
EU's "Laboratory" in the Western Balkans. Experimenting Europeanization without Democratization. The Case of Bosnia and Herzegovina

*El "laboratorio" de la UE en los Balcanes Occidentales.
Experimentando la europeización sin democratización.
El caso de Bosnia y Herzegovina*

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Abstract

The article will explore some potential causes of this limited process of Europeanization and its overall impact on the malfunctioning of Bosnia. After a short conceptual overview inside the Europeanization literature and its connection with democratization, the analytical section of the article will focus on the particular case of Bosnia and Herzegovina (BiH). The main question to be tackled is: How democratic is the Europeanization process in Bosnia and who should be held accountable for the outcome after almost two decades-long effort? The subsequent analysis will try to bring a potential answer to this concern, using the intricate case of the Europeanization of BiH as an illustration for the ambivalent role of the EU in the Western Balkans (WB) with the scope of pointing out some lessons which were not fully drawn from this process. The main conclusion is that the mixed strategy of EU that induced both external pressure and local ownership under the EU conditionality created institutional blockage and a democratic deficit

Keywords: Bosnia and Herzegovina, democratization, Europeanization, institution building, Western Balkans.

Resumen

El artículo explora algunas de las causas posibles de la limitación de este proceso de europeización y su impacto global sobre el mal funcionamiento de Bosnia. Después de una breve introducción conceptual sobre la literatura de la europeización y sobre su conexión con la democratización, la sección analítica del artículo se centra en el caso particular de Bosnia y Herzegovina (BiH). La cuestión principal que debe abordarse es: ¿Qué tan democrático es el proceso de europeización en Bosnia y quién debe rendir cuentas de los resultados después de casi dos décadas de esfuerzo? El análisis intenta ofrecer una posible respuesta a esta preocupación, utilizando el caso complejo de la europeización de Bosnia y Herzegovina como un ejemplo para el papel ambivalente de la UE en los Balcanes Occidentales (BO), con el fin de señalar algunas lecciones de este proceso que no fueron completamente elaboradas. La principal conclusión es que la estrategia mixta de la UE que induce tanto la presión externa y la propiedad local bajo la condicionalidad de la UE ha creado un bloqueo institucional y un déficit democrático.

Palabras clave: la democratización, la europeización, el desarrollo institucional, los Balcanes Occidentales.

INTRODUCTION

It became a shared opinion among European policy-makers to state that without a serious commitment from the European Union (EU), the Western Balkans (WB)¹ will find itself increasingly isolated from the unfolding developments around it and this may endanger the stability of the entire continent. “The security of Europe depends on stability in the Balkans. They are also a test-case for Europe’s enhanced Common Foreign and Security Policy. Nowhere more than the Balkans is the EU expected to deliver.” as the High Representative of the Common Foreign and Security Policy (CFSP) Javier Solana stated in a famous speech in 2001 in Stockholm². By now, nobody seriously questions the active presence of EU in the WB and the vital necessity of the EU Enlargement process in this war torn area. But there are numerous reasons for inquiring the mechanisms and the results of this partially EU-led process, in the aftermath of the devastating Bosnian war. By the year 2000 WB became already “a laboratory” of post-conflict reconstruction for the EU, who took the role of leading actor in this process. Consequently, in the recent years more attention has been given by several academics not to the ‘whys’, but especially to the ‘hows’ regarding EU’s policies in the WB. These mechanisms of so-called Europeanization of potential candidate countries need a more thorough examination.

In 2013, a decade after the formal engagement of the EU at the Thessaloniki Summit to “embark” the whole region³, only Croatia has been reaching the final goal, by obtaining an accession date at the end of a very long and difficult negotiation process. Under these circumstances, the article tries to discuss the Europeanization of the WB (with a focus on the special case of Bosnia and Herzegovina, BiH thereafter) as a phenomenon that stays under the signs of policy experiment and of various “exceptions

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1. By Western Balkans we refer to all the ex-Yugoslav countries (Bosnia and Herzegovina, Croatia, Serbia, FYR Macedonia, Montenegro, Kosovo under UNCH 1244), plus Albania, minus Slovenia.
 2. http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/discours/ACF332.htm
 3. European Council in Thessaloniki, 2003.

to the rule" which, as we would argue, has a direct impact on the democratic character of institution-building in this area. The research concentrates therefore on a *how* question, so the focus will be put on the process and the role of the main actors who are responsible for the outcome.

The main assumption of our argument is that as a normative power, EU has been involved in the post-conflict arena of the Balkans in the democratization phase, using the enlargement scheme as its best (self-declared) foreign policy, the only one possible at that time. Using its soft powers of persuasion and engaging local actors in democracy building for a future EU accession, the Europeanization of the WB should have worked as a successful 'test case' for the EU's strategy to bring the Balkans "back to Europe". Looking at some of the less positive results, we have reasons to question the ways this well-intended strategy was implemented, producing un-intended consequences and subsequent crises of governance. The other main assumption our argumentation scheme relies on is that the non-functioning of the internal state architecture reproduces numerous problems which disable the possibilities of significant reforms, as well as a general societal and stabilization of the advancement of a multicultural and multinational state. In our case BiH, but the observation is applicable to all WB countries which face problems in dealing with minorities, war criminals or power sharing structures of government. Taking into consideration that in the last couple of years BiH was considered "the worst in class" and the results of Europeanization reforms are still to be delivered, and also observing that the country found itself in the last years in a state of permanent crisis with a worsening trend, we believe that a case study on EU's role in BiH's transformation is required.

The first part of the theoretical section will deal with a short literature review dealing with EU integration of the WB centered on the conceptual debate around the 'Europeanization' of future member states and some reasons why this region has challenged previous theories of integration. A theoretical model that connects democratization as an essential element of Europeanization shall be developed in the final part of this section, in order to be applied to the following analysis of the case study — BiH. The second section aims at developing the main arguments and bringing evidence to test the theoretical model. It is divided in three parts — firstly, it describes the special context of Bosnia after the war and its "exceptional" institutional settlement provided by the Dayton Peace Agreement, secondly, it presents in a chronological approach the main political actions of EU in BiH and the dynamics of EU conditionality and thirdly, it analyses the main characteristics of the Europeanization attempt in Bosnia and its outcomes.

The concluding remarks will refer to the evidence discussed, will draw lessons from the case of BiH and will reflect on ways in which EU can maintain coherence in implementing its Enlargement strategy in multi-ethnic and divided territories. The article offers also an outlook for further research, focusing on the relevance of the Europeanization of BiH to the broader impact of the WB integration in the EU, that needs to be further on validated with extended empirical findings.

THEORETICAL FRAMEWORK

Europeanization — state of the art. The Shortcomings of Theoretical Abundance

EU's foreign policy strategy tested in the "laboratory" of the post-conflict WB produced also a mushrooming of "theoretical laboratories" in which scholars and policy researchers tried to understand new realities with new concepts. Therefore, to date we find a wealth of literature and academic writings using the 'catch-all' term *Europeanization* applied to this region as an additional reference to all the transformations that occurred after the end of the Cold War and the violent dissolution of Yugoslavia. But especially in social sciences theoretical abundance is often seen as rather a burden than an opportunity for conceptual clarification and a short history of the multiple and sometimes contradicting uses of the term Europeanization stands as a good illustration of that. As numerous authors already have shown, the Sartorian warning regarding "conceptual stretching" has left the term Europeanization lying helplessly between the *signifier* and the *signified*⁴. Both academics and practitioners have 'used and abused' the term extensively, which in less than two decades already entered the "folklore" of EU studies, at the expense of its clarity⁵. The main point that needs to be made here is that there are several shortcomings of the impressive theoretical abundance of this term and as Radaelli argued, it needs to be the one to be explained (*explanans*), not the one that explains (*explanandum*)⁶.

Leaving aside its post-colonial and Western-centric implications which were sometimes contested⁷, the basic meaning of Europeanization refers to any process that is, at least in a certain perspective, EU driven or under the influence of EU and that implies a change of the *status quo*. It denominates therefore a dynamic process, starting with the creation of a policy until its final outcomes. Thus, Europeanization is essentially 'a two-way street' between the EU and the countries at the receiving end, under the influence of both top-down and bottom-up pressures, which are always 'in the making'. Generally speaking, the concept is understood as a transformation of various social and political factors in the framework of the EU (either as member states or as aspiring member states) under the so-called "transformative power of Europe"⁸. Europeanization denominated first a diverse

4. Giovanni Sartori, "Concept Misformation in Comparative Politics", *American Political Science Review*, XIV(4) (1970): 1033-1053.

5. An extensive literature review of the term may be found in Ulrich Sedelmeier, "Europeanisation in new member and candidate states", *Living Rev. Euro. Gov.* 6 (2011), 1, <http://www.livingreviews.org/lreg-2011-1> (accessed on 3rd of February 2012).

6. Claudio M. Radaelli, "Europeanisation: Solution or problem?", *European Integration online Papers* (EIoP), vol. 8 (2004), n° 16; <http://eiop.or.at/eiop/texte/2004-016a.htm> (accessed on 3rd of February 2012).

7. See more in Trine Flockhart, "Europeanization or EU-ization? The Transfer of European Norms Across Time and Space", *Journal of Common Market Studies*, 2010, 48/4, 787-810.

8. Tanja A. Börzel and Thomas Risse, "The Transformative Power of Europe. The European Union and the Diffusion of Ideas", *KFG Working Papers*, Nr. 1 | May 2009, http://userpage.fu-berlin.de/kfgeu/kfgwp/wpseries/WorkingPaperKFG_1.pdf (accessed on 3rd of February 2012).

but profound impact on politics, policies and polities in the member states of the EU⁹. It focuses on the dynamic interaction between the national and European level by examining different mechanisms of Europeanization. Nevertheless, the challenge comes when social sciences need to develop certain indicators to measure the levels of this always fluid and "in the making" Europeanization in order to distinguish between actors, policies or issues which are more or less "Europeanized" to fit the EU standards.

The study of Europeanization became very intense after year 2000, along with the rising Enlargement agenda of the EU. Since then, it represents a widely spread concept, but with no consensus regarding its precise area of applicability. Nowadays the diversity of its meanings poses great challenges to both theoretical and empirical attempts. The academic literature on processes of Europeanization comprises theoretical and empirical studies of a wide range of aspects of contemporary EU affairs, starting with enlargement or foreign policy and ending with environmental policies or human rights. The concept is used in very different contexts: Europeanization of society, Europeanization of the political system (Europeanization of the member states' domestic policy through Brussels' influence, Europeanization of the Community policy through an influence coming from the state political or social units, Europeanization and multi-level governance), Europeanization as a phenomenon adjacent to the enlargement process, Europeanization and institutionalization/constitutionalization (as a model of EU political integration), etc. Therefore, Europeanization, as we have already defined it in previous studies, "regardless the orientation of the process (top-down – from the center downwards to the member states, bottom-up or bidirectional) refers to both formal and informal establishment and dissemination of certain norms, principles, beliefs or attitudes related to the impact of the Community political system"¹⁰.

