herzegovina, Where Have We Stopped and Why, and How to Get Going Again?*; Collection of papers "Bosnia and Herzegovina 15 Years after Dayton", Faculty of Political Science p.62.

27 The Constitution of the Republic of Croatia, VII, European Union, 1. Legal Grounds for Membership and Transfer of Constitutional Powers, Article 143

the EU Acquis, stipulates that governmental agencies, bodies of local and regional self-government and legal persons vested with public authority shall apply European Union law directly (Constitution of the Republic of Croatia, Article 145).

The experiences of Montenegro in the negotiation process with the EU,²⁸ the revision of the Constitution of the Republic of Slovenia before its EU accession in 2004, and the discussions on the amendments to the Constitution of the Republic of Serbia for incorporation of an integration clause on EU integration²⁹ confirm the possibilities this approach can provide. Reaching a consensus on the introduction of an integrative clause in the BiH Constitution would regulate the principles of implementation and legislative competencies, and contribute to state consolidation in a manner that would build efficient administrative capacities to open the negotiations and reach full EU membership.

With regard to the procedural activities in the implementation of the integration process, all regional states have adopted the Integration Programme before submitting the application for EU membership. The Programme presents in detail the goals and tasks within the integration process. It establishes the plan for reform implementation, that is, of meeting membership criteria, as well as the

28 Constitutional changes in the area of justice were one of the conditions for Montenegro to open negotiations for Chapters 23 and 24. Changes to the Constitution were adopted in July 2013.

29 Compare "Initiating negotiations with the EU – the beginning of constitutional changes", "Politika" magazine, April 28th 2015.

plan for harmonizing the domestic legislation with the legislation of the EU with the budget projection for implementation of the measures. In fact, the Integration Programme represents a state's plan for harmonization with the EU Acquis, but also a foundation for reform activities and the creation of an Annual Plan for the work of the government. At a later stage, the states create an EU Accession Programme - a strategic document that is to provide response to the needs of the negotiation process, and this represents an efficient mechanism for gathering data, reporting, planning and revision of activities of state agencies.³⁰

A comparable example of a multi-year block in the process of EU integration, and rapid catching up with its neighbouring countries in the EU integration process is the example of Slovakia's EU accession. Even though there had been a declarative consensus for EU membership, (both from the politicians and the citizens), Vladimir Mečiar's Government failed to follow such pro-European orientation.³¹ In its 1997 Report, the European Commission did not recommend for negotiations to be opened with Slovakia due to the fact that Slovakia's integration process was falling behind other countries. However, the strong commitment of the citizens for EU membership, articulated through the non-government sector, and the commitment of the European Union to the integration process, resulted in abandoning

30 Compare *Montenegro's Programme of Accession to the European Union for the period 2014 – 2018*, Ministry of Foreign Affairs of Montenegro.

31 Compare Kneuer, M. (2003): „Bewusste Entscheidung für Europa: Die Slowakei und ihr schwieriger Weg in die EU“, *Die politische Meinung*, Nr. 404, July 2003, p. 25.

the policy of isolation, the forming of a new government and the establishing of a program platform of the coalition parties for rapidly achieving EU membership. They had a very ambitious goal: to open half of the Chapters of the *Acquis Communautaire* in 2001; in the same year that membership negotiations began, to open the other half of the Chapters, and to close the negotiations in 2002 in order for Slovakia to enter the EU in 2004 with other Visegrad Group countries. In the end, the goal was achieved! The Prime Minister of Slovakia pointed out the significance of shaping a strong working consensus for the adoption of laws and the importance of the existence of institutional capacities for their implementation. Equally significant was the role of the citizens, who managed to articulate their interests through the non-governmental sector and numerous civic initiatives. There was another specificity that contributed to the successful flow of Slovakia's integration process. This also involved an introduction of a novelty: a specificity in the approach of the European Union. After the government of Mikulaš Dzurinda was formed, the European Commission established a special instrument for Slovakia – the High-Level Working Group, to significantly facilitate and speed up the integration process until the onset of the negotiations.³²

32 The task was, based on a careful screening, to detect areas where Slovakia needed to make adjustments. Compare Kneuer, M. (2003): „Bewusste Entscheidung für Europa: Die Slowakei und ihr schwieriger Weg in die EU“, *Die politische Meinung*, Nr. 404, July 2003, p. 28.

New approach and old expectations

The way out from this pulsating crisis of expectations became apparent through the shaping of the EU's new approach towards Bosnia and Herzegovina in the form of a foreign-policy assumption for realization of a sped-up process of EU integration of Bosnia and Herzegovina. The momentum in the integration process is now predominantly the choice of responsible internal politics. The decisions of political actors now must rise above declarative commitments and cross into working consensus at all levels of executive and legislative government in a way that provides the implementation and sustainability of all necessary reforms in the Europeanization process. It is possible to reach such a working consensus by inviting civil society to be the main actor in the political decision-making process and the carrier of the European integration project. The articulation of the will of the citizens, expressed through participatory democracy of the multi-ethnic civil society, would strengthen the democratic power of the Parliament and create a foundation for the implementation of necessary reforms that would -- from the aspect of creating mechanisms for simplified adoption of European laws (all laws carrying the so called E-mark), transfer of the competencies missing in the state level institutions and coherence in the implementation of the reforms ("single voice") -- secure the institutional capacities for achieving compatibility with the European standards.

On the operational level, in the phase prior to submission of the application for EU membership, the working consensus would result in development of an EU Integration Programme of BiH with explicitly defined activities in the integration process and with measures necessary for their implementation. Aiming to efficiently monitor the implementation of obligations and the simplified adoption of the guidelines, it would be necessary to establish a closer cooperation between the state administration institutions and the EU institutions, particularly with the European Commission. A good example would be the establishment of a joint expert working group which would remain operational until the opening of negotiations for BiH EU membership.

At the same time, the European Union would have to remain consistent in its pro-active approach by applying this transformed conditionality principle, with the focus on substantial reforms that will enable the development of functional state structures. This kind of an involvement of the European Union and the international community in BiH is derived from the powers set by the Dayton Peace Agreement.

These assumptions would create a realistic foundation for BiH to meet the obligations of the Stabilization and Association Agreement and to acquire the status of candidate for EU membership by the end of the mandate period 2014-2018.

