

THE POLITICAL-INSTITUTIONAL CONSEQUENCES OF THE DAYTON PEACE AGREEMENT. INTERNATIONAL INVOLVEMENT AND THE IMPACT OF EUROPEANIZATION IN THE TRANSITION PROCESS OF BOSNIA AND HERZEGOVINA *

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Abstract: *The signing of the Dayton Peace Agreement on 14 December 1995 brought an end to the armed conflict and the beginning of the post-conflict transition process in Bosnia and Herzegovina. Designed as a solution to inter-ethnic differences, the Agreement provides the creation of a consociational political system in which the main ethnic groups (Serbs, Croats, Bosniaks) are guaranteed with autonomy, veto, and proportional representation. As a complementary solution to the management of the post-conflict situation, the Agreement regulates international intervention in the region, thus external actors are fulfilling the role of guarantor of peace and security in the new state. In the same vein, we will try to highlight the impact of the involvement of the European Union and the High Representative in the post-conflict transition in Bosnia and Herzegovina. Thus, although the Agreement seemed to offer the best solution for peace-building and democratization of the state, the rigid political system, the interventionist attitude of the High Representative and the European Union and, the lack of cooperation between ethnic groups led to the creation of an unstable state. At the same time, the Europeanization mechanisms undertaken in Bosnia and Herzegovina, associated with the post-conflict reconstruction process in BiH, both created the conditions for the expression of the illiberal attitudes and actions of the political incumbents. Therefore, the divided structure of the state, the dependence on external actors, the deepening of the ethnic cleavage through the implementation of the consociational model, and the poorly developed institutional system frame - the image of an anachronic state that combines autocratic and democratic practices.*

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Introduction

The Dayton Peace Agreement, officially signed on 14 December 1995, has considerable importance for the development of the state of Bosnia and Herzegovina. First, it was signed as the only option unanimously accepted by the parties to the conflict put an end to hostilities on the ground. Secondly, it provided a multidimensional solution for resolving inter-ethnic differences, one of the causes of the conflict. Thirdly, it introduced a constitution for the newly formed state, Bosnia and Herzegovina, and last but not least, it included the arrangement of the intervention of the international community in the region, which aims to achieve the reconstruction and transition of the post-conflict state. At the same time, the program designed by the international community, as a complementary element to the status quo of the Dayton Agreement, has played an important role in the situation in Bosnia and Herzegovina, thanks to the comprehensive approach and continued support provided by donors. The relevance of the Agreement for our research objective consists in the fact that this established the bases of which the consociation structure of the state was implemented.

Given these considerations, as well as international intervention in Bosnia and Herzegovina, the article will follow the political-institutional developments of the state created after the implementation of the Dayton Peace Agreement. Thus, our analysis will be based on the statement that, even if the consociation model was imposed as an answer to the conflict and interethnic differences in Bosnia and Herzegovina (BiH), it failed to create a functioning state, in which the main ethnic groups (Serbs, Croats, Bosnians) to become able to use cooperation, an essential feature for the effective functioning of such a political system. A contribution to the developments in BiH was made by the international community, which, through the High Representative and the European Union, led to the creation of an unstable state - institutionally and politically, thus promoting the conditions necessary for the development of a competitive authoritarian regime.

To make the article we used qualitative analysis, depending on the context. Thus, the substantiation of the analysis was done both based on the primary documents (the Dayton Peace Agreement and the High Representative's Report 30), and the basis of analyses and studies that address the subject of interest to us. To obtain a more comprehensive approach, the evaluation and systematization of the information, obtained from the documentation sources, was done by appealing to the theoretical references relevant to the study in question. Therefore, the Dayton Peace Agreement

provides us information about: how the structure of the state should look, which are the actors involved in the process of building and stabilizing the state, and also about the constitution of the country. The High Representative's report is used to identify events and developments in Bosnia and Herzegovina. At the same time, the report provides us with relevant information on the position or actions taken by the international community to manage situations encountered in the field. Finally, theoretical references help us to formulate and argue research hypotheses, thus giving consistency to our research.

