

# The EU and Bosnia and Herzegovina issues on political affairs

## Policy Brief

Siou Emmanuelle

---

### **INTRODUCTION**

This policy brief examines two major issues causing the current political stalemate between the EU and Bosnia and Herzegovina. The lack of implementation of the *Sejdic and Finci* case issued by the European Court of Human Rights (ECtHR) and the excessive use of the Entity veto and the Vital National Interest veto that respectively entailed a discrimination towards ethnic minorities and a severe blockade of the legislative decision-making. Consequently the EU blocked the cooperation on political matters with Bosnia and Herzegovina until it seriously implements the reforms of the electoral system and of the legislative procedure it requires.

After presenting the background information necessary to apprehend these complicated issues, this policy brief aims at firstly defining the two issues and their causes. Secondly it will propose transversal and targeted solutions including the different actors to mobilize and then target the evidences showing a possibility of improvement corresponding to the solutions proposed. Finally as a conclusion a list of recommendations will be suggested.

### **BACKGROUND**

The EU-Bosnia and Herzegovina relationship is facing an important stalemate on political issues. The EU presence since 1996<sup>1</sup> today led by the ambassador Peter Sorensen<sup>2</sup> aims to promote the Union's interests that are comprised in the EU common policies<sup>3</sup> and to foster reforms that will enable Bosnia and Herzegovina to fulfill the requirements imposed by the Copenhagen criteria<sup>4</sup>. Since the Zagreb summit in 2000<sup>5</sup> the EU offered the EU membership prospective to Western Balkans countries that committed to fulfill the EU membership requirements<sup>6</sup> and both regions reiterated these objectives at the Thessaloniki summit in 2003<sup>7</sup>.

Unfortunately Bosnia and Herzegovina encounters serious difficulties that hinders the fulfillment of specific political requirements : the institutional stability, a democratic system and a system of protection of minorities rights<sup>8</sup>. These difficulties come from Bosnia and Herzegovina federal structure that is starkly ethno-oriented and territorially based on the Entities, i.e. the Federation of Bosnia and Herzegovina and the Republika Srpska. This means that the political system gives power to both ethnies and Entities to run the country. The General Framework Agreement for Peace, so-called the Dayton Peace Agreement (DPA) signed in December 1995 under the international

---

1 Gavrić, Banović and Barreiro, p. 91

2 Official website of the Delegation of the European Union to Bosnia and herzegovina ; Gavrić, Banović and Barreiro p. 92

3 Gavrić, Banović and Barreiro p. 91

4 Gavrić, Banović and Barreiro p. 92

5 Zagreb Summit Declaration ; Gavrić, Banović and Barreiro p. 101

6 Gavrić, Banović and Barreiro p. 101

7 Thessaloniki Summit Declaration ; Communication on the Enlargement Strategy and Main Challenges ; Stratulat p. 1

8 Gavrić, Banović and Barreiro p. 92 and 101

community pressure put an end to the war in Ex-Yugoslavia however increased or at least maintained this complicated federal structure as a compromise to satisfy the different ethnic groups that wanted to keep their political power and to prevent any further secession attempt<sup>9</sup>. And the Bosnian Electoral Law of 2001 did not make any significant substantial change<sup>10</sup>.

Today the consequences of such a system entail a serious breach of international and European laws that the EU is not willing to accept anymore if Bosnia and Herzegovina wants to remain on the EU accession path. Indeed it exists what is considered by the ECtHR in its ruling *Sejdic and Finci* issued in 2009<sup>11</sup> a discrimination towards minorities not being members of the dominant Bosnia, Croat or Serb ethnies that cannot run for the Presidency and House of Peoples elections at the State-level, i.e. the executive and legislative powers<sup>12</sup>. Moreover the excessive use of veto rights by both the Entities representatives and the ethnic representatives during the legislative procedure entails a complete blockade of the political decision-making leaving the country stalled and creating a catch-22 situation where to make reforms the country first needs one general reform to make the law-making system functioning again.

The lack of implementation of the *Sejdic and Finci* case and the excessive use of veto rights in the legislative procedure have been mentioned in EU reports as major issues<sup>13</sup>. Unfortunately the lack of political will or at least consensus in the country has overcome the EU threats of serious sanctions. In the end the EU proceeded very recently to the sanctions it announced before by cutting the financial help granted to the country<sup>14</sup> and by the Stabilization and Association Agreement, supposed to be the cooperation framework between the EU and Bosnia and Herzegovina for the path on its EU accession, not entering into force<sup>15</sup>.

