

Bosna i Hercegovina i proturječnosti procesa EU integracija

Bosnia and Herzegovina and Controversies of the EU Integration Process



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■■■ HEINRICH BÖLL STIFTUNG

Zbornik radova:

**BOSNA I HERCEGOVINA I PROTURJEČNOSTI
PROCESA EU INTEGRACIJA**

Sarajevo, 2008.

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UVOD

Fondacija Heinrich Böll, Ured za Bosnu i Hercegovinu, realizira projekat *Bosna i Hercegovina i protivrječnosti procesa evropskih integracija* kao nastavak rasprave iz 2007. godine. Rasprava je kroz interdisciplinarni pristup otvorila pitanje interakcije „domaćeg/unutarnjeg” društveno-političkog potencijala i djelovanja i „izvanjskog” faktora, dakle, utjecaja i nastojanja međunarodne zajednice i sada dominantno Evropske unije na proces demokratizacije, evropskih integracija i uspostavljanja pravne države u Bosni i Hercegovini.

Kako je to istaknuto u zaključcima prošlogodišnje konferencije *Primjer Bosne i Hercegovine: održivi koncepti ili stranputice međunarodne zajednice?* – naš cilj je da nastavimo ovaj proces kritičkog promišljanja pretpostavki za konačnu stabilizaciju Bosne i Hercegovine u Evropi, kao i vrijednosnu afirmaciju Evrope u Bosni i Hercegovini. Međunarodna zajednica ne bi smjela biti izgovor domaćim političkim akterima za njihove vlastite greške, kao što greške domaćih političkih elita ne smiju biti izgovor međunarodnoj zajednici za nedovršavanje započetih reformi i nedovoljno kritičko preispitivanje vlastitih nedostataka. Bosna i Hercegovina je, na osnovu svega što se zbililo, izgubila dosta vremena i propustila mnogo prilika. Postavlja se pitanje: kako prevazići ovo stanje? Možda je izlaz ubrzana integracija u Evropsku uniju, čime bi se bosanskohercegovački pogledi permanentno proširivali evropskom dimenzijom, a Bosna i Hercegovina bila bi nepovratno smještena u veliki evropski kontekst.

Ovu publikaciju, s autorskim tekstovima Eldara Sarajlića (Sarajevo), Bode Webera (Berlin), Edina Šarčevića (Leipzig), Svetlane Cenić (Banja Luka) i Radenka Udovičića (Sarajevo), objavljujemo kao poziv i poticaj na dijalog i demokratsku raspravu kako bismo osvijetlili dosadašnji proces evropskih integracija i reformskih poduhvata u Bosni i Hercegovini. Autori vrlo jasno i uz kritička razmatranja analiziraju evropsku politiku integracija prema Bosni i Hercegovini u vezi sa zahtjevima za reforme i podrškom reformama koju EU pruža državi, kao i protivrječan odnos prema postavljenim zahtjevima, kako bi se odgovorilo na pitanje koliko uslovi koje postavlja Evropska unija doprinose uspjehu procesa evropskih integracija, a koliko potencijala i političke volje ima unutar bosanskohercegovačkih političkih elita za provedbu reformi i što brže približavanje Evropskoj uniji. U ponuđenim tekstovima se iz različitih unutar društvenih perspektiva identificira potencijal za (političke, ekonomske, društvene) reforme i blokade.

Cilj ove studije i rasprave za okruglim stolom 24. 06. 2008. godine jeste ukazati na perspektive aktuelne evropske integracijske politike, te evropskim i unutar društvenim akterima dati preporuke kako da se ubuduće prevaziđu protivrječnosti i po-

tencijali za blokade, te ojačaju demokratski društveno-politički kapaciteti u procesu tih integracija.

Fondacija Heinrich Böll najsrdačnije zahvaljuje svim autorima, partnerima i prijateljima za njihovu pomoć i doprinos u realizaciji ovog projekta. A kao i do sada, Fondacija Heinrich Böll će i ovu publikacija i preporuke za djelovanje uputiti svim zainteresiranim i relevantnim institucijama, organizacijama i pojedincima u Bosni i Hercegovini, kao i u Njemački savezni parlament i Evropski parlament.

Mirela Grünther-Dečević
Direktorica Fondacije Heinrich Böll,
Ured za Bosnu i Hercegovinu

Eldar Sarajlić

Neodlučni gospodar: kontradikcije politike Evropske unije prema Bosni i Hercegovini

U posljednjih nekoliko godina u javnom diskursu u Bosni i Hercegovini uvriježila se specifična politička dihotomija kojom se želi opisati povijesno-politički razvoj zemlje nakon brutalnog rata koji je obilježio prvih nekoliko godina njene savremene međunarodne egzistencije. Koristeći odrednice dvaju gradova – jednog u Sjedinjenim Američkim Državama a drugog u srcu Evrope – tom dihotomijom se želi uspostaviti matrica promišljanja političkog bivstva Bosne i Hercegovine i dati smisao specifičnom tranzicijskom karakteru bh. društva. Tako se za Bosnu i Hercegovinu određenu ratom i konfliktom kaže da je ‘dejtonska’ a za onu određenu procesima reformi s ciljem integrisanja u Evropsku uniju da je ‘briselska’ Bosna i Hercegovina.¹ No, osim ove ‘temeljne’ dihotomije koja referira direktno na povijesno-činjenični okvir tumačenja, postoji još nekoliko dimenzija koje bivaju direktno konstituisane ovom eksplanatornom matricom. Te dimenzije, protumačene na određeni način, mogu reći i nešto više o ukupnoj fenomenološkoj konstituciji Bosne i Hercegovine, te o ulozi onog subjekta politike koji u njenoj fenomenologiji igra jednu od ključnih uloga: Evropskoj uniji. U ovom tekstu želim se osvrnuti na neke od tih dimenzija i ukazati na određene kontradikcije politike Evropske unije prema Bosni i Hercegovini.

Polazna pretpostavka je kompleksnog karaktera i podrazumijeva nekoliko zasebnih elemenata. Prvo, tvrdim da se Evropska unija prema Bosni i Hercegovini ponaša kao ‘neodlučni gospodar’: istovremeno prisustvo i odsustvo Evropske unije kao subjekta bosanskohercegovačke politike svjedoči ne samo o neadekvatnoj određenosti evropske politike prema BiH već i o problemima političkog (samo)konstituisanja Evropske unije kao političkog subjekta uopće. Za razliku od dominantnog mišljenja da je Bosna i Hercegovina ta koja je ovisna o Evropskoj uniji, bez čije interferencije bi u toj zemlji vladao vječni rat, izvjesno je kazati i da je, na jedan specifičan i perverznan način, i Evropska unija u političko-subjektivnom smislu ovisna o Bosni i Hercegovini, te da se putem svojevrsnih manipulacija političkim poljem u BiH i Evropska unija nastoji (samo)konstituisati kao politički subjekt. Drugo, bez obzira na retoričku razinu evropske politike u BiH koja vrvi liberalno-demokratskim frazama, upravo je Evropska unija ta koja potkopava principe liberalne demokratije i njeno političko uspostavljanje u Bosni i Hercegovini kroz legalizaciju i direktnu konstrukciju neformalnih i netransparentnih metoda i tehnika političkog odlučivanja. I treće, slijedeći neka teoretska određenja demokratije kao takve i posmatrajući poli-

¹ Koliko je meni poznato, prva upotreba pomenute dihotomije može se naći u knjizi Emira Hadžikadunića, *Od Dejtona do Brisela*, Sarajevo: ACIPS, 2005.

tičko djelovanje Evropske unije i njenih predstavnika u Bosni i Hercegovini danas, možemo reći da su demokratske perspektive dugoročnog političkog razvoja ove zemlje prilično blijede i neizvjesne.

Dejton ili Brisel? Konstituisanje dvostruke Bosne i Hercegovine

Prije nego se upustimo u detaljnu interpretaciju naznačene dihotomije, bitno je ukazati na činjenicu da sam pojam Evropske unije kao političkog subjekta nije dovoljno jasan. Ponajviše zbog povijesnog nedostatka koherentne politike evropskih zemalja na sveevropskom nivou, evropska politička zajednica se posmatra kao nepostojeći društveni i politički subjekt. Preklapajući se sa značenjem pojma 'međunarodne zajednice', Evropska unija je u BiH oduvijek bila posmatrana kao nedovoljno određen i dalek, no ipak snažan i moćan geopolitički entitet, s potencijalom da promijeni tok povijesti i utiče na politiku. Kako bih što je više moguće izbjegao sličnu ambivalentnost, u kontekstu tumačenja u ovom radu pojam Evropska unija ću koristiti kako bih opisao: a) političko ponašanje Specijalnog predstavnika EU za BiH (EUSR); b) političko ponašanje ambasadora i drugih predstavnika zemalja Evropske unije u BiH; te c) ukupan međunarodni pristup rješavanju problema u Bosni i Hercegovini određen politikom iz Brisela.

Pojmovna nejasnoća kada je u pitanju tumačenje politike Evropske unije u Bosni i Hercegovini nije isključivo stvar metodoloških polazišta analitičkog rada nego i konstitutivni element samog fenomena. To je svakako slučaj sa dihotomijom Dejton-Brisel, čije značenjske odrednice – osim povijesnoga htijenja – također nisu kristalno jasne. Da li je 'dejtonska' Bosna i Hercegovina zemlja rata ili etničkog konsenzusa koji je okončao rat? Da li je 'dejtonska' BiH zemlja demokracije ili ne? Ukoliko jeste, zašto je potrebna njena transformacija u 'briselsku' Bosnu i Hercegovinu? Da li je 'dejtonska' Bosna i Hercegovina ustvari američki, a 'briselska' evropski politički projekt? Da li ustvari sintagma 'briselska BiH' više govori o Evropskoj uniji nego o Bosni i Hercegovini?

Smatram da pomenuta dihotomija nije tek slučajni opis povijesnog puta Bosne i Hercegovine, već da otkriva dublje, fenomenološke strukture prirode političkog poretka u BiH ali i odnosa Evropske unije prema ovoj zemlji. Nastojeći da ostavi utisak dijalektičke borbe dvaju isključivih tendencija – od kojih jedna predstavlja permanentnu izvjesnost etničkog rata i nestabilnosti koju uzrokuje priroda balkanske kulture, a druga distopijsku nemogućnost konflikta uslijed centripetalne geopolitičke moći evropskog središta i prosvjetiteljske suštine 'Evrope' kao takve² – ta

² Pri čemu se ta dihotomija otkriva i kao specifična inkarnacija orijentalizma u kojoj pojmovi 'Dejton' i 'Brisel' funkcionišu kao supstituti za 'Istok' i 'Zapad', odnosno 'Balkan' i 'Evropu' u vizuri balkanske verzije orijentalizma. Također, dihotomijska struktura deskriptivne paradigme 'Dejton-Brisel' otkriva i svojevrsan teološki karakter diskursa o 'Evropi' i 'evropskim integracijama'.

dihotomija otkriva dva strukturna nivoa politiziranja u BiH sa nejednako raspoređenom količinom moći i utjecaja koji u određenoj mjeri korespondiraju sa pretpostavljenom bazičnom dihotomijom na 'dejtonsku' i 'briselisku' fazu razvoja Bosne i Hercegovine. Prva predstavlja nivo formalnog iskazivanja politike u BiH, u okviru kojeg egzistiraju institucije države i društva uspostavljene dejtonskim političkim okvirima. U takvom, formalnom smislu, Bosna i Hercegovina je – uz sve specifičnosti – normalna parlamentarna demokracija u kojoj demokratski politički mehanizmi, poput slobodnog natjecanja partija na slobodnim izborima te postojanje reprezentativnih metoda odlučivanja predstavljaju osnovna obilježja moderne političke normalnosti. Drugi nivo pak predstavlja egzistenciju neformalnih struktura odlučivanja koje ne podliježu procesima i metodama demokratske provjere i transparentnosti. Ovo predstavlja postojanje kanala, politika i osoba koje, daleko od očiju javnosti, odlučuju o ključnim društvenim i političkim pitanjima. Bez obzira na činjenicu da ni to ne predstavlja specifičnost ove zemlje u odnosu na neke druge države u svijetu koje se također suočavaju sa formalnim i neformalnim načinima političkog odlučivanja, ipak je iznenađujući nesrazmjer količine moći koja je instalirana u ova dva nivoa. Za razliku od razvijenih demokracija, stepen moći i utjecaja formalnih institucija bosanskohercegovačke politike je minimalan. Sva politička moć investirana je u neformalne strukture, a isturene institucionalne pozicije u isključivoj su funkciji političke reprezentacije unaprijed formuliranih odluka. Odatle proizlazi i ukupna nemoć bosanskohercegovačke države da preuzme inicijativu u procesima reformi, te akutni nedostatak državnih kapaciteta za osmišljavanje i provođenje ikakve strateške politike u bilo kojem segmentu društva.

Odmicanje od takve političko-fenomenološke strukture BiH, što podrazumijeva proces reformisanja postojećih političkih obrazaca i jačanje državnih institucija kao mjesta demokratskog odlučivanja, predstavlja upravo ono što se želi označiti krilaticom o prelasku Bosne i Hercegovine iz 'dejtonske' u 'briselisku' fazu političke egzistencije. Za razliku od 'dejtonske', koja predstavlja Bosnu i Hercegovinu određenu etničkom elitom koja daleko od bosanskohercegovačke realnosti, uz pomoć geopolitičkog diva SAD određuje njenu sudbinu, 'briseliska' BiH bi trebala predstavljati demokratski uređeno evropsko društvo u kojem se proces odlučivanja i sticanja legitimiteta odvija na transparentan, otvoren i na zakonu utemeljen proces, čiji su osnovni nosioci institucije države i društva a ne politička elita i nacionalne stranke.³ Nije slučajno da sintagma 'izgradnja kapaciteta' (*capacity building*) predstavlja jednu od najčešće upotrijebljenih riječi u diskursu političkih reformi u BiH. Suštin-

³ U tom smislu se za 'dejtonsku' Bosnu i Hercegovinu kaže da simbolizuje „... političku i globalnu volju Sjedinjenih Američkih Država, te slabost i odsustvo Evropske unije i njenih zemalja članica u prvoj polovini devedesetih”, dok 'briseliska' predstavlja „... povratak i sve snažnije prisustvo Evrope u regionu Zapadnog Balkana, izgradnju i jačanje države BiH, njenih centralnih institucija”; i Emir Hadžikadunić, *Od Dejtona do Brisela*, Sarajevo: ACIPS, 2005, str. 17. Vidjeti i Nermina Šaćić, *Međunarodna zajednica i BiH od decembra 1995. do marta 2007: politološki aspekti*, u: *Primjer Bosne i Hercegovine: održivi koncept ili stranputice međunarodne zajednice*, Sarajevo: Heinrich Boell Stiftung, 2007.

ski, radi se o (re)konstrukciji državne moći kao obnovi političkog suvereniteta Bosne i Hercegovine. Insistirajući na političkim reformama usmjerenim ka ovom konačnom cilju – posebno važnim u kontekstu pristupanja BiH evropskoj zajednici modernih i odgovornih država – Evropska unija, zajedno sa ostalim akterima međunarodne zajednice u BiH stremi izgradnji demokratskog poretka u Bosni i Hercegovini i dekonstrukciji nedemokratskih formi vladavine uokvirenih u naslijeđu onoga što se naziva ‘dejtonskom’ BiH. No da li je to zaista tako? Da li zaista Evropska unija svojim djelovanjem putem zvaničnih predstavnika dekonstruiše nedemokratske političke obrasce i doprinosi dugoročnim perspektivama demokracije, pluralizma i vladavine prava u Bosni i Hercegovini?

Analiziramo li forme političkog odnosa između predstavnika Evropske unije i lokalne političke elite u BiH, odgovor na ovo pitanje može jedino biti odričan. Forsirajući metod političkog odlučivanja u kojem glavnu ulogu imaju čelnici vodećih nacionalnih stranaka kao etnonacionalni lideri a ne kao čelni ljudi *institucija*, Evropska unija – ponajviše putem svog specijalnog predstavnika (EUSR) i drugih zvaničnika međunarodne zajednice – direktno *institucionalizira antiinstitucionalizam* i doprinosi daljoj perpetuaciji suštinski nedemokratskih formi političkih odnosa u zemlji.⁴ Izgovor da su te forme demokratske usljed slobodne izborne utrke koja je date političke lidere dovela do pozicije da odlučuju o javnim stvarima nije dovoljan, s obzirom da demokracija u jednom društvu ne završava na pragu izbornog mjesta, već predstavlja kontinuiran napor na osmišljavanju i realizaciji pravednih i participatornih mehanizama odlučivanja o stvarima od zajedničkog interesa. Drugim riječima, način na koji se u današnjoj Bosni i Hercegovini donose političke odluke – u čemu zvaničnici Evropske unije imaju bitnu ulogu – nedemokratski je. Utoliko je sintagma o ‘briselskoj’ Bosni i Hercegovini kao društvu sa perspektivno uspostavljenim demokratskim mehanizmima razvoja i odlučivanja puki retorički obrazac zvaničnika Evropske unije i međunarodne zajednice iza kojeg se skriva perpetuirano održavanje ‘dejtonske’ kao etničke Bosne i Hercegovine. Dihotomija Dejton-Brisel, stoga, utjelovljuje lažnu dilemu, jer je struktura ‘briselskih’ odnosa zvaničnika Evropske unije sa bosanskohercegovačkom političkom elitom identična ‘dejtonskoj’ fazi njene povijesne egzistencije. Slijedeći logiku da se iza svakog diskursa skriva partikularan interes, postavlja se sasvim logično pitanje: šta je uzrok tome?

Evropska unija i problem izvlaštenosti u BiH

Ključni uzrok tome je, kako želim utvrditi, proces (samo)konstituisanja Evropske unije – pretpostavljeno najvažnijeg segmenta ‘međunarodne zajednice’ u BiH – kao (geo)političkog subjekta Bosne i Hercegovine. Otkrivajući mnogo više samu priro-

⁴ Otud ne iznenađuje činjenica da se ključne reformske odluke o sudbini Bosne i Hercegovine donose u raznim ugostiteljskim lokalima – restoranima, hotelima, kafanama – a ne unutar minimalnih okvira institucija države.

du političkog odnosa nego htijenje njenih konkretnih predstavnika, konstituisanje Evropske unije kao političkog subjekta odvija se u kontekstu radikalne ambivalencije njenog političkog prisustva u BiH, te potiskivanju političkog koje indicira pokušaje prevazilaženja vlastite fenomenologije, a rezultira dekonstrukcijom objekta svog djelovanja. Na koji način se to dešava?

Prevashodno, fenomen Evropske unije i njenih predstavnika u Bosni i Hercegovini utjelovljuje paradoks suvereniteta. U smislu te tvrdnje, a u kontekstu postojeće političke konstelacije u Bosni i Hercegovini, sasvim je izvjesno pitati za koji se politički subjekt u današnjoj Bosni i Hercegovini može reći je suveren? Državu? Entitete? Etničke zajednice – nacije? Ako je suveren onaj koji, po tumačenju Carla Schmitta, odlučuje o izvanrednom stanju, onda to nije ni država Bosna i Hercegovina niti su to njeni entiteti, a ni etničke zajednice kao osnova političkog poretka. Tvrdim da je vrhunski suveren Bosne i Hercegovine upravo Evropska unija, kao konglomerat isprepletenih interesa koji se ozbiljuju u konkretnim uporištima političke moći u BiH. Ta se suverenost Evropske unije u Bosni i Hercegovini ne iskazuje nužno na eksplicitnoj razini – čak naprotiv, retorika evropskih predstavnika u BiH u posljednje vrijeme zasićena je frazama o lokalnom vlasništvu nad procesom odlučivanja i političkom sudbinom zemlje – već zadire u samu fenomenologiju odnosa Evropske unije i Bosne i Hercegovine, te se ukazuje kao specifičan produkt političke svijesti. Šta onda čini Evropsku uniju suverenom Bosne i Hercegovine?

Italijanski politički filozof Giorgio Agamben je, pišući o paradoksu suvereniteta, kazao kako paradoks suverenosti pretpostavlja da je suveren „... istodobno izvan i unutar pravnog poretka”,⁵ te kako je, u kontekstu Schmittovog određenja suvereniteta, *iznimka* (kao odluka) ta koja utvrđuje samu strukturu postojećeg političkog poretka. Iznimka je određujuća i za suverena također, jer i ona pretpostavlja da „... ono što nipošto ne može biti uključeno, uključeno je u formi iznimke”.⁶ Suveren je na taj načini *izniman* u odnosu na politički poredak jer ga konstituiše kao takvog, ali i odlučuje o svakoj promjeni postojećih stvari. On je, kao gospodar datog političkog poretka, njegov konstitutivni dio, ali je usljed konstituišuće supremacije nad njegovim normama istovremeno i van njega:

„...suveren se, imajući legalnu moć suspenzije valjanosti zakona, legalno postavlja izvan zakona. To znači da se paradoks može formulirati i na ovaj način: ‘zakon je izvan sebe sama’, dakle, ‘ja, suveren, koji sam izvan zakona, proglašavam da ništa nije izvan zakona’.”⁷

⁵ Giorgio Agamben, *Homo sacer: suverena moć i goli život*, Zagreb: Multimedijalni institut, 2006, str. 18.

⁶ *Ibid.*, str. 27.

⁷ *Ibid.*, str. 18.

Ta ambivalentnost suverenog subjekta od ključne je važnosti za razumijevanje fenomena suverenosti uopće, a u kontekstu Bosne i Hercegovine i Evropske unije indikativna je za specifičan politički odnos o kojem je ovdje riječ. Iako je dominantno mišljenje da su etničke zajednice u Bosni i Hercegovini nosioci političkog suvereniteta – s obzirom na fakt da se svaka politička odluka donosi ili se pravda u ime jedne ili više etničkih grupa – uzmemo li u obzir činjenicu da o stanju *iznimke* u BiH odlučuju predstavnici međunarodne zajednice u širem smislu, možemo kazati da suverenitet pripada upravo njima.⁸ Nisu li Bonske ovlasti Visokog predstavnika međunarodne zajednice, odnosno Specijalnog predstavnika EU u BiH – kao *iznimka* u političkoj konfiguraciji – upravo mandat nad suverenošću Bosne i Hercegovine?⁹ Drugim riječima, koji to politički subjekt danas, osim Visokog predstavnika kao produžene ruke Evropske unije, ima mogućnost donijeti odluku koja transcendirira postojeća pravno-politička ograničenja, i pritom nemati konstitutivnu potrebu opravdanja vlastitog djelovanja pred formalnim predstavnicima vlasti, civilnog društva i građanstva u zemlji? Evropska unija, putem svog Specijalnog predstavnika za BiH na taj način je istovremeno izvanjska i unutarnja političkom sistemu Bosne i Hercegovine. Kao konačni suveren, koji ima biti *iznimkom* i odlučivati o izvanrednom stanju, ona je van bosanskohercegovačkog poretka – jer je ponad njega; kao uporište moći koje ima mogućnost odlučivanja o konkretnim političkim pitanjima društva, ona je unutar njega, kao njegov konstitutivni dio.¹⁰ Razlika između suverenosti Evropske unije u BiH i ranije iskazane kritike djelovanja međunarodne zajednice koja je naglasila izrazito imperijalan karakter OHR-ovog upraviteljstva Bosnom i Hercegovinom,¹¹ jeste upravo u tom ambivalentnom (unutra-i-van) stanju koje predviđa mogućnost odlučujućeg utjecaja na politički poredak, uz istovremeno odsustvo minimuma odgovornosti za posljedice vlastitog djelovanja, koje se eksplicitno prebacuju na domaću političku elitu. Evropska unija kao pretpostavljeni (geo)-politički suveren Bosne i Hercegovine u tom smislu gradi svoj ambivalentan status na nedorečenosti ukupnog statusa međunarodne zajednice u BiH i autoritetu *iznimke* koji je izgrađen političkim djelovanjem visokih predstavnika u BiH u perio-

⁸ Tim više jer se i Ured OHR-a, kao jezgro međunarodnog upraviteljstva Bosnom i Hercegovinom i nukleus predviđen dugoročnog prisustva Evropske unije, predstavlja kao „... *ad hoc* međunarodna institucija odgovorna za nadgledanje implementacije civilnih aspekata sporazuma kojim je okončan rat u Bosni i Hercegovini”; više na: http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38528.

⁹ Čak i parcijalan podatak o korištenju takozvanih ‘Bonskih ovlasti’ Visokog predstavnika ostavlja impozantan dojam o karakteru međunarodnog upraviteljstva Bosnom i Hercegovinom: tokom perioda između 1998. i 2005. godine, Ured visokog predstavnika izdao je 757 odluka, uklonio 119 ljudi sa zvaničnih pozicija i nametnuo 286 zakona ili amandmana na postojeće zakone. Više u Mathew Parish, *The Demise of the Dayton Protectorate*, u: David Chandler, *Inside the Bosnian Crisis*, Journal of Intervention and State Building, Volume 1, Special Supplement, 1. decembar, 2007, str. 15.

¹⁰ I na nivou simboličkog Evropska unija je konstitutivni dio Bosne i Hercegovine. Izgled državne zastave potvrđuje ovu činjenicu.

¹¹ Što je, recimo, slučaj sa već poznatom analizom Geralda Knausa i Felixa Martina *Travails of the European Raj*. Knaus i Martin u svojoj analizi prave eksplicitnu vezu između britanske imperijalne vladavine u Indiji i liberalnog imperijalizma OHR-a u Bosni i Hercegovini. Vidjeti više u: Journal of Democracy, Volume 14, Number 3, July 2003. str. 60-73.

du između 1997. godine, kada su Bonske ovlasti uspostavljene kao obrazac političkog odnošenja, i 2002. godine, kada je eksplicitno naglašena transformacija Ureda visokog predstavnika međunarodne zajednice u Ured specijalnog predstavnika Evropske unije. Sve od tada politički status Evropske unije u BiH egzistira kao (geo)politička implikacija schmittovske *iznimke* kao suštine suverenog političkog djelovanja.

Iznimka je, u Agambenovom tumačenju, od ključne važnosti za ukupan poredak, upravo jer – u doslovnom smislu – *potvrđuje pravilo*. Bez Evropske unije kao suverena i ultimativne reference političke egzistencije BiH, postojeći politički poredak (*nomos*) ne bi imao smisla. Upravo zato svaka odluka donesena u ime ‘evropske budućnosti’ Bosne i Hercegovine i njenog integrisanja u EU od strane evropskih zvaničnika u BiH predstavlja „... upis u tijelo nomosa, izvanjskost koja ga oživljava i daje mu smisao”.¹² Suverenost Evropske unije u Bosni i Hercegovini na taj način se gradi preko održavanja postojećih političkih konstelacija i njima inherentnog političkog okvira kao garanta vlastite političke neodređenosti i slobode suverenog djelovanja.¹³ U tom smislu bi prevazilaženje ‘dejtonske’ i uspostavljanje ‘briselske’ Bosne i Hercegovine, kao ostvarenje zvaničnog projekta ‘osnaživanja državnih institucija’ koje bi preuzele odgovornost upravljanja političkim razvojem zemlje, predstavljalo dokidanje suvereniteta Evropske unije u BiH, te je sa stanovišta političke subjektivnosti EU kao iskaza njene političke svijesti neželjeni projekt. Ova tvrdnja zasniva se na pretpostavci da, kao (geo)politički subjekt svijeta, EU egzistira zahvaljujući nedovršenim državama poput Bosne i Hercegovine, gdje se, gradeći vlastitu konstituišuću moć uspostavlja kao subjekt svjetske politike *par excellence*. U tom smislu tvrdim da se, kao *neodlučni gospodar* bosanskohercegovačke političke sfere, Evropska unija ne želi uspostaviti kao konstituisana moć – integrisani dio političkog poretka – već želi egzistirati kao permanentno konstituišuća (izvanjska) politička snaga bez odgovorne institucionalne realizacije unutar političkog sistema Bosne i Hercegovine.

Tako protumačena logika političkog suvereniteta zasnovana je na dvostrukom isključivanju. Osim vlastitog izuzeća od primjene normi političkog sistema koja je konstitutivna za sam pojam suverenosti, njena logika počiva i na isključenju onoga što Agamben naziva ‘golim životom’ a što se u kontekstu ovog rada može označiti i svakodnevnom egzistencijom bosanskohercegovačkog građanstva iz političkog

¹² Agamben, str, 28.

¹³ Tu se posebno vidi naslijeđe karaktera ukupnog međunarodnog upravljanja u BiH, gdje su autoritet i ovlasti predstavnika međunarodne zajednice i EU u okviru OHR-a rasli „... u opsegu i snažnosti od ničega do svega, kroz ovlasti da nametnu sankcije i prijelazni zakon izrađen s ciljem pružanja potpore dejtonskom procesu do apsolutnih ovlasti nad neograničenim spektrom pitanja. Misija OHR-a, mandat i ovlasti kontinuirano su preoblikovane kao odgovor promijenjenom shvatanju toga zašto je BiH potreban OHR – što je drugi način da se kaže, zašto se BiH ne smatra odgovarajućom za demokratsku samoupravu.” Knaus i Martin, str. 68.

poretka, čime se i ono samo pretvara u osnovni element/objekt politike. U tom smislu, svaka politika koja se vrti oko ‘golog života’ na principu isključivanja – a recimo pitanje uvjetovanosti bh. građana kompleksnim administrativnim procedurama viznog režima i praktične iskustvene izolacije jeste upravo to – tvori od njega osnovni element politike kao takve. Na suprotnom polu isključenosti suverena političkog poretka nalazi se, dakle, objekt ‘golog života’ – građani Bosne i Hercegovine, koji su također istovremeno i unutar i van političkog sistema koji na njihovoj biološkoj opstojnosti gradi svoj egzistencijalni legitimitet. Oni su unutar poretka jer se svaka politička odluka načelno donosi u njihovo ime i legitimira njihovim apriornim pristankom na konfiguraciju političke elite; ali oni su i izvan njega, jer su isključeni iz direktnog procesa političkog odlučivanja i ne smatraju se racionalnim članovima političkog društva koje se ima pitati prilikom donošenja odluka o stvarima od javnog interesa. Ukupan politički poredak Bosne i Hercegovine na taj način se zasniva na dvostrukoj izvlaštenosti – onoj zvaničnika Evropske unije i međunarodne zajednice s jedne, te građana Bosne i Hercegovine s druge strane, pri čemu Evropska unija figurira kao suveren – konstituišuća moć izvan političkog poretka, a građani kao objekt biopolitike *par excellence*. Suverenost Evropske unije u Bosni i Hercegovini i isključenost građana iz procesa političkog odlučivanja se u tom smislu iskazuju kao međusobno uslovljeni elementi ukupnog političkog odnosa u ovoj zemlji.

Ova dvostruka izvlaštenost u potpunosti se poklapa sa ranije iskazanom matricom politiziranja u Bosni i Hercegovini u dvije osnovne razine u kojima glavne partnere Evropskoj uniji u procesu tranzicije Bosne i Hercegovine čine pripadnici etnopolitičke elite, a ne građani ove zemlje. Održanje takvog sistema od ključne je važnosti za oba subjekta bosanskohercegovačke politike – za suverena utjelovljenog u institucijama Evropske unije koji ima autoritet iznimke i donošenja odluke o izvanrednom stanju, kao i za lokalne etnopolitičare koji na osnovama isključenja građanstva iz deliberativnih procesa grade vlastiti politički legitimitet i generiraju pseudo-političku i (što je veoma bitno) ekonomsku moć.

Neki od konkretnih primjera u praksi ukazuju da se manipulacijom kriterija za integraciju Bosne i Hercegovine u EU, putem iskazivanja suverenosti zasnovane na suspenziji konstituisane moći, onemogućuje zdrav demokratski razvoj bosanskohercegovačkog političkog sistema. Česta upotreba Bonskih ovlasti od strane Paddyja Ashdowna, njihovo kompletno zanemarivanje od strane Ch. Schwartza-Schillinga, te ponovno vraćanje na velika vrata odlukom Miroslava Lajčaka o amandmanima na Zakon o Vijeću ministara od 19. oktobra 2007. godine – koja ih je, da paradoks bude potpun, u velikoj mjeri i pokopala – upravo svjedoči o međunarodnoj manipulaciji političkim poljem Bosne i Hercegovine, te o nemogućnosti formulisanja konzistentne i odgovorne politike čiji bi cilj bio izgradnja demokratskih kapaciteta Bosne i Hercegovine. U tom smislu se i pomenuta odluka Visokog predstavnika, koja je

izazvala „... jednu od najozbiljnijih političkih kriza još od Dejtonskog sporazuma”¹⁴ treba posmatrati kao pokušaj izgradnje političke subjektivnosti međunarodnog faktora u BiH (a prije svega Evropske unije zbog nužnog vezivanja reforme policije i potpisivanja Sporazuma o stabilizaciji i pridruživanju), a ne racionalan politički napor na izgradnji demokracije u BiH. Nemogućnost da se Evropska unija u Bosni i Hercegovini konstituiše kao politički subjekt sa jasno definisanim ovlastima, kao i nemogućnost da odustane od neke vrste upravljanja političkim procesom u BiH čini upravo od nje *neodlučnog gospodara* koji je istovremeno unutar i van političkog poretka Bosne i Hercegovine, i koji upravo zahvaljujući takvom statusu ostvaruje puni suverenitet bez direktne odgovornosti (jer suvereni su kao takvi *van zakona*), ali i uništava perspektive za dugoročno uspostavljanje demokratske političke kulture u ovoj zemlji.

Politika Evropske unije i perspektive demokratskog razvoja Bosne i Hercegovine

Kada se sve to ima u vidu, uputno je razmotriti perspektive dugoročnog demokratskog razvoja Bosne i Hercegovine i neke od eventualnih alternativa evropskog prisustva u Bosni i Hercegovini. U tom smislu ne treba upitati postoji li opasnost da kontradiktorna politika EU u BiH demokratske kritičare načina ophođenja spram reformskih kriterija za integracioni proces gurne u ulogu protivnika EU, već kakva vrsta politike Evropske unije može doprinijeti dugoročnom uspostavljanju demokratske političke kulture u Bosni i Hercegovini kao garanta slobodne i dostojanstvene egzistencije njenih građana, ali i ukupne regionalne stabilnosti? Ne treba insistirati na potpunom negiranju političkog,¹⁵ putem nužne eliminacije bilo kakvog protivljenja politici i (geo)političkim vrijednostima Evropske unije – jer se upravo tu Evropska unija otkriva kao imperijalni gospodar – već na uspostavljanju demokratskih i na slobodi zasnovanih mehanizama artikulacije i rješavanja problema koji proizlaze iz konfliktne prirode političkog fenomena uopće. Nije dovoljno pozivati na konsenzus unutar postojećih (u velikoj mjeri nedemokratskih) obrazaca odlučivanja – poput polujavnih sastanaka u kafanama i restoranima – te potom konstatovati da konsenzusa nema i tu činjenicu upotrijebiti kao opravdanje nedemokratskog i autokratskog nametanja političkih rješenja i odluka.

