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MULTIPLE VETO-PLAYERS IN BOSNIA AND HERZEGOVINA: THE EFFECT ON RELATIONS WITH THE EUROPEAN UNION

MA Thesis

Supervisor: Piret Ehin, PhD

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"I believe that life is a prize, but to live does not mean you are alive".

Abstract

The problem of poor compliance of the Western Balkan nations with the accession requirements has particularly come to the fore in the recent years now that the EU is prioritizing the countries as the candidates next in line. The political science scholarship has identified various obstacles blocking the way of smooth and effective politico-economic integration of the Western Balkan nations, with some emphasizing state capture and high corruption levels (Vachudova, 2018) and others accentuating economic and social factors (Darbrowski, Myachenkova, 2018). However, existing research investigating the problems associated with the European accession has tended to overlook the internal institutional challenges impeding reforms and impairing chances of integration. This thesis, in turn, delves into the veto-players-laden Bosnian political system, thereby providing a key to a more thorough understanding of the mechanisms that serve as a stumbling block to accession progress of the country. The thesis uses veto-player theory by George Tsebelis as the main theoretical concept to unravel the constellation of veto players in the government of Bosnia and Herzegovina and attains its objective by relying on process-tracing as the main research method to analyze the reform progress. The results of the analysis reveal the direct detrimental effect of the convoluted political structure of Bosnia and Herzegovina on reform progress and relations with the EU. The number of veto-players and the (non-alignment) of their strategic interests prove sufficiently substantial to prevent change and retain status quo, thereby hampering the EU accession progress. In sum, the study contributes to the literature on EU accession and Europeanization by highlighting how the candidate-country institutional set-ups can impede reform progress and EU accession.

Key words: Bosnia and Herzegovina, veto-player theory, EU accession, reform stalemate

Abbreviations

EC – European Commission

ECHR – European Court of Human Rights

EU – European Union

EUFOR – European Union Force in Bosnia and Herzegovina

EUPM – European Union Police Mission

RS – the Republic of Srpska

FBiH – the Federation of Bosnia and Herzegovina

IFOR – Implementation Force

IPA – Instrument for Pre-accession Assistance

HDZ – Croatian Democratic Union

NATO – North Atlantic Treaty Organization

OHR – the High Representative

SAA – Stabilization and Association Agreement

SDA – Party of Democratic Action

SDP – Social Democratic Party of Bosnia and Herzegovina

SFOR – Stabilization force in Bosnia and Herzegovina

SNSD – Alliance of Independent Social Democrats

SBB – Union for a Better Future of Bosnia and Herzegovina

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Introduction

Over the recent decades virtually all Western Balkan nations have been adamant in their strive for Europeanization and the common future in the European Union. However, the obstacles each nation encounters on their way to the longed-for European integration vary from country to country, with some being truly sui generis. This thesis sets out to elucidate the causal relationship between Bosnia and Herzegovina's institutional set-up, veto players and the country's hindered European integration process. The problem of poor compliance of the Western Balkan nations with the accession requirements has particularly come to the fore in the recent years now that the EU is prioritizing the countries as the candidates next in line. Even so, the challenges besetting the Western Balkan countries are too acute to leave them at the discretion of the national governments. Thus, the goal of successful integration of the Western Balkan countries into the European family is not solely confined to the candidate states themselves, but concerns the EU directly, as any sort of destabilization in the region is bound to reverberate across the entire continent. Therein lies the paramount importance of coming to grips with issues and understanding the obstacles getting in the way of Western Balkan accession.

The political science scholarship, when lumping all Western Balkan countries together, singles out various obstacles blocking the way of smooth and effective politico-economic integration of the Western Balkan nations. Vachudova emphasizes state capture, high corruption levels, and other aspects of democratic backsliding as the main hurdles to the region's successful accession (Vachudova, 2018). Dabrowski and Myachenkova, in turn, accentuate economic and social factors such as poor macroeconomic and impeded social performance (Darbrowski, Myachenkova, 2018). Other scholars tend to take an aggregated approach and examine the post-conflict nature of the region as the most apparent stumbling block to a quick EU accession of most of the Western Balkan nations (Borzel, 2018). Quite a few scholars shed light on the external factors and reasons emanating from the EU side, such as enlargement fatigue and internal economic crises and woes that discourage political elites of the EU to push through with the Western Balkan countries accession agenda too actively (O'Brennan, 2014). Overall, political science and EU studies scholars devote assiduous attention to the issues facing the Western Balkans in their research.