Unfortunately these severe sanctions did not impact the Bosnian political leaders as expected. They have been interpreted more as a measure playing against the country rather than an opportunity to overcome the political blockade, by an actor disinterested in the Bosnian issues rather a real partner<sup>16</sup>, making the EU membership further away rather than getting closer to the final objective of integrating the EU<sup>17</sup>. As a consequence it froze even more EU-Bosnian relationship that is now also facing a stalemate.

Addressing these issues is of primary importance for Bosnia and Herzegovina to get the EU funding back and to return on the EU accession path, notably with its neighbouring countries gradually entering the European Union. But it is also essential for the EU in the context of the enlargement process in the Western Balkans, where unfortunately the « two-tier » pace where for instance Bosnia Herzegovina feels as a laggard left behind<sup>18</sup> damages the whole process and benefits to the Russia and China concurrents<sup>19</sup> that do not impose such a conditionality<sup>20</sup>. For both it is urgent to face the stalemate regarding the perspective of the general elections that will occur in the country in Fall 2014<sup>21</sup>. It is also urgent to improve the Bosnian political system to offer the citizens a better standard of living<sup>22</sup> or a “better life”<sup>23</sup>.

However both actors have to understand they need to change their attitude for this partnership relationship to work. Bosnia and Herzegovina must reach a political consensus and the EU must not

---

9 Gavrić, Banović and Barreiro p. 16

10 Gavrić, Banović and Barreiro p. 64 ; Hodzija and Stojanović p. 15 and 16

11 ECtHR, *Sejdic and Finci Case*

12 See Annex I (in Gavrić, Banović and Barreiro p. 116 and 117)

13 Bosnia and Herzegovina progress report ; Communication on the Enlargement Strategy and Main Challenges

14 “Bosnia and Herzegovina on the path towards the EU: The Way Forward” Conference, speech of Ana Trišić Babić

15 Communication on the Enlargement Strategy and Main Challenges p. 19 and 20 ; Gavrić, Banović and Barreiro p. 101

16 “Bosnia and Herzegovina on the path towards the EU: The Way Forward” Conference, speech of Ana Trišić Babić

17 Stratulat p. 3

18 Stratulat p. 3

19 “Bosnia and Herzegovina on the path towards the EU: The Way Forward” Conference, speech of Ana Trišić Babić

20 Stratulat p. 3 and 4

21 Gavrić, Banović and Barreiro p. 28

22 Gavrić, Banović and Barreiro p. 60

23 Words of Andy MacGuffie in Jukic

act towards the country as if it were a “protectorate”<sup>24</sup> of the international community rather consider it as an independent country that must follow its own development process<sup>25</sup>. Only this will enable more local ownership of the future reforms implemented<sup>26</sup>.

## **THE TWO MAJOR ISSUES**

### **ISSUE 1 – The lack of implementation of the *Sejdic and Finci* case issued by the ECtHR**

#### **>> ISSUE – Discrimination in the electoral system**

Bosnia-Herzegovina is a federal regime ethno-oriented. One of the direct consequences of that is that the ethny of the peoples is taking into account as a criterium in the electoral system. The most dominant ethnies, i.e. Bosniak, Croat and Serb, are recognized by the Bosnian Constitution and the Bosnian Electoral Law as the « Constituent Peoples » who benefit from electoral political rights which are not entitled to the rest of the population regrouped under the category of « Others »<sup>27</sup>. The Others correspond to the persons not belonging to the category of the Constituent Peoples, that is the rest of the citizens of BH that identify themselves to another ethny like for example the Roma, Jews, Albanians, Slovenians etc, or that do not want to identify themselves as belonging to any ethnic community<sup>28</sup>. Consequently the ECtRH in 2009 judged the absence of possibility for the Others to run elections at the State-level for the Presidency and the House of Peoples in the Parliamentary Assembly, i. e. the executive and the legislative power, as a breach of the prohibition of discrimination and the right to free elections contained in the ECHR<sup>29</sup>. Despite many attempts with a specific working group<sup>30</sup>, the absence of political will to reform the electoral system in order to implement the ECtRH ruling<sup>31</sup>, that became one of the most urgent issue in its relationship with the EU<sup>32</sup>, leads the country to an impasse on its way towards EU accession.

