

EDITED BY

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**BOSNIA AND HERZEGOVINA
AND EUROPEAN INTEGRATION
OBSTACLES AND CHALLENGES**



Sarajevo, 2022

Bosnia and Herzegovina and European Integration

Obstacles and Challenges

Edited by

Dženita Šiljak

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| Publisher: | International University of Sarajevo |
| Language editing: | Sally Heier, MA |
| Reviewers: | Assist. Prof. Dr. Viktória Endrődi-Kovács, Corvinus University of Budapest Assist. Prof. Dr. Jahja Muhasilović, International University of Sarajevo |
| Layout: | Haris Heljo |
| Book Cover: | Haris Heljo |
| Print: | Dobra knjiga, Sarajevo |

ISBN 978-9958-896-59-0

COBISS.BH-ID NUMBER 51452166

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“Bosnia and Herzegovina and European Integration: Obstacles and Challenges” is a part of the project “Europeanization of the Western Balkans and Its Role in Growth and Development” supported by the Ministry of Science, Higher Education and Youth of Sarajevo Canton.

Contents

Acknowledgements iv

About the authors v

Introduction: Bosnia and Herzegovina and the European Union
KRISTIAN L. NIELSEN 7

Bosnia and Herzegovina's Economic Immaturity on the Way towards EU Membership
DŽENITA ŠILJAK 19

Financial Markets and Integration: The Case of Bosnia and Herzegovina
EDIB SMOLO 32

Democratic Maturity in Bosnia and Herzegovina
SALLY HEIER 50

A Brief Discourse about Corruption in Bosnia and Herzegovina
ENA KAZIĆ-ČAKAR 78

Energy Security in Bosnia and Herzegovina: Will the EU Energy Acquis be Helpful?
ALIAKSANDR NOVIKAU 93

How a Dysfunctional Country Functions During a Pandemic
DŽENITA ŠILJAK 113

NATO: Bosnia and Herzegovina's Best Friend and Worst Enemy
DŽENITA ŠILJAK & KRISTIAN L. NIELSEN 128

Political Obstacles to Europeanization Process of Bosnia and Herzegovina
MUHIDIN MULALIĆ 143

Acknowledgements

This book is part of the project “Europeanization of the Western Balkans and its Role in Growth and Development”. The project was sponsored and funded by the Ministry of Science, Higher Education and Youth of Canton Sarajevo. We were grateful for the support we received.

We would naturally like to thank the authors of the chapters of the book for their efforts on a tight schedule. We would also like to thank the Institute for Foreign Affairs and Trade (Budapest) for allowing us to republish a policy paper originally written for them. We would also like thank the reviewers, Viktória Endrődi-Kovács and Jahja Muhasilović, for their comments and suggestions.

And lastly, we would like to acknowledge Tibor Palánkai. Although we barely know him personally, it is his work on integration maturity that got us started on the project and on this book.

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INTRODUCTION: BOSNIA AND HERZEGOVINA AND THE EUROPEAN UNION

Kristian L. Nielsen

Introduction

This volume brings together several scholars, in order to examine the progress of Bosnia and Herzegovina (BiH) towards EU membership from a series of perspectives. As with most things in BiH, fulfilling this stated ambition does not come easily, and it remains one of the many vexing issues facing the country. However, unlike just about all other major political choices facing the country, this one enjoys, at least on the face of it, support across all major ethnicities and political parties. According to a 2018 survey, EU accession enjoyed support from 75% of the population, including majorities of all three major ethnicities (International Republican Institute, 2018). This stands in marked contrast to potential membership of NATO, which is sharply dividing the country along ethnic lines (see chapter 8 of this volume).

Like all other Western Balkan states, BiH was given the prospect of EU membership through the Thessaloniki Summit Declaration in 2003 (European Commission, 2003). If the countries desire membership, it was made clear, they will be eligible once they meet all relevant criteria. This promise was later re-affirmed at the Brdo Summit in 2021 (European Council, 2021). BiH, like all others, would not get an easy pass, but the road was laid out ahead if the countries were willing to follow it.

The country subsequently negotiated its Stability and Association Agreement (SAA), which was signed in 2008. The agreement still serves as the foundation of EU-BiH relations, entailing a free trade agreement as well as support for extensive legal, administrative, institutional, and economic reforms, which would bring BiH closer to the EU, and prepare it for eventual membership negotiations. Although the agreement was provisionally applied from the time of its signing, it did not enter into full force until 2015, when the EU froze it pending major political reforms in BiH. In particular, the EU made improvements in the treatment of people not belonging to the three major ethnicities – Bosniaks, Serbs, and Croats – a precondition for upgrading relations. This precondition was partially abandoned – without BiH’s compliance – and having had the SAA ratified, BiH submitted its application for full membership in February 2016.

The EU enlargement policy

Application submitted, BiH became subject to the processes of the EU's enlargement policy. This policy has developed significantly over time, but certain core features have remained. For one thing, only democracies need apply; dictatorships or countries with severely flawed human rights records need not apply. Second, the process always aims at the candidate's adaptation to the EU, not the other way around, and full acceptance of what has gone before, with no exceptions (Preston, 1997).

In 1993, in light of the geopolitical changes at the end of the Cold War, and the sudden rush of newly free countries wishing to join the EU, the core norms of the accession process was elaborated in the Copenhagen Criteria. These were: 1) "... stability of institutions guaranteeing democracy, the rule of law, human rights, and respect for and protection of minorities"; 2) "...the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union."; and 3) "...the candidate's ability to take on the obligations of membership" (European Council, 1993). These three criteria remain at the heart of the process and must be met to join. Any country must show significant progress on these in order to receive 'candidate status' and to move on to substantive negotiations on its membership terms. That second phase is about the candidate country's full implementation of EU law – the *acquis Communautaire* ("acquis") – and involves a lengthy transposition and translation of EU law into national law so that the country can function as a member state. It is, essentially, the third Copenhagen criterium that is tested in that part of the process. Before membership can become a reality, therefore, a candidate country must pass muster under the Copenhagen Criteria, have adapted to the whole *acquis*, and negotiated precise terms of entry – institutional representation, budgetary contributions, receipts from spending policies, and whatever else may arise – with each and every one of the existing member states.

Conceivably, once a country has completed this process, they are ready to benefit from membership in a highly developed single market. That latter assertion has been questioned, however. Of particular note is the Hungarian economist Tibor Palankai (2010), who has argued that a more elaborate model is needed for analyzing economic preparedness, or, as he called it, "integration maturity." In his works, Palankai suggested analyzing integration maturity along four dimensions: economic, political, institutional, and social. Although hinting at all four, his own work was heavily centered on economics. Palankai argued economic integration maturity should be measured across five parameters: macroeconomic stability, functioning market economy, competitiveness, access to foreign finance, and convergence with the EU. Several examples from recent enlargements suggest that not everybody has been sufficiently prepared for the full rigors of membership. Bulgaria and Romania, both of whom joined in 2007, are frequently cited as countries suffering from low growth and endemic corruption long after membership.

Another instructive case for comparison is that of Slovenia and Croatia, which joined in 2004 and 2013 respectively. While they both had very similar starting points for their transition processes, they have taken very different trajectories post-accession, the former prospering and the latter floundering (Šiljak & Nielsen, 2022). The democratic maturity of countries, on the other hand, was not, as noted, something Palankai commented much on. However, the recent cases of Hungary and Poland clashing with the European Commission over the rule of law and democratic standards clearly show that simply completing a technical process does not guarantee long-term compatibility. Furthermore, limited progress on political and institutional dimensions will severely impact the economic prospects of a country, as the case of Bosnia and Herzegovina amply demonstrates.

Bosnia and Herzegovina's place in the process

The European machinery grounded slowly into motion following BiH's application. By the end of 2016, a detailed questionnaire was sent to Sarajevo to gauge the state of preparedness. The political and administrative capacity of BiH as a state was tested even by this exercise: Answering the questions and follow-ups dragged several months behind the EU's deadline, and some questions were not even answered at all, as the different parties could not agree on the answers to give. Even so, the European Commission eventually published its detailed opinion ("avis") in June 2019.

The overall verdict was damning. Not a single one of the Copenhagen Criteria was considered met, and several parts of the Stability and Association Agreement had not been implemented so far (European Commission, 2019). For instance, BiH had not yet created a national program for the adoption of the *acquis*, which was a core requirement of the SAA. As was concluded: "Bosnia and Herzegovina does not have any policy areas where the country has a good level of preparation or is well advanced regarding its capacity to undertake the obligations stemming from EU membership." The final recommendation was that actual negotiations should wait until BiH had made significant progress on a list of fourteen points, all of them to do with major political and institutional reforms. As of June 2022, most of those fourteen points remain unaddressed.

This emphasis on political structures, however, does point to BiH's massive problem with its constitution. Or, as one might better put it, the problem of still being governed by the terms of a peace agreement almost 27 years after the war has ended. For BiH's constitution did not come about through the deliberative processes one might normally expect, involving conventions, hearings, and consultations. It was hastily put together over the few weeks of peace talks in Dayton, Ohio in the late autumn of 1995. Many provisions made sense in the context of the times – and the agreement did succeed in ending the war – but it was not a blueprint for a successful state 25 to 30 years later, and the problematic aspects have only become more amplified with the passing of time.

What Dayton did create, though, was a Byzantine political system, in which the state became a de facto federation of two entities, the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS), with the Brčko District as a small, but largely self-governing third unit. The FBiH was further subdivided into ten cantons, each enjoying a significant amount of authority. Whereas successful federations tend to define clearly where different competencies are located, in the case of BiH this remains ill-defined (as is the exact nature of the state's de jure organizing principles). Not only has this system led to gross over-governance in general but the many levels of government have proven a treasure trove for corrupt elites engaged in clientelist practices. The state today and its many lower levels have effectively been captured by extremist-nationalist political forces, which have turned BiH into a weak state with inefficient, extractive institutions (Šiljak & Nielsen, forthcoming).

Of course, the constitution was never meant to last this long. In fact, for that very reason the technical procedure for changing it was made quite simple: All it takes is a two-thirds majority in the House of Representatives (the lower house) and a simple majority in the House of Peoples, and all but the articles protecting human dignity can be changed (Constitutional Court of Bosnia and Herzegovina, n.d.). Politically, however, it has proven virtually impossible to get to two-thirds. In 2006, a moderate reform package meant to streamline national politics ever so slightly failed by a narrow margin. Since then, no further attempts at reform have been undertaken, and political opinion has only ossified further along the old conflict lines.

The Dayton Constitution's most problematic aspect was undoubtedly the privileging of members of BiH's three main ethnic groups – Bosniaks (50% of the population), Serbs (30%), and Croats (15%) – and the fact that high-level political positions and positions in the public sector are reserved for these. While 95% of the BiH population belongs to one of these three groups, the system does deny some fundamental human rights to the remaining 5%. That was the verdict of the European Court of Human Rights in the 2009 *Sejdić & Finci* ruling, named after the two plaintiffs – one a Roma, the other a Jew – who had brought the case to the court (European Court of Human Rights, 2009). The EU's insistence that this ruling needs to be adopted and addressed by BiH was the main reason for the long delay in ratifying the SAA. Although it was eventually decided to work around this issue and to focus on a number of concrete deliverables, the EU remains insistent that BiH cannot receive full candidate status and proceed in its membership aspirations until the ruling is implemented. The response of BiH's political elites, however, has not been to discuss ways of complying – essentially by switching to a civic, rather than an ethnic concept of citizenship – but instead to argue, particularly at the behest of Croat nationalists, over strengthening the discriminatory electoral rules even further.

And so BiH remains a “potential candidate” – enjoying the promise of membership once the criteria are fulfilled but considered so flawed regarding the political and administrative criteria that actual negotiations cannot start.

The economic criteria are hardly any better, BiH being considered at an “early stage” in establishing a functioning market economy. In fact, the economic situation is far from promising. BiH has still not joined the World Trade Organization (WTO), not least due to domestic institutional inefficiency (Šiljak & Nielsen, forthcoming). Growth rates have not been stellar, and, coming from a much lower starting point, convergence with EU levels of prosperity remains painfully slow and will take decades more. BiH is not attracting sufficient foreign investments, and its economy is not very competitive. Unemployment is stubbornly high, standing at 16%. Corruption, moreover, remains an endemic problem, earning BiH an unenviable place in Transparency International’s (2021) rankings, only ahead of Ukraine and Russia among European countries. Given this, it is not surprising that many Bosnians have voted with their feet and moved elsewhere in search of better prospects. According to unofficial numbers, half a million have left the country since 2013; however, the low quality of government data means the true figure may be even higher (Milojević, 2021).

Could the EU have done more?

The often-heard criticism of EU policy towards the Western Balkans is that not enough has been done by the EU, that interest has been too low, that “enlargement fatigue” has paralyzed everything – that the EU ought to have done more! In some sense, that is of course true. Enlargement fatigue, or indeed “Balkans fatigue,” has meant that few have been willing to invest political capital in bringing the region closer to the EU. The EU keeps demanding thorough reforms but never wishes to fix any end-dates to the process or indicate when membership can be expected. When will the countries get the reward for putting in all the hard work they are expected to?

That North Macedonia, despite getting a positive Commission avis as far back as 2005, has repeatedly been blocked in its EU aspirations – first by Greece over the “name dispute,” and then by Bulgaria over matters of common history and linguistic ties – has certainly called into question the EU’s seriousness. Critics have also pointed out that Albania has been repeatedly blocked over concerns about the level of corruption, although that is also a problem for some EU members. And lastly, Bosnia and Herzegovina is still, together with Kosovo, stuck with the designation of “potential members” almost 20 years after the Thessaloniki Declaration.

Another critique is that the EU has been too passive in its actions towards BiH and that it should have pushed reforms through in collaboration with the Office of the High Representative (OHR). The OHR possesses significant powers to remove obstacles to the country’s progress, including elected politicians, and can even legislate by decree. Instead of cajoling, the EU should have imposed. That approach certainly has its attractions, at least in the short term. There are, on the other hand, also those who think the international community has already done too much and has undermined any prospect of sustainable peace in doing so (Chandler, 2017). Which also has something to it, and mostly proves that when outsiders “act,” they will never please everyone.

Up to a point, there is an element of truth in this. And who can ever with certainty say about anything that there was absolutely nothing more that could possibly have been done? But then again, “could have done more” is a vague critique. More of what exactly, one might ask? More money for Bosnia and Herzegovina – on top of the €1.9 billion the EU already gave in pre-accession funding since 2007 (EU, 2022)? More expert advice on how to reform? More praise and encouragement for what little was done? Or is it, in fact, that many would have liked the EU to simply offer BiH an easier path into the EU, one that would not entail the usual kind of conditionality?

The points that many critics miss, however, is, firstly, that the requested reforms should not be undertaken because “the EU asks for it,” nor just for the sake of joining the club. Overhauling politics and institutions, respecting human rights and the rule of law, reforming the economy, bringing corruption under control, all these things should be done for their own sake, to make BiH a better and more prosperous place to live. Reforming and modernizing will bring its own benefits and should be seen in that light. It should never be simply for the sake of “pleasing the EU.”

Secondly, what somehow always gets lost in this discussion is that EU membership is not a God-given right, but a privilege that must be earned. The EU has always had rigorous requirements for membership which cannot be lowered without jeopardizing the integrity of the whole enterprise. How can a single market function if some candidates are not compliant with the legal framework? It has always been for the candidates to meet the EU’s criteria, and these have been clear and transparent the whole time. Clearly, a country like BiH cannot be allowed to bring its political and institutional pathologies into the EU, and demand that all others must accommodate them. BiH must overcome its problems in order to join the EU.

This lack of understanding is a shame because the integration/adaptation process has much to offer for a country seeking to reform. The *acquis* offers a complete template for what to do, and as such is an opportunity. Market regulations, consumer guarantees, environmental protection, workplace safety practices: it is all there for the taking. The fact that the whole *acquis* has already been translated into Croatian, which is one of BiH’s official languages, should make its incorporation into Bosnian law easier; the task is essentially to copy-paste law packages. In other places, EU integration/adaptation processes have provided some political cover for decisions that may upset vested interests; people have been more understanding of the need for those decisions. In the case of BiH, the process might even lead to some reasoned discussions on the structure of governance and the optimal division of competences between different levels.

Although all political leaders pay lip service to the idea of EU membership, the willingness to take the hard decisions needed to achieve has been non-existent. Instead, several have argued that since Ukraine is given candidate status – as was decided by the European Council on 24 June 2022 – Bosnia and Herzegovina simply

must have it too. At the June European Council, Šefik Džaferović, the Bosniak member of the tripartite national presidency, pleaded once more for candidate status, claiming much support from the EU members (Radio Free Europe, 2022a). Even Milorad Dodik – the Bosnian Serb member of the presidency, who usually cannot get enough of talking about RS secession and friendship with Putin’s Russia – made a great show of demanding candidate status for BiH too (Klix, 2022b). What both ignore, though, is that for all Ukraine’s flaws, many of which do indeed resemble Bosnia and Herzegovina’s, the country’s constitution does not enshrine the sort of blatant ethnic discrimination as sanctioned by BiH’s.

Essentially, the political elite has utterly failed to take responsibility for the country’s progress towards EU membership. It is not by EU choice that no move towards constitutional change has been made since 2006, nor that the Sejdić & Finci ruling has not been addressed in thirteen years. Yet, instead of addressing their own failings, many political leaders place blame on the EU. Minister of Defense, Sifet Podžić, drew an unfavorable comparison between BiH’s relations with the EU – an organization “that constantly disappoints us” – and those with NATO, where the UK and the US show “a proactive approach,” that counts BiH “as an ally and friend” (BN, 2022). Never mind that NATO relations are far from straightforward (see chapter 8), there is, sadly, a significant number of people who buy into that flawed narrative. On the day that Ukraine was granted candidate status, an online poll at the popular news site Klix showed that 47% believed that the EU was deliberately stalling BiH, while 40% said that BiH had not earned candidate status (Klix, 2022a).¹

Making such progress does indeed require political leadership, which, in BiH’s case, is in short supply. Politics remains dominated by ethno-nationalist parties on all sides, most of which have been quite content with the status quo. For most of these politicians, ethnically divisive posturing is the way to lock in their sizable core vote, while the financial rewards from political careers are significant (Šiljak, 2018). The results of their toxic nationalist efforts over the past 25 years have been to the detriment of ordinary Bosnians. Yet why would the political elites want to change a system that gives them so much? Why would they accept the greater transparency the EU demands, when under so little domestic electoral pressure to do so?

Perhaps that is the EU’s greatest failing over the years: The reluctance or inability to talk over the heads of the Bosnian political elite and engage more with the wider public; to explain to people through energetic public diplomacy what it is the EU is actually asking politicians to do and why; and literally call out politicians who prefer nationalist posturing to the hard grind of governing and make clearer that they are the real obstacle to progress. By contrast, the EU too often lavishes praise for marginal progress.

¹ It was not a scientific poll; the site’s readers could simply choose to take part. Nor, apparently, was the site immune to the same person voting twice. Yet the potential sample size was large. At the time of writing just under 10.000 votes (including one from the author) had been recorded.

A case in point was the gushing (and toe-curling) joy when the national parliament's subcommittee for the SAA agreed on rules of procedure after a five-year-long stalemate. Instead of lambasting the five wasted years, the EU Delegation lauded "that political leaders and BiH institutions are able to make compromises and resolve difficult issues" (Delegation of the European Union to BiH, 2020). What the EU, together with the OHR, should have done was use its bully pulpit more actively. At the very least, the EU and the OHR combined could have forced a proper debate on the constitutional reforms needed for BiH to make progress on its membership applications (Nielsen, 2020). The worst that can be done at this stage, is for the EU to give in on its demands for change before the October 2022 election, thus appearing to reward and give a stamp of approval to the current political leadership.

The structure of the book

The aim of this volume is to take stock of Bosnia and Herzegovina's preparedness for deeper integration – or rather lack of preparedness. As stated in this introductory essay, the country is deeply troubled on most parameters. The authors contributing to this volume tackle various aspects of BiH's struggles to make progress on its membership application. Each brings their own perspective, each takes a different angle, yet the common denominator is that BiH has to make that extra effort in order to move forward. And the effort must come from within Bosnia and Herzegovina itself.

Starting with economics in chapter 2, Dženita Šiljak argues that while BiH has achieved macroeconomic stability, its growth rates, competitiveness, and ability to attract foreign investments are less than they should be. The country does not fulfill its potential, largely due to weak and inefficient institutional structures. The international financial markets and BiH's integration in these are the topics of Edib Smolo's analysis in chapter 3. This chapter also shows how the fragmented nature of BiH's own financial markets and stock exchanges certainly does not contribute to growth.

In chapter 4, Sally Heier analyzes Bosnia and Herzegovina's performance according to the first Copenhagen Criterion. In doing so, she expands on the integration maturity framework and shows just how far short BiH falls on the norms of democratic governance. The high level of corruption in BiH is a factor that crops up in just about every context. It is a major impediment to progress in the spheres of politics, the rule of law, economic growth and development, the building of responsive institutions, everything. In chapter 5, Ena Kazić examines Bosnian initiatives against corruption and the difficulties of making progress.

In chapter 6, Aliaksandr Novikau tackles the topic of energy policy, analyzing how BiH has tried adapting to the EU acquis. This policy area alone shows how much work needs to be done to comply with EU norms, but also how the acquis can be used for enacting reforms.

Chapter 7 is a case study of BiH's handling of the COVID-19 pandemic, in which Dženita Šiljak outlines the way institutional turf-wars and corrupt practices led to several policy failures and to many lives lost unnecessarily and at a much higher rate than in the rest of Europe. Chapter 8 reproduces a policy paper written by Dženita Šiljak and Kristian L. Nielsen in 2020 on BiH's tortured attempts to join NATO. Although dealing with a different organization than the EU, with a rather different policy remit, many of the same institutional and political problems still show through. Not least the ability, or lack thereof, of political leaders to grapple with the full implications of the political visions they claim to subscribe to.

Lastly, in chapter 9, Muhidin Mulalić discusses the many domestic obstacles to progress that BiH faces. Particularly the tendency of politicians to use war-like rhetoric in order to mobilize popular support and legitimize their own continued presence in leading positions stands as a barrier to progress. Political dialogue, even on the most basic matters of common concern, does not thrive in such a climate. That so many politicians of different ethnicities find 'patrons' abroad, none of whom support Europeanization, only compounds the problem and deepens societal divisions.

It was telling of Bosnia and Herzegovina's political dysfunction that it was for a long time left as an open question whether the 2022 elections would take place at all. The political leaders could not agree on allocating funding for holding and administering the vote. Eventually, the High Representative, Christian Schmidt, had to make the appropriation by decree (Radio Free Europe, 2022b). One can be allowed to hope that these elections will bring real change, that people will recognize who has a forward-looking vision and who will only take the country backwards. Ultimately, of course, the real change has to come from Bosnians themselves; it is for them to send the corrupt ethno-nationalists packing. Conversely, if misrule by discredited elites is what people choose, there is little any outsiders can do. However, it will be a tragedy if a country rich in natural beauty, with such economic potential, which suffered so much during the wars of the 1990s, and which still, in spite of that awful history, in many areas remains an exemplar of multicultural co-existence, is forever doomed to stay on the margins of Europe. As the authors of this volume show, the country and its people have to make a choice about the future they want, and the leaders who will deliver it.

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BOSNIA AND HERZEGOVINA'S ECONOMIC IMMATURITY ON THE WAY TOWARDS EU MEMBERSHIP

Dženita Šiljak

Introduction

Just like the other countries of the Western Balkan region, Bosnia and Herzegovina (BiH) is a small, open, diverse economy that has been going through the process of transformation from a centrally planned to a market economy for more than 25 years. The country was part of the Socialist Federal Republic of Yugoslavia until it declared its independence on March 1, 1992, which was followed by a devastating war that claimed around 100,000 victims and destroyed the economy. The war is one, but not the only reason why BiH has been lagging in its transition process. Yugoslavia's socialist system was softer and more flexible than that in the former Union of Soviet Socialist States (USSR) and Central and Eastern European (CEE) countries. After parting with Stalin in 1948, Josip Broz Tito, the life-long president of Yugoslavia, abandoned five-year planning, characteristic of Soviet socialism, and opened the country to international trade. At the same time, the economy was based on state-owned enterprises and only some of them were competitive in the foreign market.

The countries of the Western Balkans, BiH included, had a better starting point to go through the transition process sooner than the CEE countries, which joined the EU in 2004, 2007, and 2013. Of course, it has to be taken into account that the economies were destroyed by war in the 1990s. However, the technology in state-owned companies was obsolete and the countries would not have been able to produce good quality products with it anyway. The countries would have had to do what the CEE countries did – open economies to more trade and investment and attract as much FDI as possible. The Western Balkan countries should follow the path of the CEE countries to learn from their experience since most of them joined the EU less than 15 years after the transition process started.

BiH is not economically ready for EU membership. As will be seen in this chapter, other than a certain degree of macroeconomic stability, the country does not have what it takes to be a functioning EU member state and is in the process of potentially becoming one is the slowest in the Western Balkan region. BiH has made the most progress in becoming a functioning market economy, although the European Commission (2019) stated that only limited progress had been made. The complicated political situation and instability, together with a complex business environment, do not help attract FDI which makes this service-based economy uncompetitive with low-quality products. Since the industrial sector represents only about one-third of the economy, the country is not growing as fast as it should and could and it is therefore not catching up with the EU.

BiH potentially has a lot to offer to foreign investors – the country is a potential candidate for EU membership; it is geographically close to the EU, which is its main trade partner; it is a stable, diversified economy that has low taxes and a cheap labor force. FDI inflow would modernize the economy and make it ready for EU membership. However, if BiH joined the EU now, no one would benefit from it. The country would enter the single market with uncompetitive products. The demand for the products would not exist (or they would not be sold in the EU market because they do not fulfill the quality criteria), production would stop, unemployment would increase, and the country would experience a recession. This chapter will analyze several aspects BiH has to improve in order to become ready for EU membership and to seize all the benefits that membership could bring while minimizing the costs – macroeconomic stability, functioning market economy, competitiveness, and convergence.

The Reality of BiH's Macroeconomic Stability

Macroeconomic stability includes stability of economic activity, prices, employment, and the sustainability of the balance-of-payments (Varela et al., 2020). It is important for a potential EU member that its economy is harmonized with the economies of other member states, especially since the countries that joined after 2004 will have to join the Eurozone once they have fulfilled the convergence (Maastricht) criteria.

It cannot be concluded that BiH experienced a transition recession like CEE countries because it was at war from 1992 to 1995. The country's economy started to recover already in 1995 and economic growth reached a rate of 89% in 1996. The reason behind the high rate is that, after the war, companies started the production process again and the country received large amounts of official development assistance (ODA) – almost \$1 billion (current dollars) in 1996. As expected, ODA has decreased since 2000 (The World Bank, 2020). In the period from 2001 to 2008, BiH's economy grew at an average rate of 4.8%. The country was hit by the 2008/2009 financial crisis and the economy was in a recession or stagnating between 2009 and 2012. It started growing again in the post-crisis period at an average rate of 2.8%, reaching the highest rate of 3.7% in 2018. Like the rest of the world, the COVID-19 pandemic caused another recession in 2020, when BiH's GDP contracted by 3.1%.

BiH's economy has been growing at a higher rate (2.4%) than the EU (1%) in the period from 2004 to 2020 and the country's per capita GDP was lower than the EU average, at only 30%. Therefore, according to economic growth theory, BiH has been converging towards the EU, i.e., BiH's per capita GDP has been catching up with the EU average, since it is a country with lower per capita GDP growing faster than countries with higher per capita GDP. On the other hand, the per capita growth rate in BiH is lower than in CEE countries (2.7%). Considering that BiH's per capita GDP is only 44% of the CEE average, the country has not been catching up with the group, i.e., it has been diverging.

BiH is the country with the most stable monetary policy in the region. After the war ended, the country used four currencies: Bosnian Dinar, Serbian Dinar, Croatian Kuna, and German Mark. The new currency, the convertible mark, was created based on the Dayton Peace Agreement and presented on January 21, 1998 (Janković, 2022). The Central Bank of Bosnia and Herzegovina was founded on June 20, 1997 (Centralna Banka Bosne i Hercegovine, n.d.). BiH's monetary policy functions under the currency board arrangement, i.e., it is pegged to the Euro at a fixed exchange rate of 1 BAM: 0.51129 EUR (Centralna Banka Bosne i Hercegovine, n.d.). The currency was originally pegged to the German Mark at the exchange rate of 1 BAM: 1 DM, before Germany entered Europe's Economic and Monetary Union (EMU) and adopted the Euro as its currency. Introducing the currency board arrangement was the best option for BiH as an ethnically divided country that had just gone through a devastating war and needed to be rebuilt. There was a possibility that the reconstruction would be financed by printing money, which would have led to hyperinflation. While functioning under the currency board, the Central Bank can print money, but it has to have 100% coverage in euros.

Due to the currency board, the Central Bank of BiH cannot control inflation by reducing or increasing the money supply. The country does not issue government bonds; therefore, it is not involved in any open market operations, and it cannot increase or decrease the interest rate in order to control inflation. A monetary policy that is independent from domestic politicians but depending on foreign actors was apparently a good choice for BiH because the country has had one of the lowest inflation rates in the region, which was lower than the EU average (see chart 1). If BiH joins the EU, it will eventually have to join the Eurozone, i.e., it will have to adopt the Euro as its currency. In order to do so, the country will have to fulfill the Maastricht (convergence) criteria, one of them being price stability – the country's inflation rate must not exceed 1.5 percentage points of the average of the three lowest rates in the EU (European Commission, 2020b). So far, BiH has fulfilled the criterion.

In July 2022, the inflation rate in BiH reached the historical highest rate of 14.4%, the highest rate in the region (Klix 2022a). The Central Bank cannot manage the monetary policy, but the government could use fiscal policy to decrease the rate.

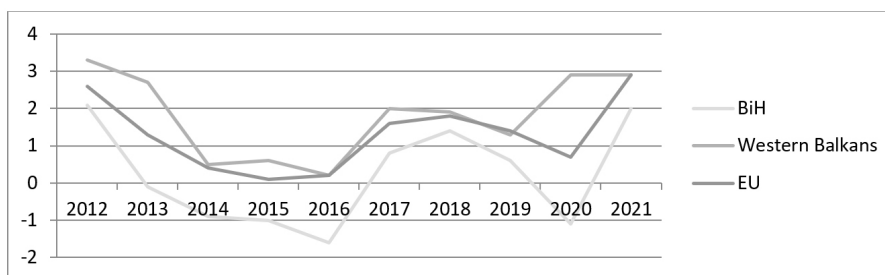


Chart 1: Inflation rates in BiH, the Western Balkan region, and the EU

Source: Eurostat (2022a)

However, it has not been willing to do so. The prices of food and transport recorded the highest increase, 22.2% and 30%, respectively (Klix 2022a). What the government could do is abolish the excise tax on gasoline, which would reduce the price of gasoline, and abolish or decrease the VAT rate on foodstuffs. There has not been any will from the politicians to do so. In the Federation of Bosnia and Herzegovina (FBiH), the pensions were increased by 11% in total in 2022 (the amount of the lowest pension is EUR 205). At the same time, according to the new budget that had not been passed in two years, the salaries of politicians who work in state institutions will be increased by up to EUR 250 (Klix 2022b). It is important to add that the average salary in state institutions is EUR 2290, 4.6 times higher than the average salary and 10.8 times higher than the lowest pension in the FBiH and almost 19 times higher than the lowest pension in Republika Srpska (RS).

Unemployment is one of the main problems of BiH's economy as it is long-term and structural. The unemployment rate was the third highest in the Western Balkan region (after North Macedonia and Kosovo) in the period from 2012 to 2020. During this period, the rate decreased from 28.2% to 15.9%. The rate is still higher than the EU average (see chart 2). The unemployment rate decreases when new jobs are created, but a shortage of new jobs is not the only reason for BiH's unemployment rates. Due to a lack of investment, new jobs, and political instability, BiH has seen high emigration rates, mostly to the EU. Approximately half a million people left BiH since 2013. 170.000 people left in 2021 (Milojević, 2021). People who left were nevertheless counted in the labor force, which does not only have a negative effect on GDP growth but also negatively affects the fiscal system. The ratio of employed people to pensioners in BiH is 1.2:1, which is not sustainable as the pensions are financed from taxes that are paid by the employed. In emergencies, the state has turned to other sources of financing, such as taking a loan from the International Monetary Fund (IMF).

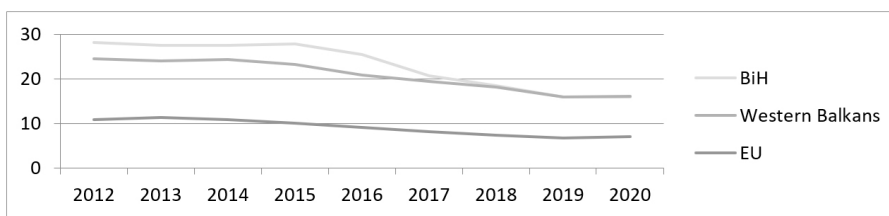


Chart 2: Unemployment rates in BiH, the Western Balkan region and the EU

Source: Eurostat (2022b)

When BiH declared independence from former Yugoslavia in 1992, it did not inherit any general government debt and the ratio of general government debt-to-GDP has never exceeded 60%, which is another Maastricht criterion. BiH's debt rate increased from 36.6% to 41.9% between 2012 and 2015. It started decreasing in 2016 and reached 32.7% in 2019, which was the lowest rate in the Western Balkan region.¹ Due to the COVID-19 pandemic, the rate increased to 36.6% in 2020. BiH's general government debt is lower than the EU average (see chart 3).

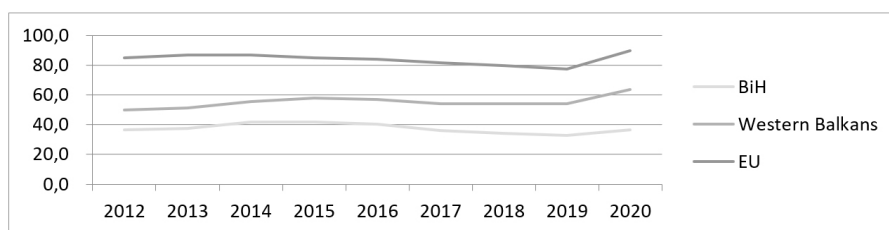


Chart 3: General government debt rates in BiH, the Western Balkan region and the EU

Source: European Commission (2022a)

Accordingly, the country never had a large budget deficit; it recorded a budget surplus in the period between 2015 and 2019 and it was the only country in the region to do so. Again, due to the pandemic, the deficit-to-GDP ratio increased to 5.3% and 2020 was the only year when the ratio exceeded 3% (another Maastricht criterion). BiH's budget deficit is the lowest in the region and lower than the EU average (see chart 4).

¹ Kosovo is excluded from this analysis as the country declared independence in 2008 and started accumulating debt then.

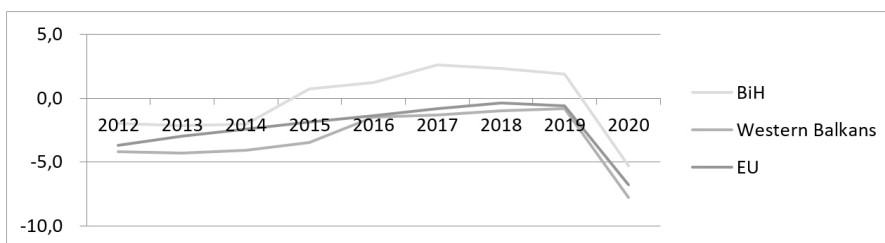


Chart 4: Budget deficit/surplus rates in BiH, the Western Balkans, and the EU

Source: Eurostat (2022a)

BiH's public finance seems sound as the main categories do not exceed the EU reference values. However, the crux of the problem lies in the debt structure as the country borrows extensively from international financial organizations (IFOs), of which it has been a member since declaring independence in 1992. The share of bilateral credits in public debt was 18.1% in 2020. The main creditors are the governments of Belgium, Spain, Japan, Poland, Portugal, and Serbia. The main multilateral creditors are the World Bank (28.3%), the European Investment Bank (EIB) (23%), the International Monetary Fund (IMF) (10.9), and the European Bank for Reconstruction and Development (EBRD) (5.9%) (Ministarstvo finansija i trezora, 2022).

