



EU democratisation of BiH - Right principles, wrong policies

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“Normative incompatibility” between the EU and BiH systems of values

The EC Progress Reports in BiH as well as numerous documents produced by the Council of Europe (CoE) illustrate that the normative incompatibility between EU and BiH is primarily rooted in the exclusivist and divisive nature of the Dayton structure and predominance of nationalist rhetoric.

Members of the Parliament frequently continue to vote along ethnic lines... failure to amend the Constitution made it impossible for the elections to comply fully with the requirements of the European Convention for Human Rights (ECHR) (EC 2006 Progress Report on BiH)

The Dayton Agreement created divisive structures, which inhibit the projection of EU norms onto creation of a state to which citizens are comfortable to entrust their support and are able to identify with. As such, those structures and norms they project represent a serious challenge to the apparent political commitment of BiH government expressed in the Thessaloniki. Dayton structures thus represent

“We all share the values of democracy, the rule of law, respect for human and minority rights, solidarity and a market economy, fully aware that they constitute the very foundations of the European Union”

(Thessaloniki Declaration, 2003, para. 2).

a basis of values which are in “cultural clash” and contest the applicability of European norms and standards in the domestic framework.

“There is an underlying tension between a constitutional system based on collective equality of ethnic groups and the principle of individual rights and equality of citizens”

(Venice Commission, 2005, page 17)

The EU “normative basis”	The BiH “normative basis”
democracy	vertical and horizontal divisions along ethnic lines, as well as a voting system designed along ethnic lines
rule of law	Constitution in the breach of the European Convention for Human Rights
social justice	prevalence of nationalist rhetoric on identity and ethnicity related issues
respect for human rights	predominance of collective over individual rights

“Counter-norms” curb the potency of EU’s “normative power” in BiH

The lack of legitimacy and a general lack of identification with the Dayton state, primarily by its political leaders, partly explains why nationalism proves to be a dominant force. It creates a vicious circle in which an unstable state inspires adverse feelings, which are shaped into policies of obstruction and insistence on the ethnic principle, and vice versa.

Our research showed that accession to EU has primarily symbolic meaning to BiH citizens, representing a stable economic, security and democratic framework. The EU represents an ideological framework of values to which BiH citizens could subscribe. However, since EU standards and values are “integrationist” in nature, their ideological basis collides with the “exclusivist” nature of ethnic nationalism.

A recent survey by UNDP (2007) “Silent Majority Speaks” shows that 70.8% of BiH citizens see their country in EU in 20 years’ time. It also shows that respondents who have an exclusive identity (ethnic) are considerably less likely to envisage EU membership than those who have a primary identity (see themselves as citizens of BiH, as well as belonging to an ethnic group).

The emotional strength of nationalist rhetoric marginalizes the appeal of “Europeaness” which might appear too distant to the local public. This puts tangible limits to the power of EU policies and constraints them substantively, but also shows that the EU needs to consider investing more efforts into changing perceptions and promotion of its own values, rather than continuously insisting on simple institutional changes.

As a “grey-zone” or “reluctant” democracy, BiH distracts EU policy by claiming success for partial or superficial reforms

Countries are labeled “reluctant democratizers” when they are perceived to meet a minimum of democratic standards in terms of having free elections, relatively independent media, formal freedom of speech and assembly, etc., but come short on substance. Public (electoral) support for a quasi-democratic regime in BiH is generated by the rhetoric of nationalist politicians, which relies on still fresh memories of the war, appeal to people’s fears and political insecurities, making them feel inferior to the other groups and constantly appealing to some perceived social injustices stemming from ethnic distinctiveness.

Summary

The EU democratisation policy in BiH has focused primarily on the “formal/institutional/procedural/bureaucratic” democratisation, and paid less attention to “informal” or “substantive” democratisation. As a result, the EU democratisation policy in BiH has not brought about “internalisation” of European and democratic norms in BiH society and state. To the contrary, democracy in BiH is characterized by ethnicity based party-politicking, confrontational discourse, political pressure on the press and media, reform stalemate, inflammatory political rhetoric and perpetuation of political crisis.

Substantive or consolidated democracy considers that apart from fulfilling the basic conditions such as holding free parliamentary elections and having a multi-party system, it also includes active political participation, respect for freedom of media, constructive political dialogue, issue-driven and with effective public support. Therefore, the basic precondition for consolidation of democracy in BiH is a synthesis and inseparability of its institutional/formal aspects and internalization of democratic norms, values, principles and standards.

The Bertelsmann Index of Transformation (2007) ranks BiH as 48th out of 125 states assessed in terms of their democratic status, and as 81st on the index of political management.

“to the extent that the EU is interested in a wider notion of substantive democracy (development of parties, the media, civil society, respect for minorities, etc.), the EU may find it more difficult to deal with these quasi-democratic states, whose leaders may formally embrace democratic norms but argue that special circumstances limit the applicability of some democratic principles” (Kubicek, 2003, p. 23).