The key instrument of this transformed instrumentarium of conditionality now lies in our hands. It is largely up to us; our consciousness, individual and collective, to decide whether we will try to learn to follow the rhythm of the Ode to Joy or continue to carry the ethno-national tunes of the past.

Table 1: Decisions imposed by the High Representative for BiH from 1997 until the end of 2014.

**Decisions pertaining to the abolishment of bans set with prior Decisions of the High Representative in BiH.*

Year	Decisions on sus- pensions and relief of duty, as well as decisions on abol- ishing bans set by earlier decisions of the High Repre- sentative	Decisions pertaining to justice reform	Decisions regarding property law, return of refugees and displaced persons and reconciliation	Decisions pertaining to state symbols, issues at state level and constitu- tional issues	Decisions pertaining to individu- als charged with war crimes in former Yugoslavia	Decisions in the area of Economy	Decisions pertaining to the Federation, City of Mostar and Herzegovi- na-Neretva Canton	Deci- sions on media reform	Total
1997	0	0	0	1	0	0	0	0	1
1998	6	0	3	6	0	8	4	2	29
1999	32	3	38	7	0	2	5	3	90
2000	28	4	12	7	0	29	1	5	86
2001	14	7	20	3	0	5	2	3	54
2002	21	44	10	28	0	15	30	5	153
2003	7	31	11	14	18	11	4	0	96
2004	6	30	0	12	85	6	19	0	158
2005	34	30	4	18	1	3	1	0	91
2006	22	16	6	1	0	10	2	0	57
2007	3	11	11	5	1	3	3	0	37
2008	1	1	3	0	4	3	0	0	12
2009	9	5	1	9	2	0	5	0	31
2010	6*	0	0	1	2	0	1	0	10
2011	1*	0	1	2	4	2	0	0	10
2012	3*	0	0	0	1	0	0	0	4
2013	1*	0	0	0	0	0	0	0	1
2014	28*	0	0	0	1	0	0	0	28*
Total	222	182	120	114	119	97	77	18	948

Source: Office of the High Representative for BiH, OHR



THE IMAGINARY WORLD OF COMPETENCIES

Adnan Ćerimagić

Bosnia and Herzegovina 20 years after the Dayton Peace Accords: Coordination conundrum

How did the coordination mechanism become an issue of political prejudice? It is as if all the political players in Bosnia and Herzegovina forgot that this is actually an issue of the ability of Bosnia and Herzegovina, its entities and cantons to harmonize themselves with the legal heritage of the EU (*Acquis Communautaire*) which is impossible to achieve without coordination of different levels of government in Bosnia and Herzegovina. That is why all the levels of government in Bosnia and Herzegovina should be harmonized with the EU legislation uniformly and in the same time period. That is what coordination is, and it is not the betrayal of vital ethnic interests or outvoting... It is about taking common action in the interest of everyone. Perhaps it is exactly because coordination is seen as a political and ethnic “power game” that different levels of government in Bosnia and Herzegovina currently have not adopted a common document of the National Program for Integration into the EU (which all countries included in the EU enlargement process have). The said document sets forth “the plan for meeting the criteria for membership and the plan for harmonization of local legislation with EU legislation.” The author notes that everyone is suffering equally because of the obvious politicization of the coordination mechanism in Bosnia and Herzegovina and that Bosnia and Herzegovina is the only country in the region which, as a consequence, is allocated the least Instrument for Pre-Accession Assistance funds across sectors. The author does not see any obstacles in the Dayton-drafted constitution but rather in the lack of political will and willingness for cooperation. When there is willingness for cooperation then there are visible results, such as a harmonization of transport policy, and reaching a compromise for export of milk and potato to the EU market. Adnan Ćerimagić, an expert on the EU and analyst at the European Stability Initiative and the Foreign Policy Initiative BiH, proposes some important principles for overcoming the coordination crisis.

Great expectations and wrong assumptions

In October 2011, the European Commission emphasized in its Progress Report for Bosnia and Herzegovina the “strengthening of coordination mechanisms” as a “matter of urgency” for progress of Bosnia and Herzegovina.¹ This statement reflects the Conclusions of the Council of the European Union of December 2010, when the EU member states indicated that in order to apply for EU membership Bosnia and Herzegovina will need “to be in a position able to adopt, implement and enforce the laws and rules of the EU”.² Adoption of an efficient coordination mechanism as a condition for submitting a credible application for EU membership was confirmed in June 2012. It was on that date in Brussels that Bosnian-Herzegovinian political leaders accepted the Road Map for Bosnia-Herzegovina’s EU membership application, making a commitment that Bosnia and Herzegovina will define an efficient coordination mechanism by October 31, 2012.³

Although an efficient coordination mechanism has never been adopted, a lot has changed since June 2012: the EU has given up

- 1 European Commission, “Bosnia and Herzegovina 2011 Progress Report”, October 12, 2011
- 2 Council of the EU, “Council conclusions on enlargement/stabilization and association process”, December 14, 2010
- 3 European Commission, “Joint Conclusions from the High Level Dialogue on the Accession Process with Bosnia and Herzegovina and the Road Map for BiH’s EU membership application”, June 27, 2012.

on direct participation in finding a solution for implementation of the Sejdić/Finci ruling (February 2014) and adopted a new approach to Bosnia and Herzegovina (December 2014.) The said approach puts the main priority on socioeconomic reforms, but the matter of adopting an efficient coordination mechanism has been retained as one of the most important priorities.

At the height of the public debate about the efficient coordination mechanism in April 2015, Republika Srpska President Milorad Dodik pointed out this matter as “one of the most important political and legal issues for Bosnia and Herzegovina after the Dayton Peace Agreement.”⁴ At the same time he warned that “the story about the coordination mechanism ... leads towards centralization of decision-making on the level of Bosnia and Herzegovina and transfer of the original competencies of Srpska to the level of Bosnia and Herzegovina.”⁵ A month earlier, Kurt Bassuener, an independent analyst with the Democratization Policy Council (DPC) warned about the completely opposite objective of the initiative for adoption of a coordination mechanism. According to Bassuener, the coordination mechanism “will turn the EU integration process into a lever to essentially confederalize the state”⁶ by allowing the cantons, entities and the Brcko District to block any decision related to EU integration.