#### **>> CAUSES – the DPA results : « *interim measure* »<sup>33</sup> to be overhauled**

This complicated issue results from the ethno-oriented federal system that recognizes the existence of ethnic groups that accordingly benefit from collective electoral rights in addition to individual rights entitled to each Bosnian citizen<sup>34</sup>. Actually this particular ethnic pattern in the electoral system comes directly from the international community that requires now to abrogate it. Indeed the Bosnian Electoral Law of 2001 that needs henceforward to be overhauled did not make any significant change to the DPA<sup>35</sup>. What is today considered as a discrimination was at the time of the DPA seen as a necessary compromise between the possibility to put an end to the Ex-Yugoslav war

---

24 Gavrić, Banović and Barreiro p. 71

25 “Bosnia and Herzegovina on the path towards the EU: The Way Forward” Conference, speech of Peter Balazs

26 Gavrić, Banović and Barreiro p. 96 and 107 ; Barbulescu and Troncota p. 17 and 18 ;

27 Gavrić, Banović and Barreiro p. 23

28 Hodzija and Stojanović p. 54 and 55

29 ECtHR, *Sejdic and Finci Case* ; Hodzija and Stojanović p. 15 and 24

30 Hodzija and Stojanović p. 28 to 33

31 Hodzija and Stojanović p. 33 ; Sebastian p. 1

32 Sebastian, p. 1

33 ECtHR, *Sejdic and Finci Case*, paras. 45-50 ; Hodzija and Stojanović p. 25

34 Hodzija and Stojanović p. 45

35 Gavrić, Banović and Barreiro p. 64 ; Hodzija and Stojanović p. 15 and 16

and the need to give something satisfying to the ethnic political groups in power<sup>36</sup>. But times changed and the ECtHR considered this compromise as an “*interim measure*“ that does not have any “reasonable justification“ anymore<sup>37</sup>.

## **>> CONSEQUENCES – a serious political impasse between the EU and Bosnia and Herzegovina**

The EU threatened several times Bosnia and Herzegovina to cut its funding, granted notably through the Pre-Accession Assistance (IPA), if it would not implement the ECtHR *Sejdic and Finci* ruling<sup>38</sup>. Indeed this reform is considered as a major move to fulfill the Copenhagen EU accession political criteria defined as a “democratic system“ and the “protection of minorities“<sup>39</sup>. Consequently the EU argued it cannot continue to finance a country without real a justification that falls in a context it did not implement the required reforms towards EU accession<sup>40</sup>. Therefore the EU proceeded to the cuts of fundings the 9<sup>th</sup> of December 2013<sup>41</sup> and is reconsidering the financial aid package for the 2014-2020 period that was supposed to be granted through the IPA II<sup>42</sup>. Another major consequence for Bosnia and Herzegovina is that the lack of implementation of the ECtHR also entailed the Stabilization and Association Agreement (SAA) signed in 2008 not entered into force<sup>43</sup>. This is really important because this agreement is the framework through which the EU helps Bosnia and Herzegovina to progress on the path to the EU membership<sup>44</sup>. Finally the implementation of the ECtHR ruling particularly matters in the urgent context of the general elections coming in Fall 2014 in the country<sup>45</sup>.

## **>> SOLUTIONS – a soften and more targeted approach**

The cut in fundings operated by the EU has been perceived by Bosnia and Herzegovina as a measure playing against the country and taken by an actor that acted more as a sanction power rather than a supporter<sup>46</sup>. This has a major consequence for the EU that should change its “top-down“<sup>47</sup> approach notably considering its direct competitors : Russia and China. The EU must “rethink its concept of enlargement [...] It [...] puts a lot of stress on formal criteria of development, loosing out of sight the contextual elements [...] and the specific limits embedded in these countries' [the Western Balkans] late democratization“<sup>48</sup>. Moreover it must be an objective for the EU not to maintain the two-speed path on EU accession in which Bosnia and Herzegovina feels “left out in the cold“ and is discouraged<sup>49</sup>. Even if the observation that the “pace [ the EU accession process] depends on countries' own merits in tackling difficult and deep reforms“<sup>50</sup> remains true. Consequently the EU must firstly make Bosnia and Herzegovina come back on the path to EU membership and cooperate with it on this political affairs issue. This can be done by proposing to Bosnia and Herzegovina to work together on a project of Electoral Law and the corresponding