The EU democratisation approach does not seem to have yielded desired results mainly because they rely on an “instrumental calculation” (conditioning the signing of the SAA with BiH with fulfilment of a number of short and medium-term requirements), even though the EC 2007 Progress Report for example locates the resistance to democratisation very precisely: “Final responsibility for the difficulties in government work lies with the leadership of the political parties”.

The EU “formal / institutional / structural” democratisation policy fails to “internalise” democratic norms in BiH society

Even though the EC 2007 Progress Report on BiH recognizes a number of situations in which democratic principles are breached, the rhetoric employed by the EU Reports is mild and not prescriptive. It makes some reference to the breaches of democratic principles, however, there are no qualitative statements, words of condemnation, attempts to project some standards of democratic communication. The EC does not prescribe anything even near the qualifications that they utilized in the case of Slovakia in 1997, when they disapproved the “attitude which goes beyond the confrontations traditionally accepted in a democracy” (p. 6) and tried to act as an arbitrator and interpreter of what might be considered a “normal democratic practice”.

“...repeated invocation of a given norm by political elites or social actors will increase the norm’s salience. The invocation initially may be cynical or self-serving, but the very fact that the norms are given voice will affect their resonance and lead to greater chances for internalization” (Kubicek, 2002, p. 15).

EU has not utilised its positive image in BiH society to project more democratic values

Recently admitted EU members from Central and Eastern Europe consciously sought to make themselves “more European”, extensively employed the rhetoric of a “return to Europe”. The majority of those cases are post-transitional societies, well integrated, and already at one of the stages of democratic consolidation. However, in the case of Bosnia and Herzegovina, a post-conflict, divided society, appealing to desires for potential membership has not generated an equal amount of enthusiasm among politicians. What motivated political leaders in BiH to make last minute steps in meeting the EU criteria for SAA, were not high aspirations to become “more European”, but first and foremost, a fear of being left out as the last country in the region without a contractual relationship with the EU. Furthermore, this pressure was

generated from outside, by the international community, while the internal drive continues to be lacking in spite of an apparent public consensus on EU. So far, the EU policy in BiH has not addressed this evident gap, and thus has failed to “internalise” a domestic ambition to join the EU. This research showed that in the context of a post-conflict divided society in which the governing elites would rather preserve the status-quo then integrate their societies, the EU membership is not appealing enough if it jeopardizes this position. The EU itself on the other hand has failed to promote its values as a part of their enlargement and democratisation policies in BiH.

EU Policy Options:

According to a former Serbian politician, the positioning of Serbian political parties towards EU and generally how they are positioned on the political spectrum, is more clear cut. It is “black and white”, almost binary - either they are for or against the EU; politically - they are either extremists or moderates. That split is far less clear in BiH. On one hand, most politicians claim to be pro-European. On the other hand, over the past two election cycles, the “nationalists” have become more moderate, and “moderates” have become very radical. And the EU not only failed to recognise this change, but it actually continues to exploit the blurriness of this situation in order to muddle their way through to an agreement with BiH. Because of their desire to integrate BiH as soon as possible, they switch between allies and foes almost on a weekly basis, and continuously fail to respond to a need for democracy to consolidate and internalise as a domestic ambition.

On April 29th 2008, at a ministerial meeting in Luxembourg the EU signed the Stabilisation and Association Agreement with Serbia, even though they had not fulfilled any formal conditions put before them. This was a purely political decision aimed at influencing the Serbian electorate and support democratic forces on the eve of general elections. It shows that the EU is capable and willing to use its positive and negative sanctioning to promote democracy, regardless of how challenging the environment may be for democratic consolidation. However, in the case of BiH the EU does not have an adequate answer for tackling internal divisions and situations where social cohesion is lacking, while local politicians successfully sustain the delusion of endless reform negotiations.

We can thus consider a number of policy options aimed at substantiating, as well as increasing, the effectiveness and sustainability of the EU democratisation policies in BiH.

- BiH is essentially a divided, post-conflict society. There are no strong internal voices, in politics or civil society, that could generate substantive pres-



sure for consolidation of democracy. That is why this drive should come from outside, particularly from the European Union.

- Weaknesses in civil society in BiH are usually attributed to their lack of capacity and interest, without any recognition of the enormous capacity of political elites and state to resist the internal drive for change. This resistance of the state and public officials to pressures from civil society undermines the concept of democratic accountability.
- By insisting on substantial democratisation, including the generational change, the EU substantiated its own democratisation policy in Slovakia and to a certain degree in Serbia as well.
- The broader normative environment in BiH is resistant to EU norms, and it is a part of a vicious circle also comprising BiH political elites as potential agents for normative compliance, undemocratic state structures, and “pseudo-democratic” processes. The EU democratisation policies in BiH thus need to find ways to confront “counter-norms” that currently lessen the attractiveness of the EU itself as well as its norms and standards.
- These are all reasons why the EU needs to re-think and re-direct its democratisation policy in BiH towards greater insistence on substantial changes in application of democratic principles and practices. Their current policy relies mainly on positive and negative conditionality as instruments of policy promotion. But as the police reform and the hasty process of initialling an SAA illustrated, the EU gladly compromises its own principles and values in cases when faster integration serves its alternative interests and short-term political goals.
- The shift in EU policy should primarily focus on “internalisation” of EU democratic norms in the BiH state and society, through “persuasion, dialogue, and socialization, or exposure to new ideas” and substantiated with material or instrumental motivation, even through the use of conditionality.

