

The European Union's Political Membership Criteria and Their Effects on Divided Societies: The Case of Bosnia and Herzegovina

Danijela Dudley, Fleurine Saez

Abstract: While the European Union's accession criteria have served as a driving force in promoting democracy throughout Central and Eastern Europe, Bosnia and Herzegovina (BiH) has lagged behind other countries in the region in its efforts to achieve EU accession. Despite the incentives of potential EU membership, BiH continues to struggle with completing its democratic transition and consolidation. With three ethnic groups challenging the legitimacy of the state, progress has been hindered by contested authority, control over the decision-making process, and uncertainty about others' intentions. By prioritizing the need for institutional reforms that would grant state institutions power over entities and demanding both policy coordination among entities as well as standardization of legislation across the country, the EU has not diminished these inter-ethnic fears. As a result, while widespread consensus exists in the country that international integration is desirable, progress has been restrained by continued uncertainty of what such integration would entail for the current consociational arrangement and each group's ability to regulate its own affairs.

Keywords: Bosnia and Herzegovina, European Union, membership criteria, post-conflict democratization



Dr., San José State University, danijela.dudley@sjsu.edu
MA, Sciences Po Paris School of International Affairs, fleurine.saez@sciencespo.fr



0000-0003-1021-7046
0000-0002-7139-1585



© Fettah Efendi Association
DOI: <https://doi.org/10.51331/A025>
Journal of Balkan Studies, 2 (2), 2022
balkanjournal.org



Received: 19.05.2022
Revision: 20.06.2022
Accepted: 30.06.2022

Introduction

Over the past three decades, the European Union's (EU) accession criteria have served as a driving force in promoting democracy throughout Central and Eastern Europe. By attempting to satisfy the EU's membership conditions, former communist countries have been incentivized to establish stable democratic institutions and improve their human rights practices. New member and candidate states in Central and Eastern Europe, as well as in the Balkans in particular, have experienced varying levels of success. In comparison to other countries in the region, Bosnia and Herzegovina (BiH) has lagged behind in its efforts to approach the prospect of becoming an EU member state. Unlike other former Yugoslav states, which have either joined the EU or are engaged in accession negotiations, BiH has yet to accomplish significant political reforms on its path to a democratic transition and consolidation in order to receive the status of an EU candidate country. The question is why the EU's membership criteria have failed to match BiH's political reforms to that of other former Yugoslav states. We argue that the incompatibility of EU-driven reforms and the nature of BiH's post-war arrangement have delayed the country's progress and hindered its prospects for EU membership.

The Bosnian conflict of the 1990s ended with the establishment of a decentralized state system, which would preserve the unity of the state in conjunction with power-sharing arrangements but allow each of the three constituent peoples significant levels of autonomy. While this arrangement was intended to overcome the wartime divisions, at the same time it legitimized internal disunity and allowed ethnic tensions to continue dominating the country's post-war political agenda. With each side continuing to challenge the legitimacy of the state, the incentives to establish democratic institutions have been overshadowed by each ethnic group's fears of the other groups' future intentions. In this environment of contested authority, the EU's demands for political reform have been counterproductive. Namely, while formally accepting BiH's decentralized system, the EU's demands for reform have at the same time centered around an institutional restructuring that would grant state institutions power over the entities, coordinate policies among the entities, and standardize legislation across the country. If implemented, these reforms would threaten the very arrangement that has kept the country together since the wars of the 1990s, and the prospects of these reforms have intensified the already existing inter-ethnic distrust. As a result, while widespread consensus exists in the country regarding the desirability of a democratic transition and

international integration, any significant progress has been hindered by the continuing challenges to the legitimacy of the state as well as uncertainty about what such an integration would entail both for the current consociational arrangement and each ethnic group's ability to regulate its own affairs.

Bosnia and Herzegovina's Post-War Structure

After declaring independence from the former Socialist Federal Republic of Yugoslavia, BiH experienced a war that brought its three constituent peoples, the Bosniaks, Croats, and Serbs, into conflict with one another. The nearly four-year war ended in 1995 with the signing of the General Framework Agreement for Peace (GFAP, also known as the Dayton Peace Agreement, 1995) in BiH. Shaped largely by the international community, the Dayton Agreement represented a skilled attempt at balancing the need to preserve the integrity of BiH as a unified state with the need to ensure that the three previous enemy groups could live with one another. As Holbrooke representing the United States in the peace process emphasized, while finding an arrangement that would facilitate the three sides' coexistence within the boundaries of one state was challenging, preserving a unified multiethnic state and simultaneously not legitimizing Serb aggression and ethnic cleansing were also necessary (Holbrooke, 1999:97). To achieve both goals, the international community crafted a political structure that relied on decentralization and power-sharing for its functioning.