However, the scholarly researchers investigating the problems associated with the European accession tend to overlook the internal institutional challenges impeding countries' development and impairing chances of integration. At best, the researchers resort to bracketing all six countries together (or pair two similar countries) and produce a generic knowledge that omits

and disregards the key nuances and peculiar characteristics of some candidate countries. This is especially true when it comes to Bosnia and Herzegovina, the sui generis nature of which barely needs to be emphasized. Delving into the idiosyncrasies of Bosnian political system will indubitably contribute to the research in the EU studies domain and provide a key to a more thorough understanding of the mechanisms that serve as a stumbling block to accession progress of the country. Bridging the gaps in the country-specific knowledge of the Western Balkan region lays the foundation for the promising future in years to come. Aside from this seemingly lofty research benefit, analyzing the internal institutional challenges might open new avenues for scientific research aimed at studying the politics of Bosnia and Herzegovina as well as country's bilateral relations with EU. Not only does this hold its value for the relevant body of scholarly literature, but it also might be instrumental in working out solutions to the political challenges in the Western Balkans which could be handled on a case-by-case basis.

The *objective* of this Master's thesis is to assess how veto players in the political system of Bosnia and Herzegovina influence the reform progress in pursuit of the country's EU accession prospects as well as to establish which veto players are hindering the reforms and identify the reasons why particular veto players exhibit this obstructive behavior. A veto player, according to Tsebelis, is an actor who is capable of stopping a change from the status quo (Tsebelis, 1995). In the case of Bosnia and Herzegovina veto players in the policy-making process are exclusively institutional (as opposed to partisan), i.e. the role and legitimacy thereof is enshrined in the constitution. This research will give prominence to the veto players present at the national level, first and foremost, the Parliamentary Assembly which consists of the House of Peoples and House of Representatives as well as the Tri-partite presidency of Bosnia and Herzegovina, all actively utilizing the veto mechanisms bestowed on them by the constitution. This brings the total number of veto players to eight: three presidents representing three constituent peoples in the Tri-partite presidency (3), three delegations representing the three constituent peoples in the upper chamber of the Parliamentary Assembly (3), and finally the two delegations representing the Republika Srpska and the Federation of Bosnia and Herzegovina in the lower chamber of the Bosnian Parliament (2). In the parliament (House of Representatives), the most prominent veto mechanism for the veto players is *entity voting*, meaning that delegates from the Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FBiH) are authorized to use their veto against any parliamentary decision made in the Assembly (Constitution of BiH, 2006). It is also important to note that entity voting is for the most part territorial voting rather than exclusively ethnic since the FBiH is represented by two constituent peoples – Croats and Muslims. Thus, whilst it is crucial not to lose sight of the ethnic component within the research equation, it is equally important to

lay stress on the *convoluted state structure* allowing for this crippling (for the policy change) veto practice in the first place.

The thesis addresses two main, related research questions: *(a) how does the institutionalized political division of Bosnia and Herzegovina hamper the progress towards European Union accession?, and (b) which entities have vetoed reforms requested or recommended by the European Union and why?* In order to provide an unambiguous and comprehensive answer to the proposed research question a qualitative research method of process-tracing is utilized with an emphasis on the theory testing variant. The method of process-tracing proves a rather useful approach for drawing causal inferences in a small-n research designs and instrumental in overcoming the problem of indeterminacy of case studies. Essentially this research treats the case of Bosnia and Herzegovina divided into two sub-cases of the Republika Srpska and the Federation of Bosnia and Herzegovina as the main driving forces behind political decision-making in the country, not least regarding European integration policy. The empirical part will contain the analysis of the three reforms (spanning from 2008 until 2022) thwarted or hindered by the country's veto mechanisms in order to get a "real world" image of the entity voting and its political reverberations: a) police reform, b) judiciary reform c) constitutional reform regarding electoral law. Veto voting phenomenon here is amply employed as a causal mechanism explicating the modest success of Bosnia and Herzegovina in complying with the EU's body of law and fulfilling the accession requirements.