Postoji nekoliko konkretnih političkih alternativa postojećoj politici Evropske unije prema Bosni i Hercegovini. Slijedeći razumijevanje demokracije kakvo je ponudio italijanski politički teoretičar Norberto Bobbio, prema kojoj je za demokraci-

¹⁴ David Chandler, *Inside the Bosnian Crisis*, Journal of Intervention and State Building, Volume 1, Special Supplement, 1. decembar 2007., str. 1.

¹⁵ Ovdje u prvom redu referiram na Schmittovo razumijevanje političkog kao permanentne mogućnosti konflikta, odnosno uspostavljanju ‘konstitutivne drugosti’ kao ključnog elementa zasnivanja političkog djelovanja. Više u: Carl Schmitt, *The Concept of the Political*, University of Chicago Press, [1932] 2007.

ju važnije *gdje* se ona primjenjuje, a ne *ko* je njen glavni konzument, zaključujem da proširenje demokratskog fronta – a ne njegovo produbljivanje – treba biti jedan od glavnih prioriteta svake razvojne politike za Bosnu i Hercegovinu. Praktično, to znači proširivanje bazičnih demokratskih procedura – koje u ovom kontekstu u najvećoj mjeri identifikujem sa procesima slobodnog, racionalnog i na argumentima i javnom učešću zasnovanog procesa odlučivanja o stvarima od zajedničkog interesa – na što širi društveni spektar. To se posebno odnosi na sferu djelovanja međunarodne zajednice i Evropske unije u BiH, koja u tom kontekstu mora napraviti jasan izbor između: a) ostajanja neodlučnim gospodarom – suverenom na međupoziciji na kojeg se ne primjenjuju norme političkog poretka i demokratskih vrijednosti; b) institucionalizovanja u formi konstituisane moći sa strogo definisanom i u potpunosti eksplicitnom odgovornošću; i c) napuštanja Bosne i Hercegovine kao polja (geo)političkog djelovanja.

Ukoliko se EU odluči zadržati postojeću matricu političkog odnosa, vrlo je vjerovatno da će se i Bosna i Hercegovina zadržati u stanju permanentne tranzicije u kojem će ‘goli život’ građana ove zemlje biti pritiješnjen suverenitetom Evropske unije i međunarodne zajednice s jedne, i lokalnih političkih elita s druge strane. U tom slučaju radi se o zamišenoj i teško rješivoj dijalektici u kojoj neće biti moguće prepoznati demokratske alternative političkih problema i sav će se politički razvoj odvijati putem osovine Evropska unija – politička elita, a građansko iskazivanje političnosti biće potisnuto na potpunu marginu. Na taj način Bosna i Hercegovina nikada neće prevladati stanje tranzicije – koju bi u suštinski demokratskom smislu trebalo da predstavlja ne promjena određenog političkog režima već *promjena obrasca reprodukcije legitimiteta političke elite* – i ostaće u stalnom političkom raskoraku između potrebe za reformom i nemogućnosti njenog cjelovitog i konačnog provođenja.

S obzirom da je prilično izvjesno da Evropska unija Bosnu i Hercegovinu neće napustiti kao objekt svog (geo)političkog djelovanja – i to mnogo više zbog same sebe a ne zbog Bosne i Hercegovine – jedina demokratska alternativa koja preostaje jeste svojevrsno institucionalizovanje Evropske unije kao samosvjesnog, odgovornog i ovlastima ograničenog političkog subjekta u Bosni i Hercegovini. To bi podrazumijevalo uspostavljanje direktne i eksplicitne odgovornosti zvaničnika Evropske unije za politički razvoj Bosne i Hercegovine u onoj mjeri u kojoj njihovo djelovanje utiče na postojeću političku konstelaciju. To bi značilo i institucionalizaciju novih praksi političkog pregovaranja i odlučivanja koje bi bile fiksirane u okviru za to predviđenih i dizajniranih političkih institucija u zemlji, umjesto postojećih nedemokratskih i polujavnih obrazaca donošenja najbitnijih političkih odluka o sudbini države i društva u neformalnom i neprimjerenom kontekstu ugostiteljskih objekata – kafana i hotela – daleko od očiju kritike i javnosti. Tek kada, recimo, Visoki predstavnik i drugi predstavnici evropskih zemalja i institucija odluče da sa lokalnim

zvaničnicima pregovaraju *isključivo* u okviru državnih institucija i zvaničnih državnih funkcija koje obavljaju, umjesto okvira etnopolitičkog liderstva, tek tada se može očekivati i konsekventna demokratizacija ukupnog političkog polja i ostalih procesa koji su njegov inherentni dio. Drugim riječima, nije moguće zagovarati širenje demokratskih vrijednosti a istovremeno djelovati u nedemokratskim okvirima i takvim djelovanjem održavati *status quo*. Na taj način, može se reći da upravo od Evropske unije najviše i zavisi stepen i brzina transformacije Bosne i Hercegovine od postkonfliktne zemlje nedemokratskog odlučivanja do zrelog i odgovornog demokratskog društva u kojem će politička odluka biti stvar javne i razumne deliberacije, a ne tajnih sastanaka političke elite i međunarodnih zvaničnika. Tek onda kada se, zahvaljujući djelovanju Evropske unije u BiH – pri čemu bi *način* djelovanja njenih predstavnika i konačan cilj ukupnog djelovanja bili neodvojivi jedan od drugog – bude moglo reći da se demokratizacija proširila u sve sfere društva na koje EU ima utjecaj, Bosna i Hercegovina će postati demokratsko i odgovorno društvo, skrojeno u skladu sa potrebama svojih građana, a ne političke elite ili međunarodnog političkog subjekta.

Bodo Weber

Političke elite i politička kultura u BiH i izazovi evropskih integracija

Kada je 16. aprila većina poslanika Doma naroda Parlamenta Bosne i Hercegovine – samo nekoliko dana nakon što su to uradile njihove kolege iz prvog, predstavničkog doma – prihvatila dva zakonska prijedloga o reformi policijske strukture, otklonila je time zadnju prepreku na putu do potpisivanja Sporazuma o stabilizaciji i pridruživanju (SSP) sa Evropskom unijom, i time odmrzla proces evropske integracije zemlje. Kontroverze specifičnih okolnosti koje su karakterisale taj politički korak najbolje je u parlamentarnoj diskusiji izrazio hrvatski poslanik Božo Rajić, koji je u ime HDZ-a podržao zakonske prijedloge. Rajić je na sjednici izjavio da „nije sretan, ali ni nesretan” zbog zakonskih rješenja, da je davanje svog glasa doživio kao „svjesnu odgovornost da se mora obaviti jedan posao”, te je u isto vrijeme objasnio da „ovakav ustav ne dozvoljava nikakve ozbiljne reforme... ali moramo težiti rješenjima i modelima koji će nas voditi ka evropskim principima”.¹

Rajićeva izjava zapravo predstavlja prilično otvoreno priznanje da je bosanskohercegovački korak do evropskih integracija rezultat spoja političkog konformizma i protivrječnosti. On je, ustvari, baziran na dva lako uočljiva privida: prvi, privid političkog kompromisa između najvažnijih bh. stranaka u vezi sa sadržajem i ciljem policijske reforme, koji treba da prikrije kontinuitet etnonacionalnog odbijanja reformskih principa Evropske komisije, tj. prije svega teritorijalna reorganizacija u pravcu depolitizacije, odnosno deetnizacije organa bezbjednosti od strane srpskih stranaka iz RS. Drugi je privid ispunjavanja kriterija Evropske unije za potpisivanje Sporazuma. „Trik” koji spaja ova dva privida sastoji se u najavi skorog nastavka reforme policije koja će se pridržavati evropskih principa i koja će biti bazirana na istovremeno najavljenom ustavnoj reformi. Onoj reformi koju one iste političke elite od Daytono do današnjeg dana dosljedno blokiraju.

Ako ništa drugo, ova maštovita konstrukcija pokazuje dvije stvari: prvo, proces evropske integracije Bosne i Hercegovine zahtijeva saradnju domaćih političkih elita. Drugo, postoji problem sa spremnošću političkih elita na demokratske reforme kojima je uslovljena integracija u EU. Iz te perspektive politički se posmatrač pita šta je međunarodnu zajednicu motivisalo da pristane na saradnju sa bosanskohercegovačkim političkim elitama u ovakvoj „združenoj prevari” nad integracijskim kriterijima EU?

Uz visok stepen očaja zbog otpora političkih elita prema nastojanjima međunarodne politike da Bosnu i Hercegovinu od fasade države transformiše u funkcionalnu demokratsku državu (pogotovo nakon političke krize krajem 2007. godine), glavna njena motivacija se sastoji od nade u sam integracijski proces. Nade da će taj prvi korak ka integraciji prouzročiti određenu društveno-političku dinamiku, kojoj

¹ Almir Terzić/Tahir Brkić, „Nakon prošlosedmične podrške Predstavničkog doma”, u: *Oslobodenje*, 17.4.2008.

se političke elite – za razliku od dosadašnjeg držanja – više neće moći usprotiviti, pri čemu očigledno glavnu nadu ulaže u to da će društvo, tj. stanovništvo početi igrati aktivnu političku ulogu koja će primorati elite na transformaciju vlastite političke uloge. Tako je aktuelni predvodnik međunarodnog poluprotektorata u BiH, visoki predstavnik Miroslav Lajčák, u svom posljednjem, aprilskom izvještaju generalnom sekretaru Ujedinjenih nacija, obznanio cilj da se „stvori kritična masa građana... koji će biti podstaknuti da govore u prilog evropskih integracija i tako postepeno vrše sve veći pritisak na domaći politički establišment da ispuni svoje obaveze prema integraciji u EU”,² te u jednom govoru u maju ove godine izražava vjeru u realizaciju reformskih koraka potrebnih na putu do članstva u EU, koje obrazlaže analizom da „oko 70% bh. biračkog tijela želi da njihovi lideri povedu BiH u Evropu”.³

Ključno pitanje za budućnost integracijskog procesa BiH u Evropsku uniju, dakle, glasi: da li trenutačni privid napretka može postati stvarni napredak? U traganju za odgovorom potrebno je najprije analizirati savremeni karakter političkih elita i karakter „političke kulture” bh. društva, odnosno odnos između političkih elita i društva/državljana.

Politički sistem postdejtonske Bosne i Hercegovine

Političke elite:

Karakter političkih elita u postdejtonskoj BiH određuje kontinuitet društveno-političke dominacije etnonacionalizma. Etnonacionalizam kao jedan od oblika modernih kolektivističkih ideologija imao je svoju genezu još u socijalističkoj Jugoslaviji, gdje je nastao kao glavno legitimacijsko sredstvo specifičnog procesa decentralizacije autoritarnog, jednopartijskog političkog poretka. Radilo se o jednoj iracionalnoj decentralizaciji koja je nosila glavnu odgovornost za kasniji krvavi raspad zemlje. Dejtonski institucionalni, ustavno-pravni okvir u zadnjoj deceniji i po omogućio je novim političkim elitama nastavak te tradicije autoritarne, regresivne decentralizacije na novim osnovama. Mada su demokratizacijska nastojanja koja je međunarodna zajednica poduzimala u posljednjoj deceniji i po pluralizovala tri mononacionalna „jednopartijska sistema” unutar političkog sistema s kojim je BiH izašla iz rata, ona nije uspjela da ih demokratizira, to jest reforme su ostale u okviru sistema dominantne autoritarne etničke decentralizacije.

² *Thirty-Third Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations* (1 October 2007 – 31 March 2008), vidi: http://www.ohr.int/other-doc/hr-reports/default.asp?content_id=41694

³ „Lajčák: Integracija u EU bavi se fundamentalnim pitanjima državnosti BiH”, vidi: http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=41734

Decentralizovani politički sistem i danas sadržava dvije osnovne karakteristike koje ga prate od socijalističkih vremena, a koje oblikuju i političke elite:

Prva: autoritarni karakter decentralizovanog poretka, koji omogućuje opstanak političkih elita kroz sprečavanje demokratizacije političkog sistema, čime političke elite (p)ostaju glavni generator društvene krize i blokade reformskih, modernizacionih procesa. Spoj modernizacione blokade i političkih elita kao nosilaca decentralizovanog poretka preživio je postsocijalističku transformaciju elita zahvaljujući procesu socijalne inverzije koji se desio u ratu. Otpornost tog odnosa na reformske procese u poslijeratnom periodu se može ogledati u nastojanju elita da putem korumpiranog sistema visokog obrazovanja zadrže strukturalnu karakteristiku negativne kadrovske selekcije;⁴

Druga karakteristika decentralizovanog poretka je deinstitucionalizacija države. Održavanje autoritarne vladavine kroz decentralizaciju socijalističke su elite realizovale i deinstitucionalizacijom državnih struktura, putem parainstitucionalnog djelovanja iz državnih institucija na osnovu srastanja države i partije. Dejtonski poredak uglavnom je omogućio nastavak tog spoja decentralizacije i deinstitucionalizacije, čije su posljedice proces parainstitucionalnog, suštinskog podrivanja, erodiranja državnih institucija na svim nivoima u BiH, te podređenost državno-političkog sistema grupnim i individualnim interesima ispod autoritarne površine. Pojavni oblici te parainstitucionalne političke prakse ranije su imenovani kao „malverzacije” ili „privredni kriminal”, a danas se susreću kao „korupcija” ili „organizovani kriminal”, ali odnos između etničke decentralizacije i deinstitucionalizacije, kao i dubina procesa erozije državnih (i svih ostalih društvenih) institucija, ostali su uglavnom neshvaćeni.

Etnonacionalizam može preuzeti tu opisanu ulogu zato što nije oblik klasične ideologije koji se može razumjeti na osnovu nekakvog „uvjerenja” njenih sljedbenika u ideološke sadržaje, nego kao moderna kolektivistička ideologija koja uglavnom počiva na konformističkoj motivaciji i funkciji medija društvene integracije: radi se o kolektivnom, dihotomizovanom političkom diskursu o „njima” i „nama” koji omogućuje proces društvene homogenizacije putem kolektivnog samosporazumijevanja. Kolektivan diskurs koji svojim govorom o „etnosu”, „identitetu”, „tradiciji”, „kulturi” itd. ostaje sadržinski potpuno neodređen, ne sadržava nikakvu konkretniju (osim mitsku, virtuelnu) predstavu o državi i društvu, jer mu je glavna funkcija upravo ta neodređenost, maglovitost – s ciljem izbjegavanja da se razmišlja o društvenoj realnosti. Etnički nacionalizam kao proces kolektivnog sporazumijevanja predstavlja specifičnu reakciju na društvenu krizu koja sama postaje generator (produbljivanja) krize. Njegova praktično-politička strana predstavlja upravo ono što možemo vidjeti u postdejtonskoj BiH – politika bez supstance čija je suština u stalnoj reprodukciji kolektivnog etničkog samosporazumijevanja, u stalnoj reprodukciji kolektivne etničke konfrontacije i stvaranju vanrednih situacija, odnosno održavanju nestabilnih

⁴ Vidi o tome: Bodo Weber, *Kriza univerziteta i perspektive mladih naučnika u BiH*, Sarajevo 2007, S.

društvenih odnosa, a ne politika u onom izvornom, modernom smislu – što bolje uređenje društvenih odnosa.

Radi se, dakle o jednoj političkoj dinamici koja nije arhaična niti kolektivno iracionalna, nego o specifičnoj političkoj „racionalnosti” koja proizvodi regresivnu, autodestruktivnu društvenu dinamiku. Dinamiku koja se mogla održavati u postdejtonskom periodu zbog dalje neodređenosti odnosa između teritorijalnosti, etniciteta i države, i zbog poluprotektorata sa njegovom podijeljenom političkom odgovornošću između međunarodne zajednice i domaćih političkih elita, što se ustvari pretvara u sistem strukturalne političke neodgovornosti.

Iz te perspektive postaje razumljivo zašto domaće političke elite, kako u prvim poslijeratnim godinama tako i u aktualnoj „briselskoj fazi”, uglavnom negativno reaguju na racionalne podsticaje koje međunarodna zajednica nudi za demokratsku i tržišno-ekonomsku transformaciju Bosne i Hercegovine.

Stanovništvo i politička kultura:

Nada koju je međunarodna politika u raznim fazama gajila da će bh. „građani” postati subjekat društveno-političke demokratizacije svoje zemlje uglavnom se nije ispunila, a zbog činjenice koju nije razumjela, ili nije razumjela njenu pozadinu: da je stanovništvo, da je „narod” bio i ostao aktivni učesnik u društvenom procesu etnicizacije – i to na dva nivoa:

Prvi je aktivno učešće u ideološkoj homogenizaciji društva, a time u političkom legitimisanju etnonacionalnih političkih elita. Aktivno učešće u kolektivnom samosporazumijevanju, u konformističkom izbjegavanju suočavanja sa stvarnim, kriznim društvenim stanjem, što je većinu naroda iz saučesnika komunističke elite u modernizacijskoj blokadi u kriznoj fazi jugoslovenskog socijalizma pretvorilo u saučesnika u nasilnoj etnicizaciji društva 1990-ih godina. Radi se o saučesništvu koje u poslijeratnoj fazi ozbiljno otežava proces integracije bosanskohercegovačkog društva;

Drugi nivo aktivnog učešća predstavlja sudjelovanje naroda u erodiranju institucionalizacije države putem neformalnih ekonomskih i drugih društvenih praksi. Zajednička praksa „razmjena usluga” i „veza i vezica” elita i naroda potiče još iz doba realsocijalizma, a doživjela svoj nastavak u etnizovanom bh. društvu zbog prenošenja specifičnog dominantnog tipa autoritarne ličnosti, koji se neplanirano bio razvio u socijalizmu a koji bismo mogli nazvati „kolektivističkim egoizmom”. Time je naznačena specifična struktura ličnosti istovremenog konformističkog djelovanja unutar autoritarnog društvenog poretka koji ne priznaje individualne potrebe i podzemno, potajno (često brutalno) nastojanje realizacije individualnih (materijalnih i nematerijalnih) egoističnih interesa i potreba. Radi se o specifičnoj autoritarnoj strukturi, koja istovremeno onemogućuje kako stvaranje pravog autoritarnog poretka tako i demokratskog poretka.

Dejtonski politički poredak (paralelno postojanje kompetitivnih izbora, parlamentarnog i višestranačkog sistema, etnički definisanih državnih institucija i autori-

tarnog arbitra međunarodnog poluprotektorata) omogućio je reprodukciju tog autoritarnog, antidemokratskog odnosa društva prema politici. Da se radi, u osnovi, o antidemokratskom odnosu, nije na prvi pogled vidljivo zbog ambivalentnosti učešće naroda u procesu deinstitucionalizacije države: narod je istovremeno aktivan sudionik erodiranja državnih/društvenih institucija i nezadovoljan autodestruktivnim političkim i društvenim posljedicama svog djelovanja (privredna kriza, socijalna kriza, pravna nesigurnost i dr.). Razlog što se to ne vidi leži u konformističkom kanalizovanju tog nezadovoljstva u pravcu drugih etničkih kolektiva, i njene transformacije u novi izvor kolektivnog etničkog sporazumijevanja.

Na taj način postane razumljivo zašto narod u postdejtonskom periodu većinom nije izašao iz postojećeg okvira političkog sistema, odnosno političke kulture. To se da vidjeti na primjeru tradicije „negativnog” izbornog ponašanja birača, koji redom glasaju protiv određene politike, često politike vladajuće partije, kao demokratski izraz kritike političkih učinaka režima, ali ostaju unutar dominantnog okvira etničkih partija. Ili na primjeru negativnog odnosa prema „korumpiranosti” državnih institucija i političkih elita u raznim ispitivanjima javnog mnijenja, koji zapravo predstavlja izraz potiskivanja sopstvene „građanske” odgovornosti, potiskivanja društvene stvarnosti u kojoj „koruptivne” prakse predstavljaju sastavni dio svakodnevnog života i socijalizacijskog iskustva. Politička kultura se tako u osnovi svodi na težnju većine stanovništva ka demokratskoj, pravnoj i prosperitetnoj državi, ka „redu i radu”, te na čekanje da im neko drugi donese društvenu transformaciju.

„Demokratska alternativa”:

U nastojanju da nađe domaće saveznike za svoj projekat demokratske transformacije bh. države, međunarodna zajednica je većinu vremena dosad potrošila na identifikaciju demokratske alternative unutar političkih elita i njezino guranje na režimske pozicije – s poraznim efektima: u više od decenije koja je prošla svi potencijalni stranačko-politički subjekti demokratizacije potrošili su se i kompromitovali (neki i po dva puta) parcijalnim zauzimanjem vladajućih pozicija. Unatoč alternativnim programsko-političkim, nenacionalnim demokratskim ideološkim sadržajima, govorom o „liberalnoj državi” i „građanskom društvu”, sadržinski su ostali gotovo isto magloviti i neodređeni kao i etnički diskurs; nisu izašli iz društvene dinamike izbjegavanja da se suoče sa stvarnim društveno-političkim stanjem. Iza ideološke razlike ukazala se u nesupstancijalnoj politici sličnost sa etničkim partijama, te sličnost u organizacijskoj strukturi partijskog života: dominacija političkih taktika i ličnih interesa na račun političkih strategija, te autoritarne unutarstranačke strukture, zapostavljanje partijskog rada zauzimanjem državnih funkcija, itd. itd. Neuspjeh „demokratskih” stranaka da postanu politički subjekti društvene transformacije zapravo pokazuje konformističku snagu regresivne društvene dinamike etnizacije.

Političke elite i politička kultura u procesu evropskih integracija

Vraćajući se glavnom predmetu ovog teksta – kako problematična osnova dosadašnjih koraka ka evropskim integracijama može prerasti u stabilnu društveno-političku dinamiku demokratske transformacije – nameće nam se ključno pitanje o društvenim osnovama evropskih integracija Bosne i Hercegovine: odakle dosad nepostojeća društvena osnova reforme, te kako i gdje može nastati subjekat reformskog procesa?

Među političkim elitama nema subjekta koji će sam transformisati dosad dominantnu logiku (ne)funkcionisanja državno-političkog sistema i političkih elita. Stiče se utisak, na osnovu političkih analiza i procjena međunarodnih predstavnika u BiH, kao onih na koje se poziva Visoki predstavnik, da je i međunarodna zajednica u međuvremenu stigla do tog zaključka, što već samo po sebi može imati pozitivne posljedice na djelovanje međunarodne zajednice u BiH.

Isto tako, evropski diskurs, diskurs evropskih integracija sam po sebi ne može igrati ulogu subjekta, odnosno stvaraoca subjekta. Evropski diskurs poprima iste karakteristike kao i etnički diskurs: od maglovitih predstava o državi i društvu do homogenizirajućeg efekta kolektivnog samosporazumijevanja o integraciji u EU, o evropskim integracijama BiH koje se „podrazumijevaju” kao što se podrazumijeva i to da je svaki pojedinac pripadnik nekog etničkog kolektiva. Evropski diskurs ostaje u okviru dinamike društvenog diskursa izbjegavanja i ideološkog konformizma. Ideološki konformizam u principu može igrati konstruktivnu ulogu u procesu integracije u EU, kao što pokazuje primjer Hrvatske, gdje je nacionalistički konsenzus jednostavno utopljen u evropski, pa je time omogućio dotad nezamislivu reformsku dinamiku. Problem Bosne i Hercegovine sastoji se u tome da troetnička struktura države, politike i društva onemogućuje takvo srastanje etničkog i evropskog diskursa, a omogućuje paralelnu egzistenciju evropskog i nacionalističkog diskursa, što znatno otežava reformsku dinamiku sličnu kao u Republici Hrvatskoj.

Ostaju, dakle, bh. građani, tj. narod kao potencijalni subjekat reformskog procesa koji će voditi do integracije u EU, odnosno navedena nada da će se on pretvoriti u „kritičnu političku masu”. Iz analize dosadašnje, uglavnom negativne političke uloge naroda, već se da zaključiti kako ni razni ekonomski i drugi podsticaji koji prate integracijski proces, niti većinski načelno pozitivan odnos bh. državljana prema pitanju integracije zemlje u Evropsku uniju, neće biti dovoljni da narod pristane na ulogu kritične mase. To pokazuje, na primjer, istraživanje javnog mnijenja provedeno u novembru prošle godine.⁵ Mada istraživanje manje-više potvrđuje konstataciju Visokog predstavnika o dvotrećinskoj podršci politici evropskih integracija, sna-

⁵ *Ispitivanje javnog mnijenja*, ACIPS, Sarajevo, novembar 2007. godine.

ga te podrške je relativna, posebno u hrvatskom i srpskom dijelu bh. stanovništva, koji ima najnegativniji odnos prema bh. državi, a većinska podrška se dijelom pretvara u manjinsku kad se povezuje s pitanjima o konkretnim reformskim zahtjevima kao što je reforma policije (većina Srba u RS). Uz to, ta istraživanja nikad ne pokazuju faktor autoritarne političke kulture stanovništva – autoritarno-pasivan odnos prema integracijskoj politici koja se krije iza izražene podrške (na šta su u zadnje vrijeme upozoravali neki politički analitičari⁶).

Unatoč tim problemima, može se očekivati da će potpisivanje Sporazuma o stabilizaciji i pridruživanju (SSP) imati pozitivan efekat na bh. stanovništvo, i to iz najmanje tri razloga:

1. Početak integracijskog procesa, čak i kršenjem sopstvenih kriterija od strane Evropske unije, makar će djelomično suziti dosadašnji prostor kolektivističkog diskursa samosporazumijevanja, pa i tolerisanje nesupstancijalne političke prakse elita od strane naroda;
2. Određena dinamika u integracijskom procesu biće prouzrokovana napredovanjem susjednih zemalja (Republika Hrvatska, Crna Gora, Srbija);
3. Nakon rješavanja statusa Kosova, politički diskurs u BiH je manje-više reduciran sam na sebe (uz izuzetak otvorenog, neriješenog državno-političkog problema dvojnog državljanstva bh. Hrvata).

No, u isto vrijeme, put do potpisivanja Sporazuma prijeto da ima i negativne efekte na odnos stanovništva prema politici evropskih integracija:

Davanje vremenske prednosti Srbiji u procesu potpisivanja SSP-a putem obaranja reformskih kriterija može imati antievropski efekat upravo na 'najproevropskiji' dio stanovništva BiH – Bošnjake.

Postoji opasnost da domaća demokratska kritika Evropske komisije, zbog manipulisanja integracijskim kriterijima, transformiše najvredniji demokratski potencijal u bh. društvu u 'evroskeptičare'.

Manipulisanje kriterijama može utvrditi antidemokratsku autoritarnu političku kulturu među bh. stanovništvom. Spomenuto ispitivanje javnog mnijenja upravo potvrđuje takav strah u odnosu na srpsko stanovništvo u Republici Srpskoj.

Stvaranje nove reformske dinamike bi pristajanjem Evropske unije na potpisivanje Sporazuma zapravo imalo kontraefekat na svom ključnom strategijskom mjestu, a to je stanovništvo i njegova transformacija u kritičnu političku proevropsku masu.

Za politiku Evropske unije prema Bosni i Hercegovini u daljem toku integracijskih procesa od presudne važnosti biće da ozbiljno uzme obje strane efekta – i onu pozitivnu i onu negativnu.

⁶ Ivan Lovrenović, „Čekanje kao sudbina”, *BH Dani* br. 568, od 2.5.2008.

Edin Šarčević

Bosna i Hercegovina i proturječnosti procesa evropskih integracija (ustavnopravni pogled)

I. EU kao instrument promjene ustava?*

1.1. Međunarodnopravni argument

„Članstvo u Evropskoj uniji”¹ je čest argument u aktuelnim debatama o reformi ustavnog sistema BiH. Prema „argumentu članstva”, pristup EU zahtijeva reformu postojećeg, odnosno donošenje novog Ustava. Samo bi na tom putu – polazeći od osnovne zamisli – BiH imala ustav koji je spojiv sa ustrojem Unije. Dobija se utisak da je reforma ustavnog uređenja BiH, ma šta se pod tim razumijevalo, kategorički imperativ evropskih integracija.²

Ovaj stav je samo manjim dijelom tačan, pa je, prema tome, i upotrebljiv u mnogo manjoj mjeri od one koja mu se pripisuje.

EU predstavlja internacionalnu organizaciju sa pravnim subjektivitetom;³ ona na prvo mjesto stavlja privredne ciljeve.⁴ Njeno područje važenja je međunarodno pravo. Iz ove jednostavne činjenice slijedi preliminarno pitanje o odnosu međunarodnog prava i nacionalnog (državnog) ustavnog prava: Da li međunarodno pravo determinira nacionalno ustavotvorstvo, materijalni sadržaj ustava i organizaciju vlasti?

1.2. Međunarodno pravo i nacionalni ustav

Međunarodno pravo se ne bavi ni postupcima donošenja niti mogućim sadržajima državnog ustava; ono je „indiferentno” prema nacionalnom ustavu, odnosno prema unutrašnjem ustavnom sistemu. Za međunarodno pravo odlučujuće je pitanje da li je država u stanju da preko vlastitog ustavnog sistema ispuní sva prava i sve obaveze subjekta međunarodnog prava. Ona prema vani mora nastupati kao suvereni organizam, jednim glasom. Međunarodnom pravu,

* U analizi ne pravim razliku između EU i EZ; oboje obuhvatam pojmom Evropske unije u smislu konstrukcije pravnog okvira za evropske zajednice u njihovim dopunskim politikama kao i u formama zajedničkog rada država članica. Za ovakav pristup me opredjeljuje činjenica da novi članovi mogu pristupiti Evropskoj uniji, a ne izolirano evropskim zajednicama (čl. 49 Ugovora EU).

¹ Usp. Izvještaj o napretku BiH u 2007. godini (Komisija EZ, 6.11.2007, SEC [2007] 1430) u kojem se reforma i neuspjesi reforme „ustava” dovode u direktnu vezu sa članstvom u EU (s. 7 i dalje).

² Jasno je da evropska integracija osim pravne dimenzije ima i *historijsku* (socijalna historija), *politološku* (zaštita i artikulacija nacionalnih interesa), *ekonomsku* (liberalizacija i integracija tržišta), *kulturološku* (protori kulturnih komunikacija, odnosno komunikacija općenito), usp. instruktivan opis kod *Haltern*, *Euro-parecht*, 2. izd. 2007, poglavlje „Worüber wir sprechen”, s. 27, i dalje. Ovdje će se uzimati u obzir samo pravni aspekti, odnosno ustavno uobličavanje državnih i paradržavnih struktura i protofederalizam.

³ *Borhardt*, *Die rechtlichen Grundlagen der Europäischen Union*, 3. prerađeno izd. 2006, s. 55.

⁴ Usp. npr. Odluku Evropskog suda u predmetu van „Gend & Loos”, EuGH Rs. 26/62, Slg. 1963 1.

u postupku donošenja konkretnog ustava, može pripasti funkcija neobaveznog normativnog mjerila.⁵ Federalna struktura zemalja članica i složeno državno uređenje ne predstavljaju smetnju članstvu (klasični primjeri: Belgija, Njemačka i Austrija). No, član EU može biti samo država (kao stvarni subjekt međunarodnog prava) i ona preuzima obaveze prema EU – ustavno pravo je ovdje relevantno samo kao medij koji omogućuje da se specifično federalni interesi artikuliraju na nivou države kako bi složena država prema vani govorila jednim glasom.

Iz perspektive međunarodnog prava donošenje ustava i uobličavanje ustavnog sistema se pojavljuju kao ekskluzivna nadležnost državnih ustavotvornih skupština. Otvaranje svakog ustava prema međunarodnom pravu može biti shvaćeno naprosto kao nužnost ili kao znak političke mudrosti ustavotvorca.

Iza ovoga slijedi pitanje da li EU, po sebi, može preuzeti – u funkciji međunarodne organizacije – poziciju međunarodnog prava?

1.3. EU i nacionalni ustav

Pravna priroda EU govori, dakle, u prilog tezi da je ona, kao i svaka druga međunarodna organizacija, indiferentna prema nacionalnom ustavotvorstvu i da je ustavi država članica u načelu ne zanimaju.

Ovaj nalaz bi se, međutim, morao korigirati: dostignuti *stepen integracije* i *sui-generis - kvalitet* EU i EZ izdvajaju EZ – kao noseći stup EU – u zaseban pravni konstrukt koji može ostvarivati i direktan uticaj na nacionalni ustav.⁶ Iz državnopravnog međuprostora u kojem se trenutno nalaze EU/EZ – više od države, manje od savezne države = status supranacionalne organizacije⁷ – slijede pravne posljedice.

Takve „posljedice” mogu imati posredan uticaj na ustavne sisteme pa, dakle, i na sam ustavni tekst budućih članica. Jer, iz prirode članstva slijedi da su ustavi EU/EZ članica usklađeni s evropskim pravom. EU/EZ kao argument promjene ili reforme nacionalnog ustava može, prema tome, obavezivati samo potencijalne članove. U toj tački se možda može pronaći „argument članstva” kao pokretač ustavnih promjena u BiH.

⁵ Detaljnije sa konkretnim obrazloženjem *Šarčević*, Völkerrechtlicher Vertrag als „Gestaltungsinstrument” der Verfassunggebung: das Daytoner Verfassungsexperiment mit Präzedenzwirkung?, AVR tom 39 (2001), s. 299 i dalje.

⁶ Sa uobičajenim međunarodnim organizacijama EZ ima zajedničko samo to što je nastala međunarodnim ugovorom. Ostatak su razlike: EU/EZ su utemeljili visoko osamostaljenu zajednicu koja je opremljena sopstvenim suverenim pravima; države članice su u njenu korsit odustale od dijela vlastitih suverenih prava; katalog zadataka koji joj je prenesen bitno se razlikuje od drugih internacionalnih organizacija. Naime, u njeno područje djelovanja spadaju zadaci koji su tipični za državno djelovanje (pravosude, donošenje neposredno i posredno primjenjivih propisa, regulacija širokih područja privrednog života i preuzimanje regulativno-izvršnih funkcija).

⁷ Usp. *Ipsen*, Europäisches Gemeinschaftsrecht, 1971, s. 70, 255; *Borchardt* (fn. 2), s. 55 i dalje.

1.4. Kriterij prijema

Prema tome, uticaj EU/EZ na nacionalni ustav bi mogao doći u obzir samo u jednoj, vremenski nedefiniranoj tački. Ona se odnosi na ispunjenje materijalnih pretpostavki pristupa EU.⁸ Relevantan je regulacioni kompleks iz čl. 49 EUV (Ugovora o Evropskoj uniji).

Tako pristup EU može uslijediti tek nakon što pridružena zemlja bude u poziciji da ispunji potrebne političke i privredne uslove. Privredni uslovi pristupa odnose se, apstraktno kazano, na želju za integracijom i sposobnost da se kandidat uklopi u zajedničko tržište (provjeravaju se različita područja privrednog sektora, npr. nivo cijena, liberalizacija trgovine i valute, stanje privredne stabilizacije, strukturne promjene u vanjskoj trgovini, tržištu rada, javnim finansijama, privatizaciji i prestrukturiranju poduzetništva kao i položaj finansijskog sektora). Nijedno od navedenih pitanja nije eminentno pitanje ustavne regulacije i u tom smislu se direktan uticaj EU na sam ustavni tekst mora odmah isključiti.