The matter of concern should not be that the country takes loans since its general government debt is stable and low. The problem is that it is not clear where the money goes to, especially with the high level of corruption in the country. Instead of being invested in projects that would bring a return on investment, which is the only sound reason for taking a loan, the money from loans usually goes to finance public administration (Tolj Ružić, 2021). IMF loans should be taken out to sustain macroeconomic stability. Since BiH does not need any help in this area, as this research has shown, the question is why the state has been taking out loans from this institution and why the IMF has been approving these loans.

The quantitative indicators show that BiH is a well-performing country that should grow at a faster rate. Why has the country then been underperforming? And how come it still has one of the lowest per capita GDPs in Europe and is among the poorest countries? The quantitative analysis shows a positive picture, but the qualitative one tells a different story.

How mature is BiH's economy for integration?

In the process of joining the EU, each transition economy will have to fulfill the Copenhagen criteria – economic, political, and institutional ones. According to the economic criteria, a country has to be a functioning market economy that will be able to cope with competitive pressure and market forces within the Union (European Commission, 2020). In its reports, the European Commission (2019) stated that BiH

has made limited progress and is at an early stage of establishing a functioning market economy. At the same time, this is the area in which the country has made the most progress. The existence of a functioning market economy requires that all prices, as well as trade, should be liberalized and that an enforceable legal system, including property rights, is in place (p. 71).

During socialism, the prices were fixed and not determined according to the law of supply and demand; they were determined by the government. Therefore, some products were sold below the market price and some of them were not affordable (Berend, 2016). After the collapse of the system and the period of hyperinflation that reached 9000% in Yugoslavia (Berend, 2016), the liberalized prices started to stabilize in the mid-1990s. As could be seen in the previous section, BiH achieved price stability with the inflation rates lower than in some EU member states.

Trade was also restricted in socialism. The state-owned enterprises (SOE) produced but did not sell their products. That was the task of specialized companies. The SOEs' goal was not to maximize profit but to fulfill the quota. When the quotas could not be fulfilled, the quality of products had to be sacrificed, consequently, the products were out of sync with market demand (Szarzec et al., 2021). This was one of the main reasons, next to trading with only the Eastern bloc countries, why Socialist countries did not sell their products on the Western market – they were not competitive enough as their quality did not fulfill Western standards. Only a few companies in Yugoslavia – mostly from Slovenia - were competitive in the foreign market.

BiH is the least competitive country in Europe – it was ranked 92nd out of 141 countries on the Global Competitiveness Index ranking in 2019 (World Economic Forum, 2019). The country's main problem is institutional inefficiency – BiH is one of the most corrupt countries in Europe, only Ukraine and Russia are more corrupt, according to Transparency International's Corruption Perception Index (2021). BiH is also one of the countries with the least protected property rights; according to the Heritage Foundation's Economic Freedom Index, property rights are only less protected in Belarus, Ukraine, Kosovo, Russia, and Turkey (The Heritage Foundation, 2022). The shadow economy comprises 30% of the GDP.

The main reason for low competitiveness in BiH is the complicated political situation. The state consists of two entities: the Federation of BiH (FBiH) and Republika Srpska (RS), and a self-governing unit, the Brčko District. Furthermore, the FBiH consists of ten cantons, each of them with a large degree of autonomy. Therefore, BiH is a country with 14 governments where the same rules do not apply in each unit. For example, if an investor wants to start a business in one entity, they will have to go through a lengthy and expensive process; it will take 80 days for a person to go through 13 procedures and they will have to pay EUR 670, the highest amount in the region and the second highest in Europe, after Italy. Not only that, but if they want to do business in both entities, they have to repeat the entire procedure. Therefore, BiH

is ranked 90th out of 190 countries on the World Bank's Ease of Doing Business list and 184th on the Starting a Business list (The World Bank Group, 2020, p. 4). Also, BiH's complicated political situation makes it unfavorable for attracting investors as there is always the threat of a new war. In 2021, the country was among the least stable countries in Europe. Only Belarus, Russia, Ukraine, and Turkey were less stable (The World Bank Group, 2022).

BiH and other Western Balkan countries have low tax rates compared to the EU. The income tax rate in BiH is 8.2%; the highest rate in the EU is in Denmark with 47.04%, and the lowest is in Latvia with 4.74%. France has the highest commercial tax rate in the EU with 60.7%. The lowest is in Romania (20%); in BiH the rate is 3.7% higher. BiH's value added tax (VAT) rate is 17%, identical to the lowest rate in the EU, in Luxembourg. Hungary's rate of 27% is the highest in the EU. On the other hand, Hungary has the lowest corporate tax rate, 9%, only 1 percentage point lower than the rate in BiH. The highest rate is in Portugal with 31.5% (European Commission, 2022b). Considering that companies would invest in countries with a lower tax rate, the question is why BiH does not attract more investment. The answer again lies in the country's inefficiency. It takes 411 hours per year to prepare, file, and pay (or withhold) three major types of taxes: the corporate income tax, the value added or sales tax, and labor taxes. This amount of time is the second highest in Europe (it takes 441 hours in Bulgaria). For comparison, it only takes 50 hours in Estonia (The World Bank Group, 2021b). Businesses in BiH need to pay a total of 33 different taxes, only Albania has a higher number in Europe with 35. In the EU, the highest number of taxes paid is in Cyprus (16), while the lowest is in Sweden (6). North Macedonia has conducted a major tax reform and businesses only need to pay 7 taxes in the country (The World Bank, 2021a).

A transition economy cannot transform into a market economy on its own, it needs to attract FDI, as this opens the country to new markets, opens new jobs, and brings new technology and a new management style. However, investors will not go to unstable countries where their property rights will not be protected, where they cannot be guaranteed a fair and impartial trial, and where their investment can be ruined due to war. Due to its complicated political situation and difficult process of starting a business, BiH's FDI amounted to only 2.1% of GDP in 2020. The average rate in the Western Balkans was 6%, with Montenegro attracting most FDI, 11% of its GDP. In 2020, the main investors in BiH were Croatia, Serbia, Germany, United Kingdom, Austria, Slovenia, Turkey, and Italy. The sectors that attracted most FDI were banking, wholesale trade, electricity, gas, steam and air conditioning supply, retail trade, real estate, manufacturing, and mining of metal ores (Foreign Investment Promotion Agency of Bosnia and Herzegovina, 2022).

As a transition economy, BiH should attract more FDI in manufacturing and not services. Transition economies as a category lie between developing and developed countries, i.e., they were industrialized during socialism, but the technology is now

obsolete and competitive products cannot be produced with it. Therefore, FDI is necessary for a country to go through the transition process. As analyzed in section two, the composition of BiH's GDP shows that the country focuses on the production of services, where most FDI goes, and where most people are employed (45.3%, followed by industry with 33.4%, agriculture, forestry, and fishery with 12%, and construction with 9%). In order to grow faster, to go through the transition process quicker, and to catch up with the EU, BiH must develop its industrial sector. The war in Ukraine and a shortage of food have shown a lot of shortcomings of BiH's economy: The country, even though it has natural potential, does not produce enough food and products to fulfill the needs of its citizens. Therefore, investment in labor-intensive sectors must be a priority because the country skipped a step – it focused on the production of services before finalizing the industrialization process.

BiH has a lot of potential for labor-intensive investment. The country has an educated, but cheap labor force. In 2016, the last for which comparable data are available, BiH's average wage was EUR 5.2, only 20% of the EU average. The highest wage in the EU was in Denmark, EUR 41.3, and the lowest was in Bulgaria, EUR 4.5, followed by Romania, EUR 5.3. Therefore, the only competition BiH has in the EU regarding attracting labor-intensive FDI are the two aforementioned countries. However, due to the complicated political situation and an unfavorable business environment, investors seem to avoid the country. Because of a lack of opportunities, BiH's labor productivity is below its potential level. Labor productivity has been increasing (except for the year 2020, the year of the pandemic). At the same time, it has been diverging from the EU average. In 2019, BiH's labor productivity was 50.8% of the EU average and it decreased to 50.1% in the following two years. The activity rate in BiH is lower than in the EU and other Western Balkan countries, except Kosovo. However, the difference between genders is astonishing: While in the EU the rate for women is 11.4 percentage points lower than for men, in BiH that difference is 26.3 percentage points (Eurostat, 2022b).

It would be logical that investors would start labor-intensive production in BiH, given its proximity to the EU. The country shares the longest border with Croatia, which joined the EU in 2013. The EU is also the country's main trade partner – 74.7% of exports and 59.8% of imports go to and from the EU. The share of BiH in extra-EU trade is 0.3%. Other trade partners include Serbia, China, Turkey, Russia, USA, Montenegro, Switzerland, United Kingdom, and Brazil (European Commission, 2022a).

Both exports to and imports from the EU increased between 2011 and 2021. In 2021, imports increased by 23.6% and exports increased by 23.6%. BiH recorded a trade deficit with the EU in the same period, which decreased from EUR 1787 million in 2011 to EUR 1010 million in 2021. BiH mostly trades manufactured goods, machinery and transport equipment, and mineral fuels, lubricants, and related materials.

Conclusion

BiH is a country with a lot of potential – it is a potential candidate for EU membership, to which BiH is closely located; the EU is also the country's main trade partner. BiH has an open and stable economy, educated, cheap labor force, and it offers low taxes. In theory, it should attract a lot of FDI that would help it go through the transition process faster, transform it into a modern economy, increase the quantity and the quality of products being produced, and offer a better living standard to the people. In practice, the situation is different, as economic growth is hampered by inefficiency and political instability. BiH is ranked among the worst performing countries in several categories, not just in Europe, but in the world. It is a politically unstable, corrupt country where property rights are not protected, and it is among the least competitive countries. It also has a complicated process of starting a business that deters potential investors. Although it offers low tax rates, the number of taxes being paid and the time necessary to do so is among the highest in Europe.

Regular people suffer because of the inefficiency and hundreds of thousands have decided to leave the country, which again has a negative impact on GDP growth. New jobs are not created because there is no FDI. Those that are present do not seize the opportunities that the country is offering. FDI is focused on services and BiH is a country with a cheap but educated labor force. Therefore, it should attract more labor-intensive FDI. Once the labor-intensive production is developed and the country completes the industrialization process, only then it should focus on the production of services. As a result, BiH has a trade deficit with its main partner because it cannot produce enough to fulfill the needs of its people. The country could export more and import less if it could attract more FDI, modernize the economy, and start producing competitive products.

The situation can be changed only if the political elites are willing to do so. Institutions have been proven to be inefficient. While building institutions is a long-term process that cannot be done overnight, involving decreasing corruption, increasing the protection of property rights, or creating an independent judicial system, what can be done is the elimination of unnecessary regulations and rules. First, the country must become a single market with harmonized rules. The EU with 27 member states managed to do so, so why could BiH not do the same thing? Second, the process of starting a business must be simplified and harmonized – the same rules must apply in all federal units, and it should be possible to register the company only once. Third, the fiscal system needs to be harmonized and simplified so that investors do not waste time standing in lines (since the process is not digitalized) to pay taxes. The key word is harmonization. Even if the authority is to stay at the entity or cantonal level, the rules and procedures must be unified. As we could see, BiH politicians can agree when they want to – now is the time to stop thinking of themselves and to start thinking about the people.

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Financial Markets and Integration: The Case of Bosnia and Herzegovina

Edib Smolo

Introduction

Integrating a country into a global financial system is a difficult task. This task is even more challenging when faced with a country that has a highly complex political system. Bosnia and Herzegovina (BiH) is a perfect example of a country having two separate government entities with four different levels that are further divided along political and ethnic lines.

Bosnia is a small, open economy that has been going through the transition process since the Dayton Peace Agreement ended the Bosnian War in 1995. The country consists of two semi-autonomous political entities: the Federation of Bosnia and Herzegovina (hereafter FBiH) and Republika Srpska (hereafter RS), with the Brčko District as a *de facto* third entity. FBiH is further divided into ten cantons.

Even though BiH is a small, open economy, it is rich in natural resources and has excellent potential for economic growth. However, to reach its full economic potential, the country must integrate more closely into regional and international markets. Leaving behind the socialist economic system, BiH committed itself to developing market-oriented economic policies and systems. With the technical and financial assistance of the international community and international financial institutions, BiH embarked on several structural reforms and investment programs right after the signing of the Dayton Peace Agreement in 1995. However, due to the complex nature of BiH's government, these reforms have not been entirely successful, and critical reforms are yet to be addressed. More than two decades after the aggression, BiH faces slow and stagnant economic growth with weak institutions making it vulnerable and unstable.

Better integration of the country, both internally and externally, is needed for BiH to grow further. It is believed that the government can overcome other difficulties with better economic and financial integration. The absence of an integrated economic area within the country harms the economic development and performance of all sectors of the BiH economy. As pointed out by many, the main culprits for such situations are a fragmented administrative structure, partly different legal frameworks and implementation practices, a weak rule of law, lengthy bureaucratic procedures, and low-quality public administration.

The Financial Sector of BiH: A Historical Overview

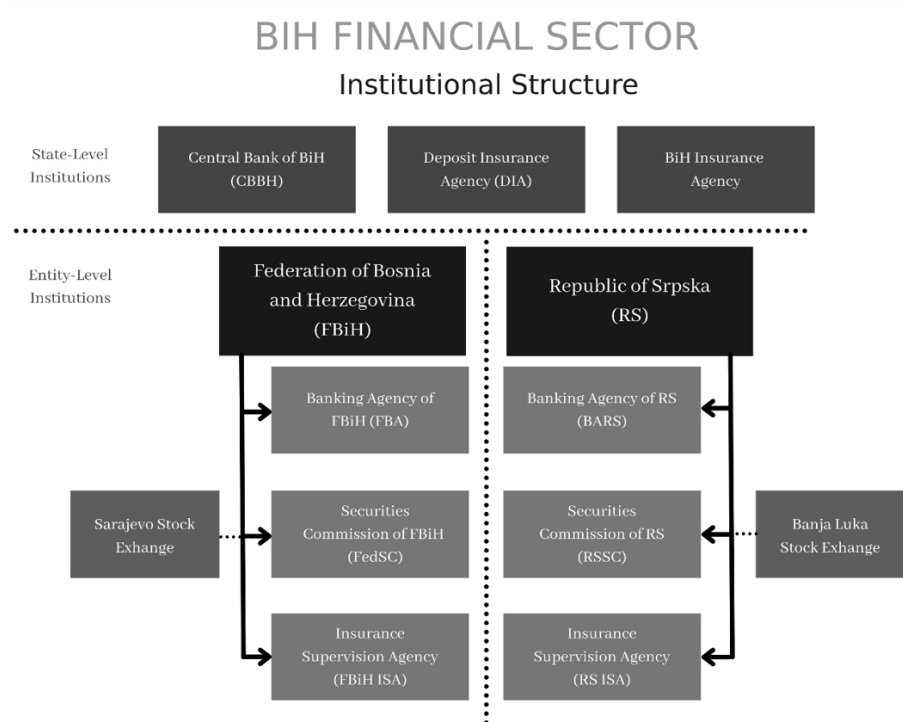
Commercial banks in the former Yugoslavia were owned and controlled by the state. It can be said that the banking sector of the former Yugoslavia, including BiH, was non-commercial with direct lending and excessive loan concentration. The war severely damaged the financial sector. Surrounding uncertainties coupled with the freezing of foreign currency deposits of households and firms led to an increasing distrust in the banking sector. This affected the mobilization of deposits and everyday activities. The financial sector integration was further weakened due to the political division within the country. Each entity, the FBiH and RS, had its own regulatory and supervisory frameworks that overlooked banking systems but failed to meet the needs of a market-based banking system. Direct lending of state-owned banks based on non-commercial terms further deteriorated their financial positions, making them extremely weak financially.¹

Moving fast-forward, the financial sector of BiH has been growing and developing ever since. However, it is far away from EU standards in many ways. Major interventions are needed to meet the EU criteria when it comes to the legislative framework of the financial sector. Issues, such as free movement of goods, services, capital, competition policy, and financial services, are yet to be appropriately addressed. According to the latest reports, BiH made little progress in most competitiveness and inclusive growth areas (European Commission, 2021). In fact, it can be said that the overall economic growth of BiH has been and remained sluggish with fragile domestic demand due to low wages, high unemployment, and an uncertain economic and political environment.² Furthermore, banks dominate the BiH financial sector with a significant presence of foreign banks.

1 For instance, according to a World Bank report, more than 90% of banking sector assets in the FBH were non-performing in 1996 (O'Brien, 2004, p. 12).

2 This was one of the main findings of the report by the World Bank and IMF in 2015 when they assessed the financial sector of BiH. Although this has been reported seven years ago, the findings are still valid as nothing much has changed ever since. For details, see World Bank & IMF (2015).

Figure 1: BiH Financial Sector's Institutional Structure



As with everything else in BiH, the financial market is divided between the two entities with their own parliament, government, judicial system, and stock exchange. All regulatory and supervisory responsibilities for banking, insurance, and capital markets lie at the entity level. The few state-level institutions have only limited powers, these include the Central Bank of Bosnia and Herzegovina (CBBH), Deposit Insurance Authority (DIA), and BiH Insurance Agency.

Banking Sector of BiH

Before the Dayton Peace Agreement, banks in BiH were state-owned and controlled. They operated on non-commercial terms with direct lending and excessive loan concentration, which was not productive for the economy. Overall disruption of the economy, lack of cooperation, and effective institutions combined with the internal legal and regulatory division between entities led to distrust in the banking sector. Most of the then-existing banks were financially weak and required substantial financial support for their daily operations.

Furthermore, the shift from a centrally controlled economy to a market economy required a significant change in the way how banks operated in BiH. As a result, the international community led by the World Bank initiated several projects whose

aims were primarily: (a) increasing market participation and competition; (b) improving the legal and regulatory environment; (c) supporting the privatization of financial institutions and their integration into Western-style market institutions that are conducive to economic development. Consequently, most of these banks were privatized and capitalized by foreign banks that entered the newly opened market.

While the sector has made some progress in many areas, it is still far from being an essential factor in BiH's development. The banking sector in BiH is still somehow divided between the two entities, FBiH and RS, that have their own governing and regulatory frameworks. Furthermore, BiH's industry is highly concentrated on a few banks. Given its complex political establishment, this concentration of market power within a few banks should benefit the country. However, this is not the case with BiH, as studies indicate that financial development does not contribute to the country's economic growth (Smolo, 2021b).

With the international community's help, the World Bank, most state-owned banks, and financial institutions were privatized, merged, and consolidated. For instance, there were 72 banks in 1998 and 37 in 2003. However, as of 30 September 2021, the BiH banking sector consists of 15 commercial banks operating in FBiH and eight banks operating in RS with 527 and 282 operational units and 6,457 and 2,936 employees, respectively.³ Compared to the end of 2020, the total net assets of the banking sector in the FBiH increased by 4.5% (BAM 1.1 billion) and reached BAM 25.5 billion. At the same time, the total assets of the banking sector in RS increased by 9% (BAM 0.87 billion) and reached BAM 10.6 billion. It is no surprise that the banks' net loans have the highest share (close to 60%) within the assets and deposits (close to 80%) within the liabilities in the banks' balance sheets in both entities.

Despite the COVID-19 pandemic, BiH's banking sector recorded an increase in outstanding loans in this period. Retail loans increased by 3.7% (BAM 0.27 billion) and reached BAM 7.5 billion or 46.8% share of total loans in FBiH. On the other hand, corporate loans increased by 7.6% (BAM 0.61 billion) and reached BAM 8.6 billion or 53.2% share. The detailed structure of loans by different sectors is presented in table 1. At the same time, all banks in BiH reported positive financial results at the end of the third quarter of 2021. Banks' net profit in FBiH was BAM 264 million, while that of banks in RS was BAM 96 million. These figures represent a considerable increase compared to those reported in the previous year which were severely affected by the COVID-19 pandemic.

During the pandemic years, regional governments introduced borrower relief programs and prudential measures (moratoriums on debt repayment and temporary changes in

³ In FBiH, one bank is state-owned while the remaining 14 are privately owned. These data and analysis are based on the latest reports issued by the *Banking Agency of FBiH* and the *Banking Agency of RS*. For details see: "Information on the banking system entities of the Federation of Bosnia and Herzegovina as of 30.06.2021" available at <https://www.fba.ba/> and "Quarterly data on banking sector of Republika Srpska as of 30/06/2021" available at <https://www.abrs.ba/>.

restructuring, classification, and provisioning for loans) that prevented an immediate surge in non-performing loans (NPLs). Furthermore, the regional governments have launched programs for direct financial support to businesses through loans and credit guarantees. As a result, the NPLs amounted to BAM 953.4 million or 5.9% of the total loan portfolio in FBiH and BAM 256.1 million or 4.5% in RS. Unfortunately, the surge in NPLs is expected shortly due to the phasing out of the measures mentioned above that are putting pressure on banks' balance sheets (Kikoni & Armas, 2021).

- 000 KM -

| No. | Description | FBiH | | | RS | | |
|-----|---|-------------|-------------|-------------|-------------|-------------|-------------|
| | | 30.09.2019. | 30.09.2020. | 30.09.2021. | 30.09.2019. | 30.09.2020. | 30.09.2021. |
| 1 | Net profit | 181,681 | 105,488 | 150,657 | 50,938 | 37,140 | 64,416 |
| 2 | Average net assets | 22,617,958 | 23,741,273 | 24,558,433 | 7,745,188 | 8,112,386 | 8,600,194 |
| 3 | Average total capital | 3,069,157 | 2,950,906 | 3,146,082 | 970,095 | 1,012,089 | 1,064,144 |
| 4 | Net interest income | 303,052 | 282,871 | 285,664 | 115,451 | 115,577 | 119,246 |
| 5 | Operating income | 223,983 | 228,220 | 253,607 | 76,178 | 75,031 | 92,145 |
| 6 | Return on average assets (ROAA) | 0.8% | 0.4% | 0.6% | 1.3% | 0.9% | 1.5% |
| 7 | Return on average equity (ROAE) | 5.9% | 3.6% | 4.8% | 10.5% | 7.3% | 12.1% |
| 8 | Net interest income/average assets (NIM)* | 1.3% | 1.2% | 1.2% | 3.0% | 2.8% | 2.8% |

* NIM - Net Income Margin

Table 1: Profitability, productivity, and efficiency ratios of the BiH banking sector

Source: Author's calculation based on data from Banking Agencies of the FBiH & RS.

BiH's banking sector is also well-positioned when it comes to the liquidity coverage ratio (LCR). LCR for the FBiH banking sector was 250%, while that for the RS banking sector was 212.7%.

Microfinance Sector of BiH

Microfinance⁴ can be defined as “the provision of a broad range of financial services such as deposits, loans, payment services, money transfers, and insurance to poor and low-income households and their micro-enterprises” (Zeb et al., 2021, p. 119). It can also be seen as a financial service that promotes financial inclusion and access to finance for low-income households and micro-enterprises by creating employment opportunities.

BiH started experimenting with microfinance soon after the end of the devastating war from 1992 to 1995. The first microfinance project was initiated in 1996 in Tuzla.⁵ Together with other bilateral and multilateral donors, the World Bank started the Local Initiatives Project (LIP I) in 1996 aimed at the post-conflict reconstruction and economic recovery of BiH. Its main goal was “to promote economic opportunities for the war-affected population and economically poor citizens of BiH.” They argued that

4 The term ‘microfinance’ is the most commonly used term today and has a broader definition including but not limited to microcredit, microsavings, microinsurance, micro-franchising. The terms ‘microcredit’ and ‘microfinance’ are used interchangeably throughout this chapter.

5 Goronja (1999) provides an overview of the early development of microfinance industry in Bosnia. See also Smolo (2011).

self-employment through micro and small enterprises could help create new jobs and prosperity. According to their reports, this project successfully met its objectives. The success story of the LIP I led to the approval of LIP II in 2001 by the World Bank.⁶ It developed fast and proliferated, reaching second place behind Bangladesh regarding microfinance ‘saturation’ in the late-2000s.⁷

Given that Bosnia’s economy and its financial sector were in ruins, the microfinance sector offered a relatively new way of financing small entrepreneurs, especially the poor, refugees, and returnees. With the help of the international development community, this sector became the backbone of post-war recovery and development. Initially, microcredit organizations were registered as non-deposit-taking, non-profit, non-governmental organizations. Before 2006, each entity had its laws and regulations related to the creation and operations of microcredit organizations. By the mid-2000s, however, the microfinance model was successfully integrated into the Bosnian economy, and the focus shifted towards its commercialization. Due to several challenges faced by these institutions and their ambitions to go further, the existing laws were amended and harmonized at the national level.⁸ The new laws envisioned two types of MFIs: microcredit foundations as a non-profit form (with their social role and society benefit emphasized), and microcredit companies as a for-profit form that could be formed as a limited liability or joint-stock companies.

As of 30 September 2021, BiH’s microfinance sector consists of 13 MFIs operating in FBiH, of which 10 are MCFs (non-profit organizations), 3 MCCs (profit organizations), and 13 MFIs operating in RS, of which 2 are MCFs (non-profit organizations) and 11 are MCCs (profit organizations). All these MFIs operate through a total of 689 organizational units. Currently, 1,375 and 590 employees are working in the microfinance sector in FBiH and RS respectively (BARS, 2021; FBA, 2021).

6 The main objective of the two micro-finance credits (Local Initiatives Project, FY97, and Local Initiatives Project II, FY01) was to assist economically disadvantaged and poor entrepreneurs in starting or restarting economic activities. A secondary objective was to strengthen participating MCOs to make them self-sustaining and better able to service a larger group of low-income clients without remaining dependent on donor assistance (O’Brien, 2004, p. 11).

7 For details see Niksic (2009), Zuvela (2010), and Smolo (2011).

8 For details see the 2006 Law on Microcredit Organizations “Official Gazette of the Federation of BiH”, No. 59/06, and the 2006 Law on Microcredit Organizations “Official Herald of Republic of Srpska”, No. 64/06.

Table 2: Performance of MFIs in the Federation of Bosnia & Herzegovina (2010-2020)

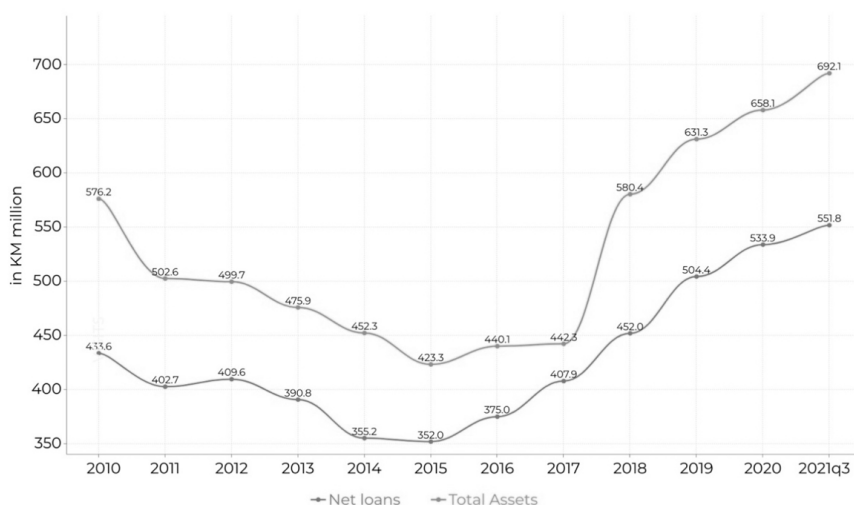
| - in KM millions | | | | Short-term & Long-term loans | | | | | | | Average effective interest rate | |
|------------------|--------------|----------------------|-------------|------------------------------|-------|-------------|------------|-------|----------------|-------------------|---------------------------------|-----------|
| Date | Total Assets | Liabilities per loan | Net credits | Services | Shops | Agriculture | Production | Other | Total revenues | Total expenditure | Short-term | Long-term |
| 2010 | 576,2 | 410,5 | 433,6 | 99,4 | 67,2 | 149,9 | 30,1 | 54,4 | 560,4 | 129,5 | 30,05% | 24,65% |
| 2011 | 542,1 | 376,2 | 410,3 | 94,4 | 64,2 | 144,1 | 28,2 | 49,3 | 520,2 | 122,7 | 30,35% | 24,22% |
| 2012 | 531,1 | 367,3 | 401,4 | 92,0 | 60,0 | 142,5 | 26,5 | 48,4 | 509,8 | 118,5 | 30,70% | 22,84% |
| 2013 | 511,3 | 345,3 | 406,8 | 96,9 | 61,5 | 137,5 | 27,5 | 50,3 | 482,8 | 124,4 | 26,62% | 24,66% |
| 2014 | 502,6 | 332,2 | 402,7 | 74,2 | 53,0 | 135,4 | 20,9 | 65,6 | 467,5 | 95,1 | 25,57% | 24,60% |
| 2015 | 488,0 | 315,0 | 400,0 | 94,3 | 53,8 | 137,2 | 25,0 | 47,9 | 452,2 | 119,3 | 27,15% | 24,65% |
| 2016 | 493,8 | 319,6 | 402,9 | 97,3 | 54,0 | 142,9 | 24,7 | 49,7 | 462,5 | 122,0 | 25,30% | 24,54% |
| 2017 | 503,8 | 320,4 | 414,4 | 103,5 | 55,1 | 143,5 | 24,2 | 50,1 | 464,0 | 127,7 | 25,17% | 24,30% |
| 2018 | 499,7 | 312,0 | 409,6 | 101,6 | 51,9 | 143,3 | 23,3 | 48,8 | 455,3 | 124,9 | 25,49% | 24,67% |
| 2019 | 479,1 | 288,4 | 396,4 | 98,1 | 48,4 | 142,3 | 22,0 | 48,2 | 430,7 | 120,1 | 28,16% | 25,01% |
| 2020 | 481,9 | 285,3 | 393,0 | 95,7 | 47,0 | 141,8 | 21,1 | 50,6 | 427,1 | 116,7 | 28,49% | 25,03% |

Source: Author's compilation based on various reports from the Federation of Bosnia and Herzegovina Banking Agency, <https://www.fba.ba/> (FBA, 2021). **Note:** These are selected data of the microfinance sector of FBIH. Data from RS are not included due to missing data.

The total assets of the FBIH microcredit sector amounted to BAM 692.1 million and represented an increase of 5.2% or BAM 34 compared to 31 December 2020 (table 2 provides key performance indicators of MFIs from FBIH). However, the sector is highly concentrated as five MCFs and one MCC share 92% of total assets. At the same time, the total assets of the RS microcredit sector amounted to BAM 442.6 million, with an increase of 5% or BAM 21,7 million.

The global financial crisis affected the portfolios of MFIs, reducing the loans placed and total assets significantly. However, starting in 2015, they are continuously rising (see figure 2). Furthermore, loans placed by MFIs significantly declined which was not only caused by the ongoing crisis but also due to a considerable decrease in loans received from donors on which MFIs heavily rely. As of 30 September 2021, the share of net microcredits in total assets was 79.9% and amounted to BAM 551.8 million for FBIH. As for the RS, the share of net microcredits in total assets was 85.1% and amounted to BAM 376.4 million (see table 3).

Figure 2: Total assets and net loans of the microfinance sector in FBI



Source: Author's compilation based on various reports from the Federation of Bosnia and Herzegovina Banking Agency, <https://www.fba.ba/> (FBA, 2021).

Note: Data are from the year-end period and for FBiH only.

Compared to the previous year, the ratio of loan loss provisions (LLP) decreased by 0.2 percentage points and amounted to 1.1% of the total gross microcredit portfolio in the FBiH. This ratio remained relatively the same for the microcredit portfolio in RS and amounted to 1.6%.

Table 3: Net micro loans

| Micro loans in FBiH | | | | | | | | BAM 000 |
|--------------------------------|----------------------|----------------|----------------|----------------|----------------|----------------|----------------|-------------|
| No. | Description | 31.12.2020. | | | 30.09.2021. | | | Index (8/5) |
| | | MCF | MCC | Total | MCF | MCC | Total | |
| 1 | 2 | 3 | 4 | 5=3+4 | 6 | 7 | 8=6+7 | 9 |
| 1. | Microloans (gross) | 389,972 | 150,918 | 540,890 | 397,574 | 160,536 | 558,110 | 103 |
| 2. | Loan loss provision: | 4,108 | 2,936 | 7,044 | 3,676 | 2,636 | 6,312 | 90 |
| Net micro loans (1.-2.) | | 385,864 | 147,982 | 533,846 | 393,898 | 157,900 | 551,798 | 103 |
| Micro loans in RS | | | | | | | | BAM 000 |
| No. | Description | 31.12.2020. | | | 30.06.2021. | | | Index (8/5) |
| | | MCF | MCC | Total | MCF | MCC | Total | |
| 1 | 2 | 3 | 4 | 5=3+4 | 6 | 7 | 8=6+7 | 9 |
| 1. | Microloans (gross) | 345,046 | 3,704 | 348,750 | 379,728 | 2,962 | 382,690 | 110 |
| 2. | Loan loss provision: | 6,109 | 136 | 6,245 | 6,124 | 127 | 6,251 | 98 |
| Net micro loans (1.-2.) | | 338,937 | 3,568 | 342,505 | 373,604 | 2,835 | 376,439 | 110 |
| Total micro loans BiH | | 724,801 | 151,550 | 876,351 | 767,502 | 160,735 | 928,237 | 106 |

The microfinance sector of BiH reported positive financial results for the first nine months of 2021. The FBIH sector reported an amount of BAM 12.8 million, representing an increase of 54.2% or BAM 4.5 million posted during the same period in 2020. The RS sector recorded an even better performance, reaching BAM 16.9 million and a rise of 73% or BAM 6.9 million. During the same period, the total income of the FBIH microcredit sector increased by BAM 6.4 million or 7.8%. It amounted to BAM 88.4 million, while that of RS increased by BAM 9.2 million or 16.9% and amounted to BAM 54.4 million. As for the efficiency of the microfinance sector in FBIH, the operational efficacy is within the prescribed range at 18.15%. The return on assets was 3.64%, and operational sustainability⁹ was 119.53%.

Other Financial Sectors of BiH

Leasing companies complement the financial sector of BiH. As of 30 September 2021, four leasing companies have the license to operate leasing activities in FBiH. While no leasing company is registered in the RS, three leasing companies from FBiH operate there. The volume of assets, gross and net receivables based on financial leasing and loan obligations and capital of leasing companies increased significantly compared to 2020.

The sector is highly concentrated as two leasing companies account for 71.7% of the total assets of the leasing sector. The assets increased by BAM 33 million (9.6%) compared to the end of 2020 and amounted to BAM 376.8 million. The total income of the leasing sector of FBiH amounted to BAM 27.4 million, representing an increase of 5.3% or BAM 1.4 million. The three leasing companies recorded a total net profit of BAM 4.4 million, while the fourth one recognized a loss of BAM 0.9 million.