BiH's post-war political arrangement was in large part founded on the idea of consociationalism, which is advantageous for diverse societies according to Lijphart (1969, 1977). Lijphart (1977) recommended that heterogeneous societies, especially those without cross-cutting cleavages, establish political structures that would include all groups at the highest levels of the decision-making process, allow minority groups to veto decisions of vital interest, proportionally distribute resources and positions, and permit each side to make autonomous decisions on issues concerning the ethnic groups' internal affairs. In BiH, which was in a way "a classic example of consociational settlement" (Bose, 2002:216), this arrangement was indented to make the re-unified country governable following the war that had alienated its constituent groups. It materialized in the country dividing into semi-autonomous entities as well as distributing the powers and positions equally among the three ethnic groups. To ensure significant levels of autonomy for each group, the country was internally divided into two entities:

a Serb entity called the Republika Srpska (RS) and a Bosniak-Croat entity called the Federation of Bosnia and Herzegovina (FBiH)¹³ alongside the autonomous district of Brčko. The Federation itself was envisioned as a decentralized entity of Croats and Bosniaks consisting of ten cantons. Each entity has its own governing structure that allows the constituent groups to maintain high levels of autonomy while remaining physically separated from one another.

The Dayton Agreement also created a convoluted institutional structure in which most public offices included representatives from all three ethnic groups and divided powers equally among them. This is most pronounced at the state level where the three constituent peoples are represented equally in each institution. For instance, a tripartite presidency with a Bosniak, a Croat, and a Serb member heads the state, while the House of Peoples consists of five representatives from each ethnic group. Although established with the goal of providing equal representation for each of the three groups and making a deeply divided country governable, this structure almost ensured gridlock by necessitating a three-sided compromise for every decision.

In addition to the complications introduced by the need for a three-sided compromise, BiH's post-war constitution²⁴ also stripped the state government of most of the political authority central governments generally have. According to the peace agreement, the central government's jurisdiction extended to only 10 policy areas (e.g., foreign policy, customs policy, air traffic control), with most other areas being left to the entities to regulate. This intentionally created weak government (Soberg, 2008) was in line with the international community's desire to afford each group significant levels of autonomy but resulted in a perpetual gridlock that has necessitated the international community's heavy-handed intervention to accomplish any reforms. Namely, the Dayton agreement charged international authorities with direct oversight over the implementation of the peace agreement. While the military terms of the agreement were originally assigned to a NATO-led military Implementation Force,³⁵ civilian elements

1 The terminology of 'republic' and 'federation' in Bosnia and Herzegovina is unconventional. Commonly the terms republic and federation denote sovereign states but in the case of BiH both terms are used to name the state's sub-national entities. Thus, the Federation of Bosnia and Herzegovina and Republika Srpska (Serb Republic) are constitutive elements of the country/state of BiH.

2 The Constitution of BiH was embedded in the General Framework Agreement for Peace in Bosnia and Herzegovina, Annex 4.

3 IFOR was replaced by NATO-led Stabilization Force (SFOR) in 1996, which was further replaced by a European Union Peacekeeping Force (EUFOR, Operation Althea) in 2004.

of the treaty were left to the Office of the High Representative (OHR) and the Organization for Security and Cooperation (General Framework Agreement, 1995). Both the lack of consensus and the inability of the three constituent groups to come to an agreement on most issues led to the OHR's continuous involvement in the decision-making process. In fact, the Peace Implementation Council (PIC) repeatedly instructed the High Representative to take charge in the decision-making process and to impose decisions if BiH's political elites were unable to reach a compromise (PIC, 1997, 2000). Faced with obstinate political elites, the OHR imposed decisions even on sensitive issues such as national symbols and laws regulating citizenship; it annulled entities' legislation that conflicted with the state constitution, removed officials from power, and more.⁴⁶

This complex institutional arrangement has been the source of both stability and stalemate. The relative autonomy of the three sides has allowed the country to maintain peaceful relations and avoid any internal turmoil that would threaten the peace and stability of the country. The core logic of the consociational arrangement has been accomplishing its goal: The three sides have been able to regulate their affairs and safeguard their self-rule because of institutional arrangements that allow them to preserve relative independence. At the same time, however, the weak central government and equal division of political offices among the three constituent peoples have prevented meaningful reform and democratization of the system. With each side prioritizing its narrow interests, the decisions center around finding the lowest common denominator, and any attempts at substantive reform are stymied by internal divisions and conflicts.

European Union Membership Aspirations

The expansion of the EU and inclusion of countries from the former communist bloc has been guided by a set of membership criteria established during a European Council (1993) meeting. The leaders of EU member states determined that states aspiring to join the union would have to be democratic, have a functioning free market economy, and align their legislation and practices to EU standards (European Council, 1993). The Commission has since used this broad framework to prepare prospective members and evaluate their readiness for EU membership. Potential members initially go through

⁴⁶ For a complete list of decisions imposed by the Office of the High Representative, see <http://www.ohr.int/decisions-of-the-high-representative/>

an association process that focuses on political and economic conditions and evaluates countries' preparedness to start working on the *acquis*; after basic political and economic reforms have been accomplished, countries are granted candidate status and enter the accession process. The countries of the Western Balkans have faced additional requirements outlined in stabilization and association agreements that, in addition to political and economic terms, require them to stabilize regional relations and cooperate with the International Criminal Tribunal for the Former Yugoslavia (ICTY). The association process has been particularly tumultuous in the case of BiH, as it is the only western Balkan country besides Kosovo that has yet to achieve the status of candidate country.

