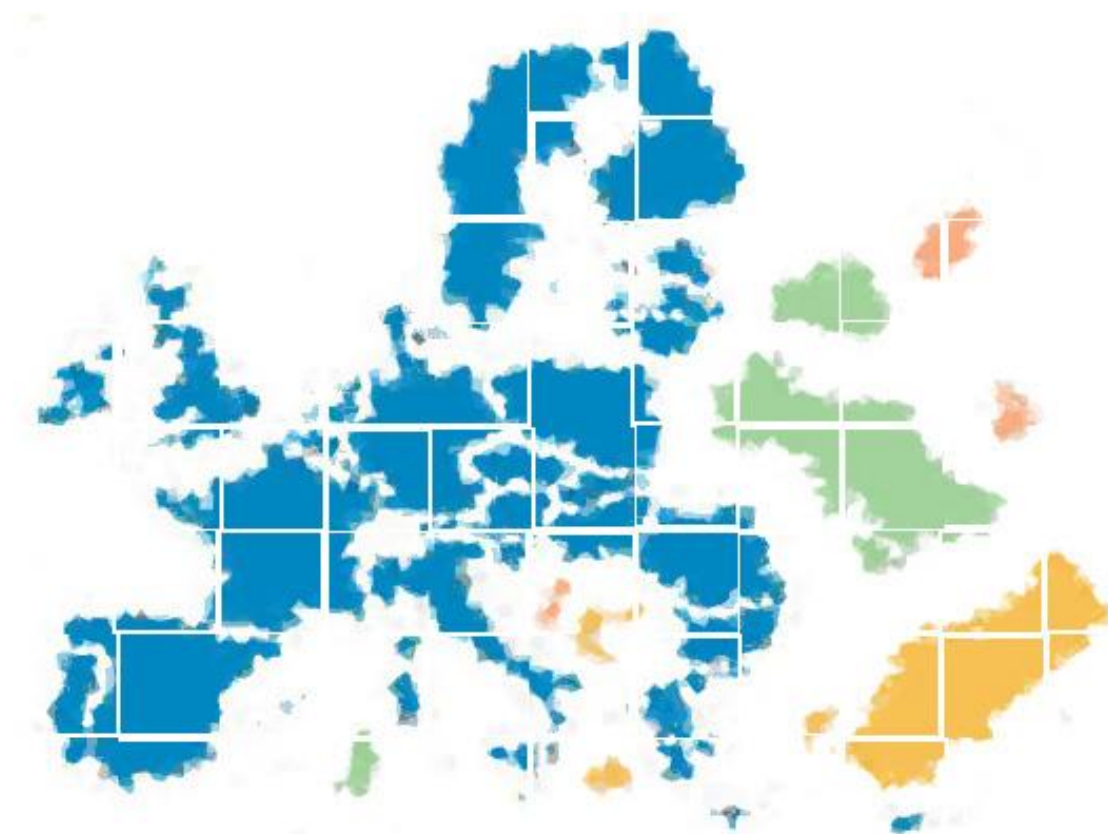


## Political transition in Bosnia and Herzegovina

Hana Semanic



July 2017

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## About the author

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## Political transition in Bosnia and Herzegovina

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### Abstract

*This policy brief analyses Bosnia and Herzegovina's EU integration efforts and limitations. It shows the obstacles which affect the country's internal politics and limit its advancement towards Brussels. The brief first presents the country's distinctive constitutional arrangements and the three main ethnic groups or "constituent peoples" (Bosniaks, Croats and Serbs) which are deeply segregated due to the institutionalized divisions among them entrenched by the 1995 Dayton Peace Agreement. Then, the brief outlines the key dates of Bosnia and Herzegovina's current status in the process of association with/accession to the EU, focusing on 2015, which was crucial for the country in terms of EU accession. Finally, the paper illustrates that the EU still lacks a joint vision for Bosnia and Herzegovina and other countries in the Western Balkans. It concludes by suggesting that a regional approach is the key, as all the governments in the Western Balkans share the same goal for the first time in recent history – accession to the EU.*

### Introduction

Bosnia and Herzegovina (BiH) is a country with unique constitutional arrangements and an excessively perplexing administrative framework. The constitution grants limited powers to national-level institutions, while vesting most of them in the two entities, the Federation of BiH (FBiH) and Republika Srpska (RS), each with its own president, government, parliament, and other bodies. In addition, the Brčko district retains its special status as an autonomous self-governing unit. This complex system has been in place since the 1995 Dayton Peace Agreement (DPA) which stopped the 1992-1995 war that was tearing the country apart. The DPA also established the Office of the High Representative (OHR), which, in 1997, was granted the so-called "Bonn Powers" enabling the High Representative to impose laws at any level of government and to dismiss any elected or non-elected official within various administrative structures. On the ethnic level, the constitution recognizes Bosniaks, Croats and Serbs as "constituent peoples",<sup>1</sup> based on the principle of self-declaration, while remaining BiH citizens are defined as "others"<sup>2</sup>. Simply put, people who do not identify themselves as Bosniaks, Croats or Serbs are effectively barred for standing for the BiH and RS presidencies. Needless to say, this restriction is discriminatory and runs counter to Protocol no. 12 of the European Convention of Human Rights and

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<sup>1</sup> Office of the High Representative, "Constituent Peoples' Decision of the BiH Constitutional Court"; available from <http://miris.eurac.edu/mugs2/do/blob.html?type=html&serial=1042801884091>; accessed 3 April 2017.

