

Discussion Paper

EU's Pseudo Conditionality Discourse as a Tool for Managing
Migration Crisis in Bosnia and Herzegovina

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Introduction

The Balkan migration route, stretching from Turkey, Bulgaria, and Greece, passing through North Macedonia and Serbia, toward Croatia or Hungary and other EU countries has been slowly diversifying in the past few years. As a result of different anti-immigrant, often racists and discriminatory, policies adopted in some of the EU member states¹, a new route passing through Bosnia and Herzegovina has abruptly emerged and intensified recently.²

The official estimates state that between 35,000-50,000 migrants and refugees entered Bosnia and Herzegovina since January 2018. They have initially begun to arrive to Canton Sarajevo, and then slowly advanced toward Bihać and Velika Kladuša, in the northwestern parts of the country, closer to the Croatian (i.e. EU) border. Around 18,000 migrants have arrived to the Una-Sana Canto by railway³, at any given time around 7,000 of them reside there, and approximately 4,000 are temporarily accommodated in several EU-funded reception centers.

Since 2007, the European Union has provided financial assistance to Bosnia and Herzegovina in the amount of ~58.6 million EUR for migration and border management, mainly through the Instrument for pre-accession assistance (IPA). Additional funds in the amount of ~14.5 million EUR have been allocated through IPA regional program ‘Support to Protection-Sensitive Migration Management’.⁴

¹ Rettman, A. (2015, August 21). EU states favour Christian migrants from Middle East, *EUobserver*, Retrieved from <https://euobserver.com/justice/129938>; O’Grady, S. (2015, August 15). *Foreign Policy*, Retrieved from <http://foreignpolicy.com/2015/08/19/slovakia-to-eu-well-take-migrants-if-theyre-christians/>; Al Jazeera, (2015, September 3) Amid refugee crisis, Hungary prime minister says Muslims not welcome, Retrieved from <http://america.aljazeera.com/articles/2015/9/3/hungary-prime-minister-says-muslims-not-welcome-amid-refugee-crisis.html>

² In November 2015 Bosnia and Herzegovina adopted a new law on foreigners to further harmonize its legal framework with EU acquis. In March the country adopted a strategy on migration and asylum and an action plan for the 2016-2020 period, aiming to improve its strategic framework on migration management. A total of 179 people were intercepted while illegally crossing the border in 2015, compared with 189 in 2014 and 228 in 2013. In the first six months of 2016, the Border Police intercepted 97 individuals while illegally crossing the state border, which represents a 30 % increase compared to the same period of 2015. For more information, please see: EC Bosnia and Herzegovina 2016 Report, Communication on EU Enlargement Policy, available here: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_bosnia_and_herzegovina.pdf

³ Dnevni List (2019, September 30). Najveći dio kolača dobila Služba za poslove sa strancima, a najmanji USŽ i Granična policija.

⁴ A first IPA Special Measure was allocated in the amount of 13,2 million EUR (6 million EUR in August 2018 and 7,2 million EUR in September 2018). A second IPA Special Measure of 23 million EUR was distributed in

However, the EU's response to increasing migrant influx in BiH did not come across locally as a genuine humanitarian gesture and a 'helping hand' offered in times of crisis, but rather as another form of financial haggling instrument for managing the crisis in the territories outside of the EU, and for testing the readiness of various BiH government actors in managing the situation effectively. The most recent public discourses related to the EU distribution models of the crisis management support funding have strongly resembled the language EU officials in Brussels and in BiH often use when discussing the EU enlargement process and BiH's accession prospects.

This discussion paper argues that the EU (un)intentionally uses a so-called '*pseudo-conditionality*' action pattern and discourse in supporting the migration crisis management in BiH, and that financial funds and other resources provided came with 'political strings attached'. The analysis of the available official documents, interviews with relevant institutional representatives, and examination of media reports on the course of negotiations with the local stakeholders indicate that the EU assistance programs were framed in consistence with the EU's direct interests of strengthening its external border and keeping the migrants and refugees in BiH as long as possible, and not in a form of humanitarian assistance or aid. The available records indicate that EU officials allocated funds only to specific areas of interests and to particular collaborating partners they had previously assessed would be the best to carry out the set goals, while the strategic negotiations with BiH government bodies (at various levels) about the concrete steps in mitigating and managing the growing crisis resembled the well-known 'conditionality' discourse. In other words, the EU has practically used their negotiating position and promises of financial assistance programs as bargaining strategy of 'reinforcement by reward'⁵, thus providing desired financial incentives in exchange for compliance with set conditions.

2019. The EU Delegation to BiH supports Bosnia and Herzegovina in managing migration with additional 10 million EUR. Source: <https://europa.ba/?p=65185>

⁵ Frank Schimmelfennig & Ulrich Sedelmeier (2004) Governance by conditionality: EU rule transfer to the candidate countries of Central and Eastern Europe, *Journal of European Public Policy*, 11:4.