Although BiH was identified as a potential EU candidate country as early as 2003 (Council of the European Union, 2003; European Council, 2003), little progress in its accession process has been made so far. In a 2003 Feasibility Study, the Commission identified key reforms necessary for BiH to prepare for entering into a stabilization and association agreement (SAA) with the EU (European Commission, 2003). While acknowledging that BiH's constitution had formally set up a democratic framework, the Commission noted a number of deficiencies in the country's governance, human rights practices, and judiciary, recognizing the long road ahead before BiH may be ready to enter into a stabilization agreement. Although SAA negotiations were officially initiated in November 2005 and the agreement was signed in 2008, it did not enter into force until 2015 (European Union, 2015), a full decade after negotiations had started. In early 2016, BiH submitted the application for EU membership, but it has yet to become a candidate country.

Considering the EU's previous relative successes in promoting democracy through accession conditionality, nearly two decades of negotiations and close work with BiH would reasonably be expected to at least lead to modest levels of improvement in the country's democratic practices. BiH, however, is a stark departure from the norm. Despite the country's desire to join the EU and apparent attempts to satisfy accession conditions, BiH has not made significant progress on its path to democracy. The Economist Intelligence Unit's (2020) Democracy Index has continuously placed BiH in the hybrid category, with BiH's scores actually decreasing over the last several years. Likewise, Freedom House's (2020) Nations in Transit Reports show inadequate democratic

reform across a range of categories, with the overall democracy percentage dropping from 47% in 2005 to just under 39% in 2020.

This lack of progress is most obviously reflected in the country's current human rights record and ongoing obstacles to inclusive political participation. In addition to direct and indirect discrimination (Human Rights Watch, 2012, 2019, 2021) as well as frequent hate crimes (United States Department of State, 2020), numerous political and legal barriers restrict individuals' ability to participate in the country's political process and exercise rights and freedoms associated with democratic governance. Due to the structure of the country's electoral system, minority groups do not hold seats in state parliament and are severely underrepresented at all levels of decision-making.⁵⁷ These manifestations of BiH's nondemocratic system have persisted and at times intensified throughout the country's bid for membership in the EU.

The EU has repeatedly noted these shortcomings. For instance, the Commission's 2015 Bosnia progress report (European Commission, 2015) was mostly critical of BiH's lack of meaningful political reforms. It noted severe inadequacies in BiH's progress toward democratic governance, with only modest levels of preparation in the area of judiciary and public administration and no preparation in the area of human rights or protection of minorities. The report also noted that, instead of improving, the situation in some policy areas such as freedom of expression had been deteriorating, with not only the intimidation of media representatives having had increased but also legislation having recently been passed in Republika Srpska that threatened to restrict freedom of expression even further (European Commission, 2015:22). Despite the Commission's critical assessment, BiH submitted the application for EU membership the following year. Such a move was clearly premature, as the country's unwillingness to implement the necessary reforms has resulted in a lack of candidacy status. The European Commission's (2019b:12-13) 2019 opinion of the country's readiness for EU membership emphasized that "considerable and sustained efforts are needed for the country to be able to assume the obligations of EU membership" and concluded that in no policy areas did the country have good levels of preparation or was "well advanced regarding its capacity to undertake the obligations stemming from EU membership."

5 In a 2018 case filed by the president of a local multiethnic party because of her inability to run and vote in Mostar's municipal elections, the European Court of Human Rights ruled that BiH must amend its electoral laws ("Baralija v. Bosnia and Herzegovina," 2019).

Resistance to Reform

The lack of progress in integration efforts and the country's inability (or unwillingness) to satisfy the conditions established by the EU are the product of BiH's internal divisions, formally institutionalized in its constitution. The decentralized governing structure with a weak central authority, the blurred and overlapping competencies among different levels of government, the existence of blocking mechanisms to protect each group's interests, and the ethnicity- and entity-based voting and public office distribution have all created conditions under which the state cannot act as one unit. This division-reinforcing structure has not only precluded major reforms but has also stifled the country's ability to execute even simple tasks such as agreeing on how to respond to all the questions in a questionnaire from the European Commission (2019b). Given that the current convoluted constitutional structure of overlapping competences prevents BiH's ability to act as a single state, the EU has insisted since the start of negotiations on a more centralized state structure with political power increasingly vested at the central level. In one of its earlier assessments of BiH's political situation, the European Commission emphasized the need for Bosnian politicians to take charge of their country's governing process, "as only coherent, functioning states can successfully negotiate an agreement with the EU" (European Commission, 2003:14). That approach from the EU, however, has hindered the country from accomplishing consequential reforms, as any attempt to increase competencies of the central government or affect each group's level of influence on the decision-making process threatens the autonomy of the three constituent groups and the sense of safety each has due to their autonomy. As a result, the country has been much more willing to implement economic and political reforms that do not affect the existing inter-ethnic power relations and much less compliant in implementing reforms that threaten the current consociational arrangement.

