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# EUROPEAN PERSPECTIVES

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# Letter from the Editor

This spring our journal stepped into the second decade of its existence. But our overall environment has been since early February decisively marked by the outbreak of the Corona 19 virus and pandemics that it caused. This is the peculiar brand of the year 2020 that overshadowed everything else. Unimaginable, but realistic. Still, life has to go on and it does.

As we annotated in our April issue, the memory of the Dayton Peace Accords signed a quarter of century ago is marking the second part of this year. Hence, we bring a special section in the first part of this issue on the topic with three articles. There are six of them all together at your intellectual disposal. Hopefully academically rich and provocative as well.

*The first* article focuses on a generally accepted statement that the Dayton Peace Accords present a turning point in the historical sustainability of Bosnia and Herzegovina. Hence, the document along with its signature marks a time of structural change in the development of the country. It is a fundamental peace treaty, though not fully implemented yet. *Remarkable.*

*Our second* contribution discusses the post-Dayton political development and political reforms in the context of the transition of the Bosnian-Herzegovinian society. This contributed to stability and supported the institution-building process. Political and technical assistance and support of the international community is key for the EU membership. *Focal.*

*The third* contemplation brings our attention to a contradiction between outstanding legal framework and the lack of political will. This dichotomy has been marking the development of Bosnia and Herzegovina so far. Calling upon some weaknesses of the Dayton is more a reflection of a power struggle than a real obstacle for the progress of the country. *Truthful.*

*The fourth* discussion deals with the foreign policy alignment of four Western Balkans EU candidate countries. It uncovers whether the declared foreign policy priorities are genuinely Europeanized and domesticated. Through this approach the respected author indicates the limits of normative, transformative and structural power of the EU in the region. *Proficient*.

*The fifth* paper dwells on the change and diversity management process in the culture of organization. This phenomenon is important both on individual and organization level, since it requires capability to react and to adapt to. Subsequently, to recognize and apply changes is a matter of both competitiveness and efficiency in the transformative environment. *Basic*.

*The last* piece of examination analyzes the most known contemporary Bolivian novel American Visa. It is an outstanding piece of fiction dealing with issues of actual life in the frame of consular business. But visa may also prove not to be a ticket to paradise. Or perhaps it even contributes to discovering the true meaning of what real values are. *Uncovering*.

Our first book review elaborates on development of the foreign policy of Bosnia and Herzegovina since its independence, and the second one presents a unique multilingual diplomatic experiment with poetry, promoting language diversity and richness, praising the potentials of the Western Balkans societies. In the current Guest View the distinguished author, an insider of our memorial topic, provides a clear cut view on specifics of the signed treaty and its implementation. The latter is going against the letter and spirit of the Accord.

Not only a careful reader is familiar with our bellow *intonation*: Slovenia is already part of the Trio with Germany and Portugal while preparing for its second Presidency of the EU Council, having in mind the Congress of Ljubljana that took place two centuries ago. Diplomacy is full of tradition. See you in spring.

Ljubljana, October 2020

M. J.

*From the Congress of Ljubljana 1821 to the Presidency of the EU Council 2021*



**guest view**

**A Note on the Dayton Peace Accord**

*Ejup Ganić*



# A Note on the Dayton Peace Accord

Ejup Ganić<sup>1</sup>

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The Dayton Peace Accord brought an end to the war in Bosnia and Herzegovina and any agreement that ends a war tends to deflate criticism. Peace is always preferable to war. Nation building, however, is a process that extends beyond peace, and all agreements, Dayton included, must allow room for revision that serves greater unity and prosperity.

Taking the broad view, from the vantage point of over two and a half decades since its signing – by the then-presidents of Serbia, Croatia and Bosnia, Milošević, Tudjman, and Izetbegović – it becomes clear that Serbia, which at the time of signing essentially controlled about 65% of BiH territory, largely dictated both the form and the contents of the Accord. The outcome of the resulting provisions, of which this article will treat only two, was well understood by Milošević and quite certainly by the Clinton administration as well. Presiding over the agreement, the US government was motivated by the reality of a President seeking his second term and for whom the coup of ending the war in the Balkans was as fine a foreign policy achievement as could be gained.

The first provision to address relates to the return of refugees and displaced persons. It is treated by Annex VII of the Accord and lays out a remedy to reverse the effects of ethnic cleansing. Simply put, it calls for conditions to be created so that survivors are allowed a safe return to their homes. Before the war, close to 50% of citizens populating the territory granted by the Accord to the Entity of Republika Srpska (RS), were non-Serbs. Successful implementation of Annex VII would effectively yield a return to pre-war figures, or there about, and yet

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1 Acad. Ejup Ganić, PhD, Full member of the Academy of Sciences and Arts of Bosnia and Hercegovina as well as Professor, Chancellor and founder of the Sarajevo School of Science and Technology. He was member of the Presidency of Bosnia and Herzegovina during the war, and also President of the Federation.

today, only about 10% of RS citizens are non-Serbs. With no penalties for non-compliers imbedded in the text of the agreement, the mandate to return displaced persons was left with their former persecutors. Return of refugees and displaced persons without clear political will to do so (across all levels of government) is not only complex but near impossible. It is not a matter of simply returning property but of rebuilding schools and roads, providing jobs and protection by law enforcement, as well as inclusion in local government bodies.

While the Dayton Peace Accord foresees the conditions that need to be created for return to succeed, it fails to spell out target numbers, time-frames and, importantly, any repercussions for failing to meet these. The process of return is still ongoing, some twenty-five years since the end of the war, with the RS government continuously proclaiming that all are welcome to their property and home. In reality, property is most often sold where reclaimed by returnees, as the place of return is unwelcoming at best with openly hostile the norm. With each passing year, ethnic cleansing is cemented with passage of time, as survivors age and their children grow up elsewhere. What remains in stone is a country divided into two Entities along not only lines of territory (49% to RS and 51% to Federation) but of ethnicity. As such, it goes against both the letter and spirit of the Accord, but triggers no remedy as none has been provided.

The other provision concerns the bicameral structure of the national legislature, consisting of the Lower House (House of Representatives) and Upper House (House of the Peoples). In the former, individual MPs from all of BiH vote individually, in the latter – the vote is by ethnic groups. It is the House of the Peoples, as defined in Dayton that steers the fate of the land.

Originally intended to prevent any formerly warring side to outvote another on matters deemed to be of “vital national interest”, for a resolution to pass it must secure votes from each voting bloc of the House of Peoples (a minimum of 1/3 from each group). As this essentially gives veto power to each constituent group, defining what matters of “vital national interest” are would seem paramount, but there was no time for such detail in the winter of 1995. Without this definition, any measure before the House is voted on as a matter of “vital national interest”, gumming up progress of any resolution, any investment, and any act that serves to strengthen the central state. Importantly, these constituent blocs are not only ethnically but largely

politically homogenous, as MPs are not voted in on a national level but through the Entities. In the case of the RS, the lack of return of refugees and displaced persons plays an important role, as the voting tide consistently sways towards the extreme right, ensuring that the nationalists and the populists are those in power and in firm possession of the veto.

Over two and a half decades since the signing of the Agreement, no consensus has been reached in defining what the matters of “vital national interest” are. This is unsurprising as any definition of these special interests would serve to curtail Entity power and would require the will of those holding this power to give it up. The ethnic vote is today a tool of trade, where bargains (we-will-vote-for-this-if-that) and resulting institutional corruption is rife, with the central state rendered impotent to lead in any reform. The infection permeates all pores of our society, coming from top down, it thrives everywhere from education to the judiciary. Again, as such, it goes against both the letter and spirit of the Accord, but triggers no remedy as none has been provided. What remains in stone is the House of Peoples’ veto power, serving to protect and advance the nationalist agenda of the ruling parties.

The House of Peoples, much like the three-member Presidency, highlights the fact that Dayton Peace Accord recognizes only three ethnic groups as homogenous blocks: Bosniaks (formerly referred to as Bosnian Muslims – not in professed belief but in ethnic origin), Croats, and Serbs. The nation’s highest posts are divided among these three groups, making any other citizen of undeclared or minority ethnic origin (Jewish, Roma or other) not only de facto excluded from high office but de jure as well. The rights of BiH citizens can only be viewed through the prism of their ethnicity and the votes that underpin the complex machinations of the state can only be competed for through the Entities. What follows is that, at the most fundamental level, competing for office does not necessarily require competing in ability or competence at all, but rather in ethnicity: being very Serb for the Serb position or very Bosniak for the Bosniak position, very Croat for the Croat one. To be this, one must be a caricature of hard-liner positions that served as pillars for the very creation of the system.

In retrospect, the International Criminal Tribunal for Former Yugoslavia, and its rulings, represents the greatest contribution of the international community towards lasting peace and future

prosperity in BiH and the wider region. The inclusion of international members of judiciary and foreign prosecutors in the work of the BiH Constitutional Court has had an immense impact on the preservation of this state's legal framework and its continued existence. However, preserving the frame is not enough to mitigate the effects of the three-pronged system it holds: one that has served to inflate the government to an unwieldable and impenetrable size, where citizens are denied both efficiency and transparency and where economic prosperity and state security play second fiddle to political opportunism. Worrying numbers of BiH citizens (well over half in polling) profess that they see their future outside of the country.

Perhaps we can allow that at the signing of the Accord, the world leaders overseeing its creation did not have a full picture of the atrocities and the devastation this country has suffered: the horrifying number of mass graves on RS territory, the Srebrenica genocide. Dayton was never meant to cement the future of this country but pave the way for it. However, with what we know today, expecting Bosnians to come together and reform a constitutional framework that cannot be reformed considering the stakeholders involved, and the decision-making process required, is disingenuous at best. Ultimately, the same political forces that brought about the original Dayton constitution must be involved in its transformation. This means the international community must again provide the impetus, if we must provide the muscle.



Signing of the Dayton Peace Accord, 14 December 1995, Paris

**SPECIAL  
SECTION: 25<sup>th</sup>  
ANNIVERSARY  
OF THE DAYTON  
PEACE ACCORDS**

**Dayton Peace Accords – A Turning Point in  
the Historical Sustainability of Bosnia and  
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**The Best Legal Framework Cannot  
Compensate for the Lack of Political Will**

*Slavo Kukić*





# Dayton Peace Accords – A Turning Point in the Historical Sustainability of Bosnia and Herzegovina

Mirko Pejanović<sup>1</sup>

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## ABSTRACT

The article examines the social-historical context of the beginning of the war and aggression against Bosnia and Herzegovina in April 1992 that led to unprecedented sufferings of civilians, ethnic cleansing and genocide in Srebrenica. The peace treaty was signed on 21 November 1995 in Dayton. Over the past 25 years, Bosnia and Herzegovina implemented a number of reforms that allowed for development of the state on its way towards its integration into the EU and NATO. Within this reform process the most complex part is the constitutional reform. It will provide the framework for elimination of the limitations of the Dayton Constitution, which have rendered Bosnia and Herzegovina unfunctional as a state. This demands a new strategy of the international community and the European Union for the implementation of the Dayton peace agreement. Five priorities of such strategy are presented and commented in the concluding part.

**KEYWORDS:** Dayton peace agreement, Dayton Constitution, limitations, reform process, war-time presidency, the EU Special Representative

## POVZETEK

Članek preučuje družbeni in zgodovinski kontekst začetka vojne in agresije na Bosno in Hercegovino aprila 1992, ki je privedla do izjemnih trpljenj civilistov, etničnega čiščenja in genocida v Srebrenici. Mirovni sporazum je bil podpisan 21. novembra 1995 v Daytonu. V minulih 25-ih letih je Bosna in Hercegovina izvedla številne reforme, ki so omogočile razvoj države na poti k njenemu vključevanju v EU in NATO. V tem reformnem procesu je najbolj zapletena ustavna reforma. Zagotovila bo okvir za odpravo omejitev Daytonске ustave, zaradi katerih je Bosna in Hercegovina kot država postala nefunkcionalna. To zahteva novo strategijo mednarodne skupnosti in Evropske unije za izvajanje Daytonskega mirovnega sporazuma. V zaključnem delu članka je predstavljenih in komentiranih pet prioritet te strategije.

**KLJUČNE BESEDE:** Daytonski mirovni sporazum, Daytonска ustava, omejitve, proces reform, vojno predsedstvo, posebni predstavnik EU

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## INTRODUCTION

This article examines the social-historical context of the beginning of the war and aggression against Bosnia and Herzegovina (BiH) in April 1992. The 1992-1995 war in BiH led to unprecedented sufferings of civilians, ethnic cleansing and genocide in Srebrenica. After the Bosniak-Croat military conflict was stopped and the Federation of BiH established, the United States launched an initiative aimed at achieving a peaceful solution to the war in BiH. US President Bill Clinton appointed Richard Holbrooke as the US Special Envoy for the peace talks for BiH. The peace talks among belligerent parties culminated on 21 November 1995 with the signing of the Dayton peace accords, which stopped the war. Over the past 25 years, BiH implemented a number of reforms that allowed for development of the state and its European integration and the NATO alliance. The future achievement of membership of BiH in the European Union and the NATO alliance defines the trajectory for BiH that leads to implementation of the Dayton peace agreement, because there can be no stable peace in BiH without its integration into Euro-Atlantic institutions. Implementation of reforms in BiH within the framework of the process of integration into the European Union will allow for implementation of the most complex reform, the constitutional one. The constitutional reform will provide the framework for elimination of the limitations of the Dayton Constitution which have rendered BiH unfunctional as a state. At the end, the paper offers a conclusion that advocates a new strategy of the international community and the European Union for the implementation of the Dayton peace agreement.

The war in Bosnia and Herzegovina (BiH) begun in April 1992 with the siege of Sarajevo as its capital. The siege of Sarajevo lasted 1,472 days, until the signing of the Dayton peace agreement in December 1995. The siege and shelling of Sarajevo was carried out by the forces of the former Yugoslav People's Army, which were commanded from Belgrade, and this is why the war has the character of an international conflict and aggression against the sovereign and internationally recognized state of BiH. In May 1992, the forces of the former Yugoslav Peoples' Army that remained in BiH were renamed into Army of the Republic of the Serb People. The Assembly of the Serb People in BiH appointed General Ratko Mladić as the Commander of the Army. As the Army of the Republic of the Serb People had taken over the personnel, as well as significant quantities of materiel and weapons from

the Yugoslav People's Army in BiH, by September 1992 it managed to establish control on over 70% of the territory of the Republic of BiH.

Slobodan Milošević, then President of the Republic of Serbia, maintained control over the former Yugoslav People's Army, and thus also over the Army of the Republic of the Serb People. Milošević's regime simultaneously controlled the Serb Democratic Party (SDS) of BiH, which was headed by Radovan Karadžić.<sup>2</sup> Radovan Karadžić's SDS and Milošević's regime did not recognize the achieved historical development of the statehood of the Republic of BiH, as one of the six republics of the Socialist Federal Republic of Yugoslavia which had equal rights as the other Yugoslav republics. Milošević's regime had a plan to create a Great Serbia that would include territories of BiH and Croatia. Specifically, it initially institutionally modeled the plan through the name of the Federal Republic of Yugoslavia.

In 1991, just like the Republic of Croatia, the Republic of Slovenia and the Republic of Macedonia, the Republic of BiH also conducted a referendum, on the basis of the decision of its Assembly, which subsequently led to the dissolution of the Yugoslav federation. Citizens of BiH expressed their support to a sovereign and independent national legal status, by participating at the referendum that took place on 29 February and 1 March 1992, at which the turnout was 64 % of the electoral register. Moreover, 99% of the citizens that turned-out at the referendum voted in favor of an independent and sovereign national legal status of BiH.

On the basis of the results of the referendum, the European Union and many other countries around the world decided to support the international recognition of the Republic of BiH. In such a way, following the dissolution of the Yugoslav federation, by the will of its citizens expressed at the referendum, the Republic of BiH joined the family of free and sovereign states in Europe and the world.

After the international recognition of BiH on 6 April 1992, Milošević's regime launched an aggression against the sovereign state of the Republic of BiH. In the first year of the war, the Army of the Republic of

<sup>2</sup> In 2019, the International Criminal Tribunal for Former Yugoslavia (ICTY) in The Hague sentenced Radovan Karadžić and Ratko Mladić to life-long imprisonment for the war crimes committed and the crime of genocide in Srebrenica. Radovan Karadžić came to Sarajevo from Šavnik, Montenegro to pursue medical studies. He was elected the President of the Serb Democratic Party in July 1990. From the very beginning of his political engagement in his public appearances he advocated ethnic division, establishment of Serb autonomous areas and negation of the achieved historical level of statehood of BiH.

the Serb People created from the former Yugoslav People's Army conducted ethnic cleansing of Bosniaks and Croats from the "envisaged" territory of Republika Srpska. The war goal of the Serb Democratic Party and its leader Radovan Karadžić was an ethnically pure Republika Srpska. Around one million civilians were exiled from several regions in BiH, such as East Bosnia, Bosnian Krajina, Posavina, and East Herzegovina. Several thousands of civilians were killed in the implementation of the ethnic cleaning agenda. In the city of Prijedor in Bosnian Krajina alone there were a number of concentration camps for the Bosniaks and Croats, where more than 3,000 civilians were killed. The ethnic cleansing continued all until the end of the war, when in July 1995 in the town of Srebrenica the war crime of genocide was committed against 8,600 Bosniaks.

The war in BiH caused enormous consequences with respect to the sufferings of the civilian population, the genocide in Srebrenica and the ethnic cleansing of the population and the destruction and devastation of economy and infrastructure.

### **THE ROLE OF THE WARTIME PRESIDENCY IN THE ACHIEVEMENT OF A PEACEFUL SOLUTION**

The Presidency of the Republic of BiH was a collective head of state. It was elected at the first multiparty elections in November 1990. The Presidency comprised of seven members: two members of the Bosniak people, two members of the Serb people, two members of the Croat people, and one member from the so called "Others" group.<sup>3</sup>

Following the declaration of the results of the referendum of citizens in late March 1992 and the international recognition of BiH, members of the Presidency from the Serb People, Biljana Plavšić and Nikola Koljević, resigned from their positions.<sup>4</sup>

Once the vacant positions of members from the Serb people in the Presidency of the Republic of BiH were manned in early June 1992, the Presidency gained full legitimacy to organize the defense of the inter-

3 Alija Izetbegović and Fikret Abdić were from the Bosniak people, Stjepan Kljuić and Franjo Boras from the Croat people, Nikola Koljević and Biljana Plavšić from the Serb people. The seventh member of the Presidency from the "Others" group was Ejup Ganić.

4 According to the Law on Election of Members of the Presidency of the Republic of BiH, members of the Presidency who resign shall be replaced by "the next from the list for election of members of the Presidency from the Serb people who had won the largest number of votes at the 1990 elections". In this case, pursuant to the described legal basis, Dr. Nenad Kecmanović and Dr. Mirko Pejanović became members of the Presidency of the Republic of BiH in June 1992.

nationally recognized state of BiH and engage in negotiations with the international community aimed at achieving peace in BiH.

As it had full unity of all members with respect to the defense of integrity and multi-ethnic character of BiH, pursuant to the Constitution of the Republic of BiH, in May and June 1992 the Presidency adopted two documents of strategic importance. One document was the “Platform for the Work of the Presidency in Wartime Conditions”, which defined the political and constitutional principles of the state for which the civic and patriotic forces of BiH will fight. The Presidency adopted the stance according to which BiH will constitutionally and politically develop as a state of its citizens and equal peoples, Serb, Croat and Bosniak, together with others. This reaffirmed the character of the state defined by the National Anti-Fascist Council of the People’s Liberation of BiH (ZAVNOBiH) and linked it to the content of the referendum question. On the other side, with respect to the internal-political organization, the document laid the foundation according to which the internal territorial organization of BiH would be based on the European model of organization of local and regional self-governance. Specifically, it was envisaged to be founded on the principles of the European Charter on Local Self-Governance. After World War II, BiH developed a system of 109 municipalities as local governance and self-governance units. These local self-governance units had a high level of autonomy in management of the development of their respective local communities. There is a significant tradition of development of democratic authorities in local communities in BiH, which has to be promoted.

The Platform for the Work of the Republic of BiH Presidency in Wartime Conditions envisaged that BiH is to have a bicameral parliament consisting of the House of Citizens and House of Peoples. The House of Peoples incorporated institutional mechanisms for the protection of ethnic equality of the peoples and development of their respective cultural and ethnic identity.

The other decision of the Presidency of the Republic of BiH of strategic importance was related to the establishment of the Army of the Republic of BiH as the armed forces for defense. The Platform specified that the Army of the Republic of BiH will be an armed force of all the citizens and members of all the peoples who, as patriots, are willing to defend the integrity and international legal identity of the

country. Over the three and a half years of war the Army of the Republic of BiH became a respectable defense power with more than 200,000 members.

The 1st Corps of the Army of the Republic of BiH managed to defend the city of Sarajevo during the three-and-a-half-years long siege. The 5th Corps defended the city of Bihać, which was also under siege. This city would have shared the faith of Srebrenica, had the 5th Corps not been there to defend it. The 3rd Corps defended the free territory in Central Bosnia and was based in Zenica. The 4th Corps defended Mostar. The 2nd Corps defended Tuzla. After its operations in Travnik, the 7th Corps liberated the Vlačić area and merged with the forces of the Army of the Republic of BiH in West Bosnia.

In a joint operation several corps of the Army of the Republic of BiH conducted a campaign in August, September and October which led to the liberation of several municipalities in Bosnian Krajina: Bosanko Krupa, Bosanski Petrovac, Ključ and Sanski Most.<sup>5</sup>

The troops of the Army of the Republic of BiH were about to enter Prijedor and on their way to Banja Luka. At the time, the preparations for the Dayton peace agreement were well underway and all the military operations of the Army of the Republic of BiH were to be suspended. This was done to the dissatisfaction of members of the 5th Corps of the RBiH Army, headed by General Atif Dudaković.

In the summer and autumn of 1995, the Presidency of the Republic of BiH focused its political and statehood activities on the preparation of a peace agreement that would stop the war in BiH. In their internal work and the decision making process in the Presidency, the members had a consensus on several crucial aspects of the issue whether to continue to wage the war or, establish peace, under specific conditions. The members of the Presidency of the Republic of BiH<sup>6</sup> were also united in the stance that an attempt should be made to find a peaceful political solution to the war with the assistance and support of the international community. The Presidency was fully willing and responsible to stop the war and the sufferings of civilians, so that the refugees

5 The liberation campaign by the Army of the Republic of Bosnia and Herzegovina in the autumn of 1995 was augmented by air strikes conducted by the NATO Alliance in August and September 1995 against the positions of the Army of the Republic of the Serb People.

6 In 1995, the Presidency of the Republic of Bosnia and Herzegovina comprised: Alija Izetbegović, Chair, and Nijaz Duraković, Ejup Ganić, Ivo Komšić, Stjepan Kljujić, Tanja Ljujić-Mijatović and Mirko Pejanović as members.

could begin to return to their pre-war places of residence. At the same time, the Presidency took a flexible approach with respect to possible solutions for internal territorial organization. However, the severe consequences of the war, and particularly of ethnic cleansing, could not be removed over a short period of time.

The Presidency of the Republic of BiH believed that the key prerequisite for establishment of peace was the preservation of the territorial integrity of BiH within its internationally recognized borders and its international legal identity. Key conditions of the Presidency of the Republic of BiH for peace included return of refugees to their prewar homes and bringing war criminals to justice. A special condition on which the Presidency of the Republic of BiH insisted was the preservation of institutions of the state of BiH. Specifically, the Presidency insisted that, as far as the constitutional political organization of the state is concerned, the peaceful solution for BiH should include provisions on central state institutions that provide for the existence of the state. These central institutions included: the national parliament, Council of Ministers, the Presidency of the state (head of the state), the Constitutional Court and the Central Bank.

One of the agreements developed in the first phase of the preparations for the Dayton peace agreement did not envisage central institutions. This was the Agreement<sup>7</sup> signed on 8 September 1995 in Geneva by the Foreign Affairs Ministers of the Federal Republic of Yugoslavia, the Republic of Croatia and the Republic of BiH. When it comes to the institutions of the state of BiH, this agreement envisaged only the Council of Ministers. Richard Holbrooke, the agreement brokered in Geneva on 8 September 1995 said that “although is limited, it takes us in the direction of peace, but the most difficult work is yet to come. The two entities still need to define their internal boundary lines within BiH, in line with the 51-49 principle.”<sup>8</sup>

Unsatisfied with the possible unfavorable outcome of the future peace agreement with respect to guarantees for the treatment of main insti-

7 Then foreign affairs ministers Milutinović Milan, Granić Mato and Muhamed Šaćirbej signed on behalf of the Federal Republic of Yugoslavia, Republic of Croatia and Republic of BiH respectively, and in the presence of representatives of the Contact Group members, the European Union and Richard Holbrooke, Special Envoy of the US President, the Geneva Agreement which established the principles for preparation of a comprehensive peace agreement. These principles were related to the establishment of the two entities and the Council of Ministers, and did not include any reference of other central institutions of the state of Bosnia and Herzegovina. See Bilić, Tudman, p. 447.

8 Holbrooke, pp.143-145.

tutions of the state of BiH (the Parliament, the Presidency, the Constitutional Court and the Central Bank), members of the Presidency deemed necessary to undertake new initiatives towards officials of the US administration. In that respect, in the second half of September 1995, four members of the Presidency Tanja Ljujić-Mijatović, Mirko Pejanović, Ivo Komšić and Stjepan Kljujić, traveled to Washington. Their visit to Washington was organized with the framework of the visit by a wider delegation of the two councils: the Croat People's Council (HNV) and the Serb Civic Council (SGV).<sup>9</sup> In Washington, the delegation of the two councils met with Anthony Lake, then National Security Advisor to US President Bill Clinton, Bob Dole, a Republican leader and the Republican Majority Leader in the US Senate, as well as Joseph Biden, then US Senator. The talks were headed by members of the Presidency Ivo Komšić, Mirko Pejanović, Tanja Ljujić-Mijatović and Stjepan Kljujić. The main topic of the talks was how to ensure in the preparations of the Dayton peace agreement, specifically the Constitution of BiH as an integral part of the Dayton agreement, that it included provisions on central institutions of the state - the Presidency, the Parliament, the Council of Ministers, the Constitutional Court and the Central Bank. The talks took place in an atmosphere of understanding for the future of the state of BiH. Members of the Presidency presented in a radical form their request that, in the continuation of preparations for the Dayton peace agreement, the constitutional and legal status of institutions of the state were ensured by the Constitution, and they are granted the status and competencies in the same way in which they are granted in all democratic countries in the world. The stance of the BiH delegation was that without central institutions there can be no integrity of the state. They warned the interlocutors Anthony Lake, Bob Dole and Joseph Biden that the possible consequences for BiH should be presented at a press conference if the status of central institutions of the state of BiH is not resolved. The BiH delegation spoke openly and asked whether the United States would be a democratic and successful state without the Congress, the US President, the Constitutional Court and the Central Bank. At the end of the talks, the BiH delegation were given assurances that the US Administration would initiate a discussion and understanding among the Contact Group

9 The two councils were established in February and March 1994 at the time of conclusion of the Washington Agreement, which stopped the Bosniak-Croat conflict and established the Federation of Bosnia and Herzegovina. Both the Croat People's Council (HNV) and the Serb Civic Council (SGV) were founded on the programs that advocated integrity of Bosnia and Herzegovina and equality of its citizens and peoples. Professor Ivo Komšić was the President of the Croat People's Council, and Professor Mirko Pejanović was the President of the Serb Civic Council. The delegation of the Croat People's Council and the Serb Civic Council also included a group of prominent intellectuals and public figures who were activists of the two Councils: Ivan Lovrenović, Marko Vešović, Žarko Bulić, Mićo Rakić and Jovan Divjak. They also had a number of meetings in institutions of the US Administration.



members, so that the text of the Dayton peace agreement, specifically its part on the constitution, incorporated provisions on central institutions of the state of BiH: the Parliament, the Council of Ministers, the BiH Presidency, the Constitutional Court and the Central Bank.

The visit by members of the Presidency to Washington and the meetings were followed by an initiative related to the New York meeting of foreign affairs ministers of the Federal Republic of Yugoslavia, Republic of Croatia and Republic of BiH with members of the Contact Group<sup>10</sup>, which was organized on 29 September 1995. At the meeting, a proposal was tabled to have the Dayton peace agreement ensure the constitutional legal status of the central institutions of the state of BiH, which became an amendment to the Geneva Agreement of 8 September 1995. Richard Holbrooke noted the following about the outcome of the New York meeting: “We could have finally demonstrated to the sceptics that we are building a central government. We agreed on a tripartite Presidency, Parliament and the Constitutional Court and other important attributes of a government.”<sup>11</sup>In such a way the four members of the Presidency in agreement with the rest of the members, launched an initiative to talk to officials of the US Administration and advocated for finding a solution for central institutions of the state within the framework of the Dayton peace agreement,<sup>12</sup> and a definition in the Dayton constitution for the tripartite BiH Presidency, the Parliament, the Council of Ministers, the Central Bank and the Constitutional Court. Hence, this is how the state of BiH preserved its integrity and international legal identity. Furthermore, this also created the conditions for internal integration BiH in the post war period.

## **INTERNATIONAL FRAMEWORK OF THE DAYTON PEACE AGREEMENT**

The negotiations on a comprehensive peace in BiH developed new dynamics in 1995 and the US took a lead role in the negotiations and establishment of a peaceful solution. Bill Clinton, then US President, appointed Richard Holbrooke as his special envoy for the peace talks on BiH. The basis for brokering a peaceful solution was defined by the plan of the Contact Group.<sup>13</sup>In 1994 the leading global powers within

10 See Bilić, Tudman, p.450.

11 See Holbrooke, p.188.

12 See Pejanović, 1999, pp.237-242.

13 The Contact Group was established in the summer of 1994 and included the leading global powers: the USA, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, France and the Federal Republic of Germany. The Contact Group adopted the principles agreed for BiH in Geneva on 9 September 1995.

the Contact Group developed a political consensus to stop the war, before the US took the initiative for the negotiations aimed to the same direction. This was followed by the activities that gradually led to the modeling of the Dayton peace agreement in November 1995 in Dayton, US.

The power of the US diplomatic and military pressure forced Slobodan Milošević's regime to seek compromises in the peace talks. The assistance of the Orthodox Church and Patriarch Pavle Milošević influenced the decision to have Radovan Karadžić eliminated from the negotiations. It was decided that in the negotiations in Dayton Slobodan Milošević would represent Serbia and the Republic of the Serb People.<sup>14</sup> This was done because Radovan Karadžić, as the leader of Serbs in BiH, rejected any peaceful solution. He negated the possibility of the state of BiH existing as an integral state with an international legal status.

Additional pressure was put on the leadership of Serbs in BiH by the NATO air strikes on the military targets of Bosnian Serbs in August and September 1995.

Once the conditions were achieved for participation of all belligerent parties in the negotiations process, the peace negotiations were organized in Dayton, US in November 1995.

With numerous dramatic twists during the negotiations, a breakthrough was achieved on 21 November 1995. BiH and the international public were informed that a peace agreement had been achieved. The peace agreement was named after the town of Dayton in which it was initialed. The agreement was signed by three presidents: Alija Izetbegović on behalf of BiH, Franjo Tuđman on behalf of Croatia and Slobodan Milošević on behalf of Serbia. The signing, also known as the General Framework for Peace in BiH, was witness by Felipe González, President of the European Commission, Jacques Chirac, President of the Republic of France, Helmut Kohl, Chancellor of the Federal Republic of Germany, Viktor Chernomyrdin, Prime Minister of the Russian Federation, John Major, UK Prime Minister, and Bill Clinton, US President. Together with the leading global powers and the European

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<sup>14</sup> At the meeting with Richard Holbrooke on 30 August 1995 in Belgrade, Slobodan Milošević pulled out a piece of paper from his pocket, showed it to the Patriarch and said "This paper appoints the members of the joint delegation of Yugoslavia and Republika Srpska for all future peace talks. I will head the joint delegation. The Patriarch of the Serb Orthodox Church approved this document." See Holbrooke, p.108.

Union, the United States ensured international support to the implementation of the Dayton peace agreement. Specifically, the implementation of the Dayton peace agreement was ensured by international peace military and civilian forces.

In the quoted statements by statesmen the Dayton peace agreement was qualified as a historic agreement. The agreement extinguished a dangerous war hotspot, which constituted a threat to peace not just in BiH but also in the region and the world.

From a catalogue of statements by statesmen on the significance of the Dayton peace agreement for establishment of peace in BiH, we shall single out the statements by Bill Clinton, US President, Helmut Kohl, German Chancellor, John Major, UK Prime Minister and Alija Izetbegović, President of the Presidency of the Republic of BiH.

In his statement Bill Clinton emphasized: “The plan shall preserve BiH as a single country, within its internationally recognized borders. BiH shall consist of two parts- the Federation of BiH and Republika Srpska. The Sarajevo capital shall become unified. There will be a central government that will include the national parliament, the Presidency and the Constitutional Court, and will have the jurisdiction for the foreign policy, monetary policy, citizenship, immigration and other important functions. The status of citizens shall remain a competence of the central government. There is also the obligation of free democratic elections under international supervision. All people will be allowed to return to their homes. People will be allowed to travel all over BiH. Human rights shall be monitored by an independent commission and international civil police. The indicted war criminals shall be removed from political life.”<sup>15</sup>

Bill Clinton went on and added that Presidents of BiH, Serbia and Croatia had made a brave historic choice. Majority of citizens of BiH, as well as citizens of Serbia and Croatia, want their children and grandchildren to have a normal life. In his statement US President Bill Clinton indicated that when it comes to the implementation of the Dayton peace agreement NATO troops would be deployed to BiH. In such a way in the first years of implementation of the Dayton peace agreement, NATO troops will be the main guarantor of establishment of peace in BiH.