Što se tiče materijalnih pretpostavki,⁹ podrazumijeva se sposobnost za potpuno preuzimanje *acquis communautaire* – („pravne stečevine EU”).¹⁰ Dalje, politički uslovi podrazumijevaju institucionalnu stabilnost, demokratsko uređenje i državno-pravne mehanizme i institucije, zaštitu i poštovanje ljudskih prava kao i prava manjina. Oni su dopunjeni zahtjevom da se poštuje međunarodno pravo i da se teritorijalni sporovi rješavaju mirnim putem – posebno uz pomoć Međunarodnog suda pravde.

Ovdje se radi o ustavnim *principima*, no obaveze koje iz njih proizlaze nije moguće interpretirati kao jasne pravne zapovijesti. Ukratko, radi se o stavovima koji stvaraju apstraktne obaveze. One se svaki put moraju konkretizirati. To znači da će autoritativno-interpretativnu djelatnost preuzeti evropska tijela koja donose odluke: Vijeće i Evropski parlament – za pravosnažno članstvo u EU/EZ su potrebni pozitivni glasovi oba organa. Budući da, prema vladajućem mišljenju, nosiocima odluke pripada širok prostor slobodnog odlučivanja, koji često predstavlja poseban tip „političke proizvoljnosti”,¹¹ moramo zaključiti da program priključenja EU/EZ u formi

⁸ O tome i o analizama iz nastavka upućujem na: Šarčević, EU-Erweiterung nach Art. 49 EUV: Ermessensentscheidung und Beitrittsrecht, EuR 2002, s. 461 i dalje.

⁹ Prema Kopenhagenskim kriterijima, usp. Šarčević (fn. 8), s. 468 i dalje, o konkretnoj primjeni u BiH usp. Izvještaj o napretku BiH u 2007. godini (fn.1) tačka 2 s. 6 i dalje.

¹⁰ Ako kriterije sistematiziramo na pozadini Kopenhagenskih kriterija možemo razlikovati sljedeće grupe:

- *politički kriteriji*: kandidat mora osigurati institucionalnu stabilnost kao garanciju demokratskog i državno-pravnog uređenja za očuvanje ljudskih prava kao i za poštovanje i zaštitu manjina;
- *privredni kriteriji*: mora posjedovati funkcionirajuću tržišnu privredu i biti u stanju da izdrži pritisak konkurencije unutar EU;
- *kriteriji pravne stečevine*: da je u stanju da preuzme obaveze koje slijede iz članstva i da integrira političke i privredne ciljeve;
- *međunarodno-pravni kriteriji*: poštovanje načela međunarodnog prava i obaveza da teritorijalne sporove rješava mirnim putem pred Međunarodnim sudom pravde.

Usp. Šarčević (fn. 8), s. 468 i dalje; Cremer, u: Callies/Ruffert, EUV/EGV-Kommentar 3. izd. 2006, čl. 49, s. 308 i dalje.

¹¹ Usp. Streinz, Europarecht, 4. izd. 1999, randnr. 79; Hernfeld u: Schwarze, EU-Kommentar, 2000, čl. 49, randnr. 7 i dalje; Meng u: v.d.Groeben/Schwarze EU-Kommentar, 3. izd. čl. 49, randnr. 14 i dalje.

višestepenog diskrecionog odlučivanja ne obavezuje ustavotvorca na donošenje tačno određenog sistema ustavnih propisa, na reformu ili dopunu postojećeg ustava. „Evropski nivo procjene” odnosi se na „zatečeno stanje”. EU traži unutar postojećeg ustavnog ustrojstva elemente ispunjenih materijalnih pretpostavki članstva ili prostor za njihovo poboljšanje.¹²

Ima li se uz to na umu da sukcesivno ispunjavanje uslova za pristup evropskim integracijama mora biti završeno do konačnog pristupa EU, a da Savjet u svako vrijeme može zaključiti da se odbija zahtjev za pristup zbog neispunjenja uslova (čl. 49 I 2 Ugovora EU), moralo bi biti jasno da EU kao pravna i privredna organizacija, sa svojim materijalnim vrijednostima koje prelaze čisto privrednu funkciju, ne utiče na nacionalno (državno) ustavotvorstvo ništa više od međunarodnog prava – ono i iz ove perspektive ostaje isključiva nadležnost političke nacije, konkretnog, u historijskim uslovima svake životne situacije formiranog ustavotvorca.

Sve i ako prihvatimo argument da materijalne pretpostavke za evropsko članstvo podrazumijevaju izmjenu Aneksa 4, izuzev propisa o entitetskom izboru za državna tijela koji izigravaju i Evropsku konvenciju o ljudskim pravima,¹³ dejtonskom ustavnim modelu se u tekstualnom dijelu ništa ne bi moglo prigovoriti. Dakle, institucionalna stabilnost, demokratsko i državnoopravno uređenje, poštovanje ljudskih prava i zaštita manjina, sve je ovdje ispunjeno na nivou ustavnog prava. Konačno, samo pitanje da li se kandidat za EU „kvalificirao” u smislu navedenih kriterija ionako će biti predmet pregovora o pristupu čiji se sadržaj ne može unaprijed sudski utvrditi.¹⁴

Da predstavnici EU u svakom konkretnom slučaju neće voditi računa o detaljima pisanog ustava i aspektima praktičnog ustavnog života, i da će faze pristupa koristiti kao neku vrstu dugoročne terapije, pokazuje i procedura vođena sa Srbijom: Sporazum o stabilizaciji i pridruživanju je potpisan 29. 4. 2008,¹⁵ a već je 7. 5. 2008. Srbiji uručena „mapa puta”,¹⁶ iako je *prima facie* jasno da Srbija u trenutku potpisivanja nije imala elementarne uslove u pogledu poštovanja međunarodnog prava. No, do punopravnog članstva otvorena pitanja još uvijek mogu biti riješena – to što se trenutno vidi jeste tekstualni dio Ustava koji ni u organizacionom ni u materijalnom dijelu ne isključuje evropsko članstvo.

1.5. Zaključak

„Argument članstva” ne govori u prilog nužnosti ustavne promjene. On je jedna vrsta političke i kvazipravne floskule koja u današnjoj BiH ima ulogu indikatora

¹² Usp. Izvještaj o napretku BiH u 2007. godini (fn. 1), *passim*; Saopštenje Komisije za Evropsko vijeće i Parlament, 6.11.2007, COM (2007) 663, s. 24 i dalje

¹³ Usp. Izvještaj o napretku BiH u 2007. godini (fn. 1), u poglavlju o deokratiji i vladavini prava, s. 7 i dalje.

¹⁴ O nemogućnosti da se sadržaj pregovora o pristupu unaprijed sudski utvrdi usp. EuGH, Rs. 93/78, Slg. 1978, 2203, randnr. 8 (Mattheus/Doego).

¹⁵ Usp. *Nezavisne novine*, 29. 4. 2008.

¹⁶ Usp. *Oslobodenje*, 8. 5. 2008.

moći entitetskih političara.¹⁷ Izuzme li se organizacioni dio Aneksa 4, koji je u suprotnosti sa Evropskom konvencijom, inače od ranije poznat a danas (opšte) priznat problem,¹⁸ ostatak ne otvara dileme: praksa EU trenutno ne upućuje na valjane pravne razloge koji bi opravdali insistiranje na izmjeni Aneksa 4.¹⁹ Na osnovu tekstualnog sadržaja Aneksa 4 moguće je BiH privesti zahtijevanim standardima evropskog članstva, jer standardizacija neće biti „ustavnopravne” nego ekonomsko-političke prirode.

„Evropska dimenzija” može biti dobar korektiv i otponac, ali ne i isključivi ili jedini razlog za promjenu ustavnog ustrojstva. Zapravo, EU niti može predstavljati, niti danas jeste kriterij ili stvarni ratio bosanskohercegovačkog ustavotvorstva. Ustavno pitanje ostaje nacionalna nadležnost koja slijedi nacionalne interese. Razlozi promjene mogu biti samo unutrašnje prirode – oni se mogu utemeljiti isključivo u karakteru države koja je nastala na temeljima Aneksa 4.

II. Aneks 4: ustavni model za modeliranje ustavnog haosa?

II.1. Prethodno pitanje: reforma ili novi ustav?²⁰

Unutrašnja inkonzistentnost države, očigledno, zavisi od ustavotvornog akta: što je vezaniji za konkretnu kauzu (mirovni ugovor), to mu je primjena uža – on se reducira na premise samog povoda (neprilagodljivost). Tako Aneks 4, posmatran u vremenskoj reakciji, ne može pružiti jednoznačne odgovore (antinomična rješenja) na socijalne potrebe bosanske državne zajednice. On, iznad svega, onemogućuje

¹⁷ „Evropski put u BiH ne može biti uslovljen promjenom njenog unutrašnjeg uređenja i Republika Srpska nema namjeru da gubi svoj subjektivitet zbog EU” (*Dodik*, na sastanku sa delegacijom francuskog Senata, *Nezavisne novine*, 7. 5. 2008).

¹⁸ Kao svjež dokaz i unekoliko iznenađujuće priznanje dolazi od *M. Ivaniča* (danas zamjenik predsjedavajućeg Doma naroda) na zajedničkoj konferenciji za štampu sa šefom Monitoring tima Vijeća Evrope: „Naš Ustav u svojim odredbama koje se odnose na izbor članova Predsjedništva BiH i delegata u Domu naroda parlamenta BiH nije usklađen sa Evropskom konvencijom koja svim građanima omogućava da biraju i budu birani. Ustav je u tim odredbama diskriminirajući i naša je postprijemna obaveza da ga promijenimo.” (*Nezavisne novine*, 21. 4. 2007). Ivanič je ranije spadao u čvrsto jezgro odbrane Aneksa 4 primjenom „metoda bojkota” u smislu najava da će napustiti npr. sastanak vladajućih stranaka u Neumu „ako neko od učesnika pokrene pitanje promjene Ustava” (prema *Oslobodenju* od 22.02. 2005).

¹⁹ Usp. Izvještaj o napretku BiH u 2007. godini (fn. 1); u poglavlju o ispunjenju političkih kriterija se pod naslovom „Ustav” samo konstatira da su se lideri u ograničenoj mjeri posvetili potrebnim reformama, pri čemu se dobija utisak da se u prvom redu misli na reforme entitetskih ustava, a ne na Aneks 4. Usp. dalje npr. poglavlje o reformi javne uprave, s. 10 i dalje, ovdje se „Dejtonsko-pariski sporazum” spominje kao okvir u kojem BiH treba ostvariti pristup EU (*passim*); usp. također obraćanje ambasadora *P. Schorija*, stalnog predstavnika Švedske u ime EU na otvorenoj raspravi Vijeća sigurnosti UN o situaciji u BiH (NY 22.3.2001), povodom propale „hrvatske samouprave” – govor je osnažio procese približavanja EU, ali isključivo u okvirima dejtonskog sistema (usp. tekst obraćanja pod www.ohr.int/other-doc/eu-stmnt/default.asp?content_id=5894).

²⁰ Već su u okviru zajedničke konferencije njemačkih političkih fondacija (Sarajevo, 5/6. 5 2006) pokazalo da je postojala većinska saglasnost da je ustavna reforma neophodna, usp. brošuru njemačkih fondacija, *Luchterhandt*, komentirani sažetak, Sarajevo 2006, posebno s. 5 i dalje.

formiranje bosanskohercegovačkog patriotizma kao premise racionalnog odlučivanja o ustavnoj reformi.

Šta, dakle, govori u prilog teze da je Aneks 4 neophodno zamijeniti?

II.2. Skica razloga

Pravnik u ustavu vidi samo normativni element cjelokupnog pravnog uređenja. Ali, ustav nije isključivo pravna regula posebnog kvaliteta i specifična figura pravnog mišljenja koja se odnosi na pojam „zakona”, na „pravne norme”. Njegova se osnovna uloga ne može svesti samo na element normativne hijerarhije u jednom zaokruženom sistemu prava. Ustav je više od toga, on je *normativno fiksiranje života* u kojem se prepliću normativne vrijednosti i praktični život. Upravo iz ove perspektive pokazuju se razlozi neodrživosti Aneksa 4 na mjestu državnog ustava. Prikazaću ih, najprije, kao grupe „pravni argumenata”:

a) Pravni argumenti

- **Karakter privremenosti, ustavni provizorij** slijedi iz činjenice da je Aneks 4 donesen kao dio mirovnog sporazuma, pod stranim diktatom i u svrhu uspostavljanja mira, u vrlo maglovitim uslovima i sa potpuno nejasnim namjerama ustavotvorca. Tamo gdje se kao ustavotvorac pojavljuje američka diplomatija, tri samoproglašena predstavnika „konstitutivnih naroda” i susjedne države, ne može biti govora o trajnoj legitimaciji ustavne povelje koja se oslanja na tačnost, opravdanost i priznavanje sadržaja „ustava”, a sa njim i države.²¹ Svrha Aneksa 4 jeste uspostavljanje i učvršćivanje mira; ispunjavanjem ove svrhe otpada i razlog postojanja samog ugovora. Izuzetak će statuirati uspostavljanje funkcionalnog i u praksi primjenjivog ustavnog sistema – samo pod tim uslovom se još može braniti princip trajnosti Aneksa 4. Evidentno je, međutim, da Aneks 4 ne omogućuje stabilizaciju države ili učvršćivanje pravnog i političkog sistema na premisama pravde, ustavne lojalnosti, efektivne državne vlasti, nego da dovodi društveni i politički život u pat pozicije i da generira socijalne i političke konflikte. Moralo bi se, prema tome, prihvatiti da se radi o provizornom aktu, čiji je rok trajanja već prekoračen.

- **Kvalitet ustava** mu se u doktrinarno-pravnom smislu mora osporiti.²² Najprije zbog toga što ne ispunjava ustavne funkcije, a to su:²³ obrazovanje političkog jedinstva države, pravna afirmacije socijalnog konsenzusa, funkcija kontrole, stabilizacije, racionalizacije, uređenja ili uspostavljanja osnovnih vrijednosti – sve su to konstitutivne osobine državnog ustava – Aneks 4 ne ispunjava nijednu. On, zatim, pervertira samu ideju uzajamne ovisnosti ustava, države i demokratije. Jer, ustavna vladavina može uspjeti samo uz saglasnost „podređenih” (*oboedientia facit imperan-*

²¹ O tome usp. *Stern*, StrBRD I, 2. izd. 1984, s. 146 i dalje.

²² Detaljnije, *Šarčević*, Ustav i politika, 1997, s. 120 i dalje; *isti*, *Völkerrechtlicher* (fn. 5), s. 306 i dalje.

²³ O ustavnim funkcijama, *Šarčević*, *Völkerrechtlicher* (fn. 5), s. 305 sa daljim uputama.

ten – pravna predstava koja nas vraća na Spinozu i srednjovjekovnu tradiciju). To znači da se vladavina, ustav i država mogu opravdati (legitimirati) samo demokratski – ovome se Aneks 4 najdirektnije suprotstavlja, kako načinom donošenja odluka na državnom nivou tako i utvrđivanjem etnokratskog oblika vladavine i nadomještanjem demosa etnosom kao osnovnom supstancom demokratske odluke.²⁴ Konačno, pravno-tehničke, dogmatske poteškoće ga diskvalificiraju kao ustavnu povelju u doktrinarnom smislu.

- **Dogmatska neupotrebljivost** proizlazi, najprije, iz odnosa organizacionog dijela i dijela sa ljudskim pravima – prvi je normiran samim Aneksom, drugi je rasut po međunarodnim konvencijama. Indikativna je, zatim, kontradikcija između zajamčenih „ljudska prava” (zabrana diskriminacije iz čl. 14 Evropske konvencije o zaštiti ljudskih prava (ECHR) u vezi sa čl. 3 1. Protokola uz Evropsku konvenciju i neakcesornom zabranom diskriminacije iz 12. Protokola uz ECHR) i „organizacionog dijela” (entitetsko biranje Predsjedništva i Doma naroda),²⁵ jedno drugo isključuje, a oboje se ipak primjenjuju kao „ustavno stanje”. Dalje, otežano je ili čak onemogućeno tumačenje ustavnih normi prema klasičnom modelu tekst-smisao-sistematika-historijska volja ustavotvorca, jer ne postoje protokoli ni dokumentirana volja historijskog ustavotvorca – memoarska građa je neupotrebljiva kao krajnje neobjektivna. Konačno, nazivi državnih organa, raspodjela kompetencija i nepostojanje kolizione norme, ali i činjenica da još uvijek nije donesen zvaničan prevod, dovode svakog pravnika pred teške nedoumice. Sve u svemu, Aneks 4 ne zadovoljava elementarne pretpostavke dogmatski izdašnog i upotrebljivog teksta.

Antinomična struktura²⁶ je samo jedna podvrsta dogmatskog nedostatka i slijedi iz činjenice da su normativne cjeline najvišeg ranga, kakve su norme jednog ustava, međusobno suprotstavljene. Pritom Aneks 4 ne sadrži odredbe o otklanjanju postojećih proturječnosti. „*Građanska pravna država*” i „*etno-država moći*” (čl. I/2 Aneksa 4 i organizacioni dio Aneksa 4), „*demokratija*” i „*etnokratija*” (čl. I/2 Aneksa 4 i zadnji dio Preambule u vezi sa IV dijelom, čl. IV i dalje Aneksa 4), „*savezna država*” (čl. I/1, III/1 lit.a, III/2 lit. B i X Aneksa 4) i „*savez država*” (finansijsko i vojno ustrojstvo, čl. II, V i VIII Aneksa 4 u vezi sa Aneksom 1 zajedno sa parcijalnim međunarodnim subjektivitetom iz čl. III/2 Aneksa 4), „*državni suverenitet*” i „*nosilac suvereniteta*” (odnos između nadležnosti državnih organa i stvarnih ingerencija OHR-a), „*materijalna pravda*” i „*ozakonjena nepravda*” (npr. povratak izbjeglih i protjeranih prema Aneksu 7 i čl. II/5 Aneksa 4 u odnosu na entitetske granice, na kantone ili na činjenicu da je područje genocida pod teritorijalnom nadležnošću

²⁴ Problem je u BiH detaljno obratio *Haverič*, Ethnos i demokratija, 2006, *passim*.

²⁵ Izbori iz 2006. godine provedeni su u uslovima koji krše Evropsku konvenciju o ljudskim pravima – ovim povodom su pripadnici jevrejske i romske zajednice, te jedan Bošnjak iz RS, podnijeli tri tužbe Evropskom sudu za ljudska prava (podaci prema Izvještaju o napretku BiH u 2007. godini [fn. 1], s. 7).

²⁶ Detaljno *Šarčević*, Verfassunggebung und „konstitutives Volk”, JöR tom 50 (2002), s. 524 i dalje; u pojednostavljenoj verziji izvještaj sa skupa EU i BiH: između upravljanja krizom i izgradnje države, Fondacija Heinrich Böll, 2005, s. 21 i dalje.

pravnog nasljednika počinoca) predstavljaju osnovne ustavne antinomije. Katalog zasigurno nije konačan, ali je dovoljan za zaključak da antinomičnost dejtonskog modela može biti odstranjena samo donošenjem novog ustava.

b) Državno-strukturni elementi – federalizam

Federalni elementi su sastavni dio savezne države i saveza država kao politički korelat teritorijalno-pravnih cjelina koje su nastajale na pozadini historijski profiliranih identiteta. Oni su izrastali na državnim i kvazidržavnim premisama. Federalne jedinice su prirodni produkt historijskog oblikovanja složenih država i tamo gdje se pojavljuju predstavljaju visoko osamostaljene teritorijalno-pravne cjeline koje nadopunjuju reprezentativno-parlamentarnu demokratiju (tzv. federalna ili horizontalna podjela vlasti). Na nivou države političku volju federalnih jedinica artikulira poseban dom – u njega se, prema logici stvari, moraju birati predstavnici federalnih jedinica. Bosanskohercegovački federalizam nema nikakvih dodirnih tačaka s opisanim premisama.

Teritorijalnost bosanskohercegovačkog federalizma je neprirodna – ona nema historijskih uzora, ni realnih socijalno-privrednih ili kulturno-političkih opravdanja. Svaka usporedba sa Švicarskom ili Belgijom je neumjesna. Granice entiteta su linije fronta, dakle, proizvoljno ustanovljene i iracionalno omeđene teritorijalne cjeline. Ovaj federalizam nema apsolutno nikakvog oslonca u tradiciji bh. državnosti, pritom ne slijedi geografsko-regionalne cjeline i tradicionalnu orijentiranost centara na periferiju, gradova na sela; njime se uspostavljaju proizvoljne teritorijalne forme bez ikakvog oslonca na saobraćajnu infrastrukturu i geografsku konfiguraciju tla, posebno na tradicionalnu orijentiranost stanovništva prema odgovarajućim regijama, koje su više smetnja nego praktična potpora svakodnevnom životu.

Apsurdnu sliku bosanskohercegovačkog federalizma dodatno pervertira legitimaciona praksa: na nivou države nisu predstavljeni entiteti kao zaokružene kvazidržavne zajednice nego kao „konstitutivni narodi”. Pritom ekskluzivno srpsku bazu obrazuje RS, a FBiH bošnjačko-hrvatsku – na mjesto doma entiteta je uveden Dom naroda čiji delegati, razumljivo, predstavljaju svaki put jedan narod i njegovu političku praksu usmjeravaju prema koliko fingiranim toliko i stvarnim potrebama jednog etničkog korpusa. Zbog toga ne treba čuditi da i u serioznijim analizama manji entitet, suprotno odlukama ustavnog suda i entitetskim ustavnim normama, biva proglašavan „srpskim”,²⁷ a federacija „bošnjačko-hrvatskim” entitetom²⁸ – ovi pojmovi nisu nevini, oni verifiraju „vlasništvo” i navikavaju na razumijevanje budućnosti.

²⁷ Na centralnoj proslavi Dana Vojske RS član predsjedništva BiH *Radmanović*: „Ne smije se zaboraviti da je RS stvorena plebiscitarnom voljom srpskog naroda i pripadnika Vojske Republike Srpske.” (prema: *Nezavisne novine*, 12. 5. 2008).

²⁸ U *Velikom leksikonu naroda* (*Guter*, Das große Lexikon der Völker, godina izdanja nije navedena, vjerovatno 2006. ili 2007) autor predstavlja 1.700 naroda – pod terminom „Bosnier” – Bosanac slijedi objašnjenje da se misli na cjelokupno stanovništvo, a da se termin „Bošnjak” odnosi isključivo na muslimansko stanovništvo. Objašnjenje počiva na tvrdnji da državu čine dvije teritorijalne jedinice, doslovno, „bošnjačko-hrvatska federacija (BKF) i Srpska Republika”!

Federalizam ovdje postaje smetnjom demokratskom procesu. On, suprotno prvobitnoj „namjeni“, usložnjava parlamentarne procedure, donosi političke blokade kao prirodan tok političke prakse i odstranjuje konsenzus kao formu racionalnog odlučivanja.

Politički federalizam se odnosi na praksu političkih partija. Političke partije su organizirane na entitetskom nivou. Njihov stvarni politički život ne prelazi linije razgraničenja u obimu koji bi vrijedilo spominjati. Aneks 4 je uveo federalizam koji je razorio bosanskohercegovački politički narod i ustoličio konkurenciju političkih partija, kako se to u domaćem govoru kaže, „sa bošnjačkim, hrvatskim i srpskim predznakom“. Razumije se da srpske agiraju u RS, duge dvije u Federaciji, a u svakodnevnoj političkoj praksi ne može biti ni govora o obavezi na lojalnost zajedničkoj državi. Ako se doda primjetna tendencije iz RS da se, nakon uspješnog prebacivanja nekoliko važnih ingerencija na državni nivo, državni zadaci ponovo koncentriraju na nivou entiteta,²⁹ nije teško prognozirati eroziju državnosti koju uzrokuje Aneks 4.

c) Kolateralna šteta: jurisprudencija

Najtragičnije je, sve u svemu, prošla pravna nauka: **nauka o javnom i državnom pravu** je, za razliku od civilnopravne i krivičnopravne nauke, srozana na skup idologema i parola.³⁰ Njihov sadržaj varira i ovisan je o etničkim simpatijama autora. Osim jednog autora,³¹ koji metodički konzistentno i dogmatski uvjerljivo trasira naučni diskurs o javnopravnim problemima ustavnog ustrojstva BiH, danas se ne može govoriti o „grupi autora“ koji su od državnog ili ustavnog prava napravili naučnu disciplinu koja bi autoritetom objektivnog naučnog stava ukazivala na stranputice i izlaze iz ustavnog ćorsokaka. Dijelom je umjesto dogmatike uvedena apologetika Aneksa 4 u koju se na osnovu falsificiranja pravnih i socijalnih činjenica konstantno ulijevaju velikodržavni ideologemi.³² Tamo gdje nailazimo na pokušaje kritike, rezultati su nemušti skupovi nepovezanih iskaza, kvazianalize koja se vrti oko literarne esejistike i citata iz dnevne štampe, bez jasno postavljenog problema, analitičkog postupka i rezultata.

Na najstarijem Pravnom fakultetu u zemlji do danas, na predmetu ustavno pravo nije izabran profesor, predmet se „povjerava“ docentima koji se ni uz najbolju volju ne mogu svrstati pod široko shvaćenu *veniu* legendi ustavnog prava. Na pravnim fakultetima se dijelom u obaveznu literaturu za predmet ustavno pravo navode

²⁹ Tako i u Izvještaju o napretku BiH u 2007. godini (fn.) 1 s. 10.

³⁰ Za dobru ilustraciju mogu poslužiti postdejtonski tomovi Godišnjaka Pravnog fakulteta u Sarajevu u kojima se prezentiraju naučni radovi osoblja ove obrazovne institucije.

³¹ *Pobrića*; autor udžbenika ustavnog prava (2000) i niza kritičkih i polemičkih analiza postdejtonske javnopravne prakse u BiH.

³² Datalje sa konkretnim navodima na primjeru udžbenika Ustavno pravo *R. Kuzmanovića*, pogledati *Šarčević*, Osvrt na udžbenik ustavnog prava prof. dr. Rajka Kuzmanovića, *Pravna misao* br. 3-4/200, s. 71 i dalje.

udžbenici iz susjednih država,³³ koji su, s obzirom na prirodu ustavnih prava, neprijemljivi na pravničko obrazovanje u BiH.

Budući da, uz sve navedeno, ne postoji nijedan nezavisan institut javnog prava koji bi formirao znanstveni stav kao neutralan rezultat neutralne ekspertize, mora se zaključiti da je državnopravni supstrat Aneksa 4 u najužoj vezi sa erozijom, ako ne i dokidanjem nauke ustavnog prava.

II.3. Zaključak

Prethodni redovi predstavljaju načelne primjedbe na ograničen korpusu rješenja Aneksa 4. Izostavljena je analiza ustrojstva sudova, organizacije državne uprave, tipova zakonodavstva i socijalno-psiholoških konstanti koje se kao velikodržavni nacionalizmi reflektiraju na primjenu normi Aneksa 4. Ali, iz navedenih primjera se vidi da su socijalno-političke napetosti u najužoj vezi sa državnim ustrojem koje ustanovljava Aneks 4. Svaka popravka ovog realpolitičkog djela bi morala prekoračiti okvire ustavne reforme i zahvatiti u bitne ustavne strukture. One bi morale biti toliko obuhvatne da se mogu izjednačiti sa donošenjem novog ustava. Precizno normativno uobličavanje principa pravne države i principa savezne države – oboje podrazumijeva novu raspodjelu kompetencija između države i entiteta i drukčije pozicioniranje individualnih osnovnih prava u odnosu na kolektivna (etnička) prava – više ne može očuvati osnovnu strukturu Aneksa 4. Upravo zbog toga je primjerenije donošenje novog ustava.

III. Rezultat

Ideju „popravka” postojećeg ustavnog modela smatram neodrživom.³⁴ Aneks 4 je u toj mjeri antinomičan da će svaka daljnja dorada dodatno utvrđivati političke disense i voditi stvaranju pravnog haosa. Donošenje novog ustava ne zahtijeva članstvo u EU, ali bi članstvo bilo olakšano ustavnim modelom koji bi otklonio postojeće antinomije. Novi ustav je nalog primjenjivosti, nalog pravde i nalog potrebe da se uspostavi ustavno (pravno) stanje.

Novi ustavni ugovor bi se morao rukovoditi jednostavnim motom: etnička pripadnost ne može biti izvor opštih prava pojedinaca, etnički identiteti se ne smiju ustavom zaštititi kao zajednica koja se uspostavlja kao „država” na štetu drugih „država”.³⁵ Ovaj cilj će se lako ostvariti ustavom koji će zabraniti zaštitu kolektivnih na

³³ Tako npr. na Pravnom fakultetu u Mostaru kao glavna literatura je preporučena udžbenik Zagrebačkog sveučilišta *Sokol/Smerdi* Ustavno pravo, čiji je predmet hrvatski ustavni sistem, a kao dopunska literatura dva udžbenika splitskog autora *Bačića* (Teorija i interpretacija i Ustavno pravo) koja se odnose na isti ustavni sistem. Ovdje se, interesantno, hrvatski Ustav i organizacija vlasti postavljaju u ravnopravan odnos sa bosanskohercegovačkim; oboje predstavlja sadržaj u istom rangu predmeta ustavno pravo (sve prema fakultetskoj Internet stanici www.sve-mo.ba/pf/).

³⁴ Detalji u *Šarčević*, *Völkerrechtlicher* (fn. 8), s. 297-399; *Verfassunggebung und „konstitutives Volk”*, *JöR* tom 50 (2002), s. 493-532.

³⁵ Zasluga je *Haverića* da je rekonstrukcijom slučaja BiH ovu tezu izdigao na nivo kategoričkog imperativa koji se stavlja pred bosanskohercegovački put u liberalni državnopravni model (isti, fn. 24, posebno poglavlje VIII, s.314 i dalje).

račun individualnih prava. Izvedeno na nivo pravila: ustav mora zajamčiti potpunu zaštitu pojedinaca u formi individualnih prava i time postaviti apsolutnu granicu kolektivnim pravima; kolektivna prava se štite sekundarno, samo u područjima koja nisu pokrivena individualnim pravima. Sve ostalo je nadgradnja ovog pravila: novi sistem kompetencija, prvenstveno zakonodavnih, prirodija teritorijalna organizacija, efikasna, etnički neutralna upravna struktura, usklađivanje državnopravnog principa sa demokratijom, a jednog i drugog sa kolektivnim pravima „konstitutivnih naroda” neće biti teško riješiti kada bude postojao nedodirljiv krug individualnih prava koja se ne mogu obesnažiti pozivom na kolektivna prava.

Takav ustav u današnjoj konstelaciji nije moguće donijeti bez neutralne (vanjske) snage. Ovim se približavam zamisli da se on mora koncipirati uz snažan oslonac na posljednje legitimno ustavno uređenje (Ustav Republike BiH) i da njegovo donošenje podrazumijeva rad „ustavnog konventa” koji će pod pokroviteljstvom EU i međunarodne zajednice biti sazvan za „slučaj BiH”. Još samo u tom smislu postoje valjani razlozi za održavanje administracije OHR-a, a funkcija Visokog predstavnika se ovim argumentom može racionalno braniti. Pomoć EU/EZ na koncipiranju novog ustavnog modela bi predstavljala najsnažniji doprinos evropskoj perspektivi BiH. Ovako se dobija utisak da EU/EZ živi od proklamacija čiju realizaciju u konkretnom slučaju ne može zajamčiti.

Svetlana Cenić

Bosanskohercegovačka privreda – mogući pokretač ili faktor blokade u procesu evropskih integracija

„Ako ljudi koji zajedno rade u nekom preduzeću (organizaciji) veruju jedni drugima zato što svi rade u skladu sa zajedničkim setom etičkih normi, poslovanje ima manje troškove. Takvo društvo će imati veće mogućnosti da se organizaciono inovira, jer visok stepen poverenja dozvoljava da se javi široka raznolikost društvenih odnosa.” Francis Fukuyama, *Trust*

Osim dela poslovnog sektora koji je u direktnoj sprezi sa političkim i, najčešće, korumpiranim vrhom, bh. privreda može očekivati preporod približavanjem evropskim integracijama. Ova tvrdnja se temelji na vrlo jednostavnoj potrebi uvođenja standarda Evropske unije na svim nivoima, što će, na prvom mestu, olakšati poslovanje i veću sigurnost za protok kapitala, roba i radne snage.

Razjedinjeni ekonomski prostor, najčešće neodgovorna makroekonomska politika i poslovno okruženje koje destimulativno deluje na proizvodnju roba i usluga, zatim visok stepen korupcije i prisustvo reketa, te nefunkcionalne institucije, doveli su privredu BiH u možda najteži period unazad više godina, pa je iskorištenost kapaciteta u BiH na istorijski niskom nivou (*Godišnji izveštaj UNDP za 2007, Sistem ranog upozoravanja*).

U posleratnim godinama svaki Visoki predstavnik međunarodne zajednice stavljao je kao prioritet ekonomske reforme, pored vladavine prava i demokratizacije društva. Nažalost, 12 godina od potpisivanja mirovnog sporazuma, dalje smo od demokratije, ali i od funkcionalnih institucija i vladavine prava bez kojih poslovni sektor usporeno funkcioniše i ne donosi rezultate koji bi mogli biti garancija više stope ekonomskog rasta.

Godišnji izveštaj UNDP-a je uočio da industrijska proizvodnja raste sporijim intenzitetom, da je nazaposlenost samo blago smanjena, cene i troškovi života beleže rast (nešto više u RS nego u Federaciji), da je stanje u spoljnoj trgovini pogoršano, očekivanja u vezi s ekonomskom situacijom su pogoršana, da su finansijski pokazatelji bh. kompanija blago pogoršani, te da su visoki direktni i indirektni troškovi domaćih institucija. Prema rezultatima ispitivanja poslovnog sektora, najviše ispitanika smatralo je da je ekonomska situacija pogoršana u poređenju s prethodnim periodom.

Na ovo ispitivanje treba dodati podatak da se privatizacija i nabavke vrše na netransparentan način, pa se novac „vrti” u krugu politički omiljenih ili podobnih preduzeća.

Poslovni sektor treba stabilnu političku situaciju, jake institucije u smislu poštovanja standarda i provođenja zakona i efikasnih procedura, jedinstveni ekonomski prostor i jasnu adresu kada je u pitanju spoljnotrgovinska razmena, i to u smislu funkcionalnih ovlašćenih državnih agencija.

