

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

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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 posebnege 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”.² 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.³

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,⁴ while

² Article by the High Representative, 14.9.1996. Available at: www.ohr.int/articles/a960802a.htm

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

⁴ 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”.⁵

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!”⁶

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,⁷ 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-

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 Process⁸ 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 Process⁹ 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,¹⁰ 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 Stabilisation and Association Agreement.¹¹ 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

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.¹²

In the latest Report of the European Commission on Bosnia and Herzegovina for 2020¹³ 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

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 BiH¹⁴ 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.

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 Herzegovina¹⁵ 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.¹⁶ 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 BiH¹⁷ 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/

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.¹⁸

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 Presidency¹⁹ 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)²⁰ and the European Police Mission (EUPM).²¹

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 Conference²² 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

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 Herzegovina²³

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 implemented²⁴, 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.²⁵

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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