4 Nezavisne novine, “Dodik: Coordination mechanism among most important political issues”, April 8, 2015.

5 Nezavisne novine, „Dodik: Ivanić uvodi novu praksu, mimo Ustava BiH”, 6. april 2015.

6 DPC, “Making the Market on Constitutional Reform in BiH in the Wake of the EU Initiative”, March 20, 2015.

Although Bosnia and Herzegovina is not the first country in which a need arose for adopting a coordination mechanism, the search for an agreement has been going on too long and it abounds with wrong assumptions.⁷

Taking into consideration the importance of adoption of the coordination mechanism for the EU, as well as the public debate thereof, it seems important to answer why it is so, and how to overcome this, the current situation.

⁷ M. Lazarević, S. Marić and A. Orza, "Policy Making and EU Accession Negotiations: Getting Results for Serbia," GLZ, 2013.

Structural cacophony – what is important for the EU?

During her visit to Sarajevo in February 2015, the High Representative of the EU for Foreign Policy Affairs and Security Policy, Federica Mogherini reminded the Bosnian-Herzegovinian members of parliament that one of the two most important priorities of Bosnia and Herzegovina on its road to the EU is establishment of a well-functioning coordination mechanism.⁸ She pointed out that “it is necessary for any successful interaction with the EU when preparing for future EU membership and for the receipt of EU funding.”⁹

There are three fundamental reasons why the EU has been insisting since 2010 on establishment of an efficient coordination mechanism. The first is the inability of Bosnia and Herzegovina to hold talks with the EU institutions with one (harmonized) voice. The second is the inability of Bosnia and Herzegovina to take full advantage of funding from the EU IPA funds. The third reason is the inability of Bosnia and Herzegovina to uniformly and within a joint deadline harmonize its legislation with the EU legislation. The coordination mechanism is important for Bosnia and Herzegovina as well, whose

8 EU Delegation to BiH, “Speech by HR/VP Federica Mogherini at the BiH Parliamentary Assembly following the adoption of joint statement on reform commitment in the EU accession process”, February 23, 2015

9 Ibid.

interest should be to take full advantage of the EU IPA funds and to take up a position towards the EU as a credible, harmonized and organized partner. Due to lack of coordination, the only products of animal origin which Bosnia and Herzegovina can currently export to the EU are honey, fish and rawhide, plus, as of recently, the list has been expanded to milk and potato.

The Interim Agreement on Trade between Bosnia and Herzegovina and the EU had been in force since the signing of the Stabilization and Accession Agreement between BiH and the EU in June 2008 until the SAA entered into force in June 2015. Bosnia and Herzegovina (simply speaking) accepted by signing the Interim Agreement that it would harmonize its legislation and practices with one smaller part of the EU legislation, standards and practices. The said agreement provides for regular meetings between the representatives of the EU and Bosnia and Herzegovina in order to agree on, as well as to supervise, implementation thereof.

In June 2013 the European Commission was forced to postpone one such meeting “due to the inability of the BiH authorities to reach a common position on the topics to be discussed.”¹⁰ The same meeting was cancelled again in November 2013.¹¹ In June 2014, a European Commission senior official explained the reasons for

10 EU Delegation to BiH, “Statement on the 5th Interim Sub-committee Meeting on Innovation, Information Society, Social Policy and Public Health”, May 31, 2013.

11 EU Delegation to BiH, “Interim Sub-committee Meeting on Innovation, Information Society, Social Policy and Public Health”, November 26, 2013.

cancelling several such meetings: “Due to problems within the Council of Ministers of Bosnia and Herzegovina in arriving at a position and deciding on a delegation, five subcommittees could not take place.”¹² From September 2009 to September 2014, 42 meetings should have taken place. At least four were cancelled. And each of them was cancelled because different levels of authorities in Bosnia and Herzegovina failed to reach a common position and/or to decide on the composition of the delegation.

**Table 1: Number of meetings under
Interim Agreement on Trade**
(September 2008-September 2014)¹³

YEAR	HELD	CANCELLED
2009	6	0
2010	8	0
2011	7	0
2012	7	0
2013	6	1
2014	4	3
Total	38	4

12 EU Delegation to BiH, “Interview with Christian Danielsson, Director General for Enlargement at the European Commission, for daily Dnevni Avaz”, June 13, 2014.

13 European Commission, Progress reports for Bosnia and Herzegovina from 2009 to 2014.

In September 2013, the European Commission cancelled financial support for two projects in the amount of € 5 million. The said funding was allocated as support to Bosnia and Herzegovina in its attempt to reach EU standards in the field of agriculture.¹⁴ The funding was cancelled due to the failure of the authorities in Bosnia and Herzegovina to agree on the structures to channel EU agriculture and rural development assistance. Since then the EU has cancelled at least five more projects worth € 9 million.¹⁵ The European Commission published in 2013 the 2012 Annual Report on Financial Assistance for Enlargement.¹⁶ According to the report, the implementation of assistance in Bosnia and Herzegovina became more difficult in 2012 as Republika Srpska took a systematic approach to using programming and implementation of EU financial assistance as a forum in which to “defend” the perceived constitutional rights of Republika Srpska.¹⁷

Due to failure of the two entities, the Brcko District and institutions in Bosnia and Herzegovina to reach an agreement about harmonized and common (state-level national) strategies, of all countries which are part of the EU enlargement policy, Bosnia and Herzegovina

14 European Commission, *Bosnia and Herzegovina 2013 Progress Report*, October 16, 2013.

15 EU Delegation to BiH, “IPA Monitoring Committee met in Sarajevo – agricultural projects canceled”, September 10, 2013.

16 European Commission, “2012 Annual Report on Financial Assistance for Enlargement”, 2013.

17 Ibid.

is the country with the least number of sectors for which it can use IPA funds in the period from 2014 to 2017. Accordingly, Bosnia and Herzegovina can use EU IPA funds in the sectors of democracy, rule of law, innovation, free market, education, social policy and employment policy.¹⁸ Other countries, for example, can use IPA funds for the sectors of energy, transport, environment protection, agriculture and rural development.