Finally, capital markets are a small part of the overall BiH financial system with a great potential to play a more critical role in the future. BiH capital markets consist of two stock exchanges: the Sarajevo Stock Exchange (SASE) and the Banja Luka Stock Exchange (BLSE). These stock exchanges played an essential role in the early phases of privatization through the voucher system. The development of capital markets was relatively damaged by investors' distrust caused by failed privatization investment funds that brought about losses. Hence, apart from the initial listing of privatized companies, not many companies or institutions have relied on the securities markets to raise capital to finance growth and expansion (World Bank & IMF, 2015).

With a sound legal and regulatory framework and a good securities market infrastructure, the capital markets should increase their share in the financial market and contribute more to overall economic development. However, closer cooperation between the entities and institutions is necessary to reach that goal. Thus, the BiH Index was launched on 1 December 2009 to promote the integration of two stock

⁹ It is defined as "a ratio of total income from regular operations (minus written off receivables and other operating income) and total expenses," see FBA (2021).

exchanges.¹⁰ In short, while the global financial crisis and the COVID-19 pandemic weakened the asset quality and profitability of the financial system in BiH, it remained relatively stable. A timely reaction of state and entities institutions, regulatory bodies, and policymakers helped to overcome the negative consequences caused by the pandemic. For instance, the entity governments provided borrower relief programs; they also provided direct financial support to businesses through loans and credit guarantees; the central bank and regulators implemented various prudential measures (moratoriums on debt repayment and temporary changes in restructuring, classification, and provisioning for loans) (Kikoni & Armas, 2021).

Public Finance Sector

The BiH public finance is similarly complex, inefficient, and often goes against the principles of good and responsible governance. Various financial arrangements are at the disposal of different government entities, including borrowing from the local and foreign markets. Although these borrowings should be primarily used for infrastructure and development projects, they are often used to cover current budget deficits and to buy social peace. The existing debt structure of BiH is presented in table 4 below. As can be seen, BiH has had a relatively stable debt structure throughout the years. Furthermore, the level of public debt is relatively low or at least within a reasonable rate compared to some other EU countries. Looking at the government debt to GDP ratio alone as of December 2021, BiH, with 24.8%, is the second-best country in the Western Balkans region after Kosovo (23.34%). BiH is performing much better on this indicator than many EU countries. For instance, Greece (193%) which is the worst-performing, followed by Italy (151%), Portugal (127%), Spain (118%), and France (113%).¹¹

Table 4: Debt indicators

| | 2017 | 2018 | 2019 | 2020 | 2021 | Q1 2022 |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| GDP (in million BAM) | 32,601.04 | 34,920.55 | 36,527.05 | 35,452.25 | 37,578.00 | 39,590.00 |
| BiH public debt (in mil. BAM) | 11,007.54 | 11,106.64 | 11,211.24 | 12,192.98 | 12,817.42 | 12,721.60 |
| BiH external debt (in mil. BAM) | 7,852.95 | 8,204.91 | 8,142.77 | 8,698.26 | 9,697.79 | 9,670.35 |
| BiH domestic debt (in mil. BAM) | 3,154.59 | 2,901.73 | 3,068.47 | 3,494.72 | 3,119.63 | 3,051.25 |
| Export of goods and services (in mil. BAM) | 12,824.26 | 14,250.30 | 14,319.53 | 11,826.38 | 16,142.00 | 19,586.00 |
| BiH public debt /GDP (%) | 33.76% | 31.81% | 30.69% | 34.39% | 34.11% | 32.13% |
| BiH external debt /GDP (%) | 24.09% | 23.50% | 22.29% | 24.54% | 25.81% | 24.43% |
| BiH domestic debt /GDP (%) | 9.68% | 8.31% | 8.40% | 9.86% | 8.30% | 7.71% |
| BiH external debt/export of goods and services (%) | 61.24% | 57.58% | 56.86% | 73.55% | 60.08% | 49.37% |

Source: Ministry of Finance and Treasury, Bosnia and Herzegovina (Ministry of Finance and Treasury, 2022b)

¹⁰ For details see FIRST (2010).

¹¹ For details see "Country List Government Debt to GDP | Europe" at *Trading Economics* website. Available at <https://tradingeconomics.com/country-list/government-debt-to-gdp?continent=europe>.

Both entities in BiH are also using capital markets to raise necessary funds. Table 5 and 6 list the bonds issued by the government of FBiH and RS respectively. The RS government is more active and uses the bonds market more aggressively. However, as pointed out earlier, this may not always be done in the citizens' best interests. In particular, the RS government announced on 20 April 2021 that bonds of the BiH entity had been sold on the international market for 300 million euros with an interest rate of 4.75%. Only after the bonds were sold, the RS Government held a special session and passed a decision on accepting the debt. According to the RS Government, the money is intended to increase salaries and pensions in the entity. Those who bought these bonds at an almost 5% interest rate did a good job; only few would receive such an offer, given that the interest rates at that time were significantly lower than those agreed upon during the issuance of these bonds. In short, it was generally believed that the RS Government could borrow the required funds on the domestic market at a much lower interest rate. This and similar activities by entity governments show misuse of the power entrusted by the people.

Table 5: Overview of debt under issued bonds of the Government of FBiH

| No. | Bond code | Amount BAM | Date issue | of | Maturity / Years | Principal payment | Interest payment | Interest rate % | Debt remaining as of 31 March 2022 |
|-----|--------------|---------------|---------------|----|---------------------|----------------------|---------------------|--------------------|--|
| 1 | FBH70115 | 70,000,000 | 27.11.2015 | | 7 | Single payment | Semi-annually | 3.90 | 70,000,000 |
| 2 | FBH50117 | 30,000,000 | 27.12.2017 | | 5 | Single payment | Semi-annually | 1.20 | 30,000,000 |
| 3 | FBH50118 | 20,000,000 | 05.12.2018 | | 5 | Single payment | Semi-annually | 0.91 | 20,000,000 |
| 4 | FBH50119 | 30,000,000 | 29.05.2019 | | 7 | Single payment | Semi-annually | 0.77 | 30,000,000 |
| 5 | FBH10019 | 30,000,000 | 10.07.2019 | | 10 | Single payment | Semi-annually | 0.80 | 30,000,000 |
| 6 | FBH30119 | 30,000,000 | 25.09.2019 | | 3 | Single payment | Semi-annually | 0.05 | 30,000,000 |
| 7 | FBH70219 | 40,000,000 | 16.10.2019 | | 7 | Single payment | Semi-annually | 0.30 | 40,000,000 |
| 8 | FBH50519 | 30,000,000 | 13.11.2019 | | 5 | Single payment | Semi-annually | 0.20 | 30,000,000 |
| 9 | FBH30619 | 40,000,000 | 04.12.2019 | | 3 | Single payment | Semi-annually | 0.05 | 40,000,000 |
| 10 | FBH70420 | 20,000,000 | 13.05.2020 | | 7 | Single payment | Semi-annually | 1.25 | 20,000,000 |
| 11 | FBH15020 | 30,000,000 | 10.06.2020 | | 5 | Single payment | Semi-annually | 3.20 | 30,000,000 |
| 12 | FBH50120 | 30,000,000 | 24.06.2020 | | 5 | Single payment | Semi-annually | 1.00 | 30,000,000 |
| 13 | FBH60120 | 50,000,000 | 15.07.2020 | | 6 | Single payment | Semi-annually | 0.95 | 50,000,000 |
| 14 | FBH50220 | 40,000,000 | 09.09.2020 | | 5 | Single payment | Semi-annually | 0.85 | 40,000,000 |
| 15 | FBH70220 | 50,000,000 | 23.09.2020 | | 7 | Single payment | Semi-annually | 1.15 | 50,000,000 |
| 16 | FBH70121 | 30,000,000 | 28.04.2021 | | 7 | Single payment | Semi-annually | 1.05 | 30,000,000 |
| 17 | FBH10221 | 30,000,000 | 09.06.2021 | | 10 | Single payment | Semi-annually | 1.05 | 30,000,000 |
| 18 | FBH60321 | 30,000,000 | 30.06.2021 | | 6 | Single payment | Semi-annually | 0.75 | 30,000,000 |
| | TOTAL | | | | | | | | 630,000,000 |

Source: Ministry of Finance and Treasury, Bosnia and Herzegovina (Ministry of Finance and Treasury, 2022a)

Table 6: Overview of debt under issued bonds of the Government of RS

| No | Bond code | Amount BAM | Date issue | of Maturity / Years | Principal payment | Interest payment | Interest rate % | Debt remaining as of 31 March 2022 |
|--------------|-----------|---------------|---------------|---------------------------|---------------------------------------|---------------------|--------------------|--|
| 1 | RSBD-O-N | 20,000,000 | 03.03.2016 | 7 | Single payment | Annually | 4.50 | 20,000,000 |
| 2 | RSBD-O-R | 58,712,000 | 03.06.2016 | 10 | Single payment | Annually | 5.00 | 58,712,000 |
| 3 | RSBD-O-T | 40,000,000 | 07.09.2016 | 7 | Single payment | Annually | 4.50 | 40,000,000 |
| 4 | RSBD-O-V | 25,000,000 | 07.12.2016 | 7 | Single payment | Annually | 4.50 | 25,000,000 |
| 5 | RSBD-O-02 | 50,000,000 | 05.05.2017 | 5 | Single payment | Annually | 3.50 | 50,000,000 |
| 6 | RSBD-O-03 | 25,000,000 | 21.06.2017 | 10 | Single payment | Annually | 4.50 | 25,000,000 |
| 7 | RSBD-O-04 | 25,000,000 | 04.08.2017 | 10 | Single payment | Annually | 4.00 | 25,000,000 |
| 8 | RSBD-O-05 | 35,000,000 | 06.09.2017 | 7 | Single payment | Annually | 3.78 | 35,000,000 |
| 9 | RSBD-O-06 | 15,000,000 | 01.11.2017 | 5 | Single payment | Annually | 2.76 | 15,000,000 |
| 10 | RSBD-O-07 | 10,000,000 | 08.12.2017 | 7 | Single payment | Annually | 3.50 | 10,000,000 |
| 11 | RSBD-O-07 | 100,000,000 | 31.01.2018 | 5 | 25% annually (grace period 1 year) | Annually | 3.00 | 25,000,000 |
| 12 | RSBD-O-09 | 35,000,000 | 04.02.2019 | 5 | Single payment | Annually | 3.50 | 35,000,000 |
| 13 | RSBD-0-10 | 36,000,000 | 06.03.2019 | 5 | Single payment | Annually | 3.50 | 36,000,000 |
| 14 | RSBD-0-10 | 30,000,000 | 05.04.2019 | 10 | Single payment | Annually | 4.00 | 30,000,000 |
| 15 | RSBD-0-10 | 35,000,000 | 22.05.2019 | 7 | Single payment | Annually | 3.50 | 35,000,000 |
| 16 | RSBD-0-13 | 35,000,000 | 19.06.2019 | 5 | Single payment | Annually | 3.50 | 35,000,000 |
| 17 | RSBD-014 | 35,000,000 | 21.08.2019 | 7 | Single payment | Annually | 2.50 | 35,000,000 |
| 18 | RSBD-015 | 30,000,000 | 09.10.2019 | 10 | Single payment | Annually | 2.30 | 30,000,000 |
| 19 | RSBD-016 | 35,800,000 | 04.12.2019 | 7 | Single payment | Annually | 2.30 | 35,800,000 |
| 20 | RSBD-017 | 35,000,000 | 07.02.2020 | 7 | Single payment | Annually | 2.40 | 35,000,000 |
| 21 | RSBD-018 | 35,000,000 | 08.04.2020 | 5 | Single payment | Annually | 2.00 | 35,000,000 |
| 22 | RSBD-019 | 144,134,000 | 16.04.2020 | 5 | Single payment | Annually | 2.00 | 144,134,000 |
| 23 | RSBD-020 | 25,000,000 | 10.06.2020 | 5 | Single payment | Annually | 3.20 | 25,000,000 |
| 24 | RSBD-021 | 25,000,000 | 10.07.2020 | 5 | Single payment | Annually | 3.20 | 25,000,000 |
| 25 | RSBD-023 | 30,000,000 | 04.12.2020 | 10 | Single payment | Annually | 3.50 | 30,000,000 |
| 26 | RSBD-024 | 24,862,500 | 23.02.2021 | 10 | Single payment | Annually | 3.00 | 24,862,500 |
| 27 | RSBD-025 | 20,000,000 | 24.03.2021 | 7 | Single payment | Annually | 2.70 | 20,000,000 |
| 28 | RSBD-026 | 30,000,000 | 25.03.2022 | 5 | Single payment | Annually | 2.70 | 30,000,000 |
| TOTAL | | | | | | | | 969,508,500 |

Source: Ministry of Finance and Treasury, Bosnia and Herzegovina (Ministry of Finance and Treasury, 2022a)

Business Environment in BiH

The business environment in BiH is very complex, reflecting the intricate nature of the political structure within the country. Ever since the Dayton Peace Agreement, the international community – led by the World Bank, the European Union (EU), United Nations (UN) agencies, other multilateral and bilateral aid agencies, non-governmental organizations (NGOs), and private foundations – invested a significant amount of time and resources in fostering economic development through various initiatives that were aimed at the reconstruction of the BiH economy and infrastructure and reforming inefficient institutions.

A particular focus has been given to the financial and public sectors by initiating the privatization process that was supposed to bring about necessary economic changes

that would facilitate not only economic but also socio-political aspects of the country. For instance, the primary objectives of the World Bank's assistance to BiH were: (a) to support reconstruction across all sectors of the economy; (b) to establish and sustain a viable macroeconomic framework; (c) to support BiH's transition from a socialist to a market economy; and (e) to strengthen governance and establish affordable and equitable social services. All these would not be possible without relying on "sound fiscal and monetary policies; reforms of the tax system; privatization of state-owned enterprises (SOEs), including banks; deregulation of an over-regulated economy; and institutional and policy reforms in government administration, in the judicial system, and in delivery of social services, including health, education, and social welfare benefits" (O'Brien, 2004, p. 5).

Apart from reconstruction efforts carried out by the international community right after the end of the war, significant attention and efforts on developing market-based institutions and creating a favorable environment for private sector development also emerged. Moving from a centrally planned to a market economy requested significant economic and financial institutions' reforms. Consequently, the primary focus was on reforms to develop the business environment by encouraging competition and strengthening the legal framework, privatizing, and restructuring state-owned companies, and creating an orderly and competitive financial sector.

In line with the above, BiH enjoyed reasonable macroeconomic stability over the years. However, it was severely hit by the global financial crisis, the Eurozone crisis, and the COVID-19 pandemic mainly due to a lack of efficient institutions that could address rising challenges. The main determinants of BiH's *not-so-good* economic and business environment are slow or insignificant economic growth combined with a lack of effective reforms and high unemployment rates. The unemployment rate in 2020 was 16.9%. BiH is also faced with a significant brain drain, as thousands of people (the exact number is unknown) have decided to leave the country and migrate abroad, mainly to the EU. This led to an increased inflow of workers' remittances, representing a financial lifeline to many low-income households. According to a European Commission report, private consumption based on these remittances and low inflation supporting real disposable income are the main drivers of economic growth in BiH (European Commission, 2020). However, the global trend of rising prices is also causing inflationary pressures. This makes it even more difficult for ordinary people to cope with the rising living costs, given relatively low average salaries.

A lack of transparency and infrastructure, corruption, informal economy, weak institutions, and political instability are also responsible for low levels of economic growth and foreign direct investment in the country (Smolo, 2021a; Uvalić, 2010; 2013). According to Transparency International (2021) data, BiH is one of the most corrupt countries in Europe, ranked 111th out of 179 countries globally, with the most unfavorable business environment. At the same time, it is one of the least

politically stable countries in Europe (The Global Economy, 2020). Furthermore, BiH has the lowest FDI inflows¹ rate (1.9%) in the Western Balkans region. According to Smolo and Šiljak (2022), the main reason for the lack of FDI inflows in BiH is the complicated business process. The World Bank's Doing Business 2020 report labels it as the most unfavorable country in the region to invest in. Starting a new business takes 81 days, 13 procedures, and EUR 685. The country is ranked 183rd out of 190 economies regarding topics on starting a business (World Bank, 2020). Additionally, the COVID-19 pandemic brought about significant changes in the way how businesses are done and how we interact. This led to a so-called "new normal" environment for everyone. This pandemic worsened the business environment in BiH, although it was already in bad shape.

In their book *Why Nations Fail*, Acemoglu and Robinson (2012) point out that everything depends on institutions. If they are inclusive, they work for the benefit of citizens and the economy, and consequently, nations experience progress. On the other hand, if they work, as in the case of BiH, for the benefit of ethnonational political classes, it will lead to the collapse and dissatisfaction of the people, riots, and social upheavals that may develop into unpleasant outcomes. In line with this, a recent study indicates that institutions are ineffective in bringing about economic growth in the Western Balkans, including BiH (Smolo, 2021a).

This should not come as a surprise as BiH is a highly decentralized country with different jurisdictions on state, entity, and cantonal government levels. Furthermore, prevailing nationalist ideologies contributed to institutional and economic development inefficiencies and the lack of policy implementations. The country's complicated structure is a textbook example of a weak state with inefficient, extractive institutions. Perhaps, the following summary by Anto Domazet (2022) best describes the current situation in BiH:

As an otherwise dysfunctional state, Bosnia and Herzegovina has shown all its inefficiency in the new normal conditions. Its institutions are under blockade, but they still regularly and generously spend public resources as if nothing is happening around them and as if they are producing the effects that citizens and the economy expect from them. The state and its institutions – that is, the ethnonational political classes that form the government – seem unaware of the approaching storm: storms of innovation, energy transitions, transformation in development and economic growth, changing the way we work with the loss of thousands of traditional and thousands of new jobs – as if unaware that citizens and businesses fear uncertainty and seek state measures in all spheres of human activity: private and public sectors in the economy, social sphere, science and technology, markets and Euro-Atlantic integration that would make life easier for people and

¹ The ratio of the foreign direct investment inflows to GDP

businesses. Instead, ethnonational political classes block institutions, ethnicize the country's economic and political space, and strengthen the crony system of political capitalism based on the appropriation of public resources and the self-interest and needs of the clientele that accompanies them and shows full political loyalty. (pp. 30–31)

In short, the overall performance of the BiH economy is far from its potential. Significant changes are needed to foster its growth and integration into international financial markets. For this, a joint program called the Reform Agenda was initiated and adopted by the Council of Ministers of BiH, the Government of the FBiH, and the Government of RS. The main objectives of the Reform Agenda are “fostering sustainable, efficient, socially just and steady economic growth; creating new jobs; increasing and more-appropriately targeting social assistance; and creating a favorable and just social environment. . . to strengthen the rule of law and the fight against corruption; and to strengthen administrative capabilities and increase efficiency in public institutions at all levels of government.”²

There are six critical areas that this document is addressing, namely: 1) public finance, taxation, and fiscal sustainability – calling for lowering of public debt, increasing public investment, and reducing government size; 2) business climate and competitiveness – calling for better regulatory and tax system by removing of all obstacles and administrative barriers; 3) the labor market – while there is a massive unemployment in BiH it can be used as a potential for growth that can be addressed by changing labor laws; 4) social welfare and pension reform – maintenance of current social welfare and pension programs is questionable due to high unemployment rates and an aging population highlighting a need for alternative solutions such as voluntary-pensions schemes to meet modern requirements and needs; 5) rule of law and good governance – there is a growing distrust among citizens when it comes to combating organized crime, corruption, and the implementation of justice; and 6) public administration reform – as mentioned earlier inefficient institutions, including public administration that is considered crucial to the well-functioning of every country, represent the main obstacle to the overall development of the country.

Furthermore, according to Domljan (2021), for the FBiH to achieve the accelerated growth it needs the following things: the improvement of intellectual and human capital (investment in research and development, education and training), adequate involvement in the international economy (import of ideas and technology transfer, on the one hand, and export of products and services), maintaining macroeconomic stability (low budget deficits while eliminating highly unproductive and “wild” public expenditures), achieving high savings and investment rates (including, but not limited to introduction of new financial institutions, mechanisms and instruments, increasing inflows of foreign direct investment in the information and communication

² The working translation of the official document “Reform Agenda for Bosnia and Herzegovina 2015 – 2018” is available at <https://europa.ba/wp-content/uploads/2015/09/Reform-Agenda-BiH.pdf>.

technologies sector, industry, renewable energy sources, tourism), and a strong, determined and capable government (involving, political stability, simplification of the legal and regulatory framework, transparency of business procedures, respect for contracts and property rights, among others).³ Although the Reform Agenda and other documents list necessary structural changes that need to be completed, their implementation is significantly lacking.⁴ Domazet (2022) believes that achieving structural changes that would accelerate economic growth is a complex task.

Conclusion

Being an extremely disintegrated country – with different entities and institutions divided along political and ethnic lines – BiH is doomed to sluggish progress on all fronts, including the financial sector. Navigating through these obstacles on the road to economic development and financial integration is daunting. Still, as it turns out, the BiH financial sector is doing just fine. Over the years, all sectors of the financial system performed well and somehow succeeded in overcoming the COVID-19 pandemic challenges. However, this does not mean that the system is flawless. In fact, it is far from being fully operational with efficient policies and institutions. As pointed out by the report issued by the European Commission, BiH has made limited or no progress concerning economic reforms, competitiveness, and inclusive growth. It is in an early stage of establishing a functioning market economy.⁵ More proactive and efficient economic, political, and legal reforms must be carried out for BiH to integrate its economy into the typical regional and EU markets.

While the economy is expected to grow in the coming years, the projected growth rates are insufficient to bring about necessary changes. In the past, the international community and financial institutions played a prominent role in promoting progressive changes in the country. They continue to be a significant push factor even today. Unfortunately, a lack of political will, obstructions from specific political figures, and the inability of political leadership in BiH contribute to the current market failures and inefficiencies. As pointed out, a divided financial market along entities' lines is an obstacle to the economy's overall growth. Furthermore, having two stock exchanges in a small geographical area with no significant integration does not help growth either. Consequently, better internal integration is needed before we can see a meaningful international integration of financial institutions within the country.

3 As summarized in Domazet (2022, p. 85). See also Bećirović (2022).

4 The details about the Reform Agenda and its Action Plan (current status together with completed as well as ongoing tasks listed chronologically) can be found on the Agenda's website <https://reformskaagenda.ba/akcioni-plan/>

5 EC (2020; 2021).

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Democratic Maturity in Bosnia and Herzegovina

Sally Heier

Introduction

While the Dayton Peace Agreement ended the war that tore Bosnia and Herzegovina (BiH) apart in the early 1990s, the resulting constitution has also led to a highly dysfunctional political system. The interim solution soon turned into a long-term arrangement, leaving virtually everyone unsatisfied except the political elites benefiting from this setup. As progress continuously stalled in the country, a look abroad showed a possible way out: The 2004 EU enlargement round saw massive political, economic, and legal transformations in the candidate countries, induced by EU conditionality (Zhelyazkova et al., 2019, p. 16). If other countries could transform politically from the ashes of communist dictatorship to democracies fulfilling European standards, a “post-Dayton, pre-Europe” shift (Perry, 2015, p. 33) surely could achieve the same in BiH. And, after all, international pressure had helped to end the Bosnian War; maybe its powers, this time in the form of EU conditionality, could help to overcome the Dayton system. But not only had EU accession become increasingly complex, with higher thresholds compared to the 2004 Eastern enlargement, EU conditionality showed limited results in the Western Balkans, especially for democracy and the rule of law (Džihic & Wieser, 2011). Illiberal politics in particular hamper successful democratization for current candidate countries (Bieber 2020). BiH, too, is currently in a grey zone between democracy and authoritarianism (Kapidžić, 2020).

The EU made an unambiguous promise that the Western Balkan states could join if they fulfill the Copenhagen Criteria and the conditionality of the Stabilisation and Association Process (EC, 2019, p. 1). But what exactly BiH must achieve to fulfill the EU’s criteria is not transparent. The increasing complexity of the accession process has complicated analyzing the progress of European integration even further.

The question of the exact EU criteria for democracy cannot be sufficiently answered for now, but the answer can be approached. The Integration Maturity Model is an alternative framework to better assess individual states’ EU accession progression. This chapter further develops the model’s political dimension, developing parameters to capture democratic integration maturity. These are derived from Kochenov’s (2004) analysis of the Copenhagen Criteria of democracy and the rule of law for the Eastern Enlargement round as well as Dahl’s (2005) and Diamond and Morlino’s (2004) theoretical frameworks of polyarchal democracy. I will converge these into democratic integration maturity parameters, namely elections, rule of law, accountability, absence of corruption, and participatory environment. Subsequently, I will measure BiH’s democratic readiness with these parameters by using empirical data from the Global State of Democracy and Varieties of Democracy indices combined with insights from studies about illiberal politics and authoritarianism in the Western Balkans.

This chapter thus brings several strands of research together: theorizing and measuring democracy, Europeanisation, and the rise of authoritarianism and illiberal politics in the Western Balkans.

Democracy as a Copenhagen Criterion

From the beginning of the ECSC, democracy and the rule of law were enlargement criteria (Kochenov, 2004, p. 3). According to the Copenhagen Criteria, a country may join the EU when it satisfies the required political, economic, and administrative conditions. Politically, this means “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” (EC, 2020). Besides this institutional focus, the European Commission (2019) views democracy as a European value, a standard of a European society: “the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail” (p. 1). Thus, the EU views democracy in institutional terms but also as a normative value. Kochenov’s (2004) structural analysis of the documents related to the implementation of the Copenhagen Criteria suggests that the Commission and the Council focused on five main issues for democracy and the rule of law: free and fair elections, a functioning legislature, executive and judiciary, and anti-corruption measures (p. 13).

A smooth and peaceful handover of power and elections being “in line with international standards and commitments on democratic elections” (Kochenov, 2004, p. 14) are the only concrete characteristics of free and fair elections. However, it is not clear what international standards entail or how many election rounds are needed to satisfy the criterion. Three areas relate to stable institutions, meaning that they enable the public authorities to function properly and democracy to be consolidated: the legislature, executive, and judiciary.

The EU equates the legislature with national parliaments. The requested criteria required the legislature to be a separate and well-integrated organ in the state structure with respected powers, a significant role in the law-making, transparency, and an opposition fully incorporated in its activities as well as minority representation. However, Kochenov’s (2004) shows it was merely necessary to have a parliament in the system of governance, let it pass at least some legislation, and assure that the body of MPs would change at regular intervals to meet the criteria. Even when the Copenhagen-related documents criticized certain practices in the candidate countries, those countries still met the political criteria (p. 17). Slovakia’s parliament, for example, was frequently disdained by its executive in the 1990s, with one attempt to remove a democratically elected party from parliament in 1994 by the government.

This executive-legislative clash also saw a deteriorating relationship between the prime minister and president. Moreover, the EU criticized the representation of the opposition on parliamentary committees. Nevertheless, Slovakia joined in 2004 along with other Central European states which performed much better regarding political criteria (Henderson, 1998). Ironically, the structure of the accession process itself elevates the role of the executive, since the negotiating process and the tasks demanded to meet the membership conditions primarily involve the government, with a much lesser role for other branches of government (Grabbe, 2001, p. 1016).

The Commission's ideal executive is effective, professional, accountable, well-regulated, and transparent. Civil service should be unified, decentralized, provide public access to information, provide effective consultation with interested parties, and accountability for the administration. Appointments and promotions should be transparent. There should be special bodies with real powers to assume responsibility for managing all the civil services in the country, including appointments, training, and systematic assessment of civil servants' performance. Again, the threshold to meet the criteria was low; demonstrating the will to move toward the ideal executive was usually sufficient (Kochenov, 2004, pp. 18- 20).

The most common reform grounds in the judiciary were an independent judiciary, training of judges, filling the judicial vacancies, improving people's access to justice, improving the handling of cases, and effectively enforcing court decisions. The necessary threshold for the judiciary were the existence of a court system and adherence to the goals of independence and effectiveness of the judiciary and the rule of law (Kochenov, 2004, p. 20; 22).

The reports' anti-corruption sections contained an internal element, including the elaboration of national programs of fighting against corruption, amendments to national legislation, simplification of licensing regimes, and an external one, such as ratifying important international anti-corruption documents and participating in the Council of Europe Group of Countries for Fight Against Corruption (GRECO) (Kochenov, 2004, p. 22). Overall, the scrutiny exercised by the Commission in the field of democracy and human rights was minimal for the Eastern enlargement. The requirement to have an established democracy was limited to constitutional guarantees while the real situation in the acceding countries was not considered (Kochenov, 2004, p. 4). However, the Western Balkan candidates face more serious challenges on their path to accession.

First, due to the experiences of the Eastern enlargement, the EU has applied more stringent accession criteria for the Western Balkans (Zhelyazkova et al., 2019, p. 16) with "an even stronger focus on fundamental reforms in the rule of law, the economy, and functioning checks and balances, freedom of expression, media freedom and pluralism as well as public administration" (EC, 2021a). Second, the widespread "enlargement fatigue" among the member state societies impedes enlargement

negotiations further. Third, the Western Balkans started their accession path from a more difficult basis than CEE countries, as they have had less experience with democracy and often lower levels of governance capacity. Finally, unlike the CEE countries, the Western Balkans face problems of contested statehood and unresolved ethnic conflicts as a legacy of the 1990s wars (Zhelyazkova et al., 2019, pp. 16-17).

While the EU stated that “for the process to move forward, accession candidates need. . . to deliver genuine and sustainable results on key issues” (EC, 2021a), it is currently allowing prospective members to progress along the integration path with only partial compliance, weakening its own ability to induce meaningful reforms. Instead of requiring stable democratic institutions and long-term successes based on democracy and the rule of law, the EU is content with superficial reforms that establish legislation guaranteeing democratic practices without enforcing them (Dudley, 2020, p. 2).

Indeed, international indices show meager “net” gains from enlargement policy from 2005 to 2015 (Elbasani & Šabić, 2017, pp. 1-2).

The current enlargement process is characterized by a slow admission of new members and limited progress within the candidate countries in implementing necessary reforms. The regional challenges would lead one to expect the EU to be even more vigilant and uncompromising in its standards of democratic values, not less (Dudley, 2020, p. 12).

Because of this contradictory EU approach in the Western Balkans, the EU’s methodology in applying the Copenhagen Criteria has become even less transparent. Palankai’s (2010) Integration Maturity Model measures a country’s readiness to join the EU, shifting the focus of analysis from the EU to the individual states. Of its four main dimensions, namely compliance with economic, social, political, and institutional aspects and criteria (p. 9), the economic one has dominated. Since political criteria are particularly unclear and not precise enough to measure progress toward EU accession (Kochenov, 2004, p. 2), developing a political dimension for Palankai’s model can serve as a valuable tool to better assess the degree of European integration of individual prospective EU members. However, this requires a theoretical framework since the EU does not provide sufficient measurements of democratic readiness.

Polyarchal Democracies and Measurement

To supplement the EU criteria, I use polyarchal democracy, mainly by Dahl (2005) and Diamond and Morlino (2004), and two indices with polyarchy as their theoretical foundation. While the EU emphasizes the role of democratic institutions, these do not exist in a vacuum but depend on other democratic factors. Polyarchy sees democracy as a system of different elements that overlap and depend on each other. Because of these densely interactive and overlapping elements, states that perform weakly in some democratic dimensions tend to be noticeably deficient in others as well. Furthermore,

polyarchy implies a pluralist notion of democratic quality and can therefore be used to analyze democracies in different contexts. According to Diamond and Morlino (2004), every democratic country makes normative choices about what kind of democracy it wishes to be by placing different normative weights on these various dimensions. While a deficient democracy usually displays weaknesses in several dimensions, a high-quality democracy nevertheless does not rate infinitely high on every measure of democratic quality but is a balancing act of virtues that lie in tension (p. 21; 30).

Dahl's (2005) concept of polyarchal democracy refers to a modern representative democracy with universal suffrage which requires six democratic institutions: elected officials; free, fair, and regular elections, freedom of expression, alternative sources of information, associational autonomy, and inclusive citizenship (p. 192). For Diamond and Morlino (2004), a democracy requires at a minimum: universal, adult suffrage, recurring, free, competitive, and fair elections, more than one serious political party, and alternative sources of information. When a country meets these basic standards, the question becomes how well it achieves the three main goals of an ideal democracy: political and civil freedom, popular sovereignty (control over public policies and the officials who make them), and political equality (in these rights and powers), as well as broader standards of good governance (such as transparency, legality, and responsible rule) (p. 21). The authors' analytical framework contains eight dimensions of democracy: horizontal accountability, vertical accountability, freedom, rule of law, responsiveness, equality, participation, and competition. In the following sections, I develop the analytical framework for democracy according to EU standards, and then use the V-Dem and IDEA's GsoD dataset for 2020, which use polyarchy as their theoretical foundation, to empirically measure BiH's democratic readiness.

Integration Maturity and Democracy

I combined polyarchy and the EU criteria according to Kochenov (2004) to develop the analytical framework for democratic readiness. Five main parameters are crucial for successful EU integration: elections, rule of law, accountability, absence of corruption, and participatory environment.

Table 1: Parameters of Democratic Maturity

| | |
|----------------------------------|---|
| Elections | Elected officials Free and fair elections Regular elections Contested elections Inclusive suffrage |
| Rule of law | Independent and impartial judiciary Fundamental Rights Access to Justice |
| Accountability | Horizontal accountability Vertical accountability |
| Absence of corruption | Internal anti-corruption External anti-corruption Extent of corruption |
| Participatory Environment | Civil society participation Electoral participation Media freedom Freedom of expression Freedom of assembly and association |

Elections

The EU cites “international standards and commitments on democratic elections” as their evaluation criteria regarding elections. To be democratically mature, a country needs to have elected officials, free elections (meaning an absence of coercion), fair elections, with an equal weight of votes and minimal irregularities, regular elections (meaning the next election time is somewhat predictable), contested elections (a multi-party system with free political parties), and inclusive suffrage. Free political parties are included here but also benefit from a high degree of freedom of association, included under participatory environment. Inclusive suffrage can also be regarded as a civil liberty but has been included here as it is more directly linked to elections than other liberties. I included alternative sources of information as “media freedom,” a minimal requirement for democracies (Diamond & Morlino, 2004, p. 21), under participatory environment.

BiH elections are regular, besides Mostar’s municipal elections which were held for the first time in 12 years in 2020. Elected officials and contested elections data suggest executive elections are robust due to a multi-party environment. However, both V-Dem and IDEA emphasize that their elected officials scores are minimally defined and should not be considered by themselves to determine the quality of a democracy due to their formal focus (Coppedge et al., 2021a, p. 49; IDEA, 2021b, p. 17). Moreover, data is missing for competitiveness and openness of executive recruitment. IDEA’s competition indicator suggests the elections are sufficiently free so the opposition could gain power with enough votes (IDEA, 2021b, p. 14). Indeed, the three main parties’ prevalence was never secure; in the 2020 municipal

elections the SDA lost parts of Sarajevo and the SNSD Banja Luka (Bieber, 2020, p. 64; Mujanović, 2020). The OSCE (2019) agrees that the elections are “genuinely competitive” and transparent. Political parties and institutions also portray elections as free and fair to legitimize their electoral victory. But most irregularities occur before and after elections, ultimately undermining the democratic process (Kapidžić, 2019, p. 13). Other selected indicators for democratic readiness substantiate the deficiency of BiH’s elections despite their regularity and occasional turnovers in government.