<sup>2</sup> Preamble of the Constitution of FBiH, available from [http://host.uniroma3.it/progetti/cedir/cedir/Lex-doc/Bos\\_Cost.pdf](http://host.uniroma3.it/progetti/cedir/cedir/Lex-doc/Bos_Cost.pdf); accessed 3 April 2017.

article 7.3 of the OSCE 1990 Copenhagen Document.<sup>3</sup> Not only does this complex administrative framework exist, as do equally deep divisions that have led to political stagnation and vulnerability to corruption.

Moreover, BiH is created on a national basis instead of laying its foundations on the sovereignty of citizens and universal values and civil liberties. Examining the subject of “constituent peoples” in the country, the issue of “ethnic” as opposed to “civic” becomes unavoidable. This question seems to be not only the driving force in the country’s polarizing political system, but also of the population in general. It goes so far that Bosnian identity and loyalty to the state of BiH becomes debatable. The present situation pushes a person to define his or her identity with one of the three previously-mentioned ethnic categories. The country’s “constituent peoples” often do not view the country as their own. Many refer to the entities as two different states, as both have all the institutions and functions of a state. It is common to hear that the Croats and Serbs find their motherland outside BiH while the Bosniaks perceive the territory of BiH as their homeland. The question remains whether there is a Bosnian nation? Not even the Constitution itself proclaims a category of “Bosnian and Herzegovinian” specifically. However, the situation has not always been like this. During the Socialist period prior to the 1992 war, most people living in BiH regardless of their ethnic identity considered themselves to be Bosnian, i.e. citizens of the republic of BiH. Today this category goes in an entirely opposite direction. Due to the lack of socio-economic well-being and economic development, a high unemployment rate and accumulated debt, political elites have created an imprisoned society full with an *idée fixe* in which being a Bosniak, Croat or Serb has become more important than being a human being and a citizen with its individual identity. These are some of the key challenges that prevent the country from progressing faster on the way to Euro-Atlantic integration.

### **Limitations to EU Integration**

As previously shown, BiH faces many obstacles which not only affect the country’s internal politics, but limit the advancement towards Brussels. There is a constant absence of political will among the political elites, who continually fail to act in the interests of all Bosnians. Their priority is usually placed on nationalism and personal interests rather than on the citizens’ well-being. Moreover, the current economic situation in BiH goes hand in hand with endemic unemployment and brain drain. Despite all of this, EU member states have demonstrated their commitment to BiH’s eventual acceptance by the EU, exemplified by political support, visa liberalization reform and pre-accession funds. BiH’s road to the EU started back in 1998 and it is still ongoing with limited progress. The timeline below shows the

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<sup>3</sup> Organization for Security and Co-operation in Europe (OSCE) Mission in BiH, “OSCE/ODIHR Election Observation Mission Final Report”; available from <http://www.osce.org/odihr/elections/bih/23945>; accessed 3 April 2017.

key dates of BiH's status in the process of association with/accession to the EU:

- **1998:** Establishment of the EU/BiH Consultative Task Force (CTF), ensuring technical and expert assistance in the field of administration, regulatory framework and policies.
- **May 1999:** Stabilisation and Association Process (SAP) begins. The SAP offers a clear EU accession perspective for BiH and five other Western Balkans countries.
- **June 1999:** Agreement reached on the Stability Pact, a political document whose strategic goal was the stabilisation of South-East Europe by bringing the countries of the region closer to Euro-Atlantic integration by strengthening regional cooperation.
- **March 2000:** Publication of the EU Road Map. The document defined 18 essential steps to be undertaken by BiH in order to start work on the Feasibility Study for the opening of negotiations on a Stabilisation and Association Agreement (SAA).
- **March 2003:** Work on the Feasibility Study commences. The European Commission hands over to the Council of Ministers of BiH a questionnaire consisting of 346 questions, covering the area of BiH economic and political set-up and other fields relevant for the conclusion of the SAA.
- **November 2003:** The European Commission adopts the assessment of the Feasibility Study. It identifies 16 priority areas where substantive progress in reforms would constitute the basis for the European Commission to propose to the Council of the EU to open negotiations with BiH on the SAA.
- **November 2005:** Negotiations on the SAA officially started on 25 November.
- **January 2006:** First Plenary round of SAP negotiations between EU and BiH and the first plenary meeting of the Reform Process Monitoring (RPM), which replaced the Consultative Task Force; The Council of the European Union adopts the second European Partnership with BiH.
- **June 2008:** Stabilisation and Association Agreement signed on 16 June.
- **July 2015:** Stabilisation and Association Agreement enters into force.
- **February 2016:** BiH submits the application for EU membership.