Background and Points of Contention

Approximately 50,000 migrants and refugees illegally entered BiH in the past two years.⁶ Around 95% of them were registered and expressed intent to submit an asylum claim within 14 days to local authorities, thus ‘procuring’ time and a valid legal status in Bosnia-Herzegovina that would effectively allow them to travel across the country and cross over to the EU. Almost nobody’s asylum related request has ever been finalized, mainly because most migrants leave the country within those 14 days or remain in hiding if they fail to do so.⁷

Official International Organization for Migration (IOM) reports indicate there were more than 7,500 migrants registered in BiH in August 2019, and around 4,500 of them were residing in the temporary reception centers.⁸ Approximately 150-200 migrants arrive to Una-Sana Canton every day. The Cantonal Ministry of Interior reports that local police officers have ID-ed 36,323 migrants and refugees between early January and the end of September 2019. On average, there were between 3,300-5,200 migrants residing in the Canton in October 2019.⁹

The European Union has committed and invested substantial funds for assistance to BiH government bodies in mitigating the migration crisis, mainly through IPA funds. The EU resources are intended cover the cost of the basic operations of the temporary reception centers (i.e. food, water, sanitary costs, clothing, and psychosocial assistance), and to establish new centers for migrants that might arrive to Bosnia-Herzegovina in the following period.¹⁰ The overall strategy of the European Commission towards BiH is outlined in Commission’s Implementing Decision in the

⁶ Lončarić, A. (2019, November 15). Aplauz zbog kritika upućenih Hrvatskoj, *Oslobođenje*.

⁷ Bradavica, D. (2019, October 24). Prihvatni centri mogu biti isključivo na lokacijama u državnoj svojini, nikako u privatnoj, *Dnevni List*.

⁸ Dnevni list (2019, August 23). U BiH oko 7.500 migranata.

⁹ Information about number of migrants provided by police of Una-Sana Canton for period January – September 2019. Source: The Ministry of Interior of USC, no. 05-04/04-1- SI /19

¹⁰ The newly adopted policy of the European Commission (DG NEAR) has been under development since spring 2018. The policy has two main elements. Firstly, to aid manage flow of migrants and refugees when it comes their basic needs. Secondly, providing assistance to BiH authorities for actions in the sector of Rule of Law and Fundamental Rights primarily focusing on migrants and refugees. Source: European Commission (2018). Implementing Decision C(2018) 5340.

2018 C(2018)5340 and in the 2019 C(2019)3189 which specify substance of assistance as well as implementation method.¹¹

Since 2018, EC's DG NEAR has taken actions in mitigating the growing migrant crisis in BiH, with indirect management by IOM and UNHCR. They have bypassed the BiH Ministry of Security under pretext that it was not able to provide a comprehensive strategy and action plans in the first months of 2018 that would secure the effective use of financial resources according to the EU standards. Thus, a decision on going forward with the indirect management of the situation was opted to avoid the conflicts with unclear competencies and overlaps and to maximize the practical use of the resources.¹² Ever since, the European Union officials purportedly monitor the migration crisis and the work of their partner organizations, such as UNHCR and the Danish Council for refugees. EU officials in Brussels maintain they are regularly informed about the work, have examined the official reports with the expenditures, and concluded that all consistent with the agreements signed.¹³ Still it remains unclear how the allocated funds are distributed practically within the approved budget schemes, i.e. whether the majority of funds is directed to alleviating migrants' problems, or whether the money is mostly spent on salaries of contracted personnel working on mitigating the crisis locally, since the number of IOM employees and associated partners has risen from less than 20 to 300+ in the past 2 years.

When allocating funds to the BiH authorities, EU officials also defined some key action priorities and conditions that need to be fulfilled by the receiving party. Their 'pseudo conditional' discourse consists of keeping migrants in reception centers

¹¹ The specific objectives listed in the C(2019)3189 document include support the Bosnia-Herzegovinian authorities in improving the capacity for identification, registration and referral of third-country nationals crossing the border, providing adequate and protection-sensitive accommodation and basic services for refugees, asylum seekers and migrants (including vulnerable groups of persons, children and unaccompanied minors), as well as strengthening capacity for border control and surveillance, thereby also contributing to the fight against and prevention of migrant smuggling, trafficking in human beings and other types of cross-border crime.

¹² The situation in Serbia was dramatically different since Commission for Refugees had proven experience with handling migrants and refugees from Bosnia-Herzegovina and Kosovo. Therefore the flows have been managed differently since 2015. From this perspective, readiness of state level institutions has been assessed as the most relevant element when it comes financial resources distribution. In addition to that, the DG NEAR argues that clear decision making strategy developed by Serbian government is substantive element evaluating Serbian response to migrant crisis. This also means enhanced flexibility of DE NEAR when it comes to implementation of individual projects and their evaluation. For example, previous distribution of EU funds, such as 30 mil. EUR provided in 2017. Detailed information are provided here: <https://ec.europa.eu/transparency/regdoc/rep/3/2017/EN/C-2017-1726-F1-EN-ANNEX-1-PART-1.PDF>

¹³ Trako, E. (2019, November 19). Evropljani zgroženi: Vučjak se mora zatvoriti! *Dnevni Avaz*.

situated far away from the EU border, in facilities managed and operated by international organization(s) with high human rights and management standards (i.e. certified agencies, with strict implementation procedures and rigorous spending protocols, while often more expensive services than locally available alternatives), the facilities they invest in need to be state-owned property (eventually turned into a publicly serviceable facility), etc. Accordingly, the EU fund-awarding bodies engage in a bargaining process with local partners, promising them the financial or resource-based benefits if the pre-set conditions are met, while the practical use of the assistance funds is not directly discussed with the local beneficiaries or communities that directly share the crisis burden. Available documents indicate that the Una-Sana Cantonal Government received inconsequential direct funding to cover the costs of the crisis management matters and some local infrastructural projects (for instance renovation of street lampposts in Bihać). Instead, it was offered assistance through direct help of the IOM and some other international organizations, mainly in consolidating migrant and refugee settlement system locally.