Table 2: Democratic readiness: elections

| Elements | Indices | Indicators | Scores |
|-------------------------|--|--|--------|
| Elected officials | <i>IDEA's Elected Government</i> | | 0.6 |
| | | Elected executive index | 1 |
| | | Competitiveness of executive recruitment | N/A |
| | | Openness of executive recruitment | N/A |
| Free and fair elections | <i>V-Dem's clean elections index (indicators not included in IDEA measurement)</i> | Electoral | 0.67 |
| | | | 0.56 |
| | | Election voter registry | 0.5 |
| | | Election vote buying | -0.94 |
| | <i>IDEA's Clean Elections</i> | Election other electoral violence | 1.19 |
| | | Election free and fair | 0.05 |
| | | | 0.62 |
| | | EMB autonomy | 0.63 |
| | | EMB capacity | 0.68 |
| | | Election other voting irregularities | 0.41 |
| | | Election government intimidation | 0.64 |
| | | Election free and fair | 0.56 |
| Competition | 1 | | |
| Regular elections | <i>Own measurement</i> | | 1 |
| Contested elections | <i>Regimes of the World's multi-party system index (V-Dem data)</i> | Elections multiparty | 1.27 |
| | | Executive elections multiparty | 1 |
| | | Legislative elections multiparty | 1 |
| | <i>IDEA's Free Political Parties</i> | | 0.61 |
| | | Party Ban | 0.91 |
| | | Barriers to parties | 0.82 |
| | | Opposition parties' autonomy | 0.7 |
| | | Elections multiparty | 0.88 |
| | | Competitiveness of participation | N/A |
| | | Multiparty elections | 1 |
| Inclusive suffrage | <i>IDEA's Inclusive Suffrage</i> | | 0.89 |
| | | Inclusive Suffrage | 1* |
| | | Election voter registry | 0.68 |

*scores here equal the percentage of the population with suffrage, in this case, 100%

While no single party could dominate the entire country as elsewhere in the region, this does not reflect high levels of pluralism (Bieber, 2020), but the dominance of ethno-nationalist parties (Kapidžić, 2019) and mono-ethnic subunits as the foundation of representation and political competition for many voters (Hulsey & Stjepanović, 2017). The competition between the distinct ethnic party subsystems is minimal. Where cross-ethnic voting appears, it is easily challenged (Bieber, 2020; Kapidžić, 2019). Political leaders in power, such as Dodik (SNSD), but also Čović (HDZ BiH), and Izetbegović (SDA), have undermined democracy and subverted media and independent institutions in exchange for political gain. For elections, they have tilted the electoral playing field towards their advantage, resulting in three distinct ethnic electoral fields with different degrees of openness and impartial competition. Therefore, in BiH we find a carefully calibrated electoral environment in which the three main parties depend on their mutual antagonism to ensure dominance in their constituencies (Bieber, 2020, p. 63).

Despite a relatively high degree of freedom for political parties, the three main ethno-nationalist parties control public and private resources which gives them a privileged position to solidify their dominance through the voting process. The four key sectors capable of affecting the electoral process are exploitation of public resources, voter fraud and vote coercion, voter registry, and media dominance (Kmezić, 2020, p. 187), the latter is covered in the participatory environment section.

Exploitation of public resources

Through effective capture of public administration, all three main parties can control economic resources and redistribute them to loyal supporters. Ethnic party control of state-owned enterprises (SOEs) is the main form of patronage and clientelism in BiH and influences electoral outcomes. SOE dominance is part of a broader pattern where administrative resources are abused for campaign purposes, such as state events, financial and technical resources (Kmezić, 2020). Employment opportunities and resources of SOEs present an even greater electoral prize than ministerial positions and are tightly controlled by the political parties who appoint their governing boards. Roughly 80,000 workers are employed in 550 SOEs across all economic sectors, equating around 11% of total employment in BiH. Average salaries are 40% higher than in private firms. The three main parties use a strategy of “ethnic gatekeeping”: SOE control is contained within ethnic party systems and subnational levels of government as a form of ethnic oligopoly. Market expansion of most SOEs into each other’s territories is actively limited, even where this makes economic sense, to keep jobs concentrated and appease core ethnic voters. Weak regulations and oversight, and BiH’s limited market competitiveness contribute to the exploitation of public companies, resulting in ethnically defined political machines with stable voting patterns. Clientelist linkages are forged here continuously, not only during elections.

The three main ethnic parties can thus align voting preferences to economic benefits which other parties cannot (Kapidžić, 2019), which means they are disadvantaged in electoral competition.

Voter fraud and coercion

Tactics including “conditional dismissals” and deals of “new employment in exchange for votes” are common mechanisms to illegally pressure voters employed in SOEs (Ruge, 2020). The abuse of public resources often happens in plain sight, or even with news cameras present. Dodik for instance openly threatened to “fire on the spot” those who vote against him. Political parties are thus acting as providers of jobs, lucrative public procurement contracts, or favorable credits in return for secured votes. In the worst cases they even punish their non-voters. In a country with staggering unemployment figures and an insufficient welfare system, people cannot risk losing their jobs, especially not the lucrative ones in SOEs. It is unlikely that all SOE employees are loyal HDZ BiH, SDA, and SNSD supporters, but they find themselves at the mercy of these parties. Outright voter fraud, such as increasing the vote share of the favored candidate, depressing the vote share of the rival candidates, or both, has also been observed (Kmezić, 2020, pp. 180-190).

Voter registry

No Western Balkan country has created credible and electronically accessible electoral registers. Problems with the electoral registry, particularly a significant presence of deceased or emigrated voters, are common across the region. The BiH electoral register contains 3,345,486 voters (Central Election Commission, 2016), while only 3,531,159 people are estimated to live in the country (Agency for Statistics of Bosnia and Herzegovina, 2013). The lack of appropriate legal frameworks on data transmission regarding the recently deceased, and high emigration levels are the biggest logistical hurdles to updating the electoral registers (Kmezić, 2020, p. 189).

Manipulations of the electoral register and the postal vote are additional sources of pre-election voter fraud. The registration of fake voters from Croatia for postal voting is a well-documented issue of pre-electoral voter fraud in the 2018 elections (Prelec, 2019). Both V-Dem’s clean elections index, measuring absence of registration fraud, systematic irregularities, government intimidation of the opposition, vote buying, and election violence (Coppedge et al., 2021a, p. 49), and IDEA’s subattribute Clean Elections, denoting the extent to which elections for national, representative political office are free from irregularities (IDEA, 2021b, p. 14), reflect these deficiencies in their scores. The main problem in tackling faulty electoral registers is the persistent lack of political will (Kmezić, 2020, p. 189).

Inclusive suffrage?

The BiH constitution contains illiberal elements barring citizens not belonging to the three titular ethnic groups and those not residing in “their entity” from running for certain political offices (Kapidžić, 2019, p. 3). This is not reflected in the indicators,

because the measurement does not cover restrictions based on residence (Coppedge et al., 2021a, p. 48), one fundamental problem of BiH suffrage. Approximately 400,000 citizens (12% of the population) are not allowed to run for president or parliament because of their religion, ethnicity, or where they live (HRW, 2019). This lack of inclusive suffrage in BiH's constitution breaches the European Convention on Human Rights, as shown in the Sejdić-Finci case. This part of the constitution remains one of the main obstacles to further progress towards EU accession (EC, 2021b).

Rule of law

Rule of law is a separate Copenhagen criterion but cannot be completely dissected from democracy because it acts as an institutional safeguard for democratic institutions (Dahl, 2005) by controlling the conferral of wide and unguided powers of political and economic elites.

Table 3: Democratic readiness: rule of law

| Elements | Indices | Indicators | Scores |
|-------------------------------------|---------------------------------------|--|---------------------------------|
| Independent and impartial judiciary | <i>IDEA's Judicial Independence</i> | | 0.49 |
| | | High Court independence | 0.63 |
| | | Lower court independence | 0.6 |
| | | Compliance with High Court | 0.33 |
| | | Compliance with Judiciary | 0.5 |
| | | Law and Order | N/A |
| | | Independent Judiciary | 0.5 |
| | <i>IDEA's Predictable Enforcement</i> | | 0.47 |
| | | Executive respects constitution | 0.69 |
| | | Transparent laws with predictable enforcement | 0.56 |
| | | Rigorous and impartial public administration | 0.36 |
| | | Criteria for appointment decisions in the state administration | 0.43 |
| | | Criteria for appointment decisions in the armed forces | 0.33 |
| | | Bureaucratic quality | N/A |
| Equality | <i>IDEA's Social Group Equality</i> | | 0.45 |
| | | Social class equality in respect for civil liberties | 0.63 |
| | | Social group equality in respect for civil liberties | 0.58 |
| | | Power distribution by socio-economic position | 0.57 |
| | | Power distributed by social group | 0.56 |
| | | Representation of disadvantaged social groups | 0.52 |
| | | Exclusion by socio-economic group | 0.61 |
| | | Exclusion by political group | 0.41 |
| | | Exclusion by social group | 0.43 |
| | | Exclusion by urban-rural location | 0.78 |
| | | Religious Tensions/Ethnic Tensions | N/A |
| | | Access to Justice | <i>IDEA's Access to Justice</i> |
| Access to justice for men | 0.57 | | |
| Access to justice for women | 0.55 | | |
| Judicial corruption decision | 0.39 | | |
| Judicial accountability | 0.33 | | |
| Fair trial | 0.33 | | |

In a high-quality democracy, the legal system defends the political rights and procedures of democracy, upholds everyone's civil rights, and reinforces the authority of other agencies of horizontal accountability ensuring the legality and propriety of official actions. If elections are to be truly meaningful, free, and fair, there must be some degree of civil and political freedom beyond the electoral arena for citizens to articulate and organize around their political beliefs and interests (Diamond & Morlino, 2004). Rule of law and democracy are thus interlinked and mutually reinforcing concepts. Neither of the two principles alone can answer the trends of state capture and the crisis of constitutionalism in which (non-) elected clientelist elites have the power to legislate, govern, and impact state institutions, including the judiciary (Kmezić, 2020, p. 185).

Most Western Balkan regimes have created the legal basis for their contentious actions and practices, a result of high party discipline, strong control over the parliamentary majority, and legitimized corrupt elites (Kmezić, 2020, p. 185). BiH's public administration is characterized by arbitrariness and biases. IDEA's Judicial Independence denotes the extent to which the courts are not subject to undue influence from the other branches of government, especially the executive (IDEA, 2021b, p. 149). While the courts are somewhat independent, government compliance is low. Data for the "law and order" indicator, measuring the strength and impartiality of the legal system and the degree of popular observance of the law (IDEA, 2021b, p. 161), is not available for BiH. IDEA's Predictable Enforcement shows that public administration is generally not impartial and the criteria for appointment in the state administration and even in the armed forces are more based on personal and political connections than skills and merit, further substantiating the influence of the main political parties as outlined in the election section. It is common for individuals or businesses to make undocumented extra payments or bribes to speed up or delay judgments or to obtain a favorable judicial decision. Judges found responsible for serious misconduct are not disciplined or held accountable (Bergling, 2008; Divjak & Pugh, 2008; Koolen & van Dijk, 2021; Lee-Jones, 2018, p. 7). The EU emphasizes that BiH needs a professional and depoliticized civil service and a coordinated countrywide approach to policymaking (EC, 2021b), further highlighting the importance of this aspect for fulfilling the criteria as well as the country's shortcomings in this regard. Secure and effective access to justice is not guaranteed as is the right to a fair trial. The right to recognition as a person before the law, the right to be under the jurisdiction of and seek redress from competent, independent, and impartial tribunals, and the right to be heard and to be tried without undue delay if arrested, detained, or charged with a criminal offense are restricted, according to the indices.

V-Dem has a separate equality before the law and individual liberty index which has not been included here because I divided its indicators between "independent and impartial judiciary" and "access to justice." The high score for the equality before the law and individual liberty index (0.75 in 2020) does not reflect a robust rule of law, but the high degree of personal freedoms which make up the largest part of this index's

aggregation. The problem arises once these liberties are breached, and individuals enter the judiciary system where certain social groups and people without political connections are disadvantaged. Although equal treatment is guaranteed by law, it is unevenly upheld in practice. The Romani minority particularly suffers discrimination across the country as do minorities residing outside “their” ethnic area. Bosniaks and Croats in the RS encounter barriers when accessing social services and Bosniak returnees in the RS are known to face notable discrimination and harassment (Rahman, 2021, p. 9). Likewise, ethnic Serbs living in FBiH face discrimination (HRW, 2019).

Accountability

This parameter captures how state organs monitor and hold each other accountable (“horizontal accountability”). Officeholders must either behave lawfully and properly or otherwise answer to voters, other officials, and state institutions that possess the expertise and legal authority needed for such a monitory role. These institutions’ mission is to scrutinize and limit the power of those who govern. The vitality of horizontal accountability hinges mostly on a legal system that provides the exertion of checks and balances by other public entities independent of the government, and not competing as an alternative to it. The responsiveness of elected political leaders (“vertical accountability”) denotes the obligation of elected political leaders to answer for their political decisions when asked by voters or constitutional bodies (Diamond & Morlino, 2004, pp. 25-26). This parameter also encompasses the EU’s standards for a functioning legislature.

V-Dem’s judicial constraints on the executive suggests that the BiH executive violates most constitutional provisions without legal consequences but must respect certain provisions. BiH’s low scores in compliance with the judiciary and the high court indicate that the government seldom follows important decisions of the high and other courts with which it disagrees. This index overlaps with the indicators of judicial independence in the rule of law parameter. Effectively, the government influences the courts in their decision-making and ruling while seldom facing any legal consequences even when violating the constitution. And in the rare occasions in which the judiciary rules against them, they often ignore the courts’ decisions.

Table 4: Democratic readiness: accountability

| Element | Indices | Indicators | Scores |
|---------------------------|--|---|--------|
| Horizontal accountability | <i>V-Dem's judicial constraints on the executive</i> | | 0.51 |
| | | Executive respects constitution | 1.31 |
| | | Compliance with judiciary | -0.14 |
| | | Compliance with high court | 1.39 |
| | | High court independence | 1.03 |
| | | Lower court independence | 0.68 |
| | | | 0.47 |
| | <i>IDEA's effective parliament</i> | Legislature questions officials in practice | 0.4 |
| | | Executive oversight | 0.57 |
| | | Legislature investigates in practice | 0.33 |
| | | Legislature opposition parties | 0.56 |
| | | Executive constraints | N/A |
| | | | 0.56 |
| Vertical accountability | <i>V-Dem's deliberative democracy component</i> | Reasoned justification | -0.21 |
| | | Common good | -0.16 |
| | | Respect counterarguments | 0.49 |
| | | Range of consultation | 0.6 |
| | | Engaged society | 0.78 |
| | | | 0.56 |

A similar picture emerges with legislative constraints. I have used IDEA's effective government subattribute which encompasses the same indicators as V-Dem's legislative constraints on the executive with the addition of the executive constraints indicator. While the legislature does somewhat routinely question executive branch officials, if they would be found guilty of unconstitutional, illegal, or unethical activity, it is uncertain whether a body other than the legislature, such as a comptroller general, general prosecutor, or ombudsman, would question or investigate them and issue an unfavorable decision or report. It is even more unlikely that a legislative body (a whole chamber, a committee, whether aligned with government or opposition) would investigate and issue a decision or report unfavorable to the executive. Finally, parties not in the ruling party or coalition can only occasionally exercise oversight and investigatory functions against the governing party or coalition. These scores reflect the results of a selective dismantlement of democratic institutions, especially executive constraints and independent checks and balances on executive power in the national context (Kapidžič, 2019, p. 4). Thus, while the parliament plays some role in the law-

making and is integrated into the system of state organs, its powers are not always respected by the executive, and the opposition's role is limited. Due to ethnic quotas in one chamber of the state parliament, the House of People (5 delegates for each constitute people), cross-ethnic parties cannot be represented. Each decision needs a broad consensus, slowing down the overall legislation process because legislation must overcome an intricate web of veto mechanisms. The institutional design therefore discourages inter-ethnic cooperation between the veto players. Additionally, BiH veto players display a strong status quo orientation. (Bahtić-Kunrath, 2011).

Regarding vertical accountability, BiH performs only marginally better. V-Dem's deliberative democracy component focuses on the process by which decisions are reached in a polity (Coppedge et al., 2021a, p. 44). The reasoned justification indicator is particularly significant for vertical accountability, denoting how political elites explain their decisions to the electorate. This indicator and the common good indicator are low in BiH, indicating that, firstly, before important policy decisions, political elites tend to give illogical or false reasons for such policies, although they may appeal to many voters. Secondly, when important policy changes are considered, political elites seldom justify their positions with the common good but instead justify them with specific business, geographic, group, party, or constituency reasons. While BiH political elites allow counterarguments, they sometimes degrade them by making a negative statement about them or the individuals and groups proposing them. The best scores in vertical accountability show a relatively wide range of consultation at elite levels regarding important policy changes. However, these groups may for the largest part consist of loyal party elites and other loyal supporters. Public deliberation before important policy changes, manifested in discussion, debate, and other public forums such as popular media, are not repressed but nevertheless infrequent. Here, non-elite actors are typically controlled and/or constrained by elites.

These indices do not capture the subnational character of BiH's political system: Most power resides with the entities and not the state. The division of competences among levels of governance is not clearly defined, resulting in a combination of dual and coordinative federalism. This introduces checks and balances between governments at different levels, especially when led by different parties, while allowing for subnational dominance. Political contest in BiH is purposefully contained within ethnic and subnational boundaries and constrained through several layers of institutionalized multilevel and ethnic checks and balances. While subnational units could hold the national executive accountable, in BiH autonomy and decentralization are generally political tools for ethnic conflict management rather than for development and democratization (Bojičić-Dželilović, 2013 as cited in Kapidžić, 2019, p. 4). The most important veto mechanism in the Parliamentary Assembly, entity-voting, has become a super-veto pushing the consociational setting of checks and balances to its extremes, making non-cooperation more advantageous to the veto players than compromise (Bahtić-Kunrath, 2011). These competing interests of ethnic groups and colliding lines of authority ultimately undermine accountability (Kapidžić, 2019, p. 15).

Absence of corruption

This parameter includes the internal and external elements highlighted by the EU. Since these two aspects are rather formal, I have supplemented them with the element “absence of corruption” to capture non-legal aspects.

BiH is part of the United Nations Convention against Corruption (UNCAC), has ratified both the Council of Europe’s criminal and the civil law conventions against corruption and accepted several anti-corruption reforms in response to recommendations made by organizations such as the Group of States Against Corruption (GRECO) and the Financial Action Task Force (FATF). Pressure by several international actors, including the EU and the US, contributed to various governance and anti-corruption projects (Ruge, 2020). Four criminal codes in BiH are used at different levels of government (state level, FBiH, RS, and Brčko District), each criminalizing several forms of corruption. The current legislative framework’s main problem is its fragmentation: The state-level legislation does not apply to the entities and the Brčko District. Entities either have no legislation, have implemented it inefficiently, or not harmonized it with state law (Lee-Jones, 2018; Venice Commission, 2021, p. 23).

Table 5: Democratic readiness: absence of corruption

| Element | Indices | Indicators | Scores |
|--------------------------|--|---|---------------|
| Internal anti-corruption | <i>Own measurement</i> | national programs of fighting against corruption, amendments to national legislation, simplification of licensing regimes | 1 |
| External anti-corruption | <i>Own measurement</i> | ratifying international anti-corruption documents, participating in international anti-corruption organizations | 1 |
| Extent of corruption | <i>IDEA's subattribute absence of corruption</i> | | 0.32 |
| | | Public sector corrupt exchanges | 0.3 |
| | | Public sector theft | 0.25 |
| | | Executive embezzlement and theft | 0.35 |
| | | Executive bribery and corrupt exchanges | 0.41 |
| | | Corruption | N/A |

The declared political commitment to fight corruption has not yet translated into concrete results. Insufficient political support for countrywide reforms and the fragmentation of the public service are hampering efforts to carry out institutional and legislative reforms (Lee-Jones, 2018). The government does not adequately enforce the relevant laws, and the prosecution of corruption offenses remains selective (Rahman, 2021, p. 11). Despite the high number of allegations and investigations, there are relatively few indictments and convictions. Officials frequently engage in corrupt practices with impunity, and although the law provides criminal penalties for corruption by officials, the government does not implement the law effectively nor prioritizes public corruption as a serious problem. Prosecutions of corruption have also been selective (Lee-Jones, 2018, p. 11). GRECO repeatedly recommended measurements for BiH to curb corruption. Many steps to strengthen the anti-corruption framework have been declarative only and failed to substantially improve the anti-corruption legislative framework (Lee-Jones, 2018, p. 1). BiH has not implemented satisfactorily any of the 15 recommendations in GRECO's Fourth Round Evaluation Report (p. 16).

The main body for the prevention of corruption in the country, the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption (APIK), has an appropriate budget but limited powers to enforce its plans. Other anti-corruption bodies are not functionally independent (Lee-Jones, 2018, p. 15). The Venice Commission (2021) also notes that the current Conflict of Interests Commission has hardly been operational in the past years (p. 24).

A particularly weak point in the fight against corruption, both internally and from international actors, is the fight against ethno-political patronage networks, as mentioned in the election section. These patronage networks are deeply entrenched in the political system because they emerged simultaneously with the state. This "post-communist power mutation" includes a concentration of power in the executive, as became evident in parameters two and three, a conversion of political into economic power, as seen in parameter one, and a dispersion of power from state administration and public institutions into a web of informal, party-controlled networks, as described so far in this section (Kapidžić, 2019, p. 6). Effectively, the three main parties abuse the constitution, originally designed to protect the rights and national interests of constituent groups, to safeguard the ruling elites from accountability. The regular changes in alliances do not prevent the office holders from retaining their influence and positions with these vast patronage networks (Rahman, 2021).

Most scores, except for formal arrangements against corruption, are on the lower range of the scale. Courts and parliaments are excluded in IDEA's subattribute (IDEA, 2021b, p. 172), but the executive's influence on them has been covered in parameters two and three. The individual scores indicate that public sector employees accept bribes regularly and that they often steal, embezzle, or misappropriate public funds or other state resources for personal or family use. While the executive scores are higher, they nevertheless show consistent embezzlement and theft of state resources for personal or family use, reflecting state capture by ethno-nationalist elites.

Moreover, the executive or their agents grant favors in exchange for bribes or other material inducements occasionally.

Participatory Environment

This final parameter cannot be found in any of the EU assessments for Eastern enlargement. However, the EU recognizes the role especially of civil society organizations (CSOs) which are seen as crucial to democratization, socio-economic development, conflict resolution, peace-building, and overall conflict governance (Lidén et al., 2016, p. 274). Their support thus plays a central role in the EU's development, neighborhood, and enlargement policies. This parameter encompasses citizen participation in form of civil society and electoral participation but also the civil liberties to enable them to do so. Media freedom is arguably a cornerstone of contemporary democracies as it provides alternative sources of information besides those under government control or those dominated by any other group or point of view (Dahl, 2005, p. 196). It is also linked to freedom of expression (Kmezić, 2020, p. 190) since "silent citizens may be perfect subjects for an authoritarian ruler; they would be a disaster for a democracy" (Dahl, 2005, p. 196). Similarly, freedom of association and assembly where citizens have a right to form relatively independent associations or organizations, including independent political parties and interest groups, ensures that political activities do not cease between elections. Moreover, free associations and assemblies provide another possibility to control the agenda and offer citizens information and opportunities for discussion, deliberation, and the acquisition of political skills (Dahl, 2005, p. 196). Freedom of assembly and association also encompasses free political parties, however, these have been included in the election parameter to assess the multi-party character of elections in BiH.

Table 6: Democratic readiness: participatory environment

| Element | Indices | Indicators | Scores |
|-------------------------------------|--|--|----------|
| Civil society participation | <i>IDEA's Civil Society Participation</i> | | 0.45 |
| | | CSO*** participatory environment | 0.65 |
| | | Engaged society | 0.54 |
| | | CSO consultation | 0.45 |
| | | Engagement in independent non-political associations | 0.47 |
| | | Engagement in independent political associations | 0.51 |
| | | Engagement in independent trade unions | 0.54 |
| | <i>V-Dem's popular participation in civil society organizations*</i> | | 0.69** |
| | | Candidate selection, national/local | 0.25 |
| | | CSO women's participation | 2.4 |
| | | CSO repression | 1.65 |
| | | CSO entry and exit | 2.53 |
| | | CSO anti-system movements | -1.21 |
| Electoral participation | <i>IDEA's Electoral Participation</i> | | 0.56**** |
| Media freedom | <i>IDEA's Media Integrity</i> | | 0.67 |
| | | Critical Print/broadcast media | 0.7 |
| | | Print/broadcast media perspectives | 0.69 |
| | | Media bias | 0.63 |
| | | Media corrupt | 0.59 |
| | | Media freedom | 0.5 |
| | <i>V-Dem's freedom of expression index*</i> | | 0.62** |
| | | Government censorship effort – Media | 0.72 |
| | | Harassment of journalists | 0.88 |
| | | Media self-censorship | 0.23 |
| | <i>V-Dem's diagonal accountability index*</i> | | 1.4 |
| | | | 0.86** |
| | | Internet censorship effort | 1.85 |
| Freedom of expression | <i>IDEA's Freedom of expression*</i> | | 0.46** |
| | | Freedom of discussion for women | 0.5 |
| | | Freedom of discussion for men | 0.59 |
| | | Freedom of academic and cultural expression | 0.57 |
| | | Freedom of opinion and expression | 0.33 |
| | | Freedom of speech and press | 0.5 |
| | | | 0.85 |
| Freedom of assembly and association | <i>V-Dem's freedom of association index</i> | Party ban | 2.09 |
| | | Barriers to parties | 1.8 |
| | | Opposition parties' autonomy | 1.18 |
| | | | 1.27 |
| | | Elections multiparty | 1.27 |
| | | CSO entry and exit | 2.53 |
| | | CSO repression | 1.65 |
| | <i>IDEA's Freedom of Association and Assembly*</i> | | 0.7** |
| | | Freedom of peaceful assembly | 0.82 |
| | | Freedom of assembly and association | 0.66 |
| | | Freedom of assembly and association | 0.5 |
| | Workers' Rights | 0.5 | |

* index not complete; ** overall score, including missing indicators; *** CSO stands for “civil society organizations; **** equals election participation in the last election, in this case, 56%

Civil society participation

The lack of civil participation firstly becomes evident in low election participation. Beyond that, popular involvement in civil society organizations is minimal, although there are many diverse civil society organizations. Only a small to moderate share of the population is regularly active in associations, irrespective of whether they are political or not. Engagement in independent trade unions has the highest scores; approximately 30% of the legally employed are union members (Tomic, 2014, p. 236), albeit their influence on politics is weak (Likić-Brborić, Nadin & Slavnić, 2013; Tomic, 2014). CSOs are generally not regularly consulted by policymakers on policies relevant to their members. Even within parties, national party leaders dominate the candidate selection; local or entity-level organizations have only limited influence.

CSOs can face governmental repression if they are perceived as an anti-system movement. While this is not the rule, sanctions can be quite severe, as the *Pravda Za Davida* protests have shown. However, generally, the government only moderately controls entry and exit by CSOs into public life, even for anti-system movements the scores are moderate. Usually the government does not need to control anti-system movements as social movements challenging the prevailing governments often remain short-lived and ephemeral (Bieber, 2020, p. 68). On a positive note, women are not prevented from participating in CSOs on basis of their gender and CSOs pursuing women’s interests are usually not excluded from participating in associational life.

The problem in BiH is not the lack of CSOs; the “NGO industry” encompasses over 12,000 registered NGOs, around 500–1,500 of them active. The problem is their relevance to local society. As more professional projects are implemented, locally relevant projects disappear, resulting in CSOs losing touch with topics relevant to the local population and a struggle with mobilizing on a larger scale, as evident in the relevant scores. Therefore, wider society often cannot identify with CSO programs. They are perceived as foreign and distanced from the local realities (Lidén et al., 2016). Likewise, the lack of trust between government and independent NGOs results in an antagonistic relationship which minimizes civil society’s opportunities to influence legislation of any kind. In a functioning democracy officials listen to civil society because they know they need to if they want to be viewed as accountable, and if they want to secure re-election. In BiH, this basic democratic connection is missing (Perry, 2015, p. 31).

Finally, the civil society sector is also not immune to corruption: personal connections between the CSO sector and the state apparatus are strong and considered essential for “doing business.” These links have been exploited both by the political elites by

involving CSOs at face value in the policy process and by CSOs in pushing initiatives through and receiving government funding. The traditional concept of civil society encompasses mainly cultural, sports, and local community organizations; in BiH, these are the *mjesne zajednice*, which have mostly been funded through different governing institutions (Lidén et al., 2016, p. 286) and are thus not completely independent. The European Commission (2021b) also recognizes that only limited progress was made in ensuring an enabling environment for civil society.

Media freedom

Freedom of expression is legally guaranteed in BiH but limited in practice (Repucci, 2019). While some important media outlets routinely criticize the government, the media sphere faces problems regarding its independence and professionalism. Media bias in BiH is most visible in public broadcasting services that are financially dependent on the parliament, and thus susceptible to political influence. The situation follows the political division within the country: The RS's public broadcaster, Radio Television Republika Srpska (RTRS), is extremely politicized, while the influence is less outright in the FBiH's Federalna Televizija (FTV) (Kapidžić, 2019, p. 11; Kmezić, 2020, p. 189). Each operates, although they are supposed to function as one public corporation. Public broadcasters are among the most trusted and viewed sources. They are also the most widely available, which gives them a lot of political leverage. In both entities, and at the cantonal level, public broadcasters often operate as partisan platforms and therefore fail to provide impartial news and quality programming. They are also crucial for clientelism: non-transparent and occasionally illicit financial management enables transferring public resources to party clients (Kmezić, 2020; Repucci, 2019). Government censorship attempts on independent media outlets are indirect but nevertheless routine for political topics. These might include politically motivated awarding of broadcast frequencies, withdrawal of financial support, influence over printing facilities and distribution networks, selected distribution of advertising, onerous registration requirements, prohibitive tariffs, and bribery (Coppedge et al., 2021a, p. 199). The media landscape in BiH displays features of hybrid media systems, where liberal ideas of a free and de-regulated press, the sudden liberalization of the media market, and the flourishing of various commercial audio-visual outlets mix with the legacy of the communist past, a post-conflict environment, and contextual local factors, such as clientelism and democratic backsliding. The government controls this formally pluralist media with similar mechanisms as their authoritarian predecessors, however, today's influences on media are much more subtle and covert. They remain effective, but their identification is harder (Kmezić, 2020).

Although there have been important steps towards a more free and independent media in recent decades, political pressure and attempts to control the media remain, enforced by growing economic pressure on media outlets and the emergence of private media controlled by political and economic elites. Many journalists work in informal conditions, lacking both individual and collective work contracts which contributes to

their vulnerability to political pressures and self-censorship.

These negative tendencies are additionally cultivated by the lack of general political and social transparency and the weakness of the underdeveloped media market in rural parts of the region. Furthermore, the ongoing privatization of the media is marked by numerous controversies, including the purchasing of media by party cronies.

Editors-in-chiefs play a pivotal role in direct pressure on the media. Their appointments are often politically driven and they thus depend on those in power. A lack of institutional arrangements to ensure editorial independence, low incomes in private media, and low legal pressure further contribute to the top-down continuation of the clientelism chain in media (Kmezić, 2020). These conditions impeding media freedom are not only visible in the IDEA scores but also in Freedom House's ranking of media freedom, one of the most important indicators, where BiH receives only 2 out of 4 points (Repucci, 2019).

Freedom of expression

According to the indices, the right to openly discuss political issues in private homes and in public spaces is somewhat respected, but BiH citizens are occasionally exposed to intervention and harassment. Likewise, academic freedom and freedom of cultural expression related to political issues are respected, but strong criticism of the government is sometimes met with repression. The overall extent to which individual citizens, groups, and the media have freedom of opinion and expression probably receives its low score due to the restricted media freedom, since political statements outside the press are usually not met with interventions and prohibitions. The same applies to the final indicator covering the extent to which freedoms of speech and press are affected by government censorship (IDEA, 2021b, p. 73). However, the RS' "disinformation laws" were a significant attempt of restricting freedom of expression. Domestic and international criticism helped that these laws were vetoed and reversed after (IDEA, 2021a, p. 15), which is a good sign regarding freedom of expression and its impact on policymaking. However, as explained in the accountability section, public criticism, while mostly tolerated, seldom influences political decision-making.

Conclusion

BiH's flawed political system poses a major obstacle to democratic progress and attaining the necessary integration maturity. All the assessments, no matter whether they are by democratic indices, the EU, or Integration Maturity, make one thing crystal clear: BiH is a flawed democracy. The only differences in the assessments are the areas in most need of improvement and which ones are performing somewhat satisfactorily, albeit not optimally. BiH currently does not even fulfil the minimal definition of democracy according to EU standards based on a thin definition of democracy. The EU has reiterated that BiH needs to patch up the biggest democratic potholes to create some sort of road on which negotiations can operate. But even after

these first improvements have occurred, the democratic path will still be in dire need of repairs.

The ethno-nationalist political set-up has structurally favored authoritarian control, as party pluralism is often not genuinely competitive, with ethno-nationalist parties not seeking to gain the vote of each other's electorates. The system also disenfranchises voters who reject ethnic labels (Bieber, 2020, p. 68). Besides the Dayton system, ethnic party control of SOEs impedes democracy further, especially when it comes to elections. One possible starting point would thus be to reform political institutions as well as the relationship between state, entities, and cantons. This step is not only crucial but also unlikely since it requires the three ethno-nationalist parties to dismantle the system that benefits them. Future analyses need to stronger focus not only on the national level but consider subnational units as well, especially the RS. While autocratization is restricted in FBiH because it has both Bosniak-majority and Croat-majority cantons, the RS is much more ethnically homogenous. Dodik and his party have therefore more possibilities to establish illiberal mechanisms and abuse the political system to their advantage. The "disinformation laws" serve as only one of many recent examples.

With the proper resources, but most importantly with political will, the following tangible measures can improve BiH's democratic readiness and are crucial steps on the road to a post-Dayton system. Since turnovers in government are possible, and have occurred in the recent past, there is cause for optimism that BiH can move towards democracy and away from illiberalism.

Firstly, regarding elections, the voting registry needs to reflect the actual demography of BiH and should be updated regularly to avoid election fraud in which emigrated or dead people vote or voters are simply made up. This would be fairly easy, not too threatening for the three main parties, and would send a positive signal to Brussels. Likewise, building an Electoral Management Body that has the autonomy and capacity to oversee the elections and evaluate their results would help to rebuild trust in the elections, not only in the EU but also among the BiH population. The three main parties still want to make their electoral victories look legitimate and a proper EMB would help in that respect while also deterring election fraud outside the SOEs.

A second possibility is a stronger involvement of civil society in policy consultation. But for this, the "NGO industry" must include broader segments of the population and it must be relevant on a local level. Thirdly, private media could be bolstered, especially financially, so it can provide a counterweight to the news of public broadcasters. Fourthly, while political institutions should in the long-term abandon ethnic quotas and veto mechanisms, some steps to increase horizontal accountability can be taken before that. Especially legislative constraints on the executive can be strengthened, meaning that parliament should have a robust body that questions or investigates the executive and issue a decision or report after the parliament has found the executive

to be involved in unconstitutional, illegal, or unethical activity. Legislative constraints can also improve by involving the opposition more, for example by including them in these bodies that issue reports about questionable demeanors by the executive. These steps seem meaningless while the three main parties still control SOEs, public broadcasters, and fuel the culture of corruption in public administration, particularly in the judiciary. But they would help improve democratic scores on some dimensions. According to polyarchy, these improvements on a few dimensions could help to raise other democratic aspects as well and lay the foundation for meaningful, long-term change.

