

Perspectives of EU membership for BiH

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Introduction

Although the positive attitudes of EU towards Western Balkans enlargement, so many steps have still to be taken in the region for achieving EU membership. Only Montenegro and Serbia, the former more than the latter, look ready for a forthcoming accession. Montenegro's accession negotiations started in 2012 and at the moment it is the richest Western Balkans' country¹, it joined NATO last year, and the main problem to be overcome is corruption. Concerning Serbia, the biggest country of the region, for its controversies a possible accession would foster stabilisation in Western Balkans, nevertheless the relations with Pristina should be regularised before confirming any kind of membership. To the light of the EU proposals and intentions, it is necessary to understand which are the gaps to fill in BiH, for it to become a candidate country, and which are the political, social and economic aspects the country has to improve for achieving EU accession.

Enlargement in the Western Balkans, and so in BiH, is slightly different compared to the previous ones for two main reasons. First of all, the context has changed, EU is passing through a period of crisis, both at an institutional level and at an economic one; furthermore, EU is not relishing anymore of the previous enthusiasm and euro-scepticism is increasing. The countries of this new enlargement then, are quite different from the previous ones. They are post-conflict states, where the legacies of the war are still affecting a huge part of the society and of the everyday life, with economic backwardness, strong nationalism, bilateral disputes, and strong tendency to support authoritarian leaders.²

These challenges complicate the enlargement procedure, but at the same time the EU, economic, political and social involvement in the region, makes impossible a possible step back towards those countries. The commitment EU provided to BiH since after the war for rule of law, democratisation, strengthening of central government and reconciliation needed to be followed by some promises or at least reassurances that the efforts for EU membership would be increased.

¹ Poverty in the Balkans, EWB Archive, European Western Balkans, January 24, 2017, accessed on February 22, 2018 <https://europeanwesternbalkans.com/2017/01/24/poverty-in-the-balkans/>.

² Majstorovic S., *2018- The Year of Credible EU Enlargement Policy Returns?*, European Western Balkans, February 2, 2018, accessed on February 22, 2018. <https://europeanwesternbalkans.com/2018/02/02/2018-year-credible-eu-enlargement-policy-returns/>.

Launch of Western Balkans EU Enlargement Strategy

On February 6th, 2018, High Representative of the Union for Foreign Affairs and Security Policy Federica Mogherini, and European Commissioner for European Neighbourhood Policy and Enlargement negotiations, Johannes Hahn, announced a new strategy about EU enlargement to Western Balkans. Both affirmed that Enlargement is in the “Union’s very own political, security and economic interest. It is a geostrategic investment in a stable, strong and united Europe based on common values. A credible accession perspective is the key driver of transformation in the region and thus enhances our collective integration, security, prosperity and social well-being. It remains essential for fostering reconciliation and stability.”³ The enlargement makes part of the “solidification”⁴ strategy of the Union enounced by Juncker in September 2017. The Commission expressed its will of updating BiH status, upgrading it to candidate one. The path towards the EU is a merit-based process, this is the reason behind the EU launch of *Six Flagship Initiatives* which imply the strengthening of the rule of law structure, engagement in security and migration issues, support and incentives for socio-economic development through the creation of Balkans Investment Framework which should support SMEs and start-ups, infrastructure and energy connectivity, digitalisation and the development of reconciliation processes and neighbourhood policies.⁵ Actions in these areas should be undertaken between 2018 and 2020; EU is already the most important donor in the region and the biggest trade partner. The Six Flagship Initiatives aims to consecrate EU’s efforts as far as to test Western Balkans readiness for change.

Mogherini and Hahn clarified the geographical belonging of the six Western Balkan countries to the EU. They also reminded that there are several bilateral disputes that need to be overcome. The previous enlargement of 2004, demonstrated how difficult it could be to solve certain legacies and ties, which came out back currently, showing the distance between the *old* and the *new* members.

Concerning the border disputes, which mainly involves Croatia/Slovenia, Serbia/Kosovo and Macedonia/Greece the level of sincerity and commitment of those countries to solve the problems is fundamental for a profitable accession and for avoiding instability after the membership. Croatia and Slovenia, both EU member states, did not solve their border dispute beforehand and have to be taken as examples for having brought into the EU their problems; this is something that Mogherini and Hahn want to avoid. Furthermore, EU member states could block EU membership when it comes to unsolved border issues, e.g. Croatia could block Serbian accession whether the border dispute with it would not be solved.

³ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS, European Commission, February 6, 2018.

⁴ Juncker announced Strategy for successful accession of Serbia and Montenegro to the EU, European Western Balkans, September 14, 2017, accessed on February 22, 2018.
<https://europeanwesternbalkans.com/2017/09/14/juncker-announced-strategy-successful-accession-serbia-montenegro-eu/>

⁵ A Credible Enlargement Perspective for an enhanced EU enlargement with Western Balkans, European Commission, February 6, 2018.