The EU's normative cascade in BiH's cumbersome political structure and dynamic political context is taken as disruptive to the existing normative schemata. Settled perceptions of disruptiveness are the key reasons why EU norms do not gain stable foothold.¹⁴ Bargaining leverage and pseudo-conditional normative discourses the EU donors use in providing funding and their management assistance modus operandi further deepens the existing crisis. The EU's approach is unable to generate local support for the projects they are aiming to implement, and it only generates conflicts in setting out priorities related to their funding goals and locally-embedded practical challenges. The use of the 'reinforcement by reward' approach in negotiating non-enlargement related matters with various BiH government counterparts raises the level of distrust, deprives locals of the opportunity to own and manage the process, since agents at various levels of government are focused on fulfilling the EU conditions in order to get the money, and not on coordinating the tasks that would benefit those in need.

¹⁴ Hasić J. and Dedić D. (2019): Chasing the Candidacy Status: Tacit Contestations of EU Norms in Bosnia and Herzegovina, in *Balkanizing Europeanization: Fight against Corruption and Regional Relations in the Western Balkans*, Peter Lang Publishing.

There are at least two perceptible consequences of such action. Firstly, EU's MO opens up space 'horizontal coordination dissonance', allowing various actors engaged in the processes to pursue particular interests and not working on coordination or fulfillment of mutually acceptable and common goals. Agents with prior negotiation experience with the EU instinctively submit themselves to EU's demands due to perceived power imbalances that stem from the EU accession process. They (un)willingly conform to the conditions in exchange for promised rewards, and sometimes become proxy agents that advocate EU's goals among other stakeholders, who, on the other hand, did not have this experience and will not enjoy substantive, direct and immediate benefits of EU's engagement. Agents that accept and fall under EU's pseudo-conditional scheme are better off cooperating than remaining loyal to common locally-embedded goals they would otherwise aim to fulfill if the incentives EU offers were absent or removed. Secondly, this type of EU's engagement distorts the existing, already fragile, chain of responsibility domestically and internationally, making it lax and circular, which further makes BiH government bodies appear weaker and practically unable to manage the situation without the external guidance. In other words, the EU's negotiation and fund-allocation action patterns appear counterproductive in practice as they lack consensus and support from the local elites and population. Such an approach has implicitly created a power imbalance among the involved parties, and generated a negative climate of competition.

The Impacts of EU's Pseudo-Conditional Discourse in Facilitating Crisis Management in BiH

Horizontal Coordination Dissonance: Agents Pursue their Particular Interests

The migration crisis in BiH is currently peaking. The EU has committed funds for relief and migration crisis management, in addition to ~24 million EUR that have already been transferred in the last year and a half. Most of the funding is allocated to and managed by international organizations, some by state-level institutions, while local communities, like Bihać and Velika Kladuša, might not receive enough to cover their own pressing costs.¹⁵ As a response, EU officials have repeatedly stated that they invest money to strengthen government capacities at all levels in Bosnia-Herzegovina to effectively manage the migration crisis and they expect all levels of government in the country to work together in the best interests of migrants and local populations, in order to find the best suitable ways to distribute and share the responsibility. However, European Union officials have clearly indicated that there would be no additional funds allocated if local government bodies show no willingness to expand the capacities of the present migrant and refugee reception centers.

Meanwhile, the situation in the Una-Sana Canton is becoming highly complicated and slowly turning into a serious security concern. Based on the experiences of Bihać and Velika Kladuša, other local communities of Bosnia-Herzegovina have fully realized the potential threats of hosting a large number of migrants and are currently withholding their consents for opening new reception centers on their own territories. On top of that, the state-level institutions and entity governments have no clear response on how to deal with the ongoing problems.

The situation became more convoluted when the local authorities in Bihać, after being overwhelmed with incoming migrants, decided to relocate hundreds of them to a former garbage dump called Vučjak.¹⁶ The camp was established half a year ago as a temporary solution, and it intended to serve as a hub for migrants who could not

¹⁵ Dnevni list. (2019, August 23). U BiH oko 7.500 migranata.