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A Brief Discourse about Corruption in Bosnia and Herzegovina

Ena Kazić-Çakar

Introduction

Not even the state of pandemics that caused the slowing down of businesses, economic and regular life activities worldwide, managed to decrease the corruption in Bosnia and Herzegovina. Quite opposite, according to many public data sets, this country has seen one corruption scandal after another¹ in that period and they shocked the wider public. The affair of public procurement of medical ventilators by the company that has been primarily registered to plant, produce, and sell raspberries with the indication of involvement of upper officials in it, resulted in the indictment of the state Prosecutorial Office. The indictment allegations point out high corruption. Apart from the health system, where corruption is the most widely spread according to the people's corruption perception (Vokić & Kurtović, 2021, p. 15), similar stories were present in the field of public transportation, the judicial system, in the field of construction, and since they are not yet being prosecuted, it can be only said there are allegations they included trading in influence, illegal employment, and other corruptive behavior. It can be said that “during the pandemic, negative effects of widespread corruption and signs of political captive control were manifested” (European Commission, 2021, p. 5). These allegations, but also already years-long fight against corruption (of questionable quality) decreased peoples' trust in institutions, officials, administration, and overall faith in justice. Corruption has infiltrated the most important pillars of society: health, education, and the judicial system. Moreover, corruption is that much present in everyday life that it slowly becomes a custom, a way how to solve things out, a way how to achieve what should be a non-questionable right, *mode d'être*. And many experts are confident that these circumstances are enabling the increase of youth emigration to other states while hampering economic development and increase in foreign investment.

This subjective impression is confirmed with more objective parameters. The Corruption Perception Index Report for 2021 (Transparency International, 2021) shows that Bosnia and Herzegovina scores 35 out of 100 and ranks 111th among 180 countries. The score has even decreased, compared to 2019, when the score was 36. These data show that Bosnia and Herzegovina is located in the middle among 180 countries when it comes to the perception of corruption, and obviously shows the tendency of moving down the scale.

Although a state without any corruption still does not exist, and it would be surrealistic to expect a world without corruption, most of the countries in the world are trying to find the best model in order to decrease corruption, or at least to keep the rates under

¹ Transparency International Bosnia and Herzegovina provides a rich overview under <https://ti-bih.org/>

control in an overall fight against corruption. Those models include but are not limited to legislative and institutional reforms and new approaches to criminal politics. The prevention and fight against corruption are of immense importance for Bosnia and Herzegovina as it is a country that aims to become an EU member. The European Union membership application has been submitted in February 2016. However, according to the European Commission (2019) opinion, it is necessary for Bosnia and Herzegovina to fulfill 14 key priorities, so that the Commission can recommend the initiation of the EU accession negotiation stage. Those priorities include democracy, rule of law (including the fight against corruption), fundamental rights, and public administration. Although the fight against corruption evidently is not only important *per se* (for prevention of values protected by law) but also for the EU path, the data about the success of Bosnia and Herzegovina in this matter are not satisfactory. The European Commission (2021) declared in their report for Bosnia and Herzegovina that “Bosnia and Herzegovina is in the early stage of preparations in the prevention and fight against corruption and organized crime,” and additionally, it is noted that Bosnia and Herzegovina made no progress in the recent period, especially related to public procurement and confiscation of income (p. 5). Just to illustrate, “in 2020 in total 14 investigations of high corruption are ordered, and out of that number only 7 indictments were prepared and 1 conviction with suspended sentence was made” (p. 22). The State Agency for Investigations and Protection also did not appear to be efficient, as in that year it investigated 51 cases, and finalized only 13 cases by preparing 13 reports for 76 people (p. 22). Additionally, the overall number of indictments countrywide decreased by 50% compared with the rates in 2019. Finally, the Commission finds additional critical points, such as “police vulnerability to political interference,” “not taking steps to establish cooperation with EUROJUST,” “weak institutional cooperation,” “a few follow up cases,” “legal fragmentation,” and “criminal justice policy throughout the country is ineffective” (p. 21). Moreover, there is a constant failure in accomplishing already set strategic goals, particularly in getting results in the fight against corruption.

Only 35% of the set goals were achieved (Vokić & Kurtović, 2021, p. 6). This chapter aims to establish the way how Bosnia and Herzegovina is approaching the challenging topic of corruption. Various published reports for Bosnia and Herzegovina indicate a lack of positive results in the fight against corruption, thus it is reasonable to wonder if there is a legislative framework and institutional grounds for the fight against corruption and what causes the constant distance from the aim of anti-corruption. This chapter checks the criminal substantive legislative basis related to the fight against corruption in this country, as well as the existence of an institutional approach in this important endeavor by dealing with the corruption-related positive criminal law of Bosnia and Herzegovina, and by presenting selected issues of the fight against corruption in this country. That part is followed by a discussion.

Defining corruption

Before we establish the real possibilities and obstacles for Bosnia and Herzegovina in the fight against corruption, it is important to clearly define this negative social phenomenon. Corruption as a word is frequently used in everyday life, however, its definition is not commonly found within the criminal code. The reason for that is simple; corruption refers to all the corruptive misconducts by officials, and criminal codes mostly prescribe different forms of those misconducts that have a quality of a criminal offence. Even one of the most important international, corruption-related sources of law, the United Nations Convention on Corruption (2005), in Article 2 (“Use of terms”), omits providing a (general) definition of corruption.

Semantically, the word composed of two Latin words: *com* - “with,” and *rumpere* – “to break.” It literally means “breaking someone’s trustworthiness.” Merriam Webster Dictionary defines corruption as “dishonest or illegal behavior, especially by powerful people (such as government officials or police officers).” In the legal dictionary Lexico, it is similarly defined as “dishonest or fraudulent conduct by those in power, typically involving bribery” and as “the action or effect of making someone or something morally depraved.” The World Bank describes it as “the abuse of public power for private benefit” (The World Bank, n.d.). Swenson (2005) similarly defines corruption as “a misuse of public office for private gain” (as cited in Mangafić, 2020, p. 2671). Since criminal law is predominantly national, it is expected that the types of corruptive criminal offenses, especially their manifestation, vary from one state to another, as well as their description and sanction.

The positive general criminal substantive law of Bosnia and Herzegovina (criminal codes in Bosnia and Herzegovina) also does not offer a definition of corruption. Instead, it is provided by the *lex specialis* Code on Agency on prevention of corruption and coordination of the fight against corruption, where in Article 2 it is defined as

Each abuse of power entrusted to a public official or a person in a political position in the state, entity, cantonal level, Brčko District of Bosnia and Herzegovina, city or municipal level, which can lead to private uses. Corruption may, in particular, include direct or indirect demands, offers, giving or accepting bribes or any other illicit advantages or possibilities, which impairs the proper performance of any what duties or behaviors are expected from the recipient of the bribe.

Regardless of which definition is accepted, and which criminal actions it sublimates, one can say with the highest level of certainty: Corruption is a challenging global phenomenon that erodes the most important values of each society in which it exists. Maljević and Vujović (2019) correctly conclude that corruption brings, amongst other things, “the unpredictability of economic and political flows, social insecurity,

complicates the investment process, reduces trust in governing structures” (p. 30). It can be motivated by greed, selfishness, aspiration for use of authority (p. 30). Corruption can be active, in the form of giving gifts or valuables to achieve personal objectives, or passive, meaning accepting gift or valuables for personal gain. Vlaški (2021) distinguishes between “corruption in the public sector, corruption in the private sector and grand, petty and political corruption” (p. 281). The World Bank (n.d.) identifies characteristics of a corruption pattern that is evident on a global scale:

- High level of public concern with corruption;
- Low level of public trust in the government;
- State capture and conflict of interest;
- Public administration inefficiencies in widespread bribery in public offices;
- Distorted business environment;
- The significant burden on poor households (p. 1)

Finally, according to Tanzi (1998), corruption-enabling factors may be wages (the higher the wages, the lower the corruption), quality of bureaucracy, the penalty system related to corruption (higher penalties mean lower corruption rates), institutional control, and transparency of rules, laws, and processes (pp. 16-20).

Is corruption (still) a challenge for Bosnia and Herzegovina?

Bosnia and Herzegovina has approached the problem of corruption primarily through criminal law. It has ratified the most important international sources that are related to fighting corruption: The Criminal Law Convention on Corruption (ETS No. 173, 1999), the Civil Law Convention on Corruption (ETS 174, 1999), The United Nations Convention against Transnational Organized Crime (2000), the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (2005), and The United Nations Convention Against Corruption (2005). Additionally, it has recognized certain (corruptive) behaviors as criminal, prescribed their actions as criminal offences, prescribed conditions for criminal responsibility, and sanctions for their perpetrators. However, in the legislative level of confrontation to the corruption, a particular state organization and distribution of jurisdictions is visible, one that has been stipulated with the Constitution of Bosnia and Herzegovina. Namely, criminal law has been set at four levels of authority, which results in four positive criminal codes: the Criminal Code of Bosnia and Herzegovina (level of Bosnia and Herzegovina), the Criminal Code of Federation of Bosnia and Herzegovina, the Criminal Code of Republika Srpska (both at entity level) and the Criminal Code of Brčko District of Bosnia and Herzegovina. The existence of four parallel positive criminal codes leads to the question if corruption is regulated similarly on all four levels, or whether there is a lack of harmonization among those codes.

The Criminal Code of Bosnia and Herzegovina (2003, Art. 218-229), within chapter “Criminal Offences of Corruption and Criminal Offences Against Official or Other

Responsible Duty” has prescribed corruptive criminal offences. Under the same title, but within chapter XXXI of the Criminal Code of Federation of Bosnia and Herzegovina and chapter XXXI of the Criminal Code of Brčko District of Bosnia and Herzegovina, and within chapter XXV named “Criminal Offences Against Official Duty” of the Criminal Code of Republika Srpska, corruptive criminal offences have been prescribed on other levels of authority as well. Some of these listed criminal offences are classified as “pure corruptive criminal offences,” while others refer to breaches of responsible duty, but in a wider sense may be caused by corruptive action. Tomić (2007) identifies common characteristics of these criminal offences: they violate values, such as property, personal rights, and freedoms. Perpetrators are usually officials, and their actions may result in different individual consequences (obtaining material gain or any other gain, causing harm to others - breach of right) that eventually transform into general consequences, such as endangering the proper and lawful performance of official or other responsible duties (pp. 379-380). Time is an essential element of this crime: they can be perpetrated only while being on duty. They are punishable only when perpetrated in intent.

When these four criminal codes are compared regarding types of corruptive criminal offences, they are harmonized. A slight difference exists in the Criminal Code of Republika Srpska, which prescribes some criminal offences that are either not prescribed at all in the other three criminal codes or are prescribed but belong to another group of criminal offences with other objects of protection. So, fully new criminal offences in Bosnia and Herzegovinian (in part of its territory-the entity Republika Srpska) criminal law are Misappropriation of Budget Funds and Violation of Human Dignity by Abuse of Official Position or Authority (Halilović, 2021, p. 333). Additionally, only entity criminal codes prescribe “Disclosure of Official Secrets” in this group of criminal offences.

In a nominal comparison, the same solutions are present in all codes, except for the criminal offences “Receiving Gifts and Other Forms of Benefits” and “Giving Gifts and Other Forms of Benefits” which are called “Receiving Bribe” and “Giving Bribe” in Republika Srpska. Although the title is different, the content of the disposition is similar. Also, criminal offences of receiving and giving a reward or other forms of benefit to trading in influence, that are as such prescribed at the State and Federal and District levels, are simply named “trade in influence” in the RS Criminal Code and are consumed with only one prescribed criminal offence.

When these provisions are compared from the point of *criminal sanctions*, it can be said that the biggest resemblance is visible between the Criminal Code of Bosnia and Herzegovina and the Criminal Code of the Federation of Bosnia and Herzegovina, as the sanctions are the same. The Criminal Code of Brčko District BH is mostly similar to them when it comes to the prescription of type and duration of the sanction. But, for the criminal offenses service in the service, unscrupulous work in the service, and illegal collection and payment, it prescribes more lenient sanctions, such as money

fines and (lower) imprisonment in alternation. Finally, the biggest inconsistency exists in comparison of these codes with the Criminal Code of Republika Srpska, which prescribes more strict sanctions for bribe (both giving and receiving), and for most of the remaining ones, more lenient sanctions.

Table 1: List of corruptive criminal offences in the positive criminal law of Bosnia and Herzegovina

| Criminal Offence | CCBH | CCFBH | CCDBH | CCRS |
|---|-------------|--------------|--------------|-------------|
| Receiving gifts and other forms of benefits | ✓ | ✓ | ✓ | ✓ * |
| 1.1 Giving gifts and other forms of benefits | ✓ | ✓ | ✓ | ✓ * |
| Receiving a reward or other form of benefit for trading in influence | ✓ | ✓ | ✓ | ✓ * |
| Giving a reward or other form of benefit to trading in influence | ✓ | ✓ | ✓ | ✓ * |
| 1.2 Abuse of position or authority | ✓ | ✓ | ✓ | ✓ |
| Embezzlement in the service | ✓ | ✓ | ✓ | ✓ |
| Fraud in the service | ✓ | ✓ | ✓ | ✓ |
| 1.3 Service in the service | ✓ | ✓ | ✓ | ✓ |
| Unscrupulous work in the service | ✓ | ✓ | ✓ | ✓ |
| Forgery of an official document | ✓ | ✓ | ✓ | ✓ |
| Illegal collection and payment | ✓ | ✓ | ✓ | ✓ |
| Misappropriation of property during search or execution | ✓ | ✓ | ✓ | ✓ |
| Disclosure of official secret | x | ✓ | ✓ | ✓ |
| Illegal granting of benefits to economic entities | x | x | x | ✓ |
| Misappropriation of budget funds | x | x | x | ✓ |
| Violation of human dignity by abuse of official position or authority | x | x | x | ✓ |
| Extortion of testimony | x | x | x | ✓ |

Source: criminal codes in Bosnia and Herzegovina and authors' comparison

Together with criminal law regulations, there are other special codes that are not necessarily related to criminal law, but whose regulation presents important grounds for the fight against corruption. They regulate a variety of relations, such as conflict of interest, prevention of money laundering, confiscation of illegally acquired property, public sector audit, public procurement, whistleblowing, free access to information, and financing political parties. Therefore, it can be said that special indirect sources of corruption law, among others, are: Law on Civil Service in BH institutions, Law on Civil Service in FBH, Law on Civil Servants RS, Law on Civil Service in Public Administration Bodies of BD BH, Law on Protection of Persons Reporting Corruption in BH institutions, Law on Protection of Persons Reporting Corruption RS, Law on Protection of Persons Reporting Corruption Brčko District, BH Election Law, Law on Financing of Political Parties of BH, Law on Freedom of Access to Information of BH, Law on Freedom of Access to Information of FBH, Law on Freedom of Access to Information of RS, Law on conflict of interest of FBH, Law on conflict of interest of

RS, Law on conflict of interest of BD, Law on Prevention of Conflict of interest in BH Government Institutions, Law on Prevention of Money Laundering and Financing of Terrorist Activities, Law on Confiscation of Illegally Acquired Property by Criminal Offense FBH, Law on Confiscation of Illegally Acquired Property by Criminal Offense RS, Law on Confiscation of Illegally Acquired Property BD, BH Law on Public Procurement, Law on Agency on Prevention of Corruption and Coordination of Fight Against Corruption.

Some of the Sensitive Challenging Issues at the Anticorruption Path of Bosnia and Herzegovina

Although on a legislative level there are various special laws that indirectly or directly regulate corruption-nature relations, there are some difficulties in their application which are detected and overcome through practice. However, at this point, it is noteworthy to mention difficulties in whistleblower protection. Corruptive criminal offences are part of the dark figure of crime, because by their nature, the fact that someone achieved personal gain by misusing their official duty, remains familiar to them and the individual in whose favor they acted. The other party usually fears of reporting that crime in order not to self-incriminate themselves as co-perpetrators. Even the individuals who did not directly participate in the crime but have information about it and may serve as witnesses hesitate to report the crime. The reason is fear, quite understandably: fear of revenge, of losing one's job, or these informants simply they do not trust the judicial system and do not think their report would make any difference. It is difficult and even impossible to prevent corruption without being informed about the existence of critical cases. Therefore, the holders of those valuable information, so-called "whistleblowers," are very precious and their protection should be granted. The legislators at the state level and at the level of Republika Srpska and Brčko District recognized the importance of protecting whistleblowers. They created codes, that are different in width of protection and scope of individuals who are being protected by the codes, respectively: Code on protection of whistleblowers in institutions of Bosnia and Herzegovina, Code on whistleblower protection of Republika Srpska, and Code on whistleblower protection of Brčko District BH. The first code protects only individuals in relation to institutions of Bosnia and Herzegovina, while the other two respectively are providing a wider scope of subject of protection (Kazić, 2018, p. 107). However, a legislative framework for whistleblower protection is still non-existent in the Federation of Bosnia and Herzegovina, which creates legal inconsistency and discrimination of individuals from that part of the country.

When it comes to the efficiency in providing protection of whistleblowers, according to the latest annual report of the Agency for Prevention of Corruption and Coordination of Fight Against Corruption from 2019, the rates of both protection requests and granted requests are very low and the rates show a decreasing tendency. Although the low number in requests can indicate a lack of irregularities noticed in the practice, more probable reason for such numbers is lack of knowledge about the rights and in overall concept of protection of whistleblowers.

This indicates the need for wider public education about corruption and whistleblowers protection.

| Year | Request | Granted | Year | Request | Granted |
|------|---------|---------|--------|---------|---------|
| 2014 | 3 | 2 | 2017 | 4 | 1 |
| 2015 | 6 | 0 | 2018 | 2 | 2 |
| 2016 | 5 | 1 | 2019 | 4 | 1 |
| | | | Total: | 24 | 7 |

Source: APIK (2019, p. 33)

Institutional possibilities

As previously indicated, at the State level, the Code on Agency for Prevention of Corruption and Coordination of Fight Against Corruption exists already for 13 years. That agency is an independent and autonomous administrative institution that was established with the aims to

- a) identify and eliminate the causes of corruption;
- b) deter persons from committing criminal offenses related to corruption;
- c) provide and improve the legal framework for corruption prevention;
- d) encourage the participation of civil society in corruption prevention;
- e) raise public awareness and build relationships intolerance of corruption;
- f) educate and better inform the society about the causes and consequences of the impact of corruption, and on the active participation in its prevention;
- g) promote transparent and accountable work of the institution of Bosnia and Herzegovina.

The Agency is created with jurisdiction that covers both private and public institutions in Bosnia and Herzegovina and it works based on anti-corruption principles. In that regard, the Agency published the Plan of Work for 2021, and as priorities summarizes

- a) creating a new strategy for the fight against corruption;
- b) digitalization of anti-corruption;
- c) international and regional collaboration;
- d) improvement of governmental and NGO sector;
- e) efficiently act in accordance with reporting corruption;
- f) improvement of the legislative framework in Bosnia and Herzegovina and with international standards;
- g) improvement of gathering and data analysis. (pp. 4-5)

Although the Code sets the grounds for the establishment of such an Agency, article 23 also sets the possibility for entities, cantons, and Brčko District to create a new structure that will be responsible for the creation and application of anti-corruption strategy in their respective levels of authorities. Based on that, the federal government established the Anti-corruption Team, the republic government established the Committee for the Application of the Anti-corruption Strategy, the district government established the same committee, and seven cantons established teams for preventing corruption (AKT BiH, 2022). Additionally, according to Vlaški (2021), even self-governing units established bodies to fight against corruption. Allegedly out of 146 local self-government units, 83 established those bodies (p. 286).

Wind of change

Although anti-corruption teams exist at entity and canton level, the Office for the Fight against Corruption and Quality Management of Sarajevo Canton has proven to be a good example of efforts and efficiency in its anti-corruption endeavor. It has been established based on the Decree on the Establishment of the Office for the Fight against Corruption and Quality Management of the Sarajevo Canton of the Government of Canton Sarajevo in 2018. Its jurisdiction covers

professional, operational and administrative-technical affairs related to: a) implementation of the Law on Registration and Verification of Data on the Property of Holders of Public Functions in the Sarajevo Canton; b) control of public procurement, which includes control of legality and control of expediency of all public procurements carried out by contracting authorities founded by the Canton of Sarajevo; c) activities on prevention of corruption, as well as data collection and reporting to the authorities of observed corruption activities in the Sarajevo Canton, and d) establishing, implementing and controlling the quality management system in the administrative bodies and services of the Sarajevo Canton. (Vlada Kantona Sarajevo, n.d.)

The results of the work of this office are visible and groundbreaking. Since its establishment, it has been founded cooperation with public institutions and the private sector involving wider subjects in their common aim to fight against corruption in Canton Sarajevo (Vlada Kantona Sarajevo, n.d.). In order to efficiently discover cases of corruption, but also to help in raising public transparency in most crucial business and other activities that create space for corruption, it is credited with establishing, managing, and analyzing seven registers: the register of employees, of appointed persons, of property, of public procurement, of beneficiaries of incentives in the economy, of incentives for small businesses, of transfers to non-profit organizations and individuals. Although these registries depend on the (readiness for) distribution of data from the owners of rights or institutions and depend on frequent data updates, they are very impressive for the number of subjects they cover, the details they include and are useful grounds for analytical research and detection of (suspicious and potential) corruption cases.

The fact that this office is the leader in the fight against corruption in Bosnia and Herzegovina was confirmed by the European Commission (2021) in their report for Bosnia and Herzegovina, in which this office has been mentioned as an “isolated good example” (p. 23) for having prepared and distributed 518 reports of corruption to the relevant prosecutorial office in 2020, out of which 106 were grounds for ongoing investigations (p. 23). This kind of proactive approach should be found in other institutions and agencies as well.

Discussion

All of the above made clear that Bosnia and Herzegovina has the legislative framework to fight corruption, and in the last few years, positive steps were made at the institutional level. Superficially observed, it seems that the political and general public understood the importance of fighting and preventing corruption. Then how can the growing trend of corruption in recent years be explained? According to the Report of the Agency for Prevention of Corruption and Coordination of Fight Against Corruption (2021), while in 2014 there were in total 454 cases of corruption, in 2017 there were 685 (p. 146). The trend of growth continued in the period between 2015 and 2018 and in total 562 conviction decisions were made by the courts. However, out of that number, only 147 perpetrators were sentenced to imprisonment, 37 with a money fine, and in 379 cases were given a suspended sentence. The growth itself is a piece of concerning information, but such an immense application of suspended sentences brings into question the preventive function of criminal law and consequently one can wonder if this type of sanction was overused by the judicial institutions. All criminal substantive laws in Bosnia and Herzegovina have incriminated the number of actions that are corruption related. The sanctions imposed are in the medium range regarding their heaviness, as most of them are imprisonment from six months to five years. Having medium-range heavy sanctions expectedly should help in achieving the idea of deterrence and prevention of the crime. However, the practical approach of the judicial system is counterproductive, as suspended sentences ruin the entire concept of deterrence that was very correctly set within the criminal politics. The mild approach of courts also invites suspicion on the way how the cases are led by prosecutors and courts. So, it was correctly indicated by the Delegation of the EU to Bosnia and Herzegovina (2019) in their expert report on rule of law for Bosnia and Herzegovina that “in cases of high-level corruption unexplainable professional and legal mistakes, negligence, abuse of procedures and questionable court decision have been observed” (p. 12).

Apart from practice, a deep analysis of the legislative framework portrays the sore wound of the legislation in Bosnia and Herzegovina. Although it is less visible in corruption-related criminal offences, not fully harmonized criminal codes in types of criminal offences and sanctions create a great threat of uneven justice, discrimination, and lack of legal certainty. It should not be forgotten that all four codes exist in the territory of one country and are applicable to people of that country (although they

are distributed in different parts of it). It should not be permissible that people of one part of the territory of one state get different threats of sanctions for the same crime than other people of the same state in another territory. Although full harmonization of codes is hardly expected to be accomplished, especially in the current critical political situation, *legi ferendi* should be created with the thought of harmonization of criminal law. Additionally, the incrimination of new criminal offences should be considered. For example, Janušić (2018) correctly notices, there is a need for incrimination of “illicit enrichment” (p. 1). Any income that cannot be reasonably justified with legal income sources should be confiscated, as there is doubt in the legality of paths through which it was gained. Also, it is recommendable to incriminate misappropriation of budget funds and violation of human dignity by abuse of official position or authority as criminal offences, not only to accomplish the aim of the harmonization of law but because they do represent social danger and are socially negative phenomena that are detectable in recent years.

Lack of harmonization is visible in the question of protecting whistleblowers. It is hard to expect productive work on the fight against corruption although the legislative and institutional frameworks exist if the grounds are not set for the protection of whistleblowers and hence reaching the information about corruptive actions. Not reported and not visible cases are impossible to be detected and prosecuted. The federal legislator continues to ignore that problem and omits to deliver such a law. On other hand, the existing legislation at the state level and in Republika Srpska and Brčko District is not ideal and should be amended with potential wider protection and easier procedures in favor of whistleblowers.

A list of the positive special criminal law anti-corruption sources was provided above. The number of different codes multiplied by four (per level of jurisdiction) multiplied with the number of staff who work on these cases and in their implementation vividly presents the complicated internal organization of Bosnia and Herzegovina, which can be misused as a factor that enables the growth of corruption. Numerous procedures that request the application of numerous rules and usually last for a long period of time are indicators of the risk of an inefficient legal system.

Agencies and teams who should be responsible for the fight and coordination of the fight against corruption are created, but apart from the positive example in Canton Sarajevo they seem not to be proactive. Some situations that are related to their work are worrying the wider public and bring doubt about their quality and real independence. For example, the Agency on the Fight Against Corruption and Coordination of the Fight Against Corruption does exist, but one member of the current Committee for Appointment and Monitoring of that agency is an individual who has been sanctioned by the US for his corruptive actions (Parlamentarna skupština Bosne i Hercegovine, 2022; Radio Slobodna Evropa, 2021). This kind of approach eliminates the faith in true, radical changes and success on the anti-corruption path. Quite reasonable questions are still open, such as: Who is going to guard the guardian? Should not elections in such committees be more transparent and election criteria stricter?

Conclusion

The necessary legal and institutional framework for the fight against corruption exists in Bosnia and Herzegovina, and for the purposes of this chapter, a few sensitive issues were selected and commented to highlight the main challenges in achieving anti-corruption goals. Neither of these two frameworks are important if they are not going to be fully and correctly implemented. It seems that there is a political will in establishing these grounds, but that will is not that much visible in the application or in overcoming the existing problems of their application.

Corruption in Bosnia and Herzegovina continues to rise, as well as its position on the corruption perception scale. This trend will continue, particularly because of rising economic difficulties in the country that are criminologically recognized as one of the important factors in the etiology of corruption. The numbers of prosecuted cases are not proportional to the growth of corruption. For prosecuted cases, there is a rising trend in sentencing perpetrators of corruption with a suspended sentence, which is creating difficulties in deterrence and prevention of corruption in overall.

It can be expected that every time a potential perpetrator feels the judicial system is inefficient, and the level of harm felt with potential punishment is less than the gain of the criminal offence, they will be pooled into the criminal zone. Therefore, practitioners should better sense the aim integrated within the criminal politics of Bosnia and Herzegovina.

The anti-corruption legal framework in Bosnia and Herzegovina should be more harmonized, particularly within the substantive criminal law and prescribed sanctions. Inter-institutional collaboration should be improved, and the positive examples of the Office for the Fight against Corruption and Quality Management of Sarajevo Canton should be followed in other cantons and parts of Bosnia and Herzegovina. If all local units would conduct similar actions that have been and will be conducted by this office, a significant improvement would become visible.

The matter of protection of whistleblowers should be more discussed, and a federal code on their protection should be created, while the content of protection of whistleblowers in the existing codes should be regulated in more details. Finally, raising public awareness about corruption, its causes, challenges, and further issues of whistleblower protection should be one of the priorities of all educational institutions, media, and governmental and non-governmental institutions in the future, since a crucial part of the fight against corruption falls on the change of the mentality and perception about corruption among the wider population.

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Energy Security in Bosnia and Herzegovina: the EU Energy Acquis be Helpful?

Aliaksandr Novikau

Introduction

Energy is a central part of human life. Because energy is required for mobility and heat, it is one of the critical elements of any human activity and, therefore, integral to modern society. At the same time, energy, like most of society's resources, is scarce, meaning that there is limited energy available for human needs. Strictly speaking, energy *per se* is usually not in short supply but only useful energy in the form of energy services (Jansen & Van der Welle, 2010).

Since useful energy is a scarce resource, people have somehow learned how to prevent that scarcity and mitigate its consequences, or in other words, to achieve energy security.

The pursuit of energy security will exist as long as people use energy. Beginning from when early humans started to control fire in the Lower Paleolithic times, they inevitably faced the issue of inadequate supplies of flammable materials such as wood. In other words, they had to learn how to get reliable energy supplies at reasonable costs. However, the fuel needed for survival should have been obtained without risking their lives, wasting time, or other valuable resources (Valentine, 2010).

Although the essence of energy security has not changed much over time, the specific conceptual definition of energy security has varied in different countries and at different times. For instance, in the aftermath of the oil crises of the 1970s, energy security was primarily concerned about the risk of interruption of oil supply from the Middle East or price surges. Deese offered one of the very first explicit definitions of energy security – “a condition in which a nation perceives a high probability that it will have adequate energy supplies (including traditional sources such as firewood, and plant and animal residues that are frequently not traded in the marketplace) at affordable prices” (1979). The strong emphasis on affordable prices was necessary because a physical fuel shortage has never been viewed as a subject of genuine concern. On the contrary, it has been a concern over if “adequate amounts [of oil] will always be available to all users, in all circumstances and at reasonable prices” (Akins, 1973).

Ten years later, Yergin (1988) defines energy security in the following way: “The objective of energy security is to assure adequate, reliable supplies of energy at reasonable prices and in ways that do not jeopardize major national values and objectives.”

The fact that energy security was conceptualized within security studies rather than borrowed from other fields has inevitably affected the definitions above. Indeed,

both Deese's and Yergin's concepts of energy security are incredibly close to the definitions of national security provided by early international relations scholars in the 1940s–1950s – as an absence or low probability of threats to acquired values (Lippmann, 1943; Wolfers, 1952).

The vast majority of definitions of energy security in academic literature focus on the continuity of commodity supplies (Krutz et al., 2009). For instance, in 2012, Winzer (2012) found that the most typical concept of energy security was “the absence of protection from or adaptability to threats that are caused by or have an impact on the energy supply chain.”

Although the essence of energy security is still primarily concerned with affordable energy supplies, it usually includes other dimensions. For example, Asia Pacific Energy Research Centre (APEREC) (2007) offered a popular definition of energy security as “the ability of an economy to guarantee the availability of energy resource supply in a sustainable and timely manner with the energy price being at a level that will not adversely affect the economic performance of the economy.” Sovacool & Mukherjee (2011) identify five dimensions of energy security such as availability, affordability, technology development, sustainability, and regulation. Other definitions of energy security include even more dimensions of energy security, such as “equitably providing available, affordable, reliable, efficient, environmentally benign, proactively governed, and socially acceptable energy services to end-users” (Sovacool et al., 2014). The climate change challenge requires transforming the energy system from conventional fossil fuels to low-carbon alternatives and energy end-use efficiency. Therefore, the decarbonization of energy systems to reduce greenhouse gas emissions is often viewed as one of the components of energy security (Novikau, 2020a).

Energy security remains a pressing issue in almost every country in the world, including even energy-exporting countries (Novikau, 2021). Reliable and affordable energy supplies are especially vital for countries with insufficient local energy resources to cover their energy needs. Countries situated on the European continent are quite illustrative – most of them are characterized by high energy consumption but low local energy resources, especially oil and natural gas.

Since the 2000s, the security of energy supply has been consistently one of the EU's primary concerns. It is acknowledged that the dependency on imported energy resources is probably the main EU external vulnerability that weakens its position in the world. Not surprisingly, the EU has developed, adopted, implemented, and evaluated numerous energy security policies.

Non-member states on the European continent also face energy issues – sometimes similar and sometimes quite different from the EU's. One of the numerous requirements for accession to the EU is to align the potential candidate's energy laws and practices

with the EU acquis. BiH applied for EU membership in 2016, yet the tangible progress towards accession to the EU is relatively modest.

Recognizing the importance of energy security both for the EU and BiH, this chapter offers a short overview of energy security issues in BiH in light of its potential accession to the EU. The following section briefly describes several universal energy security strategies that can be applied to any country worldwide. Section 3 provides a short overview of energy security issues in the EU and major strategies aiming to enhance energy security in the union. Section 4 covers the energy system in BiH. Section 5 discusses BiH's energy policies in the sense of their compatibility with the EU requirements and concludes.

Energy security strategies

Since the concept of energy security is context-dependent and can be formulated in numerous ways, the strategies to achieve energy security depend on the specific economic, political, and social context and vary significantly across countries and times. These strategies usually include creating energy reserves, improving energy efficiency, diversification of supply and suppliers, and foreign policy measures (Nye, 1980). However, most energy security strategies are universal and did not change much from the times of the oil crises of the 1970s.

Energy reserves

Energy reserves or energy storage is the first line of defense in energy security. It allows a temporary solution to unexpected energy supply disruption or price surges. Historically, energy reserves have been used for crude oil storage. Yet energy reserves play an important role in improving energy systems' economic efficiency. For instance, during low energy demand, in summer or night, energy can be stored and released in winter or daytime without paying additional market costs. Usually, natural gas storage supplies 25–30% of the energy consumed during the cold season. In addition, electrical and thermal energy can also be stored through pumped storage hydropower, grid-scale batteries, and thermal storage at the factory level.

However, the initial costs of building energy storage facilities and their maintenance can be high, which is a barrier to their wide use (European Commission, 2020; Novikau, 2019).

Energy efficiency

Domestic energy conservation and improving energy efficiency, especially oil, are essential domestic policies for improving energy security. Improving energy efficiency or delivering more services for the same energy input or the same services for less energy input is the most obvious measure of energy security because the decreased

energy demand inevitably reduces energy consumption. Therefore, countries with lower energy intensity, usually measured as the ratio of primary energy supply to Gross Domestic Product (GDP), are less vulnerable to energy shocks.

Energy efficiency can be achieved through technological advances and effective energy management. However, these measures are not free and result in increased costs of energy services. In addition, technological measures must always be supplemented by corresponding public policies, such as energy efficiency standards, building codes, and financial incentives (Novikau, 2019, 2020b).

Even though the energy efficiency of economies in Western Europe and Japan has drastically improved in recent decades, in other countries such as China or India, the critical threat to energy security is the growing consumption of energy resources without significant progress in energy efficiency. Therefore, promoting energy efficiency domestically and abroad is essential, especially in developing countries (Daojiong, 2006).

Diversification of suppliers

One of the popular strategies for improving energy security is an increasing diversity of energy suppliers. Indeed, the strong dependency on a single or a few suppliers of energy resources, especially from abroad, and energy producers' market power is viewed as a significant threat to national security. The solutions to enhance energy security usually focus on decreasing energy imports, especially from politically unstable or hostile countries. In addition, the diversification is not limited to suppliers but also includes supply routes and infrastructure. If a single company both supplies or generate energy and operates an energy transmission network, it has a monopolistic power on the market and therefore threatens energy security. Therefore, separating energy supply and generation from transmission networks, or transmission unbundling, is vital to improving energy security (Richter, 2016).

Diversification of energy sources

In addition to having a choice from different suppliers, having different types of energy in the energy mix is also beneficial. Regardless of their nature, the dominance of one or two energy sources in the energy mix makes an energy system vulnerable because risks of interruption of energy supply or price surge are higher with a few energy sources. Although adding any additional type of energy would benefit energy security, renewable energy sources are viewed as a preferential solution because renewables are not a single source of energy but rather an umbrella term and include several energy sources – from small rooftop solar panels to large hydroelectric dams (Novikau, 2019). Adding nuclear energy for the purpose of diversification is a subject of ongoing debate. Even though nuclear power is mostly carbon neutral, serious safety and security concerns exist about nuclear power plants (NPP) operation and nuclear

waste management (Novikau, 2017).