While formally accepting BiH's decentralized structure, the EU has repeatedly demanded changes in the country's existing power sharing structure. Although individually the two entities have made efforts to amend their legislation to meet EU standards, the major hurdle remains at the state level. The lack of clarity regarding competences and continuous uncoordinated approaches to policymaking between the state-level parliamentary assembly, the entity parliaments, and the state-level Council of Ministers are a major area of concern for the EU. The Commission has pushed for improved cooper-

ation between them in order for BiH to harmonize its legislation with that of the EU. The lack of communication among different levels of government and their inability “to ensure a harmonised and EU-compatible approach” (European Commission, 2013:11) have prevented the country from successfully cooperating with the EU and satisfying the current membership criteria. However, political reforms that could address these issues in a meaningful way would clash with the current constitutional framework, would require a restructuring of the power-sharing system, and at the same time would diminish the autonomy of the three ethnic groups to regulate their affairs. As a result, the EU’s demands for a clear delineation of competences along with the creation of a clause that would enable the state to “temporarily exercise competences of other levels of government to prevent serious breach of EU law” (European Commission, 2019a:13) have resulted in little tangible progress.

Similarly, the EU’s push for political representation of all Bosnian citizens, especially minorities, has faced opposition because of its effects on the entrenched power-sharing structures. In practice, ethnic- and residence-based representation effectively prevents portions of the population from participating in the democratic process. The preamble to the constitution defines Bosniaks, Croats, and Serbs as “constituent peoples,” while citizens belonging to the country’s 17 minority groups are referred to as “others.” Members of minority groups are not eligible to run for the office of the presidency or the House of Peoples (Articles 4 and 5), because seats in each are reserved for equal representation of the three constituent groups. By some estimates, this provision has resulted in a total of 400,000 Bosnian citizens (approximately 12% of the population) being barred from office on the basis of their ethnic identity, religion, or place of residence (Human Rights Watch, 2019). In 2009, the European Court of Human Rights ruled that BiH’s current constitution violates minority rights, as the constitutional provisions covering election laws were in direct violation of Article 14 of the European Convention of Human Rights (ECHR) and Protocol Number 12, which prohibit discrimination based on race, religion, and association with a national minority (Sejdić and Finci v. Bosnia and Herzegovina, 2009). Since then, a number of other court cases have followed suit (Pilav v. Bosnia and Herzegovina, 2016; Šlaku v. Bosnia and Herzegovina, 2016; Zornić v. Bosnia and Herzegovina, 2014). The EU’s demands that the constitution be amended to ensure inclusive representation has been unsuccessful be-

cause any changes to the current arrangement could result in a loss of guaranteed representation for the three ethnic groups.

Another problematic feature of ethnic power guarantees has been entity voting in the Parliamentary Assembly, which requires a two-thirds vote from each entity's delegates to pass a decision. This is a mechanism that allows entity delegates to block legislation which they view as going against their entity's core interests. While entity voting is intended as a protection mechanism for each group's interests, it has long been abused by those seeking to exclusively advance their ethnic agendas (Bahtić-Kunrath, 2011). As such, entity voting poses a significant challenge to inter-ethnic cooperation. The EU has demanded modifications to entity voting due to its negative effects over the parliament's functioning by completely delaying the adoption of legislation and reforms (European Commission, 2009, 2019b). However, reforming entity voting would reduce each ethnic group's ability to control outcomes. As a result, an early attempt at constitutional reform failed in part because representatives from Republika Sprska had "entered the negotiations under condition that Bosnia's division into entities would not be on the table, nor would the 'entity voting system' in the House of Representatives be discussed -- even though these two aspects of Bosnia's post-war set-up had been identified by most independent observers as among Dayton's key deficiencies" (Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe, 2006, Art. 4.28).

While progress in satisfying EU integration conditions has been slow in areas that may affect the consociational arrangement and the balance of powers that have been established, BiH has made significant policy changes in areas that do not directly touch upon the country's power-sharing structure. In 2010, the government successfully met 174 of the conditions set out in the European Commission's 2008 Roadmap for visa liberalization, resulting in visa-free travel to the Schengen area (European Commission, 2019a). And while the country has yet to successfully establish a fully functioning market economy, significant progress has been made to align its economic policies to EU standards. Following the signing of the 2008 Interim Agreement on trade and trade-related issues, progressive trade liberalization has taken place. This has led to considerable levels of integration among the economies of BiH, the EU, and neighboring countries (European Commission, 2019a:6). BiH has also successfully passed legislation regulating labor and the financial sector in line with international standards

(European Commission, 2019a:72). Another significant success in conforming to the standards set by the EU was achieved with reforms on tax and customs policies. While the Dayton Peace Agreement did leave certain competencies regarding internal market policies (e.g., raising taxes, customs administration) to the entities rather than the state, subsequent harmonization of the indirect taxation system along with the creation of a single customs administration were a testament to the leadership's readiness to "relinquish power in the name of European integration" (Noutcheva, 2012:68).