The consociational system in Bosnia and Herzegovina

The application of a consociation system for resolving the conflict in Bosnia and Herzegovina seemed, at the time, the only viable option and resulted in the signing of the Dayton Peace Agreement. As the main demands during the conflict were of an ethnic and territorial nature, the consociational system offered the possibility of integrating the three ethnic groups into a state. In the same vein, this system increases the chances of democratic stability in deeply divided societies and through the complex system of institutions and systemic structures offer a high degree of adaptability of societies to the rules of operation of democracy could be obtained¹. According to Arend Lijphart, 'consociational democracy' is an empirical and normative model created to achieve the stability of plural heterogeneous societies. Therefore, in the author's view, the consociation is the only feasible solution for the management of societies characterized by strong internal divisions². However, referring to the BiH case, the realities on the ground revealed the lack of universality of this concept. First, the concept of "consociational democracy" implies the existence of four major institutions: the executive coalition, proportional representation, group autonomy, and veto³ - elements that raise questions about the way (rigid or flexible) in which they should be interpreted and implemented. Second, if we follow the hypothesis that the consociation forces conflicting identities to adapt to the rules of operation of this political system, then there are several empirical consequences: lack of concern for the nature and origins of social cleavage that can lead to a recurrence of cleavage, war replicating identities that give legitimacy to political positions, which can pose an

¹ Adis Merdzanovic, *Democracy by Degree, Prospects and Limits of Imposed Consociational Democracy in Bosnia and Herzegovina*, Stuttgart, Edit. Paperback, 2015, pp. 107-110.

² Arend Lijphart, *Consociation and Federation: Conceptual and Empirical Links*, "Canadian Journal of Political Science", Vol. 12, No. 3, September, 1979, pp. 500-501.

³ *Ibidem*, pp. 502-503 and Adis Merdzanovic, *op. cit.* pp. 113-114.

existential threat to other ethnic groups and, at the same time, does not resolve the conflict because it offers the possibility of creating similar alliances⁴.

According to Adis Merdzanovic, in the case of Bosnia and Herzegovina, the `corporate consociation` model was rigidly implemented, which, in addition to the four main institutions, also provides: the obligation of the electorate to vote in its segment and for its group; change within the group is possible only with the consent of the group leader, the existence of a degree of intra-group cohesion and the exclusion of the voter⁵. Thus, the structure of the new state created with the signing of the Dayton Peace Agreement in 1995 stipulates the existence of two entities, the Federation of Bosnia and Herzegovina and the Republic of Srpska, the district of Brčko and 10 cantons. In the same vein, the state has 14 constitutions, 14 legislative bodies, 14 governments, and 5 levels of power (state, entity, cantonal, district, and municipal level). At the same time, Dayton set up the existence of a tripartite presidency and the establishment of the Office of the High Representative, which, in the first phase, will oversee the implementation of civil matters under the Agreement, and later, in Bonn in 1997, the right to dismiss public officials and to require the adoption of legislative papers⁶.

In this context, Dayton has led to peace without winners, creating a complex system that offers legitimacy and power to major ethnic groups, but which for optimal functioning must be based on the principle of inter-group cooperation. However, given that the Dayton Constitution recognizes as political and social actors only the three ethnic groups (Serbs, Croats, and Bosnians), it leads to the systematization of ethnicity in society, not solving the social cleavage. Therefore, Dayton encourages the deepening of the social divide, intra-group cooperation, and provides space for the manifestation of particular ideologies as a means of gaining and maintaining power. In the same vein, the Office of the High Representative (OHR) in BiH is a key factor in maintaining this intra-group policy because it is used to legitimate the power by group leaders and also serves as a guarantor of Bosnian democracy. The latter role of the OHR can encourage political elites to give up responsibility for creating a functioning state⁷.

⁴ Adis Merdzanovic, *op. cit.* pp. 116-120.

⁵ *Ibidem*, pp. 121-122.

⁶ United Nations, General Assembly Security Council, *Dayton Agreement*, 30 November 1995, Annex IV and Slaviša Orlović, *Consociational experiments in the Western Balkans: Bosnia and Herzegovina and Macedonia*, "New Balkan Politics", Issue 17, 2015, p. 35.