In the Europeanization literature connected with EU Enlargement, there are two main strands of thinking on the way EU can influence acceding countries — the rationalist and the social-constructivist, each of them deriving from two distinct epistemological traditions (positivist and post-positivist). The rationalist and actor-centered perspective on Europeanization defines EU conditionality as the main mechanism of inducing change, based on the short-term cost/benefit calculations in which EU aspiring members respond to the material incentives offered by European institutions¹¹. The constructivists present social learning as the main drive for Europeanization understood as the long-term redefinition of interests and identities of domestic players¹². The studies that try to clarify the

9. Claudio M. Radaelli, "Europeanisation: Solution or problem?", *European Integration online Papers (EIoP)*, vol. 8 (2004), n° 16; <http://eiop.or.at/eiop/texte/2004-016a.htm> (accessed on 3rd of February 2012).

10. Iordan Barbulescu (ed.), "Dictionar explicativ trilingv al Uniunii Europene", Iasi, Polirom, 2009, p. 68; See also Paolo Graziano, Maarten P. Vink (eds.) *Europeanization: A Handbook for a New Research Agenda*, Houndmills and London, 2007.

11. Frank Schimmelfennig, Ulrich Sedelmeier, *The Europeanization of Central and Eastern Europe*, Cornell Univ. Press, 2005.

12. Jeffrey Checkel, 'Why comply? Social learning and European identity change', *International Organization*, 2001, 55(3), 553-88.

mechanisms of Europeanization have developed what has been called in the academic literature as the *misfit* model¹³. This model argues that the occurrence of ‘divergence’ or ‘convergence’ of the level of adaptation between different potential candidate countries is explained by the degree of compatibility between the national and European conditions. Incompatibility — ‘misfit’ — between the two levels creates adaptational pressures, which are then transmitted by mediating institutions. “The lower the compatibility (fit) between European institutions and national institutions, the higher the adaptational pressure”¹⁴. From this perspective, Europeanization deals with how domestic change is processed. The main assumption of this theoretical framework is that the patterns of adaptation can be more complex than simple reactions to ‘Brussels’. And the WB and BiH as its most difficult case provide a challenging example of this “adaptation” dilemma — who should adapt to what — EU to the particular context of BiH, or BiH to EU requirements?

Beyond the specific triggers for change that each of the two main theories highlight, Europeanization is to be seen as an interactive process between internal and external factors which requires a stable network of agents of change for implementing EU related reforms. These will be the main elements we shall focus on in investigating the specificities of WB’s Europeanization. Going beyond all the vast and ultra-specialized understandings of the term, at the core of Europeanization there are interactions between political actors and democratic institutions. The definition of the term that shall be employed in this article is Europeanization that refers to the *EU’s impact on inducing political reform in a future member state*, taking as main units of analysis both actors and their interactions inside the EU conditionality policy framework. Actors, in a word, are the basic unit propelling Europeanization, though they may be organized as national community or social network in a democratic environment. This would be the understanding of the term employed in this article. In the Enlargement context, Europeanization can be depicted through the degree of compliance of acceding countries with EU conditionality. The focus in this analysis will be put on actors and their legitimacy in dealing with EU conditionality, as well as the results of their EU driven policies. So this reform process (also understood under the broad conceptual “umbrella” of Europeanization) should be normatively analyzed according to democratic principles and indicators. Therefore there is a need to focus on who the actors implementing the reforms were and how legitimate they were in enforcing these reforms as a possible explanation for the outcome. The next sub-section will explore some of the specificities of EU conditionality in the Balkans in order to better understand the context of Bosnia’s problematic Europeanization.

13. Maria Cowles, James Caporaso and Thomas Risse, “Europeanization and Domestic Change: Introduction”, in Cowles, M. G., Caporaso, J. and Risse, T. (eds.), *Transforming Europe: Europeanization and Domestic Change* (Ithaca, NY: Cornell University Press), 2001, 1-20.

14. *Ibidem*, p. 13.

Europeanizing the Balkans – some exceptions to the rule

The study of EU conditionality in the context of Eastern enlargement has started to frame the analysis in terms of 'Europeanization of candidate countries' as a different category than Europeanization of member states. Thus, scholars in this field started to broaden the focus of Europeanization and to establish the "Europeanization of applicant states" as a separate sub-field of this broader research agenda¹⁵. The purpose of EU conditionality as a mechanism of Europeanization was to set a common system of norms and rules perceived as legitimate by the future candidate countries. It was expected that after two waves of Enlargement (2004, 2007) EU gained more experience in dealing with South East European countries and their specific needs in the transition period. So in the case of the WB, in the aftermath of the war and still confronted with problems regarding statehood, borders and economic disparities, the starting point of formal Europeanization (delivering results with the final goal of EU integration) was done at the same time with democratization and nation and state building. This process was in itself an 'experiment' for EU's enlargement policy. Predictably, the region, with its specific problems, brought the need for some exceptions to the rules defined in previous enlargement waves. The main challenge in focusing on the WB is to see if the EU as a 'normative power'¹⁶ has been efficient in both these complex processes. It is worth observing what the impact of these "exceptions" to the general rule of accession was.

From this perspective, the EU approach to the WB became one of the most challenging subjects inside European studies and started to be critically scrutinized by scholars in the field in comparison with the Central East European (CEE) experience¹⁷. The process of 'Europeanizing' the Balkans proved to be 'a litmus test' for the EU when numerous unforeseen obstacles have appeared on the way and the overall strategy needed to be adapted 'on the spot'. Over the last decade it became clear that there is a stark contrast between the stated goals and their actual implementation, the result being a subsequent delay in the accession process which raises numerous doubts towards the accountability of all the actors involved. Nevertheless, after the Kosovo war no major conflict occurred in the region and the peace building process got all the local and international actors actively involved for preventing any other outburst of violence. But for Europeanization to take place this was obviously not enough. In order to strengthen this process and guarantee peace and stability

15. Tanja Börzel and Thomas Risse, „Europeanization: The Domestic Impact of EU Politics”, in: Jorgensen, Knud Eric/Pollack, Mark A./Rosamund, Ben (eds.): *Handbook of European Union Politics*, 2007, London, 483-504.

16. Ian Manners, “Normative Power Europe: A Contradiction in Terms?”, *Journal of Common Market Studies*, 40(2), 2002, pp. 235-258.

17. See more in Milada A. Vachudová, “Strategies for European Integration and Democratization in the Balkans”, in *Slovak Foreign Policy Affairs* (Slovak Foreign Policy Affairs), 2003, I: 92-106; Gergana Noutcheva, “Enlargement Policy towards Central and Eastern Europe, 1989-2007: Normative Intended”. In: N. Tocci (ed.). “Who is a Normative Foreign Policy Actor?” Brussels: Centre for European Policy Studies, 2008, pp. 26-30.

in the region, EU offered also Enlargement perspective to all the ex-Yugoslav countries and Albania, as a complementary factor for its CFSP initiatives. It became clear that stability is not brought only by deploying military forces in the region and following NATO's turn in maintaining peace, but also by building democratic institutions through democratic processes and rule transfer. One may conclude that after peace-building, Europeanization through democratization was the main target of the EU in WB.

Moreover, it has been extensively argued in the literature on the topic that the standardized EU enlargement formula (imported from the CEE countries) is not functioning in the case of the WB¹⁸. The paradigm of so-called "Balkan exceptionalism" was good to describe this situation of "exceptions" to the enlargement rules. The series of enlargement of the EU followed a constant basic pattern, in expectations and procedures, labeled as the "classical method of enlargement". Upon such a model, the experiences drawn by the EU following the extensive negotiations for the 2004 and 2007 enlargements have contributed to re-shape the model into a "new methodology". The post-conflict feature of the WB had to be tackled in a specific manner and this brought the 'experimental' feature to EU's new strategy. Thus the Stability and Association Process (SAP) was launched in the year 2000, as a firm engagement from the EU in the region, right after the Kosovo war. As the name of this tailor-made strategy for the WB clearly states, the goal was first to stabilize and then to associate the countries on the EU membership track, a two-step policy which did not occurred in the previous waves of enlargement. The SAP was mainly aimed at assisting countries in the region 'to move closer to the European Union' by 'introducing European values, principles and standards in the region'¹⁹. These include democracy, the rule of law, respect for human rights, protection of minorities and a market economy. The core of the SAP is the conclusion of a Stabilization and Association Agreement (SAA) which commits the WB countries to a formal association with the EU over a transitional period. The SAP provides intensive technical assistance and support for improved governance, better functioning institutions, democratization, protection of human rights, refugee return, economic development and the fight against corruption and organised crime. From these general principles, as other scholars have shown, the one referring to democratization is the core of SAP²⁰.

SAP conditionality emerges from the Copenhagen criteria, defined in 1993, concerning democratic government and market economics as the main goals to be achieved when a state wants to join the Union. In addition for the WB case, the EU asks for compliance with the conditions set out in the Regional Approach of 1997. These comprise general requi-

18. Arolda Elbasani, "EU enlargement in the Western Balkans: strategies of borrowing and inventing", *Journal of Balkan and Middle Eastern Studies*, 2008, 10 (3): 293-307.

19. http://ec.europa.eu/enlargement/policy/glossary/terms/sap_en.htm (accessed on 3rd of February 2012).