Hence, the theoretical and conceptual part of this research largely focuses on the veto player theory, developed by G. Tsebelis (Tsebelis, 2002), to lay bare one of the causal mechanisms that eventually lead to slow and bumpy EU integration of Bosnia and Herzegovina. The main *hypothesis* of this research, stemming from the theory itself, is that the more there are veto-players, the less likely are the reforms/changes of status quo. As mentioned earlier, a veto player, according to Tsebelis, is an actor who is capable of stopping a change from the status quo (Tsebelis, 1995). The political system makes the case in point since it has one of the most intricate veto mechanisms, laid out in the constitution of Bosnia and Herzegovina, with three ethnic entities of Serbs, Muslim Bosnians and Croats having a say in any legislation or decision-making process the government is involved in. These mechanisms increase policy stability and thus decrease the political system's ability to bring about policy change and have an adequate response to current challenges. Hence policy change implies the capability to perform a substantial change in the status quo, be it a bill to be passed or a new policy to be formulated (Tsebelis, 2002). The new reforms necessary for successful compliance with the EU conditionality fairly represent a change from the status quo which veto players, in this case in the government of Bosnia and Herzegovina, try to thwart and

prevent so as to preserve political stability for a number of reasons. Thus, the veto player theory in this sense appears rather promising when it comes to understanding changes to status quo and explicating the difficulties of inducing policy change in Bosnia, especially in respect to European integration.

Another important aspect broached by the veto player theory is an "analytic truth" which "concerns the ideological distances of veto players" (Tsebelis, 2011). To gauge this distance, it is important to be aware of the location of the veto players in the policy space as well as their preference-based veto exercise (ibid.) In brief, this means that if there are two or more veto players who have identical preferences in policy, they will act as a single veto player, since there is an agreement on a policy change. This is of crucial importance to this case study, because Bosnia and Herzegovina has a political system with numerous veto players whose policy preferences tend to clash and overlap from time to time depending on the ethnic aspect, entity affiliation, political stances and so forth. On the whole, it is worth reiterating that, in this research, the veto player theory serves the purpose of an explanatory tool necessary to understand how political reforms and new policy, laws constitute a change to status quo and why certain veto players are interested in keeping these changes at bay.

This research is a qualitative case study of Bosnia and Herzegovina that utilizes the method of process tracing which enables the researcher to establish the causal links between the complex political system (political division of Bosnia) and the hindered EU accession progress. The method of process tracing helps us to understand how causal processes work in a real-world case based on studying within-case mechanistic evidence or causal mechanisms (Bennet, 2008). In this research the causal mechanisms that connect the cause with the outcome are *veto player voting* (or *entity voting*) and *reform stalemate* leading to the hampered accession progress of Bosnia and Herzegovina. It is noteworthy that the process tracing method employed in this study is a theory testing method, where the causal mechanisms are hypothesized to explain the outcome. Empirical material will be gathered to see whether the predicted evidence was present or not for each part of the causal mechanism. In order to find evidence proving or disproving the hypothesis and to facilitate the process tracing, a document analysis will be conducted by surveying various primary and secondary sources on the topic, with a great emphasis on legislation.

The case selection is best explained by the convoluted structure of the government of Bosnia and Herzegovina which singles it out from such other Western Balkan nations as Serbia, Albania, Montenegro, North Macedonia, and Kosovo. The political system with a wide array of veto players holds considerable interest for the political science scholarship, especially in the domain of European studies. Bosnia and Herzegovina is uniquely suited for testing the veto-player

theory (as regards veto-player-based explanation of reform stalemate) owing to its unusual cumbersome fragmented political structure. This research sets out to assess how the national veto players react to the policy change (first and foremost EU compliance policy) in respect to the preferred status quo. Bosnia and Herzegovina indubitably stands out from its fellow EU candidates in this sense, and for that reason merits further scholarly investigation into the peculiar political system and its interrelation with the EU conditionality policy. The three selected reforms examined in the research are – police reform, judicial reform and constitutional reform regarding electoral law. In the case of each case, I will determine whether and how veto-players affected the outcome of the reforms involved.