---

36 Gavrić, Banović and Barreiro p. 16

37 ECtHR, *Sejdic and Finci Case*, paras. 45-50 ; Hodzic and Stojanovic p. 25

38 Jukic ; Aquadini ; Cerkez

39 Gavrić, Banović and Barreiro p. 92

40 Jukic

41 “Bosnia and Herzegovina on the path towards the EU: The Way Forward” Conference, speech of Ana Trišić Babić

42 Communication on the Enlargement Strategy and Main Challenges p. 19

43 Communication on the Enlargement Strategy and Main Challenges p. 19 and 20 ; Gavrić, Banović and Barreiro p. 101

44 Communication on the Enlargement Strategy and Main Challenges p. 19 and 20 ; Gavrić, Banović and Barreiro p. 101

45 Gavrić, Banović and Barreiro p. 28

46 “Bosnia and Herzegovina on the path towards the EU: The Way Forward” Conference, speech of Ana Trišić Babić

47 Barbulescu and Troncota p. 7

48 Barbulescu and Troncota p. 6

49 Stratulat p. 3

50 Füle p. 2

provisions of the Constitution reform, notably within the introduction of a co-ordination mechanism for EU matters, that is also required by the EU<sup>51</sup>, in exchange of granting the fundings back. Secondly the EU must adopt a new approach by offering a guidance to a country that does not have the knowledge of the options available<sup>52</sup> and a lack of political will to address the issue seriously<sup>53</sup>. This guidance can result in proposing some specific measures to implement the *Sejdic and Finci* case. But these measures have to remain realistic in terms of law-making timing and internalization of a new system by the citizens regarding that fact the next general elections will occur in less than one year. Moreover given the importance of the ethnic identity in the country that is strongly implemented in the Bosnian federal system, the EU objective must be not to upset the system of power-sharing between the Constituent Peoples while ensuring the political participation of « Others » on a non-discriminatory basis<sup>54</sup>. Therefore the specific measures proposed by the EU cannot yet lead to the overhaul of the Bosnian electoral system that will make shift the ethno-orientated electoral system to a territorial-based one, long-term objective advocated by Edin Hodzi and Nenad Stojanovi<sup>55</sup>. Thus the EU can only suggest measures that will make Bosnia and Herzegovina comply with the *Sejdic and Finci* ruling as a first step of the overhaul of the electoral system.

Finally the EU can also use another ECtRH ruling that posits a « balance must be achieved which ensures the fair and proper treatment of minorities and avoids any abuse of a dominant position »<sup>56</sup> and the *decision on the Constituent Peoples* of the Bosnian Constitutional Court that responded to the tension between collective rights and individuals rights by forbidding the exclusion of any person from the representative system<sup>57</sup>. And if the changes are implemented the EU delegation should work with the Central Election Commission, the Municipal Election Commissions to ensure the respect of the changes and with the Polling Station Committees to access to concrete feedbacks on the implementation of the changes in practice<sup>58</sup>.

## **>> OTHER ACTORS TO MOBILIZE – a co-ordination with other European actors and the media**

The EU should cooperate with all other European or international organizations that have an office set in the country dealing with the same type of issue : the Office of the High Representative, the Committee of Ministers of the Council of Europe in charge of the supervision of the execution of judgements<sup>59</sup> and the OSCE that has a mandate of monitoring the human rights situation<sup>60</sup>. The neighbouring countries notably Croatia which is a recent EU member can also influence the country to foster changes as it has already done in the recent past<sup>61</sup>. Moreover the EU needs to mobilize the media to cover this issue that did not pay too much attention to it after the last elections in March 2010<sup>62</sup> in order to contribute to the pressure on policy-makers and for the settlement of the lack of implementation to appear not as an “European dictate”<sup>63</sup> but as a need for citizens to defend their rights<sup>64</sup>. Indeed “the enlargement process will not be successful if we [...] do not think about the views and concerns the citizens have [...] and how they perceive enlargement”<sup>65</sup>.

