

# Contested Statehood and EU Integration: The Case of Bosnia and Herzegovina

HAMZA PRELJEVIĆ AND MIRZA LJUBOVIĆ



Politics in Central Europe (ISSN 1801-3422)

Vol. 20, No. 3

DOI: 10.2478/pce-2024-0018

**Abstract:** *This article delves into the intricate relationship between contested statehood and European Union (EU) integration, explicitly focusing on Bosnia and Herzegovina (BiH). Since the early 1990s, amidst the dissolution of Yugoslavia and the EU's enlargement efforts, BiH has grappled with challenges to its statehood, which have impeded its alignment with EU requirements. Despite being universally recognised as an independent state, BiH faces internal contestation, evident in its consociational constitutional framework and the divergent nationalist narratives among constituent groups. Moreover, while BiH maintains external sovereignty, it coexists with significant international oversight, complicating its path toward EU integration. The EU's expansion into internally contested states like BiH necessitates a nuanced approach considering the entanglement of Europeanisation and de-Daytonisation processes. This article emphasises the complexity of BiH's governance landscape, where internal dynamics and external influences converge, creating formidable obstacles to sovereignty assertion and governance efficacy. To surmount these challenges, BiH must address internal divisions, foster inclusive governance mechanisms and balance external supervision and internal autonomy. In shedding light on how contested statehood influences the EU's role and policies, the article discusses the concept of 'complex sovereignty', particularly relevant to BiH's context.*

**Keywords:** *Bosnia and Herzegovina, EU integration, Europeanisation, reforms, contested statehood*

## Introduction

The early 1990s witnessed a significant shift in global politics as the Cold War drew close, leading to a profound transformation across Europe and beyond (Gaddis 2006). The collapse of the Soviet Union and the fragmentation of Yugoslavia reshaped the region's geopolitical map, creating opportunities for new states to assert their sovereignty (Conversi 2003). Concurrently, the EU embarked on a mission to deepen integration, enhancing its constitutional, political and economic tools to strengthen its influence and consolidate its position in the region known as 'wider Europe' (European Commission 2002). However, the EU's enlargement into new territories introduced it to complex discussions and situations, including secession movements, the emergence of new aspirations for statehood and disputed territories in its immediate vicinity, setting the stage for our analysis of the challenges of EU integration in the context of contested statehood, with a focus on Bosnia and Herzegovina (BiH).

The complex interplay between statehood, contestation and European integration forms the contextual framework within which the EU grapples with the complexities of its enlargement policy, particularly in the Western Balkans (Belloni 2020; Alpan and Öztürk 2022). BiH stands out as a compelling case study among the countries in this region, encapsulating the intricate challenges associated with the EU's pursuit of enlargement amidst contested statehood.

One of the primary obstacles to BiH's compliance with EU criteria is the persistent challenge of 'contested statehood'. Adopting EU criteria inherently requires strengthening statehood, a position that clashes with the prevailing narrative of contested statehood within BiH. Since the Dayton Peace Agreement (DPA) in 1995, discussions and policies surrounding contested statehood have intensified, making it difficult for BiH to fully adhere to EU obligations. Despite the EU's decision to approve negotiations with BiH, this milestone carries limited significance within the country's milieu. While it represents a significant step in the EU integration trajectory, it fails to address the underlying issue of contested statehood. The threat of secessionism looms large, casting doubts on BiH's prospects for EU integration. This challenge is further complicated because secessionism inherently undermines efforts towards Europeanisation. Unlike previous waves of enlargement, where alignment with EU criteria primarily focused on compliance, BiH is intricately linked to the broader context of state-building. Effective state-building requires a stance against secessionism, further complicating the EU integration trajectory for BiH.

In prior enlargement rounds, the EU predominantly guided applicant countries through the dual transition to democracy and a market economy (Schimmelfennig & Sedelmeier 2005; Vachudova 2005; Grabbe 2006). However, in the context of the Western Balkans, the EU encounters an added layer of complexity in the form of state contestation or contested statehood. This phenomenon

poses a substantial challenge to the mechanisms of Europeanisation, such as conditionality and socialisation, thereby impeding the efficacy of the EU and leading to cycles of mismanaged conditionality and constitutional reform process in BiH (Vachudova 2005).

In the intricate landscape of Europeanisation, particularly within internally contested states like BiH, the EU integration process involves more than mere alignment with EU standards. Europeanisation entails the strengthening of the state through the adoption of EU conditions. In the context of BiH, this journey intertwines with the ongoing process of *de-Daytonisation*, where Europeanisation gradually transforms the original DPA framework to align more closely with EU structures, albeit without necessarily abolishing the entities established by the DPA. For BiH to join the EU, it must upgrade its Dayton-based state system to align with EU standards. It needs to resemble the EU to become a part of it.

This convergence of Europeanisation and de-Daytonisation poses a unique challenge, as it is difficult to disentangle the two processes. Their interdependence is a significant factor contributing to the weakness of reform efforts in BiH, setting it apart from previous waves of EU enlargement. In this context, EU conditions not only necessitate alignment but also demand the reinforcement of statehood.

The primary sources for this research include official documents, policy papers, press reports and the European Commission's annual reports on BiH's progress. The methodological approach employed was qualitative, focusing on analysing non-numerical data. This approach allowed for a comprehensive examination of historical and contemporary issues related to BiH's contested statehood and its implications for Europeanisation and EU integration. The qualitative analysis involved interpreting and synthesising data from diverse sources to provide a detailed understanding of the complex dynamics in BiH's Europeanisation process. Official documents and policy papers offered insights into the legal and political frameworks governing BiH's relations with the EU, including the DPA and subsequent agreements. Press reports offered a contemporary perspective on political developments and EU-related activities in BiH. The European Commission's annual reports were crucial for tracking BiH's progress in meeting EU requirements and assessing the effectiveness of Europeanisation efforts. The primary research questions are: *Can BiH comply with EU requirements despite internal contestation? Why are EU requirements internally disputed if EU membership is a foreign policy goal?*

This article argues that as long as BiH remains contested, achieving compliance with EU conditions and preparing for full membership will be arduous. The intricate dance between Europeanisation and de-Daytonisation underscores the complex journey BiH must navigate toward European integration.

## Thoughts on Europeanisation

The EU's transformative power has been described using various terms, reflecting its enlargement, external relations and global influence. Notable among these are concepts such as the EU as a 'normative power' (Manners 2002), 'soft power' (Nye 1990), 'transformative power' (Leonard 2005) and member state-builder' (Keil & Arkan 2016). These terms are prominent in EU studies and frequently appear in discussions on EU enlargement, particularly regarding the 'Europeanisation' and 'democratisation' of prospective member states. The common thread among these terms is the EU's significant 'peaceful power leverage' rather than reliance on 'material incentives' like military power and intervention.

The concept of Europeanisation has evolved to capture the EU's transformative influence. Europeanisation, which gained prominence in the mid-1990s (Ladrech 1994), examines the EU's impact on domestic changes within member and aspirant states. Scholars have extensively debated its definition (Ladrech 1994; Bulmer & Burch 2001; Hix & Goetz 2000; Cowles et al. 2001; Olsen 2002; Buller & Gamble 2002; Börzel & Risse 2003; Radaelli 2003; Graziano & Vink 2007). Robert Ladrech's (1994: 69) early definition describes it as 'an incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of national politics and policy-making'. Radaelli (2003) later refined this definition, emphasising the processes of construction, diffusion and institutionalisation of rules and norms from the EU level into domestic contexts.

Europeanisation operates through two primary mechanisms: conditionality and socialisation. Reasoning in rationalist theory, conditionality offers economic and political rewards such as EU membership and access to funds in exchange for policy alignment with EU standards. This mechanism is pivotal in driving systemic reforms and aligning national policies with EU requirements. Conversely, socialisation, underpinned by constructivist principles, emphasises the voluntary adoption of EU norms through processes of learning and internalisation. It focuses on EU norms' perceived legitimacy and attractiveness, fostering long-term institutional changes and policy convergence (Schimmelfennig 2012). In practice, the conditionality mechanism dominates Western Balkan countries (WBCs). However, ideally, combining these responses would be optimal for successful Europeanisation.

Europeanisation encompasses the dynamic responses of candidate countries like BiH to the transformative pressures exerted by the EU. Scholars such as Börzel and Risse (2003) and Radaelli (2003) provide valuable typologies to understand these responses, which range from absorption and accommodation to transformation, inertia and retrenchment. Börzel and Risse's typology distinguishes between 'absorption', where minimal changes occur in domestic

processes to maintain alignment with EU norms; ‘accommodation’, involving modest adjustments without altering core features; and ‘transformation’, necessitating significant reforms that fundamentally reshape existing policies and institutions to meet EU standards. These categories illustrate the varying degrees of adaptation and reform efforts undertaken by candidate countries like BiH as they progress towards EU accession. In contrast, Radaelli’s typology adds ‘inertia’ and ‘retrenchment’ to the discussion. ‘Inertia’ describes scenarios where domestic practices diverge significantly from EU norms, reflecting a lack of compliance despite EU pressures. Meanwhile, ‘retrenchment’ signifies active resistance to EU-induced changes, often due to concerns over sovereignty or institutional resistance within the candidate country.