Table 2: Number of sectors for which countries can use EU IPA funds (2014-2020)¹⁹

COUNTRY	NUMBER OF SECTORS
Serbia	9
Turkey	9
Montenegro	8
FYR Macedonia	8
Albania	8
Kosovo	7
Bosnia and Herzegovina	4

In the 2010 Progress Report for Bosnia and Herzegovina, the European commission pointed out the problem of harmonization of the Bosnian-Herzegovinian legislation with the EU legislation.

¹⁸ European Commission, "Indicative Strategy Paper for Bosnia and Herzegovina (2014-2017)", December 15, 2014.

¹⁹ Ibid.

Harmonization predominantly takes place without any coordination between different levels of authorities in Bosnia and Herzegovina.²⁰ And all levels of government in Bosnia and Herzegovina should harmonize their legislation with the EU legislation uniformly and in the same time period. One of the reasons for such a situation is that the different levels of government in Bosnia and Herzegovina currently have not adopted a common document of the National Program of Integration into the EU (which all countries included in the EU enlargement process have). The said document sets forth the “plan for meeting the criteria for membership and plan for harmonization of the local legislation with the EU legislation.”²¹ The director of the Direction for European Integration of Bosnia and Herzegovina (DEI) explained even in 2012 that such a document in Bosnia and Herzegovina would unify “all the planning documents in the process of Bosnia and Herzegovina’s integration into the EU, it would provide answers to questions of who, when and what to do, and it would establish better supervision and coordination of the necessary reforms.”²² Adoption of this document is a requirement for Bosnia and Herzegovina provided for by the SAA. An efficient coordination mechanism should help to reach agreement on this document and enable easier implementation thereof.

20 European Commission, “Bosnia and Herzegovina 2010 progress report”, November 9, 2010.

21 BiH Directorate for European Integration, “National Integration Program”, June 24, 2010.

22 BN TV, “Davidi: Program of integration of Bosnia-Herzegovina’s obligation on the road to the EU”, April 27, 2012.

More than a sum of entities and ethnicities

The political narrative about the post-Dayton Bosnia and Herzegovina has developed from the ashes of war. Its development has been marked by a strong influence of the international community, a high level of distrust among local political players and a conflicting vision of the future of Bosnia and Herzegovina. This has left little room for development of the narrative about common interest. Even though it has also developed from the ashes of war, the political narrative about the EU is interwoven with common interest and shared values.

The difference between the political narrative about Bosnia and Herzegovina and the one about the EU is best reflected in the fundamental legal documents of Bosnia and Herzegovina and the EU. In the Dayton-drafted Constitution of Bosnia and Herzegovina division of competencies has been done very clearly and explicitly. The competencies of the state-level institutions of Bosnia and Herzegovina have been stated in the form of a list: ten issues in total.²³ The Constitution stipulates that all “government functions and compe-

23 Article III of the Constitution of Bosnia and Herzegovina: foreign policy, foreign trade policy, customs policy, monetary policy, financing of institutions and international commitments of Bosnia and Herzegovina, policy for regulating the issues of immigration, refugees and asylum, implementation of international and inter-entities criminal justice regulations, including the relations with the Interpol, establishment and functioning of common and international means of communication, regulation of inter-entity transport, air traffic control.

tencies which are not exclusively entrusted by this Constitution to the state-level institutions of Bosnia and Herzegovina shall belong to the Entities.”²⁴

The division of competencies between the EU and its member states is far more complex. They are classified into four types of competencies. Exclusive competencies of the EU are those where member states cannot make binding decisions (e.g. customs and trade policies). Then we have policies for which the EU does not have exclusive competence, but the EU institutions can make decisions about them (e.g. agriculture and the fishing industry). Shared competencies are where the EU and member states can make and implement decisions together (e.g. science, research, foreign and securities policies). And finally there are supporting competencies where the EU can only intervene to support action of the member states (e.g. healthcare, culture and tourism).

The possibility of “coordination” between state-level and entity-level institutions is mentioned only once in the Constitution of Bosnia and Herzegovina, where it stipulates that: “The Presidency can make decisions to stimulate inter-entity coordination in matters which do not fall under the competence of Bosnia and Herzegovina”²⁵, but only if neither of the entities opposes such action.

24 Article III paragraph 4 of the Constitution of Bosnia and Herzegovina.

25 Article III paragraph 4 of the Constitution of Bosnia and Herzegovina.

Whereas the word “coordination” is mentioned only three times in the Constitution of Bosnia and Herzegovina, in the two fundamental EU treaties the same word is mentioned thirteen times.²⁶ It is also interesting that the word “cooperation” is mentioned only two times in the Constitution of Bosnia and Herzegovina, both times in relation to protection of human rights. In the fundamental EU treaties that word is mentioned 78 times.

Representatives of the EU institutions and politicians in the EU member states most frequently talk about coordination of policies and mutual cooperation with the aim of accomplishing common interests through maximization of individual benefits. Speaking about the need for common EU measures in the field of digitization of Europe’s economy, German Chancellor Angela Merkel said that “member states cannot take care of the transition on their own,” and that with coordinated steps “far more jobs are being created.”²⁷ Politicians in Bosnia and Herzegovina have talked about coordination of policies and mutual cooperation in two different ways from 1995 until today: at first they talked about it as something welcome and useful, and then more and more as about something which is unwelcome and damaging.

26 European Union, “Consolidated versions of the Treaty on the EU and the Treaty on Functioning of the EU”, 2012.

27 EurActiv, “Merkel rallies EU member states to drive ‘Europe’s Industry 4.0’”, December 5, 2014.

Conflict of the Dayton and European narratives

At the time when the Constitution of Bosnia and Herzegovina was being drafted in 1995, the prospect of full membership in the EU did not even exist. As the prospect of full membership for Bosnia and Herzegovina was becoming more realistic, legislative and institutional frameworks and practices were being developed in order to achieve that prospect. Since June 2000, when the Ministry of European Integration was set up, until today, we can talk about two periods.²⁸ The first period lasted from 2000 till the end of 2010. This period was marked by Bosnian-Herzegovinian politicians who, in order to accomplish realization of the EU membership prospect, were developing a narrative about the necessity of coordination and mutual cooperation, and who were ready to take concrete steps. This was partly due to a stronger influence of the international community, but partly also due to public pressure in Bosnia and personal expectations.