Foreign policy strategies

Finally, international cooperation is a promising strategy to prevent energy security risks. Forms and foreign policy strategies may vary, but they can include cooperation in energy trade and technology with the ultimate goal of creating a transparent global energy system (Nye, 1980). The energy cooperation can include bilateral and multilateral agreements regarding energy security among energy importers, not only among Western countries, regarding whether they should release emergency oil inventories. However, the views on formal intergovernmental organizations such as International Energy Agency (IEA) in achieving energy security are more skeptical. Although all countries have a common interest in energy security, their specific needs and options might differ significantly. Even in the 1970s, when many countries had a shared concern about the stability of oil supply from the Middle East, they could only cooperate to a minimal extent (Duffield, 2012).

Energy security in the European Union

The energy systems of most EU countries are characterized by two factors – their economies require a lot of energy, and they have insufficient reserves of fossil fuels. Energy consumption in the EU remained relatively stable beginning from the 1990s. Although energy consumption significantly decreased because of the world financial crisis of 2007–2008, it recovered soon, and in 2018 was 1,479 Mtoe. However, between 2019 and 2020, primary energy consumption decreased by 8.6% to 1,236 Mtoe – to the lowest historical level (Eurostat, 2020). The share of electricity in final energy consumption is expected to increase – from 23% in 2020 to around 30% in 2030 and towards 50% by 2050 (European Commission, 2020).

At the same time, the total primary energy production in the EU was 635 Mtoe which requires significant energy imports. Moreover, energy import dependency, both for oil and natural gas, has increased over two decades – from 58.4 % in 2008 to 58.2 % in 2018. In 2000, the share of imported oil was 75.7%, and imported natural gas – was 48.9%. Currently, nearly 90% of the EU's oil needs and 70% of natural gas must be covered by imports (Jonsson et al., 2015). In 2021, the European Union imported 140 billion m³ of natural gas from Russia through pipelines, an average of over 380 million m³ per day.

In addition, 15 billion m³ of liquefied natural gas (LNG) was delivered. This 155 billion m³ comprises 40% of the EU's total gas consumption (IEA, 2022a). Norway and Algeria are the next two most significant natural gas suppliers to the EU (Eurostat, 2020).

Russia was also the largest supplier of crude oil to the EU, with a share of 30%. The next largest suppliers were Iraq (8.7%) and Saudi Arabia (7.4%). In addition, Russia has been the largest coal supplier to the EU in the last decade, with around 40%.

The next two largest suppliers were the United States (18.6%) and Columbia (13.4%) (Eurostat, 2020).

The concerns over the dependency stability of energy supply, energy prices, pollution, sustainability, and carbon-neutrality of energy used have been addressed in many EU policy documents such as the Strategy for a European Energy Union of 2015, the Energy Roadmap 2050, the Energy Efficiency Directive, and the European Green Deal (European Commission, 2021). These documents cover energy supply, energy efficiency, energy infrastructure, energy market, final consumers, nuclear energy, and renewables. However, Energy Roadmap 2050 addresses only a few dimensions of energy security, and only two of them in detail – import dependency and electricity generation (Jonsson et al., 2015).

Security of natural gas supply has been viewed as one of the most critical energy issues for the EU for decades. The major problem is that an overwhelming share of the gas supply to the EU is pipeline bound. Although pipeline-bound energy supply is sometimes viewed as an advantage because of the absence of shipping risks, technical feasibility, reliability against adverse weather conditions, and low environmental pressure, pipeline-bound low flexibility results in significant energy security issues (Weisser, 2007).

In addition, the European Commission adopted a package of proposals to make the EU's energy fit for reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990.

Achieving these emission reductions in the next decade is crucial to Europe becoming the world's first climate-neutral continent by 2050. To meet the EU's new energy and climate targets for 2030, Member States must also establish 10-year national energy and climate plans from 2021 to 2030.

Energy reserves

Because of uncertainty about the stability and price of fossil fuel supply, energy storage is one of the essential mechanisms of EU energy security. The EU's Oil Stocks Directive obliges EU member states to maintain emergency oil reserves equal to at least 90 days of imports or 61 days of consumption, whichever is higher. One of the recently proposed solutions is a minimum 80% gas storage level obligation by November 1, 2022, increasing to 90% for the following years. A vital element of this strategy is the burden-sharing mechanism between countries with excessive natural gas storage capacities and countries with insufficient energy storage (European Commission, 2022).

Energy efficiency

Currently, 29% of industrial energy demand in the EU is lost as waste heat. (European Commission, 2020) Not surprisingly, improving energy efficiency was identified as one of three strategic goals of the EU. The policy is based on the simple principle that only the energy needed should be produced, and energy demand should be reduced and managed cost-effectively. The 2012 Energy Efficiency Directive, as amended in 2018, sets rules and obligations for the EU's 2020 and 2030 energy efficiency targets. The directive requires EU countries to collectively reduce energy consumption by 9% by 2030. That means the total EU primary energy consumption should be no more than 1,128 Mtoe (in 2020, it was 1,236 Mtoe). Under the directive, member states must develop 10-year national energy plans to meet energy efficiency targets. The primary energy strategies in the EU include increased energy efficiency in industrial production processes and public and private buildings. The measures aiming to increase energy efficiency include technical solutions such as broader use of smart meters, renovation of buildings, cogeneration of heat and power, and minimum energy efficiency standards for various products such as lighting, water boilers, household appliances, and electronics. As part of the energy efficiency efforts, in 2020, the EU Energy presented its energy system integration strategy to operate the union's energy system "as a whole" across national borders, energy producers, infrastructures, and consumption sectors (European Commission, 2022; Filipović et al., 2015). The main barriers to energy efficiency are costs, technical risks such as the risk of production disruptions or poor performance of equipment, and lack of technical knowledge (Rohdin et al., 2007).

Diversification of suppliers

The concerns about dependency on energy imports have even strengthened in the recent decade because of the strained EU-Russia relations. Russia's monopolistic presence in European energy sectors gives it the power to influence political decisions by European governments, usually in a non-transparent way. Many EU member states depend on Russia as a single supplier for most of their natural gas. The Southern Gas Corridor Initiative aims to bring natural gas from the Caspian Basin, Central Asia, and the Middle East to diversify their supply as a solution for these countries. In addition, the EU plans to invest in liquefied petroleum gas (LPG) terminals to buy this type of fuel from North America, the Middle East, and East Africa (European Commission, 2022). Finally, the Third Energy Package of 2009 set rules for transmission unbundling to remove a conflict of interests between energy suppliers and operators of transmission systems for electricity and natural gas (Richter, 2016).

Russia's invasion of Ukraine on February 24, 2022, has significantly speeded the pursuit of energy independence in the EU. On March 3, 2022, the IEA released a program document – a 10-Point Plan to Reduce the European Union's Reliance on Russian Natural Gas.

The plan's ultimate goal is to stop Russian gas imports to the EU by 2030. The proposed measures include replacing Russian imports with natural gas from alternative suppliers such as pipeline imports from Azerbaijan and Norway and LNG imports from the Middle East and the United States. The plan also encourages energy efficiency improvements in buildings and industry. Specifically, it recommends the replacement of natural gas boilers with heat pumps – a very energy-efficient solution to heat homes that can potentially save up to 2 billion m³ of natural gas per year. As a temporary measure, final energy consumers are encouraged to adjust their thermostats in buildings. Each 1 Celsius degree reduction would save up to 10 billion m³ of natural gas annually. The plan also urges the development of new wind and solar power projects to deliver an additional 20 TWh from these energy sources over the next year. Renewable energy is expected to replace up to 6 billion m³ of natural gas imports from Russia (IEA, 2022).

Diversification of energy sources

Several EU policies encourage energy generation from locally available resources such as renewables. For example, the Renewable Energy Directive of 2018 establishes a new renewable energy target for the EU for 2030 of at least 32% of renewables in the energy mix (European Commission, 2022). The share of renewables in electricity generation should increase to 55–60% by 2030 and 85% by 2050. Other low-carbon options should cover the rest of the generation (European Commission, 2020, 2022). One of these options is nuclear power. However, because of concerns about environmental risks related to nuclear power, several EU countries decided to phase-out existing nuclear power (Arlt & Wolling, 2016). However, about a quarter of electricity in the EU is still generated at NPPs. Belgium, France, and Slovakia have more than 50% nuclear energy in total primary energy production. Even though NPP safety and nuclear waste management costs will likely increase in the following decades because of public demands, the European Commission still views nuclear energy as an essential contributor to the EU energy goals (European Commission, 2012).

International policies

EU energy policies are also targeted at the non-member states because many face similar energy security threats. For instance, the Energy Community, founded by the treaty signed in 2005 and entered into force in 2006, aims to enhance energy security by bringing together the European Union and its neighbors to create an integrated pan-European energy market. The open energy market policy should help stimulate trade and diversify the member countries' energy reserves, initiate cross-border investment, and thereby help third countries develop energy strategies and to help promote sustainable energy generation. Countries that join the Energy Community commit to implementing selected parts of the energy acquis such as oil, natural gas, oil, electricity, energy efficiency, renewable energy, and security of supply. Moreover,

the parties must implement the policies, develop their policy objectives and strategies, and create the necessary policy environment. The treaty has nine parties currently – Albania, Bosnia and Herzegovina, Kosovo, North Macedonia, Georgia, Moldova, Montenegro, Serbia, and Ukraine (Energy Community, 2022).

Energy security in Bosnia and Herzegovina

The energy system of Bosnia and Herzegovina

The structure of the energy sector in Bosnia and Herzegovina (BiH) is complex, and the competencies in the sector are divided between the federal state, two entities – Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS), and a self-governing administrative unit – the Brčko District.

BiH has a solid primary energy resource base – coal, lignite, hydropower, and forest biomass (Table 1). The total geological coal reserves in Bosnia and Herzegovina account for 5.6 billion tons, with exploitation reserves of 1.9 billion tons (Council of Ministers, 2018). It is expected that the role of coal in electricity generation will remain significant. Specifically, there are plans to keep existing and build new coal-fired power plants, such as the Tuzla Thermal Power Plant with Unit 7, financed by a 700 million Euro loan from the Chinese Export-Import Bank. However, in 2020, General Electrics which planned to supply the equipment for the project, informed that it could not do it because it had ceased all its coal-related business (Spasić, 2021). The focus on electricity generation from coal is a concern for both domestic and international organizations. For instance, the Energy Community Secretariat stated that the FBiH decision to extend the operation of Tuzla 4 (installed capacity of 200 MW) and Kakanj 5 (installed capacity of 110 MW) until 2028 is a breach of obligations to phase out these plants (Todorović, 2022).

Table 1: Bosnia and Herzegovina total primary energy supply in 2017, Ktoe (IEA, 2019).

| | Production | Imports | Exports | Bunkers and stock changes | Total primary energy supply |
|--------------------|-------------------|----------------|----------------|----------------------------------|------------------------------------|
| Coal | 3,612 | 1,009 | -270 | -163 | 4,189 |
| Crude oil | – | 874 | – | 22 | 896 |
| Oil products | 1,114 | -252 | – | -38 | 824 |
| Natural gas | – | 200 | – | – | 200 |
| Hydro | 343 | – | – | – | 343 |
| Solar | 2 | – | – | – | 2 |
| Biofuels and waste | 685 | 6 | -227 | – | 464 |
| Electricity | – | 288 | -466 | – | -158 |

Electricity

The total installed electricity capacity in BiH in 2020 was 4,527 MW, including 2,573 MW (57%) at thermal power stations (primarily coal-fueled) and 1,829 MW (40%) at hydropower stations, and 125 MW (3%) from other renewables (primarily wind and solar). Electricity generation in 2020 was 16.3 TWh, while consumption was 11.0 TWh.

As a result, BiH is currently a net electricity exporter, mainly to Serbia and Montenegro.

The share of coal in electricity generation has increased from 52.2% in 2010 to 70.1%, while the share of hydropower decreased to 27.5%. The role of imported fossil fuels in electricity generation in BiH is insignificant (IEA, 2022b; IRENA, 2021).

The hydropower energy sector in BiH is in constant growth – here are just a few examples. The share of renewables in the country's energy mix has increased from 18.5% in 2009 to 37.6% in 2019, with apparent domination of hydropower – 94% of all renewable energy sources. In 2020, the RS entity decided to build 3 three hydropower plants on the Drina River with a total capacity of 180 MW jointly with Serbia. A state-owned company Hidroelektrane plans to develop a Bileća hydropower plant project with two turbines. A potential capacity of 33.5 MW would allow an annual output of 122 GWh. The total annual output of the entire hydroelectric complex on the Trebišnjica River can reach a capacity of 1.1 GW and generate 3.9 TWh annually (Todorović, 2021).

The small hydropower plants remain a subject of strong controversies in BiH. Since 2012, the generation of electricity from renewable sources in BiH has been promoted through feed-in tariffs set on the entity level (Energy Community, 2020).

The problem is that while the total electricity generation at these power plants is relatively small – 108 existing small hydropower plants in BiH contribute only 2.2% of total electricity generation. At the same time, the potential environmental damage can be significant. In 2020–2021 the entity legislators called entity governments to impose a moratorium on the construction of small hydropower plants until a review of the possible negative impacts is assessed and relevant renewable energy legislation is completed.

In February 2022, the German KfW Development Bank stopped 30 million Euro financing the planned 2014 Janjići hydropower plant with a 15.8 MW capacity (Veljović, 2019; Vujasin, 2022). As a result, the FBiH has proposed to stop subsidies for small hydropower plants, defined as those with an electrical capacity of less than 10 MW (Spasić, 2022).

In February 2021, the Parliament of RS, called to impose a moratorium on the

construction of small hydropower plants. Yet the moratorium was never imposed, however, in March 2022, the entity adopted the new Law on Renewable Energy Sources, which distinguishes small and large power plants for electricity generation from renewable sources. The law effectively terminates feeds-in tariff incentives for hydropower plants with an installed capacity of more than 150 kW (in the previous legal framework, the threshold was 10 MW) (Šestan, 2022; Spasić, 2022). Hydro, wind, and ground-mounted solar power plants with an installed capacity of less than 150 kW and rooftop solar panels, biogas, and biomass power plants with an installed capacity of less than 500 kW are classified as small power plants.

Although the electricity generation from other than hydro renewables is increasing, their share in total electricity generation is insignificant – less than 2%, with the dominance of wind power (IEA, 2022b). Two wind power plants, Mesihovina and Jelovača, amounted to 262 GWh of electricity generation (State Electricity Regulatory Commission, 2020). Yet there is some progress in solar energy as well – in 2020, they generated 45.62 GWh of electricity. Moreover, in January 2021, the Podvezlje wind farm, with an installed capacity of 48 MW, started electricity generation (European Commission, 2021).

Although there is progress in unbundling the electricity distribution system operators at the entity level, the country's electricity transmission system is not entirely in line with the EU Third Energy Package (Energy Community, 2021). The Law on Transmission of Electric Power, Regulator and System Operator in Bosnia and Herzegovina of 2002 established a single company for electricity transmission in the country – Transco (Elektroprenos-Elektroprijenos BiH). Cross-border electricity transmission capacity is created with Croatia, Montenegro, and Serbia.

During the Western Balkan Summit Vienna 2015, Albania, Bosnia and Herzegovina, Kosovo, Macedonia, Montenegro, and Serbia, decided to implement measures toward the common regional electric power market called West Balkan 6 Initiative. These measures include the non-discriminatory cross-border exchange of energy balance, the deregulation of energy prices for suppliers, and the independence of energy regulatory bodies (Council of Ministers, 2018).

Natural gas and oil

Although the role of natural gas in electricity generation is insignificant, it is widely used in industry (primarily in metallurgy) and for heating – 1,259 TJ in 2020. The country's annual natural gas consumption is 0.2 billion m³ (Council of Ministers, 2018). Before 2021, natural gas from Russia was supplied to BiH through the Ukraine–Hungary–Serbia route, but later it was switched to the TurkStream (Turkey–Bulgaria–Serbia route) pipeline. Because of the concerns about Russia's natural gas supply, BiH is considering using an alternative on the Southern Gas interconnector with Croatia (Zagvozd–Posušje–Novi Travnik).

The only oil refinery in BiH – Brod Oil Refinery is not operational since 2018. Therefore, the country depends on imported oil products, mainly from Serbia, Croatia, Italy, and Greece (Sarajevo Times, 2022). At the same time, in 2021, the refinery was connected to the natural gas network of Croatia. The project was not approved at the federal level, resulting in many controversies (European Commission, 2021).

Nuclear power

BiH does not have nuclear power and is not planning to develop that type of energy in the nearest future.

Energy reserves

Since the 2010s, the Ministry of Foreign Trade and Economic Relations has been working towards compliance with Oil Stocks Directive 2009/119/EC at the state level. Still, no real progress has been made to date. Currently, the country does not have legislation on compulsory stocks of oil and petroleum products at the state level, mainly because RS opposes the creation of a state-level emergency oil stockholding organization. However, there has been some progress on entity levels. In 2009, RS passed the Law on Oil and Oil Products to create emergency oil reserves per the EU requirements. In 2003, FBiH founded a 100% state-owned “Operator - Terminali Federacije” for the stockholding of petroleum fuels. BiH’s main capacity for oil and oil products is located at the Brod Oil Refinery – 530,000 m³ and at the terminal in the Port of Ploče (Croatia) operated by “Naftni terminal federacije – 81,250 m³. In addition, there is a storage capacity of 3,000 m³ for LPG (Council of Ministers, 2018; Energy Community, 2021; Tosun, 2012).

Energy efficiency

The Law on Energy Efficiency of the Federation of Bosnia and Herzegovina in the FBiH and the Law on Energy in RS are the primary governing laws regarding energy efficiency in BiH. The Energy Efficiency Action Plan of Bosnia and Herzegovina for 2016–2018 was adopted in 2017. Although the Energy Efficiency Action Plan in Bosnia and Herzegovina 2019–2021 was developed, its legal adoption is still pending. Although long-term building renovation strategies have been drafted on state and entity levels, they are not adopted so far (Energy Community, 2021; European Commission, 2021).

Energy Community

BiH has been a member of the Energy Community treaty since 2006, when it was signed. In September 2006, the treaty was ratified by BiH. The deadlines for the fulfilment of many obligations of BiH have already passed, and a not much time left

for the remaining obligations (Energy Community, 2021; State Electricity Regulatory Commission, 2020). Yet, as mentioned above, the Energy Community has numerous complaints regarding BiH's violation of treaty obligations.

Discussion and conclusion

Harmonizing the BiH energy policies with the European Union energy acquis is a complex task. It requires a comprehensive transformation of the energy sector and energy legislature (Council of Ministers, 2018). According to the EU Commission, BiH made only limited progress in most energy areas, especially in energy efficiency and renewable energy, which jeopardizes BiH's intentions to join the EU (European Commission, 2021).

The EU's recommendations remain almost unchanged from year to year:

- To adopt natural gas and electricity legal frameworks compliant with the third energy package both at the state and entities level;
- To harmonize the electricity and natural gas legal framework at the entity level to ensure the functionality of the national energy market.
- To adopt renewable energy and energy efficiency laws on the state and entity level in line with the obligations under the Energy Community Treaty and the 2020 Sofia Summit declaration on the Green Agenda for the Western Balkans (European Commission, 2021).

Yet the gap in complying with the EU energy acquis between BiH and the other Energy Community contracting parties has widened (Energy Community, 2021).

It seems that several factors contribute to this widening gap. First, the unique political system in BiH and disagreements between entities inevitably jeopardize the development of state-wide energy security policies. Although some progress has been made almost in all areas of energy security on an entity level, the small progress on the state level inevitably jeopardizes the harmonization of the BiH energy policies with the European Union energy acquis. The EU recommendation is straightforward – it is crucial to strengthen state-wide coordination and collaboration among all entities to fix the currently inconsistent and fragmented and inconsistent energy policies (European Commission, 2021).

Second, a poorly designed system of feed-in tariffs aiming to improve the development of renewable energy sources has resulted in a proliferation of controversial hydropower projects that angered public opinion about renewables without contributing much to the country's energy security (Energy Community, 2020).

Third, BiH has a reliable and relatively inexpensive energy source, at least for electricity

generation, that exceeds the domestic electricity needs – coal and hydropower. Although BiH cannot achieve energy security to a full extent because oil and natural gas are imported, the role of these sources of energy is insignificant in electricity generation. Although hydropower and coal have environmental disadvantages, that dimension of energy security is often neglected in the local security discourse on energy security, which is narrowly defined as security of supply (Council of Ministers, 2018). Therefore, the conceptualization of energy security and, as a result, the perception of threats to energy security in BiH differs from that of the European one. BiH continues to rely on fossil energy and has further plans to increase its energy generation from that fuel type.

Improving energy generation from local coal improves and helps BiH be more independent from foreign energy sources. At the same time, although the focus on domestic coal increases energy security, environmental consequences contradict core EU values – specifically its commitments to decarbonization and climate neutrality. The primary energy security issue for many EU countries is related to imported natural gas from Russia. Hence, the energy security strategies primarily focus on replacing imported natural gas with renewables. For BiH, this energy security issue is also essential but definitely less pressing than in the EU, hence the different perceptions of energy security.

That, however, does not mean that Bosnia and Herzegovina can learn no lessons from the EU energy security experience. Several EU countries have similar to the BiH's energy mix – Bulgaria (coal – 42.3%, natural gas – 0.2%), Czechia (coal – 53.3%, natural gas – 0.7%), Greece (coal – 56.7, natural gas – 0.2%), and Poland (coal – 76.5%, natural gas – 5.6%). Their experience and energy security strategies could be potentially helpful for achieving energy security in BiH.

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How a Dysfunctional Country Functions During a Pandemic

Dženita Šiljak

Introduction

A company that produces raspberries purchases ventilators for a government during a pandemic -this is not the beginning of a bad joke, it really happened in Bosnia and Herzegovina (BiH), a country that has difficulties functioning even during normal times. It is a well-known fact that the country is highly decentralized, with state, entity, and cantonal government levels, all of them with different jurisdictions. The country's complicated structure makes it a textbook example of a weak state with inefficient, extractive institutions (Šiljak & Nielsen, forthcoming). According to Transparency International (2021) data, BiH is one of the most corrupt countries in Europe, ranked 111th out of 179 countries in the world, with the most unfavorable business environment and one of the least politically stable countries in Europe (only Russia, Turkey, and Ukraine are less stable) (Global Economy, 2020). BiH's institutions were in bad shape even before the pandemic started, which amplified the system's weaknesses.

The political system and parties in power have caused the country to lag behind the EU and the Western Balkans region. BiH is one of the few countries that does not have a centralized health care system nor a state ministry of health. Entities, cantons, and the Brčko District have their own jurisdictions and each of these units has its own ministry; therefore, BiH has 13 ministries of health. The only state institution is the Agency for Medications and Medical Equipment. It has to be emphasized that Canton Sarajevo did not have a Minister of Health for four months during 2020 because the previous minister resigned, and the coalition government could not name his successor.

The health care system in the country is also fragile. Students, pensioners, workers, and people registered with the unemployment agency have the right to health care. Public health in BiH is financed mostly through mandatory health insurance, while the share of budget funds in public health is very low (Agency for Statistics BiH, 2020). It is secured from contributions paid by employed people (mandatory health insurance amounts 12 to 12.5% of their gross salary, depending on the entity) (Agencija za unapređenje stranih investicija u Bosni i Hercegovini, n.d.). However, the employment rate in the country is only 35.5% (in 2019), which makes the system unsustainable. People have to register for a check-up and if it requires the use of medical equipment such as PET scans or MRIs, they can wait for up to six months. It does not help that many doctors, estimated at 620 for the period between 2017 to 2019, have left the country to work abroad (Klix, 2019).

During the pandemic, the system was put to a test, and it failed.

Actions During the Pandemic

When the pandemic started, BiH reacted like the rest of the world (Radio Slobodna Evropa, 2020). A state of emergency was introduced in March 2020, when the price increase was limited to the pre-pandemic level. The Law on Public Procurement was modified to speed up the procurement process of the equipment used in the fight against the coronavirus. The country imposed a curfew in April 2020. It was then that the inconsistencies began. While the entities have crisis headquarters, the cantons in the Federation of Bosnia and Herzegovina (FBiH) could decide on when the curfew would start and end, which was not even properly announced, usually just by news portals. The Republika Srpska (RS) frequently followed the measures imposed in Serbia and copied them. The FBiH would do the same a few days later. However, on a few occasions, the RS imposed several day-long curfews during which a transit through the entity was not possible. It made the situation difficult for citizens of the FBiH because in order to go from point A to point B in the FBiH, sometimes people have to drive through the RS.

Face masks were mandatory indoors since the beginning of the pandemic, while the necessity to wear them outside was revised based on the epidemiological situation. If people were caught not wearing a mask, they had to pay a fine, which differed among cantons. During the latest lockdown in March 2021, restaurants and coffee shops were closed in Canton Sarajevo, while they were open in other cantons. During the peak of the pandemic, Hercegovacko-Neretvanski Canton allowed nightclubs to throw parties without any restrictions. It was a matter of concern because people from other cantons would also go there and there was a possibility that they would come back infected. A lack of coordination can also be seen in the way health institutions reported on the number of newly infected people. While other countries had press conferences at a specific time during which they reported the number of people for the entire country, BiH did it in its own style – decentralized. Each entity reported its own data and each canton in the FBiH would report the data at a different time; Canton Sarajevo even had two reports. In the end, the media had to collect and summarize the information and report it to the public. This lack of coordination just shows how inefficient institutions in BiH are. Unfortunately, corruption played a crucial role in the mismanagement of the pandemic.

Story Of the Raspberry Farm (and Other Non-Transparent Public Procurements)

The health care system in BiH was not ready for the pandemic, but that could be observed even in the most developed countries in the world. At the beginning, there were not enough face masks for citizens, sanitizers, or PCR tests. The country received

foreign aid in the amount of more than EUR 20 million from the EU alone (Klix, 2021l). Just like any other country in the world, BiH did not have enough ventilators necessary to support the breathing of infected people.

In April 2020, the prime minister of the FBiH, Fadil Novalić (the government has been in a technical mandate since the general election of 2018) announced that 100 ventilators had been purchased. During the pandemic, the law on public procurement was suspended. In late April, it was revealed that the ventilators had been purchased by a company, “Srebrena malina,” which was registered for the production of fruit, in this case, raspberries. The question that instantly arose was how a company that was not registered for the procurement of medical equipment had been able to buy ventilators, as they could not even provide maintenance for the equipment. The Agency for Medications and Medical Equipment confirmed that the company had a license to import the ventilators. However, the license was granted only on 27 April 2020 (Klix, 2020d), twelve days after the head of the Crisis Headquarters, Fahrudin Solak, had declared that “Srebrena malina” was an importer (Klix, 2020c). The contract was signed on 3 April 2020 (Klix, 2020e). The shipment of 80 respirators arrived in Sarajevo on April 25 2020 (Oslobodjenje, 2020).

According to the contract, “Srebrena malina” was obliged to purchase 100 ventilators from Chinese producers for which they paid BAM 10.5 million (EUR 5.37 million) in total (Klix, 2020e). They were overpriced, considering that ventilators produced by Western companies, which were of a much better quality, cost between EUR 35,000 and 40,000 (Klix, 2020a). At the time, the prime minister presented this story as a success, emphasizing that not even the most developed countries in the world could purchase ventilators. The Crisis Headquarters of the Federal Ministry of Health had a main role in the procurement.

In late April 2020, the district attorney’s office started investigating the procurement. The subjects of the investigation were why a company that produces fruit bought the ventilators and why they were overpriced. Apparently, it was the only offer that promised to deliver the ventilators by the end of April. Experts confirmed that the chosen ventilators could not be used in the intensive care unit (ICU), for which purpose they had been bought (Grebo, 2020). It was estimated that the real price per ventilator was between approximately EUR 1,500 and 15,000 (Klix, 2020b), while the lowest price of a ventilator that could be used in ICU was around EUR 20,000 (Voa News, 2020). Another inconsistency was that, according to the receipts, the price for 100 ventilators was approximately EUR 4,750,000. The question is what happened to the difference of more than EUR 620,000 (Klix (2020b). The ventilators were useless and the parties in the case had to know that. At least, if they had been purchased by a specialized company, it would have been obvious. They could not be installed, as no one wanted to do that five months after they had been purchased, the hospitals did not have an official service that could maintain them, and they could not be used for the patients at the late stage of the COVID infection (Klix, 2020g).

Considering that there were inconsistencies in the contract; that one type of ventilator was supposed to be purchased but the other was delivered, that the ventilators could not be used and could even harm people, the DA's office indicted Fadil Novalić, Firket Hodžić, and Fahrudin Solak in June 2020 (Klix, 2020g). The charges include money laundering and abuse of their position (Klix, 2020f). It is an ongoing process. Fahrudin Solak was suspended from his position (although he has been fully paid) (Klix, 2021a). Even the PM under criminal indictment has not spurred anyone into action or into taking responsibility for the situation. Should he be convicted, the FBiH will not have any government at all. In May 2021, 13 anesthesiologists resigned from the largest clinical center in the country in one day. The reasons were unsatisfying work conditions and the inability to treat COVID patients with the so-called "raspberry ventilators" because they were inadequate (Klix, 2021f).

The Republika Srpska also has its own case of non-transparent public procurement during the pandemic. In March 2020, the RS government ordered a mobile hospital. Two months later, the complete equipment was not delivered; therefore, the government canceled the contract, but not before Transparency International BiH reacted (Veselinović, 2020). The reaction came for two reasons; the first one was that the law on public procurement was exempted and the second was that the hospital was ordered from a company that was not registered for the procurement of medical equipment (again). Transparency International BiH also sued the Institute for Public Health of Republika Srpska for the procurement of face masks from an architecture and engineering company and the procurement of medical equipment from a travel agency. These are important complaints as these companies were incapable to do a proper purchase.

In September 2021 another scandal, the so-called "oxygen affair," emerged in the RS. The accusation was that the patients were receiving industrial instead of medical oxygen during the pandemic (Dnevnik, 2021). Oxygen was purchased by a company that was not registered to produce or distribute medication (Klix, 2021o). The RS government ran a test in Belgrade, Serbia, that showed that oxygen was of sufficient quality, but the test results were not accepted by the BiH Agency for Medications and Medical Equipment since the Control Laboratory of the Agency did not run the test. The affair was soon overshadowed by another major constitutional crisis in BiH and by spring 2022 it was virtually forgotten.

However, at least patients have since been receiving oxygen from registered and verified distributors (Klix, 2021o).

When the local elections were held in November 2020, incumbent parties in power were punished in both entities as they lost municipalities and cities that were considered as their fortresses. While data on voter behavior is scarce, it is surely not

a stretch to imagine that the handling of the COVID-19 pandemic and the connected scandals had played a part.

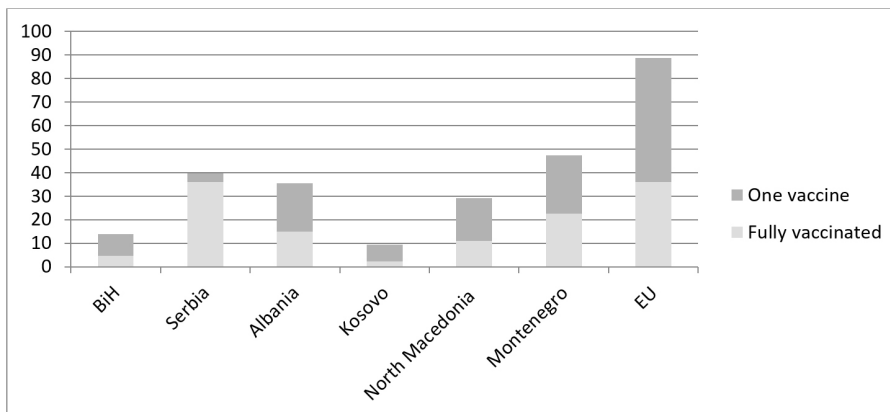
The Vaccination Fiasco

BiH was one of the countries with the worst COVID-19 statistics in Europe. According to Our World in Data (2022a), the cumulative number of confirmed COVID-19 cases in July 2021 was more than 200,000. The number of infected people peaked in April 2021 at 1,635.14 (weekly average) and decreased to 8 in July 2021. The country had slightly less than 10,000 confirmed deaths, which was 2,946.52 deaths per million people. The only country with a higher number at the time was Hungary with 3,105.27 per million. Estonia had the lowest number of deaths per million people with 957.38. The number of confirmed deaths (seven-day average) in BiH in late June 2021 was the highest in Europe with 6.58. It decreased to 1.22 in early July.

The share of the world population that has received at least one dose of the vaccine against COVID-19 in June was 24.6% (Our World in Data, 2022a). In BiH, the rate was 9.2%, compared to 52.5% in the EU. In the Western Balkans, the rates ranged from 7.1% in Kosovo to 39.6% in Serbia (see chart 1). Only 4.7% of BiH's population was fully vaccinated – the rate has since increased to 29% – compared to the EU rate of 36.4%. At the time, only two countries in Europe performed worse, Ukraine (4.9% people received at least one dose and 2.2% are fully vaccinated) and Kosovo (7.1% and 2.2%, respectively). The reason behind the low vaccination rate did not lie only in a lack of trust in institutions or beliefs in conspiracy theories, which is the case in Serbia (AlJazeera, 2021). Even though some surveys show that 52% of the BiH population were not willing to take a vaccine against COVID-19, with 50% of them being worried about side effects, this has to be taken with reservations (Balkan Public Barometer, n.d.). The sample size of 6,000 people (Balkan Public Barometer, n.d.) in the Western Balkan region (it is not specified for BiH) is too small to be representative. The simplest explanation for a low vaccination rate is that there were no vaccines.

If there had been, thousands of people (Radio Slobodna Evropa, 2021) (the exact number is not known (Erjavec & Milojevic, 2021)) would not have gone to Serbia to get their jab.

Chart 1: Share of vaccinated people (percentage of the population)



Source: Our World in Data (2022b)

The number of vaccines doses distributed by manufacturers per hundred inhabitants aged 18 years and above was much lower in the Western Balkans region (excluding Serbia) than in the EU (ranges between 12 in Kosovo and 39 in Albania, while the lowest number in the EU was in Slovakia, 67). BiH received 25 doses per hundred inhabitants. The country has not been able to purchase vaccines directly from producers. How can someone blame Pfizer, Astra Zeneca, or any other producer for not providing vaccines when those vaccines were not bought? Again, inefficient institutions and a lack of coordination play a role in people's lives. It cannot be agreed on which level – state, entity, or canton –the procurement process should start. RS as an entity did manage to buy approximately 120.000 Russian Sputnik V vaccines (Stojanovic, 2021b), but it has not been enough to start collective immunization.

The FBiH did not buy even one dose. The prime minister stated that the Federation had not wanted to play state. Even though it might look like he was trying to make it sound high-minded by 'not wanting to usurp the role of state,' the reality is that he did not want to take responsibility for not purchasing vaccines. The conclusion was very simple – if he had wanted, the citizens of FBiH would have had their vaccines. He was trying to shirk responsibility. The government of the Federation stated several times that it had bought and paid for vaccines through the COVAX system, but it also stated the system had not functioned and apparently it could not be the only channel. One of the excuses in February 2021 was that the price of one dose increased from \$10 to \$50 (Klix, 2021d). No details were provided. The country was accused by the media that it had not fulfilled the requirements of the COVAX system and, therefore, it would not receive vaccines. In February 2021, the Ministry of Civil Affairs released a statement on how BiH had ordered, paid for, and ensured the conditions for storing the vaccines (Ministry of Civil Affairs of Bosnia and Herzegovina, 2021). According to the statement, all criteria were fulfilled, but new criteria were imposed by the producers, indicating that they were buying time due to insufficient production at

the global level. The first EU-funded vaccines arrived in the region in early May 2021 (Euronews, 2021). By June 2021, 116,000 doses were delivered through the COVAX system. There is no conspiracy here; the COVAX system does not hate BiH, the politicians used a system that relies on donations (Mujanovic, 2021), and the deliveries to less-developed nations were significantly delayed due to shortages of shots (Euronews, 2021). However, BiH would not have been in the situation if it had negotiated with the producers directly, like other countries. It was simply not capable of buying vaccines. Milorad Dodik, Serb member of the tripartite Presidency, even threatened to sue COVAX (Klix, 2021c). It sounded frivolous, as it was just another excuse.