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<sup>15</sup> See Statement by Bill Clinton after the brokering of the peace agreement, *Ostobodenje*, 23. 11. 1995, p.3

German Chancellor Helmut Kohl stated after the brokering of the peace agreement in Dayton that the peace agreement for BiH “was a decisive step towards restoration of peace in the whole of former Yugoslavia.”<sup>16</sup>In his address, Kohl thanked US President Bill Clinton for his engagement in achieving the peace agreement.

British Prime Minister John Major underlined in his statement on the occasion of the achieved peace agreement in Dayton: “We warmly welcome the today’s agreement. It took courage on all sides to overcome many difficult issues.”<sup>17</sup>Major added that the people of Bosnia can hope for a peaceful future.

Alija Izetbegović, President of the Presidency of the Republic of BiH, who was exposed to many pressures during the negotiations, emphasized in his statement “Today is a historic day for Bosnia and for the rest of the world. For Bosnia, because the war, we hope, will be replaced by peace. The documents that we have just signed guarantee the sovereignty and integrity of Bosnia-Herzegovina and development of an open society based on tolerance and freedom. This we consider as the main and greatest result of the just-completed negotiations. We are thoroughly committed to honor and fulfill the obligations stemming from them. We plead the world to support and assist us in this task. This is not a just peace, but it is more just than a continuation of the war.”<sup>18</sup>

## **MAIN DETERMINANTS AND CONTENT OF THE DAYTON PEACE AGREEMENT**

The content of the Dayton peace agreement includes the military aspects, the Constitution of BiH, a part on human rights and the return of refugees and displaced persons to their prewar places of residence. The Dayton peace agreement also includes a part on the role and authorities of the international community and the European Union with respect to the implementation of the Dayton peace agreement. In that respect, the Dayton peace agreement provided for establishment of military and civilian forces for its implementation. By decision of the United Nations Security Council, the peace-enforcement military forces were defined as forces under the control of the NATO alliance,

16 See Statement by Helmut Kohl, German Chancellor on the Dayton peace agreement, 23.11. 1995, p.3

17 See Statement by John Major, British Prime Minister after the brokering of the Dayton agreement, *Oslobodenje*, 23. 11. 1995, p.4

18 See Alija Izetbegović, Statement after the brokering of the peace agreement, *Oslobodenje*, 23.11. 1995, p.5

which also included military forces of a large number of non-NATO countries. The forces were given the mandate to stop all military activities on the ground, separate the forces on the ground, and establish peace and freedom of movement of the civilian population. In the first years after the war the Implementation Force (IFOR) peace enforcement troops on the ground totaled 60,000 members.

The civilian element of the international community for implementation of the Dayton peace agreement was the institution of the Office of the High Representative of the international community (OHR). As the supreme authority for interpretation of the Dayton peace agreement, the High Representative had the authority to initiate and direct activities of institutions of the international community with respect to implementation of the Dayton peace agreement. As part of his duties, the High Representative reports to the UN Security Council on the implementation of the Dayton peace agreement.

Establishment of democratic processes in the postwar development of BiH, economic recovery and return of refugees would be hardly feasible without the role of the High Representative. Many reforms in the postwar development of BiH were implemented with his mediation and he exercised his Bonn powers to promulgate a number of laws.<sup>19</sup> The laws on border police, expansion of the Council of Ministers, establishment of a single military force, return of property to citizens of BiH, constitutional equality of peoples on the whole territory of BiH and the indirect taxation authority have a special place in the development of institutions of BiH.

A special characteristic of the Dayton peace agreement is that the international community had established institutions and defined their competencies with respect to the implementation of the agreement.

In addition to the High Representative of the international community, the Dayton agreement also provided for establishment of the Peace Implementation Council. The Board of Directors of the Peace Implementation Council regularly considered the reports of the High Representative of the international community on implementation of the Dayton peace agreement.

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<sup>19</sup> In the period from 1997 to 2009, on the basis of the Bonn powers, the High Representative of the international community imposed 145 laws that provided for main reforms in the process of integration of BiH into the European Union. See Pejanović, 2015, p.236.

The historical importance of the Dayton peace agreement is reflected in the fact that it stopped the war and the sufferings of civilians in BiH. The agreement allowed for development of the state of BiH and its institution in peacetime. Had the Dayton agreement not been achieved, the mass sufferings of the civilian population would have continued. There was a threat of annihilation of the Bosniak people. In the city of Sarajevo alone during the 1,425 days of its siege, 12,000 of its citizens were killed in shellings, of which 1,600 children. The establishment of peace in BiH was also an opportunity for strengthening peace in South East Europe. The geopolitical framework for establishment of peace was provided by the United States as the leading global power at the end of XX and beginning of XXI century.

During the peace building process in BiH over the past 25 years, new institutions of the state were established. The Council of Ministers was expanded from three to nine ministries. A single military force was established, as well as the indirect taxation authority, the BiH Prosecutor's Office and the Court of BiH. BiH also got its State Border Service and the national security service.

The Dayton peace agreement was a result of a compromise among negotiating parties. The compromises were influenced by the two neighboring countries (Serbia and Croatia), as well as the Contact Group countries, the European Union and the United States. The US officials had dominant leverage in putting pressures with the aim of achieving a peaceful solution. The biggest pressure to accept compromise solutions was directed at Alija Izetbegović, President of the Republic of BiH. In fact, the pressure to make compromises was primarily directed at the legal and legitimate authorities of the Republic of BiH, which had persistently fought for sovereignty, international legal identity, integrity and the multiethnic character of BiH.

### **LIMITATIONS OF THE DAYTON CONSTITUTION**

Because of the compromises made with respect to its provisions, the Dayton constitution, as Annex IV of the Dayton peace agreement, has a number of limitations that prevent the state of BiH from being a functional democratic state. Despite the efforts of the international community, over the past 25 years the political partisan decision making process regarding the social development of BiH has been marked by constant political disputes and conflicts. The limitations are explained below.

All social and political interests of citizens in the social decision making process in parliamentary bodies of the entity and state are expressed, predominantly, on ethnic basis. This also contributed to the strengthening of powers of ethnic parties. Ethnic parties win majority support of citizens at parliamentary elections. Out of eight parliamentary elections in the post-Dayton period, the ethnic parties, specifically, the Party of Democratic Action (SDA), the Croat Democratic Union BiH (HDZ BiH) and the Serb Democratic Party (SDS), which after the parliamentary elections in 2006 was replaced by Milorad Dodik's Alliance of Independent Social Democrats (SNSD), won at six.<sup>20</sup> The will of citizens expressed at the elections cannot be brought into question even if it is ethnically-based. Problems in development and stability of parliamentary democracy emerge when after the election the winning ethnic parties get the right to establish a government of the parliamentary majority. According to the results of the elections, for example in 2014 and 2018, the government consisted of the Party of Democratic Action, the Croat Democratic Union and the Alliance of Independent Social Democrats. However, due to their conflicting programs and political concepts of development of BiH as a state, these parties do not have the historic power to adopt a coalition agreement with clearly defined political goals of social reforms, social-economic, political and cultural development of the BiH society and state. Instead of a coalition agreement, the winning ethnic parties apply a model of partnership to exercise executive government. The model uses an inter-party agreement with respect to just one issue: distribution of sectors in the government, ministries, state owned companies and public institutions. Due to the absence of a stable government formed on the basis of a coalition agreement, the Parliament of BiH loses its power with respect to adoption of laws and gets usurped by the leaderships of the three ethnic parties. The Parliamentary Assembly of BiH adopts a very small number of laws, between 10 and 20 a year. In such a way the parliamentary democracy is distorted and transformed into partocracy. At the same time, parliaments of other states that are in the process of integration into the European Union adopt several hundreds of laws a year. Globally looking, the state of BiH is managed by three ethnic parties, which are in political confrontation and constant political conflicts. That is why there is no successful social and economic development or

20 In 1998, Milorad Dodik, President of the Alliance of Independent Social Democrats, was elected Prime Minister of the Republika Srpska Government, as the leader of the opposition that at the time fought against Karadžić's policy of extreme nationalism. However, since 2006, Milorad Dodik has changed his policy and became an ethno-nationalist who negates the survivability of the state of Bosnia and Herzegovina. Over the past 15 years Milorad Dodik has continuously advocated the policy of secession of Republika Srpska from Bosnia and Herzegovina and in such a way impeded the implementation of the Dayton peace agreement and the integration of Bosnia and Herzegovina into the EU and the NATO Alliance.

employment for the youth. Citizens find solution in economic emigration and pursuing employment in European Union countries. As a result, in the past five years that is in the period from 2015 to 2020 around 200,000 BiH citizens had emigrated from BiH. The reason for their emigration is not just the economic existence, but also the increasing social and political instability and the general insecurity.<sup>21</sup>

Despite the above, in the public opinion polls, 75% of citizens of BiH stated that they support BiH's membership in the European Union.

The second limitation of the Dayton constitution of BiH is related to the internal political territorial organization of BiH. BiH is organized in two entities, the Federation of BiH and Republika Srpska, and the Brčko District. The entity of the Federation of BiH has multiethnic composition. The population of the Federation of BiH includes 70.4 % Bosniaks, 22.44 % Croats and 2.55% Serbs. Republika Srpska, as the other entity is almost a mono-ethnic entity. Its population is 81.51 % Serbs, 13.99 % Bosniaks and 2.31 % Croats. In a country that had multi-ethnic population on its entire territory for centuries, due to the consequences of war in the form of ethnic cleansing and ethnic grouping of the population, two ethnically-based entities were, unnaturally, established. The Dayton constitution gave the entities a wide range of competencies in comparison to the institutions of the state of BiH, which have insufficient competencies.

In addition to the above, there is also the entity-based voting and the aspect of entity-based approval in the process of adoption of laws in the Parliamentary Assembly of BiH. This results in frequent blockades in the decision making process in the BiH Parliamentary Assembly. In general, the territorial-political organization of BiH of two ethnic-based entities, not only limits the possibility for optimal functioning and development of the state of BiH, but also impedes internal integration of the state and its integration into the EU.

## **DAYTON PEACE AGREEMENT AND THE POLITICAL FUTURE OF THE STATE OF BIH**

After three and a half years of war, suffering of people, devastation of economic and cultural assets, the Dayton peace agreement brought

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21 The conclusions of the Study of Emigrations- Bosnia and Herzegovina stipulate: "The perception of political instability, the poor economic situation in the country and the institutional inefficiency are the factors that predominantly contribute to the high trend of emigration from the country." See Čičić, p.118.



peace to BiH and its citizens. The joy of the citizens in the days after the announcement of the Dayton peace agreement was visible both in the cities and the rural areas in BiH.

The arrival and deployment of peace-enforcement military troops in BiH was swift and successful. Military operations and conflicts became history. The citizens, particularly in Sarajevo and some other cities had waited for a long time to have peaceful nights and peaceful days - days and nights without shelling.

As the Dayton peace agreement was achieved under the leadership of the US Administration and was signed in the presence of representatives of the United States and the Contact Group members, the Agreement got the strength of an international geopolitical framework for establishment and building of peace in BiH.<sup>22</sup> Namely, peace building and development of institutions of the state of BiH was given international basis and support.

After the signing of the Dayton peace agreement came the post-Dayton period. In the past 25 years several social-historic processes simultaneously took place in BiH. The main process was the establishment and strengthening of peace. Despite numerous difficulties related to the socioeconomic position of citizens, there were no major conflicts on social basis that would endanger peace because the wartime sufferings of the citizens of BiH had strengthened their will for peace and their multiethnic tolerance.

The second important sociohistorical process is the post-socialist transition of the BiH society. The transition leads to structural changes which include development of market economy, political democracy and protection of human rights in accordance with European and international standards.

The third sociohistorical process is the democratic consolidation that includes strengthening of democratic parliamentary bodies and development of state institutions.

The fourth process is related to the initiated historic path of integra-

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<sup>22</sup> The international geopolitical framework was achieved on the basis of the consensus of leading global powers within the Contact Group: US, Russian Federation, UK, France and Federal Republic of Germany. The European Union also joined the consensus.

tion of BiH into the European Union and the NATO Alliance. With the engagement and support of representatives of the international community, BiH implemented several reforms that led to the signing of the Stabilization and Accession Agreement with the European Union in 2008. In its parliamentary bodies, at the state and entity level, BiH developed a consensus on the strategic interest related to the integration in the European Union and the NATO Alliance. Within the scope of the historic process of integration of BiH into the European Union and the NATO Alliance, BiH will adopt the *acquis communautaire* and incorporate it in its laws. In such a way, in the process of integration into the EU, BiH will develop institutions and capacities of a rule-of-law country. After all, a state becomes stable when the rule of law is ensured in all the aspects of its existence.

Incorporation of the European standards stemming from the *acquis communautaire* in the laws of BiH will also lay the foundations for new reforms. One of the necessary reforms will be the constitutional reform. Within the constitutional reform it will be necessary to modify specific provisions of the Dayton constitution and particularly those related to the strengthening of capacities and competencies of central institutions of the state of BiH - the Parliamentary Assembly, the Council of Ministers and the Presidency of the State of BiH. Broadening the democratic capacity of the BiH Parliamentary Assembly, expansion of the Council of Ministers with new ministries, as well as replacement of a tripartite BiH Presidency with one president elected in the BiH Parliament will need to be done within the phase of negotiations on open chapters for membership in the EU.

Modifications of the internal territorial organization will be feasible once BiH becomes a member of the European Union and creates new assumptions for an interparty consensus, through strengthening of the power of civic multiethnic parties. It will be necessary to have the institutions of the European Union (European Commission, EU Council and European Parliament) support such a consensus, because pursuant to the Dayton peace agreement the EU has a Special Representative in BiH, who has a role in peace building and providing assistance in implementation of reforms within the process of integration into the European Union.

The constitutional reforms affect also the geopolitical aspects of survivability and development of the state of BiH. That is why the assis-

tance of the international community and the European Union will be necessary if the state BiH is to implement a constitutional reform. As long as BiH has not been invited to become a full-fledged member of the European Union, the engagement of the international community, including the use of Bonn powers, will be necessary. Abandonment of the use of Bonn powers since 2009 had led to strengthening of social powers that are against the survival of the state of BiH and its integration into the European Union and the NATO Alliance. Peace in BiH cannot be strengthened without the membership of BiH in the European Union and the NATO Alliance.

The political future of the state of BiH has its historical trajectory primarily within the process of integration into the European Union and the NATO Alliance. With the integration into the European Union and the NATO Alliance, all ethno-national policies that bring into question the survivability of the state BiH will be discarded. BiH has the natural and human resources, geographically is on European soil and its cultural characteristics are identical to those of countries that are European Union members. On that basis, it is entitled to an opportunity to develop as a rule-of-law state with all the prerequisites for its survivability, stability and self-sustainability. Therefore, the historical outcome of implementation of the Dayton peace agreement should be the full-fledged membership of BiH in the European Union and the NATO Alliance.

After 25 years of implementation of the Dayton peace agreement, the question of all questions is related to the necessity to accelerate the integration of the state of BiH into Euro-Atlantic institutions. Due to the geopolitical changes in Europe and the world, and the requirement to strengthen peace, it is necessary that the institutions of the European Union, and particularly the European Commission and the European Parliament, extend bigger political, economic and technical support to the acceleration of the integration of BiH into the European Union, so that BiH could fulfill the requirements for membership by 2030. In demonstration of such assistance, the Special Representative of the European Union in BiH needs to create a single agenda for implementation of reforms and a new framework for establishment of a broad coalition of parliamentary parties for a European rule-of-law state of BiH. In this context, after 25 years it is necessary to change the strategy of action of the international community and the European Union in BiH.

## CONCLUSION

The research study was made on the occasion of the 25th anniversary of the signing of the Dayton peace agreement.

Over the past two and a half decades multiple problems have been identified in the implementation of the Dayton peace agreement. The process of development of the BiH society has generated some visible achievements that could lead to a stable development of the state. However, at the same time, some halts in development of the society and state are also notable. These halts have led to the deepening of the crisis in economic development, particularly since 2015, when several dozen thousands of young people left BiH and went to European countries in pursuit of economic prosperity. The researches conducted so far indicate that in the past seven years more than 200,000 people of young and middle age have left.

Another form of crisis, the crisis of political management, is also constantly developing. This form of crisis is conditioned by unfunctional political and legal organization of BiH within which all institutions and all national interests are defined on ethnic basis. In fact, this has provided for the strengthening of the three ethnic parties: SDA, HDZ BiH and SNSD. These parties win the support of their ethnic corps at elections. However, after parliamentary elections, they do not want and do not even attempt to establish a coalition agreement for the exercise of executive government by means of a parliamentary majority. They only establish partnerships for distribution of sectors in the government. As a result, neither the government nor the parliament exercises their constitutional powers and the power remains in the monopoly by ethno-national leaders.

When there is no consensus on a parliamentary majority, there is also no consensus for adoption of laws on reforms that would facilitate integration of BiH into the European Union. On top of it all, when it comes to political developments in BiH, the nationalist rhetoric is on the increase. In fact, Milorad Dodik, the leader of the Alliance of Independent Social Democrats (SNSD), has become the most vocal proponent of nationalist rhetoric. Since 2006 he has been continuously advocating for the secession of Republika Srpska from BiH. Dodik also advocates for the opposition to integration of BiH into the NATO Alliance. As a result, the work of the institutions BiH is blocked and there

is a notable trend of devaluation and degradation of the role and institutions of the state such as the Parliament, the Council of Ministers and the Constitutional Court. All this is done for one goal - negation of the possibility of functioning of the institutions of the state of BiH. This is often also combined with negation of the role of the High Representative of the international community in BiH.

The Dayton peace agreement has its historic outcome in the creation of geopolitical conditions and assumptions for BiH to successfully complete the historic projects of its integration into the European Union and the NATO Alliance. Joseph Biden in his address to the BiH Parliament said: “In the opinion of our Administration, the only right path is for you to join Europe.”<sup>23</sup> If the project of integration of BiH is not accelerated and successfully implemented by 2030, BiH will face even bigger economic poverty. It will become an area of new geopolitical influences of the Russian Federation, Turkey and China. Furthermore, nationalist forces will be further strengthened. The internal integration and the integration into the European Union and the NATO Alliance will be stopped. Such a trend of social developments could be stopped and turned in the direction of acceleration of the integration into the European Union and the NATO Alliance if modeling of a new strategy of the European Union and the international community is initiated.

Such a strategy should have several priorities: A) Synchronization of efforts by the US Administration and institutions of the European Union, particularly the EU Special Representative. His annual work plan would be a reform agenda, that is as a common framework for activities of the Special Representative, the legislative and executive government at the BiH and entity level; B) In light of the geopolitical changes in the world and Europe, ensuring additional political, economic and technical support to BiH in the process of fulfillment of conditions for accession to the European Union and the NATO Alliance. The geo-policy of development of peace in BiH has its framework in the Dayton peace agreement and the project of accelerated integration in to the EU and the NATO Alliance; C) The international community and the European Union can make their new strategy for implementation of the Dayton peace agreement realistic if they continue to use the Bonn powers of the High Representative of the international community,

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23 Joseph Biden: *The rhetoric of distrust must stop*, address to the BiH Parliament, 19 May 2009, Radio Free Europe, 19 May 2009.

as well as bring new faces to the Office of the High Representatives in Sarajevo; D) It is necessary to establish a joint expert team for constitutional reforms within the Office of the Special Representative of the European Union and the Office of the High Representative of the international community (OHR). The team would include international and national experts, as well as representatives of nongovernmental organizations in BiH. E) Introduce the practice that the European Parliament adopts the annual report of the Special Representative of the European Union on implementation of reforms in BiH.

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# Dayton Peace Agreement and Political Reforms in the Context of the Transition of Bosnian-Herzegovinian Society

Hoda Dedić<sup>1</sup>

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## ABSTRACT

In the post-Dayton political development of Bosnia and Herzegovina, some important reforms have been implemented. They have contributed to stability and supported the institution-building process. In the process of implementing reforms over the past 25 years, significant influence has been exercised through the actions of the High Representative for Bosnia and Herzegovina and the EU Special Representative in Bosnia and Herzegovina. Decisions and laws imposed by the High Representatives on the basis of the so-called Bonn powers, in the first years since the signing of the Dayton Peace Agreement, established essential elements of Bosnian statehood. Since the announcement of the closure of the Office of the High Representative in 2006, the exercise of the Bonn powers has been radically reduced. This resulted in a slowdown in the process of implementing internal reforms in Bosnia and Herzegovina. Political and technical assistance of the institutions of the international community remains to be necessary.

**KEYWORDS:** Bosnia and Herzegovina, European Union, Dayton Peace Agreement, Constitution of Bosnia and Herzegovina, reforms, international community

## POVZETEK

V postdejtonskem političnem razvoju Bosne in Hercegovine so bile izvedene nekatere pomembne reforme. Te so prispevale k stabilnosti, podprle so proces vzpostavljanja institucij. V procesu izvajanja reform v zadnjih 25 letih so imeli velik vpliv ukrepi visokega predstavnika za Bosno in Hercegovino in posebnega predstavnika Evropske Unije v Bosni in Hercegovini. Odločitve in zakoni visokih predstavnikov na podlagi tako imenovanih bonnskih pooblastil so v prvih letih po podpisu Daytonskega mirovnega sporazuma vzpostavili bistvene elemente bosanske državnosti. Od razglasitve zaprtja Urada visokega predstavnika leta 2006 se je izvrševanje bonnskih pooblastil korenito zmanjšalo. To je povzročilo upočasnitev procesa izvajanja notranjih reform v Bosni in Hercegovini. V njihovem nadaljnjem izvajanju ter izpolnjevanju meril za polnopravno članstvo v Evropski uniji bo potrebna politična in tehnična pomoč institucij mednarodne skupnosti, zlasti posebnega predstavnika EU.

**KLJUČNE BESEDE:** Bosna in Hercegovina, Evropska unija, Daytonski mirovni sporazum, Ustava Bosne in Hercegovine, reforme, mednarodna skupnost

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## INTRODUCTION

Bosnia and Herzegovina has undergone specific processes of social and political development since the signing of the Dayton Peace Agreement in December 1995. Some important reforms have been implemented during the post-Dayton period, which enabled the consolidation of peace in Bosnia and Herzegovina in the past 25 years and supported the institution-building process.

In this process, the role of the international community and the European Union, expressed through the actions of the High Representative for Bosnia and Herzegovina and the EU Special Representative in Bosnia and Herzegovina, is shown as a special form of international intervention within the geopolitical framework for building and promoting peace under the Dayton Peace Agreement.

During the first years of implementing the Dayton Agreement, the vital elements of Bosnian statehood were established through decisions and laws imposed by the High Representatives for Bosnia and Herzegovina on the basis of the so-called Bonn Powers. The country gained its national symbols: the flag, its own currency, and uniform vehicle registration plates. The constitutions of the entities were harmonised with the Constitution of Bosnia and Herzegovina. The Court of Bosnia and Herzegovina was established. Reforms of the defence and intelligence systems were implemented. The powers of state-level institutions were expanded and the number of ministries in the Council of Ministers of Bosnia and Herzegovina was increased. Comprehensive reforms have been implemented with the goal to meet the criteria for full membership in the European Union. European integration process that triggered broad reforms in the fields of politics, economy, justice and rule of law has generated positive social changes.

In the next period, Bosnia and Herzegovina still has to implement 14 priorities from the Opinion of the European Commission. Due to the complexity of reaching political consensus on key issues that determine stable political development and European future of Bosnia and Herzegovina, the political and technical assistance of the EU Special Representative is necessary for the country to receive the recommendation to open accession negotiations by the end of 2021.

## ATTEMPTS TO REFORM THE CONSTITUTION OF BOSNIA AND HERZEGOVINA

“Recognizing the need for a comprehensive settlement to bring an end to the tragic conflict in the region” (first indent of the General Framework Agreement for Peace in Bosnia and Herzegovina) the Republic of Croatia, the Republic of Bosnia and Herzegovina and the then Federal Republic of Yugoslavia signed the General Framework Agreement for Peace in Bosnia and Herzegovina on 14 December 1995 in Paris. The signing of the peace agreement was preceded by its initialling on 21 November 1995 at the US military base Wright-Patterson in Dayton, Ohio. The first UN High Representative for Bosnia and Herzegovina, Carl Bildt, described the agreement as “by far the most ambitious peace agreement in modern history”.<sup>2</sup> Dayton Peace Agreement consists of the General Framework Agreement for Peace in Bosnia and Herzegovina and its twelve annexes.

The compromise that led to the signing of the Dayton Peace Agreement and the establishment of peace in Bosnia and Herzegovina resulted in a very complex and unpragmatic political structure of Bosnia and Herzegovina. This country is organized as a complex state with two entities – the decentralized Federation of Bosnia and Herzegovina consisting of ten cantons, and the centrally organized Republic of Srpska and the Brčko District. The administrative-territorial organization is more precisely regulated by Amendment I to the Constitution of Bosnia and Herzegovina, which entered into force on 26 March 2009, whereby the Brčko District was incorporated into the state constitutional architecture as a condominium.<sup>3</sup>

In addition to governmental organs of the two entities, the state of Bosnia and Herzegovina has its own institutions stipulated by the Constitution. Thus, the Constitution vests the state institutions with the powers in the fields of foreign policy, foreign trade policy, customs policy, monetary policy, finances of the institutions and of international obligations of Bosnia and Herzegovina, immigration, refugee, and asylum policy and regulation, international and inter-Entity criminal law enforcement, including relations with Interpol, establishment and operation of common and international communications facilities, regulation of inter-Entity transportation and air traffic control,<sup>4</sup> while

<sup>2</sup> Article by the High Representative, 14.9.1996. Available at: [www.ohr.int/articles/a960802a.htm](http://www.ohr.int/articles/a960802a.htm)

<sup>3</sup> Official Gazette of Bosnia and Herzegovina, No. 25/09.

<sup>4</sup> The Constitution of Bosnia and Herzegovina, Article III, paragraph 1: Responsibilities of and Relations between the Institutions of Bosnia and Herzegovina and the Entities.

“all governmental functions and powers not expressly assigned in this Constitution to the institutions of Bosnia and Herzegovina shall be those of the Entities”.<sup>5</sup>

The entities also have their own parliaments, governments and constitutions. The complex constitutional and administrative structure of Bosnia and Herzegovina was perhaps best illustrated by former High Representative of the international community for Bosnia and Herzegovina Paddy Ashdown in one of his speeches delivered to the BiH Parliamentary Assembly: “You have 1,200 judges and prosecutors, 760 legislators, 180 Ministers, four separate levels of government and three armies – for a country of less than four million people! You have 13 Prime Ministers! That’s a Prime Minister for every 300,000 citizens!”<sup>6</sup>

Even in some areas where state institutions have original competence under the Constitution, this competence is not explicit for those institutions. Therefore, the role of individual state institutions is often reduced to a coordinating function between the entities.

Following the 2000 parliamentary elections that resulted in the victory of the civic bloc parties, debates began over the need to change the Constitution of Bosnia and Herzegovina. The first concrete steps were made in 2002 through the reforms of entity constitutions,<sup>7</sup> which were harmonised with the Constitution of Bosnia and Herzegovina. Amendments of the constitutions of Republic of Srpska and the Federation of BiH adopted in 2002 eliminated discrimination of citizens based on ethnic grounds, thus fulfilling the key condition for membership in the Council of Europe. However, while those constitutional amendments removed discrimination in terms of political representation of members of ethnic groups, the ethnic principle itself was not weakened, and so the ethnic collective has remained the bearer of sovereignty.

The second attempt to reform the Constitution was made in the run-up to the tenth anniversary of signing the Dayton Peace Agreement. In early 2005 it became increasingly clear that the institutional design of the Dayton Constitution posed a serious obstacle to the implementa-

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5 Ibid.

6 Paddy Ashdown's inaugural speech in the Parliamentary Assembly of BiH on 27 May 2002. Available at: <http://www.internationalepolitik.de>

7 Discussions on constitutional reform began in 2000 after the BiH Constitutional Court ruled on the need to harmonize the entity constitutions with the BiH Constitution and implement the decision on the full equality of the country's three “constituent peoples” throughout the territory of BiH.

tion of the necessary political, economic and broader social reforms. A new reform initiative was launched by the United States. Former Deputy High Representative for Bosnia and Herzegovina, Donald Hayes, founded the “Dayton Project” and began negotiating a reform package with the leaders of the six most represented parties in the Parliament of Bosnia and Herzegovina (Party of Democratic Action (SDA), Social Democratic Party (SDP), Serb Democratic Party (SDS), Croatian Democratic Union (HDZ BiH), Alliance of Independent Social Democrats (SNSD) and Party of Democratic Progress (PDP)). Representatives of the international community, in particular the United States, pushed forward the presentation of constitutional amendments package to the Parliament of Bosnia and Herzegovina in April 2006. However, the Parliamentary Assembly of Bosnia and Herzegovina did not reach the required two-thirds majority for their adoption. A total of 15 deputies voted against the adoption of the constitutional amendments, mostly from the Party for BiH (SBiH), the Social Democratic Union (SDU), Bosnian Party (BOSS) and Croatian Democratic Union 1990 (HDZ 1990). The failure of this initiative led to a standstill in negotiations over changes to the Constitution of Bosnia and Herzegovina.

The negotiations on constitutional reform were reopened only in late 2008. However, talks between the leaders of the three main political parties; SDA, HDZ BiH and SNSD during the so-called Prud Process<sup>8</sup> in November 2008, by which they undertook to initiate the process of constitutional reform and align the Constitution of BiH with the European Convention for the Protection of Human Rights and Fundamental freedoms, showed diametrical different views on the future state structure. Negotiations on this and other important reforms in the process of European integration were removed from state institutions and reduced to informal talks between the leaders of the parties that make up parliamentary majority.

8 On 8 November 2008, the leaders of three parties, each representing one of the constituent peoples of BiH - President of the Party of Democratic Action (SDA) Sulejman Tihić, President of the Croatian Democratic Union (HDZ) Dragan Čović and President of the Party of Independent Social Democrats (SNSD) Milorad Dodik announced that they had reached a “historic compromise”. The talks took place in the town of Prud in the Odžak municipality, and grew into a lengthy negotiation. The leaders discussed the key issues necessary to meet the requirements of the Peace Implementation Council and constitutional reforms that aim to make the state more efficient in order to join the European Union. During the negotiations political leaders expressed completely opposing views. For more details see the International Crisis Group’s report “Bosnia’s Incomplete Transition: Between Dayton and Europe” of the Office for Europe no. 198 of 9 March 2009. Available at: <https://www.crisisgroup.org/europe-central-asia/balkans/bosnia-and-herzegovina/bosnia-s-incomplete-transition-between-dayton-and-europe>

The Butmir Process<sup>9</sup> in late 2009 also brought no consensus among the leading parties, despite the interventions of the US and EU officials. Negotiations were carried out just before the 2010 parliamentary elections, so most parties had no interest in reaching a compromise. They held opposing views also regarding the implementation of the constitutional reform. While SDA advocated changes to the Dayton constitution through gradual reforms,<sup>10</sup> the SBiH sought radical reform and a new constitution. This would mean the abolition of the entity-voting system in the BiH Parliamentary Assembly and the establishment of a modern regional state structure. HDZ BiH advocated the establishment of several entities, whereby the Croatian people would have one entity with the status of a federal unit. The entities would have the legislative, executive and judicial powers. From the point of view of HDZ 1990, constitutional reform would imply the establishment of an entity with a Croat majority with the aim to achieve equality of Croats with the other two constituent peoples - Bosniaks and Serbs. SNSD conditioned all constitutional changes upon maintaining the existing internal structure of the state of Bosnia and Herzegovina with two entities and the Brčko District. Other parties in Republic of Srpska advocate the survival of the Dayton position of the Republic of Srpska (Pejanović, 2010).

Following the failed 2006 constitutional reform and negotiations between political leaders in 2008 and 2009, international officials advocated the concept of greater EU involvement in Bosnia and Herzegovina's reform processes. This idea was actualised with the request for consideration of the future constitutional order of BiH, which was included for the first time in the Resolution of the European Parliament of 23 October 2008 on the conclusion of the Stabilization and Association Agreement.<sup>11</sup> At the same time, the European Union strengthened its role in Bosnia and Herzegovina and continued to implement the objectives of the EU agenda, in line with the European Council conclusions of March 2011. Following a decision of the Council of the European Union in July 2011, the powers and authorities of both the EU

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9 The Butmir negotiations started on 8 and 9 October 2009 and continued on 20 and 21 October 2009. US Deputy Secretary of State James Steinberg and Swedish Foreign Minister Carl Bildt (representing the EU presidency), later joined by EU Enlargement Secretary Olli Rehn, hosted closed-door talks at the military camp in Butmir.

10 The first phase would include extending the mandate and increasing the capacity of the BiH Parliamentary Assembly and the BiH Council of Ministers.

11 Official Journal of the European Union No. C 15 E of 21 January 2010, P6\_TA(2008)0522, European Parliament resolution of 23 October 2008 on the conclusion of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other part (2010/C 15 E/15).

Special Representative (EUSR) and the Head of the European Union Delegation Office have been vested in the same person.

However, there was no more active involvement of the international community in the reform processes in BiH until 2014, when the German-British initiative for Bosnia and Herzegovina was formed. In fact, the EU's policy towards Bosnia and Herzegovina was reduced to the usual insisting on meeting the set criteria - business as usual.