---

51 Communication on the Enlargement Strategy and Main Challenges p. 19

52 Hodzij and Stojanovij p. 13

53 Hodzij and Stojanovij p. 33

54 Hodzij and Stojanovij p. 11

55 Hodzij and Stojanovij : the thesis of the book

56 ECtHR *Horzelik v. Poland Case* ; Hodzij and Stojanovij p. 66

57 Constitutional Court, *Decision on the Constituency of Peoples*

58 Gavrić, Banović and Barreiro p. 65

59 Hodzij and Stojanovij p. 35

60 Gavrić, Banović and Barreiro p. 93

61 Gavrić, Banović and Barreiro p. 56

62 Hodzij and Stojanovij p. 13 and 35

63 Barbulescu and Troncota p. 17

64 Hodzij and Stojanovij p. 36

65 Füle p. 2

## **>> EVIDENCES – Bosnia and Herzegovina already on the path towards minorities rights protection**

Bosnia and Herzegovina has strong incentives to correct the situation based on the objective to get the EU fundings back entirely and the entering into force of the SAA. Implementing the *Sejdic and Finci* case is an achievable objective regarding the progress the country has already made in this direction. Indeed the Constitutional Court *decision on the Constituent Peoples* already forbade the exclusion of any person from the representative system that would entail a breach of one's individual political rights. This led to the introduction of the category of Others and their entitlement to a right to representation in parliaments and administrative bodies at the entity level, ensured by the introduction of quotas.<sup>66</sup>

## **ISSUE 2 – The excessive abuse of the Entity veto and of the Vital National Interest Procedure**

### **>> ISSUE – the veto rights of Entities and ethnic representatives**

At the State-level a political consensus between firstly the representatives of the two different Entities, i.e the Federation of Bosnia and Herzegovina and the Republika Srpska, and secondly the representatives of the three Constituent Peoples is required during the legislative procedure to adopt a law<sup>67</sup>. However this political consensus is difficult to achieve regarding the veto rights entitled to the representatives of the Entities and to the representatives of the Constituent Peoples. Indeed the former can impose an “Entity veto“ by one third of its representatives that stops immediately and definitely the legislative process ongoing on a particular law project<sup>68</sup>. The latter benefits from a veto that it can impose by one majority of its group grounded on its « Vital National Interest » that are not respected by the law discussed<sup>69</sup>.

Between 1997 and 2007 the Entity Veto has been the most used at the State-level contrary to the Vital National Interest Procedure that has been used only 4 times<sup>70</sup>. This can be explained because the latter entails a procedure to solve the blockade contrary to the former that stops definitely the law-making procedure. During this period on 529 laws discussed 156 failed because of an Entity veto<sup>71</sup> that represents almost one third of the law projects.

### **>> CAUSES – an ethno-oriented and Entities-territorially-based political system**

The federal structure based on Entities and ethnies gives a lot of power to nationalistic political parties, regrouping the majority of the political parties<sup>72</sup>, that transpose the ethnic and Entities conflict into the political debate and consequently put aside the discussion on the real needs of citizens<sup>73</sup>. These political parties using their veto rights to win the rivalry-game between Entities and ethnies is against democratic principles<sup>74</sup>.

This polarization of the political debate is possible given the socialist period left a population little

---

66 Gavrić, Banović and Barreiro p. 25 à 26

67 Gavrić, Banović and Barreiro p. 65 to 68

68 Gavrić, Banović and Barreiro p. 68

69 Gavrić, Banović and Barreiro p. 68

70 Gavrić, Banović and Barreiro p. 68

71 Gavrić, Banović and Barreiro p. 68

72 See Annex II (in Gavrić, Banović and Barreiro p. 79)

73 Gavrić, Banović and Barreiro p. 21

74 Gavrić, Banović and Barreiro p. 21

politicized and ethno-oriented. Indeed the population is used to follow a charismatic political figure<sup>75</sup> because the descriptive representation is taking over the substantive representation<sup>76</sup>. In other words people vote for who looks like them, here in terms of ethnic belonging, and less for who has an interesting political programme<sup>77</sup>. As a result people strongly tend to vote for their ethnic representative as 70% of them identify themselves through their ethnic affiliation<sup>78</sup> and as divisions along ethnic lines are still very present<sup>79</sup>. Papić explains that it entails a lack of ability for the citizens to hold the state accountable because they don't develop a civic identity not based on ethnic criterium<sup>80</sup>.

Moreover political parties are partly financed by the state according to their election success<sup>81</sup>. This can be seen as a corruption measure that enables the already important nationalistic and ethno-oriented political parties to remain in place and maintain the non nationalistic and multi-ethnic parties aside. The EU must also pay attention to the existence of extremist nationalistic parties notably in the Republika Srpska that are secessionist and against the EU integration, for example the SDS and the SNSD<sup>82</sup>.