From 2002 to 2007, the Chairman of the Council of Ministers of Bosnia and Herzegovina was Adnan Terzić, with the personal ambition and international support to work on integration into the EU. Explaining why this was his priority Terzić said that *“all parties*

28 Council of Ministers of Bosnia and Herzegovina, “Members of the Council of Ministers of BiH”, 2010.

*campaigned on integration into the EU, so I said, 'Ok, let's offer our citizens that we should go energetically towards Europe.'"*²⁹

During 2003 the Ministry of European Integration was transformed into the Directorate for European Integration, a permanent body of the Council of Ministers of Bosnia and Herzegovina.³⁰ Up until today this body has been charged with providing technical support to the institutions of Bosnia and Herzegovina.³¹ And the decision of the Council of Ministers of Bosnia and Herzegovina about the way to achieve coordination in the process of EU accession from December 2003 assigned to the DEI a central role in coordination of activities related to European integration of Bosnia and Herzegovina.³²

According to the assessment of the EU institutions, in the first seven years the DEI carried out coordination of the aforementioned activities successfully, whether this was about the process of the SAA negotiations or implementation of the Interim Agreement on Trade.

The process of negotiation about the signing of the SAA and the Interim Agreement on Trade, which took place from November 2005 to December 2006, was assessed by the EU as "competent", "very

29 European Stability Initiative, "Adnan Terzić – a unifying goal for Bosnia".

30 Council of Ministers of Bosnia and Herzegovina, "Directorate for European Integration".

31 Ibid.

32 Ibid.

good” and “professional”, the Bosnian side was “coordinated” and “prepared”.³³

In October 2008, the European Commission commended Bosnia and Herzegovina for excellently conducted preparations for implementation of the Interim Agreement on Trade. The Commission pointed out that Bosnia and Herzegovina had prepared an Action Plan and set up bodies provided for by the Interim Agreement on Trade, and that it had started with implementation of the part of the agreement related to the customs provisions.³⁴ The European Commission commended Bosnia and Herzegovina in 2009, saying that “the implementation of the Interim Agreement (IA) has been satisfactory overall in its first year since coming into force.”³⁵

In the period from January 2008 to December 2010, Bosnia and Herzegovina successfully coordinated the activities related to meeting the requirements for placing Bosnia and Herzegovina on the Schengen Area white list, so that citizens of Bosnia and Herzegovina could travel visa-free to the Schengen Area.³⁶ That period was marked by huge public pressure for this process to be completed successfully.

33 SEE TV, “Interview - Olli Rehn”, November 6, 2006.

34 European Commission, “Bosnia and Herzegovina 2008 progress report”, November 5, 2008.

35 European Commission, “Bosnia and Herzegovina 2009 progress report”, October 15, 2009.

36 BiH Service for Foreigners’ Affairs, “Visa-free travel for citizens of Bosnia and Herzegovina”, 2010.

From the beginning of 2011 until today, Bosnia and Herzegovina has been in a second period, which is marked by a narrative of reduced political will for mutual cooperation and coordination of policies and activities. Since then the European Commission reports have become more and more negative. In the Bosnia and Herzegovina 2011 Progress Report it is stated that “a shared vision by the political representatives on the overall direction and future of the country and its institutional setup is lacking” for EU integration.³⁷

Since then Republika Srpska has crystalized the political narrative about the undesirability of coordination and mutual cooperation necessary for the EU integration process. In February 2015, Republika Srpska President Milorad Dodik made a statement that “no coordination either of the decisive role of the Council of Ministers of Bosnia and Herzegovina or of the DEI can exist” in the EU integration process.³⁸ In the same period Republika Srpska Prime Minister Željka Cvijanović said “if we talk about agriculture at the level of Bosnia and Herzegovina, if we talk about ecology, or environment protection, then I can say that those are exclusive competencies of Republika Srpska and cooperation is not possible in that respect.”³⁹

37 European Commission, “Bosnia and Herzegovina 2011 progress report”, October 12, 2011.

38 Vijesti.ba, “Dodik: Coordination mechanism is crucial”, February 23, 2015.

39 Nezavisne novine, “Cvijanović: Support to European integration of BiH, but not to transfer of competencies”, February 13, 2015.

There are several reasons for such a development of the situation. From the aspect of EU integration we can talk about the relationship between what the EU offered to and what it required from politicians in Bosnia and Herzegovina in that period. In order to submit a credible application for EU membership, the EU demanded an agreement on implementation of the ruling of the European Court of Human Rights in the case of Sejdić and Finci. The credible application for EU membership, from the aspect of a long and demanding road towards full membership in the EU, does not amount to much, and the process of reaching an agreement about the Sejdić and Finci ruling developed into a discussion about ethno-territorial and political relations in the post-Dayton Bosnia and Herzegovina, requiring amendments to the Constitution and the election law. The discussion about the amendments to the Constitution and the election law opened up room for politicians to score political points with voters by adoption of irreconcilable positions.

Who will have the final say?

According to information provided by the DEI, this government body has managed to coordinate 90 to 95 percent of all matters related to the EU integration process.⁴⁰ An efficient coordination mechanism should, therefore, help solve the remaining issues: lack of one single, unified position towards the EU, lack of common/harmonized sector strategies for using EU funds and lack of a national integration program. Some representatives of the DEI believe that an efficient coordination mechanism should include a solution for situations when it is impossible to reach a compromise, a coordinating “body that will have the final say.”⁴¹

If the wish to achieve the prospective of Bosnia and Herzegovina’s full membership in the EU is real, then a coordinating body is definitely necessary to gather representatives of different levels of government and institutions competent for areas covered by the EU legislation. Only Bosnia and Herzegovina as a country/state can become a EU member, and it is composed of two entities, plus the Brcko District and cantons with their competencies. When Bosnia and Herzegovina will become a member of the EU depends on when and how each of its segments meets the conditions for EU membership.