Following the launching of the German-British initiative for Bosnia and Herzegovina, a special approach was developed. The standards to be implemented by Bosnia and Herzegovina in the European integration process remained the same, but the order in which they were met changed. This meant that the implementation of the European Court of Human Rights judgment in the *Sejdić-Finci* case remained binding, but was no longer a condition for the entry into force of the Stabilization and Association Agreement. The latter entered into force on 1 June 2015, after the members of the BiH Presidency had signed the Joint Statement on the commitment of political leaders in BiH to undertake the necessary reforms within the process of the country's accession to the European Union. Thus the reform of the BiH Constitution remained on hold. The ECHR Judgment in the *Sejdić-Finci* case was not implemented in the Parliamentary Assembly of BiH.<sup>12</sup>

In the latest Report of the European Commission on Bosnia and Herzegovina for 2020<sup>13</sup> it was assessed that Bosnia and Herzegovina's Constitution remains in breach of the European Convention on Human Rights (ECHR), as per the *Sejdić-Finci* and related cases. It also notes that no progress was made in improving the electoral framework in line with European standards and ensuring transparency of political party financing. Some progress was made in fulfilling the obligations from the European Commission's Opinion to allow holding elections in Mostar in line with the European standards. For the first time in 12 years, an agreement was signed between the representatives of two political parties - the Party of Democratic Action and the Croatian

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12 The judgment of the Grand Chamber of the European Court of Human Rights in Strasbourg of 22 December 2009 in the *Sejdić-Finci* case (Applications nos. 27996/06 and 34836/06) established that the State of Bosnia and Herzegovina violated the European Convention for the Protection of Human Rights and fundamental freedoms. The Court assessed as discriminatory the denial of the right to BiH citizens with certain ethnic affiliation to run for the state presidency or the House of Peoples, which allows access to these institutions only to members of the "constituent peoples".

13 Bosnia and Herzegovina 2020 Report of the European Commission, Brussels, 6 October 2020.

Democratic Union of BiH<sup>14</sup> on the need to amend electoral legislation with the aim to implement domestic and foreign courts' rulings and meet the recommendations of the Office for Democratic Institutions and Human Rights (ODIHR) and the Venice Commission.

### **REFORM OF THE INTELLIGENCE-SECURITY AND DEFENCE SYSTEMS**

The political system in Bosnia and Herzegovina, predominantly based on the representation of collective, ethnic interests, has caused significant delays in the implementation of reforms in the post-Dayton development of Bosnia and Herzegovina. The parties that made up the majority in the BiH Parliamentary Assembly found it difficult to reach consensus on the issues of economic, social and political development of the state. Almost all major reforms were achieved through the High Representative for Bosnia and Herzegovina as the authorized body to implement the civilian aspect of the Dayton Peace Agreement. In fact, the initiatives for building and empowering BiH state structures came mainly from international actors. Thus, the two perhaps most significant reforms in the post-Dayton political development of BiH – of the defence system and the intelligence-security system – were initiated and implemented through international community's institutions in BiH: OHR, EUFOR and NATO.

The reform of the intelligence and security system covered the reform of the intelligence services and the reform of the police structures. Intelligence services reform was regarded as one of the main conditions to start negotiations with the European Union on the conclusion of the Stabilization and Association Agreement (SAA). The first initiatives were taken after the conference on Organized Crime in Southeast Europe in London in November 2002. The conclusions of this international conference were that the fight against organized crime is one of the priorities of the countries of the Balkan region and the European Union. In line with the conclusions of the Conference, the High Representative for BiH adopted the Decision establishing the Expert Commission on Intelligence Reform of 29 May 2003. This Commission was in charge of drafting the Law on the Intelligence and Security Agency of Bosnia and Herzegovina.

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14 The agreement was signed by SDA President Bakir Izetbegović and HDZ President Dragan Čović in the presence of the International Community's High Representative for Bosnia and Herzegovina Valentin Inzko, the EU Special Representative in BiH Johann Sattler, US Ambassador Eric Gordon Nelson and other representatives of the international community.



The Law on the Intelligence and Security Agency of Bosnia and Herzegovina<sup>15</sup> was adopted at the session of the House of Representatives and the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina on 22 March 2004. This Law established the BiH Intelligence and Security Agency (OSA), which is responsible for gathering, analysing and disseminating intelligence with the aim to protect state security, including the sovereignty, territorial integrity and constitutional order of Bosnia and Herzegovina. As the next step in achieving integration of the BiH security structure, an initiative for police reform was launched. Discussions on police reform began as early as 2003 on the initiative of High Representative for BiH Paddy Ashdown. In July 2004, the Police Restructuring Commission was established.<sup>16</sup> Initially, police reform was not a precondition for signing the Stabilization and Association Agreement with the EU, but was assessed as important for internal integration of BiH. Since in 2004, 2005 and 2006, the political parties that made up the ruling coalition failed to reach an agreement that would lead to the establishment of a unified police structure, the High Representative for BiH asked the European Union to make police reform a precondition for signing the Stabilization and Association Agreement (Parish, p.17, Ramel, pp.10-12). After 2006 general elections, the representatives of coalition political parties SNSD, SDA, SBiH, HDZ, HDZ 1990, PDP and People's Party Work for Prosperity (NSRzB), together with the members of the BiH Presidency, passed Decisions and conclusions on the formation of government in BiH<sup>17</sup> on 3 January 2007 and set the programme objectives that cover the issues related to the signing of the Stabilization and Association Agreement, including the police reform. However, no agreement was reached on this matter until the end of 2007.

At the proposal of the European Commission, Bosnia and Herzegovina adopted a minimal scope of reforms in the field of police in June 2008. Thus the country was enabled to sign the Stabilization and Association Agreement with the EU. However, the adopted laws did not bring any fundamental changes. The achieved reforms were based on the initial proposals to establish seven administrative bodies that would coordinate the work of only two of the 15 police agencies in BiH in the future - the State Investigation and Protection Agency (SIPA) and the

15 The law was published Official Gazette of Bosnia and Herzegovina, No. 12 of 14 April 2004.

16 See OHR Decision on police reconstruction in BiH: [http://www.ohr.int/ohr\\_archive/decision-establishing-the-police-restructuring-commission-3/](http://www.ohr.int/ohr_archive/decision-establishing-the-police-restructuring-commission-3/)

17 Decisions and conclusions from the meeting of the BiH Presidency members with political party leaders of 3 January 2007, source: BiH Presidency.

State Border Service (DGS). No consensus was reached on the establishment of the planned uniform police structure.<sup>18</sup>

At 2006 NATO Summit in Riga, Latvia, it was defined that “Euro-Atlantic integration, based on solidarity and democratic values, remains necessary for long-term stability in the western Balkans.” (Watkins, Gligorijević, 2007). This NATO strategy was adapted to the new security and political challenges at the global level. In fact, a cooperative integration programme called “Partnership for Peace” (PfP) was developed already in January 1994 as a new strategy for NATO enlargement. The content of Partnership for Peace defines the relationship between a member state and NATO. The Partnership for Peace Framework Document is a normative basis for national defence planning as well as budget planning, which gives NATO a significant influence on national military structures and their further development. Partnership also covered defence sector reform, the fight against terrorism, mine clearance and similar projects. While the EU demands Bosnia and Herzegovina to meet the conditions stemming from the Stabilization and Association Process, the conditions for Bosnia and Herzegovina’s accession to NATO include, among other things, the defence sector reform. In the process of reforming the defence sector, the General Secretariat of the Standing Committee on Military Matters, representing the Ministry of Defence of Bosnia and Herzegovina, was established in October 2002. The Defence Reform Commission was established by the decision of High Representative for BiH of 9 May 2003. The complex reform of the defence system was carried out in several phases. Bosnia and Herzegovina expressed its commitment to join the Euro-Atlantic integration processes with the Foreign Policy Strategy adopted by the BiH Presidency<sup>19</sup> in March 2003.

In terms of operation, this commitment resulted in the formation of the BiH Defence Reform Commission, which consisted of 13 members and four observers. Representatives of NATO Headquarters in Sarajevo Raffi Gregorian, Co-Chair of the Commission, Brigadier General Steven Schook, Commander of NATO Headquarters in Sarajevo, and Lieutenant General David Leakey, EUFOR Commander in BiH, were also involved in the work of the commission. In December 2003, the Law on Defence of Bosnia and Herzegovina was adopted, providing

18 European principles defined by the European Partnership for BiH of November 2007 included: establishment of a uniform chain of command and budget at the state level, the existence of functional units and the absence of political influence on police work.

19 Foreign Policy Strategy of Bosnia and Herzegovina, document no. 01-645-30/03 of 26 March 2003, BiH Presidency.

for the state-level Ministry of Defence. In January 2006, the entity-level Ministries of Defence were abolished and the Ministry of Defence of Bosnia and Herzegovina and a joint Staff of the Armed Forces were established. Compulsory military service was abolished and a single state-level defence budget was created.

Success of the defence reform and the intelligence services reform stemmed from the international community's strategic commitment to accelerate their implementation. A single chain of command over the Armed Forces was established at the state level. Since then the Armed Forces of Bosnia and Herzegovina have participated in building collective security within United Nations missions around the world. On 13 December 2006, BiH Presidency adopted the decision to accept the Framework Document of NATO Partnership for Peace programme. The decision was signed by the Chairman of the Presidency Nebojša Radmanović on 14 December 2006 in Brussels. Bosnia and Herzegovina thus formally became a member of Euro-Atlantic Partnership Council (EAPC) and acquired all rights and obligations arising from the signed documents.

After joining PfP, an individual partnership programme for BiH and the Membership Action Plan (MAP) for NATO were drawn up. Based on the Partnership for Peace, Bosnia and Herzegovina was offered the prospect of NATO membership. The PfP Framework Document, agreed on a bilateral basis between BiH and NATO, covers the following areas: defence, finance, human rights, justice, transport, security, foreign trade, civil affairs and entity structures. In April 2009, Bosnia and Herzegovina (BiH) conditionally received the NATO Membership Action Plan. Its activation was conditioned on resolving the status of military property, which includes mostly warehouses, barracks and administrative buildings that cannot be used until the registration of land is completed.

Registration of military property is also a precondition for closing the Office of the High Representative in BiH. Due to delays in meeting MAP obligations, Bosnia and Herzegovina's status and progress in implementing the reforms for the Euro-Atlantic integration process remained unchanged until December 2018, when member state foreign ministers decided that NATO was ready to accept the submission of Bosnia and Herzegovina's first Annual National Programme under MAP.

However, Milorad Dodik, a member of the BiH Presidency representing the Serb people, was against submitting the Annual National Programme. The other two members of BiH Presidency, Šefik Džaferović and Željko Komšić, conditioned the appointment of the new chairman of BiH Council of Ministers with the submission of the Annual Action Programme to Brussels. As a result of the compromise made by the members of BiH Presidency with the help of international partners, it was agreed to submit to NATO the Reform Programme, which essentially does not differ from the Annual National Programme. Thus the process of reforming and fulfilling the requirements for Bosnia and Herzegovina's membership in NATO continued, while registration of military property to the state remains an open issue.

### **BUILDING STATE INSTITUTIONS IN POST-DAYTON BOSNIA AND HERZEGOVINA**

The specificity of Bosnian-Herzegovinian society, the country's geostrategic position and especially the fact that it was exposed to political, economic and demographic destruction during the 1992-1995 war, led to at that time the largest and most demanding peacekeeping mission built in Bosnia and Herzegovina by the international community after the signing of the Dayton Peace Agreement in 1995 (Calic, 2002).

Over 600 international governmental and non-governmental organizations participated in building and consolidating peace in Bosnia and Herzegovina. The IFOR (later SFOR) peacekeeping mission counted 60,000 soldiers (Calic, 2002a). In Bosnia and Herzegovina, unlike other countries in the region, the presence of the international community with the authority to implement the Dayton Peace Agreement was established through the institution of the international community's High Representative for BiH (OHR / EUSR), the EU Force (EUFOR)<sup>20</sup> and the European Police Mission (EUPM).<sup>21</sup>

The final interpreter of the military aspects of the Dayton Peace Agreement is the Commander of SFOR (EUFOR) (Annex 1-A), and the final interpreter of the civilian aspects of the Agreement is the High Representative (Annex 10, Article 5) (Ibrahimagić, 2001). The Office of the High Representative established by Annex 10 of the Dayton Peace Agreement has the authority to monitor and facilitate civilian implementation of the peace agreement.

20 On 2 December 2004 European Force (EUFOR) replaced NATO forces (SFOR) in Bosnia and Herzegovina.

21 On 1 January 2003 the EU Police Mission (EUPM) took over the tasks of UN police troops.

The function of the High Representative for Bosnia and Herzegovina has been performed by: Nils Daniel Carl Bildt (1995-1997), Carlos Westendorp (1997-1999), Wolfgang Petritsch (1999-2002), Paddy Ashdown (2002-2006), Cristian Schwarz Schilling (2006-2007), Miroslav Lajčak (2007 -2009) and Valentin Inzko (since 2009).

Pursuant to Article 5 of Annex 10 the High Representative is “the final authority regarding interpretation of this Agreement on the civilian implementation of the peace settlement“. On the basis of this provision, the powers of the international community’s High Representative for BiH were expanded at the Peace Implementation Council Conference<sup>22</sup> in Bonn on 9 and 10 December 1997, in particular with regard to adoption of laws and removal of public officials who obstruct the implementation of the Dayton Peace Agreement.

Immediately after the granting of extended powers (the so-called Bonn Powers), during the term of office of High Representative Carlos Westendorp (1997-1999), the Bonn Powers were applied to impose the decision on the national flag and anthem, single currency and license plates.

High Representative Wolfgang Petritsch (1999-2002) used the Bonn Powers to impose laws establishing judicial and security institutions - the Court of Bosnia and Herzegovina and the Border Police of Bosnia and Herzegovina. Another important decision was made in relation to the imposition of amendments based on the Decision of the Constitutional Court of BiH of 2002 on entities’ constitutions, which abolished discrimination of citizens on ethnic grounds and fulfilled an important condition for Bosnia and Herzegovina’s accession to the Council of Europe.

During the term of office of High Representative Paddy Ashdown (2002-2006), the Bonn Powers were applied most frequently. During this period, the most successful reforms were implemented: the defence reform and the intelligence services reform. The unified Armed Forces of Bosnia and Herzegovina were established, the Ministry of

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22 The Peace Implementation Council (PIC) was established in London in 1995 and consists of representatives of 55 countries and international organizations (NATO, IMF, World Bank, OSCE, UN, Council of Europe, High Commissioner for Refugees - UNHCR, High Commissioner for Human Rights - OHCHR, High Representative for BiH, European Bank for Reconstruction and Development EBRD, European Commission, International Committee of the Red Cross - ICRC, International Criminal Tribunal for the Former Yugoslavia - ICTY). The countries represented are those that formed the Contact Group at the Conference on Yugoslavia (USA, France, Great Britain, Germany, Russia and Italy) and the countries that participated at the peace conference in Lancaster on 9 December 1995.

Defence of Bosnia and Herzegovina and the joint Staff of the Armed Forces were formed, and the Intelligence-Security Agency (OSA) was founded. The entities' secret services were abolished and replaced by the State Investigation and Protection Agency (SIPA) in 2004. A uniform ID card was introduced on the entire territory of Bosnia and Herzegovina.

High Representative Cristian Schwarz Schilling (2006-2007) did not use the Bonn Powers so often. The decisions he made referred mainly to the lifting of bans on performing public office and the appointment of foreign judges.

The trend of reduced use of Bonn Powers continued after 2007, during the mandates of High Representatives Miroslav Lajčak (2007-2009) and Valentin Inzko (since 2009).

High Representative for BiH Miroslav Lajčak used Bonn Powers in October 2007 when he took measures related to amendments to the Law on the Council of Ministers of Bosnia and Herzegovina and amendments to the Rules of Procedure of both houses of the Parliament of Bosnia and Herzegovina<sup>23</sup>

The Bonn Powers were used over 900 times in the period of 15 years, i.e. from 1997 to 2012, of which 190 times against politicians. This means that a total of 190 politicians and other officials were removed by the High Representatives for BiH, including two members of BiH Presidency: Ante Jalavić and Dragan Čović.

It should be noted that comprehensive reforms were carried out in the process of fulfilling the criteria to start the negotiations for signing the Stabilization and Association Agreement. Those reforms included the implementation of political and economic measures, as well as measures related to democracy, the rule of law and human rights, and were contained in the EU Road Map published in March 2000. Political measures included the adoption of the Election Law and the regulation of election financing, the establishment of the permanent secretariat of

23 The main amendments made to the Law on the Council of Ministers of BiH deal with the quorum (a session may be held when majority of members are present) and decision-making (decisions may be taken by majority of members present and voting, whereby such simple majority is comprised of only one representative from each of the constituent people, and not two, as was the case before). The amendments also address the quorum in the House of Representatives of the BiH Parliament and entity voting, where the Constitution stipulates that the majority of votes for decision-making requires at least one third of the votes of representatives elected from the territories of both entities, while the existing rules of procedure interpret this as one third of the elected representatives from each entity.

BiH Presidency, the adoption of the Law on Civil Service, the adoption of Rules of Procedures for the BiH Parliamentary Assembly and the agreement on chairing the BiH Council of Ministers, the decision on uniform passports, the implementation of the law on State Border Service and the regulation on financing the Constitutional Court. Economic measures included the transformation or abolition of the Payment Bureau, the establishment of the State Treasury, the abolition of trade barriers between the entities, the establishment of single BiH Institute for Standards, Metrology and Intellectual Property and the Accreditation Institute, the adoption of the Law on Consumer Protection and the Law on Competition, as well as the adoption of the law on foreign direct investment and restitution. Democracy, rule of law and human rights measures included the enactment of property law, the improvement of conditions for sustainable return, the establishment of human rights institutions (the Ombudsman), the enactment of the Law on Judicial and Prosecutorial Function in the Federation of BiH and the Law on Court and Judicial Service of Republic of Srpska as well as the establishment of public broadcasting RTV service. Once the Road Map was substantially implemented<sup>24</sup>, work begun on the Feasibility Study to open negotiations on Stabilization and Association Agreement. The study identified 16 priority reforms, which in practice meant the adoption of 41 new laws and the establishment of 27 new institutions.<sup>25</sup>

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24 All issues related to the adoption of the Law on public service broadcasting system (public RTV) were opened.

25 "Analiza razvoja principa uslovljenosti EU", Directorate for European Integration of BiH, March 2010.

## CONCLUSION

The presence and engagement of representatives of the international community and the European Union, manifested through the actions of the High Representative for Bosnia and Herzegovina, has had an important impact not only on the implementation of the Dayton Peace Agreement and peace-building in Bosnia and Herzegovina over the past 25 years, but also on the implementation of reforms and building of state institutions.

During the first years of implementing the Dayton Agreement, the vital elements of Bosnian statehood were established through decisions and laws imposed by the High Representatives for Bosnia and Herzegovina on the basis of the so-called Bonn Powers. State institutions were, such as State Border Service, State Investigation and Protection Agency, Ministry of Defence of Bosnia and Herzegovina and the Intelligence-Security Agency. The country obtained its national symbols: the flag, its own currency and uniform vehicle registration plates. Entities' constitutions were harmonised with the Constitution of Bosnia and Herzegovina. The Court of Bosnia and Herzegovina was established.

The application of the Bonn Powers has fluctuated over time and in different areas, reaching its peak in 2002 and 2004 with almost 160 decisions imposed annually. During this period, the most important reforms were carried out through the institution of the High Representative: the reform of the security-intelligence system and the defence reform. Since 2006, when the Peace Implementation Council announced the closure of the Office of the High Representative in BiH, the exercise of Bonn Powers and the imposition of decisions have been radically reduced. Reducing the international community's involvement in the process of building democratic institutions and adopting European standards resulted in a slowdown in the process of implementing internal reforms in Bosnia and Herzegovina, which consequently delayed the process of meeting the criteria for EU and NATO membership. Bosnia and Herzegovina remained, with Kosovo, the only country in Western Balkans without EU candidate status. All other countries are either in the process of preparing for opening EU membership negotiations or have opened negotiations with the European Union, except for Croatia, which has been a full EU member since 2013. Along with Serbia and Kosovo, Bosnia and Herzegovina is also the only country in Western Balkans that is not a NATO member.



Almost all initiatives for building and strengthening state structures in Bosnia and Herzegovina were initiated “externally” or by international actors, and not “internally” as a result of consensus of (ethnic) political elites within Bosnia and Herzegovina. The EU integration process has followed the dynamics of influence exerted by the international community and the European Union in Bosnia and Herzegovina.

The complexity of building political consensus on important issues that enable stable political development and European future of Bosnia and Herzegovina requires further active involvement of the international community. Accelerating the EU integration process and implementation of reforms will contribute to overcoming internal disunity present in terms of ethnic, political and economic divisions in the state and the society. The implemented reforms in the post-Dayton political development of Bosnia and Herzegovina show that the process of European integration has in itself generated positive social changes.

Bosnia and Herzegovina is about to meet the criteria from the 14 priorities laid down in the Opinion of the European Commission. Measures to be implemented by Bosnia and Herzegovina in the areas of democracy / functionality, rule of law, fundamental rights and public administration reform are a precondition for obtaining the recommendation to open accession negotiations for EU membership. In this process, the role of the international community and the European Union is manifested in a special form of international intervention within the geopolitical framework for building and promoting peace under the Dayton Peace Agreement. It is of vital importance that the EU Special Representative provides political and technical assistance to Bosnia and Herzegovina in order to obtain by the end of 2021 Commission’s recommendation to open EU accession negotiations.

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# The Best Legal Framework Cannot Compensate for the Lack of Political Will

Slavo Kukić<sup>1</sup>

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## ABSTRACT

The Dayton peace agreement ended the war in Bosnia and Herzegovina and established peace. One can hear different criticisms and objections about it – coming from international as well as BiH political and other circles. As the majority of such criticism and objections are related to Annex IV, the requests and proposals for transformation of the Agreement are predominantly related to Annex IV. This paper offers an analysis of whether such an approach is founded. In conditions of the existing dominance of ethno-nationalist philosophies, would a different constitutional solution remove the impediments to the development of internal trust and accelerated development of the country? The underlying thesis of this paper is that, regardless of all the wishful thinking that would not be possible. The conclusion is that there cannot be any acceleration of the integration processes in BiH without a change in the political paradigm. It would take place of the existing political paradigm by replacing national collectivities and their respective interests with the interest of human beings and their right to a normal life.

**KEYWORDS:** Dayton agreement, Annex IV, BiH Constitution, ethno-nationalist philosophies, integration processes, change of political paradigm

## POVZETEK

Daytonski mirovni sporazum je končal vojno v Bosni in Hercegovini in vzpostavil mir. Resnici na ljubo je danes mogoče slišati različne kritike in ugovore v zvezi s tem - tako iz mednarodnih kot tudi iz političnih in drugih krogov v BiH. Ker je večina takšnih kritik in ugovorov povezanih s Prilogo IV, so zahteve in predlogi za preoblikovanje sporazuma pretežno povezani s to prilogo. Članek analizira ali je tak pristop utemeljen. Ali bi drugačna ustavna rešitev v razmerah obstoječe prevlade etno nacionalističnih filozofij odpravila ovire za razvoj notranjega zaupanja in pospešeni razvoj države? Osnovna teza tega članka je, da ne glede na želeno razmišljanje, to ne bi bilo mogoče. Sklep je torej, da do pospeševanja integracijskih procesov v BiH ne more priti brez spremembe politične paradigme, ki bi obstoječo politično paradigmo nadomestila z novo. Ta bi nacionalne interesne skupine in njihove interese nadomestila z interesi ljudi in njihovo pravico do običajnega življenja.

**KLJUČNE BESEDE:** Daytonski sporazum, Priloga IV, Ustava BiH, etno nacionalistične filozofije, integracijski procesi, sprememba politične paradigme

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## INTRODUCTION

Twenty five years ago<sup>2</sup>, in the Wright-Patterson military base in Dayton, Ohio, the text of the General Framework Agreement for Peace in BiH, also known as the Dayton peace agreement<sup>3</sup> was agreed. The agreement was officially signed less than a month later, on 14 December 1995, at the Élysée Palace in Paris. The most important achievement of the Agreement was that it stopped the war, which had already been going on for a bit less than four years, and all the atrocities caused by the war in BiH. The atrocities were of such a scale that people should constantly be reminded of them – more than 100 thousand killed, more than 50% of citizens were exiled from or fled their homes, because their lives had been endangered, and moved to other parts of BiH or abroad, devastated or completely ruined hundreds of thousands of economic capacities, public and private facilities, a decimated economy in comparison to the prewar period, etc.

Nowadays, with the benefit of a quarter-of-the century's hindsight, the Dayton peace package is analyzed from different perspectives- particularly the perspective of the current situation in BiH, which is often attributed to the structure of the Dayton document - primarily its Annex IV. The aim of this paper is to try to find an answer to the questions that are being raised in this context. Specifically, should the Dayton agreement, and the Constitution as its integral part, be “exclusively accused” for the current situation in BiH and all the associated issues? Or should the causes of the less than promising situation in the BiH state and society, partly or completely, be sought elsewhere - in the lack of political will, which is such that it would neutralize even the legal frameworks that are much more acceptable than the Dayton constitution of BiH?

## POSITIVE EFFECTS OF THE DAYTON AGREEMENT

On the occasion of the 25th anniversary of the Dayton peace agreement, various political circles, both local and international, offered a plethora of positive opinions on its effects. For example, in a joint

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2 The Dayton conference was held from 1 November to 21 November 1995, when Bill Clinton, US President addressed the public and announced the news that a peace agreement had been reached. On this occasion, he said, *inter alia*, that BiH would preserve as a “single state”, that there would be “a central government, including a national parliament, a presidency and a constitutional court”, and that “people will be able to move freely throughout BiH, and the return of refugees will be made possible.” (<https://www.klix.ba/vijesti/bih/cetvrt-vijeka-dejto-na-stara-radost-danas-je-elan-za-bjezanje-iz-zemlje/201119102>).

3 The Dayton peace agreement consists of the text of the General Framework Agreement for Peace in BiH, and 11 annexes, including Annex IV, BiH Constitution.

statement the BiH Presidency welcomed the progress achieved since the Dayton agreement “in the fields of economy, education, democratization of the society, rule of law, public administration and all other areas”, expressed “its full readiness and commitment to respect the provisions of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Constitution of Bosnia and Herzegovina, which forms the integral part of the GFAP”, and confirmed its commitment “to create a society tailored to all its peoples and citizens, especially the young people whom we want to enable to stay and build the future in their homeland.”<sup>4</sup>

The Presidency expressed similar readiness in the talks with US officials, organized on the occasion of the anniversary of the Dayton agreement.<sup>5</sup> In fact, it went a step further in these talks. Namely, it reiterated the unquestionable commitment of BiH regarding the membership in the EU and the readiness of BiH institutions to fulfill the conditions for obtaining the status of a candidate country for membership in the EU and particularly those related to the economic reforms and the fight against corruption.

Undoubtedly, the spirit of positive valorization is also immanent in global centers of power as the impression is that the 25th anniversary of the Dayton agreement had motivated them to comment on the Dayton agreement and its effects much more frequently, and much more clearly, than they did over the past ten years or so.

First of all, the undivided opinion is that the Dayton agreement deserves the credit for ending the war and establishment of peace. Such an assessment could have been heard, for example, from Matthew Palmer, US Deputy Assistant Secretary of State and Special Representative for the Western Balkans.<sup>6</sup> Later, Jens Stoltenberg, NATO Secretary General<sup>7</sup> voiced the same stance as well as the High Representative and

4 <https://www.klix.ba/vijesti/bih/procitajte-zajednicku-izjavu-predsjednistva-bih-o-25-godisnjici-dejtona/201119132>

5 Members of the BiH Presidency talked via video link with Philip Reeker, Acting Assistant Secretary of State for European and Eurasian Affairs, US Ambassador to BiH Eric Nelson, Maureen Cormack, Principal Deputy Assistant Secretary of State and former US Ambassador to BiH, Matt Palmer, Deputy Assistant Secretary of State, and Stephen Biegun, US Deputy Secretary of State.

6 Palmer said in an interview with the Voice of America that the Dayton peace agreement was “successful in achieving its primary objective, which was to bring an end to the war, an end to the violence, an end to the suffering.” (<https://ba.voanews.com/a/matthew-palmer-daytonski-sporazm-bih/5668931.html>).

7 On this occasion, he emphasized, *inter alia*, that 25 years ago “the Dayton Peace Agreement brought an end to nearly four years of brutal war in Bosnia-Herzegovina”, but also added that “the presence of NATO troops played a central role in bringing the warring parties to the negotiating table.” (<https://vijesti.ba/clanak/515506/stoltenberg-o-godisnjici-dejtona-nato-ostaje-uz-bih>).

the Board of Principals of leading international organizations, when they congratulated BiH and its citizens on the 25th anniversary of the Dayton agreement<sup>8</sup>. Finally, it is worth noting that Josep Borrell, High Representative of the European Union for Foreign Affairs and Security Policy, had presented an identical opinion prior to his visit to Bosnia and Herzegovina. In a text drafted on that occasion for the BiH media, Borrell underlined, *inter alia*, that the Dayton agreement had ended the “bloodiest war in Europe after World War II.”<sup>9</sup>

Naturally, all other positive effects generated by the Dayton agreement over the last quarter of the century were also mentioned. However, the differences between the stances of different centers of global power were also noticeable.

For example, the High Representative’s position is that thanks to the Dayton agreement in the first post-war decade, hundreds of thousands of BiH citizens were able to return to their homes. Also the Convertible Mark was successfully introduced, along with biometric passports and ID cards, common license plates, border police, the flag and the anthem, the indirect taxation system, while the police reform and the judicial reform had been initiated, etc. And most importantly, the incentive for positive changes throughout the entire postwar period came not from the political caste, but citizens themselves.<sup>10</sup>

In his statement issued on the occasion of the 25th anniversary, NATO Secretary General focused on the positive effects of the Dayton agreement - it “covers” the establishment of the Armed Forces of BiH. As he underscored, at the end of the war there were more than 400,000 troops and today there is “a single professional army”, of around 10,000 soldiers “under a unified chain of command.”<sup>11</sup>

Finally, the first person of the EU for foreign affairs and security policy “rounded up” the story about the positive effects of the Dayton agreement. He underlined that, regardless of everything, “it is evident that what unites the people of Bosnia and Herzegovina is far stronger than

8 It was stipulated that the agreement had “successfully ended the war and established a framework for reconstruction of the country”. (<http://ba.n1info.com/Vijesti/a488532/Ambasadori-zemalja-PIC-a-Nakon-Daytona-doslo-je-do-pozitivne-transformacije.html>)

9 <https://www.klix.ba/vijesti/bih/borell-postignut-je-napredak-u-izgradnji-demokratske-bih-ali-jos-nije-kraj-puta/201120087>

10 “The families of those who were killed or went missing in the war came together from every community for a common cause, to ensure that their loved ones are remembered with dignity and with respect. The families of those who have suffered because of corruption and inefficiency have come together in citizens’ initiatives to demand accountability,” Inzko explained. (<https://www.klix.ba/vijesti/bih/inzko-dejtonski-sporazum-je-odrzao-mir-ali-gradjani-u-bih-zele-dostojanstven-zivot/201121044>)

11 <https://vijesti.ba/clanak/515506/stoltenberg-o-godisnjici-dejtona-nato-ostaje-uz-bih>

what divides them” and that Bosnia and Herzegovina has “traditionally been united in diversity.” “The war brutally disrupted that diversity but did not destroy it,” he added.<sup>12</sup>

However, from the Russian perspective, the most important achievement of the Dayton agreement is the fact that it had “established peace and security in BiH and the wider region”, and, subsequently, “the foundations were laid for stable political, economic and social development of BiH as a sovereign and independent country”. Agreement had “defined the modalities of internal organization of the country, the constitutional status of the two entities, and the separation of powers between different levels of government. It also guaranteed the equality of the three constituent peoples and established efficient mechanisms for implementation of their rights, including the mechanism for protection of vital national interests.” The Russian stance is that on the basis of everything listed, the agreement has “reaffirmed sustainability and functionality of administrative organization of BiH, and ensured the balance of interests of all and every one” – a testimony of which is the 25-year-long experience.<sup>13</sup>

## **INSUFFICIENCIES OF THE DAYTON AGREEMENT IDENTIFIED OVERTHE PAST 25 YEARS**

### ***WARNINGS BY CENTERS OF GLOBAL POWER***

The world is unanimous in its belief that the Dayton agreement is “not the end of the road.” On the contrary, in the words of the High Representative of the European Union for Foreign Affairs and Security Policy, “a lot of hard work remains to ensure that all citizens of Bosnia and Herzegovina can look confidently to a more prosperous future, based on a clear political perspective: EU integration.”<sup>14</sup>

In other words, in addition to all the positive things that are a result of the Dayton agreement, various addresses and institutions- global, regional, local, political, etc.- also warn of all the things that have not been achieved after the signing of the agreement- but should have been achieved to the benefit of BiH and its citizens.

12 <https://www.klix.ba/vijesti/bih/borell-postignut-je-napredak-u-izgradnji-demokratske-bih-ali-jos-nije-kraj-puta/201120087>

13 <https://www.nezavisne.com/novosti/bih/Ivancov-Dejton-otvorio-put-za-dugorocna-rjesenja/632796>

14 <https://www.klix.ba/vijesti/bih/borell-postignut-je-napredak-u-izgradnji-demokratske-bih-ali-jos-nije-kraj-puta/201120087>.