As a consequence of political parties being more ethnic than ideologically oriented<sup>83</sup> and the corruption the citizens are disinterested in politics : only 30-50 % of them approve government institutions<sup>84</sup> and more than 50 % consider the political situations as worsening and cite their political disaffection<sup>85</sup>. This is also due to the lack of citizens trust in the political sphere notably with the continuous political blockades<sup>86</sup>. As a result the participation in elections decreased with only 55% of participation for the 2006 elections and 56% for the 2010 elections<sup>87</sup>.

## **>> CONSEQUENCES – a continuous Bosnian political blockade hindering the country on the European Union path**

All this led to the absence of integration of the notion of political consensus and <sup>88</sup> democratic political culture in general<sup>89</sup>. Indeed there is no institutionalized process for intra-party discussion, and in case of different opinions there is no attempt to reach a compromise<sup>90</sup>. The Small parties tend to balance but have no significant influence<sup>91</sup>. Moreover the Media remains regulated at the entity and local levels that do not foster a national dialogue and enables local political leaders to bias the information<sup>92</sup>. In addition the decisions of the Press Council are not binding<sup>93</sup>. Accordingly the public considers the media as corrupted and don't use it as a mean of control on politicians<sup>94</sup>. This entails a political system where « blockades are part of the daily routine ». <sup>95</sup> Indeed on 529 laws discussed between 1997 and 2007, 269 did not receive a parliamentary majority<sup>96</sup>, i. e. more than

---

75 Gavrić, Banović and Barreiro p. 81

76 Pitkin and Kymlicka and Hodzija and Stojanović in Hodzija and Stojanović p. 57 to 59

77 Pitkin and Kymlicka and Hodzija and Stojanović in Hodzija and Stojanović p. 57 to 59

78 UNDP Early Warning Report, 2009 in Gavrić, Banović and Barreiro p. 70

79 Gavrić, Banović and Barreiro p. 71

80 Papić in Gavrić, Banović and Barreiro p. 82

81 Gavrić, Banović and Barreiro p. 75

82 Gavrić, Banović and Barreiro p. 80

83 Gavrić, Banović and Barreiro p. 71

84 UNDP Early Warning System Report, 2010 in Gavrić, Banović and Barreiro p. 70

85 UNDP Early Warning Report, 2009 in Gavrić, Banović and Barreiro p. 71

86 Gavrić, Banović and Barreiro p. 71

87 IDEA 2011 in Gavrić, Banović and Barreiro p. 72

88 Gavrić, Banović and Barreiro p. 21

89 Gavrić, Banović and Barreiro p. 72

90 Gavrić, Banović and Barreiro p. 81

91 Gavrić, Banović and Barreiro p. 81

92 Gavrić, Banović and Barreiro p. 86

93 Gavrić, Banović and Barreiro p. 86

94 Gavrić, Banović and Barreiro p. 86

95 Gavrić, Banović and Barreiro p. 35

96 Gavrić, Banović and Barreiro p. 68

the half.

The EU has pointed out this lack of political will to reach consensus as one of the main obstacle of the functionality of BH's institutions<sup>97</sup>. This has also been a reason to cut the fundings granted to Bosnia and Herzegovina and not proceed to the entering into force of the SAA. Accordingly to overcome the paralysis of the policy-making in Bosnia-Herzegovina represents an important and imperative and urgent objective for the EU in the perspective of the general elections in Fall 2014 and to enable the country to operate reforms on the path to EU accession.

### **>> SOLUTIONS – a soften and more targeted EU approach**

The rivalry between ethnies and Entities and the political blockade resulting from it is one of the most sensitive issue in Bosnia and Herzegovina. Accordingly the EU must pay a greater attention to the way its approaches the political parties that are very reluctant to the country integration in the EU, notably the secessionist parties. Thus the EU should take a partner approach rather than a top-down approach, and to work specifically and discretely with the political parties that are in favor of the EU membership and with the other to try to build a dialogue but without imposing its own ideas with a « take or leave it » attitude.

With the political parties in favor of the EU accession the EU can propose its guidance to implement specific measures to reform the political voting system to avoid political stalemates and enable the country to make laws, and good laws for the citizens. However it is important to keep in mind that the country might not be ready for a complete shift from an ethnic and territorially-based on Entities system. Therefore the measures must represent a progress in this way but not lead to another political system extreme. Finally the EU should also target the citizens as the most powerful leverage to impulse political changes and reforms as much as the Media.