To examine each stalled reform in question and process-trace decision-making in their contexts, I will turn to primary sources. The bulk of empirical data necessary for conducting the research and will be primarily drawn from the legal framework of Bosnia and Herzegovina and its legislation (legal acts, by-laws), including the constitution as well as voting records in the Parliamentary Assembly. This will, in turn, help to get a more thorough understanding of the veto mechanisms in the country's political system and their dynamic, this especially holds true for the three chosen reforms. The documented processes will, in essence, oil the wheels of the process-tracing method, as they will provide sustenance for further building and drawing of causal explanations. Afterwards, the surveyed sources will be assessed against the hypotheses posited in this research. When it comes to the assessment of the EU accession progress of Bosnia and Herzegovina, it is imperative that the progress reports set out by the European Commission be taken into account and analyzed. Furthermore, a wide array of scholarly articles, news articles and opinion polls will be surveyed in order to gain insight into the "real world" concept of veto players and entity voting in Bosnia as well as its social and political repercussions felt across the board.

It is worth noting that most of the empirical data previously mentioned is retrieved from the Internet sources where it is readily accessible, however some of the data required having access to the University of Sarajevo library, which was not a significant obstacle to conducting the research. Nevertheless, one of the few apparent problems which may arise in the course of the research project is the language of the sources. Although the majority of the documental sources are readily available in English, some of them are drawn up in the local languages (Bosnian, Serbian and Croatian). The challenge can be overcome by turning to neural machine translation services or to the staff of the Political Science faculty of the University of Sarajevo for translation help, where roughly half of the project will be carried out. Moreover, as regards the legislative reports, the most valuable data for the research is concentrated in the outcome of a particular item of legislation as opposed to its content part, thus the language issue poses a less serious challenge

to the conduct of the research due to the concision of the information needed. It is worth mentioning that the lion's share of the research work was conducted directly in Bosnia and Herzegovina at the University of Sarajevo. This both echoes with the case selection justification and, moreover, leads to the next section of empirical data and sources.

Structure-wise this research project is divided into an introductory part, three chapters and conclusion.

The first chapter will focus on the theoretical component of the research by unfolding the concept of veto players espoused by George Tsebelis. Giving prominence to the number of veto players as a factor that is thought to incentivize status-quo orientation and have a detrimental impact on the ability to induce policy change in bicameral systems will help unwind the research puzzle. For this research deals with the phenomenon of European integration, it is essential that the wide-ranging theory of Europeanization be broached and defined. Likewise, an emphasis must be put on the crucial elements of Europeanization such as EU conditionality instrumental in explicating the interrelation between political division of Bosnia and Herzegovina and country's success in the EU accession process.

The second chapter is devoted to the research design and data and methods. Firstly, it will justify the case selection and provide concise yet comprehensive background of Bosnia and Herzegovina in historical and political terms as well as in the context of the country's accession to the EU as a potential candidate. Secondly, since the reforms aimed at conforming to European standards lie at the heart of the empirical analysis of the research question, this chapter will justify the reforms selection and disclose their relevance to the country's accession progress. Thirdly and most importantly, the process tracing method will be presented in order to elucidate the interrelation between the convoluted political system of Bosnia and Herzegovina and its relations with the EU. Finally, the second chapter will explain what sources and documents will be utilized in the course of this research project.

The third chapter presents the results of the empirical analysis. First and foremost, it will map out and enumerate the main veto players both at the state and entity-levels, and, furthermore will briefly mention other actors that could be considered as veto players in the context of Bosnia and Herzegovina as the case study. It will systematically process-trace decision-making in three reform processes: police reform, judicial reform and constitutional reform regarding electoral law, highlighting the role of VPs. The chapter will be logically broken down into four sub-chapters: three devoted to perusing the respective reforms and another one treating the veto players' constellation in the governmental structure of Bosnia and Herzegovina.

The concluding section will summarize the main results and elaborate on their academic and practical implications.