⁷ Eldar Sarajlić, *The Convenient Consociation, Bosnia and Herzegovina, Ethnopolitics and the EU*, in *Transitions - From Peace to Shared Political Identities. Exploring Pathways in Contemporary Bosnia-Herzegovina*, vol. 51, eds. Frances Cheneval & Sylvie Ramel, 2011, pp. 64-66.

The role and implications of the international community in the evolution of the state of Bosnia and Herzegovina

The role of the international community is crucial for the evolution of the state of Bosnia and Herzegovina. According to Florian Bieber, the BiH case was a 'laboratory of Western experiments on post-conflict reconstruction'⁸. In the same article, the author identifies three phases of international intervention in BiH. The first phase coincides with the period 1995-1997 and is considered to have low efficiency due to the reluctance shown by the three nationalist parties - representatives of ethnic groups - regarding the intervention against nationalist agitation and, also because of the intention of local elites to obtain a monopoly on the economic resources of the state⁹. The second phase, in which BiH becomes an international protectorate through the Bonn powers conferred on the OHR, is placed between 1997-1998 and was characterized by an interventionist attitude on the part of the international community because it was found impossible the state reintegrate into the conditions under which war criminals are not arrested or whether decisions are blocked or rejected by exercising the veto by the three ethnic groups¹⁰. And the last phase was identified in the period between 1998-2002 when the international community fulfills the role of arbitrator and mediator. During this period, international representatives managed to reserve their status as de jure actors in the Bosnian state, thus reducing the role of nationalist parties and their responsibility¹¹. At this point in the evolution of the Bosnian state, the international community manages to isolate the parallel power structures and allow the emergence of multinational parties on the political floor but has created a circle of the dependence of local elites and civil society on the international community for obtaining external legitimacy. The measures taken to manage the post-conflict situation by the international community, through the European Union and the High Representative, are part of a complex set of Europeanization mechanisms aimed at forming a European identity and which, for the region, has involved a process of change and adaptability¹². From this point of view, to ensure the stability of Bosnia and Herzegovina, control was used as the main means of achieving the Dayton objectives. According to Ian Lustick, the consociational model

⁸ Florian Bieber, *Aid Dependency in Bosnian Politics and Civil Society: Failures and Successes of Post-war Peacebuilding in Bosnia – Herzegovina*, "Croatian International Relations Review", January - July 2002, p. 25.

⁹ *Ibidem*, p. 26.

¹⁰ *Ibidem*, pp. 26-27.

¹¹ *Ibidem*.

¹² Othon Anastasakis, *The Europeanization of the Balkans*, "The Brown Journal of World Affairs", Vol. XII, 2005, p. 86.

can intersect with the control applied by a supranational power if the purpose of it is to ensure the proper functioning of the system. Thus, supranational power ensures the stability of the state using coercive mechanisms and specific laws of change whose applicability is ensured by imposition and manipulation¹³. But, as mentioned earlier, this policy of ensuring stability by imposing the consociational system and using control and conditionality mechanisms has not proved to be functional in the long run in the case of BiH, because the policy continues to be dominated by ethnic party elites over time and the international community needs to change its strategies according to developments in the ground.

The European Union (EU) also plays a key role in the Europeanization process of Bosnia and Herzegovina as part of the international community. From a procedural point of view, the Europeanization mechanisms used by the EU have two dimensions, direct and indirect governance, but the process itself is incoherent because it is dependent on geopolitical, economic, and security interests¹⁴. Thus, if we consider the analysis of Frank Schimmelfenning that the process of Europeanization in a state with accession prospects should have a significant impact because the interests of the neighboring regions are more accentuated, clearly defined criteria are established, the *acquis communautaire* is a key element in the process and cooperation between the state and the EU is intensified¹⁵. However, the case of Bosnia and Herzegovina is again unusual, the Europeanization process being influenced by some difficulties such as the weakness of the state compared to the international community, reactions to change, inefficient institutional administration, inability of policy-making by the UE, local will and the excessive power of the EU¹⁶ linked to the rigid structure of the state in which any decision must obtain the consensus of the three dominant groups. The Europeanization process also undermines the status quo because it changes old habits, transforms political cultures, and establishes new rules of the political game, thus depending on political will and commitment. Therefore, in the conditions presented and after the failure of regional cooperation, the EU has chosen to apply the integration strategy associated with the institutionalization one. The Europeanization capacity of the region after the implementation of this strategy has been influenced by the level of convergence achieved by the state based on which EU support can be obtained, democratic effectiveness, in which case the EU has a supporting role and the accession

¹³ Ian Lustick, *Stability in Deeply Divided Societies: Consociationalism Versus Control*, "World Politics", Vol. 31, No. 3, April, 1979, pp. 337-342.