40 Federalna televizija, “Pošteno”, April 27, 2015.

41 Federalna televizija, “Pošteno”, April 27, 2015.

The idea according to which such a coordinating body could make decisions by a majority vote or without participation of one level of government (e.g., cantons) can be imagined only if each level of government agrees to such an approach to the EU integration process. Without previous consent given by everyone, taking into consideration the Constitution of Bosnia and Herzegovina and its entities (and cantons), such majority vote decisions of the coordination body could be rightfully challenged. Having in mind the statements made by representatives of Republika Srpska and some cantons, it is not realistic that consent for such a coordination body will be given currently. For the simple reason that any coordination body that comprises representatives of all levels of government and institutions, in accordance with the constitutions in Bosnia and Herzegovina, has to make its decisions by consensus.

In the current balance of political powers in Bosnia and Herzegovina, if EU membership is a political priority for everyone in Bosnia and Herzegovina, it appears to be too costly to be wasting energy in an attempt to create conditions for getting the consent of everyone involved for the coordination body to be able to make decisions by a majority vote, or to have some levels excluded from the decision making. It seems to be more important to use that energy to develop a narrative about the benefits that Bosnia and Herzegovina (state institutions, entities, the Brcko District, and cantons) will receive from the EU integration process. An excellent practical example is meeting the conditions for the exporting of milk and potatoes to the EU from Bosnia and Herzegovina in June 2015. In order to fulfill the requirements for exporting milk and potatoes, the following things were

necessary, namely (1) synergy of interest of all dairies in Bosnia and Herzegovina and (2) the will of politicians and institutions to coordinate different levels of government in Bosnia and Herzegovina, and (3) the sending of a clear message to the public about the common benefits of such action.

The agreement on meeting the conditions for exporting milk and potato, and the agreement about the Framework Transport Policy of Bosnia and Herzegovina for the period until 2030, are proof that the constitutional structure of Bosnia and Herzegovina tailored in Dayton is not in itself an obstacle on Bosnia and Herzegovina's road to the EU. The obstacles are the aforementioned Dayton narrative and lack of understanding of the full benefits and advantages offered by EU integration.

The approach of including the stakeholders and the public so as to motivate politics, policies and institutions should be used in the future in order to reach a common position on sector strategies, which would enable Bosnia to use the EU IPA funds for more sectors as of 2018, as well as the adoption of a National Integration Program, in order to make more significant steps on the road to the EU.

SHORT BIOGRAPHIES OF THE AUTHORS

listed in the order of publication
of the essays

Srećko Latal was born in Sarajevo, where he completed his formal education. As Associated Press correspondent and editor, he covered Bosnia and Herzegovina and the Balkans during and after the 1992-1995 war, but also reported from other war hotspots such as Afghanistan and Pakistan. Between 2000 and 2008 he worked in the capacity of communication expert and political advisor for the European Union Monitoring Commission and the World Bank, and between 2009 and 2014 he worked as the Balkans analyst for one of the leading global analyst organisations - International Crisis Group, ICG. After ICG ceased its presence in the Balkans, Srećko Latal established a new think-tank and, in parallel, worked as an editor of the Balkan Investigative Reporting Network, BIRN, in BiH. In addition, over the course of the last 15–20 years, he published many articles in Oxford Analytics, Economist Intelligence Unit, Transition Online and many other regional and international media and analyst organisations.

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BIBLIOGRAPHY

Text “Fate of the state in the character of the people”

- Almond Gabrijel, Comparative Political Systems, Journal of Politics, vol. XVIII, 1956.
- Almond Gabrijel i Verba Sidnej, *Civilna kultura*, NIZ Politička kultura, Zagreb, 2000.
- Čolović Ivan, *Balkan - teror kulture*, XX vek, Beograd, 2008.
- Golubović Zagorka, „Autoritarno nasleđe i prepreke za razvoj civilnog društva i demokratske političke kulture“, u : *Između autoritarizma i demokratije*, Vujadinović, D., Veljak, L., Goati, V., Pavićević, V. /ur/, Centar za demokratsku tranziciju, Beograd, 2004.
- Golubović Zagorka, „Tradicionalizam i autoritarnost kao prepreka za razvoj civilnog društva u Srbiji“, u: *Potisnuto civilno društvo*, Pavlović, V. /ur/, Eko centar, Beograd, 1995.
- Kaldor Meri i Vejvoda Ivan, *Prošlost na Istoku- budućnost na Zapadu: demokratizacija u Centralnoj i Istočnoj Evropi*, Zavod za udžbenike i nastavna sredstva, Beograd, 2001.
- Kasapović Mirjana, Bosna i Hercegovina podijeljeno društvo i nestabilna država. Politička kultura, Zagreb, 2005.
- Kecmanović Nenad, *Dometi demokratije*, Fakultet političkih nauka, Čigoja štampa, Beograd, 2005.

- Lijphart Arend, *Demokracija u pluralnim društvima*, Globus, Školska knjiga, Zagreb, 1992.
- Majstorović Danijela, Turjačanin Vladimir, *U okrilju nacije (Etnički i državni identitet kod mladih u BiH)*, Centar za kulturu i socijalni popravak, Banja Luka, 2011.
- Podunavac Milan, *Princip građanstva i poredak politike*. Fakultet političkih nauka, Čigoja štampa, Beograd, 2001.
- Podunavac Milan, *Politička kultura i politički odnosi*, Čigoja štampa, Fakultet političkih nauka, Beograd, 2008.
- Pye W. L., „Political Culture“, in *International Encyclopedia of the Social Science*, Stills, D. L. (ed) Vol. 12, pp. 218-244. USA: Macmillan and Free Press, 1968.
- Pye W. L., „Culture and Political Science: Problems in the evolution of the concept of political culture“, in: *Social Science Quarterly* 53 (September)2, pp. 285-296, 1978.
- Šiber Ivan, „Politička kultura, autoritarnost i demokratska tranzicija“, u: *Između autoritarizma i demokratije*, Vujadinović, D., Veljak, L., Goati, V., Pavićević, V. /ur/, Centar za demokratsku tranziciju CEDET, Beograd, 2004.
- Verba Sidney, „Comparative Political Culture“, u (Eds.) L. W. Pye and S. Verba, *Political Culture end Political Development*, Princeton Univ. Press, 1965, str. 529-542.
- Vujčić Vladimir, *Politička kultura i politička socijalizacija*, „Alinea“, Zagreb, 1993.
- Vuković Đorđe, *Kontekst političke kulture*, Fakultet političkih nauka, Banja Luka, 2014.
- Welch Stephen, *Koncept političke kulture*, NIZ Politička kultura, Zagreb, 2009.