### **>> OTHERS ACTORS TO MOBILIZE – a cooperation with specific Bosnian representatives and neighbouring countries**

The EU can enter in a close dialogue with the Presidency and the Council of Ministers that are in charge of conducting the Foreign Policy and which includes the country entry into the European Union as one of its most important objective<sup>98</sup>. The EU should also focus on the representatives having a coordinating role between the authoritative bodies, for instance the Chairman of the Council of Ministers that coordinates the work between ministries but also between other central states institutions and the Entities<sup>99</sup>. Finally a tight cooperation with Croatia and Serbia could be also a powerful leverage to foster changes as they already intervened to stop the secessionist incentives of Croats and Serbs after the democratic changes following the Constitutional Court *decision on the Constituent Peoples*<sup>100</sup>.

### **>> EVIDENCES – a strong incentive for political changes and to enter the European Union**

An agreement on a constitutional reform leading to substantial changes failed to be adopted by missing only one vote at the Parliament<sup>101</sup>. It shows that it is possible to reach a consensus in Bosnia and Herzegovina. Moreover the path on less ethnic-based political parties is taken slowly but surely with some political parties, for instance the SDP BiH party, that promote mutli-ethnic values and has a political programme focusing on economic and social policy that won the parliamentary

---

97 Gavrić, Banović and Barreiro p. 102

98 Gavrić, Banović and Barreiro p. 99 and 100

99 Gavrić, Banović and Barreiro p. 42

100 Gavrić, Banović and Barreiro p. 56

101 Gavrić, Banović and Barreiro p. 20



elections in 2010<sup>102</sup>. And there are also evidences that Bosnian citizens are ready to move towards non nationalistic political parties : in 2000 non-nationalistic parties won the elections in general<sup>103</sup>. Finally the citizens are largely in favor of the EU. Indeed surveys reveal that 80 to 85 % of the citizens support the accession to the EU regardless their ethnic or political identity<sup>104</sup>. And there is an europhilia with two third of the Bosnian citizens supporting the policies aiming at EU integration<sup>105</sup>. And in addition the integration into the EU being one of the most important objective of the Bosnia and Herzegovina foreign policy<sup>106</sup> this could foster the country to implement serious reforms and bring back the country of the EU path.

---

102 Gavrić, Banović and Barreiro p. 77

103 Gavrić, Banović and Barreiro p. 21

104 Gromes 2006b in Gavrić, Banović and Barreiro p. 100

105 Gavrić, Banović and Barreiro p. 103

106 Gavrić, Banović and Barreiro p. 100

# **RECOMMENDATIONS**

## **THE EU APPROACH**

- Change the EU approach firstly to move from a top-down to a partner approach, secondly from a periodic to a constant insistence on the necessary reforms, thirdly from general recommendations to specific measures that can also be understood and felt by the citizens<sup>107</sup>
- Work in cooperation with the other actors aforementioned to increase the chance of reforms success and to avoid the dispersion of the international community work

## **THE IMPLEMENTATION OF THE *SEJDIC AND FINCI* CASE**

- Propose the introduction of a co-ordination mechanism on EU matters at every level of the political system (national, Entities, local) that will work in cooperation with Bosnian authorities to prepare a constitutional and law reform of the electoral system in the perspective of the general elections in Fall 2014
- Guide the country for a reform of the Constitution and the Electoral Law<sup>108</sup> to entitle the category of Others of the collective right to run for the elections for the Presidency and the Bosnian House of Peoples
- Propose to introduce a quota also for the Others category
- Propose to use the summary legislative procedure to reform the Electoral Law that enables to cut by half the law-making timing<sup>109</sup>

## **THE EXCESSIVE USE OF VETOS RIGHTS**

- Propose to increase the quantum of the majority to use the Entity veto and the Vital National Interest veto.
- In correlation with the first issue also grant the veto rights to the category of Others
- Cooperation with local Croat NGOs to bring the case of Entity veto right before the Constitutional Court that could be judged as a breach of the principle of equality among the three Constituent Peoples as Croats do not represent an ethnic majority in any of the Entities and so cannot use the Entity veto
- Following the example of the Brcko District, propose to impose qualifications criteria for central offices and assembly seats to foster a higher quality of law-making and people that are less ethnically orientated to reduce the possibility of blockades and increase the possibility of compromise<sup>110</sup>.
- Propose to finance equally all political parties to foster a political spectrum change
- Increase the education level to develop consciousness and criticism ability of the citizens and scholars should adopt a language understandable by the population. In cooperation with the OSCE offices that support education reform<sup>111</sup>.
- Foster the development of national media, develop a media regulation at the national level and give to the Press Council decisions a legal binding power.
- Help to develop civil society structures to foster the incentive of citizens to hold accountable the political sphere.