Europeanisation is distinct from globalisation, convergence, harmonisation and political integration. While Europeanisation pertains explicitly to the EU’s impact on candidate countries’ domestic structures, policies and identities, globalisation refers to broader processes of interconnectedness transcending geographical boundaries. Convergence results from European integration, whereas Europeanisation is an ongoing process. The harmonisation of national policies often results from Europeanisation, leading to varying impacts across different states. Political integration focuses on why states delegate sovereignty to the EU level, whereas Europeanisation explores the EU’s domestic impacts.

In the context of the integration process, Europeanisation refers to the gradual adoption of EU norms, rules and policies by candidate countries. This adoption converges national practices with EU standards, adapting domestic institutions, policies and behaviours to meet EU requirements. This process, driven by the dynamics of European integration, provides a comprehensive lens through which to analyse the intricate dynamics of BiH’s European integration process. This framework allows for a nuanced understanding of how EU norms, policies and practices influence BiH’s domestic structures, governance and identity and how BiH’s unique historical and political context shapes its engagement with the EU.

Europeanisation emphasises the normative power of the EU in shaping the legal, political and social norms of the would-be member states. Any country aspiring to join the EU must meet the basic requirements outlined in the Copenhagen criteria. However, compared to earlier enlargement rounds, progress in EU integration for the WBCs necessitates meeting specific requirements under the Stabilisation and Association Process (SAP) (Noutcheva 2006). In the case of BiH, the Stabilisation and Association Agreement (SAA), which is a result of the SAP, serves as a mechanism through which the EU exerts conditionality, requiring alignment with EU norms and standards as a precondition for accession. However, BiH’s implementation of these reforms is complicated by internal contestation and divergent ethnic interests, impacting the effectiveness of EU conditionality.

The response of would-be member countries to the EU's requirements/conditionality is significantly influenced by their degree of sovereignty. In nations with limited sovereignty, the involvement of external actors alters the internal dynamics of decision-making regarding the acceptance of EU-defined requirements. Conversely, when a country's sovereignty is more pronounced and EU-imposed conditions encroach upon sovereign matters, these conditions may face substantial resistance and opposition from political elites. Therefore, understanding BiH's path towards EU membership necessitates considering sovereignty as an essential variable.

Moreover, Europeanisation examines how countries adapt EU policies to domestic legal and institutional frameworks. In the case of BiH, the process of policy adaptation is hindered by the consociational nature of BiH's governance, which grants significant power to ethnopolitical elites within the Federation of BiH (FBiH) and the Republika Srpska (RS) entities. This has led to inertia and resistance to EU-inspired reforms, as evidenced by delays in transposing the EU *acquis* and the persistence of ethnic-based governance structures. Meeting the EU's conditions requires solid and capable state institutions that can effectively transpose and implement the *acquis communautaire*.

Europeanisation also recognises the role of identity and collective memory in shaping a country's engagement with the EU. BiH's fragmented identity politics, rooted in historical narratives and nationalist sentiments, pose significant challenges to forming a unified national/countrywide identity necessary for effective state-building and European integration. The EU's role in fostering a sense of European identity in BiH is thus intertwined with its efforts to promote reconciliation, human rights and the rule of law.

A critical aspect of Europeanisation in the BiH context is the notion of complex sovereignty. BiH's sovereignty is challenged by its consociational democracy, external intervention by international bodies such as the Office of the High Representative (OHR), and the demands of EU conditionality. These external interventions often encroach upon BiH's internal sovereignty, leading to tensions between external oversight and internal self-determination.

Finally, Europeanisation considers the role of historical legacies and path dependency in shaping the trajectory of BiH's European integration. The legacy of the DPA, which established BiH's consociational democracy, has entrenched ethnic-based politics and decentralised governance structures. This path dependency complicates efforts to strengthen state institutions and promote inclusive governance, as required for EU accession.

## **Bosnia and Herzegovina as a contested state**

BiH stands emblematic of the intricate tapestry of contested statehood. This condition arises from diverse transitions, each laden with implications for the

state's legitimacy and governance efficacy. The contestation of BiH's statehood materialises along twin axes: its legitimacy, the dynamics between the state and its citizenry within the political domain, and its capacity, elucidating the state's aptitude in formulating and enforcing policy decisions. Unlike its counterparts in contested states, BiH's status is primarily rooted in endogenous factors, conferring a nuanced but no less substantive dimension of contestation.

In contradistinction to myriad contested states grappling with partial external validation, BiH has basked in universal recognition as an independent and sovereign state since 1992. Furthermore, its accession to pivotal international organisations underscores a high degree of external sovereignty. Tangibly, BiH maintains undisputed territorial integrity devoid of secessionist movements, thereby bolstering its external sovereignty. However, internally, BiH contends with formidable impediments to policymaking and execution. The asymmetrical federal framework, convoluted consociational arrangements, executive prerogatives vested in international bodies and centrifugal proclivities at the sub-state level collectively contribute to what scholars have termed as BiH's 'problematic sovereignty'. Internally, BiH's sovereignty may be construed as tenuous at best, diverging from Krasner's (2001) trifled conception encompassing external (international-legal), internal (domestic) and Westphalia dimensions.

Numerous authors emphasise the importance of sovereignty as a critical variable in understanding the EU's approach towards BiH on its path to full EU membership (Venneri 2010). Sovereignty, a fundamental concept in public international law, political science and international relations, is increasingly debated and reinterpreted beyond its traditional understanding post-Treaty of Westphalia (1648). The International Commission on Intervention and State Sovereignty (ICISS), in its report 'Responsibility for Protection', defines sovereignty as a dual responsibility: internally towards the population (internal legal supremacy) and internationally towards the community of states (Brock 2011).

As some authors point out, this broader understanding of sovereignty leads to the emergence of two types: *internal* (based on Bodin's 'summa potestas' – 'supremacy') and *external* (international). Internal sovereignty refers to a state's ability to perform essential functions and provide services to citizens. In contrast, external sovereignty is defined by the state's equality and acceptance by other states and international organisations (Krasner 1999). Chandler (2005) argues that if sovereignty is understood as good governance, i.e. the state's ability to provide protection and essential services to citizens, external actors can intervene to strengthen this type of sovereignty through state-building processes.

In countries with complex sovereignty like BiH, external actors alter internal political dynamics in decision-making processes related to EU requirements. When a country's sovereignty is complex and limited, EU conditions can encroach on sovereignty, potentially leading to resistance from political

elites (Noutcheva 2006). Noutcheva warns that EU demands that impinge on sovereignty do not hold the same legitimacy as generally accepted Copenhagen criteria requirements.

The EU's approach towards BiH did not differ from that towards other regional countries, relying heavily on the OHR to impose laws. With its complex and limited sovereignty, BiH faced demands encroaching on constitutional competencies and state-entity relations. Although the EU did not formally insist on constitutional changes until the European Court of Human Rights 2009 judgment, demands from the early 2000s directly impacted constitutional matters, particularly regarding central government strengthening, eliciting resistance from the RS entity (Tursić 2011).

Despite external recognition, BiH's internal sovereignty struggles due to its consociational constitutional framework, which the DPA established. Designed to soothe former belligerents, this agreement layered a fragile state-level institution atop two antagonistic entities: FBiH and RS. This asymmetric federalism results in overlapping and decentralised competencies, hindering effective decision-making and policy implementation. BiH's territorial configuration safeguards collective rights and grants legislative veto powers to the three constituent peoples: Bosniaks, Serbs and Croats.

BiH's governance is further complicated by lack of a cohesive vision for the state's future among its constituent groups. Serbs, Croats and Bosniaks display varying degrees of commitment to the state, influenced by historical and nationalist sentiments. These differing stances reflect deep-rooted historical narratives and a lack of unified national identity. While BiH's pluralistic institutional framework aims to prevent dominance by any single faction, it paradoxically creates a scenario where each group pursues divergent political paths.

Additionally, BiH's sovereignty faces external challenges from international bodies wielding executive authority, particularly the OHR. Initially established in the post-conflict period to enforce compliance with the peace agreement, this institution presents a continuous dilemma regarding BiH's internal sovereignty in the context of external supervision. The sustained presence of the OHR underscores the persistent tension between external intervention and internal self-governance.