For instance in the words of Christian Schwarz-Schilling, former High Representative in BiH “the Dayton Peace Agreement has turned Bosnia and Herzegovina into a country that is impossible to govern(...) A very complicated state structure, with several levels of government (...) In practice, however, Bosnia is stuck on a dead-end road. The local ownership policy doesn’t work and the international community is not taking the necessary steps!”<sup>15</sup>

It was also accentuated that the Dayton agreement should not be understood as a “holy script.” Because, as on the occasion of the 25th anniversary, the High Representative paraphrased one of his predecessors and said that “the peace is not the end,” it is just “a starting point.” “The Dayton agreement is the floor, not the ceiling... It is the foundation for the country we are working to build and upgrade together,” he emphasized. The High Representative also noted that for all these years “the people of Bosnia and Herzegovina have demanded – and continue to demand – the right to live in a society that respects all citizens, that provides schools and good hospitals and public amenities, and offers decent jobs and economic opportunities.” However, as he stressed, in this respect “we are moving much more slowly than citizens have a right to expect.” In fact, “the pace of progress has slowed almost to a halt, and people – especially young people – are leaving Bosnia and Herzegovina and moving to economically more stable countries.”<sup>16</sup>

Bill Clinton, the US President at the time of the signing of the Dayton Agreement, also warned that there is still a lot of work to be done on development of a more stable, prosperous and peaceful future of BiH. In his address on the occasion of the marking of the 25th anniversary of the signing of the Dayton Agreement, he underlined that “we are all aware of the deep internal tensions, which are still present (...) In the past decade we saw a steady return of hardline nationalism, disrespect for the rule of law and dangerous rhetoric among politicians that re-inflames old tensions for the purposes of scoring short-term political points. We know that too often integral parts of the federal system become an excuse for not doing anything in many areas.”<sup>17</sup>

On the same occasion, US diplomat Matthew Palmer made a similar

15 <http://ba.n1info.com/Vijesti/a494808/Svi-naknadno-znamo-sta-je-trebalo-uraditi-ali-nesto-se-mora-poduzeti-sada.html>

16 <https://www.klix.ba/vijesti/bih/inzko-dejtonski-sporazum-je-odrazio-mir-ali-gradjani-u-bih-zele-dostojanstven-zivot/201121044>

17 <http://ba.n1info.com/Vijesti/a494820/Clinton-Bosna-i-Hercegovina-ima-mnogo-prijatelja-sirom-svijeta-posebno-u-SAD.html>



point. He underlined that “the vision of Bosnia-Herzegovina integrated completely into the European family of nations has not yet been fulfilled.” He added that fulfillment of such a vision requires implementation of the necessary reforms and establishment of a system that is “more functional” and in which “those who are in positions of power and responsibility will be held to account” for the functioning of the system. To simplify, “the BiH that will qualify for membership in the EU will be a different BiH.” The one that can “create peace, prosperity and stability,” in which “there will be a rule of law and an opportunity to build a normal life” – and the one in which the young people will want to stay.<sup>18</sup>

However, nobody will deliver such a state of prosperity and stability to BiH citizens. The PIC members also reminded BiH citizens that such a state is not possible without “a greater commitment by BiH officials.” “This commitment should also include reconciliation amongst all peoples, building a mature democratic and functional country underpinned by the rule of law and respect for human rights” - and a list of other things.<sup>19</sup> This was also reflected in the opinion of the European Commission (EC) on the application of BiH for membership in the EU from May 2019. Specifically, the EC did not recommend award of the candidate status, but reiterated the 14 priorities related to the rule of law, fight against corruption, protection of fundamental civil and human rights, etc.- as the areas in which progress needs to be made before any discussion on next steps becomes possible.

Frankly, the world continuously conveys messages about its readiness to assist. This was also repeated on the occasion of the 25th anniversary of the Dayton Agreement. *Bill Clinton*, the Steering Board of the Peace Implementation Council (PIC)<sup>20</sup> and Philip Reeker, US Assistant Secretary of State for European and Eurasian Affairs<sup>21</sup> did that in the most direct way. However, the most concrete was the High Represen-

18 <https://ba.voanews.com/a/matthew-palmer-daytonski-sporazm-bih/5668931.html>

19 <http://ba.n1info.com/Vijesti/a488532/Ambasadori-zemalja-PIC-a-Nakon-Daytona-doslo-je-do-pozitivne-transformacije.html>

20 The statement issued by the PIC Steering Board reads, *inter alia*, “the international community remains ready to support and assist Bosnia and Herzegovina” in reconciliation “amongst all peoples, building a mature democratic and functional country underpinned by the rule of law and respect for human rights,” as a goal that should be achieved. (<http://ba.n1info.com/Vijesti/a488532/Ambasadori-zemalja-PIC-a-Nakon-Daytona-doslo-je-do-pozitivne-transformacije.html>)

21 In the talks with members of the BiH Presidency, Philip Reeker deemed necessary to repeat that the US shall remain a strong and committed partner to BiH in the implementation of reforms and fulfillment of conditions for progress in the area of Euro-Atlantic integration. (<https://www.klix.ba/vijesti/bih/predsjednistvo-razgovaralo-sa-zvanicnicima-sad-a-amerika-je-kljucna-za-stabilnost-bih/201120114>).

tative, who, if nothing else, brought a glimpse of hope with his message that “the International Community is working – and will continue to work – to end impunity for those in Bosnia and Herzegovina who are violent or powerful or both, and to strengthen the institutions that protect citizens.”<sup>22</sup>

Despite that, the persistent repetition by the international community of the message that the future of BiH primarily lays in the hands of its citizens, is an indicator that the messages on the readiness to help BiH should not be understood literally. This could have been clearly read from the statements by Bill Clinton<sup>23</sup>, NATO Secretary General<sup>24</sup>, as well as other European and US officials made on the occasion of the 25th anniversary of the Dayton Agreement. It is most visible and clearly notable from the messages of the High Representative of the European Union for Foreign Affairs and Security Policy. Specifically, the statements that preceded his visit to Sarajevo and the ones made during his meeting at the BiH Presidency. Namely, in the text prepared in the eve of his visit to BiH, Borrell stated that it was evident “what unites the people of Bosnia and Herzegovina is far stronger than what divides them” – and that therefore “because of the past, but most of all, for the future of this beautiful country and its people, using inflammatory rhetoric, historical revisionism and glorifying war criminals is unacceptable.”<sup>25</sup> After the meeting in the BiH Presidency, Borrell underlined that while he had no intention to give lessons to anyone or on anything, it would be encouraging for all Bosnians and Herzegovinians if the 25th anniversary would be used as a moment for reflection on what had happened in the past- not because of the history, which is important, but because of the necessity to turn to the future – as well as “to commemorate the victims, and to pay tribute to the many who have worked and continue to work hard on reconciliation.”<sup>26</sup>

22 <https://www.klix.ba/vijesti/bih/inzko-dejtonski-sporazum-je-odrazio-mir-ali-gradjani-u-bih-zele-dostojanstven-zivot/201121044>

23 “Therefore, on the occasion of this anniversary, remember that BiH has many friends around the world, that your country has many friends particularly in the US, and that we all strongly cheer for you to resolve the challenges and seize the opportunities of today. We want you to succeed and will stand by you as long as you continue to work hard to leave the conflicts from the past behind, with an increasingly strong commitment to inclusion, cooperation and decision making, individual and minority rights, and the rule of law.” (<http://ba.n1info.com/Vijesti/a494820/Clinton-Bosna-i-Hercegovina-ima-mnogo-prijateljia-sirom-svijeta-posebno-u-SAD.html>)

24 In the statement issued on the occasion of the 25th anniversary of the Dayton Peace Agreement, he emphasized, *inter alia*, the following: “The future is in your own hands. With unity, determination and compromise, great things can be achieved.” (<https://vijesti.ba/clanak/515506/stoltenberg-o-godisnjici-dejtona-nato-ostaje-uz-bih>)

25 <https://www.klix.ba/vijesti/bih/borell-postignut-je-napredak-u-izgradnji-demokratske-bih-ali-jos-nije-kraj-puta/201120087>.

26 “Joint commemoration of the victims would be essential” for the future of BiH,” said *Borrell* (<https://www.klix.ba/vijesti/bih/josep-borrell-u-sarajevu-nemam-lekcije-i-primjere-sve-je-na-domacim-vlastima/201121021>)

## CRITICISMS OF THE DAYTON AGREEMENT COMING FROM BIH AND THE REGION

The Dayton peace agreement is atypical in many aspects. It is, primarily, the first international agreement in history that incorporates the future constitutional organization of a country. BiH Constitution is given in one of the annexes of the General Framework Agreement for Peace in BiH.

In addition, the ethnic groups, which had fought against each other during the armed conflict, have radically changed their relation to the agreement over time. For example, the ones for whom a quarter of the century ago the signed document was equal to national betrayal are its biggest advocates today. They now see the genuine Dayton agreement, without any subsequent modifications and interventions, as the only option for the survival of BiH as a state.<sup>27</sup> On the other hand, those who at the time when it was signed celebrated it as an act of the victory of the idea of BiH, now see the BiH Constitution and the Agreement on refugees and displaced persons as the root cause and the “culprit” for all the postwar anomalies, including all the attacks to which BiH is nowadays exposed from the inside. And of course, there is also the relation to the Dayton peace agreement of the third party – the one that had reservations towards the agreement at the time when it was created, and which nowadays see it as the reason for the inequality of the peoples in BiH. Krešimir Zubak, then President of the Federation of BiH, which was established by the Washington Agreement on 18 March 1994, refused to sign the peace agreement in Dayton. On several occasions after the war Zubak explained his reasons for doing so. He stipulated that the most fundamental provision of the Washington Agreement, for which the US gave promises and guaranteed to ensure its practical implementation, was “the provision according to which the territory of the Federation of BiH includes the areas of BiH in which Croats and Bosniaks, as constituent peoples, form a majority according to the 1991 census.” In other words, this means that Bosanska Posavina was to remain a part of the Federation of BiH. According to Zubak “the Dayton peace agreement was a drastic violation of the Washington agreement,” which the US, contrary to the promise it had made at the signing of the Agreement, did not protect in Dayton. Hence, he could not accept the Dayton agreement because of the po-

27 Such stances can be heard on almost daily basis from the SNSD leader and the current Chair of the BiH Presidency, and he is just one from a long list of BiH Serbs from Republic of Srpska that support them. As a reminder, 21 November is marked as a national holiday in Republic of Srpska.

sition that he held at the time, as acceptance would constitute a violation of the FBiH Constitution, as well as because he believed that it was not a humane thing to do.<sup>28</sup>

Today, the relations towards the Dayton peace agreement within BiH reflect the whole complexity of BiH's ethnic and political clashes -those occurring within Bosnia and Herzegovina as well as those "spilling over" to BiH from its western and eastern neighbors.

As for the BiH actors, they often accentuate several fundamental flaws of the Dayton agreement. One, it was a mistake to allow BiH to come out of the war in a way that includes "existence of two militaries." They assert that an ever worse mistake was "the adoption of the constitution in Dayton". "The Dayton agreement is a peace agreement (...) a cease fire agreement, and should have remained as such. The goal was not to allow continuation of the conflict. This implies that the functioning and the structure of the state should have been addressed over the following years that is in two or three years, and regulated in a way in which it is done in some other countries in the world. Finally, a mistake was made also with respect to the return of refugees and persons exiled during the war. Namely, a strong stance should have been taken that all must return to their prewar places of residence by a certain date, just as had been done back in 1945, when it was agreed that all should return to their prewar homes by 1 May 1946."<sup>29</sup>

With the exception of such predominantly analytical approaches, the differences in the stances of political actors in BiH are more than obvious. Specifically, some refer to the spirit of the Dayton agreement, primarily the spirit of Annex 4, and advocate reforms which, in the conditions of the existing social and political ambience, objectively further destruct BiH- both as a state and a society. It is worth reminding, for example, the request for return of all the competencies that have been transferred after the signing of the Dayton agreement by decisions of national institutions, from the entities to the state level back to the entities- or, the requests coming from the same address to have the right to self-determination, including secession, included in the fundamental constitutional documents.

It is also worth reminding the requests for a constitutional and le-

28 <http://balkans.aljazeera.net/vijesti/zasto-nisam-potpisao-daytonski-sporazum>

29 <http://ba.n1info.com/Vijesti/a489301/Somun-za-N1-Ako-Komsic-dodje-u-Zagreb-hoce-li-ga-uhapsiti.html>

gal reform which, on the basis of the requirement of ethnic equality, would materialize the ambitions regarding organization of the state as a union of three ethnic entities.<sup>30</sup> However, in this context, it also needs to be noted that such requests end at the boundary line of one entity- the Federation of BiH. At the same time, there is no ambition to initiate a debate on a constitutional reform that would guarantee to all the collectives' equal rights on the whole territory of the state- as it is prescribed by the constitution.

Others advocate a constitutional and legal reform which, in their opinion, would create space for the European system of values and enable the state of BiH to join the European civilization circle. However, within this political group, there are two mutually incompatible orientations. One is truly European, and in line with European civic values, as well as BiH specificities. It strives to find and offer a balance between the civic and ethnic aspect as the BiH *modus vivendi*. The other one is *ethno-nationalist*, but is partly supported also by political philosophies that nominate themselves as civic and even of political left wing orientation -whereas it is less relevant whether the support is wittingly or unwittingly provided.<sup>31</sup> The latter is trying to use the European orientation as a cover for imposing the interest of one specific ethnic group as the general BiH interest.

The BiH neighborhood has direct effect on internal political developments in the country. Truth be told, the first impression may be that there are significant differences in the pressures coming from the East and the West of BiH. As a rule, in the public discourse, the Serbian leadership repeats that it respects the territorial integrity of BiH and supports its organization agreed in Dayton. However, in its daily politics, it is rather obvious that the references about the respect of the Dayton structure are an instrument in the pursuit of a long term goal,

30 At the round table of the Security Council, the HDZ leader resolutely denied such ambitions. However, his in-the-form-of-an-ultimatum insisting on the reform of the election law, which would indirectly introduce the three-entity division of the country, brings into question his distancing from the idea of a third entity.

31 Everything became increasingly evident after the 2018 elections and recognizable in the rare comments by the leader of the Democratic Front and member of the BiH Presidency from the Croat people in relation to the /Croat/ ethnic issue, particularly the aspect of constituent-character as a constitutional category. It is worth reminding the reactions to the meeting between the member of the BiH Presidency from the Serb people and the President of the Republic of Croatia, when he reflected on the constituent character and stated: "As for respect and disrespect of the famous constituent character, I can say that this is a Soviet concept of solution of the ethnic (national) issue, which has been completely dismissed in the EU as retrograde. Hence, they are fighting for something that has been overcome long time ago. In the EU all states are civic states and do not recognize any constituent-character. Bosnia and Herzegovina aspires to join the EU, that is to abolish this constituent-character /as a concept/, and I support that, despite the resistance of Zagreb." (<https://www.oslobodjenje.ba/vijesti/bih/komsic-bih-tezi-ka-eu-koja-ne-poznaje-nikakvu-konstitutivnost-ni-milavicevu-ni-dodikovu-590457>)

which is defined in the instructions from the SANU (Serbian Academy of Sciences and Art) Memorandum 2, related to the destruction of BiH and annexation of at least half its territory to some future enlarged Serb state. This has been a constant in the Serbian policy over the last seven to eight years at least, since the arrival of Aleksandar Vučić, President of the Republic of Serbia to the helm of the Serbia government considered as the position of the number one man in Serbia.

However, the relation of the Republic of Croatia towards BiH is also becoming increasingly aggressive. It is not a relation that reflects the one from the first half of the nineties of the XX century, according to which BiH has no historical foundation and should be divided into interest areas of Croatia and Serbia. Nevertheless, it is a relation in which under the cloak of concern for BiH Croats, Croatia is less and less hiding its ambitions to directly interfere in internal relations in BiH. A testimony of that is the topical session of the National Security Council of the Republic of Croatia of 23 November 2020, at which, according to media reports, a consensus was achieved on the issue of strengthening “the position of Croats as a constituent people in BiH.” On that occasion the president of the Croatian government elaborated that it was evident that the position of Croats in BiH “in specific situations is different from the letter and spirit of the Dayton-Paris peace agreement”. It was also underscored that a point of special concern is the election of a member of the BiH Presidency “who should be a legitimate representative of the Croat people” while in real life, according to the practice established in 2006, that has not been the case.

In the context of this article, there is no intent to elaborate in detail the constitutional and legal provisions, including those related to election of members of the BiH Presidency. However, it is not possible to avoid the assessment that underlined conclusion of the National Security Council, let alone the messages conveyed by the head of the Croatian diplomacy in the eve of the session of the Council and the increasingly frequent messages of the President of the Republic of Croatia,<sup>32</sup> are not at all in line with the constitutional and legal solution adopted in BiH with the support of the HDZ votes as well. Furthermore, they constitute an attempt by a European Union member country to directly

32 On this occasion, Grlić Radman stated for TV Herceg-Bosnia that Komšić “cannot be received /in Zagreb/ as a representative of the Croats in BiH, because he is not,” bearing in mind that “he had not been elected by the votes of the Croats... the will of the Croat people in BiH”, “he pursues an ‘anti-Croat’ policy” and was against the construction of the Pelješac bridge”, and, finally, has acted “against the vital interests of the Republic of Croatia”. (<https://www.jutarnji.hr/vijesti/hrvatska/grlic-radman-komsic-nije-izabran-voljom-hrvatskog-naroda-u-bih-nego-probosnjackim-strankama-15032831>).

interfere in internal affairs of another state. Not to mention that this European Union member country should assist that respective state, in this specific case Bosnia and Herzegovina, in the promotion of European standards.

### **SOLUTION TO THE BIH GORDIAN KNOT**

The above question will yield several different answers in BiH. Of course, the answers will correspond to the respective approaches of the predominant political philosophies in BiH to the issue. Specifically, approaches of those who offer solutions in the name of their respective ethnic interests and those who offer solutions in the name of the interests of BiH citizens. But, they all have one “detail” in common - the requirement for modification of the BiH Constituent and relevant legislation, primarily the BiH Election Law. Nevertheless, the solutions on which different parties insist are diametrically opposed.

The exponents of ethno-national concepts, primarily Croat and Serb, see a solution in the reform of the Constitution and the Election Law. In their opinion, it should guarantee equality of the three peoples and prevent majorization. At the same time, it is possible to identify a lot of overlapping between the two major concepts. However they do not speak about the details on which, under the assumption that they are truly acting in the interest of the two respective peoples, the Croats and the Serbs, their mutually contradicting interests-as well as public stances- would be manifested.

For example, not once did they express in their public statements any disagreement with respect to the constitutional determinant of equality of the three peoples on the whole territory of BiH, because such a determinant would imply engagement in a debate about the territory of Republic of Srpska, as a part of BiH in which equality of non-Serbs is not ensured – despite the modifications of the Constitution of Republic of Srpska according to which in this entity members of all the three BiH peoples are constituent and have equal rights. On the contrary, all requests for equality of Croats end at the boundary line of the entity of the Federation of BiH and in no way affect the territory of Republic of Srpska.

In fact, even the explicit statement by the Alliance of Independent Social Democrats (SNSD) leader and member of the BiH Presidency

did not trigger any debate in this respect. He supports territorial re-composition of BiH and constitutional and legislative reforms that will provide for constituent character and equality of Croats, but in no way can Republic of Srpska be a subject of political negotiations, let alone of an agreement on the reform of the BiH Constitution. At the same time, Serb political circles, personified in the SNSD leader, assign attributes of a state to this part of BiH, while they treat BiH as a state union and depriving it of such attributes/identity.<sup>33</sup>

The impression is that the cries from the Croat ranks in Bosnia and Herzegovina do not resonate with those who claim to have the exclusive right to act on behalf of the Croats nor do they instigate them to request equality for the Croats on the whole territory of the state. Anyway, every here and there, the Bishops' Conference of Bosnia and Herzegovina issues a statement, just as it did on the occasion of the 25th anniversary of the Dayton peace agreement, when it stated that the Agreement "had stopped a multi-year war, but did not create a stable and just peace," and in real life did not provide for "equality of members of all three peoples and ethnic minorities on the whole territory of the state, or guaranteed sustainable return of many exiled persons and refugees." The statement also underlined that over the past years, it was "used more as a justification and alibi for preservation and legalization of various previous and new injustices, and much less for building a true and enduring peace, based on justice and equal rights for all," as a result of what "almost the entire Catholic population in one half of the country- the entity of Republic of Srpska-has been eradicated," etc.

Finally, such a position of the HDZ BiH gives no reason to the authorities of the Republic of Croatia to take a critical and explicitly negative stance on it. On the contrary, according to publicly available statements, the impression is that they support such a relation and policy of the HDZ BiH, and that a part of the Croat population in BiH, specifically the one that lived before the war or still lives on the territory of today's Republic of Srpska, has definitely been sacrificed- by those

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33 A testimony of this are the threats frequently made by Republic of Srpska that if it is deprived of the position of a state within the state, it will initiate the process of its session from BiH and annexation to "the mother land of Serbia." Anyway, the SNSD leader and Chair of the BiH Presidency had voiced the same threat at the round table organized by the Security Council - before the eyes of the entire world. Anyway, it is worth reminding also his statements that Inzko "has absolutely nothing to do with state property in BiH and is trying to stop the construction of hydropower plants and airports", that no Inzko's decision will be "officially published or respected in the RS", and that if Inzko continues with implementation of such and similar decisions he shall consider the option of "initiating the integration of the RS into its motherland of Serbia." (<https://www.oslobodjenje.ba/vijesti/bih/dodik-brutalno-izvrjedao-inzka-zaustavite-tog-monstruma-sveti-se-srbima-i-hrvatima-unistit-ce-bih-607318>)



who claim to act on their behalf in BiH and those from the neighboring country who claim to care for their right to live in their prewar homes in this part of BiH.

The modification of the Constitution and different laws, primarily the BiH Election Law, is also advocated by those who do that from the position of interests of all BiH citizens. But, as it has already been emphasized, that approach is also not unison. On the contrary, some advocate it with the aim of truly ensuring the European future of BiH as a civic state and society, as well as the right to preservation of collective identity, while others exploit the calls for a civic state as an instrument in pursuit of partial ethnic interests of the most numerous people.

### **DAYTON AGREEMENT- THE ONLY CULPRIT FOR THE CURRENT SITUATION IN BIH AS A STATE AND SOCIETY**

First of all, there are more than few stances that imply that the Dayton agreement is no impediment to a much faster progress of BiH. In fact, according to these stances, many opportunities that the Dayton agreement had created have not been used, although 25 years have passed since it was signed. However, while any serious analysis would counter such stances, the truth is that is rather difficult not to agree with the thesis that the Dayton agreement is “responsible” for many negative trends recorded in the post-war BiH because of the solutions incorporated in it. Particularly those from Annex IV, BiH Constitution, as well as some others. The question that gets imposed is – Why? In other words, what brought about the solutions defined by the Dayton agreement, and particularly those in the BiH Constitution?

Bearing in mind that the text of the Dayton agreement was drafted within a period of some twenty days, which probably led to an array of ambiguities and partial solutions that those who do not support an integrated and European BiH have used in the years and decades that followed, a part of the reason probably lays in the fact that the primary goal of the US mediators involved in the development of the overall Dayton package was to stop the war and mutual killings. However, judging by subsequent statements of the US chief negotiator Richard Holbrooke – but also noting that he had headed the Dayton negotiations together with Warren Christopher, Secretary of State in Clinton’s administration – the understanding was that the adopted solutions should literary be perceived as temporary. In other words, the

understanding was that when the guns become silenced and passions ebbed, these solutions will be reconsidered so that new, more optimal and longer-term solutions for BiH as a European state and society could be adopted. In a way, that is what on the occasion of the 25th anniversary of the Dayton agreement, in an interview with the Voice of America, the US Ambassador in BiH confirmed when he spoke about the requirement to reform the BiH Constitution.<sup>34</sup>

Nevertheless, this was actually the cause of many insufficiencies of the Dayton peace agreement as a whole. For example, the agreement does not include a single sentence dedicated to the causes and the character of war. It does not include a single word on “who is the aggressor and who is the victim and it does not recognize any side as being the winner or the loser” (Markešić, 2005). On the contrary, it turned out that, literally, all parties are winners- which significantly reduced the possibility to define principled solutions.

On the other side, Annex 4, BiH Constitution, starts with the “recognition of the factual situation and positions acquired by the war and war conquests”, the most blatant testimony of which is the fact that the “inter-entity boundary line practically goes along the line of military confrontation at the time of establishment of cease fire” (Trnka, 2009). Finally, the agreement also did not establish efficient mechanisms for its implementation, nor prescribed sanctions for those who do not comply with it. In fact, this created the possibility for selective application of the agreement. Specifically, the possibility to apply the parts of the Agreement that suit the respective belligerent parties and obstruct implementation of those that do not, such as the obligations “related to the return of exiled persons and cooperation with the war crimes tribunal” (Trnka, 2009).

Therefore, all the above had crucial impact on and influenced ambiguities in the BiH Constitution, as an integral part of the overall Dayton package. Specifically, the Constitution was constructed on the premise that the ethnic (national) principle, which was even territorialized, has priority over the individual/ civic rights principle.<sup>35</sup> All the viola-

34 According to Eric Nelson, the BiH Constitution can be considered as an initial constitution, because any constitution should be a living document that gets amended, whereas the process of adoption of amendments needs to be defined. Sooner or later any country realizes that it needs reforms, and it is obvious that the BiH constitution needs reforms. The Dayton peace agreement and the BiH Constitution need to be reformed. (<https://ba.voanews.com/a/ambassador-eric-nelson-glas-amerike-ustav-bih-dayton-treba-reformu-a-gradjani-da-krenu-naprijed/5546380.html>).

35 “Although the preamble of the BiH Constitution recognizes that in BiH there are not just ‘the Bosniaks, Croats and Serbs as the constituent peoples’ but also Others (ethnic minorities) and citizens, in the debates currently taking

tions of civic and human rights punishable by the Constitution stem from that fact, starting from the right to elect and be elected to all other rights,<sup>36</sup> as indicated in a number of judgements of the European Human Rights Court in Strasbourg. Primarily the judgments in the cases initiated by persons who are not affiliated with any predominant ethnic group, that is who are members of ethnic minorities or ethnically unaffiliated<sup>37</sup>, but also the judgments that confirm discrimination of members of the three predominant ethnicities- Croats, Serbs and Bosniaks- depending on the part of BiH in which they live.<sup>38</sup>

Despite everything, from today's perspective, the situation in which BiH is today has been caused more by the international centers of power and US mediators (who have recognized the nationalists (Serb, Croat and Bosniak) responsible for the war and the atrocities committed during the war- as the primary partners for the construction of the post-war BiH society and state), than by the solutions agreed in Dayton and incorporated in the General Framework Agreement for Peace in BiH and its eleven annexes. In fact, in such a way they gave them a "green light" to continue to pursue their unachieved war goals in conditions of peace, and now, frankly, with different means.

This particular fact was, much more than the solutions agreed in Dayton, the cause of all the postwar reeling of BiH, the disintegration processes that burden it and the lagging behind other countries in the region and Europe. This fact is the reason behind the absence of political will, which US diplomat *Palmer* mentioned in his statement on the occasion of the 25<sup>th</sup> anniversary of the Dayton peace agreement, over

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place in BiH (...) it is increasingly underscored that the daily practice shows that there are only three categories of people (Bosniaks, Croats and Serbs), whereas the Others (ethnic minorities) and the citizens do not exist, as well as that everything is 'ethnically colored and defined' to such an extent that a person can develop its identity only as a Bosniak, Croat or Serb." (Markešić, 2005)

- 36 The constitutional violation of fundamental civil and human rights is not in the focus of this analysis. However, we believe that nevertheless attention needs to be drawn to this constitutional deficit, as it deprives BiH citizens of the right to elect and be elected. For example, Croats and Bosniaks from Republic of Srpska, Serbs from the Federation of BiH, and members of ethnic minorities or the ethnically unaffiliated from the entire state are not able to be elected as members of the BiH Presidency or the House of Peoples of the BiH Parliamentary Assembly.
- 37 A testimony of such discrimination are the judgments in the *Sejdić-Finci v. BiH* case of 22 December 2009 ([http://www.mhrr.gov.ba/ured\\_zastupnika/novosti/default.aspx?id=1008&langTag=bs-BA](http://www.mhrr.gov.ba/ured_zastupnika/novosti/default.aspx?id=1008&langTag=bs-BA)) and *Zornić v. BiH* of 15 July 2014 (<http://www.mhrr.gov.ba/PDF/UredPDF/default.aspx?id=4745&langTag=bs-BA>).
- 38 There are two judgments of the European Human Rights Court in Strasbourg related to discrimination of such a group of BiH citizens. Specifically, the judgment in the *Pilav v. BiH* case of 9 June 2016, in which the Court ruled against BiH in the case initiated by citizen Pilav in which he "complained that as a politician residing in Republic of Srpska, who declares himself a Bosniak, he was not able to run at the elections for the BiH Presidency because of the limitations defined by the BiH Constitution." (<http://www.mhrr.gov.ba/PDF/UredPDF/default.aspx?id=6680&langTag=bs-BA>) and the judgment in the *Pudarić v. BiH* case of 8 December 2020, rendered in the lawsuit initiated by Svetozar Pudarić "because as a Serb from the Federation of BiH he was not able to run at the elections for the BiH Presidency, which the court has qualified as discrimination." (<http://ba.1info.com/Vijesti/a493420/Evropski-sud-za-ljudska-prava-utvrdio-BiH-je-diskriminisala-Svetozara-Pudarica.html>).

all the postwar years and particularly in the last fifteen or so, in which international centers of power “removed” BiH from the focus of their main attention.

History offers many examples from different parts of the world showing that the factor of political will has crucial significance- both in a positive context, as well as in the context of impediment of processes for which the legal framework is already in place. The experience of the former Soviet Union, which in 1936 adopted one of the most democratic constitutions in the world at the time, can serve as an example. However, such a legal framework did not prevent establishment of gulags, government agencies for management of the Soviet system of forced labor camps and sufferings of the people who had been convicted through simplified procedures in these camps. There is also a plethora of examples from all over the world of negative effects of a poor legal framework being amortized by a high level of political will and readiness to ensure quality life to the citizens of respective countries.

In other words, it is rather questionable how much the problematic legal framework, primarily the BiH Constitution, should be “blamed” for the negative processes that burden BiH. Truth be told, a poor legal framework can be a hindrance, just as a good legal framework can “give tailwind” to social processes with a positive prefix. However, even an ideal legal framework does not have the power to relativize the factor of political will – just like the worst possible legal framework cannot thwart development in conditions in which there is the political will that is stimulating for social development. After all, BiH has had the same legal framework in the first ten years after the signing of the Dayton peace agreement. However, at that time, regardless of the extent to which the Dayton constitution was treated as “a straitjacket”, BiH recorded major progress in its development.<sup>39</sup>

Hence, what happened in the meantime? Is the problem only or exclusively as is often asserted, in the legal framework which generates disintegrating energy and energy of conflict, or should the factor of

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<sup>39</sup> In his statement on the occasion of the 25th anniversary of the Dayton peace agreement, the High Representative in BiH, also said “when I first came here as the Ambassador, 1995-1996, the country border police didn’t exist, there was no common flag or anthem, and Bosnia’s currency was very weak. Now we have one of the most stable currencies in Europe. And before we had three of everything – three types of license plates, three flags, three anthems. Dayton has changed all that, of course with the good will and a strong international community. I think that those first 10 years with this [Dayton] constitution were extremely successful.”(<https://www.slobodnaevropa.org/a/vanlentin-incko-za-negatore-genocida-nema-mjesta-u-eu/30967170.html>).

absence of political will be also taken in to account? We are pretty inclined to believe that the latter is true. After all, without the political will even the best possible legal framework is not omnipotent. As far as the prevailing political will in BiH today is concerned, there is no doubt that its prefix is extremely questionable. There are many experiences from the post-Dayton period, particularly the last fifteen years, which indicate so. They include, *inter alia*, the extremely unpleasant experience related to the 25th anniversary of the Dayton agreement. Specifically, the one related to the Round Table organized by the Security Council at the request of the Russian Ambassador to the United Nations organization.

The stances that the most prominent politicians and officials voiced about their country are living proof of the lack of political will to present one's own country in a positive light that is to promote it as a safe place and a country worth investing in. Unfortunately, everything was done to present it as if it is unable to survive on its own.<sup>40</sup> If that is what is done before the eyes of the entire world, it would be only logical to assume that their daily actions are programed to impede development of the country and society. Under such conditions, it is rather unlikely that any legal framework- any constitution, including the Dayton one as it is, or evens a constitution that would be perceived as an ideal solution- could be of any assistance.

In other words, the Dayton agreement is the way it is. It could have entailed more specific solutions that could be both better and worse than the existing ones. However, the entire responsibility for the post-war processes in BiH cannot be attributed to it. A testimony of that, *inter alia*, are also the first ten years of the implementation of the Dayton peace agreement. Completely contrary to the thesis about the absolute responsibility of the Dayton peace agreement, the dominant political wills are exclusively responsible for the current situation in BiH. Any ambition to give an impetus to or accelerate the positive processes in BiH should start from there- the dominant political wills. More specif-

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40 The HDZ BiH leader reminded the participants of the Round Table that the Report of the High Representative to the Security Council includes "illegal qualifications of the Croat people as a minority, which is contrary to the Constitution. In the report he did not reflect on the calls of the Bosniak parties for imposition of political Croat representatives. There is also the issue of illegitimate and illegal convocation of the Central Election Commission, and the ignoring of the illegitimacy of the member of the BiH Presidency from the Croat people." (<https://www.klix.ba/vijesti/bih/covic-kritikovao-inzka-njegovi-izvjestaji-su-povrsni-i-ne-prezentiraju-stvarnu-sliku-bih/201124147>). At the same Round Table, the SNSD leader and Chair of the BiH Presidency accused the High Representatives of not agreeing to yield to their requests. He labeled them as monsters and criminals, and accused the international community for putting its trust in them. (<https://www.klix.ba/vijesti/bih/skandalozno-obracanje-dodika-pred-un-om-izvrijedao-inzka-nazvao-ga-monstrumom/201124151>)

ically, it would be difficult to even imagine acceleration of integration processes in BiH without a change in the dominant political paradigm. The existing paradigm should be replaced by a new political paradigm, which would give priority not to the interests of ethnic collectivities, but to the people of BiH and their right to a normal life.

## CONCLUSION

The historical relevance of the Dayton peace agreement is not questionable at all. It ended the war, provided for establishment of peace and the return of hundreds of thousands of people to their homes. It is also unquestionable that the Dayton has been an impetus to many positive changes- such as the establishment of the Armed Forces of BiH, the emergence of awareness that what connects the people of BiH is far stronger than what divides them.