Deset zapovesti tranzicije

1. **Stabilizacija inflacije** – u poslednje dve godine inflacija beleži rast, odnosno u 2007. i 2008. u odnosu na 2006. dešava se inflacija na inflaciju;
2. **Kontrola budžetskog deficita** – nakon 2005. i 2006. godine, u kojima je zabeležen suficit, pokazatelji ukazuju, kao i predviđanja MMF-a, da se ponovo ide u deficit;
3. **Liberalizacija cena** – delimično, s obzirom da se u mnogim sektorima upliću strukture vlasti, a u pojedinim sektorima gotovo je vidljiva kartelizacija ili funkcionisanje lobija;
4. **Uvođenje jedinstvenog deviznog kursa** – postojanje valutnog odbora rezultovalo je stabilnom, ali delimično precenjenom valutom, te je izvoz skuplji a uvoz jeftiniji u ovakvim uslovima;
5. **Konvertibilnost tekućih transakcija** – rešeno postojanjem valutnog odbora;
6. **Spoljnotrgovinska liberalizacija** – prvi korak CEFTA; najznačajniji korak biće potpisivanje Sporazuma o stabilizaciji i pridruživanju, te primene Prvog stuba;
7. **Rekonstrukcija bankarskog finansijskog sistema** – jedna od najuspešnijih reformi, s izuzetkom dela bankarskog sektora u Federaciji BiH koji još nije privatizovan;
8. **Jasno definisanje svojinskih prava** – ugrađeno u zakone, ali tromo sudstvo, te potezi vlasti koje prisvajaju ovlašćenje da zadiru u imovinska prava (na primer, potez Vlade RS u formiranju zajedničke firme TE Gacko sa ČEZ-om i kršenje imovinskih prava malih akcionara) šalju lošu poruku i domaćim i stranim investitorima;
9. **Ukidanje mekog budžetskog ograničenja** – nije ispoštovano, pa su prisutni rebalansi po raznim osnovama i nema striktno politike kod finansiranja javnih preduzeća, zaduživanja ili stvaranja obaveza unapred;
10. **Redefinisanje rada socijalnih službi na tržišnim principima** – proces gotovo da nije ni otpočeo, što doprinosi sve većim socijalnim davanjima, stvaranju obaveza unapred, usporavanja ekonomskog rasta i manipulacije socijalno ugroženih u izbornim ciklusima.

Sedam kriznih udara (ili sedam smrtnih grehova):

1. **Drastičan pad proizvodnje** – BiH još uvek nije dostigla predratnu proizvodnju, a u zadnje dve godine rast je usporen;
2. **Zamiranje investicionih ulaganja** – entitetske vlasti preduzimanjem investicija u infrastrukturi (najčešće) istiskuju privatne investicije, a nestabilnom političkom situacijom, čestim blokadama u funkcionisanju vlasti, slabim radom pravosuđa i visokom korupcijom destimulišu investicije;
3. **Sporo osvajanje novih tržišta i uključivanje u svetske tokove roba i usluga;**
4. **Prespor dotok inostranog kapitala;**

5. Nezaposlenost i osiromašenje većine stanovništva;

6. Prespora afirmacija policentričnog prostornog razvoja, i

7. Presporo rešavanje katastrofalnog ekološkog stanja.

Iz navedenog je potpuno jasna pozicija BiH, te stanje poslovnog sektora. Ako znamo da su kriteriji uspešnosti svake vlade rast BDP-a, stabilnost cena, zaposlenost i fiskalni i spoljnotrgovinski deficit, jasno je da bi jačanje poslovnog sektora i njegovo uključivanje u svetske tokove trebalo da bude ulaznica za naredni izborni ciklus svake vlasti. Naravno, uz poštovanje ljudskih prava i vladavinu demokratije.

Nažalost, sprema jednog dela poslovnog sektora i vlasti narušava konkurentne odnose u privredi, povećava stepen korupcije, a odsustvo transparentnosti povećava nepoverenje prema institucijama sistema. Uočljivo je prisustvo građevinskih preduzeća, ili uopšte preduzeća koja se bave uređenjem ili izgradnjom infrastrukture, te medijskih kompanija uz vlast, što je recept koji se koristi u čitavom regionu. Kada se pogledaju strategije razvoja entiteta, najveći procenat, mnogo više od polovine predviđenih investicija, namenjeno je infrastrukturnim projektima, te takozvanom održivom povratku, dok je obrazovanju i istraživanju i razvoju namenjen zanemarljiv procenat.

Bankarski sektor, kao najuspešnije reformisan deo bh. ekonomije, manje je u sprezi s politikom ili je manje zavisano od politike, osim u delu približavanja i dodvo-ravanja vlasti u konkurisanju za držanje državnih depozita, te sredstava od privatizacije. Međutim, i to je u ograničenom obimu s obzirom da banke poseduju sredstva, ali ne i dobre projekte gde bi plasirali sredstva. Zbog toga u oba entiteta postoje tzv. razvojne banke koje kontrolišu u potpunosti vladajuće strukture.

Posleratni period tranzicije, sa svim teškoćama obnove i građenja demokratije, poslužio je izvrsno političkim elitama da nacionalističkom retorikom i sejanjem straha postaju „gospodari i stomaka i glave”, odnosno da otporom prema ekonomskim reformama, prvenstveno, te reformama institucija i ponekad otvorenim reketiranjem privrede, većinu biračkog tela drže gotovo u pokornosti ili apatiji.

Upravo iz tog razloga za evropske integracije i transformaciju ključan je razvoj poslovnog sektora, s kojim bi se pojavilo i osvešćenije civilno društvo.

Međutim, poslovni sektor mora doživeti sedam revolucija, da ih tako nazovemo, i to kako sledi:

- 1. tržišta,**
- 2. vrednosti;**
- 3. transparentnost;**
- 4. životni ciklus tehnologije;**
- 5. partnerstva;**
- 6. vreme;**
- 7. korporativno upravljanje.**

- 1. Tržišta** – U današnjem okruženju, posebno sa uključenjem u svetske tokove, rastući broj kompanija se nalazi pred izazovom koje pred njih postavljaju klijenti i finansijska tržišta kada je u pitanju postizanje trostrukog salda (finansijskog, društvenog i životne sredine), posebno što je politika održivog razvoja ugrađena u politike Evropske unije.

Slaba tačka: Uverenje da je politika trostrukog salda neko zastranjivanje, a ne novi oblik vrednosti potreban društvu.

- 2. Vrednosti** – Sistem vrednosti se menja, a s tim se moraju suočiti i politički i poslovni lideri. Tranzicija iz poslovanja „preko kolena” i uz vlast u poslovanje na konkurentnim tržištima, uz standarde i ulaganja koja zahteva kvalitet, ne znači da će život postati lakši odjednom za sve učesnike.

Slaba tačka: Shvatanje da je zadatak poslovnog sektora stvaranje ekonomskih vrednosti (profita) na bilo koji način, a ne društvenih ili etičkih vrednosti. Potreban je rad na menjanju preduzetničke i korporativne kulture.

- 3. Transparentnost** – Uključivanjem na šire tržište poslovni sektor je pod budnim okom i proverom kada su pitanju način poslovanja, razmišljanja, prioriteta, opredeljenje i aktivnosti.

Slaba tačka: Poslovni lideri veruju – ako im pođe za rukom da se sklone s očiju javnosti – da mogu izbeći izazove i ne odgovarati za svoj rad. Podaci pokazuju da je ta politika kratkog daha.

- 4. Životni ciklus tehnologije** – Preduzeća će biti izložena novom obliku „rendgenskog okruženja” u kojem će lanac vrednosti i životni ciklusi proizvoda biti gotovo do pojedinosti pod širim nadzorom i posmatranjem.

Slaba tačka: Uvreženo mišljenje poslovnog sektora da njihova odgovornost završava kod ograde fabričkog kruga ili izlaza iz zgrade preduzeća, te da će problem biti rešen nekim „normalnim sledom događaja”, odnosno uobičajeno.

- 5. Partnerstva** – Slabo funkcionisanje partnerstva između poslovnog sektora i javnog sektora kada je razvoj u pitanju, te slaba saradnja sa istraživačkim i obrazovnim institucijama, moraće se promeniti tako da će preduzeća biti primorana da istražuju nove oblike partnerstva sa nevladinim i vladinim sektorom, ali ne na bazi povlaštenosti ili privilegovanosti već u nekom zajedničkom cilju, pri čemu motivi učesnika partnerskih odnosa nisu neminovno isti.

Slaba tačka: Uverenje poslovnog sektora da čak i kada se suoče sa najozbiljnijim problemima i izazovima, to ili rešavaju sami ili očekuju da to vlast uradi za njih, ne oslanjajući se na civilni sektor, na primer, ili kroz vlastite oblike organizovanja da nameću konkretna pitanja i nude rešenja.

6. Vreme – Otvara se nova vremenska dimenzija, jer se stvari brže odvijaju, a konkurencija i svetski tokovi nameću tempo. Politika koja već više od deceniju usporava procese trebalo bi da brže reaguje pod pritiskom poslovnog sektora. Većina političara i poslovnih lidera imaju teškoća da razmišljaju dve ili tri godine unapred, a izazovi ovog vremena ukazuju na činjenicu da moramo razmišljati o narednim dekadama.

Slaba tačka: Ubeđenje poslovnih lidera da vreme diktiraju berze ili finansijka tržišta. Preduzeća moraju naučiti da balansiraju kratkoročno razmišljanje i politici ku sa potrebom opstajanja na dugi rok.

7. Korporativno upravljanje – Jasno definisano i kvalitetno korporativno upravljanje utiče na razvoj i povoljnu klimu za investicije, što donosi dugoročne ekonomske rezultate, dodatne izvore finansiranja, mogućnost izlaska na inostrane berze, povećanje vrednosti preduzeća, veću konkurentnost itd.

Slaba tačka: Poslovni lideri ne sagledavaju problem sa svih strana, pa tako i poslovnu politiku postavljaju jednosmerno, što je način da se brzo dođe do slepe ulice.

Kako se stupanje na snagu dela Sporazuma o stabilizaciji i pridruživanju očekuje prvog dana drugog meseca po potpisivanju, što je prvi avgust ukoliko se ispoštuje najavljeni datum potpisa, da bi se ostvarile sve stavke iz tog dela kao što su carinska unija, zajedničko tržište, tržišna konkurencija, istraživanje i razvoj, zaštita potrošača, itd., a na prvom mestu slobodan protok robe, kapitala i radne snage, osnovna pretpostavka je program jedinstvenog tržišta gde se nameću sledeći problemi:

- * pasivnost;
- * raznolikost, neujednačenost;
- * politike;
- * transparentnost i
- * korupcija.

Na kraju, Bosnu i Hercegovinu karakterišu stalne izborne kampanje, česti izbori i ponašanje i retorika usredsređeni na izazivanje emocija, naklonosti slušaoca davanjem velikih obećanja, te planovima koji su nerealni. Da bi poslovni sektor bio zaista faktor približavanja evropskim integracijama, što bi i trebalo da mu bude jedna od uloga i za šta i pored svih nabrojanih problema postoji potencijal, potrebna je još jedna dimenzija, a to je **vremenska konzistentnost**. Iza ovog relativno nerazumljivog naslova krije se jedan veoma jasan princip: u trenucima kada se daju sasvim čvrsta obećanja, bilo da to čini vlada ili centralna banka, privredni subjekti će, po pravilu, prilagoditi svoje ponašanje baš onako kako su vlasti zamislile. No, ako

u tom trenutku, dakle kada ispune cilj, vlasti promene ponašanje, same će izgubiti kredibilitet, a krajnji ishod njihove monetarne i fiskalne politike biće mnogo gori nego u slučaju da su se uzdržale od bilo kakvog aktivnog dejstva. (Prescott, Kydland)

Radenko Udovičić

Proces EU integracija i uloga bosanskohercegovačke javnosti

Pozivanje na javnost dolazi uglavnom kao rezultat kriznih situacija u različitim sferama društvenog života kada izvjesni autoritet želi dobiti podršku ili naći opravdanje za određene postupke. Tako će i u vremenu permanentne krize u BiH, u kojoj se pojavila mogućnost da zemlja napravi značajan korak prema Evropskoj uniji (EU), uloga javnosti imati, bar formalno, veliki značaj. Javnost će uticati na domaće političare, koji bi shodno njenim zahtjevima mogli da kanališu svoje postupke, ili će biti meta političara koji bi da izvrše na nju uticaj kako bi dobili potvrdu svog ponašanja. Dakle, riječ je o interaktivnom procesu, sa nezahvalnom prognozom koja će varijanta u konačnici biti dominantnija. Složenost političke situacije u BiH je za mnoge teško shvatljiva. Prilikom nedavnih susreta u *Media plan institutu* sa studenticama novinarstva iz Ujedinjenih Arapskih Emirata i postdiplomcima sa Univerziteta u Rennesu u Francuskoj, koji izučavaju međunarodne odnose, uočili smo njihove sumnje u to da ovdje može biti neke značajnije perspektive. Kontroverznost političkog bh. života gosti iz Francuske, na primjer, nisu mogli da povežu sa spoljnim utiscima iz sarajevskog i banjalučkog ambijenta – mnoštvo otvorenih, razdraganih ljudi, odličnih klubova i kafića, niz alternativnih muzičkih, pozorišnih i filmskih festivala, veliki broj više-manje slobodnih medija... Rekli smo im: tu se može naći perspektiva, samo je treba pravilno kanalisati.

I. Javnost – gorivo demokratije

Javnost sa ulogom kakvu tražimo u ovom tekstu pojavila se tek u vrijeme kada je vlast, iako često dozirano, počela popuštati zahtjevima javnosti, pa čak i u nekoj mjeri tolerisati metode koje ona koristi kako bi izrazila svoje zahtjeve. Primjera radi, prilikom rušilačkih demonstracija protivnika globalizacije širom Evrope policija reaguje kako bi zaštitila ljudske živote i značajna imovinska dobra, ali vlast (sudski organi) uglavnom ne pokreće postupke kako bi osudila organizatore. Takav režim liberalne demokratije počeo je da se stvara tek u drugoj polovini 60-ih godina 20. vijeka, nakon konačnog obračuna s pravnim zaostacima aparthejda u SAD, masovnog protivljenja Vijetnamskom ratu i studentskih demonstracija u Evropi 1968. godine. U tom procesu značajna poluga svake javnosti, ali i nastupa prema njoj, bili su mediji, koji su djelovali kao nezaobilazni modelar javnog mišljenja, odnosno kristalizator javnog mnijenja.

Može se postaviti pitanje da li u Bosni i Hercegovini postoji politički režim gdje javnost može imati slobodu da participira, postavlja zahtjeve na različite načine, protestuje... Iako ima i drugačijih mišljenja, smatram da takav režim apsolutno postoji. Centralna vlast u BiH, ali i na svim drugim nivoima, posebno u Federaciji BiH, toliko je slaba da nije u stanju, čak i kada to želi, da se suprotstavi bilo kakvom

talasanju u društvu i javnosti. Vlast nije u stanju da koristi represiju i onda kada treba – sjetimo se brutalnih demonstracija u Banjaluci prilikom polaganja kamena temeljca za obnovu srušene džamije Ferhadije, ili polijevanja bojama zgrade Predsjedništva BiH i vrijeđanje i udaranje pripadnika njenog obezbjeđenja od aktivista jedne nevladine organizacije iz Kaknja. Čak i kada su u pitanju pritisci na medije, postavlja se pitanje koliko ono što nazivamo vlašću utiče na medije, a koliko je to prepušteno pojedinim političkim partijama, raznim ekonomskim centrima moći, policijskim i kriminalnim strukturama. Međutim, postavlja se pitanje kako onda – kada imamo takvu slabu ili nemuštu vlast i mahom nezadovoljne građane – ona opstaje, bez obzira što ima loše ekonomske rezultate i državno uređenje koje se ne sviđa ni jednom od tri njena konstitutivna naroda? U najvećoj mjeri to se dešava zbog podijeljene javnosti.

Javnost je mozaik sačinjen od različitih etničkih, rasnih, vjerskih, geografskih, političkih, profesionalnih, socijalnih i drugih grupacija.¹ Ne postoji opšta javnost. Iza tog izraza često stoji manipulacija, najčešće političkih subjekata, kako bi naglasili eventualnu većinu u jednoj grupaciji stanovništva, a onda to projicirali na širi, globalni plan u jednoj državi. U Bosni i Hercegovini je pojam opšte javnosti još diskutabilniji. Dakle, javnost¹ ima više. Izraz treba biti samo u množini. Nekada je u Bosni i Hercegovini korišten izraz *odnosi sa javnošću* koji je, ipak, u naučnoj zajednici BiH i Hrvatske preinačen u *odnosi sa javnostima*.² Sa stanovišta PR-a, željelo se istaći da je neophodno striktno definisanje javnosti u ovoj profesiji kako bi se napravio bolji učinak u obraćanju pravim grupacijama.

Najšira pojedinačna javnost je politička javnost. Ta javnost se definiše kao 'građani s pravom glasa', što znači većina stanovništva jedne države (svi stariji od 18 godina). Ovakvo poimanje ima snažno uporište, prije svega sa stanovišta političkih partija, ali i drugih političkih institucija, jer svako ko ispunjava uslove da glasa jeste cilj. Javnost relevantna za proces evropskih integracija korespondira sa političkom javnosti zbog činjenice da je u ovoj fazi pristupanja riječ o političkom procesu koji vodi vlast. Indirektno, interes za pristup Evropskoj uniji bi mogle da imaju i druge javnosti, koje ni pravno ni strukturalno nisu političke; na primjer, srednjoškolci koji su zainteresovani za lakši pristup stipendijama za fakultetsko obrazovanje, što je moguće ostvariti kroz evropske fondove nakon sticanja statusa zemlje kandidata. Oni bi, dakle, mogli izvršiti uticaj na roditelje da glasaju za snage koje će to ostvariti. Dakako, i u okviru političke javnosti imamo različito posložene javnosti poput poljoprivredne (pa onda u okviru nje proizvođače šećera, ulja...), medijske, sportske itd., pri čemu bi svaka iz svojih razloga imala interes za evropske integracije. Ako ovako posmatramo dolazimo do činjenice da uistinu postoji *opšta* javnost. Međutim, usaglašavanje interesa svih tih javnosti, razloga, potreba i njihovih zahtjeva prema evropskim

¹ *Effective Public Relations*; Cutlip. Center, Broom, 2003: 268.

² Radenko Udovičić; *Odnosi sa javnostima i novinarstvo – Informatori sa različitim ciljevima*; Sarajevo, 2007.

integracijama, kao i pristupa i metoda u pozicioniranju prema njima, predstavlja veoma tešku misiju. A unutar Bosne i Hercegovine dolazimo do ključnog problema – nema jedinstvene političke javnosti, što je suprotno situaciji u većini zapadnoevropskih država. Na sceni imamo, usljed istorijskih i ratnih okolnosti, podijeljeno društvo koje funkcioniše po unisonom principu zatvorenih cikličnih krugova i gdje svako odstupanje od tog principa ili prelazak iz jednog kruga u drugi predstavlja neuobičajen događaj.

II. Podijeljene javnosti

Već odavno je u BiH ustanovljena podjela na srpsku, hrvatsku i bošnjačku javnost, kao i četvrtu, nažalost još nedovoljno definisanu, građansku javnost. Ovdje ne govorimo o apsolutnim omjerima i nije nužno da u okviru, recimo, srpske javnosti budu svi Srbi koji žive u BiH. Međutim, govorimo o značajnoj većini. Ona je u bosanskohercegovačkom slučaju i teritorijalno omeđena – na Srbe koji žive u Republici Srpskoj, tako da joj i ta činjenica daje koherentnost. Hrvatska javnost dominantno funkcioniše na teritorijama gdje su Hrvati u većini, a bošnjačka, logično, tamo gdje su Bošnjaci. Naravno, kako je ipak riječ o jednoj državi, ovi narodi, i tamo gdje su faktički manjine, imaju jednim dijelom osjećaj pripadnosti jednoj od te tri javnosti. Četvrta javnost, koja se često naziva 'građanska' ili 'multinacionalna', prisutna je uglavnom u većim urbanim centrima BiH, no, ipak, najviše u onim gdje su Bošnjaci u većini. Karakteriše je nekoliko elemenata – riječ je o ljudima koji su stavili u prvi plan teritorijalnu pripadnost državi u kojoj žive, a ne pripadnost etnicitetu. Riječ je u velikoj mjeri o osobama iz miješanih brakova ili u miješanim brakovima, kao i različitim nezadovoljnicima ukupnom etnopolitičkom strukturom države. Ova se javnost sastoji i od pravnih, ali faktičkih nacionalnih manjina na određenim teritorijama. Dio ove javnosti je ateistički i agnostički nastrojen. Politički, simpatizeri su proevropskih liberalno-demokratskih ideja. Značajan dio te javnosti smatra da je oličenje takvih ideja u programima lijevo orijentisanih političkih partija, koje je do prije dvije godine većinski predstavljao SDP i koji baštini principe zajedničkog života iz bivše države. Međutim, ova javnost je ipak po dijelu političkih ideja najbližnja bošnjačkoj, jer ustrajava na ideji Bosne i Hercegovine, što je često od strane srpske i hrvatske javnosti, odnosno njenih izabраниh predstavnika, podložno uslovljavanju.

Jasno je da tri nacionalno definisane javnosti imaju svoje posebnosti, pa u niz slučajeva nije moguće izvršiti generalizaciju na nivou države. Genocid u Srebrenici drugačije osjećaju srpska i hrvatska javnost u odnosu na bošnjačku. Sa stanovišta kažnjavanja krivaca i pijeteta prema žrtvama trebalo bi da postoji isti odnos. Međutim, osjećaj da je riječ o stradanju druge nacije, a pogotovo kod srpske javnosti – da su ljudi ubijeni u ime borbe za *srpsku stvar* i kao *reakcija na slične stvari činjene njima* otupljuje sposobnost istinske osude ovog čina. U različitim javnostima različito se definiše i kultura (o)sjećanja. U okviru bošnjačke javnosti, djelimično i 'četvr-

te' javnosti, dugo će bol i pijetet uticati na kulturološke, pa i dnevnopolitičke postupe. U srpskoj javnosti, kao maksimum u toj sferi, pojavljuje se ograničena osuda zločina i namjera da se ekonomskim donacijama gradu zaključi sa satisfakcijom žrtvama. Ili drugi primjer: bombardovanje Srbije od strane NATO snaga 1999. godine drugačije su poimale srpske a drugačije bošnjačke i hrvatske javnosti. Srbi su to osjećali u najmanju ruku kao međunarodno nepravdan čin, dok su Hrvati i Bošnjaci to obrazlagali kao međunarodni odgovor na konstantno kršenje ljudskih prava na Kosovu i kao pravednu stvar zbog *srbijanske agresije na BiH*. Slikovit primjer nakaradnog unificiranja javnosti našao se u *Dnevnom avazu*, kada smo na naslovnoj strani imali naslov „BH javnost podržava NATO napade na Srbiju”. Riječ je o telefonskom anketiranju građana, ali je zaključak, odnosno naslov, izveden od uzorka u Sarajevu, Tuzli i Mostaru, dakle u jednoj od tri podijeljene javnosti.

Što se tiče odnosa prema evropskim integracijama, imamo rijetku situaciju da sve tri javnosti (što korespondira sa stavom svih političkih partija) imaju želju i krajnji cilj da BiH postane dio Evropske unije. Međutim, metode kako to učiniti, odnosno kako izvršiti zadate reforme, dijametralno se razlikuju. Međunarodna zajednica, personifikovana u Vijeću za provedbu mira (PIK) i Uredu visokog predstavnika, igra ulogu uslovljavanja i nagrađivanja – što je legitiman i uobičajen princip međunarodne diplomatije – zadala je principe usaglašavanja domaće ustavne i zakonske legislativne, što je u većem dijelu saglasno standardima Evropske unije. Ta situacija je, međutim, dirnula u postulate sukobljavanja domaćih politika iza kojih stoje tri ili četiri zaokružene javnosti.

Ono što dodatno usložnjava proces evropskih integracija u BiH, odnosno mogućnost za postizanje dogovora, jeste ponašanje medija, posebno kada, kao u ovom slučaju, dođe do snažnih političkih sukobljavanja između tri nacionalne grupe. Mediji upućuju snažne kritike političarima 'onih drugih', što se često kod tih 'drugih' tumači kao napad na njihovu naciju, jer u BiH imamo situaciju potpune identifikacije većine naroda sa stavovima koje propagiraju političari za koje su glasali.

III. Mediji – generator ili katalizator

Više od dvanaest godina nakon što je mir stigao u Bosnu i Hercegovinu, rat još uvijek ostavlja trag. Nacionalne i etničke napetosti pratile su dosadašnje predizborne kampanje ili političke pregovore, jer u situaciji kada se izbori doživljavaju kao nešto 'sudbonosno', nešto što je 'prekretnica', tenzije rastu, a međusobne optužbe, vrijeđanja, nepoštovanje principijelnih načela javne komunikacije, bili su nešto na šta se često nailazilo. Jačanjem nacionalne napetosti nakon odluke Tribunala u Hagu da u najvećoj mjeri odbaci tužbu BiH za genocid, kao i kasniji pregovori oko reformi u BiH, podigle su strasti, što se odrazilo i na javnu i medijsku komunikaciju. Takođe, političkim strankama često je nedostajala osmišljena, dovoljno argumentovana i za birače jasna strategija na osnovu koje bi se mogli opredjeljivati u vezi s prednosti-

ma koje nosi proces približavanja Evropskoj uniji. U komunikaciji putem medija i na javnim skupovima bilo je dosta praznoslovlja, a odsustvo jasnih ciljeva i argumenata nerijetko su zamjenjivale prljave riječi, optužbe, napadi bez argumenata. Mediji su bili kanal za prenošenje takvih poruka, ali su i sami nekad poticali takvu komunikaciju.

Proteklih godina mediji su se isticali ili su korišteni kao sredstvo za političke obračune, iznošenje prljavog veša, vrijeđanje, pridobijanje simpatija, omalovažavanje, riječju – bili su ogledalo političke zbilje Bosne i Hercegovine. Pojedine, komunikaciji neprimjerene forme polako iščezavaju: nema više otvorenog govora mržnje, vrijeđanja na rasnoj, etničkoj, nacionalnoj ili religijskoj osnovi, ali su prisutni novi načini omalovažavanja političkih neistomišljenika, kao i čitavih političkih ideja vezanih za određene narode.

U Bosni i Hercegovini se, prema posljednjim podacima Regulatorne agencije za komunikacije, emituju programi 47 TV stanica, od čega su tri javna servisa sa nacionalnim pokrivanjem, i 150 radio-stanica. Izlazi 8 dnevnih novina – u Banjaluci *Glas Srpske*, *Nezavisne novine* i *Fokus*, u Sarajevu *Dnevni avaz*, *Oslobođenje*, *San* i *AS*, u Mostaru *Dnevni list* i Tuzli *Tuzlanski list*. Sve te novine, osim *Tuzlanskog lista* koji je isključivo lokalni, nastoje da kroz sadržaj pokriju zbivanja u cijeloj BiH i svijetu, mada svaka ima ciljnu grupu u zavisnosti od teritorijalnog odredišta i političke i nacionalne preferencije. U BiH izlaze i tri ozbiljna sedmična i jedan dvosedmični *news* magazin, kao i nekoliko desetina sedmičnih i mjesečnih specijalističkih ili revijalnih izdanja. Suštinski, mnogi analitičari smatraju da je u BiH prevelik broj medija, što se odražava na profesionalno slabiju kadrovsku strukturu i manjak novca koji bi medijima omogućio razvoj i standard uposlenika. Takođe, medijski sistem je, posebno kada je u pitanju ustrojstvo Javnog RTV servisa, uvažio specifičnosti Bosne i Hercegovine uslovljene Dejtonskim sporazumom, što je i dalje latentno izvorište sukoba.

U Federaciji BiH hrvatske vlasti već duže vrijeme insistiraju na transformaciji sistema javnog emitovanja u BiH, gdje bi se stvorio javni RTV emiter za cijelu državu koji bi imao tri kanala – na srpskom, hrvatskom i bosanskom jeziku. Suštinski, riječ je o političkim zahtjevima, jer je nedavno istraživanje *Mediacentra* iz Sarajeva utvrdilo da na RTV Federacije BiH ne nedostaje hrvatskog jezika nego da Hrvati žele više tema koje će pokrivati njihov habitus kao i preferirati stavove stranaka sa hrvatskim predznakom. Međutim, nekoliko dana prije zaključenja ovog teksta desila se jedna opasna stvar, koja bi mogla definitivno razoriti sadašnji Javni RTV servis: hrvatski i srpski klubovi poslanika u državnom parlamentu zatražili su podjelu Javnog RTV servisa na nacionalne kanale što, gledano formalno, predstavlja većinsku volju građana Bosne i Hercegovine, odnosno volju Hrvata i Srba. No, bar za sada do ovoga neće doći jer su bošnjački poslanici zatražili zaštitu vitalnog nacionalnog interesa. Takođe ni međunarodna zajednica neće popustiti pred rušenjem vlastitog koncepta Javnog servisa. Međutim, međunarodni trend je da se sve više u BiH uvažava faktičko stanje, te postoji latentna opasnost od 'izdaje' prvobitnih principa, što se pokazalo kod reforme policije.

U Republici Srpskoj dio opozicionih i nezavisnih novinara ocijenio je kako je tamošnji režim na čelu sa Miloradom Dodikom uniformisao sve javne medije, a izazvao i strah kod većine privatnih medija, što su nastavili posebno da potcrtavaju mediji u Sarajevu. U razgovoru sa kolegama iz uredništva RTRS-a dobio sam negiranje da je ta RTV pod ikakvim pritiskom ili da ima bilo kakvu pristrasnost prema Dodiku. Međutim, rečeno mi je i da taj medij, kao i svi ostali u RS, ima jasne stavove koji ne dovode u pitanje postojanje Republike Srpske i zalaganje entitetske vlasti za to, te da njihova uređivačka politika korespondira sa stavovima vlastite javnosti (srpske – dakle, vraćamo se na moju teoriju s početka priče). Ono što bi moglo da stvori dodatnu unisonost u Republici Srpskoj je nedavna kupovina *Glasa Srpske* od strane *Nezavisnih novina*. Zanimljiva je i situacija da je glavna urednica *Glasa Srpske* supruga generalnog direktora RTRS, tako da je sasvim jasno kako su tri najjača medija u RS povezana i vlasnički i rodbinski, što ne mora ali može biti sudbonosno za sadašnje stanje medija u RS.

Mnogi ocjenjuju da list *Nezavisne novine*, koji je nekada važio za jedini list koji je, uglavnom objektivno, pokrивao događaje u oba entiteta, postao pristrasan prema Miloradu Dodiku. Međutim, treba naglasiti da je ovaj list oduvijek bio blizak sadašnjem premijeru. To mnogima u Federaciji BiH nije smetalo dok je Dodik kao opozicionar iznosio stavove o nacionalističkoj vlasti SDS-a i nužnosti hapšenja ratnih zločinaca.

U Republici Srpskoj mnogo veći tiraž imaju *Euro Blic*, *Večernje novosti*, a odnedavno i *Press RS* iz Srbije nego što ga imaju domicilne banjalučke novine, a na teritorijama gdje su Hrvati većina *Večernji list* i *Slobodna Dalmacija*. Zbog nacionalno podijeljenih javnosti, novine iz Sarajeva se nikada nisu mogle pozicionirati na ovim teritorijama, dok su nabrojani listovi iz Srbije i Hrvatske napravili svoja izdanja za BiH (ili bolje reći za svoje nacionalne grupe u BiH). Uz činjenicu da veliki broj Srba i Hrvata susjedne zemlje vidi kao svoje matice, ali i zahvaljujući tome da su te novine našle način da kroz profesionalne forme dopru do čitalaca, uspjeh ovih medija je veliki.

Kada je Federacija BiH u pitanju, tradicionalna podjela na 'lijevo' *Oslobođenje* i 'desni' *Dnevni avaz* pala je u vodu. *Oslobođenje* su prije dvije godine kupile Sarajevska pivara i Fabrika duhana Sarajevo, da bi nedavno Pivara, odnosno porodica Selimović, gotovo stopostotno preuzela vlasništvo. Iako list i dalje insistira na liberalnim, multietničkim, pa djelimično i ljevičarskim idejama, njegova evidentna bliskost sa SDP-om je s novim vlasnikom i novim uredništvom znatno splasnula. Hilmo Selimović posjeduje i dnevni list *San*. S druge strane, vlasnik *Dnevnog avaza*, ubjedljivo najtiražnijeg lista u BiH, Fahrudin Radončić, otvorio je niz privrednih (nemedijskih) projekata, te je stranačka podjela na ljevicu i desnicu relativisana zbog činjenice da su oba lista zaokupljena direktnim ekonomskim interesima. To se često vidi u preferiranju vlastitih kompanija i potkompanija, te privatnih i državnih institucija i ličnosti direktno u vezi s vlastitim interesima. Međutim, kod *Dnevnog avaza* primjetna je i jedna politička karakteristika koja bi mogla da indicira i zaokret određenih

bošnjačkih političkih stavova. Iako vjerovatno postoje i određeni ekonomski interesi, *Avaz* već duže vrijeme ima blagonaklon odnos prema premijeru RS Miloradu Dodiku, pri čemu se u izvještajima često potenciraju pozitivne stvari koje Dodik iznosi vezano za državnost BiH, dok se negativne stvari ne naglašavaju kroz naslove i guraju u drugi plan. Takođe, Dodik je viđen gost u *Dnevnom avazu* kroz intervjue, pa čak i vlastite kolumne. Dakako, *Avaz* stvari i dalje vrlo snažno posmatra kroz bošnjačku ili 'bosansku' vizuru, što je posebno uočljivo u komentaima ili u izboru pokrivanje tematike. Međutim, list je, stiže se dojam, prihvatio i određene realnosti u BiH, koje do sada nisu u sarajevskim medijima bile izražene. *Dnevni avaz* tako u komentaru od 6. maja kritikuje bošnjačke političare smatrajući da je njihova nesposobnost razlog što je Srbija prije BiH potpisala Sporazum o stabilizaciji i pridruživanju. „Haris Silajdžić, Sulejman Tihić i njihov priljepak Zlatko Lagumdžija, iza napada na EU pokušavaju sakriti vlastitu nesposobnost. Kada se čovjek samo sjeti šta su oni sve odbili tokom maratonskih pregovora o reformi policije, prosto bude muka. Svaki maksimalistički zahtjev ovog bermudskog trougla pod kojim se BiH sve više zavija u crno, završio je prihvatanjem još goreg rješenja”, navodi list, što korepondira sa činjenicom da je dio bošnjačkih lidera prihvatio realnosti postojanja dva entiteta, odnosno činjenice dijametralno suprotstavljenih nacionalnih politika.

Da je Bosna i Hercegovina značajno pogoršala svoje medijske slobode zahvaljujući kombinaciji političkih i ekonomskih pritiska na medije i novinare, zaključak je i Konferencije o slobodi medija u organizaciji Misije OSCE-a u Sarajevu 8. maja. Predstavnik za medijske slobode OSCE-a Miklos Haraszi, prilikom svoje posjete BiH i učešća na Konferenciji, rekao je da ga posebno brinu pritisci na Javni RTV servis u Sarajevu i zahtjevi da se postavi na čelo Regulatorne agencije za komunikacije stranačka, a ne stručno podobna osoba. Ove primjedbe su bile ujedno i označavanje Vlade Republike Srpske kao glavne smetnje medijskim slobodama, jer upravo njeni predstavnici najviše insistiraju na ovim pitanjima nezadovoljni uređivačkom i finansijskom politikom BHRT-a kao javnog servisa za cijelu zemlju.