BiH's contested statehood is nuanced and multifaceted, stemming from internal dynamics and external influences. Its complex institutional structure, historical legacies and international interventions present significant challenges to asserting sovereignty and governance effectiveness. To overcome these challenges, BiH must address internal divisions, develop inclusive governance mechanisms and balance external supervision with internal autonomy.

The EU's expansion following the decline of global superpowers offered an opportunity for Europeanisation, promoting EU norms and policies in neighbouring regions. However, this expansion posed challenges in contested states



like BiH, where domestic discourses and post-war narratives conflicted with Europeanisation efforts. Academic interest in this phenomenon has grown, focusing on the EU's tools, including diplomatic means and conditionality mechanisms.

Scholars have examined how contested statehood influences the EU's role and policies, leading to the concept of 'complex sovereignty' (Grande & Pauly 2007). This framework highlights overlapping governance hierarchies that challenge traditional sovereignty notions. In BiH, this concept is particularly relevant, as the country balances advanced sovereign traits with internal challenges and threats of secessionism, complicating the reform process.

## The Dayton Peace Agreement

The DPA, signed in December 1995, concluded 43 months of devastating war in BiH, marked by egregious human rights abuses and the displacement of a significant portion of the population (Bose 2002). The peace agreement, comprising 11 articles and 12 annexes, aimed to reconcile the war's belligerents and establish a framework for peace and governance in the region. Its key provisions were commitments to respect international norms, delineate military boundaries, conduct elections and develop governmental institutions. The accords recognised the Republic of BiH within its pre-war borders. The DPA introduced two autonomous entities, FBiH, primarily populated by Bosniaks and Bosnian Croats, and the RS, primarily by Bosnian Serbs. Additionally, the DPA introduced mechanisms for ethnic power-sharing, including a rotating presidency and veto powers for the three 'Constitutive Peoples' (Banović et al. 2020).

The DPA order represented a departure from conventional peace treaties by incorporating elements of state-building into its framework, effectively aiming to construct a federal state amidst the post-war rubble. However, its implementation faced challenges as the *imposed federalism* grappled with domestic contestation and tensions between territorial and ethnic governance dimensions (Keil 2013). Moreover, the substantial involvement of the international community, manifested through military and civilian oversight mechanisms, underscored the accords' unique approach to peace-building. The OHR, endowed with executive powers, played a pivotal role in enforcing compliance with the peace agreement and overcoming political stalemates.

Despite initial efforts to disengage from BiH's internal affairs, the international community's continued presence, mainly through the OHR, persisted due to ongoing challenges and a lack of consensus on closure. Over time, BiH's institutional landscape evolved, transitioning from a weak confederation to a federally structured state, albeit with persisting tensions between ethnic-based power-sharing and liberal democratic principles (Bieber 2006). While the country's transition reflects efforts to address historical divisions and establish a more cohesive governance framework, it also presents challenges to meeting

EU standards. The entrenched ethnic divisions necessitate a delicate balance between autonomy for different groups and centralised reforms crucial for EU alignment. However, this balance often proves elusive, leading to political gridlock and stalled progress in EU accession. The intricacies of BiH's governance model, exemplified by cases like the Sejdić-Finci ruling, underscored the delicate balance between strict power-sharing mechanisms and respect for civil liberties.

The DPA order represents a complex blend of consociational and integrative elements to foster peace and stability in post-conflict BiH. However, its implementation has been fraught with challenges, highlighting the tensions between ethnic accommodation and liberal democratic norms. The ongoing presence of the international community and the legacy of DPA continue to shape BiH's political landscape, underscoring the enduring complexities of peacebuilding in divided societies. While the DPA has provided a foundation for stability in BiH, its limitations in fostering genuine reconciliation and promoting democratic governance pose significant hurdles to the country's EU aspirations. Additionally, the challenges in implementing the DPA underscore the tensions inherent in balancing ethnic interests with principles of democracy, rule of law and human rights – key pillars of EU integration. As long as ethnic interests continue to take precedence, it is challenging to anticipate significant BiH reforms necessary for EU membership.

### ***Consociational democracy: The power-sharing system in BiH***

The power-sharing system in BiH within the DPA framework embodies a nuanced interplay of consociational and integrative elements characterised by a blend of ethnic and territorial federalism. Keil (2013) aptly observes that BiH operates as an ethnic federation, not due to constitutional mandates but owing to the enduring dominance of nationally exclusive parties, framing politics as a zero-sum game among ethnic groups. The intricate amalgamation of formal and informal political dynamics, encompassing institutional structures and party politics, engenders significant challenges. As Toal and Dahlman (2011) articulated, the post-conflict BiH's landscape juxtaposes an ethno-territorial spatial order with an ethnocratic political regime, a configuration criticised by international bodies such as the Venice Commission and subject to the scrutiny of EU interventions.

The institutional fabric crafted under the DPA melds elements of consociationalism and integration, embodying a hybrid model reminiscent of Lijphart's (1977) consociational democracy and Horowitz's (1985) integrative approach. Caspersen's (2004) analysis underscores the dynamic balance between these two theoretical paradigms within BiH's evolving context, noting shifts over time and the complex interplay of consociational and integrative features.

Lijphart's (1977) consociational model emphasises elite cooperation within institutions that explicitly recognise societal cleavages to safeguard group rights and foster self-determination. BiH's implementation of consociationalism is evident in features like the rotating presidency, ethnic proportionality in governance and entity-based autonomy. However, deviations from pure consociationalism are notable, such as a territorial rather than an ethnic basis for presidential elections, reflecting BiH's unique circumstances.

In contrast, Horowitz's (1985) integrative model prioritises mechanisms for multi-ethnic cooperation, emphasising electoral systems promoting cross-ethnic coalitions and federal structures encouraging integrative dynamics. BiH's integrative elements include provisions for group autonomy based on territory rather than ethnicity alongside majoritarian institutions devoid of ethnic veto powers. The evolving jurisprudence of international treaties and human rights laws further underscores the shift towards integration within BiH's institutional framework.

Moreover, BiH's experience highlights the intricate interplay of international and temporal dimensions in shaping its power-sharing dynamics. International guarantees and historical legacies influence the acceptance of integrative elements while evolving identities over time, and the intensity of past conflict impacts the system's resilience. Caspersen's (2004) analysis suggests that while challenging, BiH's complex power-sharing system may offer a viable path toward moderation and stability.

However, assessments of BiH's power-sharing model remain mixed, reflecting its successes in peace-building and its failures in state-building and democratisation. While the DPA prevented a return to the war, it also entrenched ethnic divisions and hindered democratic progress, resulting in what Florian Bieber (2017) aptly terms a *failed success*. Nevertheless, BiH's experience has spurred policy learning among international actors, shaping subsequent approaches in conflict resolution and state-building efforts elsewhere.

BiH's power-sharing system embodies a complex interplay of consociational and integrative elements shaped by historical legacies, international interventions and evolving local dynamics. While fraught with challenges and limitations, BiH's experience offers valuable insights for accommodating diversity in divided societies, underscoring the need for flexible and adaptive approaches to promote stability and reconciliation.

The Europeanisation process in BiH faces formidable challenges rooted in its power-sharing system's intricacies and veto players' presence. The country's governance framework, shaped by ethnically exclusive parties and entrenched divisions, impedes consensus-building and reform efforts necessary for EU integration. The accountability deficit, institutional complexities and external influences further compound these challenges, creating a complex landscape that requires careful navigation.

Despite these obstacles, the Europeanisation process in BiH remains a critical endeavour with far-reaching implications for the country's future. Overcoming the challenges the power-sharing system poses requires sustained efforts from both domestic stakeholders and international partners. Initiatives promoting interethnic cooperation, strengthening democratic institutions and fostering accountability are essential for advancing BiH's Europeanisation agenda.

Moreover, fostering a shared vision of European integration that transcends ethnic divides is paramount for overcoming the legacy of conflict and moving towards a more cohesive and prosperous future. By addressing the underlying issues inherent in its power-sharing dynamics and embracing EU values and standards, BiH can chart a path toward European integration that fosters stability, prosperity and reconciliation for all its citizens.

## **The 2019 Opinion on BiH's application for EU membership**

In May 2019, the European Commission issued its Opinion along with an accompanying analytical report regarding BiH's application for EU membership (European Commission 2019a). In evaluating the applicant country's readiness to advance within the accession framework, the Commission concluded that BiH does not adequately meet the necessary conditions. As a result, the Commission outlined specific reforms, referred to as 'key priorities', that BiH must undertake to progress. These 14 identified key priorities and the 115 sub-priorities from the analytical report form a comprehensive roadmap for phased reforms that must be satisfactorily addressed before BiH can attain candidate status and begin accession negotiations.

The Commission's appraisal highlighted deficiencies in BiH's adherence to criteria concerning the stability of institutions ensuring democracy, the rule of law, human rights and the protection of minorities, as established by the Copenhagen European Council in 1993. Consequently, substantial efforts are required to fortify institutions and ensure compliance with these criteria, thus safeguarding democracy, the rule of law, human rights and minority rights within the nation.