However, at the same time it is more than evident that a lot still needs to be done on the development of a more stable, prosperous and peaceful future for BiH and that many reforms are necessary, as well as the rule of law, which is a prerequisite for building normal life. It is abundantly evident that irrespective of all the readiness of the world to help and assist, that is a job for BiH citizens, because nobody will do it for them.

Truth be told, there is a lot of criticism of the Dayton peace agreement, both by centers of global power, as well as political actors in BiH. However, while the world sends motivating messages, such as that the Dayton agreement was not the end, but the beginning of the road that BiH has to travel to get to the family of European countries- on which it is progressing much slower than an average person would expect, the political actors in BiH point fingers at its provisions and solutions, particularly those in Annex IV, which have been an impediment to many processes over the past 25 years of peace building. Therefore, they request its reform so that the identified impediments could be removed.

While there is a consensus on the requirement to modify the Dayton constitution, the differences in the stances of the main stakeholders on the BiH political scene regarding the modifications are almost irreconcilable. Some propose reforms which, each one in its own way, cannot be a pledge of a more just or prosperous future. Others, however, who

advocate European civilization values, do not have the real political power to impose systemic reforms required for a more successful future. Unfortunately, the statements coming from the BiH neighbors, regardless of whether they are made in the name of European or some other values and interests, are also of no benefit to BiH.

The fundamental question is whether, regardless how much it could be criticized, and the Dayton agreement should be blamed for all the postwar troubles? Or would the situation be different had the agreement, and particularly its Annex IV, been constructed in any different way?

Truth be told, many share such an opinion. They also believe that today the ambience would be entirely different had the Dayton agreement clearly identified the aggressor and the victim, had the Constitution not recognized the factual state and achievements of war conquests, had efficient mechanisms for its implementation been established, had the Constitution not been constructed on the premise of the priority of ethnic over civic – which subsequently led to violations of civil and human rights, etc.

However, despite all the criticism and remarks against the Dayton agreement, and its Annex IV, it is difficult to believe in its omnipotence. This is because the implementation of the Dayton agreement depends on living people and we believe that they are a major part of the post-Dayton problems. Therefore, we are inclined to support the thesis that one of the biggest mistakes of the Dayton agreement is that the ones most responsible for all the atrocities committed during the war were recognized as the partners for construction of a different, European and free-of-nationalism BiH. In such a way, they were given a green light to continue to pursue their war goals in new, peacetime conditions. That is where the causes of all postwar disintegrative processes lay.

Finally, this means that acceleration of integrating processes in BiH cannot take place without a change in the dominant political paradigm in BiH. Specifically, a change by which the existing political paradigm would be replaced by one that will not focus on national collectivities and their interests, but on the interests of people and their right to a life worthy of a human being.

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**The EU Enlargement and Foreign Policy:  
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*Milan Jazbec*



# The EU Enlargement and Foreign Policy: Limits of Alignment in the Western Bal- kans

Nedžma Džananović<sup>1</sup>

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## ABSTRACT

The article discusses whether, to what extent and in what way the Western Balkan countries have been fulfilling the part of the enlargement conditions (political) related to the foreign policy alignment with the foreign policy of the EU. Specifically, four membership candidates are targeted – Montenegro, Serbia, Albania and North Macedonia. Both factors and actors that influence the alignment of each particular country are identified, thus indicating whether the declared foreign policy priorities, which include membership in the EU and alignment with its foreign policy, are genuinely Europeanized and domesticated. Additionally, the disciplined study of the alignment with the EU foreign policy variations takes into consideration the status each country has in relation to the EU and indicates the limits of the normative, transformative and structural power of the EU in this region.

**KEYWORDS:** EU foreign policy, alignment, enlargement, Albania, Montenegro, North Macedonia, Serbia

## POVZETEK

Članek obravnava, ali, v kolikšni meri in na kakšen način države Zahodnega Balkana izpolnjujejo del širitvenih pogojev (političnih), povezanih z usklajevanjem zunanje politike z zunanjo politiko EU. Natančneje, obravnavane so štiri kandidatke za članstvo – Črna gora, Srbija, Albanija in Severna Makedonija. Opredeljeni so dejavniki in akterji, ki vplivajo na usklajenost posamezne države, kar kaže na to, ali so deklarirane zunanjepolitične prednostne naloge, ki vključujejo članstvo v EU in usklajenost z njeno zunanjo politiko, resnično evropeizirane in ponotranjene. Poleg tega študija usklajenosti z zunanjepolitičnimi različicami EU upošteva status vsake države in njen odnos z EU in navaja meje normativne, preobrazbene in strukturne moči EU v tej regiji.

**KLJUČNE BESEDE:** zunanja politika EU, usklajenost, širitev, Albanija, Črna gora, Severna Makedonija, Srbija

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## INTRODUCTION

For Western Balkan countries (WB), the European Union (EU) is both an actor and a goal (Schimmelfenning, Sedelmeier, 2020; Tzifakis, 2007; Woodward, 2011). The EU, as an actor which got its second chance in the Western Balkans in late 90ies (Džananović, 2020, p.2) has been engaged in conflict resolution and state building (Keil, Arkan, 2015). The EU agenda has been implemented through both enlargement and foreign policy tools, as the two policies run in parallel and are mostly complementary. In the segment of enlargement, the EU chose to impose a model based on normative transformation and it's been somewhat effective in coping with the short-term challenges (Hasa, 2019, p.23).

Stabilization of the volatile region, being the long-lasting goal of the EU foreign policy in the region, is, ideally, complemented by the WB countries' integration through accepting full range of EU regulations and norms (Bjorkdahl et al., 2015; Noutcheva, 2009; Woelk, 2013). Initially, the twofold EU approach to the region was formalized through a policy and legal tool called the Stabilization and Association Process (SAP), the name of which clearly refers to primary priority (stabilization) and ultimate goal (integration). The framework combines the Europeanization and conditionality already applied in the Central and Eastern Europe with the upgraded approach devised to address the specific needs of the Western Balkans.

The Stabilization and Association Agreements (SAA), signed with each of the WB countries within this framework, regulated trade relations, but also identified common political and economic objectives. In Title II, Political Dialogue, approximation of policies with EU policies was established as a general goal, implying an obligation of approximation of the WB countries' foreign policies with the Common Foreign and Security Policy (CFSP) of the EU. More recently, the high-level political dialogue between the EU and the Western Balkan countries is designed to enhance the regional stability and security, mainly through neutralizing all emerging crises and tensions, reconciling and resolving open issues regionally, as well as developing comprehensive and coordinated approaches towards addressing the potential security challenges (Hasić, Vit, 2020).

The EU membership criteria for the WB countries have remained the

same, founded on the so-called Copenhagen Criteria from 1993 that define the fulfilment of political, economic and legal conditions, an integral part of which is the adoption and implementation of the EU *acquis*. Gradual alignment of foreign policy of candidate countries with the EU foreign policy is not only a part of political criteria, but also one of the negotiation chapters and areas where progress is assessed annually by the European Commission in its Progress Reports.

Ever since the Western Balkan 6 (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia) have made the EU membership one of their major foreign policy priorities, the alignment with the foreign policy positions of the EU became a clear indicator of their willingness and dedication to the process. While, apparently, alignment of foreign policy of the EU does not seem too demanding or incompatible with national interests in any of the WB countries, the extent of the alignment varies and even continually decreases in some. Foreign policy is not just an area where countries demonstrate their abilities to assume membership obligations, but one of the specifically delicate areas where countries show their genuine affiliations. Being one of the symbols of national policy and identity, foreign policy alignment or misalignment of a particular country reveals positions, power relations and order of foreign policy priorities.

The specific goal of this article is threefold: to analyse whether, to what extent, and in what way have the Western Balkan countries fulfilled this piece of the political criteria, to identify the factors and actors that contribute to or prevent the full alignment and, thus, to indicate the limits of the normative, transformative and structural power of the EU in this region.

The comparative review of the status of alignment of the four out of six WB countries that follows will be based on the primary sources that illustrate the developments - the data provided by the EU itself through the reports made by the European Commission on the progress achieved by particular countries since 2014. The four countries are Albania, Montenegro, North Macedonia and Serbia. In order to facilitate the research aims, the review takes into consideration the fact that the four countries are in different stages of integration and displays their cases accordingly in two clusters - Montenegro and Serbia as the leaders in the process, as they are both negotiating candidates; Albania and North Macedonia as candidate countries that have not yet

started negotiations. Two remaining countries in the region, Bosnia and Herzegovina and Kosovo, are in still in their pre-negotiation state as potential membership candidates and will not be considered in this study. The analysis of each country follows the methodology of the chapter on foreign policy, security and defence – the foreign policy goals and their compliance with the global Strategy of the EU, the level of alignment with the Council decisions and declarations of the High Representative for Foreign and Security Policy, the level of diplomatic and administrative preparedness and examples of misalignment and overall performance in international arena and regional engagement.

## **NEGOTIATING MEMBERSHIP CANDIDATES**

Montenegro and Serbia are considered the leaders of the integration process in the region as they are both in advanced phases of membership of negotiations with the EU on different chapters. Also, their respective paths towards the EU started few years later than the others in the region, after the fall of former Serbian leader Slobodan Milošević in 2000 and his later transfer to the International Criminal Tribunal for the former Yugoslavia and the peaceful dissolution of their former union called the State Union of Serbia and Montenegro in 2006. Similarities, however, end with that.

### ***MONTENEGRO***

Montenegro identified EU and NATO orientation as its priority very clearly (Skupština Crne Gore, 2013) and its full commitment to these goals resulted very quickly in first important successes in the integration processes – the SAA was signed in 2010, positive *avis* from the European Commission obtained later same year and membership negotiations opened in 2012. Montenegro became the first country from the Western Balkan 6 to start the membership negotiations with the EU and has taken over the lead in the process. Currently, after 8 years of negotiation, all the 33 screened chapters have been opened, with 3 provisionally closed (European Commission Staff, 2020b, p.3).

In terms of negotiations on particular chapters, foreign policy, security and defence has been a success for Montenegro as it early achieved and maintained a good level of preparedness (European Commission Staff, 2015d, 2016b, 2018b, 2019b, 2020b). Also, Montenegro has



proven to have diplomatic and administrative structures in the field of foreign policy and defence sufficient to support the obligations stemming from the member status. Since 2014, when chapter 31 was opened (Foreign policy, Security and Defence), Montenegro has achieved an impressive record of 100% alignment with the decisions of the Council of the EU and High Representative declarations and joined all restrictive measures imposed by the EU (European Commission Staff, 2015d, p.73, 2016b, p.80, 2018b, p.85, 2019b, p.92, 2020b, p. 117). In particular, Montenegro joined the sanctions imposed on Russia following its annexation of Crimea, and remained on the same the course in the UN General Assembly (European Commission Staff, 2015d, p.73). The Montenegro 2020 Report stresses the amending decision of the Montenegrin government from March 2020 concerning the sovereignty and independence of Ukraine which contains a consolidated list of persons and entities against which restrictive measures have been imposed (European Commission Staff, 2020b, p.117).

Montenegro, however, failed to comply with the EU in a single case that concerns the country's relationship with another strategic partner – the United States of America (USA). In 2007, Montenegro signed a bilateral agreement with the USA, which guarantees the exemption of US citizens from the International Criminal Court (ICC) – the so-called Article 98 Agreement. The provisions of this bilateral agreement, according to the European Commission, are contrary to the common EU positions on the integrity of the Rome Statute and completely disregard the EU's guiding principles for bilateral immunity agreements (European Commission Staff, 2015d, 2020b).

In terms of security and defence, the path to realization of NATO membership that was successfully finalized in 2017, largely facilitated the successful alignment of this segment with the EU as well. The country is part of the EU Hybrid Risk Survey, the aim of which is to identify weaknesses and build resilience to hybrid attacks (European Commission Staff, 2019b, p. 92). Montenegro took part in civilian and military missions under the auspices of the EU Common Defence and Security Policy (CDSF) and UN-ATALANTA in Somalia, ISAF in Afghanistan, UN-MIL in Liberia, INIFICYP in Cyprus, EUTM in Mali, EUFORCAR in the Central African Republic and MINURSO in Western Sahara (European Commission Staff, 2015d, 2016b, 2018b, 2019b, 2020b). Montenegro's participation in the KFOR mission in Kosovo since 2018, however, has

created tensions with neighbouring Serbia and among a part of population in the country itself (European Commission Staff, 2019b, p.92).

The country has taken an active role in numerous regional organizations and initiatives (Regional Cooperation Council, Central European Initiative, Central European Free Trade Area, South East European Cooperation Process, Adriatic-Ionian Initiative, US-Adriatic Charter, Berlin Process, Brdo-Brijuni, and Western Balkan 6) and is commended as an example of positively transformed relations with its neighbours (Džananović, 2020, p.8).

The public political commitment to the EU accession is mostly successfully translated into political decisions and actions, and as Montenegro continues to align fully with the EU CFSP, others issues and chapters draw much more attention and dictate the overall pace of the negotiations – the issue of rule of law and chapters 23 and 24<sup>2</sup> primarily. There is an intensive academic debate about the nature of the Montenegrin success, precisely because of the dramatic difference between the evident success in some filed and failure in others, but also about the uneven and often faulty approach of the EU towards Montenegro (Keil, 2013, p. 350; Keil, Arkan, 2015, p.83; Vučković, 2019, p.142). It is argued that the Montenegrin success does not seem to depend on the domestic actors, but is an EU driven project as EU acts like a major agent of changes. Vučković specifically argues that the case of Montenegro demonstrates how mutually beneficial interaction of both local and EU actors remained superficial, and did not touch upon crucial domestic reforms (Vučković, 2019, p.141). With the new government in place in Montenegro<sup>3</sup> since December 2020, the domestication of the Euro-Atlantic orientation in foreign policy will be tested.

## **SERBIA**

Even though it is also a negotiating candidate country, Serbia has a very different path and record in this chapter from Montenegro. Curiously, Serbia gained membership candidate status in 2012, before the SAA with the EU entered into force in 2013. As of October 2020, more than half chapters have been opened (18 out of 35), with two provisionally closed (European Commission Staff, 2020e, p.3).

2 Chapter 23 is Judiciary and Fundamental Rights and Chapter 24 is Justice, Freedom and Security.

3 A new conservative pro-Serb government which took office on December 4, 2020, is a coalition founded around the main goal of unseating the decades-ruling DPS party of Montenegrin president Milo Đukanović. They have been campaigning against pro-Western Đukanović by accusing him of corruption and close ties with organized crime.

In terms of diplomatic and bureaucratic apparatus, Serbia is considered to be moderately prepared (European Commission Staff, 2020c, p. 114). Formally, relations with the EU and EU membership are high among the foreign policy and security policy priorities of Serbia (National Assembly of Serbia, 2019, p.1) and it has supported the EU Global Strategy (European Commission Staff, 2018c). However, it is particularly indicative that Serbia has a mostly downward trend in alignment with CFSP, the highest being in 2013 – 89%, the lowest in 2018 – merely 52% (European Commission Staff, 2015b, p.70, 2016c, p.80, 2018c, p.84). Despite the fact that the alignment increased in 2020 to 60% (European Commission Staff, 2020e, p.114), Serbia still has the lowest alignment percentage in the region and the list of dubious moves is quite extensive and concerns Russia, China, and since July 2021, the US as well.

The main reason for the misalignment is the disagreement with the EU regarding the restrictive measures against Russia, despite the fact that Serbia enacted the Law on Restrictive Measures and the Implementation of International Sanctions back in 2016 (European Commission Staff, 2016c, 2018c). Even though Serbia declaratively supports Ukraine in principle of territorial integrity, it has never joined any sanctions against Russia regarding the Crimea. In addition, Serbian authorities are reluctant to oppose Russian positions on a broader international level, even outside of the European context, so over the course of years they refused to follow the Council decisions regarding Venezuela, China, Bosnia and Herzegovina, Moldova and Zimbabwe (European Commission Staff, 2015b, 2016c, 2018c). In 2019 and 2020 in particular, Serbia did not align with decisions concerning Myanmar and Iran, and ignored latest declarations on Hong Kong and Russia (European Commission Staff, 2019d, 2020e). In case of Belarus, Serbia did not join the restrictive measures introduced by the EU, but supported the High Representative's declaration on presidential elections in Belarus and condemned the escalation of violence and intimidation of the Co-ordination Council (European Commission Staff, 2020e).

Relations with Russia have been additionally strengthened which is particularly reflected in the frequent exchange of top-level visits and continued and intensified technical and defence cooperation. Serbian president visits Russia annually, while Russian Prime minister Dimitri Medvedev visited Belgrade in 2019 and foreign minister Sergei Lavrov paid a visit on the eve of the June elections in 2020. Serbia earlier estab-

lished and continued cooperation with the Russia-dominated Collective Security Treaty Organization (CSTO), while holding joint military drills with Russia and Belarus in 2015 (European Commission Staff, 2016c). Moreover, the cooperation with the CSTO was included in the country's new security and defence strategies (European Commission Staff, 2020e). As a part of overall cooperation in defence and security with Russia that includes joint drills, procurement of substantial video-surveillance equipment and arms and security systems purchase, a battery of Pantsir-S1 air defence missile system was handed over to Serbia in March 2020. In September 2020, Serbia introduced a six-months moratorium on all international military cooperation, including joint exercises (European Commission Staff, 2020e).

The EU voiced its concern over the Cooperation and Joint Action Agreement signed between the Ministry of Interior of Serbia and the Russian Federal Security Service as it is believed to pose a risk to the implementation of the Agreement on Security Procedures in Exchanging Classified Information previously signed with the EU. Serbia also defied EU regarding a Free Trade Agreement with Russia-led Eurasian Economic Union in October 2019 (European Commission Staff, 2020e). While the EU expected Serbia to align itself with the EU policy, Serbia insisted it was in no way contrary to its EU ambitions, as the agreement will cease to be valid when Serbia joins the EU (Beta, Večernje novosti, 2019).

The existing level of cooperation with China has already caused warnings from the EU side regarding the respect of EU standards in relation to state aid, public procurement, railroad safety and interoperability (European Commission Staff, 2016c, 2018c, 2019d). Serbian president Aleksandar Vučić extended his gratitude and admiration for the Chinese leadership when China delivered medical aid to Serbia, while holding his tongue regarding the EU relief efforts. The EU also noted his silence on the support expressed for Chinese actions in Xinjiang by a high profile government official (European Commission Staff, 2020e)<sup>4</sup>.

As Serbia appears to believe that its military neutrality is but should not be an obstacle to its cooperation with NATO, 20 joint military drills took place and a Logistic Support Cooperation Agreement with

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<sup>4</sup> The European Parliament adopted a resolution in December 2020 condemning China over allegations of forced labour and over the situation of Uighurs, calling on the EU to impose sanctions.

NATO was enacted. Also, a second Individual Partnership Action Plan (2019-2021) was adopted (European Commission Staff, 2020e).

When it comes to relations with the US, Serbia is the only country in the region that did not sign an Agreement on the immunity of US citizens from the ICC. Moreover, Serbia agrees with the EU and follows its position regarding the integrity of the Rome Statute and the EU guiding principles on immunity agreements (European Commission Staff, 2015b). Despite a major disagreement with the US over Kosovo, the relations with the US are quite stable. During the July 2021 visit to Washington DC, Serbian president signed a peculiar unilateral memo regarding the normalization of economic relations with Kosovo, and thus committed to move Serbian embassy in Israel from Tel Aviv to Jerusalem<sup>5</sup>. The EU expressed its “serious concern and regret” over this plan, as its implementation would make Serbia and Kosovo first nations in Europe to relocate the embassies (Euractiv, 2020). As the former US President Donald Trump was not re-elected in November 2020, it is unclear whether the administration of the new president will insist on the fulfilment of this intention.

Serbia has been participating actively in crisis management missions and operations under the CSDP - The EU Training mission in Mali, NAVFOR ATALANTA, and contributed to missions in Somalia and Central Africa. As it intends to contribute to the civilian aspects of the CSDP missions, the EU finds that it should finalize the legal and administrative framework that would enable the participation of civilian staff. Serbia is in the roster for EU Battle Groups and is also present in UN peacekeeping missions (European Commission Staff, 2016c, 2018c, 2019d, 2020e).

Brussels has apparently accepted the Progressivists, led by President Aleksandar Vučić and deliberately turned a blind eye in front of their detrimental behaviour and practices, opting for stability over democracy (Radeljić, 2019, p.122). For many years the European Commission has been aware of the Serbian compliance issues, as the reports show, but the priority in the overall integration progress was given to other topics and chapters such as the rule of law and normalization of relations with Kosovo. That left the space open for Serbia to

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5 The Washington Agreement between Serbia and Kosovo on economic normalization was brokered by president Trump and hailed as a “major breakthrough”. Presidents of Serbia and Kosovo each signed separate documents with similar commitments. In addition to that, Kosovo and Israel agreed to establish diplomatic relations, and both Serbia and Kosovo promised to move their embassies to Jerusalem.

lead the politics of opportunities, developing its relations with both East and West, rather than the politics of alternatives, thus securing significant international attention and competition, while developing internally and ever increasing authoritarian approach (Radeljić, 2019, p.120). The 2020 Progress Report, however, is more resolute than ever in its appeals to Serbia to demonstrate a clear commitment to EU as its main political and economic partner, restrain the Eurosceptic rhetoric of the high governmental officials and step up its efforts towards a full alignment with the EU CFSP. While maintaining a very diplomatic tone, EU has expressed its expectation for Serbia to adjust the political course so it clearly and undoubtedly reflects its EU ambition (European Commission Staff, 2020e).

The two cases of negotiating candidates clearly show that the EU evaluates and assigns political priorities in the accession process differently, depending on the country itself and its specific context. Despite the downward trend of the alignment in case of Serbia and an extensive list of positions, decisions and activities that defy the position of the EU and cause concerns over its priorities, the EU has not recognized them as crucial for the pace of accession and Serbia remains one of the leaders in the process, a step behind Montenegro, the regional champion in the region.

### **NON-NEGOTIATING MEMBERSHIP CANDIDATES**

Albania and North Macedonia are both non-negotiating candidate countries. Despite the positive recommendations by the European Commission, and the decision from March 2020 of the EU 27 to launch the membership negotiations with the EU, the process has not yet started. The infamous French “non” in October 2019<sup>6</sup>, was followed by a Bulgarian “framework position”<sup>7</sup> in November 2020 aimed at North Macedonia. The Bulgarian position effectively blocked the start of the negotiations for both countries, as German presidency and some other

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6 French president Emmanuel Macron blocked the EU decision to start the negotiations with North Macedonia and Albania at the European Council meeting in October 2019 and justified it by the need to review the enlargement process in general. Also, the Netherlands and Denmark had reservations in giving approval to open negotiations with Albania.

7 The Bulgarian government officially announced that it does not approve of the EU negotiation framework for North Macedonia in November 2020. It has sent a memorandum to the other 26 member-states insisting that the EU documents and the “framework for negotiations” should reflect Bulgarian stance. Bulgaria insists North Macedonia should formally recognize that its language is a dialect of Bulgarian, eliminate its anti-Bulgarian rhetoric, reinterpret its history in accordance with Bulgarian historic narrative and give up claims about a separate Macedonian minority in Bulgaria. The demands are entirely related to the issues of identity, language and history and clearly reflect a nationalist position of the current government for domestic political reasons.

EU countries decided that these two countries should continue the accession process together, as a package. Albania has been a membership candidate for just over six years, while North Macedonia gained the status already in 2005 and has been waiting since for the opening of the negotiations. As was the case with Montenegro and Serbia, while formally in the same status, the two countries have a different foreign policy record regarding the CFSP alignment.

### **ALBANIA**

Albania had a particularly low starting point in the integration process as one of the poorest and most isolated countries in Europe. While other countries of the Western Balkans share common legacy of Former Socialist Yugoslavia and its brutal disintegration, Albania has had a much different political path. Still, its democratic transition has not been easy as it has never experienced any form of local democratic government (Koyama, 2009, p.5).

Its primary foreign policy priorities are related to the EU and NATO membership that was achieved in 2009. In the interpretation of the Albanian authorities the two priorities are both compatible and intertwined. The Albania was granted potential candidate status for EU membership at the 2003 Thessaloniki EU-Western Balkans Summit. The SAA entered into force in 2009 and the formal application for membership was submitted later in the year. The EU awarded the candidate status in 2014, but despite the repeated recommendations by the EC, the EU member-states have not yet set the date for the Albania and North Macedonia package.

In terms of the alignment with the EU and the ability to assume the rights and obligations as an EU member country, Albania has made a significant progress and continues to enhance its abilities, especially in Chapter 31. Justice sector, fighting corruption and organized crime, as well as reforms in intelligence and civil service appeared to be the most demanding, while foreign policy, security and defence alignment reached a fascinating degree of 100%. In its annual reports the European Commission has established very early and noted continuously Albania's diplomatic and bureaucratic preparedness in Chapter 31 (Council of the EU, 2020; European Commission Staff, 2015a, p.71, 2016a, p.10, 2018a, p.92, 2020c, p.112). There have been no particular problems or obstacles for Albania to follow common positions taken

by the EU. It has always joined and applied all the restrictive measures adopted by the European Council, and supported the Council's decisions and declarations made by the EU High Representative for Foreign and Security Policy.

Following its own foreign policy priorities – the memberships in NATO<sup>8</sup> and EU, Albania exported its surplus weapons to the Kurdish forces fighting ISIL and took part in the ALTHEA, EU military mission in Bosnia and Herzegovina, and a training mission in Mali (EUTM). The country also expressed readiness and interest to take part in the EU battle groups in 2024. As a part of the Hybrid Risk Survey, Albania provided the answers to the survey (European Commission Staff, 2020c).

In the wider context of foreign relations, the Albanian participation in a number of international and regional organizations and the stable improvement of good neighbourly relations has been appreciated by the EU. The country is particularly praised for its engagement in Migration, Asylum, Refugees Regional Initiative (MARRI) and the fight against terrorism and radicalism through Western Balkans Counter-Terrorism Initiative (European Commission Staff, 2016a, 2018a, 2019a, 2020c).

Albanian strategic commitment to Euro-Atlanticism, just like in the case of Montenegro, led to a single serious disagreement with the EU and failure to comply. Albania signed a bilateral immunity agreement with the USA in 2003, which guarantees the exemption of US citizens from the ICC. This issue is likely to remain, given the special nature of its relations with the US and the determination to maintain it outside, or even against the EU context.

The 2020 Report praises the level of preparation for the assumption of obligations under this Chapter and alignment with CFSP, as well as wider multilateral engagement such as the Chairmanship-in-Office within OSCE (European Commission Staff, 2020c).

Without denying similarities to other ex-communist countries in Eastern Europe as well as to former Yugoslav republics in the Western Balkans, Albania has been one of the most unique cases in Eastern Europe, primarily for its communist legacy in economic and political development, as well as regarding many other peculiarities (Toqja, 2014, p. 83).

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8 The accession of Albania to NATO took place in 2009.



Over the past 20 years, numerous statistics, public opinions and many other facts point to a strong desire for European integration among citizens and political parties (Cipuri, Kocibelli, 2010; Preshkopia, 2020; Tojja, 2014). The external promise of EU integration is perceived as a remedy for internal concerns, and, in particular, democratic deficiencies, but just like in the case of Montenegro, the question remains whether there is a strong domestic impetus for improvements or is just about ticking the boxes on the conditions and compliance requirements (Cipuri, Kocibelli, 2010, p.50; Hoxhaj, 2020).

### ***NORTH MACEDONIA***

North Macedonia, known as Former Yugoslav Republic of Macedonia (FYROM) until February 2019, was the first country in the Western Balkans that was awarded the membership candidate status. Despite the fact that it was granted the candidate status in 2005, the membership negotiations have not been opened yet. It has been a part of the SAP since 1999 and signed the SAA in 2001 during the domestic armed conflict. The signing of the SAA was not postponed, as the EU wanted to offer it as an incentive to local politicians and encourage them to turn back to political negotiations (Bjorkdahl, 2005, p.257). Taking into consideration the fact that North Macedonia has achieved a substantial progress in the overall alignment with the EU standards, despite its internal fragility and issues with neighbours, the European Commission recommended the opening of the negotiations consecutively in 2009, 2015, 2016 and 2019 (European Commission Staff, 2015c, 2016d, 2019c). In the update of the report in March 2020, the Commission re-validated the recommendation (European Commission Staff, 2020a), but its EU member-state neighbour Bulgaria decided later in the year to block the opening of the negotiations as explained earlier.

The significant achievements of the overall accession process have been followed up to a certain level in the fields of foreign policy, security and defence. The diplomatic and bureaucratic apparatus is considered to be moderately prepared, while the degree of the foreign policy alignment with the EU varies. Still, the compliance is high and ranges between 73% and 92% in 2019 (European Commission Staff, 2016d, p.71, 2018d, p.84, 2019c, p.94, 2020d, p.98). North Macedonia has accepted the EU Global Strategy and its goals, so it sides with the EU accordingly – supporting the decisions of the Council and declarations of the High Representative (European Commission Staff, 2018d).

The major obstacle to the full alignment is the decision on the restrictive measures against Russia regarding Ukraine that North Macedonia did not subscribe to. It maintained some level of diplomatic balance, though, by supporting the United Nations General Assembly's resolution in favour of the territorial integrity of Ukraine in 2014 (European Commission Staff, 2015). A very important indication of North Macedonia's strategic commitment to the EU was given in December 2019 when it aligned with the EU regarding the Turkish unauthorized drilling activities in the Eastern Mediterranean (European Commission Staff, 2020d). The compliance with the EU occurred despite the decade long trend of intensification of close political and economic ties with Turkey.

Another divergence point with the EU is related to the United States and the bilateral agreement regarding the immunity of American citizens from the ICC. Like all other countries in region, except Serbia, North Macedonia signed the agreement which EU considers to be contrary to its positions on the integrity of the Rome Statute and EU guiding principles on bilateral immunity agreements. This remains a continuing objection (European Commission Staff, 2015c, 2019c).

The resolution of the name dispute between the FYROM and Greece has already been dubbed a historic success and in addition to the elimination of a long-standing bilateral issue, it also enabled the country's NATO membership<sup>9</sup> and further steps in the accession to the EU. Also, it is important to note that the EU itself gained an important influence in the overall process (Mavromatidis, 2010).

The European Commission finds that the country has proven to be a constructive partner in regional and international cooperation. Under the EU's Common Security and Defence Policy, North Macedonia participates in the ALTHEA Mission in Bosnia and Herzegovina and in the NATO's "Resolute Support" mission in Afghanistan. It's been contributing to the EU Battle Group 2014-2020 and the KFOR mission in Kosovo through the Host Nation Coordination Center. It plans to upgrade its involvement as operational partner and deploy staff officers. Also, in 2020 it started contributing to the military training mission in the Central African Republic (EUTM RCA). The cooperation with the European Defence Agency (EDA) continues, and answers to the survey

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<sup>9</sup> Following the conclusion of the Prespa Agreement, Greece lifted its veto on North Macedonia's NATO membership. North Macedonia became newest member of the Alliance in March 2020.

were provided as part of a Hybrid Risk Survey that aims to identify vulnerabilities of the participating countries to hybrid threats (European Commission Staff, 2020d).

While waiting for the start of the negotiations with North Macedonia, the EU insists on further tangible steps in key areas - judiciary, fight against corruption and organized crime and reforms in intelligence and public service (European Commission Staff, 2020a, 2020d). At the same time, the latest report extends a mild encouragement to the country to continue to improve the degree of its alignment with the EU's CFSP.

The overall EU integration success of North Macedonia has not been even, and Chapter 31 is no exception. The EU conditionality has not been an entirely effective mechanism for convincing domestic transformations, and in case of conflicting views, North Macedonia did not have a clear trajectory, but had to re-evaluate the incentives and gains (Koneska, 2019, p.119). Same goes for the field of foreign policy - the EU positions were often contested, under the influence of both Russia and US.

The repeated postponements of the opening of the membership negotiations betray the logic of the conditionality and diminish the country's genuine interest in reforms and compliance with the EU (Basheska, Kochenov, 2015; Koneska, 2014).

Despite the considerable efforts made to adapt their states to EU standards and improve the abilities to assume the EU membership rights and obligations in future, including the foreign policy realignments, the outlook for the two countries does not seem promising as the EU failed to provide the consensus on the opening of the negotiations. Both countries have made difficult, unpopular and costly decisions to meet the conditions, and this failed promise may have a range of negative impacts - on the domestic level, but also in further relations with the EU, especially when it comes to political alignments with the supposed structural partner that lacks credibility.

## CONCLUSION

Foreign policy, security and defence are commonly considered as prerogatives of nation states and symbols of national policy, and areas in which countries have to demonstrate their independence, sovereignty and true allegiance. Accordingly, the candidates for EU membership in the context of Chapter 31 need to demonstrate the ability to take up membership obligations and willingness and determination to follow the foreign policy of the EU. The alignment of the candidate countries' foreign policies with the EU's CFSP is thus a clear indicator of their genuine political orientations and readiness for the EU membership. The misalignments reveal the actual positions, power relations, the order of priorities and true allegiance. The misalignments and disagreements of the member states constitute a significant part of the policy and decision-making within the CFSP framework. The nature of the accession process and the obvious imbalance in relations with membership candidates is manifested in such a manner that countries in accession process are held up to higher demands and standards than some of the member states. The harder the compliance task, the more convincing is the case for the accession of the country.

The cases elaborated in this article concern four Western Balkan countries that have membership candidate status, albeit in different stages – Montenegro and Serbia are negotiating candidates, while Albania and North Macedonia still wait for the opening of the negotiations. One of the most important findings of this comparative review is that the state of their achievements in Chapter 31 differs significantly and that their degree of alignment and preparedness in this field is not related to the degree of accession to EU membership. The full compliance and well preparedness of the diplomatic and bureaucratic apparatus is achieved by Montenegro and Albania, the latter still in the status of a non-negotiating candidate. Serbia, on the other hand, as a negotiating candidate, struggles with compliance and achieves only some level of preparedness. The discrepancy further points that the EU evaluates and identifies political priorities in the accession process differently, depending on the country and its overall political context. Despite the specific significance that foreign policy has as a symbol of overall national policy and orientation, the EU monitors foreign policy alignment and takes note of the trends, but does not treat it as a priority policy field.