Učesnici Konferencije iz više medija iz cijele BiH konstatovali su da je na sceni nekoliko vrsta pritiska – etnički, religijski, stranački ili državopolitički, ekonomski, te pritisci na novinare od strane vlasnika medija, što je posebno postalo uočljivo otkad su vlasnici nekih novina počeli da se bave i različitim poslovima koji izlaze van komunikacijske sfere. Istaknuto je i da zbog duboke podijeljenosti bh. društva nema dovoljno novinarske solidarnosti, što olakšava posao svima koji vrše pritiske.

Bosna i Hercegovina je na listama *Reportera bez granica* i *Freedom House*, međunarodnih organizacija koje prate medijske slobode, nazadovala za više mjesta. Kako je istakao Miklos Haraszi, razlog tome je pogoršanje ukupne političke situacije u zemlji u prošloj godini, što se reflektuje i u medijskoj sferi kroz različite pritiske, ali i pristrasnosti.

IV. Kampanja za pristup evropskim integracijama

Možda politička i medijska situacija u BiH nudi iluziju vođenja bilo kakve kampanje s ciljem pridobijanja javnosti za evropski put, odnosno želje da javnost utiče na svoje izabrane političke predstavnike. Međutim, koliko god BiH bila složena i po mnogo osnova isparcelisana država, osnovne karakteristike komunikacijskih procesa, odnosno ljudske psihe, iste su kao svugdje u svijetu. Samo je nužno uzeti sve njene specifičnosti u obzir. Prije svega, potrebno je uočiti karakteristične slučajeve i trendove koji ukazuju na primjere nekorektnog političkog komuniciranja, što se postavlja kao ozbiljan problem društvenog života u BiH, medijskog posredništva, ali i niskog stepena političkog marketinga i odnosa sa javnostima (PR). Iskreno, teško je očekivati da takvu jednu kampanju mogu izvesti samostalno političke partije. Političke partije, odnosno vlasti oba entiteta treba da budu partneri u izradi strategije koju bi finalizirali i vodili nezavisni stručnjaci. U definisanju ciljanih javnosti, odnosno pravljenju strategije, neophodno je uzeti u razmatranje različite karakteristike – ljudske i situacijske – potencijalne ciljne grupe. Svaki politički proces u BiH ispunjen je različitim strahovima. Ne percipiraju na isti način evropske integracije i ustavnu reformu Srbin, Bošnjak i Hrvat. Niti Hrvat koji živi u Grudama, Sarajevu i Banjaluci. Ili Hrvat koji ima fakultet ili samo osnovnu školu. Onaj koji je vlasnik kladionice i onaj koji u njoj radi za 500 KM. Ili Hrvat koji je u HDZ-u, SDP-u ili onaj stranački potpuno nezainteresovan. Ili Hrvat koji je u najvišoj vlasti ili onaj koji je na njivi. Dakako, isti princip možemo primijeniti i na Srbe, Bošnjake, Rome i ostale, te iznaći šta je za sve njih zajedničko, šta dijametralno različito, neprihvatljivo, privlačno...

Pravljenje strategije na osnovama koje bi uvažile geografske, demografske, psihografske specifičnosti, te pozicije uloge u društvenom procesu bilo kroz otvoreno članstvo u organizacijama ili prikrivenu moć, nije ni previše komplikovano ni previše skupo. Zahtijeva samo malo više tolerancije prema različitim nacionalnim javnostima i idejama.

Jasno je da se ovakva strategija u značajnoj mjeri zasniva na kampanji odnosa sa javnostima (PR) i da je nužno samo prilagoditi sadržaj metoda određenim ciljevima. Mogu postojati dva globalna cilja – pozicioniranje Evropske unije u svijesti građana BiH kao nesporne dobrobiti razvoja društva, ili dobijanje podrške za legislativne postupke nužne za pristup EU. Iako ima dodirnih tačaka, ipak je riječ o različitim kampanjama. Ova druga u značajnoj mjeri se svodi na političku kampanju zadobijanja povjerenja aktuelnih i eventualnih budućih glasača.

Nesporno, mediji su posrednik prema javnostima. Stoga ne čudi što i sama Evropska unija kroz svoje projekte podržava napore da se profesionalizuje rad medija u smislu da se poboljšaju kvalitet i kvantitet izvještavanja o njenim aktivnostima i prednosti pristupa za zemlje Zapadnog Balkana. Građanina ne interesuju razne formalne stvari vezane za Evropsku uniju (to treba ostaviti za specijalističke medije i rubrike). Potrebno je naučiti izvijestiti o takozvanim životnim stvarima vezanim za

poboljšanje ličnog komoditeta ili rejtinga države, što ljude uvijek interesuje, čak i kada previše ne cijene zemlju u kojoj žive. *Media plan institut* iz Sarajeva je proteklih godina imao projekte novinarskog pokrivanja evropskih integracija, gdje su obrađivane teme bliske običnim ljudima. I sami novinari koji su u tome učestvovali, ali i uredništva u medijima u kojima su objavljivani i emitovani prilozi, bili su zadivljeni koliko su evropske integracije širok pojam iz kojeg se izvode brojne korelacije u svim sferama života.

Međutim, treba voditi računa da je svijest četiri nacionalne (političke) javnosti u BiH zarobljena raznim vještački ili realno nametnutim postulatima očuvanja interesa, što s obzirom na dijametralno suprotstavljene ciljeve generiše strah i dodatno nepovjerenje. Stoga svaka kampanja zahtijeva umijeće usklađivanja. U jednom istraživanju koje je izveo *Media plan institut* u saradnji sa *Fondacijom Heinrich Böll* u vezi s postojanjem takozvanih proevropskih birača u BiH, pokazalo se da su građani BiH svjesni katastrofalnih učinaka bh. vlasti i nužnosti prihvatanja evropskih vrijednosti. Međutim, većina njih nije spremna odstupiti od podrške etnopolitici u BiH, koja se često svodi na etnofundamentalizam koji koči niz razvojnih procesa u zemlji. U tom smislu Branimir Džoni Štulić, u pjesmi iz 1983. godine, koja je posuđena za naslov ovog teksta, opisuje situaciju u Jugoslaviji, gdje sve više ljudi vidi bespredmetnost komunističkog režima, ali ne i način da to promjeni – «Što se događa kad mrtvi fazani lete iznad naših glava. Kad mrtvi fazani lete, a ni jedan ne pada».

Šta je u BiH mrtvo, zavisi od subjektivnog poimanja. Učutkati realnost ne možemo, ali se možemo boriti protiv političke autokratije i neprofesionalnih medija, koji okivaju sve tri nacionalne javnosti.

Preporuke

Na osnovu analiza autora ove zajedničke publikacije o postojećim proturječnostima dosadašnjeg procesa integracije države Bosne i Hercegovine u Evropsku uniju, o postojećim društveno-političkim preprekama, te o najvažnijim reformskim izazovima – nameće se nekoliko preporuka namijenjenih međunarodnoj zajednici/Evropskoj uniji, političkim elitama, kao i građanima Bosne i Hercegovine.

- * **Ukidanje dvostruke uloge Evropske unije.** Najveći pojedinačni faktor remećenja procesa evropskih integracija i proizvodnje proturječnosti predstavlja paralelna uloga Evropske unije kao institucije izvan BiH i institucije unutar BiH koja (ne)posredno upravlja zemljom – dvostruka institucija OHR-a i Specijalnog predstavnika EU (OHR/EUSR). Ključan korak, stoga, predstavljaće **transformacija OHR/EUSR u EUSR**. Cilj te transformacije mora biti institucionalizovanje buduće uloge Evropske unije u BiH u formi konstituisane moći, sa strogo definisanom i potpuno eksplicitnom odgovornošću. Isto toliko važan je sam proces transformacije, koji mora biti zasnovan na dobro osmišljenoj strategiji, a ne samo na želji da se izađe iz dosadašnje uloge.
- * Politički odnosi između Evropske unije i države Bosne i Hercegovine u okviru integracijskog procesa moraju u budućnosti biti bazirani na **institucionalizaciji novih praksi političkog pregovaranja i odlučivanja**, koje bi bile utvrđene u **okviru** za to predviđenih i osmišljenih **državnih institucija i zvaničnih državnih funkcija** u zemlji. Mora se prestati s metodom političkog odlučivanja u neformalnim, nezvaničnim krugovima, u kojima su glavni partneri predstavnika EU čelnici vodećih nacionalnih stranaka kao etnonacionalni lideri a ne kao čelni ljudi *institucija*.
- * Jedan od ciljeva i sredstava integracijske politike Evropske unije treba biti **proširenje demokratskog fronta**. Pod tim se podrazumijeva proširenje osnovnih demokratskih procedura na što širi društveni spektar.
- * **Donošenje novog ustava.** Dosadašnja diskusija o nužnosti reforme Dejtonskog ustava u okviru procesa integracije BiH u Evropsku uniju mora biti proširena na ozbiljnu, stručnu i političku raspravu o smislu donošenja potpuno novog ustava. Postoje ozbiljne stručne ustavno-pravne analize koje ukazuju na to da je ovaj Ustav u toj mjeri antinomičan da će svaka dalja dorada dodatno samo potvrditi političkog disenzusa i tako voditi stvaranju pravnog haosa.

Pošto nije moguće donijeti takav novi ustav bez neutralne (vanjske) snage, proširivanje ovakve diskusije trebalo bi obuhvatiti ideju ustanovljenja „ustavnog konventa” pod pokroviteljstvom EU.

- * **Borba protiv korupcije kao kulturni preokret.** Borba protiv korupcije predstavlja temeljni zadatak u stvaranju demokratske države Bosne i Hercegovine, tj. zemlje s vladavinom prava i uspostavljenom tržišnom ekonomijom. Ta borba može uspjeti jedino ako svi akteri (političke elite, stranke, državne institucije, građani, međunarodna zajednica) fenomenu korupcije priđu ne kao normativno-tehnokratskom nego kao kulturno-civilizacijskom problemu. Isto tako, ta borba zahtijeva da se nijedna društvena grupa niti ijedna državna ili društvena institucija u zemlji ne smatraju žrtvom korupcije, nego svi treba da prihvate da se radi o problemu cjelokupnog društva, to jest da su svi u isto vrijeme i počinioci i žrtve korupcije.

- * **Razvoj poslovnog sektora** jedan je od ključnih uslova demokratske transformacije i evropskih integracija. Za taj cilj potrebno je prvenstveno stvaranje jedinstvenog tržišta i prekidanje neformalnih i poluformalnih oblika/kanala umrežavanja privrede/poslovnog sektora i vlasti.
Druge važne komponente privredne reforme su:
 - **Mijenjanje poslovne kulture.** Nužna je tranzicija kulture privređivanja iz poslovanja „preko koljena” i uz vlast u poslovanje na konkurentnim tržištima. U vezi s tim nužna je transformacija dominantnog mentaliteta većina političara i poslovnih lidera koji razmišljaju dvije ili tri godine unaprijed, u jedno stanje koje omogućuje preduzećima da usklade kratkoročno razmišljanje i politiku sa potrebom opstanka na dugi rok;

 - **Reforma rada socijalnih službi na tržišnim principima.** Reforma je od velike važnosti za postizanje stabilnih socijalnih i demokratskih odnosa. Dalje političko odlaganje reforme doprinosi sve većim socijalnim davanjima, stvaranju obaveza unaprijed, usporavanju ekonomskog rasta i političkim manipulacijama socijalno ugroženih u izbornim ciklusima;

 - **Reforma tržišta nekretnina i zemljišta – građevinarstva – urbanog/prostornog planiranja.** Reforma ovog sektora od presudne je važnosti za uspostavljanje vladavine prava i demokratskog političkog poretka, jer već decenijama predstavlja jedno – ako ne najveće žarište združenog podriivanja državnih institucija od strane državnih zvaničnika, političkih elita i građana. Najvažniji elementi reforme će biti gruntovnica, sistem infrastrukturnog investiranja, te stavljanje urbanog i prostornog planiranja u funkciju savremenih principa demokratije, transparentnosti i održivosti.

- * **Modernizacija obrazovanja i nauke.** Reforma je ključna za modernizaciju državne administracije, političkih elita, kao i za reformu privrede, gdje mora doći do uspostavljanja intenzivne saradnje poslovnog sektora sa istraživačkim i obra-

zovnim institucijama. Ta reforma je utoliko važnija što je sektor obrazovanja (posebno visokog obrazovanja) i nauke u posljednjih nekoliko godina zanemaren i potcijenjen od međunarodne politike, i što je otpor reformama od strane političkih i drugih elita ovdje posebno žestok. Pri tome u okviru integracijskih procesa evropske institucije ne bi trebalo da redukuju svoje reformske zahtjeve domaćim institucijama i političkim akterima za provođenje Bolonjskog procesa jer će to u protivnom omogućiti nastavak reformskih blokada pod fasadom normativno-institucionalnih reformi.

- * **Javna kampanja s ciljem pridobijanja javnosti za evropski put.** Integracijska politika Evropske unije prema BiH mora biti praćena smišljenom javnom kampanjom. Teško je očekivati da takvu jednu kampanju mogu izvesti samostalno političke partije. Političke partije, odnosno vlasti oba entiteta, treba da budu partneri u izradi strategije koju bi finalizirali i vodili nezavisni stručnjaci. Ta diferencirana strategija mora biti smišljena na osnovama koje bi uvažile geografske, demografske i psihografske specifičnosti, te uloge u društvenom procesu.
- * Uz sve ovo, Evropska unija kroz svoje projekte treba podržati **napore da se profesionalizuje rad medija u smislu da se unaprijede kvalitet i kvantitet izvještavanja o aktivnostima EU i ukaže na prednosti pristupa** za Bosnu i Hercegovinu. Potrebno je podučiti medije/novinare kako da izvještavaju o tzv. životnim stvarima vezanim za poboljšanje uslova života građana ili rejting države, što građane uvijek interesuje, a sve s ciljem da se pridobije i onaj dio bh. društva koji ima rezerve prema sopstvenoj državi radi aktivne podrške integracijskoj politici.
- * **Problem nepostojanja društvenog subjekta demokratske transformacije.** Osnovni problem transformacije države Bosne i Hercegovine i otvaranja vrata za članstvo u Evropskoj uniji, a koji se provlači kroz sve druge probleme i date preporuke, predstavlja pitanje subjekta demokratizacije. Nepostojanje političkog subjekta društvene transformacije ostaje ključni problem evropske budućnosti Bosne i Hercegovine.
Očigledan porast svijesti unutar struktura međunarodne zajednice/Evropske unije o tom problemu predstavlja važan korak naprijed, kao što to predstavlja i pomjeranje fokusa na bh. građane. No, isto će tako biti važno da se razvije kritička svijest o tome da načelna većinska podrška evropskim integracijama od strane građana nije nikakav garant za postizanje cilja njihove transformacije u „kritičnu političku masu”, kao što načelna jednoglasna podrška političkih elita evropskom putu još ne znači njihovu evropsku, demokratsku transformaciju.

O autorima

Eldar Sarajlić

Diplomirao na Fakultetu političkih nauka u Sarajevu, na Odsjeku za žurnalistiku. Na istom fakultetu privodi kraju magistarski rad iz oblasti politologije. Dosad je objavljivao radove u domaćim žurnalima i u periodici. Član je uredništva magazina za političku kulturu i društvena pitanja *Status* i urednik rubrike *Država pod lupom* u okviru online žurnala *Puls demokratije*. Učestvovao na nekoliko znanstvenih konferencija u BiH i inozemstvu. Trenutno zaposlen u Razvojnom programu Ujedinjenih nacija u Sarajevu.

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Edin Šarčević

Rođen je 1958. u Sanskom Mostu. Studirao je pravo na univerzitetima u Sarajevu, Beogradu i Saarbrückenu. Promoviran je u zvanje doktora pravnih nauka na Fakultetu pravnih i ekonomskih nauka Univerziteta u Saarbrückenu, a za svoj doktorski rad je 1993. godine dobio nagradu „Dr. Eduard Martin”. Nakon habilitacije na Pravnom fakultetu u Leipzigu stiče *venia legendi* za državno pravo, opću teoriju države, međunarodno pravo i evropsko pravo. Od 2004. godine predaje na Pravnom fakultetu u Leipzigu u zvanju izvanplanskog profesora. Autor je velikog broja radova koji se bave temom njemačkog i bosanskohercegovačkog državnog prava,

te evropskog prava, međunarodnog prava kao i radova o filozofiji prava i države. Između ostalih, autor je i knjiga *Der Rechtsstaat* (Pravna država, 1996), *Die Schlussphase der Verfassungsgebung in Bosnien und Herzegowina* (Završna faza donošenja ustava u Bosni i Hercegovini, 1996), *Ustav i politika* (1997), *Die Religionsfreiheit und der Streit um den Ruf des Muezzins* (Sloboda religije i spor o ezanu, 2000), *Das Bundesstaatsprinzip* (Princip savezne države, 2002), *Ustavno uređenje Savezne Republike Njemačke: Osnove njemačkog državnog prava* (2005). Istraživački interes profesora Šarčevića, pored državnog prava, evropskog prava, međunarodnog i ustavnog prava, posvećen je i oblastima međunarodne pravne zaštite ljudskih prava, filozofiji prava i države i pravnim sistemima Jugoistočne Evrope.

Svetlana Cenić

Rođena u Sarajevu decembra 1960. godine, gdje je završila osnovnu školu, gimnaziju i Ekonomski fakultet. Prvi posao dobija u Tešnju, zatim u Beogradu na poslovima spoljne trgovine, a nakon toga radi za inostrane firme kao menadžer za dio područja bivše Jugoslavije. Aprila 1992. prinuđena je da napusti Sarajevo, a u toku rata radila je za profesora Koljevića administrativne poslove, sve do jula 1995, kada prelazi u Banjaluku, gdje je radila i sa stranim novinarima, te kao konsultant inostranih preduzeća, za humanitarne organizacije, itd. Decembra 2000. prihvata poziv tadašnjeg potpredsjednika RS da bude njegov savjetnik (ali ne u svojstvu stalno zaposlenog), što i obavlja, i za vrijeme njegovog mandata kao predsjednika RS, sve do februara 2005. godine, kada postaje ministrica finansija u Vladi RS, do smjene Vlade 28. februara 2006. godine.

Završila postdiplomske studije na Cambridge University i primljena na doktorske studije u Americi i Švajcarskoj. Takođe završila specijalizacije i druge studije iz oblasti ekonomije u inostranstvu.

Trenutno predaje na Banja Luka College i na Visokoj školi *Prometej* ekonomsku grupu predmeta, te piše redovnu kolumnu za magazin *Dani* i komentare za *Euro-Blic*. Intenzivno saraduje s nevladinim sektorom, a član je i svjetske mreže održivog razvoja NJ.K.V Princa Charlesa. Nikada nije bila član nijedne političke partije.

Radenko Udovičić

Radi kao programski direktor Media plan instituta iz Sarajeva, organizacije koja se bavi edukacijom novinara, medijskim istraživanjima i produkcijom.

Rođen je 1969. godine u Sarajevu. Magistar je društvenih nauka iz oblasti žurnalistike. Završio je Pravni fakultet u Sarajevu, a magistrirao na Filozofskom fakultetu u Tuzli na Odsjeku žurnalistike.

Novinarstvom je počeo da se bavi 1991. na sarajevskom radiju Studio 99. U Media plan institut je prešao 1996. godine, gdje se počeo specijalizovati za analizu medijskih sadržaja. Tokom profesionalne karijere prošao je rad na svim medijima – od radija i televizije do štampe i weba. Bio je dopisnik brojnih medija iz regiona i Radija Slobodna Evropa na južnoslavenskim jezicima. Radio je kao glavni urednik medijskog web portala "Mediaonline", urednik je knjiga *Medijska spoticanja u vremenu tranzicije* (2005), o ključnim problemima medija u Jugoistočnoj Evropi, i *Indikator javnog interesa* (2007), bazirane na analizi sadržaja centralnih informativnih emisija TV stanica u regionu. Bio je urednik i specijalističkog časopisa *Sjećanja – Univerzitet komunikacija* (2000-2002). Autor je knjige *Odnosi sa javnostima i novinarstvo – INFORMATORI SA RAZLIČITIM CILJEVIMA* (2007).

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■■■ HEINRICH BÖLL STIFTUNG

PROCEEDINGS FROM THE CONFERENCE:

**BOSNIA AND HERZEGOVINA AND
CONTROVERSIES OF THE EU
INTEGRATION PROCESS**

Sarajevo, 2008.

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PREFACE

The Heinrich Böll Foundation, Office for Bosnia and Herzegovina, is implementing the *Bosnia and Herzegovina and Controversies of the EU Integration Process* project as a follow-up of the 2007 debate. The debate through an interdisciplinary approach has raised the issue of interaction between "domestic/internal" social and political potential and action and "external" factor, hence, the issue of influence of and efforts by the international community, predominantly of the European Union, on the process of democratization, the EU integration and establishment of the rule of law in Bosnia and Herzegovina.

As it was stressed in the conclusions of the last year's conference, *Example of Bosnia and Herzegovina: Sustainable Concepts or Sidetracks of the International Community?* – our aim is to proceed with the process of critical reflection on the presuppositions for the final stabilization of Bosnia and Herzegovina in Europe, and the promotion of values of Europe in Bosnia and Herzegovina. The international community should not be used as a pretext by domestic political officials for their own failures, nor should the failures of domestic political elites be used as a pretext by the international community for not completing the reforms or insufficient critical re-examination of its own weaknesses. Bosnia and Herzegovina, after everything that happened in the country, lost lots of time and missed numerous opportunities. The question is: how this situation could be overcome? Perhaps a way out could be a faster integration into the European Union, whereby the Bosnia-Herzegovina views would be broadened permanently by a European dimension, while Bosnia and Herzegovina would be placed irreversibly within the large European context.

We release this publication with the texts written by Eldar Sarajlić (Sarajevo), Bodo Weber (Berlin), Edin Šarčević (Leipzig), Svetlana Cenić (Banja Luka) and Radenko Udovičić (Sarajevo) as an invitation and encouragement to a dialogue and democratic debate in order to shed light on the EU integration process so far and actions taken in Bosnia and Herzegovina towards reforms. The authors analyse very clearly and critically the EU integration policy towards Bosnia and Herzegovina in regard to the requirements for the reforms and support to the reforms which the EU is providing to the state, and a controversial attitude towards the requirements, with the aim to answer the question of how much the requirements set by the European Union contribute to the EU integration process, and how big is the potential and the political will within the Bosnia-Herzegovina political elites for the implementation of the reforms and as fast accession to the European Union as possible. The texts identify from different inter-societal prospects the potential for (political, economic, social) reforms and blockades.

The purpose of this study and debate at the roundtable to take place on June 24, 2008 is to indicate the prospects of the present EU integration policy and give recommendations to the European and inter-societal stakeholders for overcoming controversies in the future and potential to blockades, and for strengthening the social and political capacities in the integration process.

The Heinrich Böll Foundation would like to express its most sincere gratitude to all authors, partners and friends for their assistance and contribution to the implementation of this project. As always, the Heinrich Böll Foundation will share this publication and recommendations with all interested and relevant institutions, organizations and individuals in Bosnia and Herzegovina and also with the German Federal Parliament and the European Parliament.

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A Reluctant Master: Contradictions of the European Union Policy towards Bosnia and Herzegovina

Over the last several years, a specific political dichotomy – utilized in an attempt to describe the historical and political development of the country following the brutal war which characterized the first years of the country's contemporary international existence – has taken root in the public discourse in Bosnia and Herzegovina. Using the determinants of the two cities – one in the United States of America, and the other in the heart of Europe – the dichotomy aims to establish a matrix of reflection on the political existence of Bosnia and Herzegovina and to give sense to the specific transitional character of the BiH society. Thus, Bosnia and Herzegovina, defined by war and conflict, is said to be the 'Dayton' Bosnia and Herzegovina; and the one which is defined by the reform processes taken for the purpose of integration into the European Union, is said to be the 'Brussels' Bosnia and Herzegovina.¹ But in addition to this 'fundamental' dichotomy which refers directly to the historical and factual frame of interpretation, there are few more dimensions which are constituted directly by this explanatory matrix. Those dimensions, interpreted in a certain way, can also say something more about the overall phenomenological structure of Bosnia and Herzegovina and about the role of the political subject which, in its phenomenology, plays one of the key roles: the European Union. In this paper, I want to consider in some detail some of those dimensions and point at some contradictions of the European Union policy towards Bosnia and Herzegovina.'

The starting presupposition is complex in nature, and implies several individual elements. First, I claim that the European Union behaves towards Bosnia and Herzegovina like a 'reluctant master': the simultaneous presence and absence of the European Union as the subject of the Bosnia-Herzegovina politics bears testimony not only to an incoherent European policy towards BiH but also to the problems of political (self)constitution of the European Union as a political player in general. Unlike the prevailing opinion that Bosnia and Herzegovina is the one that depends on the European Union – and not the other way round, as without the European interference the war would last forever - it can be said with certainty that the European Union, in a specific and pervasive way in terms of political subjectivity, actually depends on Bosnia and Herzegovina and that through various sorts of manipulation with the political domain in BiH the European Union is trying to constitute itself as a political subject. Secondly, regardless of the rhetoric level of the European policy in BiH that is teemed with liberal-democratic phrases, it is the European Uni-

¹ As far as I know, the first mention of this dichotomy can be found in Emir Hadžikadunić, *Od Dejtona do Brisela*, Sarajevo: ACIPS, 2005.

on that undermines the principles of liberal democracy and its political establishment in Bosnia and Herzegovina through direct construction and legalization of informal and non-transparent methods and techniques of political decision-making. And thirdly, following some theoretical definitions of democracy as such, and observing the political agency of the European Union and its representatives in Bosnia and Herzegovina today, we can say that the democratic prospects of the long-term political development of this country seem rather dim and uncertain.

Dayton or Brussels? Constituting a Dual Bosnia and Herzegovina

Before we engage in a detailed interpretation of the above-mentioned dichotomy, it is important to stress that the notion of the European Union, as a political subject, is not clear enough. Primarily because of the historical lack of a coherent policy of the European nations at the pan-European level, the European political community is considered as a non-existent social and political subject. Although overlapping with the meaning of the 'international community', the European Union has always been regarded in BiH as an insufficiently defined and distant, albeit strong and powerful geopolitical entity, with the potential to change the course of history and affect politics. In order to avoid a similar ambivalence as much as possible, I will use the term 'European Union', for the purpose of interpretation in this paper, to describe: a) the political behavior of the EU Special Representative in BiH (EUSR); b) the political behaviour of ambassadors and other representatives of the European Union member-states in BiH; and c) the overall international approach to problem solving in Bosnia and Herzegovina, determined by the Brussels politics.

The notional obscurity of the interpretation of the European Union policy in Bosnia and Herzegovina is not exclusively a matter of methodological positions of an analytical work but also a constituent element of the phenomenon itself. This is, of course, the case with the Dayton-Brussels dichotomy, the semantic determinants of which – except for the historical volition – are not crystal-clear either. Is the 'Dayton' Bosnia and Herzegovina the country of the war or of ethnic consensus which ended the war? Is the 'Dayton' BiH the country of democracy or not? If yes, why is its transformation into the 'Brussels' Bosnia and Herzegovina necessary? Is the 'Dayton' Bosnia and Herzegovina, in fact, the U.S., and the 'Brussels' BiH a European political project? Does the notion 'the Brussels BiH', in fact, speaks more of the European Union than of Bosnia and Herzegovina?

I believe the above dichotomy is not just a provisional description of Bosnia and Herzegovina's historical path but rather uncovers deeper, phenomenological structures of the nature of the political order in BiH and also the European Union's attitude towards this country. Attempting to leave the impression of a dialectic struggle of the two exclusive tendencies – of which one represents a permanent certa-

inty of an ethnic war and instability caused by the nature of the Balkan culture, while the other represents a dystopian impossibility of the conflict due to the centripetal geopolitical power and the Enlightenment character of 'Europe' as such² - the dichotomy reveals two structural levels of politics in BiH with unequally distributed amount of power and influence. The first represents the level of formal expression of politics in BiH, within which the institutions of state and society, established within the Dayton political frameworks, exist. In this formal sense, Bosnia and Herzegovina is – along with all its specificities – a normal parliamentary democracy in which democratic political mechanisms, like the free competition of the parties at free elections and the existence of representative methods of decision-making, represent the basic features of modern political normality. The second level, however, represents the existence of informal decision-making structures, which fall outside the processes and methods of democratic verification and transparency. This represents the existence of channels, policies and individuals that, far from the public eye, decide on some key social and political issues. Regardless of the fact that even this does not represent a specificity of this country, as opposed to some other states of the world, which are also facing both formal and informal political decision-making, the disparity of the amount of power installed at both levels is surprising. Unlike the developed democracies, the level of power and influence of formal institutions of the Bosnia-Herzegovina politics is minimal. The overall political power is invested in informal structures, while prominent positions serve exclusively the purposes of political representation of the decisions defined in advance. This is precisely the root of the total incapacity of the state of Bosnia and Herzegovina to take the initiative in the reform processes and the acute lack of the state capacities necessary for designing and implementing any strategic policy in any social sphere.

To shift away from that political and phenomenological structure of BiH, which implies the process of reforming the present political patterns and strengthening the state institutions as forums of democratic decision-making, represents precisely what the catch-phrase about Bosnia and Herzegovina moving from the 'Dayton' to the 'Brussels' phase of its political existence attempts to describe. Unlike the 'Dayton', which represents Bosnia and Herzegovina defined by an ethnic elite which, far away from the reality of Bosnia-Herzegovina and supported by the geopolitical giant, the U.S., shapes its fate, the 'Brussels' BiH should represent a democratically organized European society in which the decision-making process and acquisition of legitimacy take place in a transparent, open and lawful process, which is carried out by the institutions of the state and society, instead of the political elite and eth-

² In this context, the dichotomy is also revealed as a specific incarnation of orientalism in which the notions of 'Dayton' and 'Brussels' function as a substitute for 'East' and 'West', or 'The Balkans' and 'Europe' in the Balkan vision of orientalism. Also, dichotomic structure of descriptive paradigm of 'Dayton-Brussels' reveals a kind of a theological character of the discourse about 'Europe' and 'European integration'.

nic parties.³ It is no coincidence that the notion of 'capacity building' represents one of the most frequently used words in the political reform discourse in BiH. In essence, it means the (re)construction of the state power as the revival of the political sovereignty of Bosnia and Herzegovina. Insisting on the political reforms directed to this ultimate goal – which is of particular importance in the context of the BiH accession to the European community of modern and responsible states – the European Union, together with other international community's stakeholders in BiH, pursues the goal of building a democratic system and deconstructing the non-democratic forms of government framed within the legacy of what is called the 'Dayton' BiH. But is this really the case? Is the European Union indeed, by its actions taken through official representatives, deconstructing the non-democratic political patterns and does it indeed contribute to the long-term prospects of democracy, pluralism and the rule of law in Bosnia and Herzegovina?

If we analyze the forms of political relationship between the representatives of the European Union and the local political elite in BiH, the answer to this question may be only negative. Pursuing the method of political decision-making in which the leaders of the ruling national parties as *ethnic* leaders, and not as the top people of *institutions*, play the major role, the European Union – primarily through its Special Representative (EUSR) and other officials of the international community – directly *institutionalizes anti-institutionalism* and contributes to further perpetuation of the substantially non-democratic forms of political relations in the country.⁴ The pretext that those forms are democratic – on the basis of the free election race which had brought the given political leaders to a position in which they decide on public matters – is not sufficient, as democracy in a society does not end at the threshold of a polling place, but represents a continued effort towards devising and implementing just and participatory mechanisms of decision-making on issues of common interest. In other words, the manner in which political decisions are made in Bosnia and Herzegovina today – in which the European Union officials play an important role – is non-democratic. To same extent is the notion of the 'Brussels' Bosnia and Herzegovina – as the society with the prosperously established democratic mechanisms of development and decision-making – a sheer rhetorical pattern of the officials of the European Union and the international community that perpetuates the existence of the 'Dayton' Bosnia and Herzegovina as an exclusively ethnic soci-

³ In this sense it is said that the 'Dayton' Bosnia and Herzegovina symbolizes "... a political and global will of the United States of America and weakness and absence of the European Union and its member states in the first half of 1990s.", while 'Brussels' Bosnia and Herzegovina represents "... return and an ever stronger presence of Europe in the Western Balkans region, building and strengthening of the state of BiH and its central institutions"; in Emir Hadžikadunić, *Od Dejtona do Brisela*, Sarajevo: ACIPS, 2005, pp. 17. Also see Nermin Šačić, *Međunarodna zajednica i BiH od decembra 1995. do marta 2007: politološki aspekti*, in: *Primjer Bosne i Hercegovine: održivi koncept ili stranputice međunarodne zajednice*, Sarajevo: Heinrich Boell Stiftung, 2007.

⁴ This is why it is no surprise that the key reform decisions about the future of Bosnia and Herzegovina are made in various catering establishments - restaurants, hotels and bars - and not within the state institutions framework.

ety. The Dayton-Brussels dichotomy thus personifies a false dilemma since the structure of the 'Brussels' relations of the European Union officials with the political elite of Bosnia-Herzegovina is identical to the 'Dayton' phase of the country's historical existence. Following the logic that every discourse has a particular interest laying behind, the following question appears to be quite logical: what causes this type of discourse?

The European Union and the Problem of Exclusion in BiH

The key cause of that is, as I want to show – the process of European Union's (self)constitution (perceived as the most important segment of the 'international community' in BiH) as a geopolitical subject in Bosnia and Herzegovina. Revealing much more the sheer nature of the political relationship than the wish of its individual representatives, the constitution of the European Union as the political subject is taking place in a context of radical ambivalence of its political presence in BiH and forces 'the political' out which indicates attempts to overcome its own phenomenology, but eventually results in deconstruction of the object of its own action. How is this happening?

First of all, the phenomenon of the European Union and its representatives in Bosnia and Herzegovina embodies the paradox of sovereignty. In regard to this assertion and in the context of the present political constellation in Bosnia and Herzegovina, it is quite certain to ask for which political subject in Bosnia and Herzegovina of today we can say it is sovereign. Is it the state? The entities? Ethnic communities? If the sovereign is the one who, according to Carl Schmitt's interpretation, has the right to determine the state of exception, then it is neither the state of Bosnia and Herzegovina and its entities, nor ethnic communities that are the basis of the political order. I wish to claim that the supreme sovereign of Bosnia and Herzegovina is exactly the European Union, as a conglomerate of intertwined interests which become real in the concrete hubs of political power in BiH. The sovereignty of the European Union in Bosnia and Herzegovina is not necessarily demonstrated at the explicit level – even on the contrary, the European representatives' rhetoric in BiH, as of recently, is glutted with the phrases on local ownership over the decision-making process and the political future of the country. Rather than that, it resides deep into the phenomenology of the relationships between the European Union and Bosnia and Herzegovina, manifesting itself as a specific product of the political consciousness. What makes then the European Union the sovereign of Bosnia and Herzegovina?