20. Marie-Janine Calic, "The Western Balkans on the Road Towards European Integration", *Internationale Politikanalyse Frieden und Sicherheit*, Dezember 2005, <http://library.fes.de/pdf-files/id/03273.pdf>; Arolda Elbasani, "The Stabilisation and Association Process in the Balkans: Overloaded Agenda and Weak Incentives?" *EUI Working Paper 2008/3*. Florence: European University Institute, http://cadmus.eui.eu/bitstream/handle/1814/8447/SPS_2008_03.PDF?sequence=1 (accessed on 3rd of February 2012).

rements that apply to all SAP countries, as well as country-specific conditions, relating, for instance, to obligations under the Dayton Peace Agreement (DPA) — for instance, cooperation with the ICTY. As an “exception” to the Copenhagen criteria adapted to the Balkan region, the methods and instruments of the SAP are contained in three main stages — negotiation, signature and implementation, the European Partnerships (EP) and Annual Progress Reports, all monitored by the European Commission (EC) and approved the Council of European Union. The SAP is therefore a long-term commitment to the region both in terms of political effort and financial and human resources. The centerpiece of the SAP is the conclusion of a SAA which represents a far-reaching contractual relationship between the EU and each WB country, entailing mutual rights and obligations. We can thus conclude that the EU's political strategy towards the WB relies on a realistic expectation that the contract it enters into with individual countries will be fulfilled satisfactorily. Also, this shows that the SAAs are tailored to the circumstances of each country (context sensitivity). However, each agreement is intended to have the common purpose of achieving the sort of formal association with the EU described above. The destination for all countries is expected to be the same: the full realization of association after a transitional period through implementation of the same core obligations. The objectives of the agreements (full realization of the association) and beyond must be analyzed according to their effective implementation of the SAAs, as a prerequisite for any further assessment by the EU of the country's prospects of accession. As part of the enlargement process, the SAP will remain the framework of the EU perspective on the WB countries, all the way to their future accession.

The main factor that distorted this process was that EU's policies in the WB were not only a transaction or bargaining process of rule adaptation according to the *acquis*, but also a long lasting peace strategy with an important security dimension (especially for countries like Macedonia FYROM, Bosnia and Herzegovina and Kosovo, which also indirectly involved the countries in their vicinity Albania, Serbia, Croatia). So the main novelty here, compared with Eastern Enlargement was that it was a sort of ‘double-hated strategy’ — aiming to obtain post conflict stability and integration at the same time, which involved both the European Commission and the Council as active drivers of this process and a peculiar mix of Enlargement and CFSP strategies.

EU accession remains an important foreign policy objective for WB countries as well, but endemic institutional and political obstacles complicated their respective membership bids. The present situation in the region is as diverse as always - Croatia became an acceding country in 2012 - its formal accession is slated for July 2013 - while Montenegro, Serbia, Macedonia and Turkey have been granted candidacy status. Brussels has also deemed Albania, BiH and Kosovo potential candidates. In successor countries of former Yugoslavia systemic democratic transformations were delayed for a whole decade BiH, FYR Macedonia and Serbia were still grappling with issues of statehood and territorial sovereignty, which continues to postpone their democratic consolidation by taking precedence over all other reforms. Such a distorted “member-state building” phase is characterized by the institutional and political

adaptation to EU standards and the compliance with the *acquis* through the instrument of positive and negative conditionality, whose success is linked to the local political will and to the credibility of accession prospects, in relation with the EU absorption capacity debate.

Specialized literature also points out that “effective transfer of EU practices” requires more than governance architectures and institutionalization. It also requires “robust networks of stakeholders that facilitate the adoption of new policies at home, a strong civil society, and administrative political capability to consciously modify, edit, and adapt foreign experience to national circumstances”²¹. In theory, the WB the essence of Europeanization is a comprehensive process of institution building and the creation of a democratic and stable “political community” as part of the post-war reconstruction. In this case, the EU capitalizes on its authoritative, asymmetrical position vis-à-vis the WB states, who are eager to become part of or closely affiliated with the Union. In reality, the relationship between these actors aiming at sustainable Europeanization is not that clear and linear as it sounds in theory and the negotiations themselves suffer to a great extent from a democratic and legitimacy deficit. Both EU and WB states are often caught between formal promises and practical constraints, which makes the entire process hard to predict and to control and as a result various “road maps” to the EU have been established for each country (for example Croatia’s accession, which was initially scheduled for 2007, has been postponed for two times). The classical rationalist model states that conditionality can be a successful incentive only when expected benefits (accession) seem realistically attainable. From this perspective, the outcome of the WB transition will therefore also depend on the ongoing commitment of the EU to the accession prospects of the WB, but of course all sides must be directly involved in holding their commitments.

The theoretical model — no Europeanization without Democratization

One of the aspects most authors on the topic agree upon is that the process of democratization overlapped considerably with Europeanization of the WB area. What this analysis shall highlight at the theoretical level is that, at least in the EU Enlargement literature, between the two highly debated concepts there is a relation of so-called co-constitution — Europeanization is the next step after democratization. Simply put, by defining Europeanization as the export of democratic rule, it involves a process of incorporating EU legislation through already existing democratic practices. The ‘Bible’ of this complex transformation is the Copenhagen criteria, where the political aspects (which directly refer to democratization) hold an essential role²². Having this in mind, the theoretical consequence that stems from this text is that democratization must come before and not at

21. Christopher Knill, and D. Lehmkuhl, “The National Impact of European Union Regulatory Policy: Three Europeanization Mechanisms”. *European Journal of Political Research*, 2002, vol. 41, n° 2, pp. 255-80.

22. http://europa.eu/legislation_summaries/glossary/accession_criteria_copenhagen_en.htm (accessed on 3rd of February 2012).

the same time with Europeanization. The chronological dimension becomes in this regard extremely important — when shall Europeanization start in order to be more successful and predictable? Based on this very normative perspective, it seems impossible to study the processes of democratization in the WB without accounting for the influence of the EU. Democratization was a central piece of the EU conditionality toolkit for the area. Nevertheless, trying to identify what, how and by whom is Europeanization being implemented in this post-conflict area is still a difficult task. In order to sum up, this theoretical model considers democratization as an essential element of Europeanization which implies that if the relations between the main actors of Europeanization are not democratic (based on public legitimacy and rule of law) than Europeanization is bound to long term delays. In other words, if EU reforms are not driven by legitimate actors in legal and predictable ways, than Europeanization is compromised. What is essential in this process is also local/internal initiative or what in Brussels language is called “local ownership of the reform process”. This implies of course the direct engagement of the candidate country, according to the basic principle that a country cannot be Europeanized without its own will and long term active engagement. Shortly said, EU welcomes in its ‘club’ only states that willingly (and democratically following the will of people through referenda) engage in reforms to fit the required criteria.

As Manners argued, normative power should primarily be seen as legitimate²³. In order to be respected, formal rules need to be legitimate and they need to ‘fit’ the institutional practices of the acceding country. In cases of external intervention for stabilization of a country, as it was the case in several WB countries in 1995, 1999 and 2001 the negotiation over legitimacy was essential. External influence works through different ways and is exercised to different degrees in the region, as each of the ex-Yugoslav republics were faced with different experiences of the war and faced specific challenges to their democratic procedures. Legitimacy has various domestic forms and sources that vary according to context, which opens up a huge debate about how democratic these external interventions are²⁴. In the academia the topic has raised numerous debates, from all sides of the ideological spectrum, but the main conclusion is that especially the EU in its position of normative power cannot intervene in stabilizing countries without respecting the democratic rules of the game that it preaches to other parts of the world.

In order to conclude, the paper suggests that at the theoretical level one needs to investigate also what Europeanization is not in order to clarify its area of applicability. In this context, Europeanization is not only convergence of policies, but rather dealing, in a democratic way, with divergence. That is why democratization is a vital process that needs

23. Ian Manners, “The concept of Normative Power in World Politics”, DKIIIS Brief, May 2009. http://www.diiis.dk/graphics/Publications/Briefs2009/B09_maj__Concept_Normative_Power_World_Politics.pdf (accessed on 3rd of February 2012).

24. For an extended debate on the legitimacy of external interventions for stabilization see Mateja Peter, “Whither sovereignty? The limits of building states through international administrations” in: Joseph R. Rudolph and William J. Lahneman (eds.), *From Mediation to Nation-Building: Third Parties and the Management of Communal Conflict*. Lanham, MD: Rowman and Littlefield, 2013, pp. 421-440.

to precede Europeanization. And a fertile ground for observing the interaction between the presence or absence of democratization while Europeanization takes place is the situation of divergence, resistance to change, low levels of predictability provided by the WB institutions and practices in order to observe how does EU react to ‘exceptions’. Therefore, at the center of the research on the Europeanization of the WB one should put the interplay between external influence, domestic elites and domestic peculiarities of the institutional framework, which stresses the importance of context for EU conditionality effectiveness and the need for tailor-made approaches beyond formal statements or agreements.

In order to conclude this section, from this theoretical standpoint for the process of norm transfer to take place successfully, the overall institutional framework in the receiving country must be democratic, and by this we understand — predictable and according to the rule of law, the EU law. Democratization is a continuous ‘work in progress’. It requires legitimacy, trust and playing by the rules. So does Europeanization. In the WB “laboratory”, EU has “experimented” policies on various levels and because of time pressure and the urge for a quick stabilization of ethnic conflicts these experiments were simultaneous. Europeanization of the WB (with a focus on the special case of BiH) shall be understood as a phenomenon that stays under the signs of subsequent ‘policy experiments’ and of various “exceptions to the rule” which, as we would argue, had a direct impact on the democratic character of institution-building in this area.

An exception brings about a series of other exceptions and compromises. A permanent state of exception frustrates and de-motivates the actors involved. Any exception makes the future unforeseeable. EU is a technocratic risk-averse body which cannot deal with unpredictable actors. Consequently, the experience with SEE showed that before Europeanization to start, democratization must be guaranteed and it has to bring visible results. It is a given that after the “experiment” with Romania and Bulgaria EU became even more risk averse and it is not so open for new ‘experiments’ in the Enlargement area, even though there is significant pressure to do so, as the weak states from the WB, losing the momentum for EU integration might go backwards, which is a direct threat to European security. From this perspective, one of the most challenging ‘experiments’ of EU’s foreign policy is BiH. Our argument is that this case, as it will be described in the following section, must be taken as a lesson learnt for EU policy makers from the perspective of a clear sequencing and re-prioritization of democratization and Europeanization.

THE CASE STUDY. BOSNIA AS AN EXPERIMENT

Post-Dayton Bosnia – an Experimental Institutional Design

The second part of the article has a more analytical dimension, first describing the institutional structure on BiH after the Dayton Peace Agreement (DPA hereafter) that ended the war and the main stages that BiH has been going through in its relations with

the EU. Then, the analysis focuses on the dynamics of institutional change under EU's toolkit of conditionality.