All four states claim the EU accession to be a strategic priority and accept the EU Global Strategy and its goals, but the percentage of compliance with the Council decisions and declarations by the High Representative for Foreign and Security Policy varies and depends on the issue. The Western Balkan four have other separate domains and relationships of special national interests. Failures to comply (Serbia and North Macedonia) are in most cases related to Russia, sometimes even extended to its wider international interests. Despite the fact that this study did not include specifically the relations with NATO, it implies that the Euro-Atlantic commitment is an important factor in the disagreements with the EU and tensions in relations with the EU. Montenegro and Albania, the two champions in the matters of Chapter 31, are both NATO members. North Macedonia has also improved its compliance percentage since NATO membership in 2020.

The misalignments also occur in relations concerning actors such as China and the United States.

In the end, it is quite clear that despite the fact that EU membership remains a top foreign policy priority for all the countries in the region, the alignment of the WB region with its CFSP is indeed a very complex and demanding undertaking, in which the EU has achieved only *some* level of success. As relations between the EU, US, Russia and China become more aggravated on the international scene, the EU membership candidates will face ever more difficulties in achieving full compliance with the EU positions. The reach of EU influence on this region is significant and structural, but also clearly limited by the influence displayed by some other actors, US and Russia primarily.

As for the EU itself, the achievement of the region's full compliance in the domain of foreign policy, security and defence ought to become one of top priorities, given their symbolic weight but also their substance. Time and credibility also matter. If the full membership remains a too distant goal for the candidates, the EU will become proportionately less relevant for both domestic and international trends in the region. Same goes for the credibility, if the EU does not stick to its promises and provide the consensus among the member states on the enlargement, thus saving the candidate states from its internal disagreements, it will not only harm the region, instead of transforming it, but also diminish its own position and influence. If the EU's positions do not matter for its own membership candidates, for where else can they possibly matter?

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# Managing Change and Diversity: between Globalization and Practice

Zijad Bećirović<sup>1</sup>

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## ABSTRACT

Change and diversity management is important at both individual and organization level. We face challenges related to this on daily basis. The occurrence of the Covid-19 pandemic is a major change that requires responses on individual and organization level, as well as change management. People fear changes and diversity, because they usually entail uncertainty and risk. Resistance to changes and diversity is an integral part of the changes in an organization. Different people accept changes in different ways. While some readily accept this, others react to changes and diversities. There are also people who have difficulties accepting any change or diversity.

We have to be aware of the factors that instigate and initiate changes, which primarily include competition, political, global, economic, social, ethical and innovative forces. Countries and organizations that do not recognize and apply changes in the culture of organization, will increasingly lag behind their competitors, because development is not just a matter of technology, money or market, but is already becoming a matter of culture.

**KEYWORDS:** organization, change management, diversity, Covid-19, culture

## POVZETEK

Upravljanje sprememb in raznolikosti je pomembno tako na ravni posameznika kot organizacije. Vsakodnevno se soočamo z izzivi, povezanimi s spremembami. Pojav Covid-19 je velika sprememba, ki zahteva odzive na ravni posameznika in organizacije ter upravljanje sprememb. Ljudje se bojijo sprememb in raznolikosti, ker le te običajno povzročajo negotovost in tveganje. Odpornost na spremembe in raznolikost je sestavni del sprememb v organizaciji.

Različni ljudje sprejemajo spremembe na različne načine. Medtem ko nekateri zlahka sprejemajo spremembe in raznolikost, se drugi ne odzivajo tako. Obstajajo tudi ljudje, ki težko sprejemajo kakršno koli spremembo ali raznolikost. Zavedati se moramo dejavnikov, ki spodbujajo in sprožajo spremembe, ki vključujejo predvsem konkurenco, politične, globalne, gospodarske, socialne, etične in inovativne sile. Države in organizacije, ki ne bodo prepoznale in uporabile sprememb v kulturi organizacije, bodo vse bolj zaostajale za tekmeci, saj razvoj ni samo stvar tehnologije, denarja ali trga, ampak že postaja stvar kulture.

**KLJUČNE BESEDE:** organizacija, upravljanje sprememb, raznolikost, Covid-19, kultura

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## INTRODUCTION

The Covid-19 pandemic has evolved into a major disaster for the world, population and the global economy all over the world. Covid-19 has undoubtedly proven that neither the national governments, nor international organizations such as the World Health Organization (WHO) were ready to directly and efficiently respond to a lethal global pandemic. In addition to the health aspect of the Covid-19 virus, this was also a test and a challenge for the global world and the globalization process, which is threatened by an acute global economic crisis. The first true indicator of this crisis is the rapid drop in the global prices of oil, which plunged below 30 US dollars per barrel. Furthermore, all the global stock markets have also recorded a major decline. The pandemic has shown that the term “the world is a small village” is no longer just a metaphor for easy and fast communication. In fact, in this century, the world has become an elaborate network of interacting entities. Specifically, organizations and states. While these entities are legally independent from each other, they are interconnected at the global level, which informs cooperation and communication among them.

In the era of globalization, organizations are in a continuous process of adaptation, and therefore in a continuous process of changes. Intensive changes at the global level and the increasingly present pervasion of various cultures will be an additional challenge for the researchers of this complex area, including the recent social and cultural segmentation. At the time of the globalization actions and business operations go beyond national borders. As globalization is a prerequisite for survival of not just large but also small organizations – it leads to global competitiveness.

The key forces of the contemporary environment, which affect the organization and create the new paradigm of management include: globalization, labor diversification, technology and change as a value. (Dimovski et al., 2005, p.66). When it comes to environment, it can be external and internal. The level of uncertainty of the environment is visible through relationships with different parts and groups, which exist between the organization and the environment. If the changes in the environment are minimum or negligible, the environment is considered to be stable. Operations are definitely easier in a stable than a changeable and complex environment. Negotiations are the most

complex form of interpersonal relations and changes in such relations. People have to be educated to be open to changes. Knowledge is a key, while introduction of knowledge is also a change. People are afraid of changes, because they often imply uncertainty and risk. Resistance to change is an integral part of changes in an organization. Different people perceive changes differently. Some swiftly embrace changes, others react to changes, and some have difficulties accepting any change. At the global level there are different forms and occurrences of diversity. Diversity should not be perceived as a threat, but as an opportunity for the organization at the global market.

Introduction of a new culture in an organization through change results in emergence of resistance, which the management should weaken or minimize through its actions. Application of a new culture cannot succeed if the changes are not appropriately presented to members of the organization. It is important to communicate the reasons for changes and the change on the part of employees themselves. In the communication itself numerous obstacles occur, which block the application of culture (Rozman, 2008, p.7). Knowledge is a key for any organization and change management. Organizations based on knowledge are the strongest asset for further development and achievement of top results and competitiveness. The managers should firstly be clear with themselves about what diversity means for them and be motivated to overcome the differentiation by nationality, race, gender, etc. when discussing issues such as education, background of the employees and personal differences. Once the vision of a diversified work environment is modeled, we can analyze the organization and valorize the current culture and systems within the organization. The valorization should be accompanied by readiness to change the “*status quo*” in order to improve the current systems and ways of thinking. The process requires support in overcoming numerous challenges and inevitable conflicts. Development of capabilities of those who have the role of pioneers is important. The managers should not neglect the programs that are important for better availability of jobs to women and minorities (US example) (Dimovski et al., 2005, p.194).

Both outside and inside their respective mother country, successful organizations have to appreciate the factor of culture that is to respect the diversities they encounter, primarily during negotiations and in the subsequent business cooperation. In the globalized world almost nothing is monochromatic or unequivocal (uniform) any more, as ev-

everything is segmented and interconnected with several culture-acultured. The organizations have to incorporate global competitiveness in their strategic goals, as it will be difficult for them to survive if they do not meet the standards established by global competitiveness and competence. As today there are project (virtual) teams whose members come from different cultures, it is necessary for the managers to apply appropriate strategy of motivation that will direct all the members of the project team towards the goal. It is evident that motivating employees in the home country is far simpler than motivating employees outside the home country, where the employees need to not just to adapt to the new company, but also to successfully integrate and accept the elements of a new culture, and therefore different forms of doing business as well.

### **ORGANIZATIONAL CULTURE**

The global economy is increasingly faced with complex changes in the business environment, resulting from the globalization. The globalization is not just a result of economic, political and institutional changes. It is equally a result of major and rapid technological progress, which had facilitated faster flow of goods, services, people and information. Diversity has become an inevitable factor in all segments of society.

The global transformations of the last decade have created an unparalleled need in the United States for expanded international knowledge and skills. Over the last several decades, however, expanding needs, rising costs, and declining investments in international and foreign-language training have led the United States to a dangerous shortfall of individuals with global competence. Specifically, individuals who are “able to understand the interconnectedness of peoples and systems, to have a general knowledge of history and world events, to accept and cope with the existence of different cultural values and attitudes and, indeed, to celebrate the richness and benefits of this diversity.” (Hunter et al., 2009, p.273).

Understanding of the organizational culture and its effect on the management is of key importance for lasting success of the organization. This raise the following questions- is existence of one single culture required for an organization to be successful and efficient or is existence of several (sub) cultures more suitable. For any organization the knowledge is the most important production factor. The organiza-

tional culture definitely informs the knowledge management process, which is directly connected with changes and diversity. For people of different origin the notion of culture is important as it includes the daily social and physical environment of an individual and a mix of different effects of life, which inform different individual and social processes. Culture, and the resulting intercultural communication, shape the way of life, life-orientations, define the prohibitions, barriers, taboos, etc. In any society the system of values is defined by culture. The aim is to establish order in the respective society. In order to understand the values by which others live, it is necessary to study the signs of their culture using one's own culture only as an aid, not as a formula, as otherwise one's own culture could represent a measure of perfection.

Hofstede defines culture as the collective programming of the mind which distinguishes the members of one group from another (Hofstede, 1980, p.76). Organizational culture and awareness of the management are exceptionally important for successful implementation of changes. Management is what informs the culture of the company, and without proper management the success of implementation of change is endangered. Many solutions require transformation of organizational culture, and the management has to understand that and define the new standards required by the culture. The culture of the organization, which shares common values, has common goals and is open to change, with an emphasis on the quality and the readiness for embrace new technologies, will contribute to a large extent to successful implementation of changes. The management focuses on the change of the organizational culture through a change in the conduct of the employees in their business operations and in such a way tailor the "*communications and relationships*" element (Martin, Huq, 2007, p.127).

Aladwani (2001, p.270) also speaks of communication as the main strategy through which the management wants to influence the stances and behavior of employees, and notes that implementation of many projects failed due to communication deficiency. Change is a function of two aspects - the person (internal aspect) and environment (external aspect). From the internal perspective, the management wants to know and influence the behavior of employees, and the best way to identify the behavior of employees is to understand their mindset, feelings, previous experiences, needs and values.

The management influences the organizational culture and strives to reduce the reluctance of personnel to changes through appropriate activities such as (Martin, Huq, 2007, p.127):

- sharing facts and information on why new solutions are required (advantages, shortfalls);
- why changes are required;
- which goals, tasks, responsibilities, relations and processes will change;
- what knowledge (expertise) and personnel will be needed;
- which new vision needs to be developed and how it will be presented to employees;
- which new systems of awards and motivation will be established;
- which new systems will be introduced, and which systems will be replaced;
- what will be the new structure or line of reporting;
- which members will form specific groups for solutions;
- will sufficient financial resources be provided so that other projects do not get endangered;
- how many and what changes can be expected in the future with respect to selection of specific suppliers.

In the implementation of skill development programs for the employees it is necessary to develop awareness that people have to be aware of their cultural limitations, prejudices and stereotypes in order to learn to work and live together. Each organization develops its unique culture, which allows its employees to embrace the fundamental values, norms and beliefs related to business operations and their work behavior. Organizational cultures within the same society can significantly differ, because they reflect a business philosophy, values, goals and aspirations of the owners and leaders (Bahtijarević Šiber et al., 2008, p.406). That is why there are different models for intercultural management research. The most famous one was developed by Gert Hofstede, who based his model on the research of cultural differences among various countries.



## **HOFSTEDE'S MODEL – RESEARCH OF CULTURAL DIFFERENCES AMONG VARIOUS COUNTRIES**

The concept of culture is exceptionally important for the management, because the culture determines numerous processes inside, as well as outside, the organization. The dimensions of organizational cultures can be derived from empirical researches which analyze the basic orientation of the organizational culture in individual organizations. Change and diversity management is the key factor of contemporary trends. Globalization as a process is the driver of numerous changes in the businesses as well as lives of people. A multicultural homogeneous society almost does not exist anymore. Numerous migrations have informed the mixing of peoples and different cultures. Political developments that emerged following the collapse of the USSR and the SFRY triggered changes in the functioning of numerous companies. The companies which until then had operated within a single state, after the collapse of these states became transnational companies overnight and continued to operate as such- not by their own will. This required a plentitude of changes in the management, organizational culture, as well as adjustments to laws, local markets and cultures. While at the time of the then joint state of SFRY no significant importance was attached to this aspect, it has now become a reality and requirement. One of the important determinants and advantages of the Hofstede's model is that it entails a comprehensive comparative research of national cultures and introduces a new generally accepted paradigm of value dimensions of culture, development and understanding of intercultural management. Furthermore, more inclusive and extensive (14-28 countries) and less extensive (3-4 countries) researches, which were conducted, confirm the majority or all dimensions of the initial research. It enabled comparison of 74 national cultures. It connects most clearly the dimensions of culture with management and its differences in various countries (Bahtijarević Šiber et al., 2008, p.407). Management, that is leadership, and global leader competencies are key for implementation of changes.

**Table 1: Key skills of global leaders**

<b>Personal skills</b>	<b>Leadership skills</b>
Global thinking Equal behavior towards persons from different environments Long-term orientation	Instigates and facilitates changes in the organization Models learning systems Motivates employees to excel
<b>Interpersonal skills</b>	<b>Cultural skills</b>
Negotiates and approaches conflicts in a cooperative manner Manages the foreign development cycle skillfully Successfully manages multicultural teams and participates in them	Understands values of one's own culture Correctly profiles other organizational and national cultures Avoids cultural mistakes and acts appropriately in other countries.

**Source:** Cited in Bahtijarević Šiber et al., 2008, p.399

Hofstede conducted the most comprehensive study of culture so far in the period from 1967-1973. It included 116,000 people in 74 countries, employed in the IBM multinational company. His aim was to discover why some concepts of motivation do not function in the same way in different cultural environments. The research was important for the category of associates, as Hofstede identified them, in the area of sales and services (which would be identified as marketing nowadays), and less relevant to the associates in the production and the Research and Development sector (Makovec, Hrastelj, 2003, p. 55). On the basis of this study he designed a model of five dimensions of values, according to which the international market can analyze perception and interpretation of the world by people from different national cultures:

- Power distance refers to the level of tolerance between the less powerful (poor) and more powerful (rich) people. There are different solutions to the issue of inequality among the people in different countries. In societies with a high level of power distance, the power is concentrated in a small group of people, and such a state is accepted or even expected by members of society who have with less power (Keegan, Schlegelmilch, 2001, p.91). Contrary to that, in a society in which there is a low level of pow-

er distance, the power and decision making is spread among the people.

- Uncertainty avoidance refers to the level of tolerance to unsecure and risky situations in life. This dimension indicates the extent to which representatives of a respective culture feel threatened in uncertain and unknown situations. A society with a low level of tolerance favors laws, regulations and rules, which reduce the level of uncertainty (which means that the situations are more predictable). The need for rules is emotionally conditioned in the cultures with a low level of uncertainty avoidance. Contrary to that, in the countries with a low level of uncertainty avoidance rules are set as required, the society more easily accepts the unknown and has bigger tolerance with respect to deviation from norms.
- Individualism/collectivism: reflects the social differences between an individual and society/collective. In collectivist societies the people tend to identify with group mentality, seek harmony in the group and are more dependent on each other and organizations. Some societies emphasize individuality as the main social value, as well as individual civic rights and their freedoms. Individualism is most prominent in the US, while collectivism is typical for South East Asian countries. However, some studies assessed that wellbeing enhances individualism, while poverty enhances collectivism. (Hrastelj, 2001, p.48).
- Masculinity/femininity: refers to gender-based social differences. Masculinity is typical for societies in which gender roles are clearly separated. In traditional and conservative societies there is segregation of jobs into “men’s work” and “women’s work”. Men play a leading role in the society and state; it is important to win and work has primacy. People live to work. Low rating in terms of masculinity suggests that gender differences and discrimination is minor both in business and social life (Hofstede, 2001, p.279). Masculinity is manifested in negotiations, conduct, which boosts ego, and siding with the strong and uncompromising negotiators. In masculine cultures conflicts are often resolved through confrontation, not compromises, which complicates negotiations among negotiators in a masculine culture.
- Long-term orientation: This is an important difference between the Eastern and Western culture. Hofstede added to these dimensions another one- specifically the long term orientation called Confucian dynamism. The Western civilization is more orient-

ed to short-term maximization of profit, which is evident in the example of business operations of multinational companies. On the other side, the Eastern civilization promotes patience as one of the key social values. The long term-oriented societies are focused on the future with respect to saving and persistence, while the short-term oriented societies are focused on the presence and the past (Keegan, Schlegelmilch, 2001, p.91).

The extent to which each of the dimensions is present in the culture of the respective people is defined on the basis of an empirical research.

**Table 2: Cultural dimensions of US, Japan and Slovenia according to Hofstede**

	Power Distance	Uncertainty avoidance	Individualism-Collectivism	Masculinity-Femininity	Long-term orientation
USA	40	46	91	62	29
JAPAN	54	92	46	95	80
SLOVENIA	71	88	27	19	Unknown

**Source:** Cited in Hofstede, 2001, pp.500-502

Table 2 shows that the power distance for Japan and US is relatively low, which means that their populations do not tolerate concentration of power (hierarchy), and are used to co-decision-making, which means that power and decision-making authority is more broadly spread. When it comes to uncertainty avoidance, Japan is on the top of the list, which means that its population feels very uncomfortable when faced with uncertainty, which the US is ranked rather low, which means that its population more easily accepts uncertainty. As for individualism, the US rank pretty high in comparison to Japan, this indicates that the US population is very individualistic, while the Japanese population is characterized by collectivism. With respect to masculinity, it can be said that Japan ranks very high, and is therefore an extremely “masculine” society, while the US are less masculine oriented and increasingly inclined to equal status of both genders. The long-term orientation is very typical for Japanese (they are strongly oriented to the future), while the Americans are more short-term oriented. In the case of Slovenia, it has a high level of co-decision-making. Slovenians feel very uncomfortable about uncertainty. Slovenians are also more collectivism-oriented than the US and Japan. Slovenia is equally masculine and feminine, that is supports equal treatment of both genders.

## CHANGE AND DIVERSITY MANAGEMENT

Torrington, Wightman and Johns (1989) underscored that the change management ability is the most important ability in the area of management. Changes define any organization and the process of changing the organization is actually the process of adaptation of the existing organization.

The crisis caused with the spread of the Covid-19 virus has threatened the existence of the globalization process and opened what can be described as the end of one phase of this process. Peter Drucker stated long time ago that one cannot manage what one cannot measure (Bahtijarević Šiber et al., 2008, p.399).

Currently, all organizations are more characterized by the change process than ever before<sup>2</sup>. Hence, it could be safely said that “change is the only constant in the contemporary life of any organization”<sup>3</sup> (Bahtijarević Šiber et al., 2008, p.216).

The emergence of the Covid-19 pandemic can give an additional contribution to the measuring of the globalization that is introduction of new indexes that record changes. A combination of quality analysis and quantitative measuring can be an appropriate model that will respond to the challenges of measuring of the occurrence that is constantly changing and reemerging in new forms, which are yet to be measured and completely understood. There is no ideal model, because any model is subject to changes and upgrades, just as the emergence of the Covid-19 pandemic and its effect on the globalization trends and the structure of change indexes has shown.

The first step to be made for the purposes of successful change management is identification and evaluation of the behavior and stances of individuals/groups. Such an analysis is aimed to provide answers to the following questions (Aladwani, 2001, pp.269-270):

- who are the individuals or groups that oppose or resist the changes,
- what are their needs,
- what are their reasoning, position and values,
- what is their interest.

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<sup>2</sup> Sikavica P., Novak M., pp.535-592.

<sup>3</sup> Kreitner R., Kinicki A., p.656.

Answers to these key questions constitute the starting point for identification of the root causes of why the employees resist introduction of changes, because the facts, the opinions and values of employees are a good indicator of the possible reasons for their resistance to change (Aladwani, 2001, pp.69-270).

It is very important to know how to manage diversity. Managing diversity means maximizing benefits stemming from diversity of employees and, simultaneously, minimizing the possible obstacles that can hinder the functioning of different human resources. Diversity management is one of the key challenges for managers in the XXI century, because diversity is increasingly present, whereas the mission and success of managers will depend on their ability to utilize the available human potential. Global key organizational capability and advantage lays in the synergy resulting from a mix of human resources. People create the competitive edge and competitiveness with their knowledge and skills, which are an inexhaustible source of energy and innovativeness. Therefore, developing a society of knowledge should be a priority for every state. Diversity means that all employees are accepted and treated for what they are. Inclusion as a diversity strategy attempts to embrace and leverage all employee differences to benefit the organization. The external aspect of understanding the human behavior is focused on the surrounding external factors, the resulting behavior and the forces in the environment that affect it. In such a way the management informs the “understanding of business” element and has to undertake the following activities in this respect (Martin, Huq, 2007, p.128).

It is required to ensure the best personnel that will work on changes over a specific period of time. Identify the risks and actions for cases such as a loss of an important group member, exceeding of the budget and deadlines, conflicts and delays related to making of decisions and adaptation, etc. Therefore, the management has a key role to play, because through its involvement, association and support it provides the key prerequisite for successful presentation of changes and the reduction of resistance to change on the part of employees. Of course, there also has to be a monitoring and evaluation process for the change strategy. However, prior to this, an analysis needs to be made and a system established for measuring of the readiness for change in the organization. Organizations are faced with opposition and resistance by the people, who will be affected by the change. Non-acceptance of change by the people is often a reason for failure of a project, and the

consequences can be vast. That is why it is necessary to gauge the readiness of the company for change prior to introduction of changes. Unsuccessful changes are mainly a consequence of human, not technical reasons. In the process of measuring of the readiness for change, two elements need to be checked. Coordination of work tasks facilitates establishment of the changes required so that the employees in the organization accept more smoothly and swiftly, that is embrace and advocate, introduction of changes.

Palmer (2004, pp.35-39) asks the following: (1) can the organization face further changes and (2) is the organization adequately and appropriately prepared. Any organization can face and accept only a certain number of changes, whereas the project will definitely fail if it implies too many changes. When it comes to measuring the first element, the following activities need to be done:

- establish the list of all major activities that are currently underway and that will also require financial resources, human resources and specific attention,
- assess the level of complexity of each project (low, medium, high),
- assess the level of complexity of the current project,
- take into account the current burden on the organization.

The chance of success is assessed on the basis of discussions with members of project working groups. In general, a project is initiated if there is at least an 85% chance of success. If there is no sufficient chance of success, the project should be postponed for a certain period of time, as it is better to have a successful project somewhat later, than to have a stressful and unsuccessful project.

**Table 3: Identification of readiness of organization for change**

Category	Description	~ 10 %	~ 50 %	~ 90 %
Change management	The obtained sponsor is trying to provide the required resources, gain the support of the leadership and support goals with actions and words.	Nobody is responsible.	Leaders rather known, responsibilities of leadership are clear in specific areas.	Sponsors are clear, responsibilities of leadership are clear, no dilemmas.

Creating environment for shared requirements	Changes are always present, regardless of whether they are urgent or just an opportunity. Requirement for changes has to be bigger than the respective resistance.	Majority of people are satisfied with the current situation.	Majority of people think that changes are required.	Everybody knows that changes are required.
Shaping the vision	The vision that is the desired end result has to be clear, in line with the framework, generally intelligible.	What vision?	Some agreement on it, what is required.	Everyone knows what results are required.
Providing the required resources for support and wish for changes	Strong support from key personnel, who invest in changes, to ensure that the change takes place. Request and gain the attention of the leadership.	This person could help someone.	We have some designated resources, but need more.	We have all the required resources at our disposal.
The project is already in the implementation phase. Progress monitoring is required.	Criteria for success and designation of responsibilities have been defined and established.	Everyone has his own opinion.	Only some elements have been measured.	Clear matrix for each activity being implemented.
Finalization of the task	Introduction of initial changes continues. The required education and skills are distributed throughout the organization.	“Done and forgotten” principle.	We have developed several plans, but need to move on.	We are ready- pilot introduction, education, identification, etc. are underway.
Identify and strengthen changes in the system and structure	Use appropriate tools (i.e. result overviews, assessments, use of IT). Changes are strengthened and take root.	Why would we have to make anything?	We have begun to discuss it, but have not yet finished	We know exactly what needs to be done/adjusted for the change to be accepted and take root.

Source: Cited in Palmer, 2004, pp.36-38



The second element, test of readiness of a company for a project, is also done through interviews with each member of the project working group (all categories listed in Table 3). Each category should be discussed in detail so that members of the project working group really understand what is being assessed. The assessments are made using a simple evaluation matrix and a scoring scale varying from 0 to 100 points. Each category is then discussed together and a final result of the scoring is adopted and graphically presented. Such a procedure is conducted for each of the categories. For a successful beginning of a project, at least two of the first three categories listed in Table 3 have to be above 50%, whereas the category of obtaining necessary resources for support and the wish for change has to be higher than 50%. If any of the categories is under 50%, then measures need to be undertaken with respect to appropriate activities or the beginning of the project should simply be postponed until the requirements from Table 3 are met.

One of the most comprehensive approaches is the globalization index, which was developed by the experts in the A. T. Kearney consulting company and the “Foreign Policy” magazine. The globalization index encompasses changes in key elements of globalization in the political and economic area, as well as in the area of movement of people, ideas and information across national borders. The level of economic integration is measured by indicators of international trade, direct foreign investments and portfolio financial flows.

The Stanley Foundation<sup>4</sup> supports research pertaining to global education and considers that global competence includes appreciation of complexity, conflict management, the inevitability of changes, and the interconnectedness between and among humans and their environment. Globally competent citizens know they have an impact on the world and that the world influences them. They recognize their ability and responsibility to make the right choices that will affect the future (Hunter et al., 2009, p.274).

There are different types of organizational changes such as technological changes, changes in products (services), structural changes and changes in the culture/people, which are related to changes in values, norms, relations, beliefs and conduct. (Dimovski et al., 2005, p.166).

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<sup>4</sup> American Council on International Intercultural Education Conference. (1996, November). Educating for the global community, a framework for community on International Intercultural Education Conference, Warrenton, VA.

The modern world is characterized by the speed of changes, which is why major importance is assigned to change. Changes take place in any company and the management is the proponent of such changes. That is why the change management capability is most important for the management. If the managers want to be the proponents of changes they have to create conditions and environment for dynamic changes.

Changes mark the life of each organization, and are even a way of life of an organization. Changes in an organization, that is organizational changes, could be defined as the process of changing that is adaptation of the existing organization. According to R.L. Daft (1992) organizational changes imply acceptance of new ideas or organizational behavior (Bahtijarević Šiber et al., 2008, p.216).

Regardless of the intensive technical-technological development the human resources remain the key factor of any company, including changes. We define changes in a company as acceptance of new ideas or conduct of the company. In a learning company two types of changes continuously take place: the operational changes which are based on the efforts of the company to improve its basic parts and processes in different areas of business, and the transformational changes, which include transformation and reform of the entire company. Changes are manageable. (Dimovski et al., 2005, p.162).

Essentially, changes are painful for any company. That is why it is necessary to achieve a broad consensus and involvement of the employees in the changes through various forms of inclusion and motivation. The basic problem of implementation of change finally boils down to the consequences that the changes will cause at the individual level that is for the employees. A change can rarely be implemented without consequences to individuals, because any change affects people and interferes with the existing order of things and modifies them. As a result, very few changes meet all the aforementioned criteria with respect to their successful implementation. However, this should be perceived as something that one should aim to achieve in the implementation of changes (Bahtijarević Šiber et al., 2008, p.219).

It is very important that the management assesses the scope of change that the employees can bear and what needs to be changed and then to implement the changes gradually. This is why change management is a particular challenge for the management. Firstly, it is necessary to

make a realistic diagnosis of the existing situation and then undertake appropriate actions to implement changes.

According to R. Beckhard and R.T. Harris (1987), in order to successfully manage changes, it is important to establish: a clear vision, a clear identity, that is mission of the organization, the level of dependence of the organization on the environment, the scenario defining what the organization should look like after the changes, a flexible organizational structure, requirement for effective application of modern technology and adequate award system in the organization (Bahtijarević Šiber et al., 2008, p. 234).

Different people accept change differently, because changes often imply uncertainty and risk. Resistance to change is an integral part of changes in a company. Some swiftly accept changes, while others react to changes, and some simply have problems accepting any change. It is important to be aware of the factors that instigate and drive changes. These primarily include competition, political, global, economic, social, ethical, innovative forces, and, nowadays, the Covid-19 pandemic. How to control and manage cultural changes? Culture is like wind at sea. Sailing with wind can be faster, less arduous and dangerous, just like cruising along the wind (Tavčar, 2008, p.75).

At the time of globalization, an organization is in a constant adaptation process. In other words, it is in a constant process of changes. A balance (equilibrium) is a status in which the system functions for a period of time. No living system, and a company is a living system, does not remain stable forever. That is why a company has to change and adapt. Changes bring a system into a state of chaos. Specifically, into a state in which old rules no longer apply. Such a state is full of unpredictable processes. Through reintegration such a state leads to crystallization of solutions and structure of the new system, which leads to establishment of a new balance. This cycle is continuously repeating in life of any company. By definition, the very essence of change is the modification of an existing organization. Any change is a process. Hence, a change is a process of modification of an organization. The process can last for a longer or shorter period of time, depending on the type of change and its complexity. According to D.A. Nadler (1998), change is a shift from the current to some future, desirable state (Bahtijarević Šiber et al., 2008, p.217).

The management of change in the transition period is very important, whereas while the length of the transition period should be reasonable, it is also important that it simultaneously provides for the functioning of the organization. In this context, it is also necessary to ensure a certain level of stability in the functioning of the organization.

Although changes on their own do not guarantee success, without them there is no survival of the organization. Hence, organizations have to implement changes, and for the changes to be successful they need to be managed by capable managers. The changes are considered successfully implemented if (Bahtijarević Šiber et al., 2008, p.219):

- The organization is shifted from the current to a future state,
- The functioning of the organization in the new state meets the expectations,
- The shift from the current to the future state has not left extreme consequences on the organization,
- The shift has not caused extreme consequences on individuals that are employees.

There is no change without a decisive role of the manager, because they are the drivers and proponents of change. It is of particular importance that the manager assesses how much change (scope and content) the employees can accept and it is expected that the manager is most knowledgeable about the respective changes. There are different kinds of changes, such as adaptive, innovative, radical, peripheral, technological, structural, organizational, etc. The manager must be capable to manage changes. Change management includes establishment of a diagnosis of the current situation and undertaking of specific activities to implement changes.

Majority of people is inclined to resist changes, because they often believe that changes endanger them, as could be expected. That is why the management has an important role and needs to act to reduce the resistance to changes. This is most often done by reducing the surprise factor, engaging the employees in the changes, creating conditions to make a trial test for changes. Due to the emergence of stress related to changes it is also necessary to prepare the activities to mitigate that is eliminate stress. Changes are a result of dissatisfaction with the current state. However, their implementation can be approached in different ways and through a number of phases that is gradually. Essentially, at least three phases- planning, change management and stabilization

phase. Changes in an organization could be perceived also as a change of the state of balance, chaos and reintegration. Balance is a state in which the system functions for a period of time. No living system always remains stable. That is why an organization has to change and adapt. Changes lead any system into a state of chaos that is a state in which the old rules no longer apply. Such a state is full of unpredictable processes. From that state, through reintegration, the solutions and structure of the new system get crystalized, which leads to establishment of a new balance. Such a cycle continuously repeats in the life of any organization (Bahtijarević Šiber et al., 2008, p.217).

Changes essentially represent modification of an organization. For the purposes of implementation of changes the managers have to know the environment and the employees, as well as how to successfully implement changes without any or with minimum conflict. The most difficult period in the implementation of changes is the transition period, in which change management has to allow the organization to both function and implement changes.