Chronology of BiH-EU relations and the obstacles toward accession

The BiH state settlement after the Dayton agreement⁶ is federal, with two main local administrative realities, one is a unitary state-like entity – *Republika Srpska* and the other one is the Federation of Bosnia and Herzegovina. This set, was mainly aimed to guarantee the utmost representation to the three ethnic entities of the country, but its fragmentary does not collimate with EU standards implementation. The situation created by *Dayton*, although the guarantee of international status brought to a high degree of ethnic institutionalisation and the government effectiveness, is paying the expenses for it. The whole part of the competences is up to federal entities and the common state has very few chances of mastering them.

EU structured its policies towards BiH in a gradual way: stabilisation of the country, of its relations with its neighbours and ultimately EU membership.⁷

The EU started its involvement in the Western Balkans in 1997, with political and economic criteria which would allow stable bilateral relations. In 1998, an *EU/BiH Consultative Task Force* has been created, and in 2006 it has been replaced by the Reform Process Monitoring. In 2000, EU traced a Roadmap of goals and aims which BiH had to achieve: the main intention was to put possible EU integration in the agenda and to set the basis for the acquisition of Copenhagen criteria. In November 2003, the Commission published an acknowledgement of BiH Roadmap adoption but at the same time admitted the impossibility for it of doing more about those prescriptions. The acknowledgment was expressed in the Feasibility study⁸, where the Commission addressed the implementation of its principles at a central level not mentioning the different federal entities. Both the Roadmap and the Feasibility study represent the political component of pre-candidacy for BiH. Potential candidacy has been then confirmed during the Thessaloniki European Council summit in 2003⁹. EU goals in the region were represented by consolidating peace, stability and democracy promotion.¹⁰ In 2005, negotiations on Stabilisation and Association Agreement (SAA) started and they have been completed just in 2008, because of BiH impossibility of fulfilling certain provisions on police reform which according to EU had to be centralised. In the same year, two other provisions marked EU-BiH relations: one about free visa regime and the other for streamlining trade related issues. Finally in 2015, the SAA entered into force. Several EU missions have characterised EU/BiH relations too – EUFOR Althea, and the presence of EU Special Representative is devoted to strengthen the Rule of Law in the country exploiting the Instrument for Pre-Accession Assistance (IPA)¹¹. IPA has five main tasks to carry out, namely: strengthening democracy and rule of law, promotion and protection of Human Rights, public administration

⁶ *General Framework Agreement for Peace (GFAP)*.

⁷ Smith K. E., *Enlargement and European Order*, in Hill C. and Smith M., *International Relations and the European Union*, Oxford University Press, 2005.

⁸ *Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union...op.cit.*

⁹ *Declaration*, EU Western Balkan Summit, Thessaloniki, June 2003, European Commission- Press release database.

¹⁰ Vesnic-Alujevic L., *Integration of Western Balkans: from reconciliation to European Future*, *Centre for European Studies*, 2012, p. 33.

¹¹ *Bosnia and Herzegovina, Western Balkans*, accessed on February 22, 2018, <https://europeanwesternbalkans.com/bosnia-and-herzegovina/>.

reform, economic reform, civil society development, social inclusion, reconciliation, regional and cross border cooperation.

Since that period, BiH completed three main issues requested by EU: the entering into force of SAA, the membership application (2016) and the development and initiation of a structural economic reforms program. Nevertheless, those stages have been most reached by EU retreatment, diluting conditionality, acceptance of formal fulfilments of certain issues, without being interested in the real implementation of them. For receiving the final Opinion of the Commission for becoming a candidate BiH had to complete the *Questionnaire* which has been submitted officially February 28, 2018 in Sarajevo, during the visit of the President of the European Commission, Jean-Claude Juncker.

Concerning the implementation of EU policies and legislative body, the Dayton settlement brought some complications; it has been in fact questioned by the EU above all regarding BiH state structure¹². BiH been organised as a federal state, with a high level of decentralisation, experiences some difficulties into importing EU laws at a centralised level. The EU is more interested into achieving centralisation, or at least into making the central government structure function, because at an institutional level it would be easier to endorse changes and negotiations. Nevertheless, the EU does not have any international mandate which can make it able to request a further centralisation. Since the affirmation of EU wanting to reform BiH constitutional structure, guaranteeing more power to the central government, the legitimacy of EU's way of intervening can be called into question. This can be considered partially true, but it is necessary to contextualise EU intervention in BiH and the mismatch between the governmental structure given by the Dayton Agreement to BiH and the EU political one. Several times EU requests implementations receive a *de jure adoption*, but *de facto* their establishment is missing. The lack of funds sometime impedes the establishment of certain institution or their chances to work properly. The convergence between precarious political structures and the EU tendency to launch strategies without material means for their implementation.