Biser Turković, the country's Minister of Foreign Affairs, said that no one would dare to start the procurement process after the ventilator fiasco (Klix, 2021b). Instead, BiH relied on donations and charity, which was not sustainable because when there were no donations, the vaccination process was in jeopardy. It indeed happened in late June and early July when hundreds of people (mostly pensioners and oncological patients) were waiting to be revaccinated, but they were sent home because there were no vaccines. It was never certain whether the immunization process would continue. By July, BiH received 928,000 doses of vaccines, mostly through donations, the COVAX and EU4HEALTH mechanisms, and some from direct procurement. The people who were (partially) vaccinated were the elderly, people with diseases, and medical workers. Hungary was the largest donor: In July 2021, the country donated 200,000 doses of the Sinopharm vaccine (Hodzic, 2021).

According to the aforementioned Fadil Novalić, FBiH has negotiated with all major vaccine producers and it has been at the last stage of negotiations several times. After many excuses why the entity was not able to provide the citizens with something that could save their lives ("We are getting vaccines in soon" (Klix, 2021g); "We are signing the contract with Pfizer in 15 days" (Klix, 2021j), "We were victims of the COVAX system" (Slobodna Bosna, 2021)), the last one that crossed the line was that the government did not want its citizens to be guinea pigs (Klix, 2021h) for vaccines that were good enough for the rest of Europe and approved by the EMA. Vjekoslav Mandić, a minister in the federal government, even bragged that WHO representatives complimented the Government on how it handled the COVID-19 crisis (Klix, 2021h). During the pandemic, the state could not find a way to function and secure vaccines for its citizens. At the same time, the institutions approved the purchase of new cars during the pandemic, 150 of them during 2020, to be precise (Sužanj, 2021).

Serbia To the Rescue

Unlike BiH, the Republic of Serbia, the country's first neighbor, started the vaccination procurement in August 2020, once it had been announced that the vaccine would be developed. By July 2021, only 39.6% of people in Serbia had gotten at least one vaccine, by choice, 36% were fully vaccinated. The number increased to 49% by

June 2022. The country was doing well; it had plenty of supply. However, there was deep resistance to getting the shot, which was why the rate of vaccination had stalled. Therefore, in March 2021, Serbian president Aleksandar Vučić decided to offer vaccines to citizens of other countries. Around 39.000 foreign citizens, mostly from Bosnia and Herzegovina, North Macedonia, and Montenegro, but also from other countries in Europe, decided to get their jab in Serbia in the period from March 25 to 30 2021 (Stojanovic, 2021a). As of June 2021, the citizens of BiH and North Macedonia had a chance to get their vaccine in Serbia for free. They could choose among four types of vaccines: Pfizer-BioNTech, Astra Zeneca, Sputnik V, and Sinopharm. The authorities of BiH do not know how many citizens have been vaccinated in Serbia. In order to deflect criticism of their own shortcomings in procuring vaccines, some Bosnian politicians started criticizing Serbia's generosity. They said that BiH had paid Serbia for the vaccines (Klix, 2021m), which is not true, or they went even further to say that Serbia was deceiving the people of BiH because the vaccines were not free; people would have to spend between EUR 100 to 150 on accommodation and meals while traveling there for their shots (Klix, 2021n). The vaccines were free though, and a person can go from Bosnia and Herzegovina to Serbia without spending much money (as the author did). No one was questioning the reasons behind Vučić's decision (Klix, 2021e) (or his nationalist past); people just wanted to preserve their health.

It was a great diplomatic move, appreciated by many people who will not forget who helped them in a time of need and it was also a way to mend strained relations in the region.

By fall 2021, BiH received enough vaccines to start the collective immunization process and the citizens who received the first two doses in Serbia could get the third one in their country. The process was not well organized, as it was not advertised, and people were not certain where they could be inoculated. For several weekends, the vaccination was organized in shopping centers and more than 1,000 people were inoculated per day.

Conclusion

BiH is a highly decentralized country with a lack of coordination and harmonization at different levels. While the decision-making process affects the economy, politics, and lives of regular people, they are somehow used to it during "normal times." However, when the country faced the COVID-19 pandemic, it was expected that the politicians would start working for the people; that they would put all their differences behind. Unfortunately, that did not happen. Several cases of mishandled/corrupt public procurement and a lack of willingness to purchase the vaccines had the worst possible outcome as a result: the country was at the bottom of all COVID-19 statistics with extremely high death rates. Most citizens decided to get their vaccine in Serbia, and they lost faith in their own representatives. The pandemic has shown all the shortcomings of the current system in BiH.

Being a highly decentralized country is not the biggest issue, other decentralized countries function. A lack of coordination and harmonization in key sectors, such as the health care system, does not allow the country to progress. This dysfunction is directly induced by the politicians. Considering that the latest statement was that some of them had not wanted the people of BiH to be “guinea pigs” for the vaccines, the question in the media was whether that was the truth, should someone be responsible for the death of thousands of people that could have been prevented (Klix 2021k). The political elites who have run the country so badly for the past 25 years have proven as true traitors to their own people. The public has to wait and see if the mishandling of the pandemic will reflect in October 2022, when presidential and parliamentary elections will be held.

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NATO: Bosnia and Herzegovina's Best Friend and Worst Enemy¹

Dženita Šiljak & Kristian L. Nielsen

Introduction

One of the many thorny issues for Bosnia and Herzegovina (BiH) since the end of the war in 1995 has been the country's relationship with North Atlantic Treaty Organization (NATO). Indeed, the final issue standing in the way of forming a government after the October 2018 election, and one of the main reasons the talks of forming a government dragged on for more than a year, was whether BiH should submit its Annual National Plan (ANP) to NATO. While the leading Bosniak and Croat parties all favoured moving forward towards membership, the leading Serb parties were adamantly opposed. Only on 5 December 2019, fourteen months after the election, was an agreement reached on appointing Zoran Tegeltija of the Serb-dominated Alliance of Independent Social Democrats (*Savez nezavisnih socijaldemokrata*, SNSD) as Chairman of the Council of Ministers (i.e. Prime Minister). Within an hour of the new Council of Ministers formally taking office on 23 December 2019, a paper was submitted to NATO, which, while not bearing the formal title of ANP, was nonetheless accepted in NATO headquarters, thus paving the way for BiH to move forward with its Membership Action Plan (MAP).

For political observers, this was yet another case of BiH politicians' highly developed ability to subordinate principle to the pursuit of high office. Clearly, Milorad Dodik's SNSD had given way on the NATO question in exchange for the prime minister's position, something which the leading Bosniak and Croat parties had resisted until then. Dodik would in turn face accusations in Republika Srpska (RS) for selling out (N1 Sarajevo, 2019), probably leading him to provoke yet another of BiH's periodic constitutional crises in February 2020.

Why these theatrics? Considering the historical instability in the Western Balkans, where neighbouring countries are seemingly at war with one another at least once in a hundred years, and the threat of further instability is never far away, NATO membership would seem an obvious solution that could bring peace and stability. Moreover, the countries in the region that have joined NATO have experienced increased foreign direct investment (FDI), suggesting an indirect economic gain from the security and stability NATO brings. For instance, Montenegro has received EUR 1.3 billion of FDI since it became a member in 2017, with investments from Germany, the Netherlands, and Turkey alone having increased by some 50% (Klix, 2020b). By contrast, in 2018 FDI accounted for only 2.4% of BiH's GDP (World Bank, 2020), the lowest among the Western Balkan countries.

Considering that a 2018 opinion poll put support for NATO membership at 56%, it can seem surprising that this is even a live political issue (International Republican Institute, 2018). After all, BiH cannot be a Switzerland of the Western Balkans in an economic sense, nor can it isolate itself in security terms. So what is the problem?

Simply put, the issue is incredibly divisive. Although a clear majority in a 2018 survey expressed support for membership (56% vs. 38% of the total number of respondents), this breaks down along ethnic lines, pitting the majority of Bosniaks (50.1%) and Croats (14.6%) against the Serb minority (30.8%) (Center for Insights in Survey Research, 2018). Thus, while 84% of Bosniaks and 75% of Croats support eventual membership, only 10% of Serbs do. Given BiH's byzantine political structure and myriad veto players, meaningful progress towards NATO membership has been frustratingly elusive. This chapter seeks to explain the troubled history of BiH's integration with NATO, the current situation in terms of BiH's ability to move forward towards membership, the preparedness of the Armed Forces for membership, and where the politics of membership stand today.

Why so controversial?

As with so much in BiH, one needs to go back to the war of 1992–1995 in order to understand why the issue of NATO membership is so controversial, quite unlike the situation in most other Central and Eastern European countries, where membership was popular with the people and enjoyed cross-party political support.

For Serbs generally, NATO became an enemy during the war years. It was NATO forces, led by the United States of America, that conducted the bombing campaign against Bosnian Serbs, which brought them to heel during August and September 1995 (Operation Deliberate Forces), presaging the Dayton Peace Agreement of November the same year. In the following years, NATO formed the backbone of both the Implementation Force (IFOR), 1995–1996, and Stabilisation Force (SFOR), 1996–2004. In 1999, NATO once more intervened against Serb interests, when Operation Allied Force was undertaken to drive Serbian forces from Kosovo, a then-Serbian province widely considered the birthplace of the Serb nation. The fact that most NATO members subsequently recognised Kosovo's declaration of independence in 2008 has furthermore meant that Serbs mostly hold a negative opinion of the Alliance. In the aforementioned 2018 survey, 60% of those opposing NATO membership cited the NATO interventions of the 1990s as the reason for their opposition. As Serbs, both in BiH and in Serbia itself, have largely felt politically isolated in the West, they have instead leaned heavily in the direction of Russia, which has long been an impeccable foe of NATO and its role in the European security order. Moreover, many leading Bosnian Serb politicians continue promoting separatist ideas, whether to become part of Serbia or to become an independent state, neither of which NATO would tolerate.

For Bosnian Croats on the other hand, NATO membership is a welcome option, considering that their political elite are mostly oriented towards their neighbouring nation state, Croatia, which joined the Alliance in 2009. The ambition of BiH also joining is rather unproblematic from their perspective, and it tallies with the way NATO membership has traditionally been viewed in Central and Eastern European accession states, as a security guarantor. While many Bosnian Croats identify more with Croatia than with Bosnia and Herzegovina, this mostly takes the form of wanting an entity, like the Federation of Bosnia and Herzegovina (*Federacija Bosne i Hercegovine*, FBiH) and RS, based on their ethnicity, rather than actual separatism. There is therefore less of a direct conflict between their aims.

The Bosniak group also sees NATO membership in relatively traditional terms, but perhaps with added intensity compared to most. Bosniaks, having been victims of most of the crimes and atrocities committed during the War, largely view NATO as an organisation that finally took responsibility for ending the fighting, in stark contrast to the ill-starred UN peacekeeping missions. Entering NATO would therefore provide the widest range of security guarantees of all, a promise that something like what happened in the 1990s could not happen again. Furthermore, as Bosniaks are the group most committed to maintaining BiH as a state, they view NATO membership as the ultimate guarantee of BiH's international borders. Membership would, in this view, once and for all put an end to Serb dreams of splitting off from the country, whether for independence or to join with the neighbouring nation state.

Bosnia and Herzegovina's History with NATO

North Atlantic Treaty Organization (NATO) was founded in 1949 on the principle of collective defence (NATO, 2022a). Right from the start, Art. 10 of the North Atlantic Treaty has been the basis for the Open Door Policy (NATO, 2022b). This states that any country in the Euro-Atlantic area is eligible to join NATO, on the condition that it is prepared to meet the standards and obligations of membership, to contribute to the security of the Alliance, and share NATO's values of democracy, reform and the rule of law. In 2017, Montenegro joined the Alliance as the twenty-ninth member, followed by North Macedonia as the 30th in March 2020, leaving only Bosnia and Herzegovina, Serbia and Kosovo on the outside.

The BiH Presidency expressed the desire to join NATO in June 2001 (European Western Balkans, 2019). First, several structural changes had to be undertaken. For the first decade after the war, BiH had two armies completely separated from each other, with relatively little interaction. Only in March 2004 was a national ministry of defence founded (Ministry of Defense BiH, 2015), and in May 2004, the first-ever joint collective exercise was conducted between the Army of the FBiH and Army of RS, with an integrated explosives disposal unit deployed to Iraq in 2005. The Joint Armed Forces of Bosnia and Herzegovina were established on 1 January 2006 (Armed Forces BiH, n.d.).

The Entity Ministries of Defence and Army disbanded, employees from the Ministries of Defence of FBiH and RS transferred to the new Ministry of Defence of BiH, and a new single defence budget came into force. The country received the invitation to join the Partnership for Peace (PfP) at the Riga Summit in July 2006, which BiH did on 14 December 2006 (NATO, 2020). In September 2008, Bosnia and Herzegovina agreed an Individual Partnership Action Plan (IPAP), with the aim of further developing the country's relationship with NATO (NATO, 2017a). In 2009, then-Chairman of the BiH Presidency, Nebojša Radmanović, sent a formal letter to NATO in which he unambiguously confirmed the country's commitment to NATO membership, calling it of crucial importance for Bosnia and Herzegovina (Klix, 2018). Based on this, NATO agreed, at a summit in Tallinn, Estonia, in 2010, to launch the Membership Action Plan (MAP) for Bosnia and Herzegovina, while specifying certain conditions that would have to be met (BBC, 2010). However, the issue of MAP provides an illustration of just how much Bosnian politics makes for malleable principles. The same Nebojša Radmanović, who as a member of Milorad Dodik's SNSD served in the presidency in 2009, would nine years later turn 180 degrees, now criticising NATO's mistake in green lighting BiH's MAP. Radmanović now argued that NATO should have known the political conditions and relations in the country, especially that one entity in Bosnia and Herzegovina, his own Republika Srpska, does not support NATO membership.

One of the main conditions NATO set in 2010 was for the proper registration of immovable defence property (barracks, bases, training facilities, other land etc.) under the state. To this end, the Presidency of Bosnia and Herzegovina defined sixty-three facilities of military purpose; forty-one situated in the Federation of Bosnia and Herzegovina, and twenty-two situated in Republika Srpska (Klix, 2019). Yet so far, only thirty-three out of sixty-three facilities are properly registered, all of them located in the Federation of BiH, while Republika Srpska has refused to transfer any of its military property.

This does not mean that the Army is not in day-to-day possession of the facilities, the issue is one of legal ownership. The issue of who owns and registers land in Bosnia and Herzegovina – the entities or the state – has long been controversial in other contexts, too. A Constitutional Court ruling on ownership of vacant agricultural land was what provided the spark for the February 2020 constitutional crisis.

Despite all the 2010 conditions not being properly addressed, NATO foreign ministers nonetheless decided in December 2018 that the Alliance would accept the BiH's first Annual National Program (ANP) (European Western Balkans, 2019). The ANP focuses on political, economic, defence, resource, security and legal reforms and it serves as the basis for practical cooperation and political dialogue between NATO and Bosnia and Herzegovina (NATO, 2022c). The submission would mean the activation of MAP, and – even if MAP in itself does not prejudge any final decision on membership – another major step forward in Bosnia and Herzegovina's relations with

the North Atlantic Alliance (FENA, 2019).

Finally, and after much delay and political brinkmanship, on 23 December 2019, Bosnia and Herzegovina's tripartite Presidency sent a "Reform Programme" to NATO. Probably deliberately, it was left ambiguous what exactly BiH had sent: an ANP or not? The document bore the wrong title, and was cleansed of NATO jargon, yet it covered the points normally expected for an ANP. Milorad Dodik, for his part, stated that the document was not an ANP, and that the country will never become a NATO member as long as he is in the Presidency (SRNA, 2020). His colleagues in the Presidency, however, Željko Komšić (Croat) and Šefik Džaferović (Bosniak) both stated that the country is now on its way towards NATO membership (N1 BiH, 2020a; Oslobođenje, 2020). So, in fact, did Mirko Šarović, whose Serb Democratic Party (*Srpska demokratska stranka*, SDS) is the main opposition to Dodik's SNSD (N1 BiH, 2020b).

But while Komšić and Džaferović saw potential membership as a good thing, Šarović viewed it as a betrayal. NATO, for its part, just quietly changed their website on 31 January 2020, to now state that Bosnia and Herzegovina was "participating" in MAP.

Leaving the internal political squabbles aside, on a more practical level, BiH and NATO have been partners for a long time. NATO has a military headquarters in Sarajevo; half of it is in the Federation of Bosnia and Herzegovina, the other half is in Republika Srpska. Bosnia and Herzegovina has declared a number of forces and assets as potentially available for PfP activities, including engineering (explosive ordnance disposal) capabilities and related equipment (NATO, 2022c). The country has participated in the Interoperability Platform, which brings Allies together with 24 selected partners that are active contributors to NATO's operations since 2014, and it is an active participant in the tailored Building Integrity (BI) programme, which focuses on good governance and transparent and effective use of defence resources. Since 2009, Bosnia and Herzegovina has contributed officers to the NATO-led International Security Assistance Force (ISAF) in Afghanistan as part of the Danish and German contingents, and now it contributes to NATO's Resolute Support Mission (RSM) in Afghanistan. This history led NATO Secretary General Jens Stoltenberg to state in 2017, "Bosnia and Herzegovina is a highly valued partner for NATO" (NATO, 2017b). In March 2019, BiH signed an agreement with NATO on securing sensitive information, and in December 2019, fifty-three members of the Armed Forces of BiH deployed to support NATO's mission in Afghanistan.

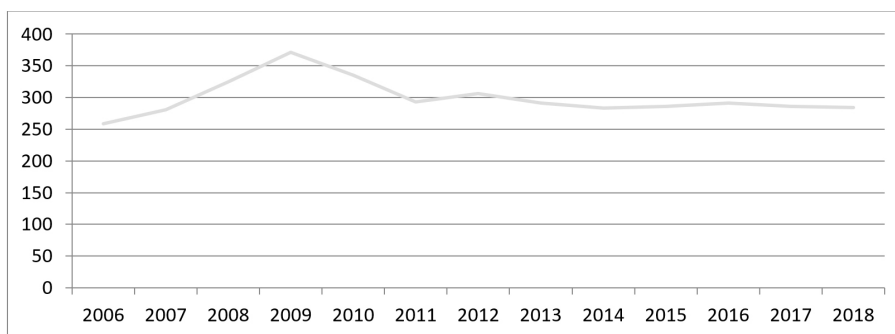
How Prepared is BiH for Membership?

But how prepared is Bosnia and Herzegovina for NATO membership, and how well do its military forces square up? At the outset of the unified military forces, the

Presidency of BiH decided that the Armed Forces should have 10,000 professional military personnel, 1,000 civilian personnel serving the Armed Forces and 5,000 members in the reserves Ministry of Defense BiH, 2015). But while the overall size is small, a much bigger problem is the very limited budget and the quality of the armed forces' equipment.

In stark contrast to targets set out in the 2014 Wales Summit declaration, the budget for the Armed Forces of Bosnia and Herzegovina has stagnated in absolute terms for the past decade (Chart 1), meaning a significant hollowing out of the purchasing power due to inflation.

Chart 1: The Ministry of Defence Budget, 2006–2018 (in millions of BAM)



Source: Ministarstvo finansija i trezora Bosne i Hercegovine (n.d.)

This standstill in expenditure is in clear contrast to the general development among the NATO members, where expenditures have gradually been rising since 2014.

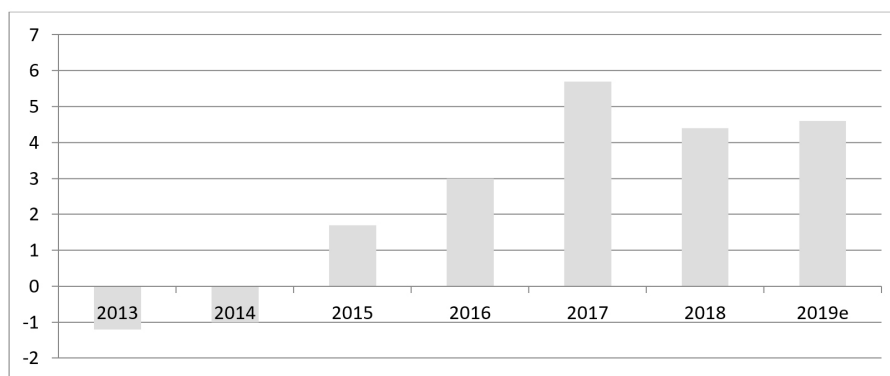
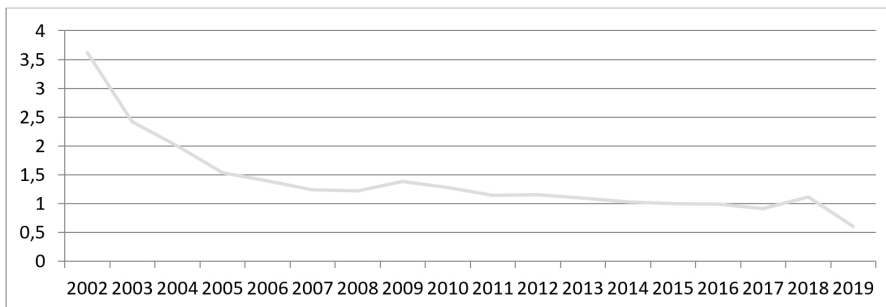


Chart 2: NATO Europe and Canada Defence Expenditure (annual change, based on 2015 prices and exchange rates)

Source: NATO (2019)

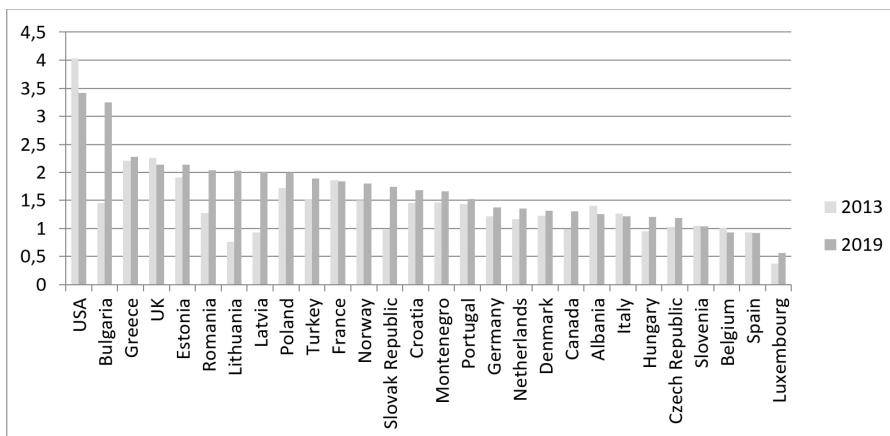
While NATO recommends members spending 2% of the GDP on their militaries, BiH has not spent anywhere near that much since the early 2000s. In 2019, the country spent only 0.6% of its GDP on the military (Chart 3), a reflection of economic growth and the static spending in absolute terms. This level of spending would place Bosnia and Herzegovina second last in the NATO rankings, ahead only of Luxembourg (see Chart 4).

Chart 3: Military Spending in Bosnia and Herzegovina (% of GDP)



Source: Stockholm International Peace Research Institute (2019)

Chart 4: Defence Expenditure (% of GDP)



Source: NATO (2019)

While membership itself is something that elicits strong feelings, there is notably less discussion of the size of the defence budget.

However, even on this point one finds the ethnic angle. Thus, on the one hand, Bakir Izetbegović, former two-term member of the Presidency and leader of the Party of Democratic Action (*Stranka Demokratske Akcije*, SDA), the largest Bosniak party, has

recently argued for investing more in the Armed Forces, and by extension the powers of the state (Oslobođenje, 2019). In contrast, the President of Republika Srpska, Željka Cvijanović, has responded that the money is better invested in the health care system and infrastructure. In her view, the Armed Forces' fighting capability was already so low, that further expenditure was meaningless. RS has instead preferred strengthening the entity-controlled police force, beefing up its paramilitary side, acquiring more heavy equipment, and considering creating additional "auxiliary police corps" (Knezevic, 2018).

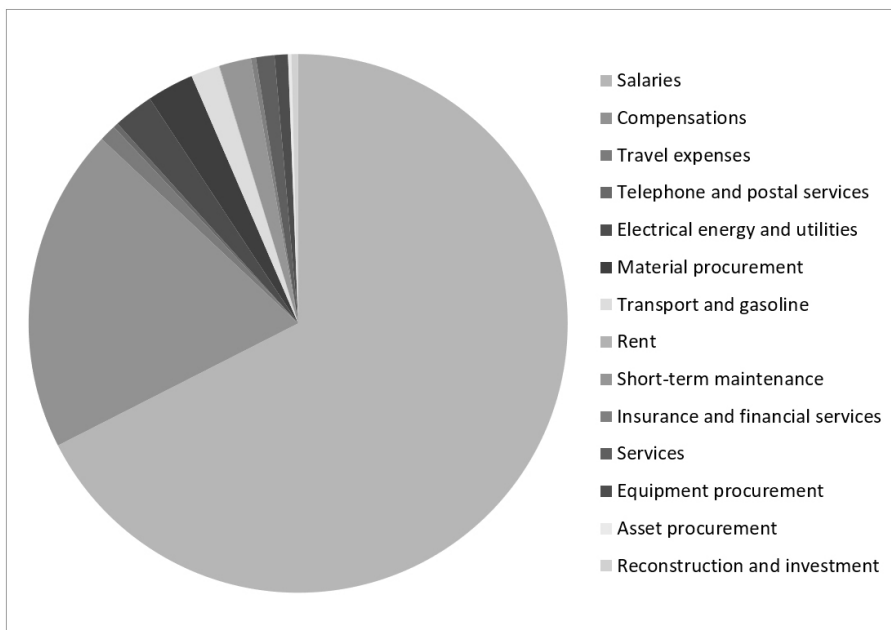
Evaluating countries based on their current military forces and ability to generate it, the Global Fire Power (GFP) index places Bosnia and Herzegovina in 135th place out of 138 countries surveyed (Global Firepower, 2022). One reason for this is that BiH does not have a real air force, no fighter aircraft and no proper air defences. While the army does possess a significant number of main battle tanks (320), armoured personnel carriers (332), heavy, light and self-propelled artillery (861 in total), and rocket projectors (143), much of this equipment is of Yugoslavian or Soviet origin, and even much of the Western-origin equipment is old, much dating to the 1950s and 1960s and was acquired second hand.

The BiH Armed Forces have largely relied on foreign donations. The country received a donation in armament and military equipment of \$250 million in 1997. More recently, in 2019, the United States approved \$30.7 million for BiH to modernise its helicopters (Faktor, 2019). In 2020, the Government of the Republic of Turkey announced that it would donate 200 million Turkish liras (approximately \$29,500,000) for the procurement of military equipment (Klix, 2020a). One of the main preconditions, though, was that the equipment be ordered from Turkish companies.

Another major point where Bosnia and Herzegovina falls short is on the NATO guideline that 20% of military spending be allocated to equipment. In fact, in 2018, a full 67.2% of the Ministry of Defence budget was spent on salaries and 19.4% on compensations for employees, while only 3.3% was spent on the equipment (procurement, short-term maintenance, asset procurement, and reconstruction and investment). There was no procurement of aircraft, contemporary artillery or tanks (see Chart 5). This level of equipment expenditure places BiH at a lower level than any NATO member. Considering the stagnant budget and the old legacy equipment, and the "techflation" phenomenon that all militaries face, this does not bode well for Bosnia and Herzegovina's ability to field modern, well-equipped armed forces.

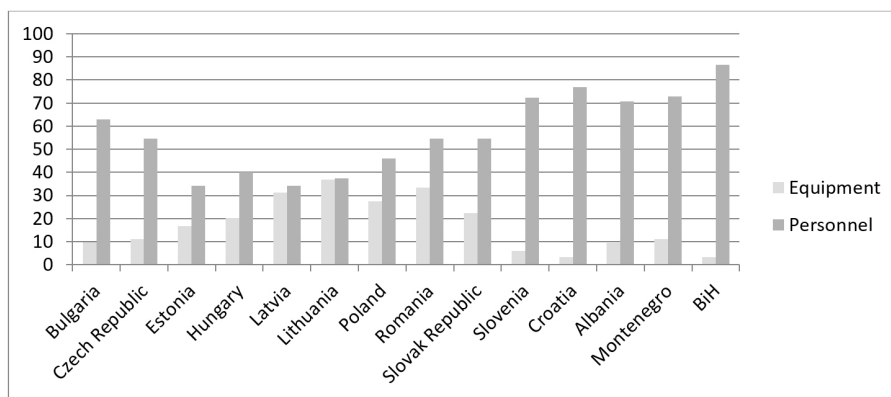
Even with comparable countries, the BiH figures do not look good. Central and Eastern European (CEE) NATO countries spent between 34.21% (Latvia) and 76.96% (Croatia) of their budgets on personnel and between 3.37% (Croatia) and 36.98% (Lithuania) of equipment (percentage of total defence expenditure). Albania and Montenegro spent 9.42% and 11.05% of total defence expenditure on equipment, respectively, and 70.7% and 72.87% on personnel. Chart 6 shows just how much work BiH needs to do to make progress on this score.

Chart 5: The Ministry of Defence Budget, 2018



Source: Ministry of Defense and the Armed Forces of Bosnia and Herzegovina (2019)

Chart 6: Distribution of Defence Expenditure (% of total defence expenditure)



Source: NATO (2019)

Conclusion

When the Corona crisis hit Europe in March 2020, it also moved NATO membership off the political agenda in BiH, which, in the twisted political life of the country, probably

suiting all participants well enough. Now there were other things to be concerned with, and all could quietly back down from their confrontational stances. However, the underlying political problems remain unresolved, and the issues continue to divide the fragile polity.

NATO membership for Bosnia and Herzegovina is and will ultimately remain a political question, both for the country itself and for the alliance. An eventual invitation to join NATO will not be due to BiH's ability to provide security or contribute significantly to Europe's collective security, but rather as a way for the alliance to stabilise a historically volatile region.

BiH has neglected its armed forces for years; it needs to drastically increase spending in order to meet NATO guidelines, and to spend the money better in order to modernise the forces. This will be a long-term process, but at least MAP is now providing a framework for it, which BiH has now, however fitfully, embraced. But long, hard slog has never been the strongest suit of the BiH political elite, and the possibility that NATO membership will fall prey to political machinations of one side or another, or be sacrificed for the narrow political self-interest of some faction or other, remains worryingly strong.

Postscript

The most remarkable thing since this chapter was written in Spring 2020, is just how little has changed. BiH's practical engagement with NATO has remained the same, not being particularly energized since the 'participation in MAP'. A poll from the beginning of 2022 showed that NATO had become significantly more popular among Bosniaks and Croats, with marginal movement in the same direction among Serbs (International Republican Institute, 2022). Yet not even the full-scale Russian invasion of Ukraine in February 2022 could bring it back to the forefront of politics. In an election year, and during the greatest European security crisis since 2000, a topic such as Bosnia and Herzegovina's international security orientation was not sufficiently important to receive much attention or lead to any rethinking. If anything, the war in Ukraine served only to confirm everybody's already-held views. Even as the country as a whole refrained from taking a clear stand, Bosniak and Croat leaders were mainly sympathetic to the Ukrainian cause, while Serb leader Milorad Dodik emphasized "neutrality" in the face of Russian aggression and war crimes. The likelihood is that the war in Ukraine will just solidify the fault-lines explained above. And in the Bosnian context, that means the status quo remains.

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Political Obstacles to Europeanization Process of Bosnia and Herzegovina

Muhidin Mulalić

Introduction

Because of the turbulent past and uncertain political and security challenges, most of the citizens in Bosnia and Herzegovina view EU enlargement as an opportunity for peace, security, stability and economic growth and development. However, since 1996, the dynamics of the EU integration process and potential enlargement has been conditioned by internal and external factors and conditions, which have affected the enlargement process of Bosnia and Herzegovina and other Western Balkans countries. In this regard, the constitutional challenges and drawbacks of the system of governance in Bosnia and Herzegovina are internal factors while the EU's evolving enlargement strategy toward the Western Balkans countries and the EU internal politics and member-states relations are external factors.

The EU enlargement strategy to the Western Balkan countries is often viewed from post-conflict and security perspectives. This was especially the case during the first decade of the enlargement process which focused on peace, stability, and security. After the signing of the Stabilization and Association Agreement (SAA), the enlargement strategy began focusing on the system of governance, capacity-building, technical assistance, functioning of state institutions, democratization process, human rights, economic development, and fight against corruption and organized crime. Thus, the EU financial assistance, in the form of structured and program-based pre-accession (IPA) funds, has been purposefully directed for the support of necessary reforms. In Bosnia and Herzegovina, the Council of Ministers adopted the Reform Agenda (2015-2018) to support and foster SAA set reforms, which also resulted in the submission of the membership application in 2016. Besides the support for public administration reforms and the democratization process, these pre-accession funds aimed to strengthen the Western Balkan's cooperation. In 2000 and 2003, profound EU initiatives for the prospects of the Western Balkan's EU membership were initiated at the Santa Maria da Feira and Thessaloniki European Council Summits. However, more specific conditions for the Western Balkans countries have been evolving and reached their climax in the last few years with the adoption of the new European Commission enlargement package. In this regard, Bosnia and Herzegovina remains a potential candidate country, which must fulfill fourteen conditions to open EU accession negotiations and to gain candidate status. These key priorities are broadly aimed at democracy and functionality, the rule of law, fundamental rights, and public administration.

Although Bosnia and Herzegovina has met only one set condition out of fourteen in the past three years, the Ukraine conflict and security threats have provoked discussions about the new approach to the Western Balkans integration process. On the one hand,

the local leaders have failed to adopt key laws to fight corruption, conflict of interest and misuse of public procurement and on the other hand, the EU has been pressured to revoke set conditions and to grant Bosnia and Herzegovina immediate candidate status. Such views gained the support of some local and international leaders who place Bosnia and Herzegovina in the same position as Ukraine, Moldova, and Georgia.

Constitutional Challenges

Since the Dayton Peace Agreement (DPA) is an international agreement, its future depends on local political leaders, signatories and witnesses of the Agreement. However, the Constitution of BiH (DPA Annex 4) can be changed by the Parliamentary Assembly of BiH and a two-thirds majority in the House of Representatives of BiH. The Constitution is based on consociation principles and is harmonized with the Universal Declaration of Human Rights, and international treaties on civil, political, economic, social, and cultural rights (Gordy, 2015, pp. 611-622; Karić, 2016, pp. 26-31). The political elites made three attempts at constitutional reforms, including the April Package (2006), Prud Process (2008), and Butmir Process (2009). Their failures contributed to a permanent political crisis that has endangered peace, security, and former accomplishments of the international community. Then, DPA affects the state-functioning and Europeanization process because state-institutions cannot comply with requested reforms and constitutional ethnic and constituent provisions are not harmonized with the EU *acquis* and standards.