The 14 key priorities are categorised into four thematic domains: democracy and functionality, the rule of law, fundamental rights and public administration. Structural challenges, such as constitutional reforms aimed at eliminating electoral system inequalities and discrimination (notably addressing the Sejdić-Finci ECtHR ruling and the municipal elections in Mostar), alongside reforms within the judicial system, constitute pivotal aspects of these priorities. Simultaneously, concerns about civic space encompass issues such as freedom of expression and assembly.

The response from BiH authorities to the Commission's directives has been less than comprehensive, with concrete measures to amend the constitution

remaining elusive and the Action Plan addressing the key priorities remaining in a state of limbo. Notably, only one of the 14 priorities has been fully achieved concerning the proper functioning of the Stabilisation and Association Parliamentary Committee. Additionally, progress has been partial in several key areas. For instance, advancements in democracy and functionality have been made with elections in line with European standards, particularly in Mostar, albeit with lingering challenges in electoral legislation. Similarly, strides have been made in public administration reform, albeit with significant room for improvement and tangible results yet to materialise. This underscores the slow pace and limited scope of reform efforts within BiH's political landscape. The lack of progress on crucial issues such as governance, rule of law and human rights demonstrates the ongoing challenges in reconciling ethnic-based politics with the demands of EU integration.

However, in the 2022 Communication on EU Enlargement Policy, the EU's recalibrated approach towards BiH's candidacy marks a departure from previous conditionality frameworks. Despite this, BiH must address all 14 key priorities outlined in the Commission's 2019 Opinion to progress towards EU membership. While aimed at incentivising domestic action, this paradigm shift in conditionality raises questions regarding the efficacy of such strategies in fostering substantive reform within BiH. Ultimately, the multifaceted challenges confronting BiH underscore the complexity of its Europeanisation process, prompting critical reflections on the country's readiness for EU integration. These challenges include entrenched ethnic divisions, political gridlock, institutional weaknesses and resistance to reforms from vested interests. The complexity of these challenges prompts critical reflections on BiH's readiness for EU integration and the effectiveness of current strategies in overcoming them.

The Action Plan for implementing priorities from the Analytical Report of the European Commission (BiH Council of Ministers 2019), adopted by the Council of Ministers of BiH on 15 October 2019, represented a comprehensive effort to address the reform agenda outlined by the European Commission. Formulated by the Directorate for EU Integration, the Action Plan encompassed 691 planned measures targeting 115 priorities identified in the Analytical Report. These measures spanned various levels of government, with 230 planned measures at the state level, 391 at lower governmental levels and 70 involving coordination across different levels of government. The structure of the planned measures reflected a diverse array of initiatives, including the adoption of laws, by-laws, strategic documents and efforts to enhance administrative capacities and other related activities.

Despite these concerted efforts, the Final Report on the Action Plan (BiH Council of Ministers 2020), prepared by the Directorate for EU Integration and adopted by the Council of Ministers on 22 October 2020, revealed mixed outcomes. Of the 691 planned measures, only 288, or 42%, were implemented,

while the remaining 403, or 58%, were not realised. The report highlighted the uneven progress across different categories of measures, with varying implementation rates observed. For instance, measures related to adopting laws and by-laws saw lower implementation rates than efforts to strengthen administrative capacities and other operational activities. Additionally, while the Directorate prepared an action plan for 14 key priorities for EU Integration, its adoption by the Council of Ministers is pending, indicating ongoing challenges in effectively advancing the reform agenda outlined by the European Commission.

On the other hand, BiH's commitment to align with the *acquis* chapters by signing the SAA underscores its determination towards European integration. The alignment rate is a crucial metric for assessing the country's membership preparedness, constituting an *ex-ante* evaluation. As BiH improves its alignment rate, the likelihood of eventual EU membership correspondingly increases. However, the rigorous conditionality principle dictates that the EU determines accession norms, standards and procedures, while applicant countries like BiH are expected to meet these conditions. Consequently, the European Commission's reports serve a dual purpose – introducing requirements and monitoring the pace of reform and alignment in applicant countries.

Using a five-tier standard assessment scale in its country reports, the European Commission categorises BiH's progress into stages ranging from 'well advanced' to 'early stage'. This categorisation helps BiH's readiness for EU membership be transparently evaluated. Assigning numerical values from 0 to 4 to each category further facilitates score tracking, with 0 indicating complete fitness and 4 indicating a significant gap between BiH and EU standards.<sup>1</sup> Therefore, the compatibility scale between BiH and the EU ranges from 0, indicating readiness for EU membership, to 132, signifying a complete lack of alignment.<sup>2</sup>

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1 The European Commission employs a five-tier standard assessment scale, comprising: (1) well advanced, (2) a good level of preparation, (3) moderately prepared, (4) some level of preparation and (5) early-stage. This research has assigned numerical values ranging from 0 to 4 to each of these five-tier standard assessment categories to provide transparent scoring. The numerical labels correspond to the following categories: 0 = well advanced, 1 = good level of preparation, 2 = moderately preparation, 3 = some level of preparation and 4 = early stage. In addition, when two values of the five-tier standard assessment scale are assigned to the same category/chapter of the *acquis*, which has happened, the mean (average) of those values is assigned as the given assessment/alignment scale. This has happened only in the case of Chapter 9 (Financial Services) and Chapter 27 (Environment) between 2019 and 2023.

2 The European Commission responded to French demands with a concise document in February 2020, titled 'Enhancing the accession process – A credible EU perspective for the Western Balkans' (European Commission, 2020a). This document serves as a negotiating framework for accession talks. It emphasises that EU membership for the Western Balkans is crucial for a stable, strong and united Europe. The new negotiation methodology aims to make the enlargement process more credible, predictable and dynamic. It has led to opening accession negotiations with Albania and North Macedonia. The Commission has reorganised the 35 negotiating thematic chapters into six thematic 'clusters' to streamline the process, leaving Chapter 34 (Institutions) and Chapter 35 (Other issues) outside these clusters to be discussed at the end of the negotiation process. Each cluster focuses on broad themes such as good governance and economic competitiveness. Negotiations on the fundamentals, like the rule of law,

Table 1, covering the European Commission's reports from 2019 to 2023, offers a comprehensive assessment of BiH's ability to assume the obligations of EU membership. This overview provides valuable insights into BiH's progress towards EU integration, highlighting areas of improvement and identifying challenges that need to be addressed to enhance its readiness for EU accession.

Examining the compatibility scale, which evaluates the alignment between BiH and the EU, it becomes evident that BiH's capacity to fulfil the obligations of EU membership is minimal. BiH is significantly distant from reaching ZERO, indicating numerous discrepancies in policies and institutions. Within the framework of Europeanisation, this research likens BiH to a *Potemkin village*, implying a superficial appearance of progress masking underlying shortcomings. Consequently, the extent of domestic reform is constrained, and between 2019 and 2023, the process of Europeanisation in BiH fluctuated between inertia and resistance to adapting domestic structures.

Despite BiH's commitment through signing the SAA, which entails alignment with the EU acquis before obtaining candidate status, delays in transposing the EU acquis and resistance to European-induced domestic changes persist. However, as the name suggests, stabilisation should precede association, indicating the importance of assessing progress. The data presented in Table 1 highlights significant disparities between domestic and EU levels, indicating substantial incoherence or misalignment. Inertia persists when domestic changes are delayed, resulting in the continuation of the status quo.

The transition from inertia (and retrenchment) to transformation presents significant challenges due to various intervening factors, indicating that inertia remains unavoidable in BiH. Consequently, BiH needs a more adaptive capacity to effectively absorb and implement domestic changes. The EU should prioritise identifying impediments causing inertia or retrenchment rather than portraying Europeanisation as a failure. However, properly aligning domestic legislation with the EU acquis requires adopting the National Programme for the Adoption of the Acquis (NPAA), a critical priority in 'Democracy/Functionality'.<sup>3</sup>

Furthermore, the perception of BiH as being in a state-building phase rather than a mature EU candidate reflects the nuanced nature of its integration journey. This perception underscores the lingering legacies of conflict and the

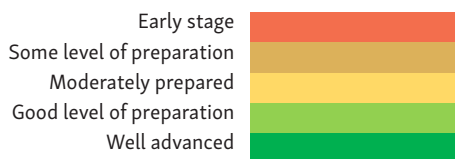
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will be prioritised. Serbia and Montenegro have accepted the new negotiating structure, while BiH will follow suit upon meeting key priorities. Once negotiations for all chapters are concluded, a draft accession treaty is prepared, which requires the European Parliament's consent and unanimous approval from the Council. After ratification by all parties, the candidate country becomes a member state.