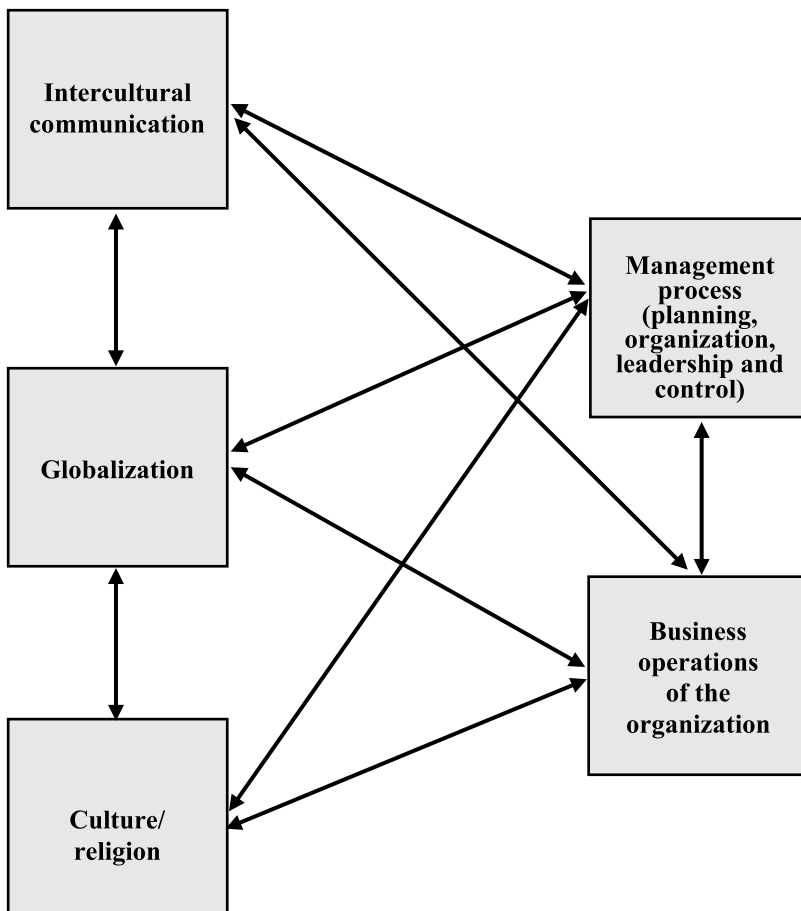
### **SYNCRETIC MODEL**

One of the characteristics of modern business operations are the rapid changes that require swift and efficient responses to numerous challenges (opportunities and threats). In such circumstances the economies are exposed to constant changes, which require successful change management and new approaches and dimensions to doing business. New dimensions of contemporary economies include innovativeness, flexibility and (in)ability of projection of future developments and trends with a high level of certainty. All the above requires from the management process to seek appropriate business models which continuously need to be updated and modernized due to the accelerated and often unpredictable changes in the micro and macro environment.

Intercultural communication presents diversities and globalization lead to the emergence of syncretism- cultural, religious and social- which reflect on the modern business operations. The modern world is in a continuous interaction. Overtime multiethnic, multicultural and multireligious societies develop cultural/religious and social syncretism as a result of many years of interactions that is customs of individual ethnicities, (organizational) cultures, religions, universal and

individual values and specificities of individual societies, which are characterized by multiple diversities. Numerous occurrences in the intercultural communication and globalization constitute a kind of syncretism, because they emerged as a consequence of a multitude of factors and can be presented in form of one of the following syncretic models.

**Image 1: Syncretic model of intercultural communication, globalization, culture/religion, management process and business in an organization**



**Source:** Cited in Bećirović, 2015, p.191

The syncretic model illustrates how intertwined are intercultural communication, globalization, culture/religion, management process and

business operations of an organization. It is a complex dynamical model which is continuously updated and amended. Each of the elements of the model contributes to its modeling through interactions. Intercultural communication could be divided into sub elements such as: what is the specific culture(s), manifested forms of culture, system of values and beliefs in the society, type of communication, proponents of the communication (individuals/groups), media, geographic characteristics of respective cultures, identity, cultural distance, communication context, intercultural communication, internal communication, modernization, post-modern, plurality, traditionalism, extremism, civic freedoms, intercultural conflicts, etc.

Globalization could also be divided into several sub elements, i.e. types of globalization such as economic, cultural, technological, information; phase of the globalization process, possible post-globalism, direction of glocalization, etc. Culture/religion could be divided into the largest number of sub elements, such as: type of culture, sects, sub-cultural groups, level of development, specificities of the culture, language, role of individuals and groups in the culture; relationship of the culture to other cultures and elements, the specific religion, the relationship to religion, the role of religion, relationship to individualism and collectivism, ethics, relationship to ethics, relationship to breadwinning /employment/, relationship to family, benevolence, is it a secular society or not, atheistic, animistic, influence of culture/religion on the way of doing business, daily life, mindset, etc.

The management process could be subdivided into four elements: planning, organization, leadership and control. It can also be further divided into sub elements such as goals, strategy, implementation of strategy, crisis management, competitive advantage, organizational structure and culture, centralization, decentralization, formalization, vertical and horizontal connections, organizational changes and development, future projections, relationship to personnel, organizational conduct, leadership models, motivation, team work, relevance of control, focus of control, feedback models, human resource and change management, management structure, personnel structure, etc.

Modern approaches to organizations refer only to successful and unsuccessful organizations, depending on the optimum combination and management of integral and changeable models of the syncretic model. While the success of an organization can be a success present-

ed in the accounting reports or economic success of business operations, other unmeasurable elements are often also important. That is why measuring, evaluation, judgment and monitoring of success of the individual organization is important. There are different criteria for success of an organization, such as: level of profit, productivity, cost-effectiveness, profitability, economic added value, return on capital, market value of the company, etc. The described syncretic model is limited because it contains just a part of elements. In essence, it is a far more complex model which can be upgraded in further researched so that additional elements can be included as well.

The integral elements of the model are in continuous interaction. All affect each other, and *vice versa*. This is a quality model. It would be beneficial to try to quantify it in the future. As this is a complex dynamical process model it should occasionally be improved through inclusion of other variables that emerge in the increasingly turbulent environment. Furthermore, some elements of the syncretic model need to be further divided into sub elements and other factors, because the diversity is becoming increasingly diverse in practice. Therefore, the model has limitations because it cannot quantify all the elements, sub elements and other variables. It is not possible to accurately establish the share of a specific element against other variables in the model without an in-depth separate research. Anyway, this complex model will need to be further refined and updated, which will be a challenge for future researchers.

Management of change and diversity is a key factor of modern times. Globalization as a process has brought about numerous changes in the businesses and lives of people. Monocultural homogeneous societies almost do not exist anymore. Numerous migrations have informed the mixing of peoples and different cultures, as is evident from the modern migration trends. It is very important to manage diversity. This implies achievement of maximum benefits stemming from diversity of employees and simultaneously minimizing the obstacles that can threaten the functioning of different human resources. Diversity management is one of the key challenges for managers in the XXI century, because diversity will be increasingly present, and the mission and success of managers will depend on their ability to use the available human potential.



## CONCLUSION

The global crisis caused by the Covid-19 pandemic will result in major changes in international relations, including internal political situations in majority of countries around the world. Some analysts are already talking about the lagging and regression of economies of numerous countries and groups such as the EU, OECD, WHO, OPEC, etc. At the same time, they speak about the significant rise of China and some other countries to a lower extent.

Time will show whether the Covid-19 pandemic will have an effect on the world similar to that of the attacks of 11 September 2001 and the resulting US military intervention in Afghanistan and Iraq, which changed the international relations at the time. Because of the fear of terrorism thorough security checks were initiated at airports and border crossings around the world for the first time. The Covid-19 will affect the relations between people and peoples and will be an eye-opener with respect to our vulnerability to epidemics and natural disasters. It will trigger dialogue in the world between those who advocate international cooperation and those who favor isolation and protectionism.

At the time of globalization changes have become intensive and rapid. Therefore the companies that face more readily the organizational changes and manage them effectively will stand a bigger chance to successfully do business and survive economically on the global market of accelerated changes and (re)organization- taking into account the increasing influence of culture.

Successful change management is a complex process which requires a well-conceived management approach to transformation, mobilization and sustainment of organizational structure and organizational culture, which will provide for success.

While understanding and managing people similar to us is a challenge, understanding and managing people who are different from us and each other is a colossal challenge.

An organization that manages, in the future, to ensure that its personnel is able to respond to and implement swift changes and manage diversities, while simultaneously fulfilling the goals and the strategy of

the organization, will stance a chance to succeed. Without appropriate human resources no organization can be successful and successfully implement the required changes.

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# Juan de Recacochea's American Visa: *A Symbol of Hope and a Means of Salvation*

Milan Jazbec<sup>1</sup>

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## ABSTRACT

This paper innovatively discusses the presence of consular affairs as a specific part of diplomatic activity in the internationally acclaimed novel *American Visa* by Juan de Recacochea. It focuses on the way the author perceives consular affairs and issuing visas as one of the most identified consular functions, with a reference to the applicant, his plans, social background and personal destiny, depending on the outcome of the application process. It uncovers psychological aspects of the applicant as well as those of consular officers and their supporting personnel. Consulates issue visas to persons who wish to enter the sending state or transit through it. American visas are viewed in the eyes of applicants from less developed countries as an entry ticket to a better life. The novel presents a set of detailed and complicated rules and procedures established to prove validity of each application as well as a range of practical, legal and other steps to obtain the visa for any price. The novel discussed is a masterpiece of related literature.

**KEYWORDS:** diplomacy, literature, protection of interests, consular affairs, visa, American visa

## POVZETEK

Prispevek izvirno obravnava pojavnost konzularnih poslov kot posebnega dela diplomatskih dejavnosti v mednarodno priznanem romanu *Ameriška viza* avtorja Juana de Recacochea. Osredotoča se na način, kako avtor razume konzularne zadeve in izdajanje vizumov kot ene najbolj znanih konzularnih funkcij s posebnim ozirom na prosilca, njegove načrte, družbeno ozadje in ne nazadnje na njegovo osebno usodo, ki je odvisna od ne-prejema vizuma. Predstavljeni so psihološki vidiki prosilca kot tudi konzulov in njihovega osebja. Vizumi se izdajajo osebam, ki želijo vstopiti v državo pošiljateljico ali tranzitirati skozi njo. Ameriški vizum se smatra pri prosilcih iz manj razvitih držav za vstopnico v boljše življenje. Roman predstavlja po eni strani celoto natančnih in zapletenih pravil in procedur za preverjanje prosilcev ter po drugi strani vrsto praktičnih, legalnih in drugačnih korakov, kako pridobiti vizum za vsako ceno. Obravnavani roman je odličen primer tematizacije vizumskih poslov.

**KLJUČNE BESEDE:** diplomacija, literatura, zaščita interesov, konzularne zadeve, vizum, Ameriška viza

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## INTRODUCTION

Diplomacy is a profession dedicated to the management of relations among states by various peaceful means. This is a very condensed and brief definition of the term, which we use in this article as a research starting point as well as a conceptual framework. More precisely, we pay our research attention to consular relations, which are part of a broader area of diplomatic relations. The connection and correlation between the two areas, namely diplomatic relations and consular relations, is present through the Vienna Convention on Diplomatic Relations (henceforth Diplomatic Convention) and the Vienna Convention on Consular Relations (henceforth Consular Convention).

The consular area is also known as an activity that provides protection of interests of citizens of the sending state in the receiving state, and also issues visas to persons from the receiving state (or from the third state), who want to enter the sending state (or transit through it). So issuing visas is a tool that provides hope or sometimes even a salvation for successful applicants. This very point lies in the center of our research attention. We are interested in how this issue on a general level, but also in details, is reflected in one of the most acclaimed modern Latin American novels – *American Visa*. Written and published almost three decades ago by Juan de Recacoechea, long time journalist and media expert and manager, it is the most successful Bolivian novel ever written. We stem from the preposition that intersection between diplomacy and literature could tell us more about both, i.e. consular affairs and contemporary literature, and would also consequently produce a better and wider understanding of the two of them.

There are two research questions, which we try to answer in the paper. Firstly, how the acclaimed author presents and perceives the concept and process of issuing visas in his renowned novel, and secondly, what interested readers can learn from this work for their understanding of consular affairs at the beginning of the 21<sup>st</sup> Century, when people commute as never before in the recorded history. The methods used for this research effort include analysis, comments, comparison and interpretation as well as – since the author is a career diplomat with broad and deep consular experience – the method of observing through one's own participation.<sup>2</sup> Because of the style and high importance of dialogues, there is a significant number of quotations – with the aim to

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2 For more on the latter method see Burnham, 2004, and Mason, 2002.

show the atmosphere and the way the author has experienced consular affairs. Each given context and situation are always important and unique. This produces nuances, skilled and sensitive messaging, and creates specific atmosphere.

From one point of view we remain at a general level of analysis, following main trends and trying to reach some general conclusions, while from another one we go in concrete examples, focusing on procedural and psychological aspects and background. With this we try to illustrate not only understanding of particular aspects of providing visas, but also general trends in presenting consular business in a newly discovered context of appearance, i.e. modern fiction literature.

## **CONSULAR AFFAIRS AND THEIR FICTIONAL REFLECTION**

### ***THE COMPLEXITY OF VISA BUSINESS***

In order to comprehend consular relations, we should first start with the understanding of diplomacy. Hence, we repeat at this point after Benko (1998, p.39) that there exist “numerous definitions of diplomacy, which do not contradict each other, but rather complement them.” Therefore, we refer to Jazbec (2018, p.113) to “understand diplomacy as a skill, negotiation, communication, mission, organization, foreign policy, activity, tool etc.”<sup>3</sup> Diplomacy is, in its essence, defined by diplomatic functions, presented in Article 3 of the Diplomatic Convention, while consular affairs as a broader part of diplomacy, are defined in the Consular Convention, and more precisely by consular functions in the Article 5. However, while discussing this profession and the way it materializes, we should look at a broader frame that defines diplomacy.

From a comprehensive sociological perspective one can “on the whole understand diplomacy as a dynamic *social process*, which enables foreign policy communication among subjects of international public law, and depends primarily on the changing social situation within a given historical context and is in principal relation towards the nation state” (Jazbec, 2013). To understand diplomacy, one should be aware of its concrete social and psychological context.

This also applies to the understanding of consular business, where we

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3 Comp. Anderson, 1993, Benko, 1998, Berridge, 2015, Feltham, 1994, Jazbec, 2009, Nicolson, 1988, Petrič, 2013 etc.

see visas as one of its cornerstones. It remains to be so in the time of the ever changing nature of diplomacy, influenced by globalization and the structural diversification of national societies as well (comp. Cooper, 2013). And consular relations are part of this changing pattern (comp. Okano-Heijmans, 2013). Additionally, one could say that diplomatic business in its essence is a political issue, while consular affairs are – since they relate primarily to bodies of private (and corporate) law – bound to a concrete destiny of an individual. Hence each application brings to the attention of a consular officer a different and new experience and case that should be treated carefully, with due empathy and sensitivity: “It’s very stressful [to be] dealing with [the future of] someone’s whole life” (Edwards, 1994, p.185). There hardly is a legal frame that would allow such an approach. A person’s destiny lies in a single application, while a country’s destiny hardly at all lies in a single diplomatic note.<sup>4</sup>

The second diplomatic function: “Protecting in the receiving State the interests of the sending State and of its nationals, within the limits permitted by the international law”<sup>5</sup> provides a general diplomatic frame and background for the implementation of consular functions (thirteen all together).<sup>6</sup> One could cluster them in three groups: those that refer to citizens of the sending State, those that refer to citizens of the receiving State (and in some cases to those of third states), and those that refer to all of them. Issuing visas is defined in the second part of the fourth function: “... and visas or appropriate documents to persons wishing to travel to the sending State”.<sup>7</sup> Consular functions, such as also issuing visas, could be performed by either a diplomatic mission or a consular post.

Diplomatic Convention defines the possibility of issuing visas by either of the two mentioned authorities with an indirect diplomatic language as “Nothing in the present Convention shall be construed as preventing the performance of consular functions by a diplomatic mission” (Article 3, para 2.). Diplomatic mission does this within its Consular Section that is part of its general structure, following the pattern that remains in practice (Feltham, 1994, p.17). Consular Con-

4 The renown Slovene author Janko Kersnik (1852 – 1897) with whom realism in Slovene literature reached its peak, presents the importance of this approach towards a person’s destiny in his collection of short stories *Kmetske slike* (The Peasant’s Pictures, 1986). This further backs up our belief that consuls deal with people’s destiny.

5 Vienna Convention on Diplomatic Relations, Article 3.

6 Vienna Convention on Consular Relations, *Article 5 Consular Functions*.

7 *Ibid.*



vention addresses it directly, as follows: "The provisions of the present Convention apply also, so far as the context permits, to the exercise of consular functions by a diplomatic mission" (Article 70, para 1.). If the sending State has in the receiving State both diplomatic mission and consular post, it decides, in consent with the Ministry of Foreign Affairs of the receiving State, the consular district and jurisdiction between the diplomatic mission and the consular post. In addition to this, let us also remark that states prefer to have consular department separated from the embassies also psychically (not only separate entrance for applicants, but also separate building, if possible). This enables smooth run of each of the affairs, in particular for those coming to the Embassy for business oriented reasons, media people, nationals, etc.

Unless there is a visa free regime in force between two or more countries, persons can not freely enter a given country.<sup>8</sup> One can understand visa regime as "a set of norms which regulates the mode of entry, residence or stay and exit, on the territory of a State." (Markovski, 2017, p.71) Those persons must obtain visa for this purpose either at a diplomatic mission or at a consular post. Apart from the necessity of possessing a passport, a person "desirous of visiting a country other than his own would not only require a passport endorsed valid for the country in question from his own government, but he would also need an entry visa from the government of the state which he wishes to enter for the purpose of travel or residence" (Sen, 1988, p.399). Generally speaking, issuing visas is one of the most common activities of diplomats and consuls worldwide, since the number of countries with mandatory visa regime outnumbers heavily those with liberalized visa regime.<sup>9</sup> We could claim that "for majority of people the word "visa" is a kind of diplomatic, in particular consular brand" (Jazbec, 1997, p.86).

Visa is most commonly understood as "a special authorization (stamped or placed in a passport) to visit or to undertake paid or business activity in a state." (Berridge and James, 2003, p.273) This means that visa is also an instrument of controlling who will enter or be allowed to enter the receiving State and why. Issuing visas also means "regulation, con-

8 An example of visa free regime between more countries is the Schengen system within EU that enables freedom of travel for all EU citizens.

9 Here we can bring to the attention of the reader the fact, that Kosovo is the only European country whose citizens have to obtain a visa to travel to the vast majority of European countries (apart from Albania, Montenegro and North Macedonia). Although the European Commission claims that Kosovo fulfills criteria for a visa free regime, the EU member states in general do not share this opinion.

trol, selection and also disabling alien persons to enter a given state” (ibid.). An example from the British diplomacy clearly illustrates what this selection means: “The job of the Foreign Office’s entry clearance work is twofold: to ensure that the right applicants are allowed into Britain, and the wrong ones are not” (Edwards. 1994, p.183). Visa is not only a matter of pure administrative procedure and decision, but it bears political message as well: “States apply the visa regime to control migration, safety, economic and other issues which may present migration, as well as political risks” (Markovski, 2017, p.71).<sup>10</sup> States formulate their visa regimes very carefully and pay attention also to changes in the international environment, primarily from the security point of view. Hence, visa regime is not fixed and unchangeable, but depends on many determinants and countries tend to implement it quite cautiously.<sup>11</sup> One could easily claim that cautiousness is one of the major principles in each visa regime.

For these reasons, states developed quite complex and detailed systems of rules and criteria that have to be fulfilled to satisfy the aim of obtaining visa. Applicants have to verify their material position with clear evidence of having enough means to live in the entering state on their own behalf and that they will not present a financial or similar burden for the state concerned. Also an invitation from an individual from that state who takes all the necessary guarantees (and possible risks) is a must. The complexity of regulations is a reflection of the above mentioned cautiousness. But at the same time this complexity also pushes certain share of applicants to seek “shortcuts”, i.e. trying to outmaneuver the system with illegal or fake documents. This system also includes local agencies, which by the rule help applicants to get through those regulations and instructions easily. And in some cases they also get involved in applicants efforts to outmaneuver the system.

In practice, the system works quite simple: the applicant receives full and exact information from the diplomatic or consular authority on what the conditions and the procedure are (usually via social media). After contacting the post, there follows the interview and handover of the application. After careful and cross agencies check of documents at the receiving institution (diplomatic mission or consular post), and quite often also at the related authorities in the sending state, there comes the answer and possible visa – or its denial. Those systems work

<sup>10</sup> Comp. also Wouters et. al. (2013, p.516), who list issuing visas among administrative and legal consular functions.

<sup>11</sup> For more on consular relations comp. Jazbec, 1997, for visa issues pp.86-107 as well as Edwards, 1994, pp.171-191.

efficiently and emotionless, although the whole issue is by the rule full of emotions on the side of the applicant. For those applicants who invest in visa a strong hope for better life, the whole process is a kind of social and psychological drama that could be – and very often also is – very stressful. Hence some applicants, in particular those who are unsure from the beginning of the success, tend to seek ways to outmaneuver the system and persuade officials that they fulfill all the conditions. Some try do to this with artificial self-assuredness, some with the help of faked documents and other approaches. Such tactic basically reminds – not only in a fictional reflection – on a zero sum game, where the applicant usually gets zero.

In addition to the above, one could firstly claim that the United States are the state that has been for decades attracting the most growing number of applicants. This is particular true for those from Latin America. Secondly, for the very same reasons their visa system is highly complex, cautious and restraint. During the last two decades, highly advanced technology supports these processes enormously, but at the end of the day, everything still rests with consular officers and personnel. Having in mind many aspects of visa business, this could be a highly favourable frame for any fictional literature plot (that by the rule stems from a variety of real situations).

### ***VISA AFFAIRS BETWEEN REALITY AND FICTION***

A general question is how any social reality reflects in fictional reality and what a possible correlation between the two of them is. The former exists without the latter, but it cannot be the case the other way around. But in spite of this they correlate among themselves and influence one another. It is by no means any wonder that someone can learn significantly about the former from the latter. Each reflection offers a view from a different, unique point of departure, while those views complement and contradict, too. The quality, strength and persuasiveness of the latter are in its fictional reflection of the former. This reflection could, however, in details, follow the social reality and not necessarily lose, but gain on its telling.

The American visa presents this very approach: with its highly relevant and often detailed reflection of social reality (visa procedures, the consulate's atmosphere, social and psychological portraying of employed personnel and of applicants) it creates the narrative as if it were pure-

ly fictional. We could guess this is the way novels work (Mullan, 2006).

As it is with diplomacy on a whole, also consular affairs became object of contemplation in fictional literature with the appearance of classical diplomacy. We could generalize that since the late eighteenth century this became a common practice.<sup>12</sup> A mysterious and attractive world of diplomats and consuls has been ever since offering much of topics to dwell on and be included in fictional reflection.

Great novels of European classical literature, like *Madame Bovary* (Flaubert, 1986), *The Red and the Black* (Stendhal, 1986), *War and Peace* (Tolstoj, 1977), *Bosnian Chronicle* (Andrić, 1989), and *The Honorary Consul* (Green, 2004) are only few out of many such examples. There are various and different approaches and aspects of presenting and discussing diplomacy in literary fiction, from admiring to heavy criticism. Receptions, elite circles, cocktails, off the record discussions, secret meetings, wasting of budgetary means, unreliable statements are just a part of series of those reflections (Uthmann, 1985, pp.7 - 11). As far as the Latin American literature is concerned, *The American Visa* was first published in 1994 and soon became not only an internationally acclaimed bestseller, but also one of the best Bolivian novels so far.

Generally speaking, it presents an outstanding elaboration on the majority of aspects and influences that pursue an ambition – maybe also an obsession – for the American visa and what it brings to an individual's life. That kind of individual, who is very well aware that he practically does not fulfill tough conditions for getting visa, but is, at the same time, determined to do everything to get it. We intend to analyze this endeavor and present it – both academically as well as practically – to an interested reader. With this we also try to demystify visa business and present it as a part of individual's life that has to go on also in the case of a possible visa denial. And it is a part of the daily routine business of the related official personnel as well.

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<sup>12</sup> Comp. Jazbec, 2018, pp.116-117.

## FROM RULES AND PROCEDURES TO THEIR OUTMANEUVERING

### *DETERMINATION, TRICKS AND UNCERTAINTIES*

It all started promising and self-assuring: "A week from now I'm traveling to the United States" I offered" (de Recacoechea, 2007, p.15). "I've come to La Paz to get my tourist visa" (ibid.). This is an explanation that Mario Alvarez, former teacher of English and divorced of middle age from the Bolivian countryside, offers to the receptionist at a low class hotel where he intends to stay. Trying to be persuasive, he anyway notes a clear sense of disbelief in the porter's eyes: "He looked up, his gaze displaying incredulity" (ibid.).

Alone in the hotel room later, he continues to be vigilant: "I picked up my gray English cashmere suit – the one I would wear for my visit to the imperial consulate – as if it were a glass doll" (ibid., p.17). He remains to be self-persuasive: "I lit a cigarette, and then the saying of a drinking buddy from Oruro popped into my head: "*The Yankees read your face. If you look nervous, you're finished*" (ibid., p.24). Most important is "to impress the feared American consul" (ibid., p.25). Being displaced between firm and eager decisiveness from one point of view and self-doubt and carefulness from another, he takes a look at his documents: "I held out the statement from my bank in Oruru. According to the figures, I had a sum of five thousand pesos, a tidy fortune. The Americans wouldn't know that for two months I'd begged some friends to make deposits into my meager bank account, then sent them each checks in return" (ibid.). We also learn that he is well aware of the importance of having settled financial affairs. All in all, high standard is a must: "A notary famous for his skills as a forger had also written me up a convincing contract of sale on a house in downtown Oruru" (ibid.). So, "[W]ith this pair of parchments, a no from the gringos was unlikely" (ibid.).

The pattern of clear determination to get the visa and the ongoing present and clear doubt in achieving it that was formed immediately upon his arrival to the capital, has been reproducing all the time. It was being fed with both those who admired him and those who were expressing misbeliefs.

An older hotel mate,<sup>13</sup> asthmatic, was curious to learn, how long he in-

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13 All of them persons from the social margin, striving to survive.

tended to stay “in this Ritz of the upper barrios” (ibid., p.18). This question is an example of a superb sarcasm, since from the novel it is more than obvious that the hotel is a low level one. For the whole narrative and the social as well as psychological portrait of Mr. Alvarez, the applicant, these descriptions with direct and indirect messages are highly useful and indicative. We get to know rather soon what kind the main protagonist is. There is an early doubt in him receiving visa and one could not get rid of this feeling the more the story continues. A careful reader could also claim the following: the more the plot develops, the stronger this very observation is becoming. Here not only the experienced consul’s eye would notice similarity with the atmosphere of Kafka’s novels, what also Stavans points out: “His [Mr. Alvarez’s] plight is utterly Kafkaesque. Like Joseph K. in *The Castle*, he’s lost in a labyrinth without exit, condemned to a miserable life” (2007, p.258). We, however are interested in the labyrinth of consular bureaucracy and that produced by Mr. Alvarez himself when trying to bypass the rules. But still, the applicant shows that he is aware of the complexity of this project and that he has managed to gather enough skill and determination to succeed. The reader, who would only like to enjoy the narrative, has plenty of opportunities to do so.

The applicant’s answer was straightforward: “Until I get my American visa. I’m going to visit my son who lives in Florida” (de Recacoechea, 2007, p.18). A clear admiration was obvious from the reply: “What blessed luck” (ibid., p.19).

Another hotel mate, a young, pretty and dynamic girl, Blanca by name, from the country’s east, who came to the city to earn money, joined him at breakfast. She tells him that she is coming from work, commenting, “I still smell like perfume” (ibid., p.30) (from their later discussions we learn that she is a prostitute) and he presents her with his plan: “You know, today’s a big day for me. I’m going to the American consulate to apply for a tourist visa” (ibid.). She continues the talk in a curious manner: “You want to stay in the U.S.A. for good,” she suggested, “or am I wrong” (ibid., p.31)? In addition, she comments later on: “I don’t understand why people dream of going to America, since you get screwed over there just the same when you don’t have money” (ibid., p.32).

After a while, the waiter brings him the second cup of coffee. “You look anxious. Is that visa important?” (ibid., p.33) he asks him. Apparently,

he also does not hide reservation towards going to America, claiming that one could live well at home. Blanca pushes her approach forward: "And if they deny you the visa" (ibid., p.34)? His reply is nervous and superstitious: "Don't talk like that. You'll jinx it" (ibid.). While leaving, she adds: "I'll be in the hotel. If they give you the visa, we'll go out for some beers" (ibid.).

From the very introductory part of the novel, we are acquainted with the main protagonist, his ambition and plan, but also his doubts and concerns. He is pleased with positive, even admiring, reactions that he receives. He would prefer to mishear the negative or doubtful, although we get familiar with his own skepticism. We learn that he is well prepared to fulfill tough conditions and to impress the American consul by his appearance.

After a huge, tasty and highly costly breakfast, he is ready: "... my face needed to shine, healthy and alert for the American consul" (ibid., p.27). He takes a shave at the barbershop of his long forgotten uncle - since he expects it to be free of charge. His explanation why he needs a well-done shave surprises the barber and his assistants, even more when he underlines: "It's not easy to get a visa. You have to go there looking sharp" (ibid., p.40). When it is done, the comment is cheerful: "How do you like it, godson? The visa's in the bag" (ibid., p.41). Though, there's never enough of cautiousness: "The gringos don't like handsome Latin men" (ibid., p.42). With this comment the master barber finalizes his work and places on the nephew's nose cliché looking glasses.

Along with this follows his last advice:

"What profession did you put down in your passport?"

"Businessman."

"Not bad. If you had put down teacher, they would send you home right away. The gringos know what our poor educators earn. "

"I've got everything I need" (ibid., p.43).

But in spite of his determination and everything with which he was trying to support it, he couldn't get away fully from the porter's first impression.

The next stop is the American Embassy in La Paz, consular section. Consulate, de facto.

**RENDEZVOUS WITH THE CONSUL**

Another promising start: “It was one of those mornings that make you forget that life is hard and then you just die” (ibid., p.35). After the episode with the barber, a taxi took him close to the consulate. It was midmorning around ten, “a chic time to see the gringos. I found the consulate in a run-down building” (ibid., p.44). This impression is by all means not necessarily unreal. Countries always try first with the outlook of embassies and only afterwards with consulates; and practically there does not exist a country that would not have to take care about spending. Financial resources are by default scarce ones. No wonder that insiders on a relaxed manner describe consular affairs and conditions for its pursue as “a Cinderella work” (Edwards, 1994, p.171). When we add to this also the picture of long queues of applicants, waiting outside, day by day with the same issues, consuls give the impression they are always walking in the circle. Each day starting from scratch, as if they haven’t managed to do anything the previous day.

Hence, the second impression about the consulate (or of the consular entrance of an embassy) that Mr. Alvarez was faced with, were applicants waiting in front of the building: “[a]t least thirty people were pushing and showing each other” (de Recacoechea, 2007, p.44). Mr. Alvarez passed by the queue in a routine manner, bribed by the way the front police officer and found himself in front of the policemen: “I answered that I had come to apply for a tourist visa” (ibid.). Inside he faced another motionless appearance with blue eyes of an American marine soldier checking personnel IDs: “Take a number and wait your turn”, he said in correct Spanish. My pulse raced like an astronaut’s:” (ibid., p.45). The first encounter’s description with the consulate was proficient. Reading those pages an expert and experienced practitioner’s eye cannot get away with the feeling that Senior de Recacoechea must have visited consulates often, since his description is so well to the point. Motionless faces, short instructive sentences that leave no room for explanation and stop any possible ambition to engage in a chat. All these elements provide tense and produce high uncertainty. With a clear purpose, of course.

With a number thirty-eight in his hand, he sat down and monitored the place. Applicants were speaking on the edge of silence, upon which he immediately concluded they are scared to death. Three persons on



the other side, behind the armed protected glass and broad desk were calling numbers. Two males were obviously Americans and the female must have been Bolivian (ibid.). It is common practice that the counter staff consists of the sending State nationals and locals. They were in the focus of the applicant's attention: "I studying them, thoroughly, as my fate was now in their hands" (ibid.). He was trying to find out with whom of the three of them he could get involved in a chat. With his heart still at high frequency he noticed that applicants, whose documents did not appear to be in order, were questioned by the consul personally: "The consul wasn't physically impressive - he was chubby (...) however, upon finding the slightest defect in someone's papers, he became as rough and stubborn as a mule" (ibid., p.46). The applicant understood that although the consul's face was soft looking, he was able to deny "them tickets to paradise" (ibid.).

The applicant's analysis of the surrounding was continuing. He was listening, observing and contemplating. Along with this, his concerns were raising higher and higher. His stream of thoughts showed why: "The Americans were strict when it came to your assets: proof of properties, current tax records, and checking accounts. I had everything I needed, but my documents were all forged. My only hope was that the consular officials would fall for the fraud" (ibid., p.47).

As the time was passing by, he noticed that the officials became less polite, they were already fed up with everything. For consular work, this is very normal. In an average consulate, the number of applicants amount between fifty to one hundred on a daily basis. This presents an amount of pressure on the personnel, in particular since they listen all the time to same stories, much of which are on the edge of truth: "And entry clearance work is psychologically the most educational as well as the roughest" (Edwards, 1994, p.184). Working for longer time in such an environment, an employee develops a special sense of discovering suspicious behaviour, mimics and similar body language signals of applicants that try to outmaneuver them. Practice makes perfect also in the never ending and ever repeating work. Each experienced consul would verify this practical instinct.

The applicant could not believe what he heard: "*Verify the documents, I thought. What the hell is that about*" (de Recacochea, 2007, p.48)! Portraying of the scenery in the waiting room would hardly be more concise and exact. It's psychology that rests as a burden on the shoul-

ders of applicants. Those, who are like Mr. Alvarez, feel this mostly. And practically nobody is without at least a slight concern. It is the hope and sometimes the despair that drive a person to apply for visa and with this for better life, as the cliché says. And – as the experience from consular practice goes – applicants from poor surroundings strive more to get visa, but they, since coming from poor districts, have less chances to fulfil tough criteria. So they tend more to outmaneuver rules, which make them more uncertain and more exposed to be discovered. Psychology always works in favour of consuls, not applicants.

The lady next to him seemed to be the exemption that always proves the rule. She was sitting on his right side, waiting calmly for her turn. He engaged in discussion with her, to somehow relax himself, having the issue of possible faked documents as an excuse. But her comment was as a matter of fact not of that type: “Imagine all the people who want to leave the country and how easy it is to falsify documents. (...) The first time is somewhat difficult. They have the idea stuck in their heads that all the people who travel as tourists are going to stay on to work” (ibid., pp.44–49). Her calm, cool and dry explanation only worsened the applicant’s feelings.