Giorgio Agamben, Italian political philosopher, writing about the paradox of sovereignty, said that the paradox of sovereignty consists in the fact that the sovereign

„... is at the same time outside and inside the juridical order”⁵ and that, drawing on Schmitt’s definition of sovereignty, it is the *exception* (as the decision) that determines the structure of the contemporary political order. The exception also determines the sovereign as it also implies that „... what can in no way be included is included in the form of the exception”.⁶ In this way, the sovereign is *exceptional* to the political order as he constitutes it as such but also decides on every change of things. As the master of the given political order, he is a constituent part, but at the same time he is outside the political order through the constituting supremacy over its norms:

„... the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law. This means that the paradox can also be formulated this way: ‘the law is external to itself’, or ‘I, the sovereign, being external to the law, declare that there is nothing external to the law’”.⁷

This ambivalence of the sovereign subject is of key importance for the understanding of the phenomenon of sovereignty in general; in the context of Bosnia and Herzegovina and the European Union, it indicates a specific political relation that is the object of this discussion. Although the opinion prevails that ethnic communities in Bosnia and Herzegovina are holders of political sovereignty – due to the fact that every political decision is made or is justified in the name of one or more ethnic groups – if we take into consideration the fact that the state of *exception* in BiH is decided on by the representatives of the international community in broader terms, we can say that the sovereignty belongs to them.⁸ Aren’t the Bonn powers invested in the High Representative of the international community, that is, in the EU Special Representative in BiH – as the *exception* in the political configuration – the mandate over the sovereignty of Bosnia and Herzegovina?⁹ In other words, is there a political subject today, in addition to the High Representative, as the extended arm of the European Union, that has power to make a decision which transcends the existing

⁵ Giorgio Agamben, *Homo sacer: suverena moć i goli život, (Homo Sacer: Sovereign Power and Bare Life)*, Zagreb: Multimedijalni institut, 2006, pp. 18.

⁶ *Ibid.*, pp. 27.

⁷ *Ibid.*, pp. 18.

⁸ All the more so as the OHR, the core of the international administration of Bosnia and Herzegovina and the nucleus of the planned long-term presence of the European Union, is represented as “...an *ad hoc* international institution responsible for overseeing the implementation of civilian aspects of the Agreement which ended the war in Bosnia and Herzegovina”; for more details, see: http://www.ohr.int/ohr-info/gen-info/default.asp?content_id=38528.

⁹ Even a partial information about the use of so-called ‘Bonn powers’ invested in the High Representative leaves a striking impression about the character of the international administration of Bosnia and Herzegovina: during the period between 1998 and 2005, the Office of the High Representative issued 757 decisions, removed 119 people from their official positions and imposed 286 laws or amendments to the existing legislation. For more details, see Mathew Parish, *The Demise of the Dayton Protectorate*, in: David Chandler, *Inside the Bosnian Crisis*, Journal of Intervention and State Building, Volume 1, Special Supplement, 1 December, 2007, pp. 15.

legal and political constraints, without having a constituent need to justify his own action before the formal representatives of government, the civil society and the citizens in the country? In this way, the European Union, through the Special Representative in BiH, is, at the same time, outside and inside the political system of Bosnia and Herzegovina. As the sovereign with the final authority who is able to decide on the state of exception, it is outside the Bosnia and Herzegovina system – as it is above that system; as the power centre able to decide on specific political issues of the society, it is inside the system, being its constituent part.¹⁰ The difference between the sovereignty of the European Union in BiH and the criticism of the international community's action with an emphasis on a the supposed imperial character of the OHR's administration in Bosnia and Herzegovina¹¹, lies in that ambivalent (inside-and-outside) state which provides for the possibility of having a decisive influence on the political order, at the same time, without the minimum of responsibility for the consequences of its own actions that have been shifted explicitly to the local political elite. In this regard, the European Union, as the presumed (geo)-political sovereign of Bosnia and Herzegovina, builds its ambivalent status on the vague, incompletely defined status of the international community in BiH and the authority of the exception, built on the political actions of the High Representatives in BiH in the period between 1997, when the 'Bonn powers' were established as a pattern of political behavior, and 2002, when the transformation of the Office of the High Representative of the international community into the Office of the European Union Special Representative was announced. Ever since, the political status of the European Union in BiH has been a (geo)political implication of Schmittian *exception* as the substance of the sovereign political agency.

The exception in Agamben's interpretation is of crucial importance to the overall order, precisely because – literally – *it confirms the rule*. Without the European Union, as a sovereign and uncompromising reference of political existence of BiH, the present political order (*nomos*) would not have had any sense. This is why every decision made by European officials in BiH in the name of the 'European future' of Bosnia and Herzegovina and its integration into the EU represents „... the inscription to the body of *nomos*, the exteriority that invigorates it and gives it the meaning."¹² The sovereignty of the European Union in Bosnia and Herzegovina is thus built through maintaining the present political constellation and the political framework inherent to it, as a guarantee of its own political vagueness and freedom of

¹⁰ Even at the symbolic level, the European Union is a constituent part of Bosnia and Herzegovina. The way the national flag looks confirms this fact.

¹¹ Which is, say, the case with the known analysis by Gerald Knaus and Felix Martin *Travails of the European Raj*. In their analysis, Knaus and Martin establish an explicit link between the British imperial rule in India and liberal imperialism of the OHR in Bosnia and Herzegovina. For more details, see *Journal of Democracy*, Volume 14, No. 3, July 2003, pp. 60-73.

¹² Agamben, pp. 28.

sovereign agency.¹³ In this regard, the overcoming of the 'Dayton' and the establishment of the 'Brussels' Bosnia and Herzegovina, as the realization of the official project of 'empowering the state institutions' which would take the ownership over the management of the political development of the country, would represent the abrogation of the European Union's sovereignty in BiH and is (from the aspect of the political subjectivity of the EU as an expression of its political consciousness) an undesired project. This assertion is based on the assumption that, as a (geo)political subject of the world, the EU existence is based on existence of incomplete states such as Bosnia and Herzegovina, where, building its own constituting power, it becomes established as the subject of the world's politics *par excellence*. In this regard, I claim that, as a *reluctant master* of the political sphere of Bosnia-Herzegovina, the European Union does not want to establish itself as a constituted power – an integrated part of the political order – rather, it wants to exist as a permanently constituting (outside) political force without responsible institutional realization within the political system of Bosnia and Herzegovina.

The logic of the political sovereignty, interpreted in this way, is based on the dual exclusion. In addition to its own exclusion from the norms of the political system, which is constituent for the notion of sovereignty, its logic is also based on the exclusion of what Agamben calls the 'bare life', which, for the purposes of this paper, may be described as an everyday exclusion of the citizens of Bosnia-Herzegovina from the political order, whereby they themselves become the basic political objects. In this regard, every policy which deals with the 'bare life' on the principle of exclusion – for example, the complex administrative procedures of the visa regime and the practical isolation of the citizens of BiH – makes it the basic element of politics as such. At the opposite pole of exclusion of the sovereign of the political order is the object of 'bare life' – citizens of Bosnia and Herzegovina, who are also, at the same time, inside and outside the political system that builds its legitimacy on their biological existence. They are inside the order as every political decision is, in principle, made in their name and is legitimated by their a priori consent to the political elite configuration; but they are also outside of it, as they are excluded from the direct processes of making political decisions and are not regarded as rational members of the political society who should be consulted during processes of decision-making on issues of public interest. The political order of Bosnia and Herzegovina is thus based on the double exclusion – of the officials of the European Union and the international community on the one hand, and of citizens of Bosnia

¹³ This reveals in particular the legacy of the character of the overall international administration in BiH where the authority and powers of the representative of the international community and the EU within the OHR were growing "...within the scope and strength from nothing to everything, through the powers to impose sanctions and an interim law developed with the aim to provide support to the Dayton process to absolute powers over an indefinite spectrum of issues. The OHR mission, mandate and powers have been continually reshaped as a response to a changed understanding of why BiH needs the OHR - which is the other way of saying, why BiH is not considered to be responsible for democratic self-government." Knaus and Martin, pp. 68.

and Herzegovina, on the other, where the European Union plays the role of a sovereign – constituting power outside the political order, while citizens are the object of biopolitics *par excellence*. The sovereignty of the European Union in Bosnia and Herzegovina and the exclusion of the citizens from the process of political decision-making are, in this regard, manifested as mutually conditioned elements of the overall political relation in this country.

This double exclusion fully corresponds to the above-mentioned matrix of politicizing in Bosnia and Herzegovina on two basic levels in which the main partners to the European Union in the transition process in Bosnia and Herzegovina are members of the ethnic political elite, and not the citizens of this country. Maintaining that system is of key importance to both subjects of the Bosnia-Herzegovina politics – to the sovereign embodied in the European Union institutions with the authority of exception, and to the local ethnic politicians who build their own political legitimacy and generate pseudo-political and (most importantly) economic power on the exclusion of citizens from the deliberation processes.

Some of the concrete examples in practice indicate that the manipulation of the criteria set for the Bosnia-Herzegovina integration in the EU, through expressing sovereignty based on suspension of the constituted power, prevents a sound democratic development of the political system of Bosnia-Herzegovina. The frequent use of the Bonn powers by Paddy Ashdown, their total ignorance by Christian Schwarz-Schilling, and their grand revival by Miroslav Lajčák's decision on the amendments to the Council of Ministers Act, of October 19, 2007 – which, even more paradoxically, pulled the plug on them, to a large extent – bear testimony to the international manipulation with the political domain of Bosnia and Herzegovina and to the inability to formulate consistent and responsible policies aiming to build democratic capacities of Bosnia and Herzegovina. In this regard, the above-mentioned High Representative's decision, which caused „... one of the most serious political crises since the Dayton”¹⁴ should be considered as an attempt to build the political subjectivity of the international factor in BiH (primarily related to the European Union through linkage between the police reform and the signing of the Stabilization and Association Agreement) and not as a rational political effort to build democracy in BiH. Inability of the European Union to be constituted in Bosnia and Herzegovina as a political subject with clearly defined powers, and its inability to give up some kind of management of the political process in BiH make it a *reluctant master* that is, at the same time, inside and outside the political order of Bosnia and Herzegovina, and who, thanks to this status, exercises the full sovereignty without having a direct responsibility (since the sovereigns as such are *outside the law*), and also des-

¹⁴ David Chandler, *Inside the Bosnian Crisis*, Journal of Intervention and State Building, Volume 1, Special Supplement, 1 December 2007, pp. 1.

troys the prospects of the long-term development of the democratic political culture in this country.

The Politics of the European Union and the Prospects of Democratic Development of Bosnia and Herzegovina

Bearing all that in mind, it would be advisable to consider the prospects of the long-term democratic development of Bosnia and Herzegovina and some of the possible alternatives to the European presence in Bosnia and Herzegovina. In this regard, there is no need to ask whether there is a danger for the EU contradictory policy in BiH to transform the critics of the reform-related accession criteria into the EU opponents, but what kind of the European Union policy may contribute to the long-term development of democratic political culture in Bosnia and Herzegovina as a guarantor of freedom of its citizens and of the overall regional stability? There is no need to insist on the full negation of the political¹⁵ via the necessary elimination of any opposition to the politics and (geo)political values of the European Union – as it is precisely here that the European Union reveals itself as an imperial master – but in establishing democratic, freedom-based mechanisms of articulation and solving of problems arising from the conflicting nature of the political phenomenon as such. It is not enough to call for a consensus within the existing (largely non-democratic) patterns of decision-making – like semi-public meetings in café bars and restaurants - concluding that there is no consensus and using that fact to vindicate non-democratic and autocratic imposition of political solutions and decisions.

There are several concrete political alternatives to the present European Union's policy towards Bosnia and Herzegovina. Following the understanding of democracy, offered by Italian political theoretician Norberto Bobbio, under which it is more important for democracy *where* it applies than *who* is its main consumer, I conclude that the expansion of the democratic front – and not its deepening – should be one of the main priorities of any development policy for Bosnia and Herzegovina. Practically, this means the expansion of the basic democratic procedures – which, in this context, I largely identify with the processes of free, rational decision-making about the issues of common interest, which are based on arguments and public participation – to include as broad social spectrum as possible. This refers in particular to the sphere of actions of the international community and the European Union in BiH which, in this context, has to make a clear choice between: a) remaining a reluctant master – sovereign in interposition to which the norms of political order and democratic values do not apply; b) institutionalization in the form of con-

¹⁵ Here, first of all, I refer to Schmitt's understanding of the political as the permanent possibility for a conflict, or the establishment of a 'constituent otherness' as the key element of establishing political action. For more details, see Carl Schmitt, *The Concept of the Political*, University of Chicago Press, [1932] 2007.

stituted power with a strictly defined and fully explicit responsibility; and c) leaving Bosnia and Herzegovina as the field of (geo)political agency.

If the EU decides to keep the present matrix of political behavior, it is highly likely that Bosnia and Herzegovina will remain in the state of permanent transition in which citizens' 'bare life' will be squeezed between the sovereignty of the European Union and the international community on the one hand, and the local political elite, on the other. In this case, it is about an intricate and hardly solvable dialectics in which it will not be possible to recognize democratic alternatives to political problems, and the entire political development will be taking place along the European Union-political elite axis, while civic political agency will be pushed to the margin. In this way, Bosnia and Herzegovina will never go beyond the state of transition – which, in substantial democratic terms, means not the change of a certain political regime but the *change of the pattern for production of the political elite legitimacy* – and will remain in permanent political clash between the need for the reform and the inability of its full and final implementation.

As it is rather certain that the European Union will not leave Bosnia and Herzegovina as the object of its (geo)political action – because of itself far more than because of Bosnia and Herzegovina – the only remaining democratic alternative is a kind of institutionalization of the European Union as a constituted, responsible political subject with limited powers in Bosnia and Herzegovina. This would imply the establishment of direct and explicit responsibility of the European Union officials for the political development of Bosnia and Herzegovina to the extent at which their actions affect the present political constellation. This would also mean the institutionalization of new practices of political negotiations and decision-making which would be fixed within the country's political institutions that have been designated and designed for those purposes, instead of the present non-democratic and semi-public patterns of making the most important political decisions about the future of the country in an informal and inappropriate context of catering establishments – bars and restaurants – far from the public and critics' eye. Only when, say, the High Representative and other representatives of the European countries and institutions decide to negotiate with the local officials *exclusively* within the state institutions and through their official titles instead of talking to them under the ethno-political framework, the full democratization of the political domain and its inherent processes can be expected. In other words, it is not possible to advocate democratic values while doing business within non-democratic frameworks, thereby preserving the status quo. In this way, we can say that the level and speed of transformation of Bosnia and Herzegovina from a post-conflict country of non-democratic decision-making to a mature and responsible democratic society, in which political decisions will be a matter of public deliberation, and not of secret meetings of the political elite and international officials, depend on the European Union. Only when the European

Union agency in BiH becomes able to ensure establishment of democracy in all social spheres – in which the *manner* of action of its representatives and its ultimate goal become inseparable – Bosnia and Herzegovina will become a democratic and mature society, created to meet the needs of its citizens and not of the political elite or the international political subject.

Bodo Weber

Political elites and political culture in BiH and the EU integration challenges

When on April 16, the majority of delegates of the House of Peoples of the Parliamentary Assembly of Bosnia and Herzegovina passed the two police reform bills, only a few days after their colleagues in the lower house, House of Representatives, did the same, they removed the very last obstacle hindering the signing of the Stabilization and Association Agreement (SAA) with the European Union and unblocked the EU integration process within the country. The controversies of some specific circumstances, which characterized that political step, were best described in the parliamentary debate by Bozo Rajic, a Croat of HDZ, who supported the bills. Rajic said during the floor debate that „he was neither happy nor unhappy” over the bills, although, he said, he understood his vote „as a conscious responsibility for the job to be done”, and explained that „the present Constitution prevents serious reforms...and we have to aspire to the arrangements and models which will bring us closer to the EU principles.”¹

Rajic’s debate represents a rather open recognition that the Bosnia-Herzegovina step towards the EU integration results from the combination of political conformism and controversy. In fact, it is based on two easily noticeable illusions: first, the illusion of the political compromise reached by and between the most important political parties in BiH about the content and purpose of the police reform, aimed at concealing the continuity of an ethnic-based rejection of the reform principles set by the European Commission, i.e. territorial re-organization towards de-politicization in the first place, or de-ethnicization of the security agencies by the RS-based Serb parties. The other is the seeming fulfilment of the European Union’s requirements for the signing of the SAA. The „trick”, which bonds these two illusions together, is the announcement of further police reform soon, in compliance with the EU principles, based on the constitutional reform, which has also been announced. The reform which those same political elites have been consistently rejecting ever since the Dayton.

If nothing else, this imaginative construction shows two things: first, the EU integration process of Bosnia and Herzegovina requires cooperation among the domestic political elites. Secondly, there is a problem regarding the will of the political elites to implement democratic reforms, as a prerequisite for the EU integration. From this perspective, a political observer wonders what has motivated the international com-

¹ Almir Terzić/Tahir Brkić, "Nakon prošlosedmične podrške Predstavničkog doma", in: *Oslobodenje*, 17 April 2008.

munity to accept cooperation with the Bosnia-Herzegovina political elites in such a „joint imposture” of the EU integration criteria.

Along with a high level of despair over resistance offered by the political elites to international political efforts to transform Bosnia and Herzegovina from a façade of a state to the functioning democratic state (especially following the political crisis by the end of 2007), its main motivation consists in the hope for the integration process itself. The hope that the first step taken towards integration will result in a social and political dynamics which the political elites – unlike previously – will not be able to resist, while hoping most deeply that the society, i.e. the citizens will start playing an active political role which will force the elites to transform their own political roles. Thus the incumbent chief of the international semi-protectorate in BiH, the High Representative Miroslav Lajčák, revealed in his most recent, April report for the United Nations Secretary General, the goal to „create the critical mass of citizens...encouraged to speak in favour of the EU integration thus putting a growing pressure on the national political establishment to fulfil their obligations towards integrating into the EU”², and expressed his belief in a May address in the implementation of the reform steps required along the road to the EU membership, which he based on in an analysis that „around 70 percent of the BiH electorate want their leaders to take BiH to Europe.”³

Hence, the key question for the future prospects of the EU integration process of BiH is: can the currently seeming progress become the real progress? In searching an answer, it would be necessary, first of all, to analyze the contemporary character of the political elites and the character of the „political culture” of the BiH society, and the relationships between the political elites and the society/citizens.

The political system of the post-Dayton Bosnia and Herzegovina

Political elites:

The character of the political elites in the post-Dayton BiH determines the continuity of the social and political domination of ethnic nationalism. Ethnic nationalism, as one of the forms of contemporary collectivist ideologies, had its origins in the socialist Yugoslavia, where it emerged as the main means of verification of the specific process of decentralizing an authoritarian, one-party political system. It was an irrational decentralization, later responsible for the break-up of the country,

² Thirty-Third Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations (1 October 2007 - 31 March 2008), see: http://www.ohr.int/other-doc/hr-reports/default.asp?content_id=41694

³ "Lajčák: Integracija u EU bavi se fundamentalnim pitanjima državnosti BiH", see: http://www.ohr.int/ohr-dept/pressr/default.asp?content_id=41734

generating savage bloodshed. The Dayton institutional, constitutional framework in the last decade and a half has made it possible for the new political elites to continue the old tradition of an authoritarian, regressive decentralization, on the new bases. Although the efforts towards democratization, which the international community has made over the last decade and a half, have pluralized three mono-ethnic „one-party systems” within the overall political system at the end of the war in BiH, they failed to democratize them, i.e. the reforms have remained within the system of a predominant authoritarian ethnic decentralization.

Decentralized political system continues to contain two main characteristics ever since the socialist era, which are shaping the political elites:

The first: authoritarian character of the decentralized order, which enables the survival of the political elites through prevention of democratization of the political system, whereby political elites become (or remain, rather) the main generator of the social crisis and blockade of the reformist, modernization processes. The combination of a modernization blockade and political elites, as stakeholders of decentralized order, survived post-socialist transformation of the elites thanks to the process of social inversion during the war. Resistance of that relationship against the reform processes in the post-war period may be reflected in the elites’ attempt to preserve, through corrupt higher education system, the structural characteristics of the negative staff selection. ⁴

The other characteristic of decentralized order is de-institutionalization of the state. The elites manage to maintain authoritarian rule through decentralizing the socialist rule also by de-institutionalizing the state structures, through para-institutional actions from within state institutions, with the state and parties coalescing together. The Dayton order has largely enabled decentralization and de-institutionalization to continue to coalesce together, resulting in the process of para-institutional, substantial undermining and eroding the state institutions at all levels in BiH, and subordination of the state political system to both group and individual interests beneath the authoritative surface. The forms of manifestation of that para-institutional political practice were previously referred to as „malversation” or „economic crime” while today they are referred to as „corruption” or „organized crime”, but the relationship between ethnic decentralization and de-institutionalization, as well as the depth of the process of eroding the state (and all other social) institutions, remain largely ununderstood.

Ethnic nationalism may take over the above described role as it is not the form of a classic ideology which can be understood on the basis of a kind of „convic-

⁴ See: Bodo Weber, *Kriza univerziteta i perspektive mladib naučnika u BiH*, Sarajevo 2007, S.

tion” of its followers in ideological contents, but rather as a modern collectivist ideology which largely relies on a conformist motivation and function of a medium of the social integration: this is about collective, dichotomized political discourse about „them” and „us” which enables the process of social homogenization through collective self-understanding. Collective discourse which by its talk about „ethnos”, „identity”, „tradition”, „culture” etc., remains substantially fully undefined, does not contain any concrete (except for mythical, virtual) picture of the state or the society as its main function is precisely the lack of definition, vagueness – with the aim to avoid contemplating about the social reality. Ethnic nationalism as a process of collective understanding of each other represents a specific reaction to the social crisis which by itself becomes a generator of (an ever deeper) crisis. Its practical-political side represents precisely what we can see in the post-Dayton BiH – politics void of substance the essence of which lies in permanent reproduction of collective ethnic self-understanding, in permanent reproduction of collective ethnic confrontation and creation of a state of emergency, or maintenance of unstable social relations, rather than politics in the original, modern terms – as best regulation of social relations as possible.

Thus, this is not about a political dynamics, either archaic or collectively irrational, but about a specific political „rationality” which generates regressive, self-destructive social dynamics. The dynamics which could be maintained in the post-Dayton period because of further vagueness of relations between territorial organization, ethnicities and the state, and because of semi-protectorate with its divided political responsibility between the international community and domestic political elites, which, in fact, turns into the system of structural political irresponsibility.

From this perspective, it becomes understandable why domestic political elites, during the first years after the war and the current „Brussels” phase react negatively, in most cases, to the rational stimuli offered by the international community for a democratic and market economy transformation of Bosnia and Herzegovina.

Population and political culture:

The hope that the international community cherished in different phases that the BiH „citizens” would become the centrepiece of the social and political democratization of their country was generally not realized as it failed to understand one fact or its background: that the population, that the „people” have been and remain an active participant in the social process of ethnicization – at two different levels: the first concerns an active participation in ideological homogenization of the society, and thereby in the political legitimization of ethnic political elites. An active participation in collective self-understanding, in a conformist avoidance of coming face to face with the real crisis in the society, which turned most of the people from accomplices of the communist elite in modernization blockade during the crisis of the

Yugoslav socialism into accomplices in violent ethnicization of the society in 1990s. This complicity in the post-war phase seriously makes the process of integrating the Bosnia-Herzegovina society difficult.

The other level of active participation is the participation of the people in eroding institutionalization of the state through informal economic and other social practices. The joint practice of „exchanging favours” and of „connections and contacts” among the elites and people dates back to the real-socialism era and continued in an ethnicized BiH society, as a result of the transfer of the specifically dominant type of authoritarian personality which, unintentionally, developed in socialism, and which we could call „collectivist egoism”. This indicated a specific structure of individuals of the simultaneous conformist action within an authoritarian social order which does not recognize individual needs and the underground, clandestine (often brutal) attempt to pursue individual (material and non-material) egoistic interests and needs. That is a specific authoritarian structure which prevents the development of both the creation of a real authoritarian and a democratic political order.

The Dayton political system (competitive elections, parliamentary and multi-party system, ethnically defined state institutions and an authoritarian arbitrator of international semi-protectorate, existing at the same time) enabled the reproduction of that authoritarian, anti-democratic treatment of politics by the society. That this is essentially an anti-democratic treatment cannot be seen at first sight because of the ambivalent participation of the people in the process of de-institutionalizing the state: the people are taking an active part in eroding the state/social institutions, while being, at the same time, dissatisfied with the self-destructive political and social consequences of their actions (economic crisis, social crisis, legal insecurity etc.). The reason why this cannot be seen lies in the conformist channelling of that dissatisfaction towards other ethnic collectives, and its transformation into a new source of collective ethnic self-understanding.

This is the way in which it becomes understandable why the people in the post-Dayton period have not gone beyond the present framework of the political system, or political culture. The best illustration is the traditional „negative” electoral behaviour of the voters all of whom vote against a certain politics, often politics of the party in power, as a democratic expression of criticism of the effects of the regime, while still remaining within the dominant framework of ethnic parties. Or another example: negative attitude towards „corrupt” state institutions and political elites expressed in numerous public surveys, which, in fact, is the expression of repressing one’s own „civic” responsibility, social reality in which „corrupt” practices represent an integral part of everyday life and socializing experience. The political culture thus comes down, in essence, to aspirations of the majority of the population towards democratic, prosperous country and the rule of law, „order and labour”, and to waiting for somebody else to bring them the social transformation.

„Democratic alternative”:

In an attempt to identify domestic allies for their project for democratic transformation of the BiH state, the international community has so far invested most of its time in identifying democratic alternatives within the political elites and pushing them to the regime positions – with defeating effects though: over more than a decade, all potential political party stakeholders of democratization have been wasted and even compromised (some even more than once) by partially occupying some of the government positions. Despite alternative non-ethnic democratic ideological content of their agendas and politics, their speeches about „liberal state” and „civil society” made them, content-wise, nearly as vague and noncommittal as an ethnic discourse; they did not move beyond the social dynamics of avoiding facing the real social and political situation. Similarity with ethnic parties thus surfaced in the non-substantial politics, behind the ideological difference, as well as similarity in the organizational structure of the party life: domination of political tactics and personal interests at the cost of political strategies, and authoritarian intra-party structures, putting state functions before the political party engagement, etc.etc. The failure of „democratic” parties to become a political centrepiece of the social transformation shows, in fact, the conformist power of regressive social dynamics of ethnicization.

Political elites and political culture in the EU integration process

Returning to the main themes of this paper – how a problematic basis of the up-to-date steps towards the EU integration may grow into a stable social and political dynamics of democratic transformation – the key question of the social bases of the EU integration of Bosnia and Herzegovina seems to be unavoidable: what is the reason why there has been no social basis for reform so far and how and where can the subject of the reform process be emerge?

Among the political elites there is nobody able to transform the so-far prevailing logic of the (non-) functioning of the political system and political elites. The political analyses and assessments of international officials working in BiH and of those that the High Representative refers to, leave the impression that also the international community, meanwhile, has come to the same conclusion, which, in itself, may have positive effects on the international community’s actions in BiH.

Likewise, the European discourse, the EU integration discourse, in itself, cannot play the central role of the subject nor create a subject. The European discourse is assuming the same characteristics as an ethnic discourse: from vague presentations of the state and the society to a homogenizing effect of collective self-understanding of the EU integration, the European integration of BiH which is „implied” as much

as is the fact that each individual belongs to an ethnic collective. The European discourse remains within the bounds of the dynamic of the social discourse of avoidance and ideological conformism. Ideological conformism, in principle, may play a constructive role in the EU integration processes – Croatia is an example – where the nationalist consensus has simply merged with the European, hence enabling the reform dynamics, which was inconceivable before. The problem of Bosnia and Herzegovina is that the three-ethnic-group structure of the state, politics and the society prevents the European and nationalist discourse from banding together, while enabling a parallel existence of the European and nationalist discourse, which makes the reform dynamics, similar to that in the Republic of Croatia, extremely difficult.

Thus, the BiH citizens, i.e. the people, remain as a potential subject of the reform process which will lead to the integration into the EU, or the above-mentioned hope that they will turn into the „critical political mass”. It is possible to conclude from what has mostly been a negative political role of the people that neither diverse economic and other incentives provided within the integration process nor the positive attitude in principle of the majority of BiH citizens towards integrating the country into the European Union will be sufficient for the people to accept the role of a critical mass. This is shown, for example, by a public survey conducted last November.⁵ Although the survey more or less confirms the High Representative’s statement about a two-third majority support to the EU integration policy, the power of that support is relative, especially in the Croat and Serb segments of the BiH overall population that show the most negative attitude towards the BiH state, while the majority support partly turns into minority support when it comes to the issues regarding the requirements for some specific reforms, such as, for instance, the police reform (the majority of Serbs in the RS). Moreover, those surveys have never revealed the factor of the authoritarian political culture of the population – an authoritarian passive attitude towards the integration policy hiding behind a pronounced support (which some political analysts have warned of recently⁶).

Despite the problems, we can expect that the signing of the Stabilization and Association Agreement (SAA) will have a positive effect on the BiH population, for at least three reasons:

1. The beginning of the integration process, even if the European Union violates its own criteria, will at least partly narrow down the current area of collectivist discourse of self-understanding, even tolerance by the people of non-substantial political practice of the elites.

⁵ *Public survey*, ACIPS, Sarajevo, November 2007.

⁶ Ivan Lovrenović, "Čekanje kao sudbina", *BH Dani* No. 568, of 2 May, 2008.

2. A certain dynamics in the integration process will be created by the advancement of the neighbouring states (the Republic of Croatia, Montenegro, Serbia).
3. With the status of Kosovo solved, the political discourse in BiH is more or less reduced to itself (with the exception of a still pending, unsolved national political problem of dual citizenship of the BiH Croats).

However, at the same time, the road leading to the signing of the SAA is threatening to have also a negative impact on the attitude of the population towards the EU integration policy.

Giving the time-advantage to Serbia in the SAA process, by scuttling the criteria for the reforms, may have an anti-European effect precisely on the 'most pro-European' segment of the overall population of BiH – Bosniacs.

There is a danger that the domestic democratic criticism of the European Commission over manipulation with integration-related criteria may transform the most valuable democratic potential in the BiH society into 'Euro-sceptics'.

Manipulation of the criteria may consolidate anti-democratic authoritarian political culture among the BiH citizens. The above-mentioned public survey confirms this concern over the Serb population in Republika Srpska.

The creation of a new reform dynamics, with the European Union's approval of the signing of the SAA, would, in fact, have a counter-effect on its key strategic point, the population and its transformation to a critical political pro-European mass.

Crucial to the European Union's policy towards Bosnia and Herzegovina further down the integration road will be to take both sides of the effect – positive and negative – into account most seriously.

Edin Šarčević

Bosnia and Herzegovina and Controversies of the EU Integration Processes (Constitutional View)

I. EU as a tool to change the Constitution?*

1.1. The international law argument

„Membership in the European Union”¹ is the argument raised too often in the debates on the reform of the constitutional system of BiH. Under the „membership argument”, the EU accession requires the reform of the present Constitution, or a new Constitution. That is the only path – the very basic thought – that would bring BiH the Constitution which will be compatible with the organization of the Union. We get the impression that the reform of the constitutional system of BiH, whatever that means, is the categorical imperative of the European integration.²

That position is true to a small extent only and thus applicable to the extent which is far smaller than it is believed.

The EU represents an international organization with the legal personality;³ it gives the highest priority to economic goals⁴. Its area of applicability is the international law. The preliminary question of the relationship between the international law and national (state) constitutional law arises from that simple fact: does the international law determine a national constitution making, the material content of the constitution and the organization of the government?

1.2. The international law and national Constitution

The international law does not deal with either the drafting or adoption procedure or the possible content of the state Constitution; it is „indifferent” towards the

* The analysis does not make any difference between EU and EC; the term European Union refers to both, in terms of constructing a legal framework for the European Communities in their additional policies and in the forms of common work of the member-states. I chose this approach on the basis of the fact that new members may join the European Union, and not the European Communities, in an isolated manner (Article 49 of TEU).

¹ Cf. BiH Progress Report for 2007 (The EC Commission, 6 November, 2007, SEC Š2007Č 1430) in which the reform and the failure of the reform of the „constitution” is linked directly to the EU membership (page 7 onwards).

² It is clear that the EU integration, in addition to the legal dimension, also has a *historical* (social history), *political science* (protection and promotion of national interests), *economic* (liberalization and integration of the market), *cultural* (areas of cultural communication of communications in general), cf. instructive description in *Haltern*, *Europarecht*, 2. edition 2007, Chapter „Worüber wir sprechen”, page 27 onwards. Here only legal aspects are taken into consideration, or the constitutional shaping of the state and parastate structures and proto-federalism.

³ *Borhardt*, *Die rechtlichen Grundlagen der Europäischen Union*, 3. revised edition 2006, page 55.

⁴ Cf. E.g. The European Court Decision in *van „Gend & Loos”*, case EuGH Rs. 26/62, Slg. 1963 1.

national Constitution and to an internal constitutional system. For the international law, the most crucial question is whether a state is able to implement all the rights and duties of an international law entity within its own constitutional system. It has to act as a sovereign organism, with one voice, towards the outside world. In the procedure of making the Constitution, it may ascribe to the international law the function of a non-binding normative standard.⁵ The federal structure of the member-states and a complex national organization pose no obstacle to the membership (classic examples: Belgium, Germany and Austria). But only a state can be a EU member (as the real international legal personality) and it takes commitments towards the EU – here, the constitutional law is relevant here only as the medium which enables articulation of specifically federal interests at the state level in order for a complex state to speak with one voice outside its borders.

From the perspective of international law, the making of the constitution and the shaping of the constitutional system appear as the exclusive responsibility of the national constituent assemblies at the state level. Making any Constitution open to the international law may be understood simply as a necessity or as a sign of the political wisdom of the framer of the Constitution.

A question arises from this as to whether the EU, in and by itself, can take over – in the capacity of an international organization – the position of the international law?

1.3. EU and national Constitution

The EU legal nature thus speaks in favour of the thesis that the EU, just as any other international organization, is indifferent towards the national constitution making and that, in principle, it is not interested in the Constitutions of the member states.

This finding, however, should be corrected: the achieved *level of integration* and *sui generis quality* of the EU and EC separate the EC – as the cornerstone of the EU – to a distinct legal construct which may have a direct influence on the national Constitution.⁶ The legal consequences arise from the constitutional interspace of EU/EC – more than a state, less than a federal state = status of a supranational organization.⁷

Such „consequences” may have an indirect influence on the constitutional systems and hence on the constitutional text of the future members. For, it stems from

⁵ For more details and more specific explanation see *Šarčević*, Völkerrechtlicher Vertrag als „Gestaltungsinstrument” der Verfassunggebung: das Daytoner Verfassungsexperiment mit Präcedenzwirkung?, AVR tom 39 (2001), p. 299 onwards.