The DPA does not properly treat neighboring countries as aggressors and their post-conflict obligations towards BiH, such as non-interference and cooperation with ICTY. Thus, although in an absence of proper laws, the DPA has opened up the possibility of using the laws of the Republic of Bosnia and Herzegovina, such practice has been only partially implemented at the local levels. The DPA created a basis for the international community to engage ethno-political leaders in the post-conflict, peace-building and state-building periods, which opened the door for a continuation of the war by non-military means. In this regard, the state has been continuously in a state of hybrid war. This scenario has been prolonged until today, which contributed to the territorial polarization and frequent calls for secession of territories primarily based on ethnicity (Bojičić-Dželilović, 2015, p. 5; Mulalić & Korkut, 2012, pp. 107-117). Furthermore, European right-wing populists, radicals, and nationalists have invaded the public sphere in BiH and began siding with the local ethno-political and nationalist leaders. Their presence and influence have become very visible in the last few years.

In a weak state with strong entities, the ethno-political leaders often block the state and its institutions to create an image of an impossible and failed state. Since 1995 hundreds of state-level decisions, including the constitutional court's decisions, have not been implemented (Dümmel, 2015, pp. 40-41). On the other hand, ethno-political leaders have strengthened the entities at the expense of the state in which they have a sovereign rule, which affected sustainable governance and security. According to Ruge (2020) "over the last 15 years, a parallel strengthening of sub-state institutions in the

Republika Srpska and deliberate obstruction of national state institutions has rendered the system dysfunctional, while key provisions of Dayton remain unimplemented” (p. 4). Although the Office of the High Representative (OHR) has the responsibility for the civilian implementation of the Agreement, the OHR had difficulties implementing the DPA and to tackle severe obstructions effectively. In this regard, the Office of the High Representative Report (2022) clearly indicated that

the RS authorities still actively move to subvert the State of BiH, its competences and institutions, and thus the GFAP. On the one hand, representatives elected and appointed from the RS to the State institutions continue to paralyze those institutions by blocking their ability to work and decide. As a result, legislative output is nonexistent, reforms – including those required to advance towards the EU – are stalled, international agreements are on hold, and there is no adopted State-level budget for the second year in a row (p. 3).

Finally, the United States, the United Nations, and NATO legacy is at risk because of a difficulty to ensure a stable democratic system, economic growth, stability, and security. Although Bosnia and Herzegovina has been a success story as a post-conflict state, today geopolitical circumstances threaten to jeopardize and reverse a major success of US foreign policy during the 1990s.

Bosnia and Herzegovina has a dysfunctional system of governance due to the Constitution, its political system and blockades based on ethnicity and vital interest. There is an urgent need for constitutional changes that would harmonize the decentralized state, entity, and cantonal levels of governance. The constitutional ethnic principles, constituent peoples, and veto mechanisms should be reformed to eliminate possibilities for their abuses by ethno-political leaders. The constitutional rights, including ethnic representation, should be directly managed by impartial courts at entity and state levels. Then, the constituent people model, that grants exclusive rights to Bosniaks, Serbs, and Croats must be ensured within broader constitutional rights based on the Universal Declaration of Human Rights and the EU *acquis* and standards. This power-sharing approach would grant the rights of majorities and minorities in a secular state, without ethnic principles and the model of constituent people.

The administrative organization also requires constitutional changes, whereby it is important to start the process from the bottom. In this regard, both entities and the Brčko District may start with an administrative reorganization based on economic, demographic, administrative, and communication criteria. In this regard, the entity and cantonal administration may improve from within, which would gradually lead towards constitutional changes at the state level. In the post-conflict period, the major challenge was the creation of so-called ethnic cities, cantons, and entities. The ethnic division was endorsed by the DPA whereby 28 multiethnic municipalities were divided. Most of the newly founded municipalities are small in size, demography,

and public infrastructure and as such their demographic, administrative and economic sustainability is in question (examples include Krupa na Uni, Petrovac, Istočni Drvar, Ribnik, Oštra Luka, Doboj Jug, Doboj Istok, Domaljevac-Šamac, Petrovo, Pale, Trnovo, Istočna Ilidža, Istočni Stari Grad, Istočno Novo Sarajevo, and Sokolac). Therefore, administrative reorganization, based on the reunion of old municipalities, would enable economic growth and the (re)creation of multiethnic entities, cantons, and municipalities.

Bosnia and Herzegovina is characterized by power-sharing and consociational democracy. Therefore, calls for further centralization and/or decentralization must be urgently tackled. Current constitutional legislative and executive powers at the state and entity levels ensure an equilibrium of power-sharing. However, ethno-political leaders do not show the political will to uphold the constitution and to respect the power-sharing model because they keep the state and entity levels always in collision. A continuous attempt to block the state-level legislative and executive powers by the ethno-political leaders in effect endangers the very foundations of the state as a whole. In this regard, the constitutional legal and executive powers at both levels must be equally supported by all political leaders, whereby key institutions would gain meaning and purpose. Furthermore, exclusive ethnic claims of cities, cantons and entities could lead to further ideological polarization and more importantly discrimination of minorities. For instance, instead of developing the multiethnic and multicultural character of the entity Republika Srpska, there are attempts to present this territory exclusively as a “Serb State,” belonging to the “Serb World.”

Drawbacks of the System of Governance

According to the Parliamentary Assembly Bosnia and Herzegovina Report (2021), only 59 draft law proposals were discussed in both houses from December 6, 2018 to December 31, 2020, out of which 10 laws were passed, 26 were rejected, 2 were withdrawn, 10 were suspended and by December 31, 2020, for 10 draft laws the procedure was not completed. In 2019, the Parliament failed to hold a single regular session, while delegates continued to receive salaries (Ruge, 2020, p. 2). According to the Road Map on Good Governance for State Institutions in Bosnia and Herzegovina (2019)

legislative bodies in Bosnia and Herzegovina on average meet 47% of the indicators of openness in the areas of transparency, accessibility, awareness and integrity. Compared to other countries in the region, Parliaments in BiH are at the bottom of the list when it comes to fulfilling the above-mentioned indicators, which raises concerns about the low level of openness of the legislative power in BiH. (p. 8)

Then, legislative governance indicators were as follows: accessibility 37%, awareness 58%, integrity 49% and transparency 49% (pp. 8-13). According to the Office of the

High Representative Report (2022) “the BiH House of Representatives (HoR) held only four regular sessions and one urgent session, not even meeting monthly, and usually without the participation of representatives elected from the RS. The BiH House of Peoples (HoP) fared even worse, holding only two regular and two urgent sessions” (p. 15).

After 2002, the new law on the Council of Ministers improved this legislative body, but until today it remains fragmented on an ethnic basis. Consequently, ethnic and party interests inhibited its functioning and results. Divisive ethnic and nationalist rhetoric, which has been used by ethno-political leaders to cover corruption and governance failure, was noticed by Joe Biden in 2009 when he addressed the Parliament of BiH, stating “when will you get tired of this divisive nationalist rhetoric? The United States expects you to start working across party lines to make Bosnia function as a normal state” (Ruge, 2020, p. 2). According to the Road Map on Good Governance for State Institutions in Bosnia and Herzegovina (2019) “ministries in Bosnia and Herzegovina meet 30% of the indicators, on average, analyzed in the area of transparency, accessibility, awareness and integrity, which indicates a very low level of openness of the executive power in BiH” (p. 19). Subsequently, the report evaluated the functioning of ministries as follows: accessibility 17%, awareness 35%, integrity 23% and transparency 38% (pp. 19-23). According to the Office of the High Representative Report (2022), “the BiH Council of Ministers (CoM) held only five regular and four urgent sessions, with very limited output. The CoM did not adopt a single piece of legislation, which is indicative of the extent of the blockade of the State and its legislative instruments” (p. 15).

The DPA state structure, based on two entities and one district, is often represented as very complex (Dümmel, 2015, pp. 44-45). There is a difficulty of “financing 13 governments, parliaments, five presidents and a total of 149 ministries” (Ruge, 2020, p. 2). In addition, according to the Road Map on Good Governance for State Institutions in Bosnia and Herzegovina (2019) “the executive power in BiH meets a total of 49% of openness indicators in analyzed areas of transparency, accessibility, integrity and awareness. Bosnia and Herzegovina is thus at the fifth, penultimate place in the region when it comes to the openness of the government, only by a few percent higher than Kosovo which is last on the list” (p. 14). The same report rated the executive governance as follows: accessibility 39%, awareness 45%, integrity 54% and transparency 51% (pp. 14-18).

Bosnia and Herzegovina requires urgent rationalization of the public administration and public spending. Financing numerous levels of governments, parliaments, and ministries, coupled with parallel institutions and public companies, overlapping competencies and duplication of functions inhibit socio-economic growth and development. Then, democratization and professionalization of public administration and institutions will not only ensure accountability, accessibility, and integrity but prevent the destruction of the state-level system of governance by ethno-political

leaders. This would in turn lead towards the end of the so-called “partocracy system” and the appointments and recruitments based on the party-in-power preferences. Since the current public administration is not sustainable, its reform should be attuned with EU conditions, socio-economic agenda and reforms. This would eventually lead towards desirable changes because public spending in Bosnia and Herzegovina is more than 50% of GDP and public finance and tenders are used for strengthening clientelistic, nepotistic, individual and party interests, whereby they breed the corruption and party control of cantonal, entity and state institutions. Public administration should reflect the EU *acquis* because it is the key to a successful EU integration process, which requires public administration professionalism, accountability, impartiality, and efficiency.

In 2005, as a result of the judicial reform process, the High Judicial and Prosecutorial Council was established to ensure the transparency, neutrality, professionalism, and independence of the judicial powers. The Council is responsible for the election of judges and prosecutors at all levels, and judges’ non-compliance with other functions and funding to ensure financial independence (BTI, 2020, pp. 13-14; Gavrić, et al., 2013, p. 46). According to the Road Map on Good Governance for State Institutions in Bosnia and Herzegovina (2019) “the HJPC BiH meets 64% of the judicial indicators of openness and ranks second behind Montenegro (80%). When it comes to the regional average, the HJPC BiH score is slightly better than the average score of 57%” (p. 37). The report presented HJPC indicators as follows: accessibility 45%, awareness 100%, integrity 74%, and transparency 53% (pp. 37-38).

A gap between Bosnia and Herzegovina and neighboring countries regarding judicial independence has widened. The Public Integrity Index placed Bosnia and Herzegovina at 111th place out of 117 countries (Ruge, 2020, 2). According to the Road Map on Good Governance for State Institutions in Bosnia and Herzegovina (2019) “when it comes to the overall results of the courts in BiH, only 25.66% of the openness indicators were met, which is almost the same result as in the previous research (25.92%). This puts Bosnia and Herzegovina in last place. Montenegro, whose courts have satisfied 56.79% of openness indicators is the best in this area. The courts in BiH are also below the regional average of 37.24%” (p. 34). The report presented the court indicators as follows: accessibility 22.12%, awareness 27.06%, integrity 34.44% and transparency 27.28% (pp. 34-36).

Bosnia and Herzegovina urgently needs to revive the structural judicial dialogue and its reform to prevent further decline and state capture. It is important to develop a strategy of how to implement EU standards and the *acquis*. In the past decade, the judiciary has been significantly politicized and court judges have been compromised based on their entity, ethnicity, and party affiliation. The European Commission Report (2020a) clearly indicated “obstruction of justice reform by political actors and from within the judiciary, and the poor functioning of the judicial system continued to undermine the citizens’ enjoyment of rights and the fight against corruption and

organised crime” (pp. 15-16). According to an OSCE Report (2020), corruption cases “dropped from 80 per cent in 2017 to 57 per cent in 2019 for medium level cases, and from 100 per cent in 2017 to an abysmal 12 per cent in 2019 for high level cases. In absolute numbers, only 13 defendants were declared guilty, while 23 were acquitted in high and medium level cases finalized in 2019” (p. 5). The number of high corruption cases, unresolved killings and assassinations has not been resolved test judicial independence, impartiality, accountability, professionalism, competence, and the quality of justice that citizens receive. In this regard, non-governmental actors, media, civil society, and officials across all branches of government must scrutinize and assess the work and integrity of the judiciary in the public sphere. Further strengthening of the judicial system and fight against corruption could be fostered through revoking the decision of the removal of the international prosecutors and judges from 2009.

Although the sovereignty, territorial integrity, and political independence of Bosnia and Herzegovina is primarily exercised at the state level, calls for secession and purposeful creation of ethnic tensions and instability should be urgently treated by the courts and the Office of the High Representative because growing ethnic tensions and radical nationalism might destabilize the region and significantly affect the security in Europe. Attempts at the creation of petty states and exercising quasi-sovereignty by misusing the DPA at the entity and cantonal levels must be urgently encountered because it already contributed to the emergence of autocratic local ethnic leaders and state capture. The ethno-political leaders have strengthened the entities at the expense of the state in which they have a sovereign rule, which significantly affected sustainable governance and security. These trends, if not encountered urgently, may gradually lead to a social, political, and economic disintegration of the state. In turn, these developments will lead to unrest, apathy, fears, and emigration of young people.

The Electoral Law in Bosnia and Herzegovina has been under scrutiny of local and international diplomats, politicians, and leaders due to the case of Sejdić-Finci against Bosnia and Herzegovina, followed up by two more cases, the Zornić Case and the Pilav Case, at the European Court of Human Rights (ECHR) (Gavrić et al., 2013, pp. 27-28). Afterwards, the Ljubić Case before the Constitutional Court of BiH challenged the election of delegates on an ethnic basis, equal representation and legitimate representation in the House of Peoples (BTI, 2020, 1p. 0; Sahadžić, 2009, pp. 61-78). These cases and verdicts pointed to the violation of human rights because citizens outside the constituent peoples cannot run for the Presidency of BiH and the House of Peoples, which has affected the EU integration process. More heated political activities began because of the election of Željko Komšić as a Croat member of the Presidency of Bosnia and Herzegovina in 2018 who also won the presidency seat in 2006 and in the 2010 General Elections. Although the Constitution and the Electoral Law do not treat elected members of the BiH Presidency as representatives of Croats, Serbs, and Bosniaks, the HDZ and Croat political parties do not perceive Mr. Komšić as their member of the Presidency. They argue that he was elected primarily by Bosniak voters. These cases and issues also provoked local and

international discussions and debates not only on the Electoral Law but also about possible constitutional changes and territorial reorganization. However, instead of the obligations to eliminate electoral discrimination, which was the main subject of the court's judgment, the Croat leaders turned this into a Croat question, arguing for a separate electoral territory and so-called ethnic legitimate representation.

Obstacles to the Europeanization Process

Bosnia and Herzegovina is often regarded as a captured state because of extremely high levels of corruption and ineffectiveness in the system of governance, public administration, and the rule of law (Weber, 2017, pp. 10-15). Therefore, "EU leaders need to better understand the fundamental role that state capture and organised crime play in the region's problems" (Ruge, 2020, p. 25). According to a European Commission Report (2020a), the rule of law, the independent judiciary, the fight against corruption, the independent media, and free elections are at a very low level, for a country aspiring to become an EU member. Since 1996, the elections have usually been misused for the revival of ethno-political issues and further polarization of the society, without an exception until the last local elections that were held on November 15, 2020 (Huskić, 2019, pp. 199-217). However, the last local elections also showed signs that the dominance of ethno-political political parties and their divisive political agenda and campaigns during the elections do not guarantee continuous victory. In this regard, it is important to point out the significant losses of the political parties SDA and SNSD to their opposition opponents. Both parties lost the seats of power in Sarajevo and Banja Luka, respectively (Repovac- Nišić, 2021, pp. 30-39).

The Electoral Law and the election process as a whole have been challenged by almost all political parties on grounds of legitimacy and transparency, especially regarding the terms for running for the Presidency which is granted only to the members of constituent people, which is a clear violation of fundamental rights. However, after each election, the main ethno-nationalist political parties usually form a coalition and the government. One visible progress regarding the elections was the holding of local elections in Mostar for the first time since 2008 (Piacentini, 2020, pp. 1-14; Repovac-Nikšić, 2021, pp. 30-39). However, the Office of the High Representative Report (2022) clearly indicates that

the Federation Government from the 2014-2018 mandate remains in place, with no new Government appointed following the 2018 General Elections. The Government is reduced from 16 to 13 ministers, due to the deaths of two and the resignation of another. There is no agreement on appointing a new Government or replacing the missing ministers due to the stated position of HDZ BiH not to approve any appointments until an agreement on electoral reform is reached. (p. 6)

There is immense pressure and control of the media, which mostly depends on the public budget. The media's questionable transparency impairs the democratization process and fair and transparent elections further. On the other hand, the few

independent media stations and their journalists have been under tremendous political pressure and even attacks (Gengo et al., 2019, pp. 73-93). Thus, state institutions in terms of the rule of law and good governance have significantly deteriorated since the international community has transferred the responsibility to local political leaders (BTI, 2020, pp. 5-6; Weber, 2017, pp. 10-15). Citizens do not trust the judiciary because of rampant corruption and very low efficiency in this sector, whereby the European Commission Report (2020a) clearly pointed to very little progress in the fight against corruption and organized crime. The state institutions are politicized and captured by a cartel consisting of political and economic elites, whereby there is no separation of power across legislative, executive, and judicial branches of governance. According to Weber (2017) the public administration became “the core instrument of the systems of patronage, in two ways: First, it is responsible for the fragmentation of public administration in the highly decentralized Dayton state. Second, the legally prescribed ethnic representation in public administrations limits the development of a merit-based civil service” (p. 12). The reasons for this are inconsistent laws, ineffective coordination across different levels of governance and fragmented institutional structures. In this regard, the EU’s famous fourteen priorities for its membership application request reforms and changes in public administration, the democratic system, the rule of law, state institutions, and fundamental rights (European Commission, 2019).

According to Freedom House (2021) and the Index of Economic Freedom (2021), Bosnia and Herzegovina is still in a transition from a post-conflict state to democracy, seeking peace, stability, and security. At the same time, the state is seeking EU membership that is furthermore conditioned by a consensus at cantonal, entity and state levels. Ethnic, political and ideological issues overshadow real social and economic issues in turn keep the state in a permanent state of conflict and crisis (Mujkić, 2010, pp. 123-132; Piacentini, 2020, pp. 1-14). The constitutional rights and multi-layered system of governance have been continuously challenged by the political and ethno-nationalist populists (Weber, 2017, pp. 10-15). The International Community and the Office of the High Representative have not been active in fostering necessary reforms and changes, which eventually resulted in their retreat and transferring of such a responsibility to the local political leaders and actors. In the past decade, the local political elites and leaders have reversed reforms and brought back ethno-nationalist issues to the public sphere, which overshadow real democratic, social, and economic aspects of life. Frequent calls for secession, referendums, political obstructions, corruption, and ethno-nationalism in the public sphere have become one of the main security challenges not only in Bosnia and Herzegovina but in the whole Western Balkans (Bassuener & Mujanović, 2017, pp. 99-111). Ethnic divisions, legalized in the Dayton Peace Agreement, significantly contributed towards the ethnification of politics, state institutions, political parties, sports, education, and almost all other aspects of life. For instance, most of the political parties exclusively function along ethnic lines and “captured” territory, municipalities, cantons, or entities. In this regard, the system of governance is primarily conditioned by ethnic interests, leading to very

low state efficiency which cannot meet international obligations set by the EU and NATO (Džihić, 2021, pp. 13-15; Piacentini, 2020, pp. 1-14).

Ethno-nationalism led to state capture in which corruption, political patronage, and misuse of ethnic rights have inhibited reforms and a transition of the state. In addition, deficiencies in the democratization process have opened the door for Serbia and Croatia to misuse local political elites as proxies for the achievement of their nationalist goals. Consequently, the notion of Bosnia and Herzegovina as a failed state has been frequently used by both local and regional political leaders who question the territorial integrity and sovereignty of the state. Such initiatives have been strongly supported by calls for referendums and secession from Bosnia and Herzegovina (Bassuener & Mujanović, 2017, pp. 99-111). In this regard, Ruge (2020) is right in arguing that “quint members and the EU should jointly reiterate their red lines on the inviolability of international borders in the Western Balkans, as well as on meddling in Bosnia’s domestic political affairs by Serbia and Croatia” (p. 26).

Bosnia and Herzegovina has a very high level of corruption at all levels. According to Ruge (2020) “between mid-March and the end of May this year, 416 procurements in Bosnia and Herzegovina were negotiated without a public tender. Although this was made legal by an emergency measure issued by the Bosnia and Herzegovina Public Procurement Agency, a large number of irregularities appear to have been geared towards channeling funds to companies affiliated with political parties’ leaderships” (p 14). The fight against endemic corruption, that has hampered a transition to a market economy, must be systematically tackled. The OHR and the international community must (re)consider again the appointment of international judges for corruption and organized crime. In addition, new EU-US policies must be framed around the fight against organized crime and corruption in Bosnia and Herzegovina. Local political leaders must be pressured to put on the agenda the EU fourteen conditions and reforms, based on the EU strategy and the Reform Agenda. Pressure may be applied through different instruments including financial support, the judiciary, and the media and civil sector. The European Commission opinion and set agenda will certainly counter the excessive presence of ethnic-nationalist agenda, forced by the ethnic leaders, in the public sphere. It is important to prioritize reforms that may improve the functionality of the rule of law, whereby the judiciary will begin resolving numerous corruption cases. The power should be shifted from exclusive governmental forms at the state and entity levels to unlock youth opportunities and more effective functioning of non-governmental sectors. Moreover, civil society organizations, media, and education institutions in political and socio-economic processes need to be involved because they integrate citizens in the public life and can initiate democratic processes that challenge the efficiency and transparency of the democratically elected government.

Bosnia and Herzegovina requires a democratization of political parties to replace the exclusive ethnic model and autocratic functioning under strong party leaders.

Autocratic leaders inhibit the democratic functioning of political parties and their representatives in the legislative and executive branches of governance. For instance, parliamentary representatives at state, entity, and cantonal levels mostly endorse already approved decisions by their autocratic leaders. The post-war period until today is characterized by the dominance of ethno-political parties and their ethnic organization, which inhibited democratization and balance of power by the opposition political parties which are very weak. For instance, in the Republika Srpska entity, the SNSD has an absolute rule for more than a decade, which strengthened the one-party system and pushed the opposition parties to the margins. A similar scenario can be seen with the HDZ that has no opposition among the Croat voters. The elections have been mostly conducted within the context of inflammatory narratives of ethnic protection, political power, and political self-rule, devoid of any meaningful political campaign programs that are harmonized with the global world and the Euro-Atlantic integration process.

The Euro-Atlantic Challenges

Bosnia and Herzegovina developed a strong orientation towards the European Union (EU) and the North Atlantic Treaty Organization (NATO), mostly aimed at a possibility of peace, security, and economic prosperity. There are widespread beliefs that with the Western Balkans Euro-Atlantic trends for integration space for violent conflicts and pretensions will eventually decline and interdependent cooperation will increase. In this view, the Euro-Atlantic integration process would eventually lead the region to use of given international incentives, make necessary reforms and develop economic and democratic capacities (Gavrić et al., 2013, pp. 99-100; Muskaj, 2019, pp. 74-81).

In 2003, the BiH Presidency adopted a simple document entitled *Directions and Priorities for Conducting B&H Foreign Policy*, in which international law conventions, bilateral and multilateral relations and protection were affirmed. These directions, principles and priorities were primarily aimed at peace, security, stability, prosperity, compliance with international law and democratization. This document also promoted Euro-Atlantic integration and its political, economic and security structures. In 2018, a new strategic foreign policy document entitled the *Strategy of Foreign Policy of B&H* was adopted in the form of a five-year strategy, which was one of the requirements for the Euro-Atlantic integration processes. The new strategy outlines four major foreign policy pillars related to security, stability, economic prosperity, protection, international cooperation and the promotion of BiH (Hasić & Karabegović, 2019, pp. 7-8).

Western Balkans relations are important components of regional peace, stability, and cooperation. The relations between Bosnia and Herzegovina and its neighboring countries, especially Serbia and Croatia, have been shaped in reference to the conflicts of the 1990s. Not only did these countries fail to acknowledge their role in the Bosnian War but in the past decade they have intensified their interference and support

for parallel structures that undermine independence and sovereignty. Although the Bosniak leaders frequently ask these countries to stop meddling in Bosnian affairs, their leaders and different ministers politically and financially back Bosnian Serb and Bosnian Croat political leaders, their parties and their political agenda. In addition, the Croat leader Dragan Čović and the Serb leader Milorad Dodik act in a coordinated manner in trading off Bosnian national interests with both Serbia and Croatia. The Croatian leaders also give strong support to Bosnian Croats by (mis)using the EU and NATO membership and their institutions like the European Parliament, which prompted three former High Representatives to BiH to express their open concerns. Croat leaders frequently visit and influence political campaigns in Croat majority cantons and towns, whereby they neglect the state and governmental institutions, like the Presidency. Bosnia and Herzegovina and Croatia have several bilateral disputes, including the building of the Peljesac Bridge, border disputes, succession issues, and nuclear waste disposal on the border with BiH. Serbian leaders and officials regularly tour Bosnian territory and call for the creation of a “Serb World” in official meetings, which is in effect a support for secession. Leaders from Serbia and the RS entity also give full support to convicted war criminals and negate the Srebrenica genocide. In the past years, Serbian cooperation with the ICTY and regional courts has significantly declined, with Serbian leaders openly stating that they do not plan to extradite their citizens to Bosnia and Herzegovina and/or The Hague for committed war crimes. Bosnia and Herzegovina several bilateral disputes with Serbia, including the unresolved demarcation line for the border on the river Drina (BTI, 2020, 8; Marković & Subašić, pp. 185-207; Mujanović, 2019, pp. 164-168). From a security point of view, the relations with the neighbors must improve because “Bosnia and Herzegovina is the linchpin of regional stability due to its central location in the Western Balkans, its recent history of enormous destruction, and the way neighbouring states interfere in its affairs” (Ruge, 2020, p. 6).

The great powers exercise their influence in the Western Balkans, including in Bosnia and Herzegovina. Russia has strong relations with Serbia and consequently the RS entity in Bosnia and Herzegovina, which has been used as a Russian proxy in challenging Euro-Atlantic integration and security. In Bosnia and Herzegovina Russia has exploited ethnic divisions and backed pro-Russian political factions. In the RS entity, the political parties in power and opposition political parties are under very strong Russian influence and control. Russian influence is being exercised through financial, energy and economic sectors. For instance, the Russian state-owned oil company Zarubezhneft controls the oil refinery and oil processing in the RS entity, with significant tax-contribution to RS budget revenue and possible policy influence. In addition, in the past years, the Republica Srpska received major military supplies and training for its police from Russia. Such militarization of the police force is in collision with the police-civilian law enforcement. Russia also supported a referendum in the RS, objections to court verdicts, revisionism of the Srebrenica genocide, non-compliance on the NATO path, blocking of the state institutions, and non-cooperation and non-recognition of the newly appointed High Representative.

It is significant to mention that Russia also strongly supported Bosnian Croats in their agenda to create a third entity. Milorad Dodik has frequent meetings with top Russian officials, including Russian President Vladimir Putin. His Russian allies strongly influenced him in resisting Euro-Atlantic cooperation and undertaking necessary reforms as to enable democratic, security and political progress and functionality of Bosnia and Herzegovina as a state. In the latest report by the Office of the High Representative (2022), Christian Schmidt declared “I must express my disappointment and alarm at recent comments by the Russian Ambassador to BiH, who appeared to threaten BiH sovereignty” (p. 5).

Chinese presence in Bosnia and Herzegovina is mostly of economic and financial nature. However, in recent political developments China has changed its policy of neutrality and sided with Russia in rejecting the legitimacy of the High Representative. China has been primarily interested in finance, energy, and transportation projects; it has been involved in the projects of the construction of coal-fired plants in both the RS and the FBiH (Mujanović, 2019, pp. 174-178). Moreover, a distinct Turkish foreign policy for Bosnia and Herzegovina has evolved as part of Turkey’s pragmatic policy in the Western Balkans of recent years. Such a pragmatic approach and non-interference provoked wider debates and criticism. For instance, the daily newspaper *Dnevni avaz* challenged Dodik’s last visit to Turkey and his meeting with the Minister of Foreign Affairs of Turkey, Mehmet Cavusoglu. Many Bosniaks interpreted this as an affront and an embracing of genocide deniers from their supposed ally. Thus, Turkey’s role in Bosnia and Herzegovina is ambiguous, especially regarding the relationship to Bosniaks.

Since the first traces of the establishment of EU-Bosnia relations in 1997 to 1999, until today the integration process has been very long, turbulent, and undefined. The process has been affected by the EU, as well as by regional and local factors. The EU’s political, legal and economic conditionality has changed and internal EU problems have significantly affected the EU member-states perceptions about the Western Balkans integration process. Furthermore, regional circumstances have changed, whereby some Western Balkans countries look for an East-West policies, with an exclusion of the NATO membership, which goes together with the EU membership. The third predicament is the ability of the Western Balkans countries to comply with the requested reforms.

Bosnia and Herzegovina’s EU integration process began with the Stability and Association Process in 1999, which aimed at stabilization, integration, and regional cooperation among the Southeast European countries. In 2000, the EU Road Map defined 18 key conditions that BiH must fulfil together with a Feasibility Study, consisting of 346 questions, for the opening of negotiations on a Stabilization and Association Agreement (SAA). In 2004, the EU accepted the first European Partnership with BiH, while the negotiations on the SAA were finalized in 2007

(Gavrić et al., 2013, pp. 100-102). The first decade after the war (1996 to 2006) contributed to visible political changes and economic growth primarily due to foreign aid and international support for peace-building and state-building. Such support led to “establishing a single currency, a central bank, a single market, unified vehicle number plates, and a national flag and other symbols. Numerous competencies were also transferred from the entities to the central government – including, critically, those in the areas of finance, justice, security, intelligence, and defense. Crucially for Bosnia and Herzegovina, these reforms allowed the country to function as a sovereign state” (Ruge, 2020, p. 4). However, long-term political, legal, and economic reforms that would strengthen the Euro-Atlantic integration process of Bosnia and Herzegovina were significantly neglected. Moreover, a number of new institutions and ministries were formed in this period. In 2015, the Stabilization and Association Agreement between BiH and the EU entered into force. A year later Bosnia and Herzegovina submitted the application for EU membership and received a positive response with the requirement to fill in the questionnaire, which was sent in February 2018. Therefore, Bosnia and Herzegovina has potential candidate status and is entitled to use the EU’s Instrument for Pre-Accession Assistance II (IPA II) (BTI, 2020, 39). To this effect, the integration process has been managed through so-called coordination mechanisms.

Overall, the EU integration process has been aimed at the rule of law, public administration reform, and economic development. However, according to the European Commission’s report (2020a), Bosnia and Herzegovina only slowly implemented reforms and could not come up with solutions to numerous domestic and international court rulings, which affected the political and constitutional rights of BiH citizens.

Bosnia and Herzegovina’s EU integration process should be seen primarily through the regional integration process, the EU’s security and economic need to integrate Western Balkans countries. Therefore, the EU integration process has been perceived not as that of individual countries but of the region as a whole. In this regard, the EU fostered different initiatives and activities for fostering regional cooperation, like the South-East European Cooperation Process (SEECP), the Western Balkans Six (WB6), Central European Free Trade Agreement (CEFTA), Mini-Schengen and the latest Common Regional Market (CRM). Therefore, regional trends and orientation determined the direction of BiH toward the EU, whereby the political elites had no option but to follow the same integration flow as other Western Balkans countries. The political elites have also realized that the EU integration process and eventual membership would erode their grip of power and opportunities for corruption because of a more effective system of governance, the rule of law, and an impartial judiciary. Some politicians in power slow down the EU integration process because of strong ties with Russia and in this way they leverage their choices from the EU, which also strengthened anti-liberal and Euro-skeptic trends in the public. In addition, these politicians blame the state-system and began propagating an idea of Bosnia

and Herzegovina as an “impossible state.” These activities, based on exclusive ethnic divisions, have been especially promoted by Milorad Dodik, a member of the Presidency, and some members of the Croat Democratic Union (HDZ). These trends increased when the Office of the High Representative (OHR) reduced its involvement and transferred some of its responsibilities to local political ownership, including the EU integration process that required major reforms. In addition, an exclusive local political ownership resulted in deeper inter-ethnic polarization and calls for secession, which has affected regional peace, stability, and security. These calls contradict the public will and identification with state citizenship. For instance, “on average, 74 per cent of the population is proud of having Bosnian citizenship. This sentiment is the strongest in the Brcko District, where 88 per cent say they are proud of their citizenship; in the FBiH, 82 per cent do. And 66 per cent of those living in the Republika Srpska share this view – despite decades of messaging from the Republika Srpska leadership either criticizing the Dayton arrangements or even calling for secession” (Ruge, 2020, p. 7).

Bosnia and Herzegovina began intense relations with NATO during the war (1992-1995). NATO had different missions in Bosnia and Herzegovina, for instance a non-flight aerial zone over Bosnia and Herzegovina to prevent attacks from Serbia on the country. After signing the DPA, the relations with NATO have strengthened through the implementation of the NATO-led Implementation Force (IFOR) and the Stabilization Force (SFOR) missions in Bosnia and Herzegovina, whose task is to prevent recurrence of the conflict. NATO’s initial military deployment subsequently decreased in the years after signing the DPA (BTI, 2020, 7). When EUFOR took over the responsibility for peace and security, NATO continued its support through the Berlin Plus arrangements and smaller military deployment. At its military headquarters in Sarajevo, NATO assisted local authorities in defense reforms and preparations for the Partnership for Peace (PfP). This gradually led to the successful military reforms and the formation of a single state-level military force, which enabled BiH to join NATO’s and the PfP Planning and Review Process. After numerous reforms in April 2010, Bosnia and Herzegovina was invited to join the Membership Action Plan (MAP). In December 2018, Bosnia and Herzegovina activated its MAP by submitting its first Annual National Program (Čepo, 2019, pp. 81-86).

NATO membership should be seen within a wider Western Balkans context. In essence, all countries have expressed their interest in NATO membership and until today all Western Balkans countries are NATO members, excluding Serbia, Bosnia and Herzegovina, and Kosovo. In this regard, Bosnia and Herzegovina’s NATO membership is closely linked to Serbia, especially through the Serb political elites in RS. They opt for following Serbia’s choice, influenced by Russia, of mere cooperation with NATO and/or non-alliance. This actually contradicts adopted documents (MAP) and the Strategy of Foreign Policy BiH for the period of 2018 to 2023. Unlike EU membership, NATO membership has divided the political leaders and the public (BTI, 2020, p. 40).

Similarly to EU integration, NATO membership has been blocked by the ethno-national elites to preserve their interests and control state institutions. They consciously act against fulfilling political goals needed for NATO membership. For instance, they do not cooperate in the realization of a property transfer of 63 immovable military objects, dispersed on the territory of two entities, to the state level. The movable military property came under the ownership of the Ministry of Defense of BiH. However, the RS authorities have not complied with the decision to transfer the immovable property to the state-level, arguing that the property belongs to the entity. This was the main condition for entry in MAP and the beginning of the accession process, which was resolved by the Constitutional Court BiH.

The Euro-Atlantic progress is almost frozen in Bosnia and Herzegovina. Based on the last European Commission report, the state did very little to comply with the 14 conditions set in the EU strategy. Currently, constitutional and electoral reforms are impossible without international support and pressure because the ethnic leaders prefer the status quo. Therefore, political leaders must take responsibility for implementing Euro-Atlantic reforms to improve the political, security, and economic aspects of life in the state. The Euro-Atlantic path, reforms, and constitutional changes must lead towards a gradual replacement of the DPA because it contains structural problems that have empowered ethno-nationalists.

On the contrary, prolonging of Euro-Atlantic integration may lead towards instability and recurrence of conflict not only in Bosnia and Herzegovina but in Montenegro, Kosovo, and North Macedonia.

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