And as if this would not have been enough, she continued: “I think that they even hire detectives to do background checks at City Hall and the banks. The gringos don’t sleep” (ibid., p.48). The more his number was approaching, the more depressed he was: “I would have sold my soul to the Devil for that visa, but there was no time for ceremony” (ibid., p.50). When they announced his number – even twice –, he just kept sitting. He was simply immobile; paralyzed. He left from the Consulate directly to the first bar. French cognac first and then the rest. He knew that his “quest for a visa had become a fiasco” (ibid., p.51). And he also knew: “Either I would travel to the United States or I would commit suicide” (ibid., p.52).

At this point, it should be repeated that by reading the pages mentioned above we get fully acquainted with the atmosphere, psychology and development of the situation in the waiting room at a consulate. Everything goes by the book. What is particularly remarkable are the descriptions and analyses of different profiles of applicants and their feelings as well as how this relates to each other and streams pressure. Exactly as the system of bound vessels in physics, when you add tension in one, the level rises also in another. Let us add to this highly rel-

evant, detailed and professional description of visa business, that the majority of applicants visit this place only a few times, while consuls and their supportive staff do this day by day.

There was only one way left for Mr. Alvarez to get the visa. He had to visit an agency.

### **A MULTIFUNCTIONAL AGENCY**

It is a common practice that consuls in the receiving state have well established cooperation among themselves. This includes exchange of views, information, good practices and particularly tricks, which applicants try to use to outmaneuver them. But also the other side, to say so, uses the same approach. It is remarkable to notice, how everything that applicants witness at interviews and encounter at consulates, circulates around, partially as gossip and partially as warning. A careful reader has already noticed something of this from our quotations so far.

When speaking about the role of agencies in this business, one should bear in mind that lately they became almost an indispensable part of the whole visa application process. Some embassies and consulates contract selected agencies, but agencies also work on their own.<sup>14</sup> Their main role is to collect the whole documentation from applicants and check if it is complete in each case. This means that consuls deal only with complete cases, what agencies, with which they cooperate, deliver to them. This is very important for consuls and their visa work, since it reduces as well as shortens their workload and releases them from the already heavy burden and pressure from dealing directly with applicants. This also means that agencies get to know the whole process, its characteristics and conditionality, but also they get personally acquainted with the members of the consular post.<sup>15</sup> Hence, human factor becomes part of the whole process.

Coming back to the hotel, he had to explain, why he was so depressed: "I blew my visit to the American consulate" (*ibid.*, p.56). The immediate advice was expected: "just go on back to the consulate" (*ibid.*). But the second thought referred already to the agency, and the experience

<sup>14</sup> For the applicant this means that he/she has to pay not only the regular visa fee, but also an additional fee for the agency's work.

<sup>15</sup> The Consular Convention defines "member of the consular post" as consular officers, consular employees and members of the services staff, practically meaning all at the post employed persons (*Article 1 - Definitions*).

of an acquaintance of the hotel mate, who got the visa with the agency's support: "She flashed me her passport bearing the royal stamp from the American consulate" (ibid., p.57). American visa. American dream, a spectator would comment with ease and with a point. He eloquently presented how the mysterious world of consuls and the result of their work look like. Sometimes, in the eyes of certain applicants, it borders almost with a miracle. This is the real impression of both sides: applicants, who long for a visa, and consuls, who see this in their eyes. Cinderella work perhaps, but with almost an alchemist's fleur. However, consuls don't walk around with a magic stick in their pocket or sleeve, but have to stick to the rules.

And the respected advice: "Some shady travel agency had fixed her visa problems for cash. Supposedly, it was all done legally through their connections at the consulate" (ibid.). Hence Mr. Alvarez went straight to the point: "Do you know where that agency is" (ibid.)? "In a building behind the Cultural Center. I think it's called Andean Tourism, something like that. Go on, they'll take care of your problem" (ibid.).

It was past three p.m. when he stepped out of the taxi. In the small office in the corner of the lobby in the ninth floor an uninterested secretary received him. He started the conversation: "I'm here to apply for a tourist visa to the United States" (ibid., p.62). Referring to the anonymous friend he continued: "That you know all the secrets to write a strong application. She said you're well connected in the U. S. consulate and she spoke highly of your professionalism and your attention to detail" (ibid., p.63).

From this we could learn how Mr. Alvarez started learning diplomatic style, manner and dictionary. Among the various definitions of diplomats and their characteristics is also that they tend to exaggerate, to mislead and manipulate, if necessary. Such approach stems, among others, from writings of the Italian medieval diplomat and philosopher Machiavelli (Benner, 2013) who coined the following statement that serves also as an advice: "The ends justifies the means".<sup>16</sup> It would be difficult, of course, to deny that Machiavellianism is not part of diplomatic approach nowadays as well, but on a much sophisticated level. One would also say that diplomats are persons, who are not diplomats by profession, but know how to deal with people, to go along with them (Jazbec, 2005/2006, p.103).

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<sup>16</sup> Berridge (2001) offers a highly indepth account on this topic.

After a careful and cautious conversation started, the agency's director commented: "Now and then we give good friends of ours a hand with their visa applications. What's your last name?"

"Alvarez, from Oruru."

"Do you have a valid passport?"

"Yes, plus a round-trip ticket." (de Recacoechea, 2007, p.63)

As an experienced eye would say, the conversation looked as if the director were a consul.

Then follows another skilled example of the text:

"Have you been to the consulate yet?"

"No, I came straight here. I just got in yesterday from Oruru" (ibid., p.64)

And Mr. Alvarez himself is also behaving as if he were being interviewed by a consul. But the "as if a consul" is a bit more open than a consul:

"We have connections, friends who help us speed up the paperwork every now and then. If everything's in order. (...) But usually everything isn't in order; an expired document here, an undated deed there ..." (...)

"All these people in the consulate ask for is a few pesos. They help us and we help them" (ibid.)

The applicant remained to be worried, though.

"What's your problem anyway?"

"I'm just worried some jackass will deny me the visa and then I won't be able to see my son" (ibid., pp.65-66).

The explanation, probably the final, follows:

"They put their jobs and their integrity on the line even though all they're doing is making sure your papers don't get lost in the pile or filed away until Christmas. The consul himself looks them over, signs them, and stamps them with his official seal" (ibid., p.66).

The discussion is continuing:

"The fat man smiled as he squashed his cigar like a cockroach. "The visa is totally legal. We just expedite the paperwork to keep those private detectives from sticking their noses where they don't belong." (...)

"Think it over, Señor Alvarez. That's the price and not a cent less. It's worth it, especially if you find a job in the States and stay there for good. Goodbye, Oruru, hello good life" (ibid.)!

These quotations present an excerpt from a brilliant, perhaps the best description in the whole novel.<sup>17</sup> We clearly see the role of the agency that is walking on the very edge. We see the despair of the applicant, who knows what he has, what he would like to get and is aware that it is not possible to get it by legal means. And we see the picture of heaven. And American visa is its symbol. A symbol of hope. Hence, the customer would give everything for the visa. Not necessarily a kingdom, since we learn that the price is eight hundred dollars (*ibid.*, p.65)<sup>18</sup>. But is this really also a means of salvation?

Needless to say, the applicant seized the opportunity. And it obviously paid off, since he received the visa.

### **FROM HOPE AND DESPAIR TO A SALVATION**

It was a long way though, from zig zagging diabolics between hope and despair, till he opted for the agency and finally received the visa.

The evening drink and dinner with Blanca before she started her work brought a new point of view. For the first time he was fully aware of it: "... I stopped thinking about American visa" (*ibid.*, p.80). He was deep in his thought, but it seemed as if something started to emerge: "If I hadn't been so caught up in my visa problem, I would've considered it" (*ibid.*, p.85). In the morning, when she was sleeping next to him, he was thinking of the "puzzle in which I found myself" (*ibid.*, p.88). Later on, he was thrilled: "She stopped to stare at me for what seemed like an eternity" (*ibid.*, p.90). "You need someone to take care of you. You're gonna crack up. It's not good to be alone. Loneliness kills", she said" (*ibid.*). The seed of salvation was planted as if by the way, without being practically noticed by the target, namely Mr. Alvarez. It looks like she was cultivating that seed with various approaches: "You're still thinking about that visa" (*ibid.*, p.115). Although she was only expressing her pristine opinion, he was able to absorb it only on the level of sub consciousness.

Although despair didn't let him alone: "The coffee reminded me of the American visa and the American visa made me think about how pathetic my situation was at that moment" (*ibid.*, p.101). Pathetic and poor, since he used all the money that he brought with himself. Obsession

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<sup>17</sup> See pages 62-66.

<sup>18</sup> "Eight hundred is awful." "It depends." (*Ibid.*, p. 65)

with visa brought him that far that he got involved in a robbery where one of the top Bolivian politicians got killed by accident by him (*ibid.*, pp.191-193). But the applicant, as the guilty one, managed to remain undiscovered. Media brought into the news that the senator don Castalion died from heart attack (*ibid.*, p.208). Apparently, Mr. Alvarez just happened to find himself in the middle of a political plot, where he appeared to be unimportant. And he got money for the visa. A lot of money.

Before leaving to the agency he was looking for Blanca: "I would have liked to see her, invite her out to an expensive restaurant, take her dancing, and seriously propose to her that if I was successful up north and she was willing, I would send her a ticket so that she could join me" (*ibid.*, p.222). He forgot what she told him some time ago: "I don't want any of that" (*ibid.*, p.210). The seed was obviously well planted.

The director of the agency promised him to get the visa within twenty four hours, which was a direct consequence of the one fourth higher contribution from the applicant (*ibid.*, p.207). When he checked later by phone, the answer was that the visa is almost for granted, something that encouraged him to ask them - being a travel agency - to make a flight reservation as well (*ibid.*, p.219). Later on the director received him with a smile: "Here's your passport with a multiple-entry B-2 visa, valid for three months starting today, and your ticket for the flight tonight" (*ibid.*, p.224). Finally, the salvation for the applicant. One way or another, he managed to get it. He would never need to go to the consulate again. This is it as far as the issuing of the (American) visa is concerned: "I saw it and I didn't believe it" (*ibid.*).

At the airport he didn't care either for a smoking or non-smoking seat (*ibid.*, p.227).

Le grand finale (*ibid.*, pp.227-234) is an example of masterpiece by itself. It proves what a careful reader could feel from the very beginning of the novel, although having his heart fully on the side of the applicant's ambition.

The employee at the check in counter told him: "Please go to immigration. The flight is delayed" (*ibid.*). After showing his passport to the official there, he was asked to follow the policemen: "They'll explain you" (*ibid.*). He chilled with suspicion when he heard it. Inside, there

were already three other passengers from the same flight, and he was questioned in details.

Finally he found out: “He falsified the visas. These passports never went to the American consulate.” (...) “That can’t be”, he said. “Nobody falsifies American visa” (ibid., p.229).

It came out that it was true. The director of the agency Ballón was part of an international criminal gang and he managed to escape. The group was denied boarding the plane. They were sitting at the gate observing the crowd entering the plane. The aircraft took off and disappeared beyond the clouds: “There went our hopes and dreams, the happiness we coveted” (ibid., p.233). Another shock was waiting for them at the luggage counter: “Our luggage left on the plane to Miami”. He couldn’t manage not to laugh. (...) “Our luggage got the visa” (ibid., p.234).

The rest of the group returned back to the city, while he, in a growing despair, took a night walk around the quarter. He was too desperate to see what a mistake he had done: on the outskirts he was attacked by a small gang, robbed and beaten heavily. As a matter of fact there would hardly be a need for him to commit suicide, since he could have easily died of this late night episode. He woke up in pain at the hospital, slowly recovering his mind and memory: “All for an American visa that in the end turned out to be fake” (ibid., p.250).

“I’d be better off dead”, he comments to a nice, sympathetic nurse (ibid., p.252). She replied: “The young lady who brought you here doesn’t think so. She cried her eyes out thinking that you were going to die” (ibid.). In the middle of their conversation, Blanca entered the room: “Upon seeing me awake, her face lit up” (ibid., p.253). “The visa was fake”, I said. “They beat the hell out of me. I’ve got nothing left” (ibid.). She didn’t wait for a single moment: “You have me” (ibid.). And she didn’t wait to stop the conversation as well.

“We’ll travel to my hometown”, she said. “I’m sick of Villa Fatima.<sup>19</sup> I want to go home. You’re coming with me.”

“I don’t need a visa.” (ibid., p.254).

It looked as if he finally met the enlightenment:

“I had gone from being a poor visa reject to a wealthy killer, only to

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<sup>19</sup> The name of a place, where she was earning her money.



turn into a dud from El Alto. I had survived the most humiliating beating of my life and a simple peasant girl from Beni had rescued me and saved me from a schizophrenic future” (ibid., p.255).

With the above presented quotations from the final part of the novel we are able to follow the development of the plot, the way the applicant was going down in his despair and how he finally managed to get in the possession of the visa. And then, again, a sudden turn down at the airport and, later on, a sudden turn up in the hospital.

One has to admit that the way the story is presented and developed follows much of the practice connected to the visa business. Consuls dealing with visa issues for a long time practically know and are familiar with all such situations. As claimed earlier, consular business, and with it visa affairs as well, bring in each single case a condensed destiny of an applicant. Each of them has his/her own experience, not only the unsuccessful ones who search for better life. Visa is a means of travel, be it for private or for business purposes and this brings along a variety of events and stories. In particular when we follow cases as the one of Mr. Alvarez. One could be able to claim that the solid majority of visa issues are related to such stories.

Therefore visa affairs relate to broad, complicated and developing legal and operational instructions and rules. This business is closely related to immigration affairs, security, work regulations, various types of exchange (students, sport, culture, art), everything that people nowadays use to commute around the world. The ever growing tourism is in the focus of all of these issues. Consequently, consuls have to be educated, at least basically, in all these areas and practically as well as frequently trained. For example, how to distinct between valid and falsified documents, what kind of combined and overlapping questions to use when interviewing applicants that seem to be unsure, suspicious or similar. Still, “although it is all about human beings, consular work is immensely technical and requires a vast range of knowledge of all sorts of rules and regulations” (Edwards, 1994, p.180).

The case of Mr. Alvarez, however, reaches beyond the horizon of an average consul. It is not the business of a consul to ask himself/herself about the social and psychological background and situation of the applicant. Still, practitioners know that “much of the work is routine, and much of it involves dealing with people at their most vulnerable

or their worst” (ibid., p.182). For a consul it is important that the applicant should prove that he/she will not present a risk to the country of entrance and that will not present a burden from this point of view. This is as much the rules demand from the consul: “They have to stay strictly within the rules and write a report explaining why any visa has been turned down” (ibid., p.190).

In one thing the applicant was right from the very beginning: by not having enough resources to satisfy the tough criteria and having lots of falsified documents, he knew they would detect him. He was hoping for a positive outcome, but this hope was without a justified background. He just understood visa as a symbol of hope and a means of salvation. And he came that way to become obsessed with that visa. As we know now, it turned the other way around. Or not just exactly, since the American visa was an indirect means of salvation for him. He could not have known this from the beginning, upon his arrival to La Paz and, also, had he, he would have not believed it and would have not even been able to believe it. Although this was clearly pointed out by his hotelmate Don Antonio prior his departure to the airport: “You’ve grown fond of her, eh? She loves you in her own way. She’ll be sad too. Those girls have their soft spot. I’ll tell her you were looking for her” (de Recacoechea, p.226). Finally, a dialogue between the former applicant and Blanca towards the end of the story proves this: “I wanted to talk to you, but I knew it was hopeless. You were obsessed with that visa” (ibid., p.254). And the endless hope turned out to become an evolving salvation.

## CONCLUSION

The novel *American Visa*, which is in the focus of our examination, is a part of the cluster of novels that not only deal with diplomacy, but build the entire narrative and plot on diplomacy as a frame, story, tool and case. From this point of view it is similar to the already mentioned *Bosnian Chronicle* (Andrić, 1989) and *Honorary Consul* (Green, 2004). Consequently, also our analysis follows a different pattern to that of novels that include diplomacy only as a part of the narrative and style (comp. Jazbec, 2018).

We could also claim that the stream diplomacy, consular affairs, issuing visas produces the narrative and the plot, and not the other way around. Diplomacy serves as a reflection of a historical situation that produced that type of diplomacy, i.e. that type of diplomatic narrative, in this case referring to visa business.

Consular affairs include detailed descriptions and contemplation from psychology and social atmosphere. We know there are cases where a vertical promotion is possible with the obtaining of a visa to travel to the USA. This is a clear formula in the novel discussed. Hence this formula produces hope, obsession and despair. When everything is lost, it comes out that the protagonist's life is worth much more than just obtaining a visa. He gets acquainted with the country side girl that proves to be his salvation. But he would not have met her, had he not stayed in the same low class hotel where she was also staying. Without dreaming of a visa he would not have arrived to the capitol. He was alone, desperate, and so she was. He wanted to earn money in the USA and she went to La Paz to earn money there. But nothing more. She knew that this was not the life that she wanted. The visa turned out to be the salvation for the both of them, since it brought them together. This is the final message of the novel.

But the novel by itself is also a masterpiece of literature and as such also a top handbook of consular practice on the area of issuing visas. It uncovers a variety of approaches, methods and rules that contextualize the issuing of visas. But it also introduces to the reader a variety of approaches and tricks that applicants, who know they do not fulfill all the strict conditions, use to obtain a visa anyhow. And this achieved through a skilled presentation of the psychological and so-

cial background as well as the current situation of the applicants that appear in the novel.

The structure of the novel follows a dual approach. One is the literature narrative by unveiling the story as it develops. The other one is the unveiling of the visa business as part of the diplomatic and consular relations. Both processes are brought together and form a clear, firm and refreshing complementarity. Here lies the very specific weight of this fictional work. As each substantial writing of that type, it reflects situations from real life and dwells upon them. And diplomacy with visa business is an indispensable and fundamental frame of this concept.

And visa - that small, but highly relevant piece of authorization - is much more than this, as we learn from the novel. It proves to be an instrument of understanding life with its real values that could be found everywhere: in the Promised Land, but also in one's own home yard. It is just a matter of looking at what is important and understand it. The way to that finding is not easy, it could even be painful, and every means that helps to reach this goal, is welcome. Even an American visa.

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### ***INTERNATIONAL TREATIES***

Vienna Convention on Diplomatic Relations

[https://legal.un.org/ilc/texts/instruments/english/conventions/9\\_1\\_1961.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf)  
(Accessed 01 March 2021).

Vienna Convention on Consular Relations

[https://legal.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf)  
(Accessed on 01 March 2021).

**New Perspectives on South-East Europe:  
Bosnia and Herzegovina's Foreign  
Policy Since Independence**

Jasmin Hasić, Dženeta Karabegović (eds.)

*Lejla Ramić-Mesihović*

**The Shining Star with the Lions Mane**

Milan Jazbec

*Petra Kocen*





**Jasmin Hasić, Dženeta Karabegović (eds.)  
NEW PERSPECTIVES ON SOUTH-EAST EUROPE: BOSNIA AND  
HERZEGOVINA'S FOREIGN POLICY SINCE INDEPENDENCE**

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10.1007/978-3-030-05654-4

The book represents an important contribution to understanding of development of Bosnia and Herzegovina's (BiH) foreign policy and its strategic orientation in international relations. While demonstrating understanding of internal challenges and weaknesses of the country both during and after the war, the researchers<sup>1</sup> identified complex foreign policy endeavours over the past twenty-five years, along with social and political contexts that were backing the actions with both sense and political willingness. Emphasis is on institution of proceedings against another country before international legal mechanisms, presiding over United Nations Security Council (UNSC) and Council of Europe (CoE), participation in international peace missions and crisis management. It is important to stress that authors gathered around this edition do not have ambition



to allocate positive attributions to BiH's foreign policy at any cost, but to present facts, and empiric and historic information along with detailed analysis. Focus is placed on examining practices and factors which enable foreign policy formation and operationalisation. This approach to research has ensured an additional layer of legitimacy to this edition.

<sup>1</sup> Jasmin Hasić; Dženeta Karabegović (editors); Anida Sokol; Nedžma Džananović; Dario Čepo; Afan Kalamujić; Caterina Bonora; Tanya L. Domi; Davor Petrić; Jasmin Mujanović; Petar Marković; Mate Subašić; Neven Anđelić.

In chapter that considers systemic challenges that originate out of internal and external (des)integrating forces, Hasić and Karabegović apply qualitative analysis to develop understanding of political, legal, and institutional set-up. The forces often contribute to insufficient efficiency of institutional apparatus and strategic positioning of the country. Rightfully focusing on action and effects, not on statements and declarations, the authors clarify systemic contradictions that hinder and slow down BiH on the path to fulfilment of foreign policy goals, such as joining the European Union and NATO. Analytical span covers social and political antipodes that oppose these goals, allegedly due to unease and reluctance over denial of sovereignty or decisiveness to embrace a comfortable principle of declarative neutrality. This chapter also analyses the Dayton Peace Accord and presence of the Office of the High Representative as its ultimate interpreter, as well as impact of international presence. In a separate chapter, the authors focus on relation of the state towards its vibrant diaspora and the potential for contributing to economic development.

Anida Sokol notes and contextualises very first steps of BiH in the process of articulation of foreign policy goals through the war time platform for action of the Republic of BiH Presidency, establishment of diplomatic and consular service in extremely unfavourable conditions, as well as organisation of activities on recognition of the country's independence

and joining as many relevant fora and organisations as possible. Sokol explains how BiH, which itself has been a subject of international crisis management, ensured minimum of functionality and representation in relevant fora under conditions of own humanitarian catastrophe. Regarding bilateral relations, the author notes that BiH, primarily thanks to enthusiasts, organised diplomatic missions in some forty countries without material support.

Nedžma Džananović focuses on fulfilment of international obligations that sometimes were providing incentives for reaching internal political consensus, and sometimes were hindering internal political consensus and consolidation of foreign policy priorities and capacities for their implementation. The research is limited to cooperation of BiH with UN and CoE, and describes the context intertwined with globalisation processes and the war factors relevant for engagement of BiH in multilateral fora. Initial dynamism following declaration of independence resulted in membership of some 40 memberships in different international fora and organisations, half of which was concluded over the first five years. Occasional transmission of internal disagreements to international fora, linked to generation of daily politics scores, is noted as a negative practice. The researcher identifies constructive policy decisions and well-managed coordination of interests, appropriately, and behind the scenes. This was particularly important for diplomatic activ-

ities related to selection of BiH into non-permanent membership of the UNSC and its successful performance in 2010 and 2011. Another successfully managed activity, that seemed to be created especially for BiH, was adoption of the Election Law that enabled CoE membership. The chapter explains how these commitments influenced political trends in BiH.

The chapter on integration of BiH in EU and NATO by Dario Čepo provides a clear insight into foreign and internal forces, but also in potentials of the country to fulfil commitments. The author uses an analytical framework with three factors: regional “integration trends”, instrumentalised cost-benefit analysis of “non-integration”, and interaction of various institutions and liaisons. Čepo analyses main events related to the processes and strategic and institutional insufficiencies in BiH. He noted both well managed processes such as negotiating the Stabilisation and Association Agreement and a complicated process of answering the European Commission’s Questionnaires, marked with multiple interruptions, as an example of poor practice.

Afan Kalamujić offers an overview of recovery and transformation of BiH’s economy, continuation and development of economic foreign policy and foreign trade relations, as well as relations with international financial institutions. He reminds of important reforms in taxation, fiscal and monetary policy, privatisation and judiciary in the first decade of 21st century

through EU integration process. Emphasis on the second decade was on implementation of the Stabilisation and Association Agreement and adjustments requested by Croatia, immediately after it joined the EU. Kalamujić points out to significance of international organisations dealing with trade and finances at times when ruling elites cannot find solutions and underperform in fighting informal economy. The author emphasises importance of rather lengthy process of joining the World Trade Organisation (WTO), that indicate persistence and determination regardless of power shifts in the country, concluding that the continuity encourages. This chapter also includes a clear description of institutional framework for economic diplomacy, foreign trade and attraction of foreign investments. The author emphasises that progress in attraction of good investments and adoption of prudent economic development policies does exist, after all, primarily thanks to well-coordinated network of experts, resistant to fluctuating political interests.

Caterina Bonora analyses complexities of interaction of BiH with international judicial institutions, primarily with International Criminal Court and International Criminal Tribunal for former Yugoslavia (ICTY). Bonora contextualises relevant events and connects them with concrete EU conditionality on fulfilment of ICTY related commitments.

Tanya L. Domi and Davor Petrić focus on participation of BiH in inter-

national military and civilian peace missions in a chronical and analytical manner. They identify and deconstruct three dynamisms which challenge BiH's foreign policy: domestic elites and bureaucracies and foreign political elites and actors. It is concluded that a post-war country in transition has been successfully contributing to UN and NATO missions and training programmes. BiH troops have primarily been dealing with demining and unexploded devices. Authors also pointed out achievements in implementation of the UN Security Council Resolution 1325 "Women, Peace, Security".

Jasmin Mujanović explains interaction of interests and aspirations of global and regional forces with developments in BiH. Mujanović's discussion is formed around three foreign policy axioms – preservation of sovereignty and territorial integrity, peace and joining EU and NATO – that are being developed and operationalised in context of international mediation and interventionism. The researcher reminds of significance of ethno-centric blocks for decision-making and analyses involvement of Germany, United Kingdom, USA, Turkey, and Russia.

Petar Marković and Mate Subašić write about relations between BiH and its neighbours, trying to identify challenges, rules, and potentials, through analysis of bilateral relations efficiency. Emphasis is on challenging relations with Croatia and Serbia that often impact mutu-

al trust. Relations between BiH and Montenegro are described as good and advancing.

Neven Anđelić offers a contextualised overview of formation and operationalisation of BiH foreign policy. The researcher questions efficiency of decision-making processes in BiH, which cause a problem to reach its optimal capacity for reaching its optimal capacity for articulation of state interests and taking appropriate actions.

This well-edited book can be considered a collection of excellently contextualised facts and arguments, which testify that foreign policy of BiH with all its weaknesses, ups and downs, moments of defeat and pride does exist. All segments of the edition do confirm, more or less explicitly, one fact – many accomplishments of BiH's foreign policy do exist because of enthusiasm, knowledge, good will, skills and determination of BiH's experts from different fields, who were not discouraged by difficulties of the moment, ever-changing interests of political elites and requirements of daily politics. The authors boldly represent a new generation of international relations experts, who are increasingly recognised and relevant internationally. They do not settle with conformism of mediocre secondary research but aspire to offer new credible views and findings. That is certainly a significant added value of this volume, which offers an entirely fresh view of BiH and its foreign policy.

## Petra Kocen

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### Milan Jazbec THE SHINING STAR WITH THE LIONS MANE

Matica Makedonska & Forma 7, Skopje and Ljubljana, Collection Odyssey, I – VIII.

**T**he collection of poems *The Shining Star with the Lions Mane* is a unique project of seven bilingual books written originally in the Slovenian language by Milan Jazbec, a professor of diplomacy, ambassador, poet and writer. Ambassador Jazbec served his diplomatic term in North Macedonia from September 2016 to July 2020. As a highly singular particularity, he also did his military service in the former Yugoslavia in the Macedonian city of Štip. After more than three decades he came back as an envoy connecting the two newly emerged states.

The poems are translated to Macedonian, Albanian, Turkish, Roma, Vlach, Serbian, and Bosnian, which are the seven languages that are taken note of in the Macedonian Constitution. It is a rare example of a linguistically rich and subtle case of statehood that seven languages are in daily use in one country as well as formally evidenced in its constitution. Additionally, it should be pointed out,



that these languages are spoken and understood across the region of the Western Balkans, and even broader, from Slovenia to Turkey, where poet Jazbec was posted as the Slovenian ambassador as well. The overall symbolism of this collection of poems could be of use to a diplomat serving in any given region around the

globe. Ambassador Jazbec is sending this message to any interested capital and not only to his respected government. There is an impression that with this collection of poems and selection of languages he presented his humanistic mantra.

The project is completed by an eighth book, containing forewords, essays, comments, impressions and even a composed melody, by intellectuals from all walks of life, whose contributions were issued accompanying the many books authored by ambassador Jazbec in the past 20 years. The eight books were formed in the Collection Odyssey. Diplomats travel, observe and report; with cables and with poetry. They search for meaning and work for understanding, using Her Majesty the word.

The extremely diverse compilation shows the wide reach a diplomat can have through his literary expression. The written word has been accompanying diplomacy ever since and has proved to be a part of this far-reaching mission. Promoting friendly relations between states rests at the very core of the diplomatic business, hence diplomats have to use each opportunity to broaden and deepen them. An ambassador that is equipped also with the strength of literary expression can reach further and softer in the receiving state. Poetry with its both clear and veiled messaging is a highly appreciated means for this, as the Indian diplomat Abhay Kumar elaborates: "There seems to be a connection between

poetry and diplomacy as several diplomats over the ages have excelled in poetry. [...] Diplomacy is generally conducted in short sentences, which reveal as much as they hide. Poetry is no different" (p.31).<sup>1</sup>

In the words of the author, the inspiration for the aforementioned project was born on May 7, 2019 in Skopje, where at a high-level diplomatic meeting, dignitaries were addressed by Pope Francis. On his apostolic journey to Bulgaria and North Macedonia, the pontiff came to emphasize messages of peace, respect and unity within diversity. He stated that: "The particular beauty of [North Macedonia] comes from the variety of cultures and ethnic and religious affiliations that inhabit it." This inspired Ambassador Jazbec to celebrate North Macedonia's richness in a way unique to him – uniting his diplomatic skill with literary expression. He took it upon himself to bridge the gap between institutionalized diplomacy, which is largely separated from those not part of the elite and focus his reach on the youth, to whom he and his co-editors have dedicated the concerning collection of poems.

"The power of art, of music, of dance, and of sports, is the power to inspire, to lift spirits and move the soul – and go where traditional diplomacy cannot. Traditional diplomacy most often happens in the halls of government, but cultural diplomacy plays

<sup>1</sup> All citations from the collection of poems *The Shining Star with the Lions Mane*, book eight.

out where people spend their time – in performance halls, community centers and stadiums” (Ryan, 2016, p.30). Attempting to understand another’s culture, motives, ideas and values is often the first step towards building trust and opening a dialogue with the community of another country. This could be taken as one of the many definitions of diplomacy, which do not contradict, but complement each other.

It is exactly this, that the specific strength of a verse harbors. Poetry is an exceptional approach as it is a very honest expression of the variety of human emotions, and as such, it can easily reach anyone willing to listen. In addition, Jazbec’s poetry has proven to be extremely versatile. It has already merited numerous enactments in many different variations. Particularly meaningful was a school performance on November 14, 2018 in the City Theatre of Veles, North Macedonia, where students have accomplished the poems in rap versions and have recited them in different (even non-native) languages. To add, musician Sandra Jordanova has, in a subtle manner of Joan Baez, sung the poem ‘Sam’ (Alone) to a beautiful melody she composed herself. The collection was promoted during the official visit of the Speaker of the Slovenian Parliament Dejan Židan to North Macedonia, marking the Slovenian Day of Culture, February 8, 2020, as a part of the programme of the visit. A variety of pieces have been brought together to a kaleidoscope

of messages inspired by this collection.

“Cultural exchange gives people an opportunity to explore both their differences and their similarities, and to learn from each other. In many cases, we find that even radically different cultures have elements in common. [It] may give people the opportunity to discover, in non-threatening ways, that they have shared values and shared interests. It can reveal the potential for working together, and create the desire to do so” (Ryan, *ibid.*, p.30). Indeed, the many translated books had successfully brought originally Slovenian poetry closer to all people speaking one of the eight languages and a liking for the written word. It is truly an excellent example of effective cultural diplomacy, where friendship and a positive dialogue are being developed as a consequence of a literary contribution by a Slovenian diplomat to his host country North Macedonia.

In the foreword to the collection of poems the President of North Macedonia prof. dr. Stevo Pendarovski states: “Every literary work inspired by or written in North Macedonia becomes part of the Macedonian literature regardless of whether the author is a Macedonian citizen or not. [With his unique project] Ambassador Jazbec add[ed] a new dimension – that is not only the deepening of bilateral Macedonian-Slovenian relations, but also the interethnic relations in the Macedonian society

itself” (p.19). With this act, respect was shown for North Macedonia in all of its diversity, and in the words of President Pendarovski “Jazbec puts in practice the idea of European unity of diversity” (p.20).

A similar idea can be found in the Council of Europe’s European Cultural Convention (Paris, 1954), where it is emphasized in Article 2, that the reciprocal study of languages, history and civilization by the Contracting Parties can contribute to achieving the goal of greater unity among the Council’s member states. It is also in line with several European Union documents, which emphasize cultural diversity as the key value that needs to be respected for the European identity to flourish (Leitner, 2000). What is more, the first paragraph of Article 151 of the EC Treaty specifically mentions the concept of regional diversity, when it states that: “the Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity”.

This is the particular contribution of Jazbec’s collection of poems, also

mentioned by Pendarovski. Certainly, this project will assist diplomatic relations between the two countries and can support North Macedonia in its path towards European integration, and in its process of becoming a member of the EU. With its multicultural and multilingual richness this candidate country already puts forth an example. Small states are keen to stand out by their soft power approach.

Furthermore, it can forge connections between people on an everyday basis and facilitate the exchange of ideas and experiences between those coming from different cultures. Sometimes a view from the outside tells more and clearly. Ambassador Jazbec managed to reflect that view skillfully. Undoubtedly, the collection of poems *The Shining Star with the Lions Mane* is beyond the classic ambassadorial mandate and so the effects will also be lasting far into the future. Moreover, it shows the extent to which art, more specifically poetry, can have a positively unifying effect on the peoples of different nations and can assist in developing greater understanding and friendly relations among all nations.



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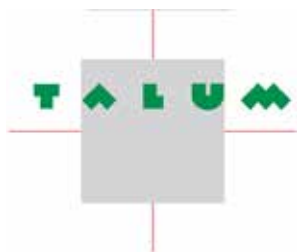
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