BiH is yet to satisfy all the requirements for a future EU integration and consequently the country has not submitted an application for EU membership, a precondition for obtaining candidate status. Not only because of this prolonged status of "not yet" candidate country, BiH is undoubtedly one of the countries that are mostly burdened by issues derived from the collapse of Yugoslavia and the consequence of that is the continuous delay of development. The post-war institutional building in Bosnia was an experiment — a consociational model conceived mostly by American lawyers to stop the war and put the basis of a new polity, with power sharing structures between the three main ethnic lines of the war — Bosniak (Muslim), Serb (Orthodox) and Croatian (Catholic). Any discussion on Bosnia must start in Dayton, the US city which hosted the peace treaty that ended the Bosnian war. Let us first explain why the DPA has become the main point of reference for explaining both the functioning and the malfunctioning of Bosnia in the last decade.

The brokered peace agreement partitioned the country into two strong units, called *the Entities* — the Republika Srpska (RS hereafter) and the Federation of Bosnia and Herzegovina (Federation hereafter) — with only weak institutions at the national state level. The entities are autonomous administrative units with their own substantive governments and wide jurisdiction over social and economic matters in their respective territories. The RS adopted a central constitutional model, while the Federation's decentralized constitution was based on the Swiss example and instituted ten cantons with large portfolios of public policies. The Dayton Agreement contained 11 annexes, instituting a large set of mechanisms from the Bosnian constitution to the supervision and coordination of the implementation of the Agreement, return of refugees, elections, and reform in many sectors. Furthermore, the nature of the BiH Constitution and the institutional structure of the country, with separation of powers between the state, entities, cantons and municipalities, frequently impede progress in the formulation and adoption of policies, strategies and plans related to development and reform. The country is ruled by a central government (the BiH state), two state-like ethno nationalist entities (RS and the Federation), 10 cantons within the Federation of Bosnia and Herzegovina (three dominated by Bosnian Croats, five by Bosniaks, and two contested), an autonomous District (Brcko) and 142 local municipalities (Općine). The state administratively weak at the center and politically polarized by ethno territorial governance is also governed by the Office of the High Representative (OHR hereafter) The Office of the High Representative (OHR), an ad hoc international institution responsible for overseeing implementation of civilian aspects of the DPA. The position of HR was created under the General Framework Agreement for Peace (GFAP) in BiH. The international community envisaged the HR wear two hats — that of High Representative and as representative of the EU, in an effort to underscore Bosnia's trajectory towards the EU. In 1997 the HR was given the so/called "Bonn powers" by the Peace Implementation Council (PIC) which meant the power to enact laws and remove elected officials, which has raised over the years long debates about legitimacy of such an external intervention in

the domestic affairs. This way, since 1997 BiH witnessed a process of “assisted democratization” inside an institutional design which has politicized the ethnic divisions as a part of broader post-conflict interventionist methodology. Compared to all other ex-Yugoslav countries, Bosnia is still not functioning by itself and it is often described by analysts as an “unfinished business”²⁵ or a semi-protectorate. As a provider of this very sophisticated post-conflict institutional design through the DPA, BiH became a challenging case study for multiple researchers in social sciences, who aimed at making predictions about its evolution in the 21st century and investigated the sources of its position of “outlier” in the realm of EU Enlargement analysis. Most of the studies agree on that fact that Bosnia’s situation is not compatible with the standard EU integration approach and it requires a tailor made strategy that could grasp its specificities and anomalies. Or, differently put in the words of our theoretical description, an experimental institutional design such as Post Dayton Bosnia requires an experimental Enlargement policy from the EU and NATO. Even though the rules and the general negotiation framework for integration remain the same, the way they are implemented and “translated” inside the local political dynamic is unique. This implies a situation of double adaption — of BiH to EU standards, of EU to BiH’s political realities.

Soon after the negotiations for signing the SAA started, it became clear the non-functioning of this complicated internal state architecture reproduces numerous problems which disable the possibilities of significant reforms, as well as a general societal and stabilization of the advancement of a multicultural and multinational BiH. In short, the Bosnian federal geometry is a unique case in the world: three constituent peoples, two strong entities, one weak centre. To add more problems to this, local politicians have used the provisions of the Annex 4 of DPA (the Constitution of BiH) to obstruct effective decision-making and guaranteed that ethno-national interests have largely predominated over civil-state interests. In recent years the multi-ethnic country has found itself in a state of permanent crisis with a worsening trend, as it has been stated in the last Progress Report on BiH issued by the European Commission²⁶. Consequently, already seventeen years after the signing of the DPA, many still question whether the international community has succeeded in stabilizing BiH.

This institutional design that comprises a republic and a federation which form a confederation supervised by an international body which also represented EU (until 2011) was a political experiment within which all actors had to apply the strategy of “learning by doing”. As a result, the EU’s policy for the WB is defined as “stabilization through integration”. As Bedrudin Brvaljak shows, this pattern transformed into what he defines as ‘Europeanization without democratization’, as most of the countries included in the EU negotiations were not yet full-fledged states²⁷. Most of the analyses on this topic prove that

25. International Crisis Group <http://www.crisisgroup.org/en/regions/europe/balkans/op-eds/evans-the-great-unfinished-business-of-southeastern-europe.aspx> (accessed on 3rd of February 2012).

26. http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ba_rapport_2012_en.pdf

27. Bedrudin Brvaljak, *Bosnia between ethnic nationasm and Europeanization*, 2011. <http://www.opendemocracy.net/bedrudin-brljavac/bosnia-between-ethnic-nationalism-and-europeanization>

this is not functioning, because EU conditionality was not designed to cope with structural issues of 'unfinished state-building' as the case of BiH²⁸. Studies so far agree that the institutional complexity designed in Dayton belies the country's political problems, which further limit its ability to make progress on the EU accession agenda²⁹. Moreover, they showed that Europeanization in BiH has been for too long time dependent on external incentives, not on local initiatives and this became a major obstacle for development³⁰. Others have also revealed the fact that the crisis of BiH's contested statehood has been also a crisis within the international community, which has lost its vision for Bosnia and the narrative of its continued transformation towards a future EU membership and comprehensive studies and policy papers have shown the multitude of contradictions and shortcomings of the international policy towards BiH.³¹ In the analytical section we will try to put together these perspectives in order to find the pitfalls of all parties involved in the reform process.

Different than the other ex-Yugoslav republics, especially because of the presence of the OHR, Bosnia has been described as an area of limited statehood. There is a general consensus that areas of limited statehood, in which no state "has the capacity to implement and enforce central decisions or even lack the monopoly over the means of violence"³², are major sources of global risk, therefore the need of external intervention for stabilization. After the end of the war, Bosnia remained essentially stagnant for years following Dayton, which were marked by severe fragmentation due to the constitutional structure and the disputes between the three major ethno-national groups/constituent peoples: Bosniaks, Croats and Serbs. In other words, limited statehood means a lower level of local ownership on the governance structures which implies limited democratization. Such a political construct implies obviously also a paradigm of "limited Europeanization". In such a reductionist description, the fact that process of Europeanizing BiH will be very problematic seemed highly predictable but taking into consideration the multitude of factors involved the challenge has always been to point out which were the most vulnerable and dysfunctional aspects of this transformative process. We shall therefore focus on the legitimacy deficit enshrined in the DPA and the role of the OHR in "distorting" the implementation of EU conditionality in BiH.

28. Ibidem.

29. Ana Juncos, "Power discourses and power practices: The EU's role as a normative power in Bosnia", in R.G Whitman (ed.), *Normative Power Europe: Empirical and Theoretical Perspectives* (pp. 83-99), 2011.

30. Christophe Solioz, *Turning Points in Post-War Bosnia. Ownership Process and European Integration*, Baden-Baden, 2005; David Chandler, "State-building in Bosnia, the limits of informal trusteeship", *International Journal of Peace Studies*, vol. 11, n° 1, Spring/Summer 2006; Florian Bieber, *Post-War Bosnia. Ethnicity, Inequality and Public Sector Governance*, 2008, Palgrave Macmillan.

31. Roberto Belloni, *State Building and International Intervention in Bosnia*, Routledge: London and New York, 2007.

32. Thomas Risse and Ursula Lehmkuhl, *Governance in Areas of Limited Statehood - New Modes of Governance?* Working Paper 1, Research Program of the Research Center (SFB) 700, 2006. http://www.sfb-governance.de/en/publikationen/sfbgov_wp/wp1_en/index.html

In order to conclude this short description, BiH is a relevant case for the Europeanization debate not only because it is a testing ground of the EU's political and normative power; it also matters as an area where the values of the European integration project are strongly challenged and have to be defended. For the EU the stabilization and reconstruction of a multicultural and multiethnic community in BiH became a litmus test for its own commitment to democracy promotion and the use of soft powers. But could democracy still be the "only game in town" in such an exceptional situation such as the post-Dayton Bosnia?

Overview of EU- BiH relations. Post-conflict Europeanization as an Experiment

The following part of analysis will focus on a general overview of the role of the EU in the WB with a focus on democratic institution-building in BiH, reviewing the main instruments and practices used by the EU to make a shift from post-war stabilization to an agenda of enlargement. The purpose of this section is to provide a chronological description of the main political events and processes that occurred in the last 10 years in BiH in order to build the arguments of the analytical part of this section.

In theory, the prospect of European integration provides a long-term and coherent perspective, encourages domestic ownership and institutional development, supports stability and regional cooperation, and softens nationalist identities. In practice, these changes occurred with visible discontinuities in the case of BiH and with contradicting outcomes than the ones prescribed by theory. The challenge is to find out the explanation for these ups and downs of Europeanization inside this particular case study. Acknowledging the fact that we are dealing with a process consisting of complex sequences and time patterns, the main purpose of this section will be to identify the period of time when this "distortion" of Europeanization started in BiH. That is why we believe a longitudinal perspective is imperative, focusing on some of the key dates in BiH's path towards the EU. The next section briefly goes through several important events that marked the relationship between EU and BiH in its road to Europeanization.

1997- 2000. POST-WAR STABILIZATION AND RECONSTRUCTION

In 1997, only two years after the end of the war and the dissolution of Yugoslavia, the EU establishes political and economic conditionality for the development of bilateral relations for the entire WB region called the "Regional Approach". This was considered as a driving force for the region's reconstruction. In 1998 the EU-BiH Consultative Task Force is established for peace building and protecting civil population. Next, in 1999 the EU proposes the Stability and Association Pact (SAP) for five countries of South-Eastern Europe, including BiH, following the same "Regatta principle" as in the case of the Central European countries, which meant taking all neighboring countries in the same "boat"

for a future integration. In June 2000 the Feira European Council officially decided that all the SAP countries are "potential candidates" for EU membership. Moreover, in November 2000 the Zagreb Summit launches the SAP for five countries of South-Eastern Europe, including BiH, which is the most important event that re-assures the road of the country to EU. All these symbolical gestures towards helping BiH which was mostly affected by the war, along with other SEE countries, to get closer to the EU were also backed by consistent financial aid. In 2000 aid to the region was streamlined through a new program called CARDS (Community Assistance for Reconstruction, Development and Stabilization). The program's wider objective was to support the participation of the countries of the WB in the SAP³³. The clear purpose of all these measures taken by the EU was stabilization and reconstruction after the Bosnian war.