3 The challenge in developing the NPAA in BiH initially stemmed from its name, particularly the inclusion of the term 'national', which faced opposition from BiH's RS entity. Consequently, the NPAA was renamed the *Programme of EU Integration (PI)* in BiH. Croatia adopted its national programme in 2003, while Montenegro and Serbia followed suit in 2008. This timeline highlights the significance and importance of the NPAA in guiding countries on their path towards EU integration. Thus, even after more than twenty years since Croatia adopted its NPAA (as an accession condition), BiH failed to follow suit.

**Table 1: Overview of the status of BiH's ability to assume obligations of EU membership**

LIST OF EU ACQUIS CHAPTERS		2019	2020	2021	2022	2023
Chapter 1	Free movement of goods	4	4	4	4	4
Chapter 2	Freedom of movement for workers	3	3	3	3	3
Chapter 3	Right of establishment and freedom to provide services	4	4	4	4	4
Chapter 4	Free movement of capital	2	2	2	2	2
Chapter 5	Public procurement	3	3	3	3	3
Chapter 6	Company law	3	3	3	3	3
Chapter 7	Intellectual property law	2	2	2	2	2
Chapter 8	Competition policy	3	3	3	3	3
Chapter 9	Financial services	2.5	2.5	2.5	2.5	2.5
Chapter 10	Information society and media	4	4	4	4	4
Chapter 11	Agriculture and rural development	4	4	4	4	4
Chapter 12	Food safety, veterinary and phytosanitary policy	3	3	3	3	3
Chapter 13	Fisheries	4	4	4	4	4
Chapter 14	Transport policy	3	3	3	3	3
Chapter 15	Energy	4	4	4	4	4
Chapter 16	Taxation	3	3	3	3	3
Chapter 17	Economic and monetary policy	4	4	4	4	4
Chapter 18	Statistics	4	4	4	4	4
Chapter 19	Social policy and employment	3	3	3	3	3
Chapter 20	Enterprise and industrial policy	4	4	4	4	4
Chapter 21	Trans-European Networks	3	3	3	3	3
Chapter 22	Regional policy and coordination of structural instruments	4	4	4	4	4
Chapter 23	Judiciary and fundamental rights	3	3	3	3	3
Chapter 24	Justice, freedom and security	3	3	3	3	3
Chapter 25	Science and research	3	3	3	3	3
Chapter 26	Education and culture	4	4	4	4	4
Chapter 27	Environment	3.5	3.5	3.5	3.5	3.5
Chapter 28	Consumer and health protection	4	4	4	4	4
Chapter 29	Customs union	3	3	3	3	3
Chapter 30	External relations	3	3	3	3	3
Chapter 31	Foreign, security and defence policy	3	3	3	3	3
Chapter 32	Financial Control	4	4	4	3	3
Chapter 33	Financial and budgetary provisions	4	4	4	4	4
<b>TOTAL SCORE</b>		<b>111</b>	<b>111</b>	<b>111</b>	<b>110</b>	<b>110</b>



Sources: European Commission (2019b; 2020b; 2021; 2022; 2023), authors' compilation



complex interplay of ethnic identities within the country. Addressing these legacies requires structural reforms and a profound societal shift towards reconciliation and inclusivity.

Despite these hurdles, the promise of EU integration holds significant potential for BiH. Accession to the EU could catalyse comprehensive reforms, foster economic development, strengthen democratic institutions and promote regional stability. The EU's emphasis on the rule of law, human rights and good governance aligns with the aspirations of many within BiH for a more just and equitable society.

However, realising these benefits requires a concerted effort to address the underlying issues that have long hindered progress. BiH's ethnicised reality, with its deeply entrenched divisions, poses a formidable challenge to unity and consensus-building. Overcoming these divisions will necessitate bold leadership, genuine dialogue and a commitment to national unity above narrow ethnic interests – a challenge that remains unmet in BiH.

Ultimately, BiH's path to EU membership is fraught with obstacles but manageable. By confronting the complexities of its past, embracing the diversity of its present and charting a course toward a more democratic and prosperous future, BiH can successfully navigate the intricate landscape of European integration. The journey will be arduous, but the destination – a more united, stable and prosperous BiH within the European family – is worth striving for.

The EU's decision in March 2024 to start negotiations with BiH has drawn scholarly attention, given the country's limited progress in meeting the stringent criteria for EU membership. This move, ostensibly motivated by geopolitical considerations and internal unrest within BiH, underscores the intricate dynamics shaping the EU's enlargement policy. While external factors, such as regional stability and geopolitical strategy, undoubtedly influence the EU's engagement with BiH, the fundamental measure of BiH's readiness for membership lies in its compliance with the EU *acquis*, which remains notably deficient. This dissonance between the initiation of negotiations and the substantive reforms required for alignment with EU standards presents a scholarly puzzle, prompting critical inquiry into the motivations and implications of the EU's decision-making process.

Moreover, a pertinent concern exists regarding the potential misinterpretation of the EU's engagement by Bosnian policymakers, wherein the initiation of negotiations may be construed as a signal of relaxed conditions for accession. This perception may inadvertently foster complacency among Bosnian political elites, impeding the imperative momentum for comprehensive reforms within the country. Consequently, the divergence between the perceived progress toward EU integration and the actual reform efforts on the ground engenders a social dilemma, whereby citizens of BiH may be misled into a false sense of advancement, undermining public trust in both domestic and EU institutions.

This academic discourse underscores the complexity of EU-BiH relations, emphasising the imperative for a nuanced analysis of the dynamics shaping European integration processes in candidate countries.

## **Discussion: Europeanisation under the contested statehood**

The Europeanisation process in BiH encounters a myriad of obstacles and disruptive factors, with contested statehood emerging as a significant impediment to its degree of Europeanisation. Extant literature characterises BiH as an extreme example of contested statehood within the Western Balkans region, a phenomenon recognised as obstructive to both Europeanisation efforts and EU integration. Scholars in Europeanisation research have frequently employed the contested statehood paradigm to elucidate BiH's challenges in aligning with EU norms and standards (Elbasani 2013; Ker-Lindsay et al. 2018; Džankić & Keil 2018; Bieber 2020; Lavrič & Bieber 2021). Specifically, BiH's legal sovereignty and territorial integrity face internal and external challenges, despite its international recognition. This state of contestation impedes the EU's transformative power within BiH and hampers the implementation of domestic reforms. Consequently, BiH finds itself navigating Europeanisation processes under conditions of contested statehood, a dynamic further complicated by the EU's internal divisions regarding its approach to the Western Balkans.

Furthermore, the EU's inability to effectively address the issue of contested statehood in the region underscores the persisting challenges in its external relations. The EU's internal divisions regarding its stance on the Western Balkans exacerbate the situation's complexities, preventing a unified and coherent response. This ongoing division within the EU reflects broader uncertainties and divergent interests among member states, hindering the EU's capacity to act decisively in addressing the challenges posed by contested statehood in BiH. Consequently, the entrenchment of contested statehood dynamics within BiH impedes its Europeanisation process and exposes underlying fractures within the EU's approach to enlargement and regional stability in the Western Balkans.

The persistence of contested statehood as a central issue in the context of BiH's Europeanisation underscores the profound challenges facing the country's integration into the EU, even more than two decades after the Maria de Feira European Council's declaration of full possible integration for the WBCs. Indeed, addressing the status of contested statehood is deemed a prerequisite for successfully implementing enlargement-driven Europeanisation efforts within BiH. Contested statehood dynamics engender deep divisions within BiH society, complicating the realisation of EU-inspired domestic reforms. Moreover, the contested statehood status directly intersects with key aspects of BiH's governance framework, particularly the DPA, necessitating significant changes to accommodate the aspirations of all stakeholders and mitigate internal divisions.

Unlike the Central and Eastern European (CEE) enlargement process, where misalignment with EU demands based on the Copenhagen Criteria primarily drove Europeanisation efforts, BiH faces additional hurdles stemming from its contested statehood. Consequently, BiH lags behind other WBCs in terms of Europeanisation progress due to the pervasive influence of contestation. This issue paralyses BiH's advancement toward Europeanisation and solidifies the status quo, impeding meaningful reforms and perpetuating existing divisions. Nonetheless, this research suggests that a genuine acceptance of Europeanisation principles across all segments of BiH society could serve as a catalyst for addressing underlying challenges and fostering stability. Ultimately, thriving Europeanisation efforts and eventual EU membership can mitigate variation among the WBCs and promote regional cohesion, provided that the issue of contested statehood is effectively addressed and reconciled within BiH.