⁶ The only thing the EC shares with other international organizations is that it was formed on the basis of an international treaty. All the rest is different: EU/EC established a highly independent community equipped with its own sovereign rights; member-states ceded some of their sovereign rights to EU/EC; a catalogue of the tasks transferred to EU/EC is largely different from other international organizations, because its area of activity includes the tasks which are typical of a state (judiciary, adoption of regulations which apply directly or indirectly, regulation of broad areas of economic life and taking over of some regulatory and operational functions).

⁷ Cf. *Ipsen*, Europäisches Gemeinschaftsrecht, 1971, p. 70, 255; *Borchardt* (footnote 2), p. 55 onwards.

the nature of membership that the Constitutions of the EU/EC members are aligned with the EU law. EU/EC as an argument of changing or reforming a national Constitution may, thus, obligate only potential members. The „argument of membership” as a driving force of the constitutional reform in BiH could perhaps be found in this point.

1.4. The accession criterion

Thus, the EU/EC influence on the national Constitution could be possible only in one point, with no fixed time limit. It concerns the fulfilment of material assumptions for the EU accession.⁸ The regulatory complex from Article 49 of the TEU (Treaty on European Union) is relevant.

Thus, the EU accession may be possible only after the candidate country is able to fulfil the political and economic requirements. Economic requirements, in abstract terms, refer to the wish to integrate and the ability of a candidate country to fit into the common market (different areas of economy are examined: for example, the price level, trade and currency liberalization, economic stabilization level, structural changes in foreign trade, labour market, public revenues, privatization and restructuring of enterprises as well as the financial sector). None of these issues is an eminent issue of the constitutional regulation so that the EU’s direct influence on the text of the Constitution has to be excluded right away.

Regarding the material assumptions⁹, the ability to transpose fully the EU *acquis communautaire* is implied.¹⁰ Furthermore, political requirements imply institutional stability, democratic system and constitutional mechanisms and institutions, protection of and respect for human rights and the rights of minorities. They are expanded by the requirement for the respect for international law and a peaceful resolution of inter-state territorial disputes – especially with the assistance of the International Court of Justice.

These are the constitutional *principles*; but the obligations arising from them cannot be interpreted as clear legal demands. In short, those are programme positions

⁸ For more details about that and further analysis, see Šarčević, EU-Erweiterung nach Art. 49 EUV: Ermessensentscheidung und Beitrittsrecht, EuR 2002, p. 461 onwards.

⁹ Under the Copenhagen Criteria, cf. Šarčević (footnote 8), p. 468 onwards, on concrete implementation in BiH cf. The 2007 BiH Progress Report (footnote 1) item 2, page 6 onwards.

¹⁰ If we systematize the criteria on the basis of the Copenhagen criteria, the following groups exist:

- *Political criteria*: a candidate has to ensure an institutional stability as a guarantee for the democratic and constitutional system which will respect and protect human rights and the rights of minorities;
- *Economic criteria*: there has to be a functioning market economy, able to cope with the competition pressure within EU;
- *Acquis criteria*: able to take over the obligations arising from the membership and to integrate political and economic goals.
- *International law criteria*: respect for the international law principle and obligation to resolve territorial disputes peacefully in the International Court of Justice.

Cf. Šarčević (footnote 8), page 468 onwards; Cremer, in Calliess/Ruffert, EUV/EGV-Kommentar 3rd edition 2006, Article 49, page 308 onwards.

which create abstract obligations. Each time they have to be made concrete. This means that the authoritative interpretation will be the duty of the European decision-making bodies: the Council and the European Parliament – the full membership in EU/EC requires positive votes of both institutions. Since according to the prevailing opinion, the decision-makers often enjoy large freedom in decision-making, which in turn often represents a special type of „political arbitrariness”¹¹, we have to conclude that the EU/EC accession program, in the form of a multi-stage discretionary decision-making, does not obligate the constitution framer to create a specific system of constitutional arrangements, nor to modify or amend the present Constitution. The „European level of assessment” refers to the „situation as of now”. It is within the current constitutional system that the EU is looking for the elements of fulfilled material assumptions for the membership or the area for their improvement.¹²

If, in addition, we keep in mind the fact that successive fulfilment of the requirements for the EU accession has to be completed before the actual accession takes place, while the Council may decide at any time to reject an accession application over the country’s failure to fulfil the requirements (Articles 49 and 2 of TEU), it should be clear that the EU, as a legal and economic organization, with all of its material values which often go beyond the merely economic function, affects the national constitution-making precisely as much as the international law does – from this perspective too, it remains the exclusive responsibility of the political nation, concretely, under historical conditions, of every life situation of the formed constitutional framer.

Even if we accept the argument that the material assumptions for the EU membership imply changes to Annex 4, except for the clauses regulating the election to the state-level institutions directly from the territories of the two entities, which run counter also to the European Convention on Human Rights,¹³ there is nothing we should complain about in the Dayton constitutional model, in its narrative part. Thus, the institutional stability, democratic and constitutional system, respect for human rights and protection of minorities exist at the level of the constitutional law. Finally, the sheer question of whether a candidate for the EU membership is „qualified” in terms of the above criteria will anyway be discussed within the accession negotiations, the content of which cannot be pre-judged¹⁴.

That the EU representatives, in every specific case, will not care about details of the codified constitution or the aspects of practical constitutional life, and that they

¹¹ Cf. *Streinz*, *Europarecht*, 4th edition 1999, margin number 79; *Hernfeld* in *Schwarze*, *EU-Kommentar*, 2000, Article 49, margin number 7 onwards; *Meng* in: *v.d.Groeben/Schwarze EU-Kommentar*, 3rd edition, Article 49, margin number 14 onwards.

¹² Cf. The 2007 BiH Progress Report (fn. 1), *passim*; Communication from the Commission to the European Parliament and the Council, 6 November, 2007, COM (2007) 663, page 24 onwards

¹³ Cf. The 2007 BIH Progress Report (footnote 1), Chapter on Democracy and Human Rights, page 7 onwards.

¹⁴ Regarding the inability to determine the content of negotiations in advance, through court, cf. *EuGH*, *Rs.* 93/78, *Slg.* 1978, 2203, margin number 8 (*Mattheus/Doego*).

will be using the accession phases as a kind of a long-term therapy, shows the procedure applied to Serbia: the Stabilization and Association Agreement was signed on 29 April, 2008¹⁵, while as early as on 7 May, 2008 the „Road-Map” was officially presented to Serbia¹⁶, although, *prima facie*, it is clear that at the moment of signing the SAA, Serbia had not fulfilled the elementary requirements for the full honouring of the international law. However, pending issues can always be solved before the full membership – what can be seen now is the textual part of the Constitution which does not exclude the EU membership in either organizational or substantive segments.

1.5. Conclusion

The „membership argument” does not speak in favour of the necessity to implement the constitutional reform. It is a kind of a political and quasi-legal platitude which in BiH of today plays the role of an indicator of power of entity politicians.¹⁷ With the exception of the organizational part of Annex 4 – which is contrary to the European Convention, a well-known problem from before, which has turned into the (universally) recognized problem¹⁸, the rest raises no dilemmas: for the time being, the EU practice does not indicate any valid legal reason which would justify the insistence on changing Annex 4.¹⁹ It is possible to take BiH forward to the required EU membership standards on the basis of the textual part of Annex 4. For, standardization will not be of the „constitutional” but of economic and political nature.

¹⁵ Cf. *Nezavisne novine*, 29 April, 2008.

¹⁶ Cf. *Oslobodenje*, 8 May, 2008.

¹⁷ „A change to internal organization of BiH cannot be a condition for the BiH road to Europe and Republika Srpska does not intend to lose its personality for the EU” (*Dodik* said at the meeting with the delegation of the French Senate, source: *Nezavisne novine*, 7 May, 2008).

¹⁸ The most recent proof and somewhat surprising confession came from *M. Ivanić* (incumbent Deputy Speaker of the House of Peoples) at the joint press conference with the Head of the Council of Europe Monitoring Team: „The provisions of our Constitution regarding the election of BiH Presidency members and the BiH House of Peoples delegates are not harmonized with the European Convention which allows all citizens to elect and be elected. In this regard, the Constitution is discriminating and it is our post-accession obligation to change it.” (source: *Nezavisne novine*, 21 April, 2007). *Ivanić* used to belong to the hard core of defence of Annex 4 through the „boycott method”, announcing, for instance, that we would walk out of the room at the meeting of the ruling party leaders in Neum, „if anyone raises the constitutional reform issue” (source, *Oslobodenje*, 22 February 2005).

¹⁹ Cf. The 2007 BiH Progress Report (footnote 1); it is said in the chapter describing the level of fulfilment of political criteria, entitled the „Constitution” that the leaders have been committed to the required reforms to a limited extent, leaving the impression that it is about the reform of the entity Constitutions, rather than Annex 4. Further, cf. for example, the chapter on the public administration reform, page 10 onwards, in which the „Dayton-Paris Agreement” is mentioned as the framework within which BiH should accede to the EU (*passim*); also, cf. address by Ambassador *P. Schori*, Permanent Representative of Sweden in the EU, at the open discussion at the UN Security Council session about the situation in BiH (NY 22 March, 2001), provoked by an attempted „Croat self-rule” – his speech strengthened the EU accession process, but exclusively within the Dayton system (speech can be found at www.ohr.int/other-doc/eu-stmnt/default.asp?content_id=5894.)

The „European dimension” may serve as a good corrective and trigger, but not as the exclusive or the sole reason for changing the constitutional system. In fact, the EU can neither represent nor is today the criterion or the real logic of the Bosnia-Herzegovina constitution making. The constitutional issue remains the national responsibility which follows national interests. The reasons for a change may be of internal nature only – they may be founded only in the character of the state built on the foundations of Annex 4.

II. Annex 4: Constitutional Model for a Constitutional Chaos Modelling?

***II.1. The previous question: reform or a new constitution?*²⁰**

Internal inconsistency of the state, obviously, depends on the Constitutional Act: the more it is linked to a concrete cause (the Peace Agreement), the narrower application – it is reduced to the premises of the sheer cause (inadaptability). So Annex 4, considered within the temporal reaction, cannot provide monosemic responses (antimonic solutions) to the social needs of the Bosnian national community. Above all, it prevents the establishment of the Bosnia-Herzegovina patriotism as a premise of the rational decision-making about the constitutional reform.

Thus, what speaks in favour of the thesis that Annex 4 should necessarily be changed?

II.2. Sketch of reasons

A jurist sees in the Constitution only the normative element of the overall legal system. But, the Constitution is not an exclusively legal rule of a special quality or a specific figure of the legal opinion which refers to the notion of the „law”, to the „legal norms”. Its basic role cannot be reduced only to the element of the normative hierarchy in a complete system of law. The Constitution is more than that, it is *normative fixing of life* within which normative values and practical life interweave. It is from this perspective that the reasons for the Annex Four’s untenability as the national Constitution stem from. Showing them, first and foremost, as the groups of „legal arguments”.

a) Legal arguments

- **Character of provisional arrangement, constitutional stop-gap solution** comes from the fact that Annex 4 was made as a part of the Peace Agreement, under the international dictate and for the purposes of establishing peace, under utterly vague circumstances and with completely unclear intentions of the constitution framer. Where the U.S. diplomacy appears as the constitution framer, three self-

²⁰ It was demonstrated at the joint conference of the German political foundations (Sarajevo, 5-6 May, 2006) that there was a majority agreement that the constitutional reform was necessary. Cf. the brochure of the German foundations, *Luchterhandt*, executive summary, Sarajevo 2006, in particular page 5 onwards.

declared representatives of the „constituent peoples” and the neighbouring states, there is no permanent legitimating of the constitutional charter which relies on accuracy, legitimacy and recognition of the content of the „constitution” and thereby of the state.²¹ The purpose of Annex 4 is to establish and consolidate peace; with the fulfilment of this purpose, the reason for having the Agreement becomes invalid. The exception was made by the establishment of a functioning and in practice applicable constitutional system – under this condition only the principle of permanence of Annex 4 may still be defended. It is obvious, however, that Annex 4 prevents stabilization of the state and consolidation of the legal and political system on the premises of justice, constitutional loyalty, effective national government; instead, it brings the social and political life to a stalemate and generates social and political conflicts. Thus, it should be accepted that it is a provisional act, the validity period of which expired long ago.

- **Its constitutional quality**, in the doctrinal and legal terms, has to be denied.²²

First of all, because it does not fulfil the constitutional functions, which are: ²³ formation of the political unity of the state, legal confirmation of the social consensus, the function of control, stabilization, rationalization, system or the establishment of the basic values – these are all constituent features of the national Constitution – Annex 4 does not fulfil any of them. Furthermore, it perverts the idea of mutual dependence between the Constitution, the state and democracy. For, the constitutional rule may succeed only with the consent of the „subordinates” (*oboedientia facit imperantem* – the legal performance which brings us back to Spinoza and medieval tradition). This means that the rule of the government, the Constitution and the state may be justified (legitimized) in a democratic way only – Annex 4 opposes this most directly, by the manner in which decisions are made at the state level and by the establishment of an ethnocratic form of government and by substituting demos with ethnos as the basic substance of a democratic decision.²⁴ Finally, legal-technical and dogmatic difficulties disqualify it as the constitutional charter in doctrinal terms.

- **Dogmatic uselessness** arises, first and foremost, from the relationship between its organizational and the human rights sections – the former is defined in the Annex, the latter spreads over international conventions. Further, the contradiction between guaranteed „human rights” (non-discrimination, Article 14 of the ECHR, in conjunction with Article 3.1. of the Protocol to the ECHR and a non-accessory non-discrimination from Protocol 12 to the ECHR) and the „organizational sec-

²¹ Cf. *Stern*, StrBRD I, 2nd edition 1984, page 146 onwards.

²² For more details see *Šarčević*, *Ustav i politika* (Constitution and Politics), 1997, page 120 onwards; idem, *Völkerrechtlicher* (fn. 5), page 306 onwards.

²³ On constitutional functions, see *Šarčević*, *Völkerrechtlicher* (footnote 5), page 305 including further instructions.

²⁴ The problem in BiH was discussed in detail by *Haverič*, *Ethnos i demokratija*, (Ethnos and Democracy) 2006, *passim*.

tion” (members of the Presidency and the House of Peoples elected directly from the territories of the two entities) is indicative²⁵; one excludes the other, while both apply as the „constitutional fact”. Furthermore, the interpretation of the constitutional norms under a classic model of text-meaning-systematics-historical will of the constitution framer is made difficult, even impossible, as there are no protocols or documented will of the historical constitutional framer – the memoirs are useless as being completely non-objective. Finally, the names of the state institutions, distribution of competencies and the absence of the collision clause and also the fact that there is no official translation yet, create difficult dilemmas for every jurist. Overall, Annex 4 does not satisfy even the most elementary presuppositions of the dogmatically rich and usable text.

Antinomic structure²⁶ is just one subtype of the dogmatic weakness and stems from the fact that the normative wholes at the highest level, such as the norms of a Constitution, are mutually conflicting. Annex 4 does not contain the provisions regarding the removal of the existing controversies. „*Civic law-abiding state*” and „*ethnic state of power*” (Article I/2 of Annex 4 and the organizational section of Annex 4), „*democracy*” and „*ethnocracy*” (Article I/2 of Annex 4 and the last paragraph of Preamble in conjunction with Part IV, Article IV and further of Annex 4), „*federal state*” (Article I/1, III/1 lit.a], III/2 lit. B] and X of Annex 4) and „*union of states*” (financial and military organization, Article II, V and VIII of Annex 4 in conjunction with Annex 1 together with partial international personality from Article III/2 of Annex 4), „*national sovereignty*” and „*holder of sovereignty*” (the relation between responsibilities of the national institutions and the real powers of the OHR), „*substantive law*” and „*legalized injustice*” (e.g. returns of refugees and displaced persons under Annex 7 and Article II/5 of Annex 4 in relation to the inter-entity boundary line, cantons or the fact that the site of genocide falls under the territorial jurisdiction of the legal successor of the perpetrator) represent the main constitutional antinomies. The list is definitely not exhaustive, although sufficient for the conclusion that antinomic nature of the Dayton model may be eliminated only by a new Constitution.

b) State structure elements – federalism

The federal elements are an integral part of a federal state and a union of states as a political correlate of the territorial legal units with the historically distinctive

²⁵The elections in 2006 were held under the conditions which were in violation of the European Convention on Human Rights – for this reason, members of the Jewish and Romany Communities and one Bosniac from the RS filed three applications to the European Court of Human Rights (source: the 2007 BiH Progress Report [footnote 1], page 7).

²⁶For more details, see Šarčević, *Verfassunggebung und „konstitutives Volk”*, JöR tom 50 (2002), page 524 onwards; in a simplified version, report from the EU-BiH meeting: *Between Crisis Management and State Building*, The Heinrich Böll Foundation, 2005, page 21 onwards.

identities in the background. They were built on the national and quasi-national premises. Federal units are the natural product of the historical shaping of complex states and where they exist, they represent territorial legal units with a high level of independence, which add to the representative parliamentary democracy (so-called federal or horizontal distribution of powers). At the state level, the political will of federal units is articulated by a separate House with, logically, representatives of the federal units. The Bosnia-Herzegovina federalism shares nothing in common with the above premises.

The territorial structure of the Bosnia-Herzegovina federalism is unnatural – it has no historical background, or real socio-economic or cultural and political legitimacy. Any comparison with Switzerland or Belgium is inappropriate. The inter-entity boundary line essentially runs along the military front lines, forming arbitrarily defined and irrationally delineated entities. This federalism is not based at all on the tradition of the Bosnia-Herzegovina statehood, nor does it correspond to the geographic and regional units or traditional orientation of urban centres to outlying districts, of the cities to villages; it establishes arbitrary territorial forms which disregard road infrastructure and geographic configuration, and traditional orientation of citizens to specific regions in particular, which are an obstacle rather than a practical support to everyday life.

The absurd picture of the Bosnia-Herzegovina federalism is perverted even more by the legitimating practice: at the national level, the entities are not represented as delineated quasi-state communities but as „constituent peoples“. The Serb exclusive base is formed by the RS, and the Bosniac-Croat by the FBiH – the House of the Entities is the House of Peoples with the delegates who, understandably, each time represent one people, directing their political practice towards both feigned and real needs of an ethnic group. This is why it is no wonder that even some serious analyses declare the smaller entity – contrary to the decisions of the Constitutional Court or the Entity Constitutions – „Serb“ entity²⁷, and the Federation the „Bosniac-Croat“ entity²⁸ - these terms are innocent and verify the „ownership“ thus developing a habit and understanding of the future.

Here, federalism becomes an obstacle to the democratic process. Contrary to the original intent, it makes parliamentary procedures complex, creates political blockades as a natural course of the political practice, and removes consensus as the form of national decision-making.

²⁷ At the ceremony marking the RS Army Day, member of the BiH Presidency *Radmanović* said: „We should not forget that the RS was formed by the plebiscitary will of the Serb people and members of the Republika Srpska Army,“ (source: *Nezavisne novine*, 12 May, 2008).

²⁸ In the Grand Lexicon of Nations (*Guter*, Das große Lexikon der Völker, no year of edition, probably 2006 or 2007), the author describes 1.700 nations – the term „Bosnier“ – Bosnian – is explained as the term referring to the entire population, while the term „Bosniac“ refers only to Muslim population. The explanation is based on belief that the state consists of two territorial units, literally „Bosniac-Croat Federation and Serb Republic“!

Political federalism refers to the political party practice. Political parties are organized at the entity level. Their real political life does not cross the inter-entity boundary line to the extent worth mentioning. Annex 4 introduces federalism which ripped the Bosnia-Herzegovina political people apart and installed competition among political parties with „Bosniac, Croat and Serb as their premodifier”, as they say. It is understood that those Serb ones operate in the RS, and the other two in the Federation, while in everyday politics there is no obligation of loyalty to the common state. If we add to this a noticeable tendency in the RS to take some important powers previously transferred successfully to the state level back to the entity level²⁹, it would not be difficult to predict an erosion of the statehood, caused by Annex 4.

c) Collateral damage: jurisprudence

Overall, the most tragic fact is the past science of law: **the science of public and constitutional law**, unlike the science of civil law and criminal law, was degraded to the set of ideologemes and paroles.³⁰ Their content varies and depends on authors' ethnic bias. Except for only one author³¹, who directs academic discourse on the public-law problems of the constitutional system of BiH in a consistent and dogmatically convincing way, we cannot speak of the „group of authors” who have turned the public or constitutional law to a scientific discipline with the authority of an objective scientific position strong enough to point at the wrong ways and ways out from the constitutional impasse. Dogmatics has partly been replaced by apologetics of Annex 4 teeming with hegemonic ideologemes, based on forged legal and social facts.³² Where there is an attempt to criticize, the results are shadowy, loose-knit sets of disconnected statements, a quasi-analysis focusing on the essay literature and quotes from the daily press, without a clearly defined problem, an analytical approach or results.

At the oldest Law School in the country, instead of choosing a full professor to teach constitutional law, this subject is „entrusted” to senior lecturers who, despite their best will, cannot be grouped into the broadly understood *venia legendi*, licensed to teach constitutional law. At all law schools, the constitutional law literature includes the textbooks in use in the neighbouring states³³ as recommended fur-

²⁹ Also in the 2007 BiH Progress Report (footnote) 1 page 10.

³⁰ A good illustration could be post-Dayton teams of the Sarajevo Law School, presenting research works by the staff of this educational institution.

³¹ *Pobrić*, author of the constitutional law textbook (2000) and a series of critical and polemical analyses of the post-Dayton public law practice in BiH.

³² For details about the concrete statements about the textbook Constitutional Law by *R. Kuzmanović*, see *Šarčević, Osvrst na udžbenik ustavnog prava prof. dr. Rajka Kuzmanovića, Pravna misao* br. 3-4/200, (Review of the Constitutional Law by Professor Rajko Kuzmanovic, Legal Thought No. 3-4/200), page 71 onwards.

³³ For example, at the Law School in Mostar, the required reading includes The Constitutional Law by *Sokol/Smerdl*, used at the Zagreb University, describing the Croatian constitutional system; recommended readings include two books by *Bačić*, from Split (Theory and Interpretation, and the Constitutional Law) about the same constitutional system. Interestingly, the Croatian Constitution and the organization of government are treated as the Bosnia-Herzegovina Constitution and system; both books represent the content at the same level as the constitutional law course (source: www.sve-mo.ba/pf/).

ther reading, in addition to required readings, which, in view of the nature of the constitutional law in those countries, are not applicable to the legal education in Bosnia and Herzegovina.

In addition to the above, as there is no independent public law institute which would define an academic position as a neutral outcome of a neutral expertise, the conclusion is that the Annex 4 constitutional law substrate is closely linked to erosion, indeed perhaps to nullifying the science of constitutional law as a whole.

II.3. Conclusion

The above lines represent principled objections to the limited body of arrangements from Annex 4. They did not focus on the organization of courts, public administration, types of legislation or social and psychological constants which, as the hegemonic nationalisms, reflect upon the implementation of Annex 4. But the above examples show that the social and political tensions are most closely related to the organization of the state, defined in Annex 4. Any repair of that realpolitik piece of work should go beyond the frame of the constitutional reform, into some important constitutional structures. It should be so comprehensive as to amount to making a new constitution. The precise normative shaping of the rule of law and federal state principles – both imply a new distribution of powers between the state and the entities and a different positioning of individual basic rights against the collective (ethnic) rights – can no longer preserve the basic structure of Annex 4. This is precisely the reason why making a new constitution would be far more appropriate.

III. Result

I consider the idea of „repairing” the present constitutional model unviable.³⁴ Annex 4 is so antinomic that any further modification will lead to new political dissension and deepen the legal chaos. A new Constitution is not required for the membership in the EU, although the membership would indeed be facilitated by the constitutional model that would remove the present antinomies. The new Constitution is the order of applicability, the order of justice and the order of the need to establish the „constitutional” (legal) state.

A new constitutional contract should be led by a simple motto: ethnicity may not be the source of general individual rights, ethnic identities should not be protected by the Constitution as a community formed as a „state” to the detriment of other „states”.³⁵ This goal will be achieved easily by the Constitution which will prohibit the protection of collective rights at the cost of individual rights. Derived at the level

³⁴ For more details see Šarčević, *Völkerrechtlicher* (fn. 8), page 297-399; *Verfassungsgebung und „konstitutives Volk”*, JöR tom 50 (2002), page 493-532.

³⁵ *Haverić* is credited with raising this thesis by analysing the case of BiH to the level of a categorical imperative of the Bosnia-Herzegovina path to the liberal constitutional model (idem, footnote 24, in particular Chapter VIII, page 314 onwards).

of the rules: the Constitution must guarantee the full protection of each individual in the form of individual rights and thereby establish absolute bounds for the collective rights; the protection of collective rights comes secondary, only in those areas which are not covered by individual rights. All the rest would be further elaboration of this rule: a new system of powers, legislative in the first place, a more natural territorial organization, efficient, ethnically neutral administrative structure, harmonization of the constitutional principle with democracy, and of both with collective rights of the „constituent peoples” will not be difficult when there is an untouchable circle of individual rights which cannot be annulled by invoking collective rights.

In the present constellation, it is not possible to make such a Constitution without a neutral (external) power. I am close to believing that a new Constitution should heavily rely on the last legitimate constitutional system (The Constitution of the Republic of Bosnia and Herzegovina) and its making should involve the EU and international community-brokered „constitutional convent” to be set up for the „BiH case”. It is in this regard only that there are valid reasons for the OHR’s administration to remain here for some more time, which is the reasonable argument in favour of the function of the High Representative in the future. The EU/EC assistance in designing a new constitutional model would make the strongest contribution ever to the EU prospects of Bosnia and Herzegovina. Otherwise, the impression is that EU/EC lives on proclamations, unable to guarantee their implementation.

Svetlana Cenić

The Bosnia-Herzegovina Economy – Possible Moving or Blocking Force Behind the EU Integration

If people who work together in an enterprise (organization) trust one another because they are all operating according to a common set of ethical norms, doing business costs less. Such a society will be better able to innovate organizationally, since the high degree of trust will permit a wide variety of social relationships to emerge.” Francis Fukuyama, Trust

Except for the part of the business sector which is tied directly to the political, most often corrupt, top leadership, the BiH economy may expect to experience a revival as the country is moving forward to the EU. This statement is based on a very simple need to introduce the European Union standards at all levels, which will first and foremost make doing business easier and make the flow of capital, goods and labour more secure.

Divided economic space, most often irresponsible macro-economic policy and business environment discouraging production of goods and services, a high level of corruption and racketeering, and the non-functioning institutions, have resulted in perhaps the most difficult period for BiH over the last years, making the level of use of capacities in BiH a historic record low (*UNDP’s 2007 Annual Report, The Early Warning System*).

After the war, every High Representative of the international community set economic reforms as his priority, in addition to the rule of law and democratization of the society. Unfortunately, 12 years after the Peace Agreement, we are even further from democracy and also from the functioning institutions and the rule of law, without which the business sector is functioning at an extremely low pace, without yielding results which could guarantee a higher economic growth rate.

UNDP’s Annual Report notices that industrial production is growing at a slower pace, that the unemployment rate has shown only a mild improvement, prices and costs of life are going up (slightly more in the RS than in the Federation), that the situation in foreign trade has deteriorated, expectations for economy are now lower, that financial indicators of the companies in BiH show a mild deterioration, and that direct and indirect expenses of domestic institutions are high. According to the results of business sector survey, most of respondents believe that the economic situation has worsened in comparison to the past period.

To this survey we should add the fact that privatization and procurement are done in a non-transparent way so that the money stays within the group of companies which are politically favoured or seen as politically correct.

The business sector needs a stable political situation, strong institutions in terms of respect for standards and implementation of the law and efficient procedures, a single economic space and a clear address for foreign trade, in the form of the functioning, authorized state agencies.

The Ten Commandments of transition

- 1. Stabilization of inflation** – over the last two years inflation has been growing – 2007 and 2008 have seen inflation on inflation, in comparison to 2006;
- 2. Budget deficit control** – after 2005 and 2006 which saw surplus, according to indicators and IMF forecasts, there will be a deficit again;
- 3. Price liberalization** – partly, as structures of authority interfere in many sectors, while some sectors see cartelization or the influence of lobbies;
- 4. Introduction of a single foreign currency exchange** – the Currency Board resulted in a stable, but partly over-estimated currency, and export is more expensive, and import less expensive under such circumstances;
- 5. Convertibility of current transactions** – solved through the Currency Board;
- 6. Liberalization of foreign trade** – CEFTA is a first step; the most important step will be the signing of the Stabilization and Association Agreement, and the application of the First Pillar;
- 7. Reconstruction of the banking financial system** – one of the most successful reforms, with the exception of one part of the banking sector in the Federation of BiH which has not been privatized yet;
- 8. Clear definition of ownership rights** – incorporated in the laws, but slow judiciary and actions by the government which interfere in property rights (for example, the RS Government formed a joint company TE Gacko with ČEZ, thus violating the property rights of small shareholders) send a bad message to both domestic and foreign investors;
- 9. Abolition of soft budgetary constraint** – is not respected, which results in the imbalance on various bases and there is no policy in financing public companies, borrowings or creation of liabilities in advance;
- 10. Re-defining of the work of social services on the market principles** – the process has hardly started, which contributes to ever bigger social welfare payments, creation of liabilities in advance, slowing down economic growth and manipulation of socially vulnerable in election cycles.

The seven crisis blows (or the seven deadly sins):

- 1. Drastic decline in production** – BiH has not yet achieved the pre-war level of production, while growth has slowed down in the last two years;
- 2. Investments withering and dying** – by investing in infrastructure, the entity authorities (most often) push private investments out, and with an unstable political situation, frequent blocking of the government, poor performance of the judiciary and high level of corruption discourage investments;
- 3. Slow entry to new markets and inclusion into the global flows of goods and services;**
- 4. Too slow inflow of foreign capital;**
- 5. Unemployment and bringing poverty on most of citizens;**
- 6. Too slow establishment of polycentric spatial development, and**
- 7. Disastrous environmental situation addressed too slow.**

The position of BiH and the business sector arises fully clear from the above. If we know that the performance indicators for any government include GDP growth, price stability, employment and fiscal and foreign trade deficit, it is clear that the strengthening of the business sector and its inclusion in the global trends should be an entry ticket for the next election cycle of each government. Of course, along with the respect for human rights and rule of democracy.

Unfortunately, close collaboration between one part of the business sector and the government undermines competitive relations in economy, increases the level of corruption and the absence of transparency increases mistrust in institutions. There is an evident presence of construction companies or generally companies dealing with development or construction of infrastructure, and the media companies with close ties with the government, which is a recipe used in the entire region. In the entity development strategies, the highest percentage, far more than one half of planned investments, is intended for infrastructure projects, and the so-called sustainable returns, while a negligible percentage is earmarked for education and research and development.

The banking sector, as the most successfully reformed part of the BiH economy, is less related to politics, or depends on politics less, except when they are competing for state deposit and privatization revenues, when they curry favour from the government. However, this is also limited as the banks have money, although they do not have good projects for investment. This is why there are so-called development banks in both entities, which are controlled by the government.

The post-war transition period, with all the difficulties of recovery and building of democracy, served the purpose of the political elites that spread nationalist rhetoric and sowed fear, becoming „masters of stomach and head” and kept the vast portion of the electorate almost in a submissive position or apathy by the reforms of institutions and sometimes by open racketeering of businesses.

It is for this reason precisely that the development of the business sector is key to the EU integration and transformation. The civil society with its consciousness raised would follow the development of the business sector.

However, the business sector has to go through seven revolutions, so to speak, as follows:

- 1. market,**
- 2. values;**
- 3. transparency;**
- 4. life cycle of technology;**
- 5. partnership;**
- 6. time;**
- 7. corporate management.**

1. Markets – In the regional and global environment, especially in view of the world's trends, a growing number of companies are facing a challenge put before them by the clients and financial markets, when it comes to achieving a triple balance (financial, social and human environment), especially because the sustainable development policy is incorporated in the European Union policies.

Weakness: Belief that the triple balance policy is a deviation rather than a new form of values, which the society needs.

2. Values – The system of values is changing and both political and business leaders have to face that. Transition from doing business through snap decisions, next to the government, to doing business in competitive markets, in compliance with standards and investments which require quality does not mean that the life will become easier all of a sudden for all stakeholders.

Weakness: Understanding that the task of the business sector is to create economic values (profit) in any way possible, and not to create social or ethnic values. Efforts to change entrepreneurial and corporate culture are necessary.

3. Transparency – Within a broader market, the business sector is watched closely and its business operations, thinking, priorities, commitments and activities are checked regularly.

Weakness: Business leaders believe – if they manage to hide from the public eye they can avoid challenges and responsibility for their work. The data shows that politics is short-lived.

- 4. Life cycle of technology** – Companies will be exposed to a new form of „X-ray environment” in which the chain of values and the life cycles of products will be under scrutiny almost to the minute detail.

Weakness: Deeply rooted belief of the business sector that its responsibility ends at the fence in front of the factory or at the door to the company, and that the problem will be solved through ‘a normal sequence of events’, as usual.

- 5. Partnerships** – Poor function of partnership between the business sector and public sector when it comes to development, and poor cooperation with research and education institutions, will have to change so that companies will be forced to explore new forms of partnership with non-governmental and governmental sectors, on the basis of not privileges but a shared goal, where the motives of members of partnership are not necessary identical.

Weakness: Belief of the business sector that even when it faces the most serious problem or challenge, it will solve it alone or expect, the government to do that for it, without relying in the civil sector, for example, or their own forms of organization through which they could ask specific questions and offer solutions.

- 6. Time** – A new time dimension gets open as things develop faster while competition and the global trends impose pace. Politics which has slowed down the process for more than a decade should react faster under the pressure of the business sector. Most of politicians and business leaders have difficulties in thinking two or three years in advance, while challenges of the present times indicate the necessity to think decades.

Weakness: Belief of business leaders that time is dictated by stock exchange or financial markets. Companies have to learn to balance short-term thinking and policy with the need to survive in the long run.

- 7. Corporate management** – Clearly defined and quality corporate management affects development and climate conducive to investments, which brings long-term economic results, additional sources of funding, ability to enter foreign stock exchanges, increase value of companies, competitiveness etc.

Weakness: Business leaders do not consider a problem from all sides and thereby define a one-way business policy, which is the way of reaching a cul-de-sac soon.

As it is expected that one part of the Stabilization and Association Agreement will come into force on the first day of the second month following its signing, which is August 1, if the date of signature does not change, in order to implement all items from that part, such as customs union, single market, market competition, research and development, consumer protection etc., and primarily a free flow of goods, capital and labour, the basic requirement is the single market programme. The following problems prevail:

- * Passivism;
- * Difference, lack of harmonization;
- * Policies;
- * Transparency, and
- * Corruption.