¹⁶ Jenjevic, D. (2019, November 16). Bosnia's Vucjak camp: Migrants, a garbage dump — and a road to nowhere, *Deutsche Welle*, Retrieved from <https://www.dw.com/en/bosnias-vucjak-camp-migrants-a-garbage-dump-and-a-road-to-nowhere/a-51279684>

receive accommodation at one of the two existing IOM-operated migrant reception centers located in Bihać, and until the formation of another settlement facility elsewhere. All relevant stakeholders had initially assessed Vučjak camp as the most suitable temporary location for migrant settlement. Over 15,000 refugees and migrants were placed there since its establishment and were taken care of by the volunteers of the Red Cross organization from Bihać. Around 800 migrants on average found shelter there, all living in inhumane conditions. Several factors, such as local government's restrictions on limiting migrants' freedom of movement, new arrivals and forcible transfers of migrants to the camp, strengthening of border control by Croatian LEAs, substandard living circumstances for migrants at Vučjak, grave sanitary concerns, the inappropriate locale close to the EU border and camp's remoteness from the basic services, combined with the rising number of incoming migrants, the inability of local government to fully subsidize aid programs of the Red Cross and EU's reluctance to fund the basic costs, ultimately made Vučjak unaccommodating and unsustainable.

The EC's assessment of the situation in the camp highlighted an urgent need to act and stop further deterioration of the humanitarian and security conditions in the Una-Sana Canton, and to establish additional suitable reception centers in accordance with the international standards, especially reception facilities for the most vulnerable groups, including children. The EU officials requested from the local authorities not only to deal with the currently increased figures, but also to ensure the needed support in case the flow of migrants will become more stable.¹⁷ The European Union has repeatedly urged the local LEAs to stop escorting the migrants to Vučjak camp and asked to find another location as soon as possible.

In spite of the constant demands to close the camp, the City of Bihać administration remained committed to keeping it open until another adequate location outside the Canton is found and the migrants are transferred there. The local government officials claimed that Vučjak was 'a last resort' solution, and without this camp the migrants would be left on the streets of Bihać, and thus exposed to even more inhumane

¹⁷ European Commission Implementing Decision C(2019)3189, page 3.

conditions. This would also potentially endanger the local population that is already concerned with their current security status.¹⁸

There have been hard negotiations between different stakeholders as to what has to be done and what are the appropriate measures to take. All stakeholders, working under strong pressure from the EU to resolve the situation, are facing relatively high financial incentives for acting consistently with the EU demands. Along the lines of the pseudo conditionality discourse, the EU offered 10 million EUR to the USC Government if they recommend a new location for another temporary reception center, but exclusively if the facility is a state owned property. The USC Government, in cooperation with Bihać and Bosanska Krupa city administrations, officially proposed 2 suitable locations (i.e. Lipa and Baštre), but the offers were tacitly ignored.

The state-level Ministry of Security, being one of the major beneficiaries of the EU funds, slowly became its proxy and strongly advocated EU's approach. The BiH MoS demanded that local government in Bihać finds an appropriate state-owned location, to avoid monthly expenditures of 80,000-90,000 EUR for renting facilities from private companies. In this way, the promised EU funds would be invested in building public goods that could be effectively transformed into publically serviceable facility upon the end of the crisis. Simultaneously and paradoxically, the BiH Minister of Security expressed a strong opposition against the decision of the USC Cantonal Assembly and the City of Bihać Assembly on closing the two existing IOM operated centers and insisted that the contracts for renting the space for two IOM managed reception centers are extended with the private owners. The Minister of Security also refused to comment Republika Srpska's Government decision to ban opening of any migrant reception centers on its own territory, as well as the reluctance of other communities in Federacija BiH to accept fairer redistribution models, and in locations like Vogošća and Semizovac.¹⁹ In addition, the Council of Ministers of BiH also ordered to keep the existing temporary reception centers in Bihać and Velika Kladuša

¹⁸ Trako, E. (2019). Evropljani zgroženi: Vučjak se mora zatvoriti! Dnevni Avaz.

¹⁹ Bradvica, D. (2019, October 24). Privhvatni centri biti isključivo na lokacijama u državoj svjini, nakako u privatnoj. *Dnevni list*.

open.³⁰ The additionally authorized the expansion of the existing capacities, contrary to the decisions of the cantonal and city governments, which repeatedly requested their closing and migrants' relocation.

The local and cantonal governments in Bihać have gradually become distrustful about the proposed solutions, since they are not convinced the current crisis will end relatively soon, and thus there will be no practical public use of the invested funds. Also, they are extremely conscious about outsourcing crisis management system to international organizations, and the ever-stronger concerns of the local population, many of whom had already left the city. Representatives in local and regional institutions are highly unsatisfied because they have not received the financial installments directly. Local-level decision makers and public interests they represent are kept 'on the table' and not at the table.