A strong element of change can be given by the countries which will chair the Presidency of the Council of the EU in the next months could give to fasten BiH-EU approach, should be also take into account: Bulgaria (currently holding the Presidency), Austria, Romania, Finland, Croatia and Germany. Those states could be enlargement supporters because of their proximity to the region (Austria, Romania, Croatia), because they are new members too, which can actively help through advice and structural support new candidates (Croatia, Romania) and because in their past they always been enlargement enthusiast defenders (Finland, Germany) for the health of the EU itself.

For the first time then, EU gave a chronological framework to the enlargement procedure, which represents a positive incentive for implementing EU requested reforms. With this purpose, an involvement of BiH representatives in EU Sectoral Policies is desirable. Even if BiH would not have

¹² *Report from the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union*, European Commission- Feasibility Study, November 18, 2011.

decisional power, at least it would have a chance of understanding how EU works and there would be a mutual benefit, of understanding the dynamics and patterns behind the EU way of making political decisions. This attitude could positively affect public opinion perceptions towards enlargement and towards EU promises credibility, strengthening transfer of experience, networking and sense of belonging. The credibility of a possible EU membership in fact, decreased in these last years.

According to the Regional Cooperation Council's Balkan Barometer¹³, in BiH just 33% of the citizens are perceiving EU membership as a good landmark for the country, and 33% think that BiH would never join the Union, showing a drop from 2015 when the percentage was 38%¹⁴. This scarce trust means that the efforts made by EU in this last decade have been dispersive. Two main causes can be retraced behind this perception:

- First of the lack of attention EU gave in the last years to those countries, or better the lack of credibility EU provided to its strategy in the region and the fact that it has not being able to explain why and how democratisation and rule of law implementation are important *a priori*, not only as membership condition.
- Second, the ineptitude of BiH politicians to solve their internal issues and to shift to a more participative attitude towards EU. Their way of exploiting the ties and legacies of the war, the disparities and the ethnic problems for maintaining their positions of power, well detached from the economic and social reality of the country.

Nevertheless, another poll made by Centre of Insights in Survey Research¹⁵, investigated that around 77% of the interviewed support to some extent BiH EU accession, above all the 89% of the Bosniaks, while the Serbs who were supporting it were just the 52%, with a 46% of them contrary to a possible membership. This just to underline how much the situation can be internally controversial and unpredictable. At this purpose examining the support for NATO, it is possible to notice that the one for EU is strongly higher. NATO membership is generally supported by 49% of the population. However, looking at the ethnic groups, both Bosniaks and Croats back NATO membership with an 84% support, while only 9% of Serbs are in favour.¹⁶

On BiH side, the last general document published by the central government concerning EU Integration strategy is dated back to 2006¹⁷, from that period until now the documents provided by BiH government are policy oriented, so they are differentiated according to the political fields which need to be improved (Education, Administration, Trade for instance) and they are also

¹³ *Public Opinion Survey*, Balkan Barometer 2017, Regional Cooperation Council, ISSN 2303-2594, Year 3, Number 3, 2017, pp. 53-54.

¹⁴ *Public Opinion Survey*, Balkan Barometer 2017, Regional Cooperation Council, 2015, available at, https://www.rcc.int/seeds/inc/get_indic.php?id=23&cat_id=2

¹⁵ *Bosnia and Herzegovina: Attitudes on Violent Extremism and Foreign Influence*, Centre for Insights in Survey Research, International Republican Institute, January 4-February 3, 2017, accessed on February 28, 2018, http://www.iri.org/sites/default/files/iri_bosnia_poll_february_2017.pdf.

¹⁶ *Ivi*, p. 33.

¹⁷ *EU Integration Strategy of Bosnia and Herzegovina*, BiH Council of Ministers, April, 27, 2006, accessed on February 22, 2018.

managed at a local level. Brljavac¹⁸ stated in 2011 that the agenda related to EU integration process is not a priority for BiH politicians. The promise, the “carrot” of EU access is not sufficiently attractive for them, according to the author. This is mainly due to the ethno-nationalistic patterns of policy making in the region and to the highly divided way to master the state structure. An “expectations gap”¹⁹ comes out, in this context. The gap is basically constituted by what EU affirms of wanting to implement and the real chances of implementing it. It is the result of three main factors: the ability to agree, the resources availability and the material instruments at EU disposal. The lack of resources and material frameworks to put in practice what has been stated brings EU to miss the goals it claimed to have.