Support for European Integration

BiH's continued resistance to reforms is in contrast to its overall support for European integration. Bosnian citizens have continuously shown interest in EU accession and the democratic reforms which it entails. Positive sentiments towards EU membership have steadily increased since 2015: Between 2015-2019, around 70% of the population remained in favor of accession (National Democratic Institute, 2019; Outbox Consulting, 2019). Of the three ethnic groups, Bosnian Serbs have been the most skeptical of the EU and its effects on the country due to the view that EU accession "could jeopardise the existence of the RS" (Turčilo, 2013). Despite this skepticism, The Gallup Balkan Monitor (2010,:11) results show respondents in the RS to have begun viewing EU accession as an increasingly positive matter between 2008-2010. More recent surveys have demonstrated Bosnian Serbs strongly support EU accession (National Democratic Institute, 2018, 2019).

Public support for European integration presents a paradox: Bosnians aspire to join the EU while simultaneously wanting to preserve the current decentralized decision-making process that must be reformed to meet EU conditions. These contradictions are evident in public officials' inconsistent statements and actions. Republika Srpska has at times felt its Serbian identity to have been disproportionately threatened by both BiH authorities and the EU's proposed reforms, such as the European Union Police Mission's attempts at police reform in the early 2000s (Muehlmann, 2008). As a result, Milorad Dodik, the chair of BiH's tripartite presidency, renewed threats for the secession of the Republika Srpska in February 2020, claiming that the country's political crisis would "only disappear when Bosnia disappears" (*Euronews & Associated Press*, 2020). This is in contrast to his earlier statements expressing his entity's commitment to joining the EU (Presidency of Bosnia and Herzegovina, 2019).

Even Bosniak and Croat officials who have formally expressed less resistance to reforms have failed to support meaningful changes. Bakir Izetbegović, the Bosniak member of the fifth and sixth BiH presidency, expressed support for transferring power to the central government, despite acknowledging that doing so is not in the best interest of his constituents. Nevertheless, he has voiced skepticism in BiH politicians' ability to reach an agreement with regards to significant constitutional reforms (Izetbegović, 2016). In his 2016 speech to the European Parliament, Izetbegović (2016) explicitly stated that such reforms were "neither desirable nor doable at this moment." While acknowledging the "existing systemic discrimination against citizens" in Bosnia, Željko Komšić (2019a), the Croat member of the Presidency, at the same time made it clear that Bosnia would have to "undergo a process of maturation in order to reach such a political level that those necessary reforms can be implemented without major socio-political strains." There have been few signs of said maturation. Therefore, progress has unsurprisingly been scarce, as the packages of proposed constitutional reforms have often been rejected.

Reconsidering the Approach

BiH is not an outlier in its resistance to complying with the EU's membership conditions, as candidate countries have often flaunted the union's demands for political reform. As several scholars have demonstrated, the domestic costs of compliance will often dictate the extent to which EU-driven reforms are implemented (Schimmelfennig, 2008; Schimmelfennig et al., 2006; Schimmelfennig & Sedelmeier, 2004; Tomić, 2013; Vachudova, 2005). When the EU-required reforms threaten domestic political elites' positions, these elites will unlikely be willing to give up their hold on power in exchange for the prospects of EU membership. As Tomić (Tomić, 2013:77) stated, "For conditionality to be successful, the promised reward needs to be greater than the cost of fulfilling the condition of the reward." In BiH, not only would political leaders endanger their own political survival by reforming the system in line with EU demands, but flaunting EU conditions occasionally gives them an additional boost of popularity and support among the public. According to Džihic and Wieser (Džihic and Wieser, 2011:1822), "Political leaders find stirring up ethno-national passions more profitable than progressing on EU requested reforms," in part because successful resistance to the EU-driven reforms that might endanger ethnic autonomy frames the officials as

defenders of national interests and ultimately benefits them at the polls. As those authors demonstrated, this was the outcome of the failed attempts to achieve the police and constitutional reforms in the 2000s, and the cycle is likely to continue repeating as long as the EU puts the core of the country's power-sharing arrangement on trial.

The cost-benefit calculation of the price domestic leadership may pay and the gain that may be achieved though compliance is further complicated in BiH because many required reforms directly clash with national identity issues. When the EU's criteria collide with national identity, the potential benefit of membership in the union may not be as valuable as preserving and defending that identity (Freyburg & Richter, 2010; Stahl, 2013; Tomić, 2013). This is especially pronounced in BiH, where the history of conflict and hostility has resulted in a deeply divided society characterized by continuous challenges to state legitimacy and constant fears among the three ethnic groups regarding the other groups' intentions (Dudley, 2016). The EU's focus on institutional restructuring that would establish formal democratic structures disregards the fact that such structures alone may not be enough to lead to democracy in a deeply divided state. As a result, BiH's and the EU's political leaderships are clearly not in an agreement regarding what is functional and desirable for the country (Anastasakis, 2008).