Recommendations:

By outlining some of the above considerations, we have shown that in as much as structural changes are an unavoidable aspect of consolidation of democracy in BiH (particularly in regards to those provisions of the Constitution which are in breach of the European Charter on Human Rights), they need to be supplemented by greater emphasis on its normative aspects, along the lines of the following recommendations:

I. The EU needs to think beyond the creation of a virtual democracy in BiH. From the perspective of a deeply divided society that is struggling to come to

terms with its realities and does not have answers for overcoming internal divisions, and in the absence of a better constitutional arrangement, the EU is the only structure that can provide a framework of democratic norms, principles and values to which most citizens could subscribe without having to surrender their own identities and beliefs.

- II. That is why the use of the standard “toolbox” of EU democratisation policies will not yield desired results. BiH is not a transitional society - it is still primarily a post-conflict, divided society, which requires the use of tailor-made policies and instruments. EU integration is the process and the solution for the problems of BiH and the region. It thus needs policies which will overcome the fear of “constant entering into the EU” - by integrating BiH substantively and symbolically into the EU. And in line with its offer to Serbia - offering candidate status to BiH as well.
- III. In order for this approach to reflect on the operation of the EU actors on the ground, there needs to be a greater synergy between the “political” and “technical” EU and EC representation. The European Commission and its Delegation to BiH need to recognise that they do not operate in a value-vacuum. The “tailor-made” approach also means that in as much as the EU political representatives need to “take sides” and make value judgements, so do the technical EC representatives. The EU approach to BiH cannot afford to be standardised, bureaucratic and neutral, because that means compromising the core EU values.
- IV. In order to ensure the sustainability of democratisation efforts in BiH, and ultimately to make the country more compatible with what Europe is all about, the EU needs to focus its policies at a minimum on moderating the internal social and structural divisions.

- In regards to the society, the EU can and should provide a common symbolic vision of the future. This means:
 1. Adapting its policies to accommodate the evident social craving for a more positive, symbolic identification with something that surpasses the internal divisions. This can be done by greater public promotion of the “integrationist” values that are at the core of the EU, versus the “undemocratic/divisive” values that are at the core of the currently dominant BiH system of values.
 2. Increasing the salience and resonance of EU norms and values by constant public promotion of EU values and standards.
 3. Making the vision of BiH inside the EU more tangible, realistic and within the reach of



A “Policy Development Fellowship Program” has been launched by the Open Society Fund BiH in early 2004 with the aim to improve BiH policy research and dialogue and to contribute to the development of a sound policy-making culture based on informative and empirically grounded policy options. The program provides an opportunity for selected fellows to collaborate with the Open Society Fund in conducting policy research and writing a policy study with the support of mentors and trainers during the whole process. Thirty eight fellowships have been granted in three cycles since the starting of the Program. All policy studies are available at www.soros.org.ba



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BiH society through policies of socialization. This primarily means easier access to the EU itself through an immediate and complete visa liberalisation regime and facilitation of travel opportunities.

4. Internalising EU norms and democratic principles in BiH society through policies of persuasion, dialogue, and exposure to new ideas. This may also require a material or instrumental motivation, and synergy with the use of conditionality is most appropriate. Such policies could be supported by activities such as more student scholarships, student exchanges, access to EU universities and research opportunities, strengthening of civil society through greater material and technical assistance, etc.
- In regards to the state, the EU should also insist on promotion, institutionalization and internalisation of its norms and values.
 1. Primarily, internalisation and institutionalisation of EU norms in the BiH constitution, which should be fully harmonised with the European Charter on Human Rights and other EU and CoE documents.
 2. The EU itself needs to stop compromising its own values for the sake of short-term political wins and gains, if it wishes to maintain its integrity, credibility and influence on local political actors.
 3. In order for the EU values to have more "buying power", to become attractive and sustainable, and to overcome the "counter-norms" and influence of unfavourable political actors, there needs to be a clear link between the promotion of values and use of conditionality.
- V. And finally, the EU should confront the political elites sustaining the status quo with open support to opponents to the status quo. Empower them by both the use of an international norm (gaining moral legitimacy) and access to external actors (who provide logistical and political support and greater leverage to domestic actors). This may require a "generational change" that goes beyond the remit of EU's standard democratization policy. However, at a minimum, democratic voices need to be recognised publicly and provided external political legitimacy, while undemocratic voices need to be internationally marginalised, and some even isolated.

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