---

107 Stratulat p. 4

108 Hodzija and Stojanovij p. 11

109 Gavrić, Banović and Barreiro p. 68

110 Gavrić, Banović and Barreiro p. 57

111 Gavrić, Banović and Barreiro p. 93

# **BIBLIOGRAPHY**

## **BOOKS**

- “The Political System of Bosnia and Herzegovina – Institutions – Actors – Processes“, Saša GAVRIC, Damir BANOVIC and Mariña BARREIRO, in BH politika/BH politics, Editor Saša Gavrić Sarajevo Open Centre, 2013
- “New/Old Constitution Engineering – Challenges and implications of the European Court of Human Rights Decision in the Case of Sejdi and Finci v. BiH“, Edin HODZIJ and Nenad STOJANOVIJ, in in Analika – Center for Social Research, 2011

## **OFFICIAL EUROPEAN UNION DOCUMENTS AND WEBSITES**

- European Union, Bosnia and Herzegovina progress report, 2013
- European Commission, Communication on the Enlargement Strategy and Main Challenges 2013-2014 to the European Parliament and the Council, Brussels, 2013
- Zagreb Summit Declaration 2000 :  
[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressdata/en/er/Declang4.doc.html](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressdata/en/er/Declang4.doc.html)
- Thessaloniki Summit Declaration of 2003 : <http://www.stabilitypact.org/reg-conf/030621-thessaloniki/declaration.asp>
- Official website of the Delegation of the European Union to Bosnia and herzegovina :  
<http://www.delbih.ec.europa.eu/Default.aspx?id=1&lang=EN>

## **ARTICLES**

- “The Ambivalent Role of the EU in the Western Balkans - “Limited Eutopeanisation“ between Formal Promises and Practical Constraints. The Case of Bosnia-Herzegovina“, Jordan Gheorghe BARBULESCU and Miruna TRONCOTA, in Romanian Journal of European Affairs, 2012
- “Breaking the Impasse : Constitutional Reform in Bosnia“ Policy Brief, Sofia SEBASTIAN, in FRIDE – A European Think Tank for Global Action, 2011
- “EU Enlargement to the Balkans : Shaken, not Stirred“ Policy Brief, Corina STRATULAT, in European Policy Center, 2013
- “Eu to cut Bosnia Funds Over Reform Failure“, Elivra M. JUKIC, in Balkan Insight Web Newspaper, 14 October 2013, <http://www.balkaninsight.com/en/article/bosnia-once-more-disappoints-brussels>
- “European Union Cuts Funding in Bosnia“, Sita Planasari AQUADINI, in Tempo.CO Web Newspaper, 11 December 2013, <http://en.tempo.co/read/news/2013/12/11/074536433/European-Union-Cuts-Funding-to-Bosnia>
- “Bosnia Investigates Loss of EU Fundings“, Aida CERKEZ, in AP Web Newspaper, 11 December 2013, <http://bigstory.ap.org/article/bosnia-investigates-loss-eu-funding>

## **SPEECH**

- “Enlargement: Need for Bold Visions“, Stefan Füle, In Friends of Europe Conference : “Western Balans: Fast lane, slow lane“, 3 December 2013

## CONFERENCE

- “Bosnia and Herzegovina on the path towards the EU: The Way Forward”, Lecture by Ms Ana Trišić Babić – Deputy Minister of Foreign Affairs of Bosnia and Herzegovina, in the Center for EU Enlargement Studies in Central European University, 12 December 2013

## JUDGEMENTS

- European Court of Human Rights, Grand Chamber, Judgement, *Sejdic and Finci v. Bosnia and Herzegovina Case*, Applications nos. 27996/06 and 34836/06, 22 December 2009
- European Court of Human Rights, Grand Chamber, Judgement, *Gorzelik v. Poland Case*, Application No. 44158/98, 17 February 2004
- Bosnian Constitution Court, *Decision on the Constituency of Peoples*, No. U 5/98-III