¹⁴ Frank Schimmelfenning, *Europeanization beyond Europe*, "Living Reviews in European Governance", Vol. 7, No. 1, p. 16.

¹⁵ *Ibidem*, pp. 18-22.

¹⁶ Othon Anastasakis, *op. cit.*, pp. 81-85.

horizon post-accession¹⁷. In other news, Eldar Sarajlić, in an analysis of Bosnian political life, considers that the EU and the international community are only variables of the system, while EU behavior is helpful for undemocratic forces, conditioned on respect for the rights of group differentiation and it is guided by stability concerns and the approach of integration¹⁸.

Case study: Conditions that favours the emergence of authoritarian competitive regimes

According to Florian Bieber, these characteristics, which emerged against the background of the fall of communism and the introduction of multi-party elections, led to the creation of an anachronistic system of government that use to combine nationalism, authoritarian practices, and populism with democratic practices¹⁹. In this context, in the case of Bosnia and Herzegovina, we can see how the Dayton structure encourages the manifestation of ethnic nationalism by recognizing the three dominant groups. Nationalism is in fact a means by which group leaders secure their leadership positions, and it is cultivated among society by appealing to the defense of ethnic interests. The application of authoritarian practices, such as control of state power or infrastructure, is favored by the complex structure of the state, as it is almost impossible to monitor institutional activity in the state. Against the background of this set of conditions, we can conclude that the state of Bosnia and Herzegovina is prone to follow an illiberal path, specific to hybrid regimes.

These characteristics of the Bosnian state are also found in a comparative analysis by Adis Maksić, which analyses Milorad Dodik's speeches in the 2006 and 2010 election campaigns to assess the degree of stability in Bosnia and Herzegovina. According to the author, the Bosnian state has a high degree of instability due to the consociational structure, which gives the right to self-determination to the main ethnic groups. From this point of view, the most eloquent case is that of the Republic of Srpska, which uses the National Assembly of the entity as a basis for demanding the independence of the Republic and as the self-determination of the people of the Republic²⁰. Thus, during the 2006 election campaign, Milorad Dodik called for a referendum on RS self-determination. Dodik's requests also took place in the context in

¹⁷ Tamara Radovanovik, *From Balcanization to Europeanization of the Western Balkan countries*, "American International Journal of Contemporary Research", Vol. 2, No. 4, April 2012, pp. 212-213.

¹⁸ Eldar Sarajlić, *op. cit.*, pp. 72-73.

¹⁹ Florian Bieber, *The Rise of Authoritarianism in the Western Balkans*, London, Palgrave Macmillan, 2020, pp. 17-20.

²⁰ Gerard Toal, Adis Maksić, *Is Bosnia-Herzegovina Unsustainable? Implications for the Balkans and European Union*, "Geography and Economics", March 2011, pp. 281-282.

which the state faced an institutional deadlock that emerged amid the rejection of a package of constitutional amendments in the Parliamentary Assembly²¹. The institutional deadlock, at this stage in the evolution of Bosnia and Herzegovina, means the lack of inter-ethnic cooperation and it was the result of the state created by Dayton, characterized by a polarized heritage of society, politics divided between the three ethnic groups, territorial fragmentation, and ethno-territorial segmentation.

The deepening of division and social cleavage in Bosnian society after the implementation of Dayton has had the effect of developing competitive practice among political elites to gain legitimacy²². However, given that a consociational system is based exclusively on cooperation between the elites, that competition for legitimacy prevents the development of a functioning system. Take into account this background; several patterns of competitive authoritarianism have developed in the Western Balkans and implicitly in Bosnia and Herzegovina. These include: lack of a clearly defined ideology, the need to gain external legitimacy, crisis management involving its creation and solution, media control and state capture²³.