Namely, EU Commission's Implementing Decision allocated the majority of available funds to the state-level Service for Foreigners, while Bosnia-Herzegovina's Border Police, which lacks min. 400 employees, was only allocated around 7,5 million BAM. The Canton and its local communities directly involved in the crisis management would receive approximately 8,7 million BAM.³¹ The Canton's PM has repeatedly expressed his disappointment with the funds' distribution plan, stipulating that only 1,9 million BAM will be allocated for strengthening the capacities for asylum issues locally, around 400,000 BAM will be invested in implementing the agreement on readmission and strengthening the readmission capacities, while only 120,000 BAM will be invested in strengthening the capacities of the cantonal Coronation body for migration management, and not a single BAM will be invested in intensifying capacities of the local LEAs to fight against smuggling and trafficking of humans. This practically means that EU funds will be mostly used to cover the consequences of the ongoing migration crisis and not toward addressing the root causes of the problem. This is why many local officials in Bihać have been particularly critical of EU officials' hypocrisy, mainly for condemning the behavior of

³⁰The Council of Ministers of Bosnia-Herzegovina had previously declared 'Miral', 'Borići', 'BIRA' and 'Sedra' as suitable migrant reception centers, but practically never claimed the responsibility for their management. The Decision was published in *Sl. glasnik BiH*, 28/19.

³¹*Dnevni list* (2019, September 30). Najveći dio kolača dobila Služba za poslove sa strancima, a najmanji USŽ i Granična policija.

the local government for allegedly insufficient assistance to the migrants at the camp Vučjak, and at the same time not investing enough funds locally or condemning the behavior of the Croatian police for their violent behavior toward migrants.²²

Table 1: Overview of financial resources provided by the EU for handling the migrant crisis in BiH

<i>Name of measure</i>	2018	2019	Long term programs
<i>IPA Special Measure</i>	13,2 mil. EUR	23 mil. EUR	
<i>IPA (asylum and migrant protection)</i>			24 mil. EUR (since 2007)
<i>IPA II (regional framework, not dedicated to BiH only)</i>			14,5 mil. EUR (since 2014)

Source: DG NEAR

In the meantime, the Government of Federacija Bosnia-Herzegovina (FBiH) entity intended to help in resolving some segments of the problem. They committed 4 million BAM to the Una-Sana Canton Government to help mitigate the current crisis. The funds were redirected to the local authorities in Bihac to cover the basic needs of the migrants placed at Vučjak. The money transfer was delayed when FBiH Government learned that Cantonal Government might redirect the funds to build a new police station in Bužim, which was not part of the deal.²³

Bosnian Security Minister Dragan Mektić first announced the closure of the Vučjak camp on December 6. The closing of the camp, housing around 600 migrants, had been scheduled for December 9, but was postponed for one day.²⁴ CoE Human Rights Commissioner Dunja Mijatović welcomed the closure of the camp, and added that this is a wakeup call for the new Council of Ministers of Bosnia and Herzegovina to assume full responsibility for migration issues and ensure that the human rights of refugees and migrants, including asylum seekers, are respected.²⁵

²² Kraica, S. (2019, November 18). Raste jaz između BiH i Hrvatske *Olobodenje*.

²³ Bašić, D. (2019, October 21). Gdje su 44 miliona eura namijenjena migrantima, *Dnevni Avaz*.

²⁴ RFEL. (2019, December 11). Bosnia Begins Moving Migrants From Makeshift Vucjak Camp. Retrieved from <https://www.rferl.org/a/bosnia-begins-moving-migrants-from-vucjak-makeshift-migrant-camp/30318056.html>

²⁵ Council of Europe. (2019). Commissioner Mijatovic welcomes the closure of the “Vučjak” migrant camp in Bosnia Herzegovina. Retrieved from <https://www.coe.int/en/web/commissioner/-/commissioner-mijatovic-welcomes-the-closure-of-the-vucjak-migrant-camp-in-bosnia-herzegovina>

In the meantime, the Government of Republika Srpska (RS) entity continuously refuses to share the burden of the migration crisis, even though they had received some funding from the EU aimed for ‘strengthening capacities’. The local governments with Serb majority population in the Una-Sana Canton, like Bosanski Petrovac²⁶, and in other parts of FBiH, like Glamoč, Grahovo i Drvar, backed up by Milorad Dodik (Serb Member of the BiH Presidency), have also resisted to take part in the potential redistribution plans.²⁷ Dodik is expressly against the migrant reception centers being established in Republika Srpska, claiming that most incoming migrants have already been registered in the EU, either Greece or Bulgaria. According to him, instead of helping BiH to strengthen its borders and capacities for resettlement, the EU should direct its funds to effectively control the borders in those two countries or provide other ways of transit to the EU countries migrants want to go, which would not include Balkan states.²⁸

There are still around 30,000 to 40,000 migrants waiting in the Western Balkans to go through the Western European Union countries. The borders between Serbia and BiH (the Republika Srpska entity) remain fairly unprotected and insufficiently guarded.²⁹ For instance, Zvornik, a city in Republika Srpska, could become a new migrant hub. There has been an increase of migrant population in the city. The local border police has successfully retorted around 5,500 migrants who attempted to illegally enter Bosnia-Herzegovina, despite the fact that one unit of the border police covers around 160 km of the border between Serbia and Bosnia-Herzegovina along the river Drina. The migrants cross over to Zvornik on rafts and improvised boats made out of plastic bottles, and during the low tides, they regroup into cohorts of 10-12 and walk across the river holding each other’s hands.³⁰

Several local communities in Federacija Bosne i Hercegovine entity have also rejected the proposals to share the burden equally. The Mayor of Tuzla, resonated

²⁶ Čekić, Z. (2019, October 23). Srbi neće migrante u Medenom Polju. *Nezavisne novine*.