The literature on democratic transition and consolidation has long emphasized the importance of national unity for successful democratization and the challenges that divided societies face when attempting to democratize. Dankwart Rustow (Rustow, 1970:350) argued one necessary prerequisite to democracy to be "the vast majority of citizens in a democracy-to-be must have no doubt or mental reservations as to which political community they belong to." According to Robert Dahl (Dahl, 1989:207), "*The criteria of the democratic process presuppose the rightfulness of the unit itself. If the unit itself is not proper and rightful—if its scope or domain is not justifiable—then it cannot be made rightful simply by democratic procedure*" (original emphasis). Similarly, Linz & Stepan (1996a:6; see also 1996) argued that "democracy is impossible until the stateness problem is resolved" in some cases. According to those authors, while such a challenge to state legitimacy and lack of national unity presents a major obstacle to a democratic transition and consolidation, overcoming these are not necessarily impossible. In line with Lijphart's formula, Linz and Stepan (1996a, 1996b) recommended a number of decentralized power-sharing measures that would allow diverse identities to be protected and expressed, which greatly resembles the current arrangement in

BiH. While the EU has demonstrated inconsistent commitment to its own membership criteria, often to the detriment of democratic progress (Dudley, 2020; Stahl, 2013), the challenge in BiH is not the union's inconsistency but the nature of the demands that follow a one-size-fits-all formula for democracy. Continuous demands to reform the very structures that the literature recommends as crucial for democratization of divided societies may not just inhibit the process of accession to the EU but may also threaten the few elements of democracy that exist in BiH.

Conclusion

BiH's post-war institutional structure has made the country's governance challenging while at the same time has ensured the peaceful coexistence of the three constituent peoples by safeguarding each group's interests. Correcting all the shortcomings of BiH's political system, such as by empowering the central authority, halting ethnicity-based distribution of political offices, and eliminating entity voting, would most certainly impact the current power balance among the three main ethnic groups. The EU's constitutional reform demands have essentially attacked BiH's decentralized structure that has enabled the current power-sharing arrangement to function as is. For example, amending the constitution by dropping the entity-voting clause or enfranchising minorities politically would mean the end of Bosnian politics as we know it and would give the citizens who are considered the "others" significantly more say in decision making. More importantly, it would give reformist and multiethnic challengers a greater chance to gain power through elections. At the same time, it would also endanger each group's safety net that has kept the country together since the end of the war in the 1990s. Therefore, the EU's attempts to induce progress toward membership by reforming these structures have not surprisingly threatened these safeguards and consequently been met with resistance, despite officials' declared support for European integration and the realization that membership will not proceed without such reforms. When groups feel as though they are "losing according to the current rules of the game" (Perry & Keil, 2018:12, they reject reforms.

This incompatibility between the EU's demands and the country's needs have led to skepticism about the prospect of membership. While a large majority of the public looks forward to economic integration with the rest of Europe, many remain quite pessimistic as to if and when that day will come. When asked when they expected the ac-

cession of their economy to the EU to happen, 32% of the BiH participants projected the year 2030, and 29% said never (Outbox Consulting, 2019:39). The citizens are not the only ones doubting a positive outcome: Bosnian political leaders have also shown wariness towards EU officials. In 2019, Komšić (Komšić, 2019) accused EU officials, notably those from the European Commission, of holding Bosnia to a double standard while concluding that “with such a policy, the EU will not get a reliable partner in BiH, nor will BiH make any progress.” As Bieber (Bieber, 2011: 1785) argued, the EU must adapt its membership requirements to “the reality of minimalist states.”

The EU's efforts to bring about democratic changes in BiH have run counter to the recommendations of the literature on democratic transition and consolidation in divided societies. By focusing on the formal institutional elements of democracy while disregarding the specific circumstances that prevent those institutions from being established, the EU has once again demonstrated its preference of the letter of the law rather than its spirit. Even if established, formal democratic structures forced on a divided society would most likely exist in name only while maintaining their non-democratic substance in reality. By forcing reforms on the most sensitive aspects of BiH's system and failing continuously, the EU is missing an opportunity to use the carrot of potential membership to generate meaningful changes in areas where such changes are possible. Instead of taking a one-size-fits-all approach, the EU must recognize that its typical approach to inducing changes through conditionality does not work in a deeply divided society where reconciliation, trust, and sense of security are of vital importance.

References

- Anastasakis, O. (2008). The EU's political conditionality in the Western Balkans: Towards a more pragmatic approach. *Southeast European and Black Sea Studies*, 8(4), 365-377.
- Bahtić-Kunrath, B. (2011). Of veto players and entity-voting: Institutional gridlock in the Bosnian reform process. *Nationalities Papers*, 39, 899-923.
- Baralija v. Bosnia and Herzegovina. (2019). European Court of Human Rights. *Case No. 30100/18*.
- Bieber, F. (2011). Building impossible states? State-building strategies and EU membership in the Western Balkans. *Europe-Asia Studies*, 63(10), 1783-1802.
- Bose, S. (2002). *Bosnia after Dayton: Nationalist Partition and International Intervention*. Oxford: Oxford University Press.

- Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe. (2006). *Constitutional reform in Bosnia and Herzegovina*. (10982). Strasbourg, France: Parliamentary Assembly of the Council of Europe Retrieved from <https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=11406&lang=EN>
- Council of the European Union. (2003). Thessaloniki European Council 19 and 20 June 2003 presidency conclusions (11638/03).
- Dahl, R. A. (1989). *Democracy and its critics*. New Haven: Yale University Press.
- Dudley, D. (2016). Civil–military relations in Bosnia and Herzegovina: State legitimacy and defense institutions. *Armed Forces & Society*, 42(1), 119-144.
- Dudley, D. (2020). European Union membership conditionality: The Copenhagen criteria and the quality of democracy. *Southeast European and Black Sea Studies*, 20(4), 525-545.
- Džihić, V., & Wieser, A. (2011). Incentives for democratisation? Effects of EU conditionality on democracy in Bosnia & Herzegovina. *Europe-Asia Studies*, 63(10), 1803-1825.
- Euronews & Associated Press. (2020, February 20). Break-up Bosnia to solve its political crisis, says one of country's leaders. *Euronews*. Retrieved from: <https://www.euronews.com/2020/02/20/break-up-bosnia-to-solve-its-political-crisis-says-one-of-country-s-leaders>
- European Commission. (2003). *Feasibility study on the preparedness of Bosnia and Herzegovina to negotiate a stabilization and association agreement with the European Union*. (COM/2003/0692 final).
- European Commission. (2009). *Bosnia and Herzegovina 2009 progress report*. (SEC(2009) 1338).
- European Commission. (2013). *Bosnia and Herzegovina 2013 progress report*. (SWD(2013) 415 final).
- European Commission. (2015). *Bosnia and Herzegovina 2015 report*. (SWD(2015) 214 final).
- European Commission. (2019a). *2019 Analytical report*. (SWD(2019) 222 final).
- European Commission. (2019b). *Commission opinion on Bosnia and Herzegovina's application for membership of the European Union*. (COM(2019) 261 final).
- European Commission. (2020). *Bosnia and Herzegovina 2020 Report*. (SWD(2020) 350 final).
- European Council. (1993). *Conclusions of the presidency*. (SN 180/1/93 REV 1). European Council in Copenhagen 21-22 June. Retrieved from http://www.europarl.europa.eu/summits/copenhagen/default_en.htm
- European Council. (2003). Eu-Western Balkans Summit Thessaloniki, 21 June 2003 Declaration.

- European Union. (2015). Stabilisation and association agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part. *Official Journal of the European Union*(L 164), 2-547. Retrieved from [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22015A0630\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22015A0630(01)&from=EN)
- Freedom House. (2020). Nations in transit: Bosnia and Herzegovina. Retrieved from <https://freedomhouse.org/country/bosnia-and-herzegovina/nations-transit/2020>
- Freyburg, T., & Richter, S. (2010). National identity matters: The limited impact of EU political conditionality in the Western Balkans. *Journal of European Public Policy*, 17(2), 263–281.
- Gallup Balkan Monitor. (2010). Insights and perceptions: Voices of the Balkans. 2010 *Summary of Findings*. Retrieved from https://www.balkanfund.org/pubs/uploads/Balkan_Monitor.pdf
- General Framework Agreement for Peace in Bosnia and Herzegovina*. (1995). Office of the High Representative and EU Special Representative.
- Office of the High Representative & EU Special Representative. (1995). *General Framework Agreement for Peace in Bosnia and Herzegovina*.
- Holbrooke, R. (1999). *To End a War* (Revised ed.). New York: Modern Library.
- Human Rights Watch. (2012). *Second class citizens: Discrimination against Roma, Jews, and other national minorities in Bosnia and Herzegovina*. Retrieved from https://www.justice.gov/sites/default/files/eoir/legacy/2013/06/14/bosnia_0412.pdf
- Human Rights Watch. (2019, December 12). Bosnia and Herzegovina: Ethnic discrimination a key barrier. Put constitutional reform back on the agenda. Retrieved from <https://www.hrw.org/news/2019/12/12/bosnia-and-herzegovina-ethnic-discrimination-key-barrier>
- Human Rights Watch. (2021). Bosnia and Herzegovina: Events of 2020. *World Report 2021*. Retrieved from <https://www.hrw.org/world-report/2021/country-chapters/bosnia-and-herzegovina#>
- Izetbegović, B. (2016, August 11). Address by Bakir Izetbegović, chairman of BiH presidency to the European parliament's Committee on Foreign Affairs. Retrieved from <http://predsjednistvobih.ba/gov/default.aspx?id=73768&langTag=en-US>
- Komšić, Ž. (2019a). Address by the chairman of the presidency of Bosnia and Herzegovina, Željko Komšić, at the General Debate of the 74th Session of the United Nations General Assembly. In (Vol. 2020). Sarajevo, Bosnia and Herzegovina: Presidency of Bosnia and Herzegovina.
- Komšić, Ž. (2019b). BiH Presidency Member Željko Komšić held the lecture on the topic