2001- 2004. THE THESSALONIKI AGENDA AND THE ENLARGEMENT PERSPECTIVE

The first two years of this period (2001/2002) are marked by BiH's efforts to adapt to the SAP framework. Bosnia remained essentially stagnant for years following Dayton, alongside an increasingly fatigued international community. But the year 2003 was crucial and full of important events. In February 2002, the EU's General Affairs Council (GAC) appointed the HR as the EU's Special Representative in BiH. The "double-hatting" of HR and EU Special Representative was envisaged as a provisional arrangement during which the political focus in Bosnia BiH would shift from Dayton implementation to the EU integration process. Between 2002 and 2011 the HR served as the EUSR to BiH giving him even more leverage on the EUPM and the EU funding for the police reform. As Special Representative of the EU, the HR has a powerful bargaining power if the adoption of the new model is declared to be a condition for advancing a European future in the current negotiations with the EU. As mentioned before, a key aspect in the EU's overall approach to BiH has been the use of conditionality, which was first formulated in the 2003 Feasibility study of the European Commission, assessing BiH's capacity to implement a SAA which would be the next level of a kind of "preparatory Europeanization". In June 2003 at the Thessaloniki European Council the SAP is confirmed as the EU main policy for the WB. Therefore Community programs were opened to SAP countries along the lines established for the participation of candidate countries, and SAP countries were allowed to participate in Community agencies, in ways similar to those established for candidate countries³⁴. The endorsed Thessaloniki Agenda represented a crucial political signal from the EU implicitly to BiH by inviting all the countries in the region to start the "adaptation" process in line with other potential candidate countries. In the same year, another major instrument of Europeanization is implemented: the European Union Police Mission

33. Adopted with the Council Regulation (EC), n° 2666/2000 of 5 December 2000. www.ec.europa.eu

34. European Commission, DG Enlargement, Potential candidate countries. http://ec.europa.eu/enlargement/potential-candidates/bosnia_and_herzegovina/relation/index_en.htm

(EUPM) is launched as the first European Security and Defense Police (ESDP) mission. EUPM is part of the broader rule of law approach in BiH and in the region. It was established to replace the UN's International Police Task Force (IPTF). EUPM aimed to establish a sustainable, professional and multiethnic police service in BiH, operating in accordance with best European and international standards³⁵. This is achieved through mentoring, monitoring, and inspecting in particular with regard to the fight against organized crime and police reform. In 2004 the EU decides also on the first European Partnership for BiH, another important step towards Europeanization. At the same time, EUFOR ("Althea" operation) replaces NATO's SFOR mission. EUFOR deployed a robust military force at the same force levels as SFOR - 7,000 troops – to ensure continued compliance with the DPA and to contribute to a safe and secure environment in BiH. Key supporting tasks are to provide support to the ICTY and relevant authorities, including the detention of ICTY indictees, and provide the security environment in which the police can act against organized crime³⁶. This moment visibly marks the leading role taken by EU in the entire reconstruction process of BiH.

2005-2009. BETWEEN HOPES AND DRAWBACKS – THE SIGNATURE OF THE SAA

The major event that marks this stage is that in November 2005 the SAA negotiations are officially opened in Sarajevo. Also, in 2005 the negotiations for police reform, one of the main points in EU conditionality started. In this process the HR Lord Paddy Ashdown had an important role, using the Bonn powers in several occasions in order to un-lock the nationalist resistance to any change of the divided police forces. Next, in 2006 the first Reform Process Monitoring (RPM) meeting is held replacing the Consultative Task Force, making a new step towards the so-called "local ownership of the stabilization process". Also, the 2006 general elections raised hopes with regard to a new impetus for the reform process. At the same time, the election campaigns holding political elites and public occupied, stalled the possibility of compromise. Finally, the outcome of the 2006 elections returned old ethnic principles, especially with the rise of Milorad Dodik in RS. The hope that focusing on EU conditionality will soften nationalistic outbursts had proven unrealistic. In the same year, a decision of the ICJ added fuel to the fire. In its judgment on a case filed by BiH vs. Serbia and Montenegro in 1992, the court decided that genocide had been committed in Srebrenica in 1995 with the involvement of the armed forces and police units of the RS. The judgment was used by the political opponents to support their arguments and block a compromise with regard to the restructuring of the police in the country³⁷. This overshadowed the hopes put in the recent development towards EU. The year 2007 was again crucial from many perspectives. The same year, Visa facilitation and readmission agreements with the European Community were signed. Moreover, in late 2007 Bosnian authorities accepted a reform package

35. Ibidem.

36. Ibidem.

37. Roberto Belloni, *State Building and...*, Routledge: London and New York, 2007, p. 16.

as a result of the EU's decision to authorize an SAA. In this regard, police reform in late 2007 faced its most profound political crisis since the signing of the DPA. The crisis was triggered by the Bosnian Serbs' refusal to accept procedural rules limiting ethnic vetoes and a plan to create a single police force in the country. Bosnian Serbs feared that the first proposal would marginalize them in state institutions, while the second one would lead to a loss of autonomy for their self-governing RS³⁸. The crisis was solved when the EU agreed to initial an SAA in exchange for the acceptance of procedural changes and of an action plan phasing in the implementation of police reform. This marked a huge backdrop in reform.

The year 2008 is important because the Visa liberalization dialogue was launched. This is another reward aimed at Europeanization, this time with effects on ordinary citizens in the region. European Commission clearly presented the roadmap setting out benchmarks for visa liberalization. In February 2008 Stability Pact's competences and activities were transferred to the Regional Cooperation Council (RCC), a new institution under regional ownership, which gives a new incentive in the entire region for coordinated reform which established its headquarters in Sarajevo. Another crucial event takes place this year, in February when BiH and the EC sign the financing agreement for the instrument for pre-accession assistance (IPA) 2007 National Program and a new European partnership is adopted by the Council. IPA replaces the former pre-accession instruments: PHARE, ISPA, SAPARD and CARDS. The major objective when designing the IPA was to simplify all pre-accession assistance *into a single framework for both candidate and potential candidate countries, thus facilitating the transfer from one status to another*³⁹. This is followed by the signing of the Interim Agreement on trade and trade-related issues which enters the same year into force. The purpose of support under the IPA program is to help candidate and potential candidate countries and territories to progress towards fully meeting the Copenhagen political and economic criteria as well as adopting and implementing the EU *acquis*. Looking at all the EU funds that were offered to BiH, we can clearly see that the amount increased every year, and only in 5 years the total amount almost doubled (as shown in table 1). From this moment on, as an official "potential candidate country", Bosnia is allowed to finance projects under the first two IPA components - *Transition Assistance and Institution Building* and *Cross-Border Cooperation*. The eligibility for the three advanced IPA components will be conditional on Bosnia's acquisition of EU candidacy status and its implementation of a Decentralized Implementation System, streamlining administrative capacities in order to autonomously manage projects and disburse funds with only ex post Commission controls. The priorities for IPA action for Bosnia are set in the 2008 European Partnership. So we are dealing here with an essential mechanism of Europeanization that embodies the mechanism of "reinforcement by reward". Yet, EU funds seemed not to be the efficient driving force in BiH.

38. Vedran Dzihic "Prospects for the Europeanisation of State-Building Efforts in Kosovo and Bosnia", *Foreign Policy in Dialogue*, vol. 8, Issue 23, Trier, November 2007.

39. Delegation of the European Union to BiH, EU Financial Assistance in BiH - <http://www.delbih.ec.europa.eu/>

TABLE I.

EU FINANCIAL ASSISTANCE IN BiH, 2007-2012, (BY THE EUROPEAN COMMISSION)⁴⁰

Component	2007	2008	2009	2010	2011	2012
Transition Assistance and Institution Building	58,1	69,8	83,8	100,6	102,6	104,7
Cross-border Cooperation	3,9	4,9	5,2	5,3	5,4	5,5
TOTAL	62,1	74,8	89,1	106,0	108,1	110,2

2009-2011 – STALEMALE AND CRISES TOWARDS FUTURE ENLARGEMENT

The year 2009 unfortunately showed once again that BiH was not able to achieve substantial progress for a future integration. The year was dominated by the intense preparations for the Butmir process which was aimed at profound constitutional reform (also called Dayton 2) which ended as a diplomatic failure.

Unsuccessful negotiations over constitutional reform are a paradigmatic example of reactive and insufficiently coordinated between the national and the international approach to addressing key problems in Bosnia. The Butmir negotiations have from the very beginning led into a *cul-de-sac*: proposals of a minimal constitutional change and - according to ideas put forward by Carl Bildt - a rapid transformation of the OHR into the EUSR, failed⁴¹. Political elites were given the possibility of media propaganda and ethno-national promotion through the temporal break in the negotiations process⁴². In March 2009 Valentin Inzko became the new HR/EUSR, trying to bring a new impetus in BiH's reform. In May 2010 the European Commission adopted a proposal enabling citizens of Albania and BiH to travel to Schengen countries without needing a short term visa. This was considered as an important success, but it was shadowed by another backdrop, showing lack of coordination and coherent adaptation to EU conditionality. Soon after, vivid debates about withdrawal of visa liberalization dominated some EU member states. In September 2010, the RS National Assembly unilaterally adopted its own state property law, which further undermines prospects for a sustainable agreement on state property. In the same month, the House of Peoples failed to adopt the Law on the population and household census, a bureaucratic measure with important political effects. This failure affects very much the country's evolution towards EU because policy planning in BiH as a whole is impeded by the lack of an up-to-date population and household census.