Text “Bosnia and Herzegovina’s quantitative easing”

- Dauderstädt, M. (2012.). *Germany’s Economy: Domestic Laggard and Export Miracle*. Friedrich Ebert Stiftung.
- ILO. (2009.). *Report on the Pension Reform in Bosnia and Herzegovina: First Assessment*. Ženeva: ILO.
- Izvozno vijeće BiH. (2011.). *Nacrt Strategije rasta izvoza BiH od 2012. do 2015. godine*. Sarajevo.
- Kwon, H.-j. (2007.). Transforming the Developmental Welfare States in East Asia. *DESA Working Paper No. 40*.
- Narodna skupština RS. (28. decembar 2014.). *Budžet Republike Srpske za 2015. godinu*. Preuzeto sa <http://www.narodnaskupstinars.net/?q=la/akti/bud%C5%BEet/bud%C5%BEet-republike-srpske-za-2015-godinu>
- OECD. (2014). *Social spending is falling in some countries, but in many others it remains at historically high levels*. OECD.
- Puljiz, V. (2005.). Socijalna politika i socijalne djelatnosti u Hrvatskoj u razdoblju 1900. - 1960. godine. Zagreb: Studijski centar socijalnog rada.
- Rašidagić, E. K., & Maglajlić, R. (2011.). Socio-Economic Transformation in Bosnia and Herzegovina. *Welfare States in Transition: 20 Years after the Yugoslav Welfare Model* (str. 16-40). Sofija: Friedrich Ebert Stiftung.
- Reformska agenda. (2015.). *Web stranica Vlade FBiH*. Preuzeto 29. jula 2015. sa <http://www.fbihvlada.gov.ba/pdf/Reformska%20agenda%20.pdf>

- Rodrik, D. (1998). Why Do More Open Economies Have Bigger Governments? *Journal of Political Economy*.
- Svjetska banka. (2009.). *Social Transfers in Bosnia and Herzegovina: Moving Towards a More Sustainable and Better Targeted Safety Net*. Svjetska banka.

Text “From the bottom up, forward”

- Azzellini, Dario, i Marina Sitrin. *They Can't Represent Us!: Reinventing Democracy from Greece to Occupy*. London & New York: Verso, 2014.
- Bardos, Gordon N. “Remember Bosnia?” *The National Interest*. April 21, 2014. <http://nationalinterest.org/feature/remember-bosnia-10275> (accessed September 27, 2014).
- Basseuner, Kurt, i Bodo Weber. *EU Policies Boomerang: Bosnia and Herzegovina's Social Unrest*. Sarajevo: Democratization Policy Council, 2014.
- Bey, Hakim. T. A. Z.: *The Temporary Autonomous Zone, Ontological Anarchy, Poetic Terrorism*. Brooklyn, NY: Autonomedia, 1991.
- Collis, Stephen. *Dispatches from the Occupation: A History of Change*. Vancouver: Talonbooks, 2012.
- Dedović, Edin. “Bosnia's baby revolution: is the protest movement coming of age?” *openDemocracy*. June 26, 2013. <https://www.opendemocracy.net/edin-dedovic/bosnia%E2%80%99s-baby-revolution-is-protest-movement-coming-of-age>.
- Gelderloos, Peter. *The Failure of Nonviolence: From the Arab Spring to Occupy*. New York: Left Bank Books, 2013.

- Graeber, David. *The Democracy Project: A History, a Crisis, a Movement*. New York: Spiegel & Grau, 2013.
- International Institute for Democracy and Electoral Assistance (IDEA). Voter Turnout Data for Bosnia and Herzegovina. October 20, 2015. <http://www.idea.int/vt/countryview.cfm?id=18> "
- Manning, Carrie. "Political Elites and Democratic State-building Efforts in Bosnia and Iraq." *Democratization*, 2006: 724-738.
- Milstein, Cindy. *Anarchism and Its Aspirations*. Oakland: AK Press, 2010.
- Mujkić, Asim. "We, the Citizens of Ethnopolis." *Constellations*, 2007: 112-128.
- Noni, Andrea De. "Bosnia and Herzegovina: The Plenums Legacy." *Osservatorio Balcani e Caucaso*. September 8, 2014. <http://www.balcanicaucaso.org/eng/Regions-and-countries/Bosnia-Herzegovina/Bosnia-and-Herzegovina-the-Plenums-legacy-155351>.
- Piven, Frances Fox. *Lessons For Our Struggle*. Chicago: Haymarket Books, 2012.
- Scott, James C. *Two Cheers for Anarchism*. Princeton, New Jersey: Princeton University Press, 2012.
- Shantz, Jeff. *Constructive Anarchy: Building Infrastructures of Resistance*. Surrey & Burlington: Ashgate, 2010.
- Wolin, Sheldon. "Fugitive Democracy." In *Democracy and Difference: Contesting the Boundaries of the Political*, by Seyla Benhabib, 601-606. Princeton: Princeton University Press, 1996.

Text “The arithmetic of bad assumptions”

Books:

- Altermatt, U. (1997): „Etnonacionalizam u Evropi,“ Svjetionik Sarajevo, IK JEŽ
- Džihic, V. (2009): „Ethnopolitik in Bosnien-Herzegowina: Staat und Gesellschaft in der Krise“, Baden-Baden, Nomos
- Ćurak, N. (2002): “Geopolitika kao sudbina”, Sarajevo, FPN
- Misita, N. (2007): “Osnovi prava Evropske unije”, Sarajevo, Pravni fakultet
- Pejanović, M. (2012): “Ogledi o državnosti i političkom razvoju Bosne i Hercegovine, Drugo dopunjeno izdanje, Sarajevo-Zagreb, Šahinpašić
- Vukadinović, R., Čehulić L. (2005): „Politika europskih integracija“, Zagreb, Topical
- Vukadinović R. (2006): „Pravo Evropske unije“, Banja Luka/ Kragujevac, Pravni fakultet u Banja Luci i Centar za pravo EU fakulteta u Kragujevcu