The contested statehood issue in BiH is deeply rooted in historical dynamics that predate the breakup of Yugoslavia, necessitating a comprehensive understanding of historical backgrounds to conceptualise the challenges to sovereignty and statehood. Particularly noteworthy is the long-standing history of Serbian territorial ambitions aimed at uniting all Serbs in a single state, evident in strategic documents dating back to the 19<sup>th</sup> century, such as (i) *Načertanije* (1844) by Ilija Garašanin, (ii) *Serbs All and Everywhere* (1849) by Vuk Karadžić, (iii) *Homogeneous Serbia* (1941) by Stevan Moljević and (iv) *Memorandum* (1986) by the Serbian Academy of Arts and Sciences (SANU) (Biserko 2012; Preljević 2017). These documents outlined blueprints for expanding Serbian influence through propaganda and pro-Serbian rebel networks, reflecting persistent aspirations that continue to influence political dynamics in the region. Similarly, Croatian territorial ambitions during the 1990s Balkan wars sought to realise the borders of the Croatian Banovina of 1939, aiming to reunify Croat territories within BiH under Croatian jurisdiction.<sup>4</sup>

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4 The ICTY rendered its final judgement in the Prlić et al. case (IT-04-74):

The Chamber, by a majority, found that a joint criminal enterprise (JCE) existed and had as its ultimate goal the establishment of a Croatian territorial entity with part of the borders of the Croatian Banovina of 1939 to enable a reunification of the Croatian people. This Croatian territorial entity in BiH was either to be united with Croatia following the prospective dissolution of BiH, or become an independent state within BiH with direct ties to Croatia. As early as December 1991, the leadership of the Croatian Community of Herceg-Bosna (which included Mate Boban, president of the Croatian Community (and later Republic) of Herceg-Bosna) and Croatian leaders (including Franjo Tuđman, the president of Croatia) deemed that in order to achieve the ultimate goal, namely the establishment of a Croatian territorial entity as previously described, it was necessary to modify the ethnic composition of the territories claimed to be part of the Croatian Community of Herceg-Bosna. From at least the end of October 1992, Prlić, Stojić, Petković and Praljak were aware that achieving this goal went against the peace talks conducted in Geneva and would entail moving Muslim populations out of the territory of Herceg-Bosna, <accessed online: [https://www.icty.org/x/cases/prlic/cis/en/cis\\_prlic\\_al\\_en.pdf](https://www.icty.org/x/cases/prlic/cis/en/cis_prlic_al_en.pdf)>.

More recently, the Croatian Academy of Sciences and Arts (HAZU), on 20 May 2022, suggested the conditions Croatia should set for BiH and WBCs during their EU accession negotiations, whereby the formation of a third, ethnic Croat entity within BiH was suggested (HAZU 2022). This proposal highlights the ongoing contestation of BiH's statehood and the persistence of geopolitical ambitions that predate the breakup of Yugoslavia. Indeed, a systematic examination of contested statehood in BiH necessitates a thorough historical background, recognising that the contestation of BiH predates the DPA and is deeply entrenched in historical dynamics. Moreover, the literature on EU integration often overlooks key historical documents and declarations that provide valuable insights into the region's geopolitical landscape and EU-BiH relations. For instance, the *European Council's Declaration on the Special Relations* between the EU and BiH, adopted in June 1998, emphasised the EU's recognition of BiH's path toward closer integration with the European structure and explicitly rejected ambitions to establish Greater Serbia or Greater Croatia, affirming BiH's territorial integrity within the European family (European Council 1998). Despite its significance, this declaration remains relatively unknown to the public and has been overlooked in scholarly discourse. However, its relevance persists, as it is a critical reference point for addressing enduring geopolitical tensions and safeguarding BiH's territorial integrity within the European context. Therefore, integrating such historical documents into the literature on EU integration is essential for comprehensively understanding the challenges and opportunities associated with BiH's European integration process.

In BiH, after 1990, ethnocratic (oligarchic) elements developed under the auspices of the existing system. The results are known today as the entity-organised Dayton State. However, the old rule also applies to it that representative democracy in the sense of the principle of popular sovereignty must establish the real possibilities of the popular rule – that is, citizens in freedom and equality – and that the shaping of electoral law, the parliamentary system, the party system, the structure of power and influence in society ('Establishment') or similar 'real' conditions of government must not turn into concealment and stabilisation of oligarchy (Pernthaler 1986). The concept of sovereignty about BiH, since in the general theory of law – according to the classic division into internal and external sovereignty – a consensus has been established on the concept of sovereignty as a property of state power that includes the ability to constitute itself internally as indivisible and supreme, and to outwardly appear as an equal subject of international relations. While external sovereignty is explicitly normed and preserved to preserve state continuity, internal sovereignty is weakened. It is lost in both essential elements, both as organic sovereignty and as the primacy of the state over entities (Šarčević 2009).

In the constitutional system of BiH, if the competencies of the OHR are excluded, no such sovereign authority is visible: state institutions have pro-

portionally narrow competencies, and the presumption of competence is transferred to the entities (Article III); the Presidency, the Parliamentary Assembly and the Council of Ministers partly stand in an isolated circle of competences, partly they are placed in a relationship of mutual dependence, but in such a way that – as a whole – one cannot speak of a special positioning of one of the bodies as mentioned above in terms of possessing the highest competence. Since it is reserved for the High Representative, it is clear that according to Annex 4 itself, no internal authority-sovereignty is constituted (Nagan & Hammer 2004). And here, once again, the gaze is directed towards the OHR administration as the supreme sovereign and possible constitution-maker. However, the dictates coming from the most powerful countries in the world cannot be bypassed either – just one more argument supporting the thesis about the loss of internal sovereignty (Lara 2014). The relationship between the state and the entities can pose the problem of sovereignty. The Constitutional Court of BiH concludes that the entities are not states and that, according to Article III/2 of the Constitution, they are subordinate to the sovereignty of BiH. This position is also shared by part of the jurisprudence that starts from the supremacy of the Constitution of BiH over the constitutions of the entities (Woelk 2012).

However, political rhetoric and everyday political rituals, as well as domesticated names for entities that circulate in the daily press, lexicons and more serious scientific analyses identify the entity RS as Serbian property, and the Federation as property of Croatian and Bosniak Peoples – the entities, therefore, are not defined according to constitutional law status, but according to the actual positions of power. This roughly, and somewhat more accurately than the entity constitutional proclamations, determined the actual bearer of sovereignty (Cleveland 2002). As already mentioned, the DPA starts from an outwardly sovereign state; however, the agreement suspends the sovereignty of its organs in favour of the authority of the High Representative. Externally proclaimed, the loss of internal sovereignty neutralises sovereignty. If we look more closely at the paradigm of the bearer of sovereignty, then these are ethnically profiled communities of ‘constituent peoples’. This is determined by the regulations on the election of members of the State Presidency, the House of Peoples, their competencies, and veto possibilities, which are transferred to the House of Representatives. Such a negotiated position of multiple competing sovereigns in a single territory must be placed in the context of mutually conflicting practical policies. This constellation shows the antinomy that springs from the Bosnian paradigm of sovereignty. It follows from the previous analysis that the characteristics of the ‘Dayton Constitution’ must include ethnic consensus-democracy and ethno-determinism in the competencies of parliamentary bodies, assistance from outside and the loss of state sovereignty in state affairs, the immanent violation of human rights and the establishment of legal antinomies in constitutional solutions (Šarčević 2009).

Recent events highlight RS officials' efforts to destabilise BiH by defaming state institutions, advocating for entity secession and dissolution. Those same officials vehemently come out into the public space and present their declared strategic goal, which consists of the secession of the entities and the dissolution of the state. This explicit destruction of state sovereignty is assisted by the silent and implicit permanent activity of enclosing and defining the territory and population of another ethnic group, which at this stage is trying to homogenise the population and territory and, at last, the highest level of this political game, it will have similar secessionist urges (Karović 2016).

The persistence of secessionist sentiments and politics poses a significant challenge to BiH's sovereignty and independence, threatening to destabilise the region and impede the country's Europeanisation process. The ethnic Serb and Croat populations, driven by historical grievances and aspirations stemming from the 1992–1995 war in BiH, continue to advocate for territorial reorganisation or secession from BiH, aiming to de-sovereignise the country and align its borders with Serbia or Croatia. Such secessionist tendencies not only undermine BiH's territorial integrity but also pose a grave risk to regional stability, potentially leading to conflict reminiscent of the Latin phrase 'bellum omnium contra omnes', which translates to 'the war of all against all', reflecting a state of pervasive chaos.