²⁷ Dnevni List (2019, August 22). Prava Srba u Federaciji će zaštićena. *Dnevni list*.

²⁸ Klix. (2019, December 31). Dodik je pisao autorski tekst, a kao temu je uzeo migracije i uporedio ih s kolonizacijom Retrieved from <https://www.klix.ba/vijesti/bih/dodik-je-pisao-autorski-tekst-a-kao-temu-je-uzeo-migracije-i-uporedio-ih-s-kolonizacijom/191231023>

²⁹ Serbia's progress in the EU integration process was evaluated on the 6th Meeting of the Stabilization and Association Committee held in November 2019 in Brussels. The European Commission officials praised Serbia's efforts in managing the migration crisis. For more information: <https://www.srbijadanas.com/vesti/info/stigle-pohvale-iz-brisela-srbija-pokazala-zrelost-u-upravljanju-migracijama-2019-11-06>

³⁰ Tomić. S. (2019, November 24). Zvornik (ne)će biti Bihać. *Oslobodenje*.

with his colleagues in the USC and called for firm state action because he believes that local communities and cantons cannot act on their own with no top-down coordination of bodies legally in charge of migration issues. He also warned the public about smuggling and human trafficking strongly connected with criminal networks involved in illegal cross-border activities.

The Government of Federacija BiH also proposed to relocate migrants to various locations, in spite of the objections put forward by cantonal or local level governments. Legally, the FBiH entity level government is not compelled to take into account the decisions of the municipal or city councils. They only take their arguments into consideration, and can refute or accept them.³¹ There were proposals to relocate the migrants to the Ušivak i Salakovac official reception centers, and to the former military camp in Blažuj (near Sarajevo), which would be renovated with the EU funds, to be managed by the Ministry of Security Bosnia-Herzegovina in cooperation with the Armed forces of Bosnia-Herzegovina. However the Cantonal government in Sarajevo has not been officially notified or included in the talks about the transfer, and they first learned about this from media reports. They have subsequently demanded more information about the numbers and profile of people coming in. The Cantonal government of Sarajevo made it clear earlier that it would not be in favor of opening new refugee settlements on its territory. Locals in Blažuj are also worried and they have announced repeatedly that in case migrants are deployed there, they would be forced to move out. Eventually, the transfer was done in complete secrecy and media had no direct access. The locals in Bihać or in Blažuj (Sarajevo) were not properly informed about it.

On the other hand, the City of Zenica was one of the rare local communities that offered to accommodate migrants within the state owned facilities on their territory, at the youth center in Nemila and former military facilities in the city, however nobody was interested in pursuing this option. After several months passed, the facilities were leased out and currently there is no available capacity at the moment.³²

³¹ Džaferović, A. (2019, November 19). TK i KS ne žele migrante, *Oslobodenje*.

³² Bender, F., Demić, A., Todorović, J. N. (2019, August 23). Krizom ne upravljamo tuđe pare ne trošimo., *Oslobodenje*.

The existing coordination dynamics and unconsolidated network of agents trying to appeal to both EU's financial offer and implementation demands have created confusion among different levels of policy-makers. Externally incentivized actions have distorted communication channels and negotiating positions of BiH authorities, thus diminishing their overall capacities to tackle the growing challenges that have pressured each of the parties to pursue their own interest. Involved parties have effectively stopped seeking horizontal consensus and shared responsibilities in mitigating the existing consequences. Availability and promise of continued funding from the EU practically animates state-level institutions involved in regular negotiations with EU institutions. In anticipation of pending rewards for complying with the set conditions, they put extra pressure onto other government bodies to accept these terms, in spite of misbalances in gains and responsibilities that might arise.

Loose Chain of Responsibility: Inability to take Action or to React Adequately

The plurality of interests that developed by different agents who navigate EU's pseudo conditional modus operandi in mitigating the migration crisis has inevitably opened space for uncontrolled and sometimes unlawful activities. There have been frequent reports on the allegedly well-organized illegal crossings, human smuggling and human trafficking activities of migrants, as well as locals who abuse the situation to illegally earn money.³³ The amounts range between 4,000-100,000 EUR,³⁴ while smugglers' daily earnings amount between 10,000 and 40,000 EUR.³⁵ The European Commission's Assessment (published in August 2018) identified high levels of smuggling and human trafficking activities alongside the Croatian-Bosnia-Herzegovinian border and in northwestern parts of Bosnia-Herzegovina.³⁶ The EU institutions have been apparently aware of the wrongdoings and the 'average prices' of these illegal services in BiH ever since the route has emerged and intensified.³⁷ Meanwhile, some migrants have testified that it has become too difficult and expensive to cross over to the EU in USC, and they might consider going back to

³³ Bašić, D. (2019, October 21). Gdje su 44 miliona eura namijenjena migrantima, *Dnevni Avaz*.

³⁴ Anonymous EU Representative, personal communication, September 2018.

³⁵ Ašić, M. (2019, September 11). Zараđuju milione eura na švercu migranata, *Dnevni Avaz*.