The book "Competitive Authoritarianism: Hybrid Regimes After the Cold War" highlights some attributes of authoritarian-competitive regimes, including the existence of formal democratic institutions, the presence of the opposition, the organization of regular but unfair elections, and the traditional abuse of the state²⁴. Those attributes can be found also in the case of Bosnia and. Thus, the first of it can be identified by the presence of international institutions which, as I mentioned, have become de jure actors in Bosnian politics. Their role is to oversee and coordinate BiH's policy to democratize the state. However, due to the complex structure of the state, the multiple levels of power, and the institutional legacy of the communist regime, is difficult to hold control of the process of institutional democratization. Since the 2000s, when the international community had an interventionist attitude, opposition parties began to appear in the political sphere. However, they faced a lack of party infrastructure and

²¹ High Representative, *30th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations*, 30 July 2006, Point 2, 3, p.1, Bosnian Serb PM facing sack over speech, online access: https://www.b92.net/eng/news/region.php?yyyy=2006&mm=09&dd=20&nav_id=36856, accessed on: 25.08.2020, UK Parliament, Hansard, Bosnia-Herzegovina, online access: <https://hansard.parliament.uk/Commons/2006-11-01/debates/06110154000142/Bosnia-Herzegovina>, accessed on 25.08.2020.

²² Slaviša Orlović, *op. cit.*, pp. 31-37.

²³ Florian Bieber, *Patterns of competitive authoritarianism in Western Balkans*, "East European Politics", 2018, Vol. 34, No. 3, pp. 342-347.

²⁴ Steven Levitsky, Lucan A. Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War*, London, Edit. Cambridge, 2010, pp. 7-12.

public support. The popularity and access of these parties to power was hampered by the traditionalist parties that enjoyed access to resources of the state and used nationalist and populist discourses to gain popular support. Under these conditions, the Bosnian state is in a slow process of democratization under international supervision, but which allows the development and use of illiberal habits, categorized as belonging to the category of authoritarian-competitive regimes.

Conclusions

In conclusion, even though the Dayton Peace Agreement provided a multidimensional solution aimed at resolving inter-ethnic differences and leading to the end of the conflict, it failed to lead to the creation of a functioning state. Among the successes of the implementation of the Agreement are the ending of hostilities, the creation of a new state that incorporated the demands of the main ethnic groups, and the achievement of post-conflict reconstruction. Also, the Agreement introduced the consociational system as a way of functioning of the state, an extremely complex system which, by its institutional nature, offers equal rights to the dominant ethnic groups, but its functionality is conditioned by the cooperation between the political elites. However, by asserting the ethnic character of the state in the agreement, it favoured and maintained the nationalist claims, which determined the emergence of the phenomenon of competition for legitimacy as a substitute for cooperation between elites.

As can be seen, the international community has played a defining role in the development of Bosnia and Herzegovina. As a guarantor of peace and democratic practices, the international community, through the High Representative and the EU, has managed the led the post-conflict reconstruction and Europeanization process of the country. However, the inconsistency of the strategy used, together with the Europeanization mechanisms, paved the way for the rooting of stereotypes in the behaviour of political elites, who understood that the actions of the international community can be influenced so as to legitimize their power and actions. At the same time, the international community took responsibility for the democratization and creation of a functioning state, resulting in a downward trend in accountability among political elites and a deepening of dependence on external actors. At the same time, the international community took responsibility for the democratization and creation of a functioning state, but also conduct to a downward trend of accountability among political elites and a deepening of dependence on external actors. As a final remark, factors such as institutional legacy, transfer of responsibility to the international community and non-decision-making by political elites, strengthening the ethnic

principle in the state, the complex system, and continued dependence on external actors have portrayed an unstable state- institutionally and administratively, thus, this is the optimal space for the development of a competitive authoritarian system.

Note: This research is in progress. Therefore, the results and conclusions may change over time, so this paper is only an overview of the main effects of the association between international intervention, the consociational structure, and the historical heritage of Bosnia and Herzegovina.