40. http://ec.europa.eu/enlargement/potential-candidates/bosnia_and_herzegovina/financial-assistance/index_en.htm

41. Vedran Dzihic, "Europeanization and new constitutional solutions - a way out of the vicious crisis cycle of crises in Bosnia and Herzegovina", in *The Political Science Research Center*, available at http://www.cpi.hr/en-10665_bosnia_and_herzegovina_how_to_come_to_a_sustainable_solution.htm

42. Ibidem.

Another important event after this was that on 3 October 2010, general elections were held for the Presidency and the lower chamber of the Parliamentary Assembly of BiH (the 'House of Representatives'). Voters in the Federation elected 98 deputies in the Entity's House of Representatives, ten cantonal assemblies and two representatives (one Bosniak, one Croat) to the tripartite state Presidency. Voters from Republika Srpska elected 83 deputies to the Entity's National Assembly and one representative to the tripartite state Presidency, one Entity President and two vice-presidents. On one hand, the elections were assessed by the OSCE/ODIHR as being generally in line with international standards for democratic elections and as representing further progress for BiH⁴³. On the other hand the prospect of elections and media attention reinforced the tendency of political parties and government officials on all sides to engage in nationalistic rhetoric. During the pre-election period, politicians from RS frequently challenged the territorial integrity of the country. Meanwhile, some political leaders from the Federation linked the establishment of RS to war-time massacres. Leaders in RS frequently criticized State institutions, competences and laws. They remained opposed to strengthening State-level competences, including in the context of the Interim Agreement (IA), in particular by delaying the establishment of a State aid authority. This showed once again that there is a low level of the domestic endorsement of reform towards a future EU integration and that building a strong and stable democratic "political community" is still an unachievable goal for BiH political parties. Following the elections from 2010, the representatives of three ethnic peoples were unable to achieve an agreement to form a central Government, so the country faced one of its biggest governance crises — struggling for more than 16 months without Government. In June 2010 the EU-WB Summit in Sarajevo was another diplomatic failure because there were few officials attending the event (from both sides) and there were no political commitments, showing the disappointment of all sides regarding the evolution of the region towards EU integration.

Consequently, in March 2011, the European Council set out three conditions for the entry into force of Bosnia's SAA which all imply constitutional reform: the adoption of the State Aid Law, the adoption of the Census Law, and an amendment of the Constitution to bring it into compliance with the European Convention on Human Rights (ECHR), the so-called Sejdic and Fincci case. These are the main benchmarks of reform required by EU conditionality in BiH⁴⁴. Of these four conditions provided by the EU for signing the SAA, the police reform has been the key stumbling block. The first half of year 2011 was primarily dominated by the failure of Bosnia to meet the conditions for closure of the OHR, including addressing state and military property ownership issues and implementing constitutional reforms, which has prevented BiH from submitting an application for membership to date⁴⁵. EU had early stated that Bosnia could not submit an application for

43. www.oscebih.org

44. EU-Western Balkans Summit Declaration <http://www.cespi.it/STOCCHIERO/dossierBalcani/dich-Salonic-co.PDF>

45. <http://daily.tportal.hr/124423/Press-Bosnia-EU-relations-put-on-hold.html>

membership until the OHR has been closed. The second part of the year 2011 was marked by another strategic change in the institutional arrangement of BiH — from September Ambassador Peter Sørensen was appointed by EU High Representative/EC Vice-President Catherine Ashton as the Head of the EU Delegation to BiH and by the decision of the Council of the EU of 18 July 2011 as the EUSR in BiH. This put an end to the double-hatted role of the OHR.

Although ratified by all member states, the entry into force of Bosnia's SAA, the most significant step in Europeanization, has been delayed due to the fact that Bosnia has yet to make the required constitutional amendments. France was the last country to ratify Bosnia's SAA in late 2010. After that, the SAA, as one of the main milestones towards Europeanization, should have gone into effect within 40 days, but this did not happen because Bosnia failed to adopt the necessary amendments to its Constitution. Bosnia has not yet adopted a law on state assistance as the authorities in the Bosnian Serb entity are against it. RS insists that the issue be regulated exclusively on the level of entities. There is also no agreement on census because authorities cannot agree whether religion and nationality should be part of the census questionnaire. As a brief conclusion of this description, the negotiation process between EU and BiH lasted much longer than it was predicted and it was confronted with unforeseeable obstacles. (as depicted in table 2). To sum up, in BiH the institutional and political crisis of the last three years (2009-2011) has been initiated by the discussions and bargaining concerning the reform of the constitutional settings in the country. The Serb representatives were not ready to accept radical changes to the Constitution that would bring into question the existence of RS, for the sake of the country's integration into the EU⁴⁶ which explains the delays of fulfilling the EU conditionality. This shows a very low commitment towards local ownership. It also shows that in BiH there is no stable network of agents of change for implementing EU related reforms which implies that the view that "all reforms must be externally driven,, was considered legitimate.

TABLE 2.
BiH'S TIMELINE TO THE EU (EDITED BY THE AUTHORS)

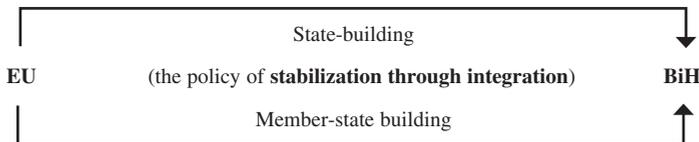
Phases of the SAA for BiH	Period
SAA Feasibility Study	Nov 2003
SAA negotiation process started	Nov 2005
SAA signed	June 2008
SAA implementation	Ongoing (should have finished in 2011)
Application for membership (gaining candidate status)	-

46. http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/03/10/feature-01

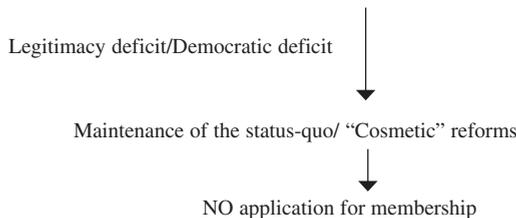
The Limits of EU's Integration Strategy in BiH. Dangers of overlapping political experiments

After going through this chronological overview of the main events that marked EU and BiH relations towards Europeanization, the question that needs to be addressed in the analytical part of the article is the following: *How democratic was the attempt to Europeanize Bosnia and who should be held accountable for its outcomes after almost two decades-long efforts?* The analysis concentrates at this point on the ways in which the EU's instrument of conditionality was increasingly weakened in the course of the negotiation process, ultimately losing its credibility in Bosnia and leading to stalemate of reform and deepening ethnicization, focusing on the main actors and their role in making the Europeanization process less democratic. Our main argument is that Bosnia's deadlock is marked by two political experiments put together (on one hand EU's 'double-hatted' strategy of stabilization through integration and on the other hand Bosnia's post Dayton institutional design itself) which result in a third one (Europeanization without democratization) which is characterized by numerous un-intended consequences, stagnation and delayed reforms (the conceptual scheme of this argument is depicted in table 3). Both these experiments have had along recent years a direct impact on deteriorating the quality of democracy in BiH and both involved national and international actors altogether.

TABLE 3.
 BiH'S EUROPEANIZATION AS THE RESULT OF OVERLAPPING EXPERIMENTS
 (EDITED BY THE AUTHORS)



Who?	OHR/EUSR (until 2011)	constituent peoples – ethnic elites
How?	External pressure Imposition of reforms	Local ownership of reforms
The outcome	EU conditionality as a dictate	EU conditionality as deepening Ethnicization



We shall focus in the last part of this section on two of what we consider as the main factors of EU's integration strategy in BiH — a legitimacy deficit embedded in what we call “the Dayton effect” (which actor is more legitimate to induce the expected change and using the DPA as the ‘scape-goat’ for all governance crises) and conflicting top-down — bottom-up pressures that made local institutions resist change and develop strategies for maintaining the status quo (external pressure and imposition or local ownership and ethno-nationalism).

THE PERPETUAL CRISIS OF GOVERNANCE — ‘THE DAYTON EFFECT’ — WHO GOVERNS WHAT?

During the last 14 years in focus we observed that BiH was and continues to be subject to a perpetual crisis of governance. One of the sources for this crisis is the legitimacy deficit, as no answer has been yet offered to the question — *who should be in charge of Europeanization in BiH?* As many have argued, this legitimacy deficit is embedded in Annex 4 of the DPA (the Constitution of BiH). More than fifteen years after Dayton, BiH is a country with a constitution that segregates its ethnic communities to ensure peace but prevents the emergence of an integrated polity, run by an International administrator (the HR). As described in the introductory part, the DPA (also named Dayton hereafter with reference to the legal document, not the US city as a location) created a severely fragmented state. A logical consequence would be that Europeanization of BiH cannot be otherwise but fragmented, with numerous ups and downs, detours and delays. As a result of several conflicting forces that do not share a common vision about the state itself (both in internal politics and inside the international community), there is little chance to implement these structural reforms in a unified manner. Limited statehood means limited democratization which in the end brings about limited Europeanization and the DPA-created legitimacy deficit is one the key explanations for the lack of substantive reforms. The severe polarization between the two entities (the Federation and the RS), the three national communities (Bosniaks, Croats, Serbs) and the (non-functioning) central government, entailed by the DPA as well as the ambivalence of the HR/EUSR till 2011 are the main ingredients of BiH's perpetual crisis of governance.

It is acknowledged that the federal arrangement entailed by Dayton was imposed by the international community in order to stop the war. External intervention to impose a Constitution was considered legitimate only in the conditions of war. But the clock started ticking and immediate reform was required. This situation could not be prolonged for decades, especially in the EU Enlargement framework. The “lack of social ownership” over the problem solving capacity of the main democratic institutions was extended in the case of BiH for almost 2 decades after the end of the war, which had detrimental effects on the acceptance by the local population, and thus on the viability of the state itself. The EU enlargement negotiations put this problem in a different light because in order to be a future EU member state one needs to be first a sovereign state and this opened a Pandora's Box in the case of BiH, especially in the field of legitimacy, which is an essential aspect

of democratization. As we have seen, since 2005 the issue of changing the Dayton order became the red thread of Europeanization.