³⁶ Anonymous EU Representative, personal communication, September 2018.

³⁷ According information provided by EU member state diplomat staff and according internal working documents of the EC. Source: Anonymous EU Delegation Representative, personal communication, September 2018.

Greece, where they would try get into another European Union country by boat or by plane.³⁸

The lack of accommodation facilities and the intensified border control with Croatia added on to already accumulated skepticism and nervousness among locals in USC. There have been several sporadic reports of misuse of the allocated funds. As a result, the citizens residing in crisis hubs like Bihać and Velika Kladuša feel antagonized and victimized both by the presence of ‘aliens’ in their cities, and by the activities of people who work outside of the commonly recognized standards of behavior. They feel that the top-level government has been insufficiently involved in maintaining the security.³⁹ The lack of fully functioning coordination system and institutions that are supposed to protect the citizens creates a void and raises locals’ negative sentiments toward the help they receive from the EU and the overall political and security developments in their city. As a result, citizens’ channel their frustration at their local political elite, and in turn, the elites formulate their responses toward the EU.⁴⁰

There have been well-documented allegations against the Croatian border and LEAs, their pushback activities and illegal returning of migrants to Bosnia-Herzegovina.⁴¹ The capacity and technical capabilities of the BiH police are underdeveloped and insufficient to follow through and up on these activities.⁴² EC’s DG NEAR recurrently argued the BiH Ministry of Security and affiliated agencies lack specific plan of development and strengthening of institutional capacities.⁴³ From the BiH perspective, the financial assistance distribution framework is in contrast with the EU approach in pumping the money for enhancement of the border control quality and border

³⁸ Bender, F. (2019, September 24). 100,000 Eura za prelazak, *Oslobodenje*.

³⁹ Bender, F. (2019, November 1). Krajišnici puške pominju, *Oslobodenje*.

⁴⁰ Hasić, J. and Karabegović, D. (2018). Elite responses to contentious politics on the subnational level: the 2014 Bosnian protests. *Southeast European and Black Sea Studies*, 18(3), p. 367-380.

⁴¹ Walker, S. (2019, July 16). Croatian police use violence to push back migrants, president admits, *The Guardian*, Retrieved from <https://www.theguardian.com/world/2019/jul/16/croatian-police-use-violence-to-push-back-migrants-says-president>

⁴² Anonymous officer at BiH Border police stationed in Una-Sana Canton, personal communication, December 2019.

⁴³ When it comes to role of border police, it is argued by DG NEAR that Ministry of Security lacks plan of development and how it should be institutionally strengthened. Therefore, since 2018 there was no measure implemented (both institutional and financial) to increase its capacity - in terms of direct support. The support of border police goes from support scheduled for IPA II funding scheme for 2014 and 2020. It covers financial support in opening of new border crossing, training of border police, and technical equipment. Said that there has not been implemented any special measure regarding border control related directly in the past two years. Also, this has been done outside direct collaboration with Frontex considering the external border protection. This contradicts assistance implementing decisions C(2018) 5340 and in the 2019 C(2019)3189 that specify the assistance in regard to border police.

management systems.⁴⁴ Paradoxically the EU provides most funds for securing its external border, but has limited competences in this area.⁴⁵ The Croatian side denies the accusations and stipulates they are acting in accordance with law and obligations stemming from their Schengen membership plans, and their actions are exclusively aimed at strengthening their border police capacities because they share over 1000 km of land border with Bosnia-Herzegovina.⁴⁶

There have been several reports published based upon a database collected by volunteers in Bosnia-Herzegovina, and such form of violence is in breach of European Convention on Human Rights, the Schengen Border Code and in over 80% of cases to amount to torture.⁴⁷ German MEP Dietmar Köster and Italian MEP Pietro Bartol criticized the pushback actions of the Croatian police, at one of the plenary sessions at the European Parliament in Brussels. They demanded they should immediately stop violating the international law if they ever wish to become a part of the Schengen zone. Austrian MEP Bettina Vollath highlighted that the responsibility for managing the crisis and migration reception centers, like Vučjak, is not with Bosnia-Herzegovina's government, but with the EU and its faulty asylum policies. Croatian MEPs Karlo Ressler, Tomislav Sokol and Željana Zovko reacted and denied the accusations, claiming that the situation has been blown out of proportions and not in tune with the realities on the ground.⁴⁸ The Croatian border police will remain a very strong barrier for migrants due to the intensified border controls, as a result of its enhanced cooperation with Frontex.⁴⁹ German MEP Dietmar Köster followed up with an official letter sent to the Croatian Foreign Minister Gordan Grlić Radman, inquiring about the inhumane attitude of police and border violence conducted by the Croatian Police. The Croatian Minister referred to these allegations as 'fake news'.⁵⁰

⁴⁴ In this context, it must be noted that EU proclaimed coordination activities with other relevant international organizations relevant for border control, such as OSCE, remain rather political than practical one. For more details: <https://www.osce.org/mission-to-bosnia-and-herzegovina/397319?download=true>