Other reasons of slowness for the BiH side are also related to the complete exclusion of citizens from political decisions, which are mainly taken by small-ethnic political elites, in a vision of top-down implementation. Political class, according to Blagovcanin²⁰ shows no interest into shaping a stable and clear legal framework for aligning the decentralised institutions. The author²¹ also cites the Nations in Transit study which certifies the country’s passivity into developing crucial areas like rule of law, and human rights. In some areas BiH even worsened its situation reaching 0.35 in the Democracy index and Freedom House still classifies BiH as a Transitional Government. The key to understand BiH backwardness situation, is given by the huge gap between laws and reality and the lack of implementation of consistent legislator branches.²² The Global Integrity Report of 2011 reported BiH within the worst countries for law implementation²³.

Dobbins²⁴ clarifies, that if the EU efforts in these last decades brought to great results on some aspects, concerning some other issues they were lacking. Although BiH reached a certain economic stability, and adopted many of the provisions settled by EU, its politics remain linked to ethnic patterns and sectarian issues.

¹⁸ Brljavac B., *Europeanisation Process of Bosnia and Herzegovina: Responsibility of the European Union ?*, *Balkanologie Revue d'études pluridisciplinaires* Vol. XIII, n° 1-2 | 2011 Volume XIII Numéro 1-2, p. 3.

¹⁹ Hill C., *The Capability-Expectations Gap or Conceptualising Europe's International Role*, *Journal of Common Market Studies*, 31 (3), 1993, p. 315.

²⁰ Blagovcanin S., *The EU as state builder in the process of European Integration- the case of Bosnia Herzegovina*, *Friederich-Erbert-Stiftung*, 2016, p. 72.

²¹ *Ivi*, p. 74.

²² *National Integrity System Study*, Bosnia and Herzegovina 2013, Transparency International BiH, 2013.

²³ *Global Integrity Report on Bosnia and Herzegovina*, Global Integrity, 2011.

²⁴ Dobbins J., *Europe's Role in Nation Building- From the Balkans to the Congo*, 2008, p. 155

Conclusion

These are the premises for BiH accession in the European Union. The situation is still uncertain two main steps will clarify its future membership in EU:

- The Publication of the Commission Opinion on BiH membership application.
- The Western Balkans Enlargement meeting in Sofia in May 2018.

The structural EU approach from the end of 90s has been more fruitful and effective in BiH, than the classic one, strictly related to enlargement, showed in these last years. Considering that nowadays and for Western Balkans the route towards enlargement is much more difficult than earlier, the countries called to modernise and adapt their structures to the EU ones, perceive a strong fatigue and frustration. The efforts made towards EU could look useless, because they are not followed by EU positive involvement.

On one hand the EU, suffers its attitude of top of the class in the country, wanting independently from the situation legitimate its actions and justifying its moral imperative into intervening. This attitude would be justified if it would be represented by a clear structure and procedure of enlargement process, which although the statements by Mogherini and Hahn is still missing at the moment. It is also necessary to consider that EU strategy towards BiH, even if presented as a proper enlargement action plan, it is far away from being it. The country state building process is still in development. At the same time, EU is giving for granted that thanks to membership reconciliation process and inter-ethnic tensions will come to an end. This can be partially true, but it should imply a stable state structure. The robust state-building process which is still not accomplished and the country is still blocked in some legislative fields. Furthermore the overlapping nature of EU requests with the International community's ones created problems for the absorption of EU laws and provision.

On both sides there should be a re-shape of attitudes, towards a more credible strategy. A mixture of post-conflict reality, ethnic fragmentation and social disparity is jeopardising BiH society from undertaking the right path towards EU. On the other side, EU is overrating its influence. EU's promises necessitate to be followed by credibility and material help for being settled down fruitfully, both for the future BiH both for EU role itself.

EU strategy suffers some pathologies which impede to EU development of reaching the region. The first problem which can be revealed is the vagueness of some EU issues. EU processes are mainly top-down ones, built in Brussels and then put in practice in Sarajevo with little changes. Civil society spaces are often permeated by a goal/project-oriented mentality. In this way EU's attempts to take roots in BiH results detached from the reality and lose sense in the complexity of both the EU and BiH political structure.

For sure an accession in 2025 is impossible to reach at this stage of things, which probably would be much more complicated by next election in October 2018, but at least the basis of a renewed good and strong cooperation could be laid and a more clear vision for the future could be shaped. The next BiH elections in October 2018 complicate the situation. It is not possible to understand

still which political path will emerge from them and how much are tangible EU's intention for a further enlargement in the country.

Clearness and credibility should be the key words of EU and BiH in the next future. Clearness in what EU wants from BiH and how to reach it, and credibility into providing those means necessary for reaching it.

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