- **December 2016:** BiH receives the Questionnaire.<sup>4</sup>

2015 was extremely important for BiH in terms of EU accession. The SAA came into force in June of that year, and the European Commission noted that BiH returned to the road of reforms in its annual Progress Report published in November 2015. Moreover, the EU membership application is seen by many skeptics as an act indicating merely declarative readiness but is not substantiated by essential reforms. Many observers believe that, given the current political constellation, BiH is not ready to face the challenges lying on the road towards EU membership.

For moderate optimists, who see significance in the very prospect of EU membership, as the driving force for positive democratic, political, economic and social changes in BiH, 2017 should provide answers to the question whether the application will be followed by BiH's fulfilment of all obligations assumed on the path to the EU. For the BiH membership application to be considered as credible, the EU coordination mechanism, adopted on 9 February 2016, needs to become operational and enable BiH to speak with 'one voice' with regard to the EU. Some political forces, however, contested the agreed mechanism from the start and it is yet to start working. One other priority – the implementation of a socio-economic reform agenda – will be another test of the political will to reform the country.<sup>5</sup>

Furthermore, there is a large number of international actors in the country who have been involved in the reform processes. Their presence has also been a particular drawback and does not guarantee significantly better end results. Ursula C. Schroeder argues that numerous international actors on the ground lead to the overlap of missions and personnel resulting in negative interaction between different EU actors in the field.<sup>6</sup> The question is what will happen when the international community's role starts decreasing and the responsibility to cooperate in order to complete the work initiated by external actors move to the local authorities. Having in mind the absence of political will and the lack of domestic consensus on important issues, one can ask whether this will ever be feasible. There is no doubt that under the auspices of the international community many reforms in BiH have been carried out in recent years. Nevertheless, without an active domestic political involvement institutional separation of the ethnic groups will only be reinforced. Looking at international policy towards BiH from the era of the DPA on the road towards Brussels, it is questionable to what extent this particular approach of a continuous international presence is supportive of the development of BiH as a relatively young and independent state. Additionally, this approach makes domestic politicians, different levels of

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<sup>4</sup> Ćemalović, Belma, "Advocacy Strategy for the EU Integration of the Western Balkans – Guidelines: The Case of Bosnia and Herzegovina" (2016), Belgrade, European Movement in Serbia, pp. 35-36.

<sup>5</sup> Topčagić, Osman, "Policy analysis: EU Membership Candidate Status: Between Challenges and Weaknesses" (2016), Sarajevo, Foreign Policy Initiative BH, p. 2.

<sup>6</sup> Ursula C. Schroeder, "International Police Reform Efforts in South Eastern Europe" (2007), In Intergovernmental Organizations and Security Sector Reform, ed. David M. Law, Geneva, Geneva Centre for the Democratic Control of Armed Forces – DCAF LIT, pp. 209-211.

government and political parties unable to meet the demands of various reforms and modifications previously-imposed by the international community. Without flexible and creative politicians who are ready to compromise and willing to turn the focus from particular interests of single ethnic groups towards the common interests of the country, it will be impossible to move forward. Besides, all three ethnic groups will remain pessimistic about their future in the EU.

The bottom line is that the EU still lacks a joint vision for BiH and the other Western Balkan countries. What the country needs most is consistent commitment by the EU, member states and traditional advocates of enlargement. A well-developed strategy is urgently needed to turn BiH into a fully-functioning democracy. The five-year Berlin Process, marked by yearly summits in order to underline the commitment to EU enlargement towards the Western Balkans, is an encouraging diplomatic initiative linked to the future enlargement of the EU. However, will one meeting per year suffice to consolidate and keep the dynamics in the EU integration process in the light of increased Euroscepticism and a 5-year moratorium on expansion announced by Commission President Jean-Claude Juncker?

One way is to have a joint strategic approach aimed at promoting and accelerating EU accession in BiH and among other Western Balkans countries. Such an attitude would support and facilitate EU enlargement towards the WB and offer practical guidelines for national administrations, parliaments and CSOs in order to encourage their advocacy efforts to accelerate accession to the EU and to contribute to the development of positive perceptions of the region in Brussels, in EU member states, as well as in the WB. Such a regional approach is not only desirable, but also possible, as all the governments in the WB for the first time in the recent history share the same goal – accession to the EU.

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