In the end, Bosnia and Herzegovina is characterized by constant election campaigns, frequent elections and behaviour and rhetoric focusing on provoking emotions, soliciting support by making big promises and unrealistic plans. In order for the business sector to play a crucial role in bringing forward the country to the EU integration, which should be one of its roles and for which it has potential, despite all the above problems, one more dimension is necessary, which is the **time consistency**. These relatively incomprehensible words hide a very clear principle: when very firm promises are made, by either the government or the Central Bank, the companies will, as a rule, adapt their behaviour to the government's wishes. However, if at that moment, when the goal is fulfilled, the government changes its behaviour, it will lose credibility, and the final outcome of its monetary and fiscal policy will be much worse than it would have been if it had restrained from taking any action (Prescott, Kydland).

Radenko Udovičić

The EU Integration Process and the Role of the Bosnia-Herzegovina Public

The public comes into play mostly in crisis situations in various spheres of the social life, when a certain authority wants to get support or find a justification for some actions. So, as an opportunity was heaving in sight amid the permanent crisis in BiH for the country to make a significant step forward to the European Union (EU), the role of the public became largely significant, at least formally. The public will affected domestic politicians who could gear their actions towards the public demands or it will be the target of politicians who want to influence the public towards soliciting approval for their actions. Thus, this is an interactive process with a thankless prediction of which option will prevail in the end. Many people will hardly understand the complexity of the political situation in BiH. During the *Media Plan Institute's* recent meetings with students of journalism in the United Arab Emirates and the post-graduate students of international relations at the University of Rennes, France, we noticed their doubts over the prospects of this country. For instance, the guests from France were unable to link the controversies of the BiH politics with their perception of the climate prevailing in the cities of Sarajevo and Banja Luka in which they saw numerous people who were open and overjoyed, beautiful clubs and bars, alternative music in abundance, theatre and film festivals, a large number of more or less free media... We said to them, that is where prospects lie ahead for this country, although they need to be channelled properly.

I. The public – the fuel of democracy

The public with the role which we are seeking in this paper emerged as late as during the war when the government began to back down on the public demands, often in a controlled manner though, and even to tolerate, to some extent, the methods which the public was using to express its demands. For example, during the violent protests against globalization throughout Europe, the police reacted to protect human lives and properties, while the government (judicial institutions) decided to let most of the organizers to go unpunished. This regime of liberal democracy emerged as late as the second half of 1960s, after the final showdown with the legal remnants of apartheid in the U.S., massive opposition to the Vietnam War and student demonstrations in Europe in 1968. Within that process, an important lever of each public - and of its treatment as well - was the media as an indispensable tool for shaping and crystallizing the public opinion.

It is possible to ask whether there is the political regime in Bosnia and Herzegovina in which the public has freedom to participate, make demands in different ways, to protest... Although there is the opposite view, I believe that such a regime exists definitely. The central authorities in BiH, and those at other levels, especially in the Federation of BiH, are so weak that they are unable to oppose any agitation in the society or the public, even if they want to. The authorities are unable to use repressive means even when they should – let us recall brutal demonstrations in Banja Luka during the cornerstone ceremony for the reconstruction of the Ferhadija Mosque, destroyed during the war, or the splashing of the BiH Presidency building with paint balloons by NGO activists from Kakanj who, moreover, used profanity at and punched the police officers in front of the building. Even when it comes to the pressure on the media, the question is to what extent what we call the authorities affect the media, and to what extent the pressure is put by some political parties, diverse economic centres of power, the law-enforcement and criminal groups. However, the question is also how the authorities – being so weak or incapable, while most of the citizens feel dissatisfied – manage to survive in the situation in which their economic results are so poor while the state organization is against the will of either constituent people? They manage to survive largely because of the divided public.

The public is the mosaic made up of different ethnic, racial, religious, geographic, political, professional, social and other groups.¹ There is no such thing as general public. Behind this expression is often manipulation by political figures in most cases, in their attempt to put a majority before others in one group of citizens and project that to the entire country. In Bosnia and Herzegovina, the notion of the general public is still debatable. This means that there is more than just one public. The term should always be used in the plural form – the publics. The term *public relations* was once used in Bosnia and Herzegovina, which was changed in the academic communities in both BiH and Croatia into *relations with publics*.² With PR, the intention was to stress that it is necessary to strictly define the publics in this profession in order to produce a better effect in communication with the real groups.

The broadest individual public is the political public. That public is defined as 'citizens with the right to vote', meaning the vast majority of citizens of a country (all citizens aged 18 and above). This conception has a strong basis, from the aspect of the political parties in the first place and also of other political institutions, as everyone who meets the requirements for the vote is the target indeed. The public which is relevant for the EU integration process corresponds to the political public

¹ *Effective Public Relations*; Cutlip, Center, Broom, 2003: 268.

² Radenko Udovičić; *Odnosi sa javnostima i novinarstvo - Informatori sa različitim ciljevima*; Sarajevo, 2007.

because of the fact that in the current accession phase it is a political process steered by the government. Indirectly, some other publics, which are not political in either legal or structural terms, could also be interested in joining the European Union; for example, secondary school students who are interested in having an easier access to scholarships for higher education, through the EU funds accessible to candidate countries. They could influence their parents to cast a vote for the parties that will speed up the process. Of course, there is a plurality of sub-publics within the political public, such as agricultural (and within it sugar, oil and other producers), the media, sports etc., where each sub-public would have its own arguments in favour of the EU integration. In this analysis we come to the fact that there is indeed a *general* public. However, harmonization of interests of all those publics, the reasons, needs and demands for the EU integration, as well as of access and methods of their treatment, would be a difficult task to do. Within Bosnia and Herzegovina we come to the key problem – there is no united political public, which is contrary to the situation in most of West European states. Due to historical reasons and the war, there is a divided society which is functioning under the unisonal principle of closed cyclical circles, where any deviation from that principle, or movement from one circle to another, represents something unusual.

II. Divided publics

The division into Serb, Croat and Bosniac publics and a fourth one, sadly, still insufficiently defined, the civic public, was made in BiH long ago. Here we are not talking about absolute proportions nor is it necessary for, say, the Serb public to include all Serbs in BiH. However, we are still talking about the majority of significant proportions. In Bosnia and Herzegovina, it also has territorial boundaries – encompassing Serbs in Republika Srpska, the fact which also makes it coherent. The Croat public is dominant in the territories in which Croats are in the majority, and the Bosniac public, logically, in the territories in which Bosniacs are in the majority. Of course, as they all fall within the same country, those peoples, even in the regions in which they are the minority, feel, to some extent, to belong to one of those three publics. The fourth public, which is often called 'civic' or 'multi-ethnic', is present in large cities in BiH, mainly in those in which Bosniacs are in the majority. It is characterized by a number of elements – those are the people who put their territorial belonging to the state in which they live before ethnicity. Those are mainly the individuals born or living in ethnically mixed marriages and various malcontents in active opposition to the overall ethnic and political structure of the country. This public consists also of legal but also factual ethnic minorities in some regions within the country. One part of this public has an atheistic and agnostic orientation. In political terms, they support pro-European liberal democratic ideas. A significant portion of that public believes that such ideas are contained in the programmes of

the left-wing political parties, represented until two years ago by SDP, fostering the principles of co-existence, which go back to the former state and system. However, by some of its political ideas, this public is most similar to the Bosniac public, as it has a steadfast faith in the idea of Bosnia and Herzegovina, which is often subject to conditionality by the Serb and Croat publics, or rather their elected officials.

It is clear that the three ethnically defined publics have their specific features which is why in a whole series of cases generalization is not possible at the state level. The feelings over the Srebrenica genocide within the Serb and Croat publics are different from those in the Bosniac public. The feelings should be the same, however, which would be important in terms of punishing the perpetrators and respect for the victims. But the feeling that it is about the victims from a different ethnic group, which is evident in the Serb public in the first place – that the people were killed in the name of the *Serb cause* and as a *reaction to similar things done to them* affects the ability to condemn the crime fully and most genuinely. Different publics provide different definitions of the culture of feelings and memory. Within the Bosniac public, and partly within the 'fourth' public, the pain and homage will affect both culture and politics for long. In the Serb public, as the maximum in this sphere, a limited condemnation of the crime began to emerge together with the intention to provide satisfaction to survivors through economic donations to the town of Srebrenica. Or another example: NATO air strikes on Serbia in 1999 were interpreted differently by Serb, Bosniac and Croat publics. Serbs felt that the air strikes were unjust in terms of international law, least to say, while Croats and Bosniacs interpreted them as an international response to the continued violations of human rights in Kosovo and as a just cause in view of the *Serbian aggression against BiH*. An illustrative example of the travesty was the attempt of *Dnevni Avaz* to unite various publics on its front page under the headline, „BiH Public Supports NATO Air Strikes on Serbia”. It was the result of a telephone survey, while the conclusion, or the headline, was based on the sample of citizens from Sarajevo, Tuzla and Mostar – on the sample of one of the three separate publics.

Regarding the attitude towards the European integration, there is a not so common situation that the wish and the ultimate goal that all three publics share (corresponding to the positions of all political parties) is that BiH joins the European Union. However, their methods and the implementation of the required reforms are sharply opposed. The international community, personified in the Peace Implementation Council (PIC) and the Office of the High Representative, conditioned and rewarded by games – a legitimate and common principle of the international diplomacy – set the principles of harmonization of the BiH legislation, including the Constitution, which is already in harmony with the European Union standards to a large extent. This situation, however, touched a raw nerve as it runs counter to the principles of the conflict among domestic policies and three or four fully developed publics.

What makes the European integration process even more complicated in BiH, or the ability to reach an agreement, is the behaviour of the media, especially when, like in this case, there is a strong political conflict among the three ethnic groups. The media make strong criticism of politicians representing 'others', which is often interpreted by those 'others' as an attack on their ethnicity as most of the people in BiH fully identify themselves with the positions maintained by the politicians they elected.

III. The media – generator or catalyst

More than twelve years after peace was restored in Bosnia and Herzegovina, the war is still felt. Ethnic tensions were felt in election campaigns and political talks, as tensions tend to grow when elections are seen as something 'fateful', a 'shift' or 'reverse', while mutual accusations, insults, violations of the principles of public communication were the commonplace. With the growing ethnic tensions following the ICJ judgment largely rejecting the BiH genocide charges, and the subsequent talks about the reforms in BiH, passions were running high, which also affected the public and media communication. The political parties often failed to offer their electorate a well-considered, clear strategy, supported by arguments, which would have helped them define their own views on the basis of the advantages of the EU accession process. Communication via the media and public debates usually rang empty; the absence of clear goals and arguments were most often replaced by dirty words, accusations, unsubstantiated arguments. The media were used as a conduit for such messages, although in some instances, they too encouraged that communication.

Over the last few years, the media have played the role in or have been used for the purposes of a political showdown, mudslinging, profanity, humiliation, and soliciting support, shortly – they have been the mirror of the political reality in Bosnia and Herzegovina. Some inappropriate forms are disappearing slowly: an open hate language and insults on racial, ethnic, national or religious grounds are no longer heard, although there are some new forms of belittling political opponents and the entire political ideas common to certain ethnic groups.

In Bosnia and Herzegovina, according to the latest data of the Communications Regulatory Agency, there are 47 TV stations, of which three are public broadcasting services with the national coverage, and 150 radio stations. There are 8 dailies – in Banja Luka, *Glas Srpske*, *Nezavisne Novine* and *Fokus*, in Sarajevo *Dnevni Avaz*, *Oslobodenje*, *San* and *AS*, in Mostar *Dnevni list* and in Tuzla *Tuzlanski List*. All these dailies, except for *Tuzlanski List*, which is a local newspaper, are trying to cover the events throughout BiH and the world, although each daily has its own target group, depending on the territory and political and ethnic preferences. In BiH there are also three serious weeklies and one bi-weekly news magazine and a few dozen

weekly and monthly professional periodicals and magazines. In substance, many analysts believe that there are too many media outlets in BiH, which affects the professionally weak personnel structure and the lack of money which would enable the media to develop and increase standards of their employees. Also, the media system, especially the public broadcasting service and its organization, respects the specific characteristics of Bosnia and Herzegovina, as a result of the Dayton Agreement, which remains a latent source of conflict.

In the BiH Federation, the Croat authorities have insisted for rather long on the restructuring of the public broadcasting system in BiH, which should result in a public broadcaster for the whole country with three channels – in predominantly Serb, Croat and Bosnian languages. In substance, these are the political requirements, as *Sarajevo Media Centre's* recent survey has found out that there is no lack of the Croat language on the Federation TV, while Croats would like to watch more topics covering their habitus and giving preference to the Croat political parties. However, a few days prior to the completion of this paper, one dangerous thing happened which could definitely destroy the present public broadcasting service: Croat and Serb caucuses in the state Parliament requested that the Public Broadcasting Service be divided into ethnic channels, which, formally, reflects the majority will of the citizens of Bosnia and Herzegovina, i.e. the will of Croats and Serbs. At least for now this will not happen as Bosniac members of parliament invoked the vital national interest. The international community will not succumb to the attempts to demolish its own concept of the public service. However, the international trend is towards recognizing the reality in BiH, which is why there is a latent danger of 'betraying' original principles, which was the case with the police reform.

In Republika Srpska, some oppositionist and independent journalists have assessed that the RS regime with Milorad Dodik at the helm, made all public media uniform and caused fear among most of the private media, which is continually stressed in the Sarajevo-based media. My colleagues from the RTRS editorial board denied that their broadcaster is under pressure or that it is showing bias towards Dodik. However, I have also been told that the broadcaster, just as all other media outlets in the RS, has a clear stand on the Republika Srpska future, without calling in question the RS or the entity government's efforts towards that end, and that their editorial policy corresponds to the positions of their own public (Serb – hence, we come back to my theory at the beginning of this story). What could create an additional unison in Republika Srpska is the most recent sale of *Glas Srpske* to *Nezavisne Novine*. Also interesting is that the *Glas Srpske* editor is the RTRS director general's wife, which makes it clear that the three most powerful media outlets in the RS are interconnected in terms of ownership and family ties, which could perhaps be crucial to the current situation in the RS media.

Many believe that the *Nezavisne Novine* daily, which once had the reputation of being the only daily that provided an objective coverage of nearly all events in both entities, became biased towards Milorad Dodik. However, it should be stressed that the daily has always been close to the incumbent Prime Minister. Many people in the Federation of BiH did not mind Dodik criticizing harshly, as an oppositionist, the SDS nationalist government and emphasizing the need to arrest the war criminals.

In Republika Srpska, such newspapers as *Euro Blic*, *Vecernje Novosti* and as of recently *Press RS* from Serbia take bigger circulation hits than domicile Banja-Luka-based newspapers and in the territories in which Croats are in the majority, *Večernji list* and *Slobodna Dalmacija*. Because of ethnically divided publics, Sarajevo-based newspapers have never managed to get firmly established in those territories, while the above newspapers from Serbia and Croatia have editions for BiH (more precisely, for their ethnic groups in BiH). As the vast majority of Serbs and Croats see the neighbouring countries as their mother country and as those newspapers found a way to reach readers by their professional norms, the success of those media outlets is great.

In the Federation of BiH, a tradition division into the 'left-wing' *Oslobodjenje* and the 'right-wing' *Dnevni Avaz* is no longer valid. *Oslobodjenje* was acquired two years ago by the Sarajevo Brewery and the Sarajevo Tobacco Factory, while as of recently the Brewery, or rather the Selimovics family, increased their ownership to nearly 100 percent. Although the newspaper continue to insist on liberal, multi-ethnic, even left-wing ideas to some extent, the bias it carried towards the SDP has eased a lot with the new owner and the new editorial staff. Hilmo Selimovic also owns the *San* daily. On the other hand, the owner of *Dnevni Avaz*, definitely the largest-circulation daily paper in BiH, Fahrudin Radoncic, has started a whole series of business (non-media) projects, making the political split into the Left and the Right relative due to the fact that both daily newspapers are concerned about direct business interests. This arises clear very often from the preference they give to their own companies or sub-companies and private and national institutions and individuals, for their private purposes. However, *Dnevni Avaz* also carries a visible political feature which could indicate a twist in some of the Bosniac political views. Although there are certainly some economic interests involved, the *Avaz* has long demonstrated a benevolent treatment towards the RS Prime Minister Milorad Dodik, putting an emphasis in its reporting on the positive things that Dodik says about the state of BiH, while taking the spotlight off his anti-state statements and actions, which do not make headlines in that newspaper. Also, Dodik is a welcome guest in *Dnevni Avaz*, often giving interviews to that newspaper, even writing his own columns. Of course, the *Avaz* continues to look at things through the Bosniac or 'Bosnian' prism, which becomes obvious in the commentaries or in the selection of topics. However, the impression is that the newspaper has also embraced some of

the BiH reality, unlike the previous practice of the Sarajevo-based media. In its commentary of 6 May, *Dnevni Avaz* criticized Bosniac politicians, believing that their inability is the reason why Serbia signed the Stabilization and Association Agreement before Bosnia did. „Haris Silajdzic, Sulejman Tihic and their appendage Zlatko Lagumdžija are trying to hide their own inability behind the attacks on the EU. When you think of everything they rejected during the marathon police reform talks, you must get sick. Each time this Bermuda Triangle, which is pushing BiH ever deeper into abyss, made an extreme requirement, a far worse arrangement was agreed in the end”, the *Avaz* wrote, which corresponds to the fact that some Bosniac leaders accepted the reality of the two entities, or the facts of sharply opposed ethnic policies.

That the press freedoms have largely declined in Bosnia and Herzegovina under both political and economic pressure on the media and journalists, was concluded at the OSCE’s Freedom of the Media Conference, which took place in Sarajevo on May 8. The OSCE representative of the freedom of the media, Miklos Haraszti, said at the conference in Sarajevo that he was very much concerned about pressure on the Public Broadcasting Service in Sarajevo and demands for having a political party representative at the helm of the Communications Regulatory Agency, instead of someone with professional merits. These remarks pointed at the Republika Srpska Government as the main obstacle to the freedom of the media, as its officials insist incomparably more than others on these issues, as they are dissatisfied with the editorial and financial policy of BHRT, the national Public Broadcasting Service.

The participants at the Conference from different media from all over BiH said that different kinds of pressure are put on the media – ethnic, religious, political party or state politics, economic, and pressure on journalists by the media owners, which has become noticeable since the owners of some newspapers became involved in some businesses other than communication. They also said that due to the deep division of the BiH society, there is the lack of journalistic solidarity, which plays straight into the hands of those who put pressure on them.

Bosnia and Herzegovina’s ranking slipped lower on the press freedom watchdog Reporters Without Borders’ and Freedom House’s lists. As Miklos Haraszti said, the reason is the overall political situation which worsened in the country last year, which reflects on the media through different kinds of pressure, and also bias.

IV. EU Integration Campaign

Perhaps the political and media situation in BiH offers an illusion of a campaign waged for the purpose of soliciting public support to the efforts to bring BiH into

the EU or of the wish for the public to influence political officials they elected. However, no matter how BiH may be complex and fragmented country, the main characteristics of the communication processes and of the state of mind are just as they are elsewhere in the world. It is necessary to take their specific features in consideration. First of all, it is necessary to notice specific cases and trends indicating incorrect political communication, which is a serious problem of the social life in BiH, mediation by the media and a low level of political marketing and relations with publics (PR). Frankly, it would be difficult to expect that such a campaign could be carried out by the political parties alone. The political parties and the authorities in both entities should be partners in developing a strategy which would be completed and managed by independent experts. In defining target publics, or during the development of a strategy, it will be necessary to take into consideration different characteristics – both human and situational – of a potential target group. Every political process in BiH is filled with different fears. A Serb, a Bosniac and a Croat do not perceive the EU integration or the constitutional reform in the same way. Nor are they perceived in the same way by a Croat in Grude, a Croat in Sarajevo or a Croat in Banja Luka. A Croat with a university degree and a Croat with a primary school education has different perceptions. The one who runs a betting shop and the one who works there and makes 500 KM per month. Or a Croat in HDZ, in SDP or a Croat who does not care about political parties. Or a Croat in the top leadership or the one who is a farmer. Of course, we can apply the same principle to Serbs, Bosniacs, Romany and others, and identify the things they share, the things which are sharply opposed, the things which are unacceptable, or attractive things...

Drafting of the strategies on the basis of geographic, demographic, psychographic specificities, and the roles in the social process either in the form of an overt membership in organizations or covert power would not be too complicated or expensive. It would just require a little more tolerance towards different ethnic publics and ideas.

It is clear that such a strategy would be largely based on the PR campaign and that it would be necessary to adjust the content of methods to define goals. There may be two general goals – convincing the citizens of BiH of the European Union as an undeniable benefit in terms of the development of the society, or getting support for the legislative procedures necessary for the EU accession. Although they share some things in common, they are still different campaigns. The latter comes down largely to the political campaign of winning confidence of the present and possibly future voters.

Clearly, the media act as a mediator towards the publics. This is why it is no wonder that the European Union supports through its projects the efforts to profes-

sionalize the work of the media in terms of improving the quality and quantity of reporting on the EU activities and the advantages the EU accession carries for the West Balkans. The citizen is not interested in various formal things related to the European Union (this should be left for specialized media and sections). It is necessary to learn to report on the so-called vital issues related to more comfortable lives or the rating of the state, what people are always interested in, even when they do not appreciate the country they live in very much. The *Media Plan Institute, Sarajevo*, implemented over the last few years the projects focusing on the media coverage of the EU integration processes, with topics close to ordinary people. The journalists involved, and also editorial staff of the media which aired or published reports, marvelled at the breadth and depth of the scope of the EU integration, with numerous correlations with every walk of life.

However, we should not forget that perceptions of all four ethnic (political) publics in BiH are enslaved by diverse artificial or enforced postulates of preservation of interests, which generates fear and deepens mistrust, in view of the sharply opposed goals. This is why every campaign requires harmonization skills. In a survey which the *Media Plan Institute* conducted in cooperation with the *Heinrich Böll Foundation* to identify the so-called pro-European voters in BiH, we found out that the citizens of BiH are aware of the disastrous effects of the BiH authorities and of the need to accept European values. However, most of them are not prepared to give up support for ethnic politics in BiH, which often comes down to ethnic fundamentalism which hinders a whole range of development processes in the country. In this regard, Branimir Džoni Štulić described in his 1983 song *When Pheasants Fly* – which I chose as a title of my paper – the situation in the then-Yugoslavia, in which more and more people came to realize that the communist regime had become pointless while failing to identify the way in which it could be changed – „What happens when dead pheasants fly above our heads. When dead pheasants fly, while none falls down.”

What is dead in BiH depends on one's subjective perception. We cannot silence the reality, although we can indeed fight against autocracy and mediocracy, which, true, do not exist in Bosnia and Herzegovina, at the state level, while at the same shackling all three ethnic publics.

Recommendations

Based on the analyses of the authors of this joint publication on the present controversies of the up-to-date integration of the state of Bosnia and Herzegovina into the European Union, the present social and political obstacles, and the most crucial reform challenges – a number of recommendations seem to be obvious for the international community/European Union, political elites as well as citizens of Bosnia and Herzegovina.

- * **The abolition of the dual role of the European Union.** The biggest individual factor of undermining the EU integration process and of generating controversies is the parallel role of the European Union as an institution outside BiH and an institution inside BiH which indirectly/directly governs the country – the dual institution of the Office of the High Representative and the EU Special Representative (OHR/EUSR). The key step, thus, will be the **transformation of the OHR/EUSR into EUSR**. The purpose of this transformation will have to be the institutionalization of the future role of the European Union in BiH in the form of a constituted power, with strictly defined and fully explicit responsibility. Equally important as this end result is the transformation process itself which will have to be based on a well-considered strategy, and not just on the wish to disengage from the present role.
- * Political relations between the European Union and the state of Bosnia and Herzegovina within the integration process will have to be based on **institutionalizing** the new **practices of political negotiations and decision-making within state institutions and official state functions** in the country, designed and established for those purposes. The practice of making political decisions in informal non-public circles in which the main partners to the EU representatives are the leaders of the ruling national parties as ethnic leaders, and not as leaders of *institutions*, has to stop.
- * One of the goals and means of the European Union integration policy should also be the **expansion of the democratic front**. This implies the expansion of the basic democratic procedures to as broad a social spectrum as possible.
- * **Making a new constitution.** The debate about the necessity of carrying out the reform of the Dayton Constitution within the process of integrating BiH into the European Union has to be expanded to a serious, expert and political debate towards making a completely new constitution. There are serious professional constitutional law analyses which indicate that the present Constitution is so much antinomic that any further revision will just confirm the political dissensus and thus lead to creating a legal chaos.

As it is not possible to make a new constitution without a neutral (outside) power, the expansion of the debate should include the idea of establishing a „constitutional convent” under the EU auspices.

- * **Fight against corruption efforts as a cultural reversal.** Fight against corruption represents a fundamental task in creating a democratic state of Bosnia and Herzegovina, i.e. the country with the rule of law and market economy in place. That fight can succeed only if all stakeholders (political elites, parties, state institutions, citizens, international community) treat the phenomenon of corruption not as a normative and technocratic problem but as a cultural and civilization problem. Likewise, that fight requires that no social group or state or social institution in the country regards itself the victim of corruption, rather all should accept that it is the problem of the entire society, i.e. that all are, at the same time, both offenders and victims of corruption.

- * **Development of the business sector** is one of the key requirements for the democratic transformation and the EU integration. This goal requires, first of all, the creation of a single market and an end to informal and semi-formal forms/channels of networking of economy/business sector and the government. Other important components of the economic reform are:
 - **Changing of the business culture.** Transition of the culture of doing business from 'snap decisions', next to the government, to doing business in competitive markets is necessary. In this regard, also necessary is the transformation of the prevailing mentality of most of politicians and business leaders who think two or three years in advance to a situation which will allow companies to harmonize short-term thinking and policy with the need to survive in the long run.

 - **Reform of the social services on the market principles.** The reform is crucial to establishing stable social and democratic relations. Further political delays in the reform contribute to growing social welfare payments, creating liabilities in advance, slowing down economic growth and political manipulation of socially vulnerable groups for election purposes.

 - **Reform of the real estate and land market – construction industry – urban/spatial planning.** The reform of this sector is crucial to the rule of law and democratic political order, as it has been for decades even the biggest hotbed of undermining the state institutions in a joint effort by state officials, political elites and citizens. The most important element of the reform will be the land registers, infrastructure investment system and making urban and spatial planning respect modern principles of democracy, transparency and sustainability.

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- * **Modernization of education and science.** The reform is key to modernizing public administration, political elites and to the economic reform, where there has to be an intensive cooperation between the business sector and the research and education institutions. That reform becomes even more important as the sector of education (higher education in particular) and science has been neglected and undervalued by the international policy over the past years while resistance to reforms by political and other elites has been extremely strong. Within the integration processes, the EU institutions should not reduce their reform-related requirements for the national institutions and political stakeholders to the implementation of the Bologna process as it would be conducive to blocking the reforms under the guise of legislative and institutional reforms.
 - * **Public campaign with the aim to solicit public support to the EU road.** The European Union's integration policy towards BiH has to be followed by well-devised public campaigns. It would be difficult to expect that such a campaign could be carried out by political parties alone. Political parties, or the governments of both entities, should be partners in developing a strategy which would be finalized and implemented by independent experts. That differentiated strategy has to be devised on the grounds of geographic, demographic and psychographic specific features, and the role in the social process.
 - * In addition, the European Union should support, through its projects, the **efforts to professionalize the media in terms of improving the quality and quantity of reporting on the activities of the EU and to stress the advantages that accession carries** for Bosnia and Herzegovina. It is necessary to educate the media/journalists in reporting on so-called soft stories regarding improvement of living conditions for citizens or the rating of the state, which citizens are always interested in, with the aim to solicit support from the segment of the BiH society which has some reserves towards their own country, for the purpose of advancing integration policy.
 - * **The problem regarding the absence of a social subject of democratic transformation.** The main problem of the transformation of the state of Bosnia and Herzegovina and opening the door to the European Union membership, which permeates all other problems and recommendations, is the issue of the subject of democratization. The absence of a political subject of the social transformation remains the key problem of the European future of Bosnia and Herzegovina.

An obviously raised awareness within the structures of the international community/European Union about this problem represents an important step ahead, just as shifting the focus to the BiH citizens does. It will be equally important to deve-

lop a critical mind of the fact that the majority support to the EU integration, that citizens have provided in principle, is no guarantee for attaining the goal of their transformation into a „critical political mass”, just as the support to the EU road which the political elites pledge with one voice does not mean their European, democratic transformation.

About authors

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Graduated from the School of Political Science in Sarajevo, Department of Journalism. He is a senior post-graduate student of political science at the same Faculty. Author of texts published in journals and periodicals in the country. A member of the editorial staff of the magazine promoting political culture and social issues, *Status*, and an editor of *Država pod lupom (State Under Scrutiny)* section of the online journal, *Puls demokratije*. Participated in a number of academic conferences in BiH and abroad. Works in the United Nations Development Program in Sarajevo.

Bodo Weber

Bodo Weber is completing his Ph.D. in Sociology at Hannover University, a research on the character of post-socialist ethnic nationalism(s) and ethnic violence in the post-Yugoslav societies that examines nationalistic ideologies, systems of authoritarian rule, dynamics of violence and war economy in the first half of 1990s. He has worked as an editor for the journal *Perspektiven* (Frankfurt/Main) and has published various articles and analytical papers on Balkan societies and states since 1990s. Recent publications include: „Reforming a state without society – some reflections” (English-Bosnian), in: *Foreign Policy Review* No. 2 (2007), Sarajevo, reprint in: *Republika*, No. (2008), Belgrade; *The crisis of the universities in Bosnia and Hercegovina and the prospects of junior scholars* (German/ English/ Bosnian), Sarajevo 2007; „Ein Täter vor Gericht. Der Prozess gegen den bosnisch-serbischen Politiker Momčilo Krajišnik” [A perpetrator at court. The process against the Bosnian-Serb politician Momčilo Krajišnik], in: *Der Überblick* No.1-2 (2007), Hamburg; „Bosnie-Herzegovine: Les condition d’un accord d’association avec l’UE”, in: *L’etat du monde 207: annuaire economique et geopolitique mondial*, Paris: La Decouverte 2006

Edin Šarčević

Born in 1958 in Sanski Most. Studied law at the universities in Sarajevo, Belgrade and Saarbrücken. Awarded the degree of Doctor in Law by the School of Law and Economics of the University in Saarbrücken. His doctoral thesis brought him „Dr. Eduard Martin” award in 1993.

Following habilitation at the Law School in Leipzig, he was awarded a *venia legendi* for the public law, general theory of the state, international law and European

law. He has been teaching at the Law School in Leipzig since 1994. Author of many works dealing with German and Bosnia-Herzegovina public law, European law, international law and with philosophy of law and state. Author of, among others, *Der Rechtsstaat* (Rule of Law, 1996), *Die Schlussphase der Versassungsgebung in Bosnien und Herzegowina* (A Final Stage of Making Constitution in Bosnia and Herzegovina, 1996), *Ustav i politika* (Constitution and Politics) (1997), *Die Religionsfreiheit und der Streit um den Ruf des Muezins* (Freedom of Religion and Dispute Over Call To Prayer, 2000), *Das Bundesstaatsprinzip* (The Principle of a Federal State, 2002), *Ustavno uređenje Savezne Republike Njemačke: Osnove njemačkog državnog prava* (Constitutional Order of the Federal Republic of Germany: The Bases of German Public Law) (2005). Professor Šarčević's research focuses on public law, European law, international law, constitutional law, and international legal protection of human rights, philosophy of law and state, and legal systems in South Eastern Europe.

Svetlana Cenić

Born in Sarajevo in December 1960. Completed elementary school, secondary school and the School of Economics in Sarajevo. Her first employment was in Tesanj, from where she moved to Belgrade to work in the area of foreign trade and later with international companies as a manager for the former Yugoslavia. In April 1992 she was forced to leave Sarajevo; during the war she did administration work for professor Koljevic until July 1995 when she moved to Banja Luka. She worked with foreign reporters and as a consultant for international companies, and for some relief organizations etc. In December 2000, she accepted an invitation by the then president of the RS to serve as his adviser (which was not a full time job); she served as a Finance Minister of the RS from February 2005 to February 28, 2006, when a new government took office.

Awarded a master's degree at Cambridge University; enrolled in doctoral programs in the U.S. and Switzerland. Completed specialist training and other studies in economy abroad.

She teaches courses in economy at the College of Banja Luka and at the *Prometej* High School and is the *Dani* weekly columnist; she also writes commentaries for *EuroBlic*. Maintains close cooperation with the non-governmental sector; she is a member of the International Sustainable Development Network of His Royal Highness Prince Charles. Never had any political affiliation.

Radenko Udovičić

Works as a program director of the Media Plan Institute Sarajevo, the organization involved in training of journalists, media research and production.

Born in 1969 in Sarajevo. Holds a master's degree in journalism. Graduated from the School of Law, Sarajevo, and obtained a master's degree at the School of Philosophy, Tuzla, Department of Journalism.

He obtained the first experience in journalism in 1991, at Studio 99 Radio in Sarajevo. He joined Media Plan Institute Sarajevo in 1996, where he developed skills in analysing the media content. During his career, he has worked on all kinds of the media – from radio and television to the press and web. He also served as a correspondent of numerous media in the region and of Radio Free Europe in South Slav languages. Worked as an editor-in-chief of the media web site „mediaonline”; editor of *Medijska spoticanja u vremenu tranzicije* (2005), the book about the key problems facing the media in South Eastern Europe, and *Indikator javnog interesa* (2007), based on the analysis of the contents of the main news programs aired on televisions in the region. He also served as an editor of the specialist journal, *Sjećanja – Univerzitet komunikacija* (2000-2002). Author of the book *Odnosi sa javnostima i novinarstvo – INFORMATORI SA RAZLIČITIM CILJEVIMA* (2007).

Fondacija Heinrich Böll

Fondacija Heinrich Böll je njemačka politička fondacija koja je po svojoj orijentaciji bliska stran-
ci Savez 90 / Zeleni. Njen osnovni zadatak jeste političko obrazovanje građana/građanki u zem-
ljama u kojima djeluje s ciljem unapređenja demokratskih potencijala, društvenopolitičkog
angažmana građana i građanki i razumijevanja među narodima. U svom radu orijentiše se prema
osnovnim političkim vrijednostima kao što su zaštita okoliša i održivi razvoj, demokratija, soli-
darnost i nenasilje. Ohrabrujuće riječi Heinricha Bölla: „Umiješati se, jeste jedini način da se
ostane realističan.“, moto su djelovanja Fondacije.

Ured za Bosnu i Hercegovinu djeluje u okviru Regionalnog ureda za Jugoistočnu Evropu sa
sjedištem u Beogradu.

Heinrich Böll Foundation

The Heinrich Böll Foundation is a German political foundation of orientation close to that of
Alliance 90/Greens party. Its primary task is to provide political education for citizens in the
countries where it works, with the aim of improving democratic potentials, socio-political
engagement of the citizens, and understanding among peoples. Its work is oriented towards
fundamental political values, such as environmental protection and sustainable development,
democracy, solidarity and non-violence. The encouraging words of Heinrich Böll: "Getting
involved is the only way to stay realistic" are the motto of the Foundation's work.

The Office in Bosnia and Herzegovina works as part of the Regional Office for South-East
Europe, located in Belgrade.

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