Threats of a referendum on secession within BiH's RS entity persisted even thirty years after the DPA, posing a threat to the stability of BiH and the wider region. Domestically, some actors within RS advocate for secession to unite with Serbia as a kin state for all Serbs in the region. Serbia's involvement in these secessionist efforts undermines BiH and aligns with Serbia's geopolitical interests, as outlined in its National Security and Defence Strategies (Ministry of Defence of Serbia 2021a, 2021b). Despite acknowledging BiH's territorial integrity and sovereignty in these documents, Serbia's explicit focus on protecting Serbs wherever they reside violates BiH's sovereignty. This breach remains profound, irrespective of any recognition of BiH's sovereignty in these official documents. Notably, BiH's RS entity is not part of Serbia. Hence, it raises questions about why another state, namely Serbia, asserts security and defence claims over BiH's territory. This scenario resembles France making claims, at the highest political level, in its security and defence policy regarding the duty to safeguard the French people in Belgium and Switzerland. BiH's potential membership in NATO could render Serbia's strategies futile.

Additionally, Serbian officials, such as the former minister of the interior and the director of the Security Intelligence Agency (BIA), now a current member of the Senate of RS,<sup>5</sup> Aleksandar Vulin, emphasise solving the national question of

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5 The Senate of the RS functions as the consultative body for the highest constitutional institutions within RS. Established by the enactment of the Law on the Senate of the entity RS on 4 April 1997, during a session of the RS National Assembly, its membership is appointed by the president of RS. It

Serbs through the ‘Serbian World’ project (Al Jazeera Balkan 2022).<sup>6</sup> BiH’s Europeanisation has the potential to counteract the ‘Great Serbia’ narrative by strengthening BiH and preventing the formation of a singular Serbian national space. However, this depends on BiH’s response and the EU’s willingness to confront historical projects aiming to unify Serbs under one state.

On the other hand, the ethnic Croat community within BiH has articulated proposals for territorial reorganisation, reflecting a complex interplay of ethnic narratives and aspirations. The Croatian National Assembly (HNS) in BiH, building upon the conclusions drawn from its extraordinary session on 19 February 2022, endeavours to instigate legal and political procedures conducive to BiH’s institutional and territorial restructuring. Their objective is to align BiH’s governance framework with federalist principles, thereby ensuring the efficacy of the state apparatus and upholding the equitable representation of the country’s three constituent peoples (HNS 2022). Noteworthy is the endorsement by Milorad Dodik, a prominent figure advocating for establishing a third ethnic Croat entity within BiH, which has injected further momentum into this discourse (Radio Free Europe 2022). Additionally, Croatian President Zoran Milanović’s conditional support for Croatian secession or forming a third entity within BiH underscores the multifaceted dynamics shaping discussions surrounding the country’s statehood (N1 2022). These divergent narratives surrounding BiH’s territorial configuration significantly influence the country’s trajectory toward European integration and prospective EU membership. It is imperative for both the ethnic Serb and Croat constituencies to exercise prudence and restraint in their territorial assertions.

As an aspiring member state, BiH grapples with the inherent challenge of existing as a contested territory, further compounded by the imperatives of ongoing EU-driven reforms. The journey towards EU accession entails navigating a labyrinth of intricate and exacting criteria, with the contentious nature

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is primarily composed of individuals hailing from both RS and Serbia, and the Senate’s decisions hold no binding authority over the institutions of RS.

- 6 In 2011, Serbia introduced a ‘Strategy of Preserving and Strengthening the Relations of the Home State and Diaspora and Serbs in the Region’. According to this document, Serbia is considered the home state of all Serbs in the region. The term ‘Serbs in the region’ refers to members of the Serbian nation living in Slovenia, Croatia, BiH, Montenegro, North Macedonia, Romania, Albania and Hungary. This strategy effectively implements aspects of the 1986 Memorandum aimed at preventing the perceived threat to Serbs residing outside of Serbia. It serves as an operational document with specific instructions for various activities. The strategy primarily focuses on preventing assimilation, particularly through the activities of the Serbian Orthodox Church (SPC), recognised as the sole legitimate cross-border institution in the region. It underscores the entity of RS as a key area of interest and a national foreign policy priority for Serbia, aiming to support the preservation of the interests of the Serbian people in RS. Additionally, the strategy outlines diplomatic support from Serbia’s Ministry of Foreign Affairs to uphold the entity of RS within BiH. Moreover, the strategy dictates that relevant ministries must facilitate the acquisition of Serbian citizenship for all citizens of RS who wish to obtain it. Specific tasks are also assigned to the Ministry of Economy, Ministry of Education, Ministry of Sports and Ministry of Religion to further strengthen the position of Serbs, particularly in FBiH.

of BiH's statehood status exacerbating the complexity of this endeavour. The prevalence of competing territorial claims introduces layers of intricacy to the Europeanisation process, rendering the attainment of EU membership a formidable undertaking. Against this backdrop, it behoves all stakeholders within BiH to prioritise collaborative engagement and dialogue, harmonise divergent territorial perspectives and forge a collective path toward meeting EU accession prerequisites. Only through concerted efforts to foster consensus and resolve internal divisions can BiH advance its Europeanisation agenda and inch closer to realising its aspirations for EU integration.

The contested statehood status of BiH poses a significant threat to the sustainability of Europeanisation efforts, as the uncertainty surrounding its statehood status inherently undermines the process. The very nature of contested statehood implies a departure from the Europeanisation trajectory, as the strength of the state is compromised. In the case of BiH, the prevailing policy agenda tends towards weakening the state apparatus, leading to what can be termed as de-Europeanisation. This phenomenon involves reversing or resisting previously implemented reforms, effectively dismantling the alignment with EU norms and policies. De-Europeanisation, thus, represents an inversion of the Europeanisation process, with the prefix 'de-' indicating a departure from EU-inspired responsibilities and obligations.

Eduard Soler i Lecha (2008) defines de-Europeanisation as a process wherein the momentum toward convergence with EU norms diminishes, and there may even be a regression toward policies contrary to EU objectives. In BiH's context, de-Europeanisation manifests as a deliberate divergence from EU requirements, often driven by competing nationalist agendas and separatist tendencies. This approach weakens the EU's influence and relevance and hampers BiH's progress towards European integration. Ethnic Serb factions, for instance, have sought to diminish EU pressure by cultivating closer ties with Russia and China, while advocating for the secession of BiH's RS entity and unification with Serbia. Conversely, ethnic Croat groups have pushed for institutional and territorial reorganisation within BiH, further complicating the Europeanisation process. These divergent and contradictory tendencies underscore the precarious nature of Europeanisation in BiH, where the durability of EU integration efforts remains uncertain amidst persistent challenges to the country's contested statehood.

Moreover, while de-Europeanisation is not unique to BiH, its ramifications are particularly acute within the country's context. Backsliding trends observed in Central and Eastern European Countries (CEECs), such as democratic regression or de-democratisation, raise pertinent questions regarding the sustainability of Europeanisation efforts. Brexit stands as a stark example of radical de-Europeanisation within the EU framework (Bieber 2019), highlighting the potential for de-Europeanisation to contribute to the disintegration of the EU



itself. However, in BiH, the consequences of de-Europeanisation may manifest in more severe forms, potentially jeopardising the fragile ceasefire and stability in the region. Unlike in EU member states, where mechanisms for conflict resolution and institutional stability are more established, BiH's susceptibility to de-Europeanisation could exacerbate existing tensions and break the delicate peace maintained through the DPA.

Furthermore, the sustainability of the DPA hinges on ongoing Europeanisation efforts, which serve to update and reinforce its configurations. Any regression from this process risks plunging BiH back into uncertainty and instability. Conversely, upon attaining EU membership, BiH may follow a trajectory akin to that of Poland, Hungary, Croatia and other former CEECs, where latent political issues resurface post-accession. However, BiH's inherently complex political landscape, characterised by deeply entrenched ethnic divisions and historical grievances, presents unique challenges. The parallel process of slow Europeanisation in BiH underscores the resilience of domestic structures to EU-driven reforms, further complicating the path toward meaningful integration with European structures.

The geopolitical and regional complexities surrounding BiH render the regatta system<sup>7</sup> inherently disadvantageous to its interests. In the context of Europeanisation and EU integration, the competitive race for accession, as epitomised by the regatta system, fails to align with BiH's contested statehood status. This reality underscores the inherent unfairness of Europeanisation efforts in the region, where competing national interests often overshadow the broader goals of integration and stability. This can be emphasised by how Slovenia's actions significantly complicated Croatia's accession to the EU, with Croatia now reciprocating by impeding Serbia and BiH's progress. This dynamic highlights the extent to which regional events can hinder rather than facilitate BiH's integration process.

Furthermore, the potential entry of Serbia into the EU poses additional challenges for BiH, particularly for its non-Serb and non-Croat populations. With ethnic Croats and Serbs, who constitute the majority in BiH, holding dual citizenship with Serbia or Croatia, there is a risk of marginalised groups, particularly Muslims, being left without EU citizenship. This scenario exacerbates existing inequalities and further entrenches divisions within BiH. In light of these complexities, the regatta principle, which prioritises the accession of certain countries over others based on perceived readiness, should be reevaluated. Considering the unique challenges posed by BiH's contested statehood status, a more nuanced and undifferentiated approach toward the accession of Serbia and BiH is warranted. Alternatively, the regatta principle should be aligned with

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7 According to the regatta system, countries will join the EU when qualified rather than as a group, i.e. they will become fully-fledged members after complying with the EU requirements.

the European Council's Declaration on the Special Relations between the EU and BiH, which unequivocally rejects ambitions to establish Greater Serbia or Greater Croatia. By opposing contested statehood narratives and policies, the EU can prioritise inclusivity and stability in its enlargement and Europeanisation efforts in the Western Balkans.