- "Future of Bosnia and Herzegovina: How to step up integration process to EU and NATO". In (Vol. 2020). Sarajevo, Bosnia and Herzegovina: Presidency of Bosnia and Herzegovina.
- Lijphart, A. (1969). Consociational Democracy. *World Politics*, 21(2), 207-225.
- Lijphart, A. (1977). *Democracy in Plural Societies: A Comparative Exploration*. New Haven and London: Yale University Press.
- Linz, J., & Stepan, A. (1996a). *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe*. Baltimore and London: The Johns Hopkins University Press.
- Linz, J., & Stepan, A. (1996b). Toward consolidated democracies. *Journal of Democracy*, 7(2), 14-33.
- Muehlmann, T. (2008). Police restructuring in Bosnia-Herzegovina: Problems of internationally-led security sector reform. *Journal of Intervention and Statebuilding*, 2(1), 1-22.
- National Democratic Institute. (2018). Public opinion poll: Bosnia and Herzegovina.
- National Democratic Institute. (2019). Public opinion poll: Bosnia and Herzegovina.
- Noutcheva, G. (2012). The dynamics of EU conditionality. In *European Foreign Policy and the Challenges of Balkan accession: Conditionality, Legitimacy and Compliance* (pp. 55-117). London ; New York: London ; New York : Routledge.
- Outbox Consulting. (2019). *Balkan barometer 2019: Public opinion analytical report*. Retrieved from: https://www.rcc.int/seeds/files/RCC_BalkanBarometer_PublicOpinion_2019.pdf
- Perry, V., & Keil, S. (2018). The business of state capture in the Western Balkans. *Southeastern Europe*, 42(1), 1-14.
- Peace Implementation Council. (1997). *PIC Bonn conclusions*. Author. Retrieved from: <http://www.ohr.int/?p=54137>
- Peace Implementation Council. (2000). *Declaration of the Peace Implementation Council*. Author. Retrieved from: <http://www.ohr.int/?p=54077>
- Pilav v. Bosnia and Herzegovina, No. 41939/07 (European Court of Human Rights 2016).
- Presidency of Bosnia and Herzegovina. (2019). BiH Presidency Chairman Milorad Dodik met in Brussels with High Representative of the European Union for Foreign Affairs and Security Policy Federica Mogherini and European Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn [Press release]. Retrieved from <http://predsjednistvobih.ba/saop/default.aspx?id=83601&langTag=en-US>

- Rustow, D. A. (1970). Transitions to Democracy: Toward a Dynamic Model. *Comparative Politics*, 2(3), 337-363.
- Schimmelfennig, F. (2008). EU political accession conditionality after the 2004 enlargement: Consistency and effectiveness. *Journal of European Public Policy*, 15(6), 918-937.
- Schimmelfennig, F., Engert, S., & Knobel, H. (2006). *International socialization in Europe: European organizations, political conditionality, and democratic change*. Basingstoke: Palgrave Macmillan.
- Schimmelfennig, F., & Sedelmeier, U. (2004). Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe. *Journal of European Public Policy*, 11(4), 661-679.
- Sejdić and Finci v. Bosnia and Herzegovina, No. 27996/06 and 34836/06 (European Court of Human Rights 2009).
- Šlaku v. Bosnia and Herzegovina, No. 56666/12 (European Court of Human Rights 2016).
- Soberg, M. (2008). The Quest for Institutional Reform in Bosnia and Herzegovina. *East European Politics & Societies*, 22(4), 714-737. Retrieved from <http://eep.sagepub.com/content/22/4/714.abstract>
- Stahl, B. (2013). Another "strategic accession"? The EU and Serbia (2000-2010). *Nationalities Papers*, 41(3), 447-468.
- The Economist Intelligence Unit. (2020). Democracy index. Retrieved from <https://www.eiu.com/topic/democracy-index>
- Tomić, N. (2013). When the carrot is not sweet enough. Conditionality versus norms as modes of EU influence on Serbia's foreign policy. *Südosteuropäische Hefte.*, 2(1), 77-106.
- Turčilo, L. (2013). Bosnia-Herzegovina and the European Union: Strong European identity in spite of scepticism. *Europe for Citizens*. Retrieved from <https://eu.boell.org/sites/default/files/uploads/2013/12/lejla-turcilo-bosnia-herzegovina-and-the-eu.pdf>
- United States Department of State. (2020). Bosnia and Herzegovina 2020 human rights report. In *Country reports on human rights practices for 2020*: Bureau of Democracy, Human Rights and Labor.
- Vachudova, M. A. (2005). *Europe undivided: Democracy, leverage and integration after communism*. Oxford: Oxford University Press.
- Zornić v. Bosnia and Herzegovina, No. 3681/06 (European Court Human Rights 2014).