In this context one of the most important variables directly connected with the DPA is BiH's limited and contested statehood, embedded in the DPA. The main characteristic of the present political system in BiH is the lack of identification with the state and the poor performance of state and local institutions. Absence of elementary institutional stability, erosion of their credibility, loss of confidence in the state, the law, institutions and procedures are only some of the indicators of the depth of BiH's constitutional and institutional crisis. These are the main arguments that pointed to the necessity of changing the Constitution as the central reform for Europeanization to take place. EU should have taken the leading role in this respect, but the problem is that in this complicated political setting EU seems to be part of the problem rather than the solution. Since 2008 (when the SAA was signed) BiH is stuck in a paradoxical situation: in order to cope with Europeanization, it fundamentally needs an agreement for a new constitution that would replace the DPA, close the OHR and make the country self-sustainable in order to be able to apply for candidate status. But because of the way the political life is structured by the DPA itself (offering ethnic veto rights to all the three constituent peoples), the Constitution cannot be reformed, because there are no instruments or incentives that would lead to its change. So who should cut this Gordian knot? Who should change BiH's DPA that determines the non-functional state structure which blocks the the road to the EU? On one hand, the three constituent peoples cannot do it because they have diverging views about how the Bosnian state should look like. On the other hand, the international community or EU representatives are not legitimate to impose a new Constitution (because such an external imposition would be undemocratic as this is a matter of domestic affairs). This ongoing debate has taken centre-stage in recent years, and now the issue of reforming this constitutional framework, towards both a simplification of the political institutions and a more clearly 'shared political community', became a priority for EU conditionality in BiH. In this context, an integral element of the transition strategy has been constitutional reform to overcome the friction that has characterized the complicated Bosnian institutional structure under Dayton, whereby a representative of each of the three ethnic groups has veto power over any proposed legislation. The special federal structure of BiH, divisions of authority between state and lower levels of the government, institutions and veto-mechanisms must go through a comprehensive reform, which will in turn make BiH a country that is ready to join and equally participate in the EU. Unsuccessful negotiations over constitutional reform, especially the last negotiations in Butmir end of 2009, are a paradigmatic example of reactive and insufficiently coordinated international approach to addressing key problems in BiH. The Butmir negotiations have from the very beginning led into a *cul-de-sac*: proposals of a minimal constitutional change and — according to ideas put forward by Carl Bildt — a rapid transformation of the OHR into the EUSR were of purely cosmetic nature and were not sufficiently well designed and left the impression of a personally motivated ad hoc process. The OHR was excluded from this process, while

political elites were given the possibility of media propaganda and ethno national promotion through the temporal break in the negotiations process⁴⁷.

In BiH, EU was and continues to be placed in this paradoxical position — using democracy against democracy, in the position of being both the actor who imposes and the one who verifies what it has been imposed. The role of EU in BiH can be summarized as follows — employing policies of state-building through instruments of EU conditionality inside a process marked by a huge legitimacy deficit. As Dzihic and Wiesser write, “in the Bosnian case democracy rather tends to become part of the problem than part of the solution. This is primarily the case because democracy addresses and empowers the rights, interests, and aims of the dominant ethnic group and makes it much more difficult for the ethnic and other minorities to realize their rights⁴⁸.”

An integral institution to the so-called ‘Dayton order’ in Bosnia has been the OHR, which under the so-called “Bonn Powers” has made nearly 900 decisions over thirteen years, e.g. enacting laws and removing elected officials⁴⁹. This is the other source for the legitimacy deficit. According to some, these decisions constitute “the glue” that holds Bosnia together, while according to others they are a dictate over internal political affairs. The legitimacy of these powers has been repeatedly challenged on the grounds that they are undemocratic and dictatorial, compelling the international community and the EU to reconsider their use⁵⁰. In its position as the ‘guardian’ of the DPA, the prolonged presence of the OHR makes BiH an externally controlled democracy. Its legitimacy and its use of the “Bonn powers” are based on the DPA so his removal is directly linked with the reform of the Constitution, which is being postponed for the last 5 years. From this point of view we argue that particularly this urgency worked against the implementation of reforms in BiH. Due to its special post-war situation, there was no time for prioritization — first, consolidated democratization (state building), second Europeanization (EU conditionality), so the direct outcome were perpetual crises of governance caused by a deepening legitimacy deficit. State building took place at the same time with member-state building and EU played a double role — enforcing democracy and ‘controlling’ democracy in Bosnia. By viewing the OHR as an institution that encompasses both elements of international and domestic ‘actorness’, we observed that especially in the 2004–2007 period the Office was exposed to political pressures from both domestic and international actors, making it an intermediary in the Bosnian politics. This phenomenon impeded on the democratization of the country.

47. http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2009/10/22/feature-01

48. Vedran Dzihic, Angela Wieser, “The Crisis of Expectations – Europeanisation as “acquis démocratique” and its limits. The case of Bosnia-Herzegovina and Serbia” *L’Europe en formation* no 349-350 automne-hiver 2008, p. 238.

49. Mathew Parish, “The Demise of the Dayton protectorate”, *Journal of Intervention and State Building* 1:1, 2007, pp. 11-23.

50. Bart M.J. Szweczyk,, p. 35.

In this respect, the other issue that dominated the agenda since 2007, also directly connected with Constitutional reform was the removal of the OHR. Even though EU has aimed since 2006 to close the OHR and terminate the Bonn Powers, but maintain the presence of an EU Special Representative (EUSR) to guide Bosnia towards EU accession, this process failed. Underlying the transition policy since 2005 has been the assumption that "the soft power of EU accession" will be attractive enough to pull together the various Bosnian political actors, maintain stability and facilitate progress. Pursuing the same strategy of transition, the 'EU member states of the Peace Implementation Council (PIC) Steering Board reiterated that: "an EU membership application by BiH cannot be considered as long as the OHR exists"⁵¹. This premise has been disproven by the facts when in 2008 the SAA is signed even though the OHR's mandate has been extended. This lack of consistency in respecting EU conditionality and the principle of "changing rules during the game" undermined EU's influence as a normative power and empowered the role of local politicians as "spoilers" for reaching a democratic consensus. As Roberto Belloni puts it, "top-down international imposition created domestic dependency"⁵². With his own arguments, since 1998 Bosnia has been run as a semi-protectorate. Because of that, local politicians have regularly maintained an intransigent attitude, avoided inter-ethnic cooperation and accommodation, and then blamed international organizations for their own failure to make good on their electoral promises⁵³.

The argument we present here is that as long as Dayton continues to be the reference point for democratization and Europeanization of the country by prioritizing the rights of dominant ethnic group, rather than of the individual citizens, it will be impossible to move beyond the present situation and towards the EU. What we call "the Dayton effect" is precisely this political use of the DPA inside a never-ending "blame game" of all against all, which leaves BiH entrapped in the 'vicious circle' of an un-democratic rule which cannot be changed in a democratic manner. This situation is particularly challenging because here all actors of Europeanization (nationals and internationals) have multiple/even conflicting identities, which are sources of ambivalence and ambiguity. As Juncos also argued "representatives of international community have a negative impact on the balance of power among local conflict parties, thus extending the conflict. EU enlargement practices have also placed a strain on consensual politics and the process of democratization"⁵⁴. This interdependence between internal and external influences over BiH's future also shows the responsibility of EU in perpetuating this lack of governance because it has *de facto* control over the international governance in Bosnia.

51. Communiqué of the Steering Board of the Peace Implementation Council, 19 November 2009. Available at: http://www.ohr.int/pic/default.asp?content_id=44119

52. Roberto Belloni, *State Building and...*, Routledge, London and New York, 2007, p. 201.

53. Ibidem, p. 7.

54. Ana Juncos, "Member state-building vs peacebuilding. The contradictions of EU state-building in Bosnia and Herzegovina", *East European Politics*, 29(1), pp. 58-75, 2012.

The undemocratic character of BiH's Europeanization stems also from the institutional design itself - politicians are not accountable in front of citizens but in front of the Dayton-created ethnic groups, in a fierce competition for power and supremacy. The same type of power competition that lacks legitimacy can be observed also at the level of International community institutions (OHR-EUSR, the UN, the European Commission and the Council of the EU). A tentative conclusion at this point is that Europeanization cannot be a democratically legitimized enterprise in such a surrounding.

EXTERNAL PRESSURE AND IMPOSITION OR LOCAL OWNERSHIP AND ETHNO-NATIONALISM?

Observing the chronology of the EU-BiH's relations since 1997, we identified a mixed strategy employed by the EU, which required both increased external pressure and increased local ownership under the EU conditionality toolkit, the two opposing forces taking place at the same time. EU's strategy in BiH (stabilization through integration) had an internal contradiction which created opposing forces of change — in order to bring stability it made use of enforced external pressure (through the OHR that advanced EU-related reforms overriding local decision-making bodies that were not willing to agree and implement the reforms) and in order to foster a future EU integration it required increased local ownership and direct responsibility of local policymakers in the reform process. Even though the official EU position is that its policy in BiH has changed since 2007 from a more coercive policy of imposition of reforms through a softer mechanism of enhancing local ownership (especially in the context of the debate about the removal of the OHR previously discussed), we argue that in fact the two approaches overlapped and took place at the same time until 2011, when the EUSR was transferred from the OHR to the EU Delegation. The failure of the Butmir process, where both tendencies came at the center of debate was an illustration of what these two diverging tendencies produce – diplomatic statements, but no concrete action. This hybrid attempt to stabilize the country showed the lack of a coherent strategy in the efforts of EU to adapt to the peculiarities of a post-conflict Europeanization as the one provided by BiH. This perspective follows the conclusions of Ana Juncos who argued that, in effect, EU's enlargement policy overlapped with its state-building agenda, and it was undermined by a series of internal contradictions: between state-strengthening and state-weakening dynamics associated with the EU's intervention; between the external promotion of EU demands and local ownership⁵⁵. Our second argument is that local ownership brought in BiH's political life an incentive for deepening ethnicization of all major reform debates and EU integration has been instrumentalized by actors as a rather divisive as an integrating factor.

The official EU rhetoric states that democratization of BiH required increased local ownership over reforms. In the turning point year of 2006, when 'the April package' regarding Constitutional reform collapsed, the local "ownership" approach prevailed — and Bosnia's

55. Ibidem, p. 3.

slide toward stagnation has proceeded uninterrupted since. The reforms arduously agreed to — mostly by consensus, not by imposition of HR — have steadily unraveled, principally under determined assault by the RS Prime Minister, Milorad Dodik. After 2008 it has been clear that the visions about Bosnia's statehood are irreconcilable, so the expected changes cannot result from an agreement of the three peoples of BiH. This posed a fundamental question for the international community —how to break BiH's deadlock? Internationals are not legitimate anymore to do so and they switched their policy to the increased local ownership approach following the stance that Europeanization has no logic if it is "imposed" from outside.