Collected papers:

- Bieber, F./Keil, S. (2009): „Power-Sharing Revisited: Lessons Learned in the Balkans?“, *Review of Central and East European Law*, 34
- Ćurak, N., Čardaklija, Đ., Sarajlić, E. Turčalo, S. (2009): „Politička elita u Bosni i Hercegovini i odnos vrijednosti“, Sarajevo, Institut za društvena istraživanja, FPN Univerziteta u Sarajevu
- Džihic, V. (2010): „Evropa“ u Bosni i Hercegovini-Bosna i Hercegovina u Evropi: EU-kondicionalitet i interna previranja u Bosni i Hercegovini: Gdje i zašto smo stali, odnosno kako da se

- pokrenemo? Zbornik radova: "Bosna i Hercegovina petnaest godina nakon Dayton", Fakultet političkih nauka Sarajevo
- Dedić, H. (2014): „Građanska percepcija integracije Bosne i Hercegovine u Evropsku uniju“, Zbornik radova, II Međunarodna konferencija Bosna i Hercegovina i euroatlanske integracije, Pravni fakultet Bihać i Centar za društvena istraživanja Internacionalnog Burč univerziteta, Bihać, 2014
- Kunrath, B. (2010): „Od zaštitne mjere do prepreke za daljnje djelovanje: Entitetsko glasanje u Bosni i Hercegovini,“ Zbornik radova: "Bosna i Hercegovina petnaest godina nakon Dayton", Fakultet političkih nauka Sarajevo
- Pejanović, M./Dedić, H. (2011): „Pretpostavke i dometi integracije BiH u EU“, Pregled br.1, Univerzitet u Sarajevu
- Wolk, J. (2009): Balansiranje ideje „Ujedinjeni u različitosti“: Federalizam i ustavna reforma u Bosni i Hercegovini, Gdje i zašto smo stali, odnosno kako da se pokrenemo? Zbornik radova: "Bosna i Hercegovina petnaest godina nakon Dayton", Fakultet političkih nauka Sarajevo

Journals and publications:

- Dedić, H. (2011): „Društvene reforme u procesu evropskih integracija,“ Godišnjak Fakulteta političkih nauka 5-6/2010/2011
- Dedić, H. (2008): „Die Integration von Bosnien und Herzegowina in die EU“, Südosteuropa Mitteilungen br.05-06/2008, 48. Jahrgang
- Kneuer, M. (2003): Bewusste Entscheidung für Europa“: Die Slowakei und ihr schwieriger Weg in die EU“, Die politische Meinung, Nr. 404, Juli 2003

Sejfić, I. (2008): „Povijesne predispozicije i aktuelni razvoj građanskih asocijacija u BiH“, Sarajevo, Friedrich Ebert Stiftung,
Schimmelfennig, F., Engert, S., Knobel, H. (2003): “Costs, Commitment and Compliance: The Impact of EU Democratic Conditionality on Latvia, Slovakia and Turkey”, JSMS 2003, Volume 41. Number 3

Legal acts, declarations, reports and other documents:

Dokument o strategiji vanjske politike BiH, dokument br.01-645-30/03 od 26.marta 2003. godine, Predsjedništvo BiH

Izveštaj Evropske komisije o napretku Bosne i Hercegovine u 2014. godini

Izveštaj Evropske komisije o napretku BiH u 2009. godini, Radni dokument osoblja

Komisije, COM {COM(2009) 533} final, Brisel 14.10.2009., SEC (2009) 1338

Mišljenje Venecijanske komisije o ustavnoj situaciji u Bosni i Hercegovini i ovlaštenjima Visokog predstavnika, CDL-AD (2005) 004, 62.plenarna sjednica, 11.-12.mart 2005. godine

Program pristupanja Crne Gore Evropskoj uniji 2014-2018, Ministarstvo vanjskih poslova i evropskih integracija Crne Gore
Sporazum o stabilizaciji i pridruživanju između Evropskih zajednica i njihovih država članica sa jedne strane, i Bosne i Hercegovine sa druge strane

Strategija proširenja i glavni izazovi 2013.-2014.(COM(2013) 700 final, Evropska komisija

Ustav Bosne i Hercegovine

Ustav Republike Hrvatske

Web pages:

<http://www.consilium.europa.eu>

<http://www.dei.gov.ba>

<http://www.eusrbih.org>

<http://www.eurozine.com>

<http://www.mvp.gov.ba>

<http://www.mvpei.hr>

<http://www.ohr.int>

<http://www.parlament.ba/>

www.undp.ba

<http://www.vijeceministara.gov.ba>



ABBREVIATIONS

BAM	Convertible Mark (KM)
BiH	Bosnia and Herzegovina
B-H	Bosnian-Herzegovinian
DEI	Directorate for European Integration BiH
DPA	Dayton Peace Agreement
EU	European Union
EUR	Euro
FBiH	Entity Federation of Bosnia and Herzegovina
FES	Friedrich-Ebert-Stiftung
FIPA	Foreign Investment Promotion Agency
GDP	Gross Domestic Product
HDZ 1990	Croatian Democratic Union 1990
HDZ BiH	Croatian Democratic Union BiH
HNS	Croat National Assembly
HV	Croatian Army
HVO	Croatian Defence Council
ILO	International Labor Organisation
IMF	International Monetary Fund
IPA	Instrument for Pre-Accession Assistance
IPARD	Instrument for Pre-Accession Assistance in Rural Development
NATO	North Atlantic Treaty Organisation

OECD	Organisation for Economic Cooperation and Development
OHR	Office of the High Representative
PIO	Pension and Disability Fund
PTSD	Posttraumatic stress disorder
RS	Entity Republika Srpska
SBiH	Party for Bosnia and Herzegovina
SDA	Party of Democratic Action
SDP	Social Democratic Party
SDS	Serb Democratic Party
SFOR	Stabilization Force
SFRY	Socialist Federal Republic of Yugoslavia
SNSD	Alliance of Independent Socialdemocrats
UN	United nations
UNDP	United Nations Development Programme
USA	United States of America
VAT	Value-added Tax
WB	World Bank
YNA	Yugoslavian People's Army