The conflicting narratives and politics surrounding BiH's statehood hinder its Europeanisation and prospective EU membership. Both ethnic Serbs and Croats must moderate their claims to facilitate BiH's integration process. BiH grapples with existential challenges amid EU-inspired reforms as a potential member state, complicating its path towards EU membership.

## Conclusions

The consociational democracy framework offers valuable insights into BiH's challenges in its Europeanisation process. BiH's consociational power-sharing system, established under the DPA, has shaped its political landscape by institutionalising ethnic divisions and ensuring political representation for all constituent groups. However, this system also presents significant obstacles to BiH's integration into the EU.

The Europeanisation process in BiH faces numerous obstacles, with contested statehood being a major impediment. The literature frequently describes BiH as an extreme case of contested statehood within the Western Balkans, obstructing both its Europeanisation efforts and EU integration. Scholars often use the contested statehood paradigm to explain BiH's difficulties in aligning with EU norms and standards (Elbasani 2013; Ker-Lindsay et al. 2018; Džankić & Keil 2018; Bieber 2020; Lavrič & Bieber 2021). Despite international recognition, BiH's legal sovereignty and territorial integrity are challenged internally and externally, hindering the EU's transformative power and the implementation of domestic reforms.

Navigating Europeanisation processes under contested statehood, BiH is further complicated by internal EU divisions regarding its approach to the Western Balkans. These divisions reflect broader uncertainties and divergent interests among EU member states, limiting the EU's effectiveness in addressing contested statehood in BiH. This dynamic hampers BiH's Europeanisation and highlights fractures within the EU's enlargement strategy and regional stability efforts.

Contested statehood remains a central issue for BiH's integration into the EU, even decades after the 2000 Feira European Council's declaration of possible full integration for the Western Balkans. Resolving BiH's contested statehood is essential for successful Europeanisation efforts. The presence of contested statehood creates deep societal divisions, complicating the implementation of EU-inspired reforms. Additionally, it intersects with BiH's governance framework, particularly the DPA, necessitating significant changes to accommodate all stakeholders and mitigate internal divisions.

Unlike the CEE enlargement process, where alignment with EU demands based on the Copenhagen Criteria drove Europeanisation, BiH faces additional hurdles from its contested statehood. Consequently, BiH lags behind other WBCs in Europeanisation progress due to the pervasive influence of this issue. This impedes meaningful reforms and perpetuates existing divisions. Nonetheless, genuine acceptance of Europeanisation principles across BiH society could address underlying challenges and foster stability. Successful Europeanisation and eventual EU membership could mitigate regional disparities, provided that contested statehood is effectively addressed and reconciled.

Historical dynamics of contested statehood in BiH, influenced by long-standing Serbian and Croatian territorial ambitions, require a comprehensive understanding of historical contexts to conceptualise challenges to sovereignty and statehood. Significant historical documents, such as the European Council's 1998 Declaration on the Special Relations between the EU and BiH, which rejected ambitions to establish Greater Serbia or Greater Croatia, offer valuable insights into the region's geopolitical landscape and EU-BiH relations. Integrating these documents into EU integration literature is essential for understanding BiH's European integration challenges and opportunities.

The Dayton State, established after 1995, allowed ethnocratic elements to thrive, weakening BiH's internal sovereignty by transferring competence to entities rather than state institutions. This external sovereignty is neutralised by the loss of internal sovereignty, further complicated by the OHR supreme authority. Political rhetoric and daily rituals often identify entities as ethnic group properties rather than their constitutional status, undermining BiH's sovereignty and independence. The presence of the OHR confirms the contested statehood of BiH. If the country were not contested, there would be no need for the OHR.

Secessionist sentiments among ethnic Serbs and Croats pose significant challenges to BiH's sovereignty, threatening regional stability and impeding Europeanisation. Ethnic Serbs seek closer ties with Russia and China and advocate for the secession of BiH's RS entity and unification with Serbia. Ethnic Croats push for institutional and territorial reorganisation, further complicating the Europeanisation process. These divergent tendencies highlight the precarious nature of Europeanisation in BiH, where EU integration efforts remain uncertain amid persistent contested statehood challenges.

The sustainability of Europeanisation efforts in BiH is threatened by de-Europeanisation, which involves reversing previously implemented reforms and dismantling alignment with EU norms. De-Europeanisation weakens EU influence and hampers BiH's progress toward European integration. Moreover, the potential EU entry of Serbia poses additional challenges for BiH's non-Serb and non-Croat populations, risking marginalised groups, particularly Bosniaks, being left without EU citizenship. This exacerbates existing inequalities and entrenches divisions within BiH.

The regatta principle, which prioritises accession based on perceived readiness, should be reevaluated considering BiH's unique challenges. A more nuanced approach toward Serbia and BiH's accession is warranted. Alternatively, aligning the regatta principle with the European Council's Declaration on the Special Relations between the EU and BiH, which rejects Greater Serbia or Greater Croatia ambitions, would prioritise inclusivity and stability in EU enlargement efforts in the Western Balkans.

The Europeanisation as a toolkit is essential for analysing the impact of EU policies and norms on BiH, including the rule of law, human rights and governance. It provides insights into the mechanisms through which EU requirements are implemented and the challenges associated with adaptation. Despite BiH's commitment through signing the SAA, which entails aligning with the EU acquis before obtaining candidate status, delays in transposing the EU acquis and resistance to European-induced domestic changes persist. However, as the name suggests, stabilisation should precede association, indicating the importance of assessing progress. Examining the compatibility scale, which evaluates the alignment between BiH and the EU, it becomes evident that BiH's capacity to fulfil the obligations of EU membership is minimal. Within the framework of Europeanisation, this research likens BiH to a *Potemkin village*, implying a superficial appearance of progress masking underlying shortcomings. Consequently, the extent of domestic reform is constrained, and between 2019 and 2023, the process of Europeanisation in BiH fluctuated between inertia and resistance to adapting domestic structures.

Finally, conflicting narratives and politics surrounding BiH's statehood hinder its Europeanisation and prospective EU membership. Both ethnic Serbs and Croats must moderate their claims to facilitate BiH's integration process. BiH faces existential challenges amid EU-inspired reforms as a potential member state, complicating its path toward EU membership. Only through concerted efforts to foster consensus and resolve internal divisions can BiH advance its Europeanisation agenda and move closer to realising its EU integration aspirations. Overcoming these challenges will be crucial for BiH to advance its Europeanisation agenda and realise its aspirations for EU integration.

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**Hamza Preljević** is an Assistant Professor in the Department of Political Science and International Relations (PSIR) at the International University of Sarajevo (IUS). Concurrently, he serves as the director of the Balkan Studies Centre (BSC) at IUS. Dr. Preljević has held various academic-administrative positions at IUS, including Demonstrator (2015–2016), Managing Editor at *Epiphany – Journal of Transdisciplinary Studies* (2019–2021), Secretary of the Balkan Studies Centre (2019–2023), and Senior Assistant (2016–2024). Additionally, he has actively participated in numerous working groups and academic committees at IUS. In May 2023, he successfully defended his doctoral dissertation entitled 'The EU's Transformative Power through a Strategy of Conditionality and Europeanisation in a Contested State: Bosnia and Herzegovina (2015–2022),' earning his, Ph.D. in International Relations from IUS. Dr. Preljević's research interests encompass a wide range of topics, including Bosnian politics, Bosnian Muslims' issues, Western Balkan studies, EU integration, and security studies, with a particular focus on transatlantic relations and NATO's engagement with the Western Balkans. E-mail: [hpreljevic@ius.edu.ba](mailto:hpreljevic@ius.edu.ba); ORCID: 0000-0003-3766-556X.

**Mirza Ljubović** is an Assistant Professor in State and Public International Law at the Faculty of Law of the International University of Sarajevo. He holds a baccalaureate degree in law from the University of Sarajevo, and an MA in the same field from the same school. He completed doctoral studies in the scientific field of Law (public international law) at the Faculty of Law of the University of Mostar. He also earned a Comparative Constitutional Law and European Law certificate from the University of Virginia School of Law, Charlottesville, Virginia, USA. E-mail: [mljubovic@ius.edu.ba](mailto:mljubovic@ius.edu.ba). ORCID: 0000-0003-3574-4811.