⁴⁵ The last reform of the Schengen system implemented in 2013 brought increased demands to the EC in terms of coordination, but the biggest responsibilities remained in the hands of member states. A very important element of the reform was the clarification of the border regime related to the control of citizens from third countries. This is visible in stricter demands for unification of exit/entry regimes for third nationals as well as setting procedures upon which he or she can be refused entry to the Schengen area. Source: <https://doi.org/10.17356/ieejsp.v4i4.502>

⁴⁶ Dnevni list (2019, August 13). Migrante se nezakonito iz Hrvatske protjeruje u BiH i Srbiju

⁴⁷ Border Violence Monitoring Network Reports, available here: <https://www.borderviolence.eu/violence-reports/>

⁴⁸ Lončarić A. (2019, November 15). Aplauz zbog kritika upućenih Hrvatskoj, *Oslobodenje*

⁴⁹ Dizdar, J. (2019, November 1). Frontex na granici BiH i Srbije?, *Oslobodenje*.

⁵⁰ Koester, D. (2019). Statement of Croatian Interior Minister Facing Evidence of Border Violence, Retrieved from <https://www.dietmar-koester.eu/2020/01/28/statement-croatian-interior-minister-facing-evidence-of-border-violence/>

Conclusions

Until late 2017, Bosnia-Herzegovina was not considered as one of the main migration trajectories in the Balkan Route toward the EU countries. In spite of that, the EU invested considerable funds in strengthening the capacities of local institutions to effectively handle the increases of incoming migrants. When the migration crisis intensified, instead of supporting the investments by working more effectively with government institutions, the EU used bargaining strategy of ‘reinforcement by reward’ strategy they have become accustomed to when talking to local officials and decided to provide desired financial incentives in exchange for compliance with set conditions. As a result, they created a negative climate of competition and power imbalance among the involved parties locally and internationally.

This discussion paper uses various empirical examples from BiH to illustrate that the EU officials allocate migration crisis management funds only to specific areas of interests and to particular collaborating partners in BiH they had previously assessed would be the best to carry out the set goals, while strategic negotiations with other BiH government bodies (at various levels) about the concrete steps in mitigating and managing the growing crisis resemble the classic ‘conditionality’ discourse the EU uses in the accession process negotiations. The EU practically uses their standing and position as a norm setter in the BiH accession process, promises financial assistance for managing the current migration crisis in BiH as a bargaining strategy of ‘reinforcement by reward’, thus providing incentives to specific government agents in exchange for compliance with set conditions. ‘Players’ that have prior experience and active engagement with the EU are in principle more willing to conform to EU’s conditions, in exchange for pledged financial and other awards, and become their proxy agents ready to put pressure onto other involved resisting agents to adapt to new circumstances without substantive, direct, and immediate benefits. At the same time, the majority of the overall funds available are spent on activities managed by international organizations that work on mitigating migration crisis in BiH.

There are at least two distinguishable impacts of EU’s (un)intentional application of such ‘pseudo-conditionality’ discourse in BiH: Firstly, EU’s restrictive collaboration

scheme and reward-motivated negotiating practice opens up various opportunities for horizontal coordination dissonance and paradoxes in decision analysis and decision making among different levels of government authorities, which may opt to pursue particular interests that only fit their specific (institutional or competence-based) interests, while common interests of all involved parties remains secondary. Financial funds and other resources EU offers are combined with ‘political strings’, directed toward those who are willing to conform and become norm entrepreneurs on EU’s behalf. This effectively distorts the present, already fragile, chain of responsibility among domestic and international agents. As a result, BiH government bodies appear weak, uncoordinated, and practically unable to manage the situation without the external guidance.

The EU’s present strategy galvanizes further distrust among relevant stakeholders. Instead of serving as a conduit that would bring different agents together to explore commonly acceptable options for action, the EU’s approach creates a system of ‘carrots and sticks’ that destabilizes capacities of those involved in the process to take decisions fully rationally. Simply put, none of the government levels has the money to independently or jointly deal with the growing issues related to the migrant crisis. The EU comes with financial assistance packages that include political strings and conditions and sells the product with top-down normative approach it traditionally utilizes in the EU accession matters. Those who had previous experience would be more likely to comply because of the EU language they recognize and are used to accept it, and thus benefit from the process of rewards EU provides them. The EU then continues to cooperate with the ones who are willing to carry out the conditions imposed (like MoS) and uses them as proxy pressure to modify the behavior of norm resisting agents (usually local communities), while ignoring and bypassing those who are not essential to the process (like the RS).

Meanwhile, the majority of the funds are being transferred to international organizations (like IOM and UNHCR) to carry out the essential management tasks locally, for much higher fees and with standards that could be potentially easily transferable and applied by other local parties involved. The overall process becomes a game with many levels, which does not contribute to solving the problems migrants

or locals face in their day-to-day lives, but rather ‘normalizes’ the present crisis predicaments, which locals want to avoid at all cost. The process goes on, while everyone retains different conceptions of how the situation will evolve. The intolerance toward imposed proposals and solutions is growing, and there is no open dialogue to bridge different interests. The entire dynamics become habituated in the prism of pseudo conditionality EU effectively uses.

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