Conversely, these requirements for empowerment of local elites were backed by the call for increased external pressure in order to unblock the system. This created in BiH a unique political phenomena named by Ana Juncos "Europeanization by decree"⁵⁶. The 5 year long failed police reform is a good illustration of how Europeanization was "imposed". This proved not to be a good strategy for BiH's profound transformation from a semi-protectorate to a future EU member state and sovereign country. The diplomatic use of force (as witnessed in the police reform "saga" brokered by HR Ashdown or in the Butmir process for changing the Constitution) does not bring desired results and does not create space for cooperation and compromise between the zero sum game ethnic actors. This strategy was based essentially on the will of the elites and it did not involved citizens. The expected changes in line with EU conditionality cannot result but from an agreement of the three peoples of BiH. Some alarmist voices even argued that were BiH left to itself, activities towards those systemic changes would quickly lead to an 'outbreak of renewed armed conflict'. This understanding of the situation presented the role of EU and the "iron fist" of the HR as the only legitimate sources of change in order to avoid the ethnicization of all the reform attempts.

As a direct consequence of *the Dayton effect* previously discussed, local elites representative of the three main constituent peoples (Bosniaks, Croats and Serbs) portray in their discourses all these reform measures as a sort of "dictate of the EU" in order to underline their imposed character and to avoid taking responsibility. We know from the theoretical background that Europeanization is impossible without local input and that democratization cannot function through 'dictates'. If Europeanization is perceived by local actors as a "dictate", than no true transformation can be made, because it lacks legitimacy. Conditionality or "EU's Democratic Dictat" as Chandler describes it — tackles exactly this tension between the vertical (EU driven) vs horizontal (local ownership) pressures for change. Due to the vertical and hierarchical nature, the EU conditionality also showed strong coercive characteristic — i.e. if comply then give benefits, and if not, then stop or withdraw benefits. Because of the coercive nature, it increasingly aroused the doubts about 'the legitimacy of the EU conditionality', especially as to the interference in the applicant interior affairs (difficulty of police reform, a unique case in EU enlargement negotiations).

56. Ana Juncos, "Europeanisation by decree? The Case of Police Reform in Bosnia", *Journal of Common Market Studies*, 49, n° 2, 2011, pp. 367-389.

The talks on the police reform were used as an opportunity for the rise of ethno-nationalist discourses of all the 3 entities' political elites. The RS and its police were continuously described by the leading politicians from the Federation as “perpetrators” and “product of genocide”, utterly denying the legality of the existence to the RS⁵⁷. At the same time, Banja Luka repeatedly emphasized its attempt to hold a referendum on the secession of the RS, denying the legitimacy of the Bosnian state itself⁵⁸. And even though police reform was not in fact implemented (only 2 laws were adopted in the Parliament in this regard), the SAA with BiH was still signed in 2008, showing that EU conditionality is not a technical but a rather political bargain that leaves a lot of space for ethnonationalist resistance to change. The consequence of less external pressure (less use of the Bonn powers since 2007) and increased local ownership was increased ethnicization. In this context, local ownership has proven nothing but an empty concept. In replace, local corrupt politicians have fostered violent ethno-nationalist propaganda, with aid from BiH neighbors' Serbia and Croatia or the international Islamic community. As Dzihic argues, “the course of European integration of Bosnia and Herzegovina has so far clearly shown that the ethno-national elites consider the protection of national interests (and therefore their power structures) more important than — at least so far — diffuse and insufficiently specific promises of the EU”⁵⁹. What we argued is that the consequence of the increased local ownership approach was the deepening ethnicization of BiH's internal politics which was counterproductive to Europeanization. The dysfunctional “entity voting” is a means of ethno-national blockade of state institutions, which must be reformed and different democratic mechanisms for the protection of national interests must be found, which will not endanger the functionality of the state. Democratization is based on consensus building and it cannot succeed when it is dominated by ethnicization, a tendency to deepen the divisions. The increased local ownership approach did not concentrate on consensus-building, the effect being more ethnic division and less democratic practices.

CONCLUDING REMARKS

Experimenting Europeanization without democratization — Some Lessons not yet learnt

The article tried to offer an outlook for further research, focusing on the relevance of the Europeanization of BiH to the broader impact of the WB integration in the EU, that

57. Vedran Dzihic, “Prospects for the Europeanisation of State-Building Efforts in Kosovo and Bosnia”, *Foreign Policy in Dialogue*, vol. 8, Issue 23, Trier, November 2007, p. 25.

58. <http://daily.tportal.hr/105384/Dodik-Serbs-are-not-willing-to-sacrifice-RS-for-EU.html>

59. Vedran Dzihic, “Europeanization and new constitutional solutions - a way out of the vicious crisis cycle of crises in Bosnia and Herzegovina”, in *The Political Science Research Center*, available at http://www.cpi.hr/en-10665_bosnia_and_herzegovina_how_to_come_to_a_sustainable_solution.htm

needs to be further on validated with extended empirical findings. The aim of the article was to go beyond all "declared" intentions regarding the impact of Europeanization on the WB by reflecting on some lessons learnt in the special case of BiH.

After the dissolution of Yugoslavia and especially after the Thessaloniki Summit in 2003 EU created a "laboratory" of foreign policy in the WB in order to test and validate the best policy solution for integrating the Balkans in the "European family". By reflecting on the way BiH responded and adapted to EU's pressure in the last decade, one may draw some important lessons about the viability of EU's strategy in dealing the overall WB region and ways to overcome a period marked by international state-building, post-war re-construction and un-finished democratization. Based on the century-long "powder keg of Europe" image, a sort of 'Balkan exceptionalism' paradigm started to evolve, which could be identified also in the Enlargement policies. On one hand, dealing with the WB required EU to "rethink" its concept of enlargement and its criteria of evaluation, which could not simply be a replica of the pattern successfully implemented in Central Europe (this is how the SAP framework was created). On the other hand, we tried to explain that too much "contextualization" and empowering of corrupted local elites may lead to a deepening crisis and maintenance of legitimacy deficit. In other words, Europeanization without democratization is an unsustainable project. The top down and bottom up pressures for reform shall be sequential and not taking place simultaneously as it was the case of post 2008 BiH.

One of the main conclusions of the article is that EU as a normative power had structural difficulties in dealing with 'exceptions' and forms of resistance to compliance to EU norms. Inside this process, adaptation pressure is essential, especially taking into consideration the experimental nature of Bosnia's Europeanization. The shift from a pre-accession agenda to an enlargement/Europeanization agenda, overcoming the prevailing logic of ethnic exclusion, has failed. In order to better adapt to studying the WB realities and outcomes of Europeanization, we argued that the theoretical framework needs to include some insights about the "lack of convergence" and to reflect more on how should EU react to various 'exceptions to the rule'. We thus tried to explain the lack of progress in Bosnia through the concept of policy experiments. Given the lack of progress in the adoption of reforms, the case of Bosnia raises awareness on the 'transformative power of Europe' and on the short- and medium-term incentives provided by the EU were rather low, which end up by weakening conditionality. As a general conclusion we would argue that BiH needs a different view, a different logic in its symbolic and institutional interactions with EU: the process of Europeanization must be recognized as a "genuine necessity" of BiH (within all its entities) and its citizens, and not to be perceived as a "dictate" or something internationally imposed. Empowering only the 'ethnically driven elites is not a solution to democratize the process. The model of so-called 'Europeanization by decree' is not sustainable and the present situation of BiH is a good illustration of this. This is a lesson not yet learned in the case of EU strategy for Macedonia or Serbia for example. A state which is contested from within cannot

negotiate with the EU in one voice and the reforms remain only at the demagogical level. ‘The Dayton effect’ created the disengagement of all parties. Lack of success in the process of democratic consolidation and reforms resulted in frustration from both side of the population and the international community in BiH, and this gave space for a rising ethnicization of the debate by the local elites.

The article tried to discuss the Europeanization of the WB (with a focus on the special case of BiH) as a phenomenon that stays under the signs of policy experiment and of various “exceptions to the rule” which, as we have argued, has a direct impact on the democratic character of institution-building in this area. One cannot say that an experiment is a failure as one does not hold evidence of previous similar cases that would entitle him to make such a normative judgment, with a clear distinction between what is a successful and a failed model. Nevertheless, one can extract numerous lessons learned from an experiment and its visible results. As the experience with the accession of CEE states and mostly Romania and Bulgaria into the EU confirms, the introduction of “intermediary rewards”, such as substantial economic aid, greater access to EU markets, and visa-free travel is important but not sufficient to strengthen the push for reforms and the viability of pro-EU parties. In this regard, we argued that the credibility of EU conditionality in BiH necessitates an active presence and careful distribution of rewards, because simply requiring more local ownership may bring more ethnicization and the only reaction to this is increased external pressure and HR impositions, which again are detrimental factors for democratization.

Given the institutional complexity of post Dayton BiH and the ‘double-hatted role of EU’ (so both as creator of external incentives and guarantor of domestic stability and governance, being in charge of both the OHR and the EUSR that still determine BiH’s domestic affairs), the article argued that both the Bosnian government and the EU have struggled during this failed reform process to ‘speak with one voice’, but did not fully succeed, which has diluted the EU’s impact in BiH and diffused the energies of Bosnian institutions against Europeanization. Without building a solid political community EU policies cannot be adopted to strengthen reform in BiH. Therefore we identified these contradicting tendencies of both external imposition and increased local ownership as responsible for BiH’s delayed Europeanization.

The other general conclusion is that Europeanization is a failed project in the absence of democratization. Looking at the actors implementing the reforms and how legitimate they were in enforcing these reforms as a possible explanation for the outcome, we argue that the source of EU’s mixed strategy and structure of incentives towards BiH can be identified in its internal divisions (both among member states and within European institutions), and its approach which, despite the rhetoric of partnership, is still visibly *top-down*, while starting with 2007 they required strengthened local ownership. We therefore underlined the fact that, despite the revival of EU’s emphasis on partnership (in 2010), the process of European integration shows some of the limits of earlier *top-down policies*. As long as such a process is structured around the idea of the increasing

involvement of the EU in WB with the intent of including this region into European institutions and socializing it by means of European norms, it reflects the same approach to regional development grounded on external initiative that characterized international intervention for the best part of the last decade. This approach makes Bosnia, Macedonia, Kosovo and the other countries of the WB once again recipients of strategies developed elsewhere and not home grown, based on weak governance structures and lacking democratic legitimacy. This policy left BiH in a perpetual crisis of governance at the intersection of these top down and bottom up conflicting pressures. These facts validate our main conclusion that in cases of Europeanization without democratization the mixed strategy employed by the EU (which combined both more external pressure and more local ownership) created institutional blockage and a democratic deficit which compromised the desired reforms. In attempting 'the egg and chicken' question of whether countries first democratize and then Europeanization occurs, or alternatively, that Europeanization drives democratization, we argue that the key domestic power reshuffling which introduces the dominance of legitimate practices must occur before Europeanization can start positively affecting domestic democratization processes.

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