1. VETO PLAYERS AND VETO POINTS IN THE CONTEXT OF EU ACCESSION CONDITONALITY

The term "veto player" refers to an actor, or constellation thereof, who has the authority to stop the adoption of a decision by unilateral action. In international relations, it usually refers to veto rights held by permanent members of the United Nations Security Council. When it comes to political systems, the term veto is seen as the prerogative of one of the actors in political life to block or delay the adoption of decisions. The most vivid example of it in modern-day conventional political systems is the presidential veto. The concept of veto players in the political system has gained considerably more traction with the work of American political scientist George Tsebelis (Tsebelis, 1992, 1995, 2002, 2011). Tsebelis shifts the focus of the research to specific veto actors in the system, and analyzes their interrelations and impact on the stability of the regime and policy status quo. It is worth noting that erstwhile research has usually grappled with the issue of influence of actors on outcomes such as consolidation of democracy, good governance or efficiency of government. Tsebelis, on the other hand, ventures to examine the possibilities and capacities for policy change based on the number and quality of veto players, actors whose consent is necessary for the adoption or change of a policy, from which arises the concept of policy stability (Tsebelis, 1995). It is likewise important to note that the author views policy stability as a value-neutral category, that is, he does not consider policy stability necessarily good or bad.

George Tsebelis explains the outcomes of different political systems (primarily institutional solutions, but also party systems) through the veto player's theory. The applicability of the theory to different states, regardless of the specific political, economic or cultural context, has contributed to its popularity in modern political science. This part of the research will attempt to reveal the key elements of the veto player theory as well as its pivotal concepts necessary for understanding the logic of veto players, their behavior patterns, their motivations. Furthermore, the second subchapter will provide an overview of the Europeanization theory, particularly, the European Union accession conditionality concept, in order to set a clearer picture of the dependent variable and Bosnian veto player interrelation with the country's process of accession to the EU for further analysis in the subsequent chapters. Most importantly, this chapter will culminate in an explanation of an interplay between the veto-player theory and EU accession conditionality, assessing how the former can contribute to a more thorough understanding of the latter, as well as relevance of this interconnection for the ensuing analytical research and enlargement literature in general.

1.1 Veto player theory

As mentioned previously, a veto player is a political actor who can prevent or block the adoption of a decision, i.e. to thwart a change in the status quo. Tsebelis argues that any policy change requires the consent of certain actors. Their number, configuration and mutual relations differ: it can be institutions, political parties, groups, individuals (Tsebelis, 1995). In particular, two important groups of veto players are emphasized: institutional (those formally defined by the Constitution and laws of a country) and party (outcomes from the balance of power of parties in political institutions, primarily in Parliament)[1]. Tsebelis also explains the outcomes of the number and constellation of veto players: their role is measured according to the capacity to produce legislative change, thus producing a lower or higher level of stability (Tsebelis, 1995). Stability level technically denotes that the status quo is directly proportional to the number of veto players: the more veto players, the greater the possibility of blocking decisions (it is more difficult to reach consensus), and the possibility of changing the status quo is significantly less. This leads to a higher level of stability. It could be deduced that in systems with a large number of veto players it is difficult to make major changes, and in this vein, they are more stable.

The author of the veto-player theory states that the outcome of the decision-making process is influenced by two other factors, in addition to the number of veto players. The first is their *congregation*, in other words, consistency in the ideological and programmatic attitudes of the actors (Tsebelis, 2002). The greater the distance of the actors, the smaller the possibility of their consensus, so therefore, the potential to change the status quo is also diminished. The second factor relates to the *internal cohesion* of the veto players themselves, which Tsebelis explains through the size of the core, i.e. the inner circle of decision-makers, considering that veto players with a smaller core are more cohesive. However, although Tsebelis states that greater cohesiveness reduces the potential for change, he subsequently elucidates this by claiming this is only the case for those collective veto players who make decisions by simple majority, while for those who require a two-thirds majority or even consensus, stability decreases proportionately with cohesion (Tsebelis, 2002). However, in the context of the current analysis, it ought to be accentuated that most institutional players are largely cohesive – the issue of internal cohesion is more important when it comes to party actors.

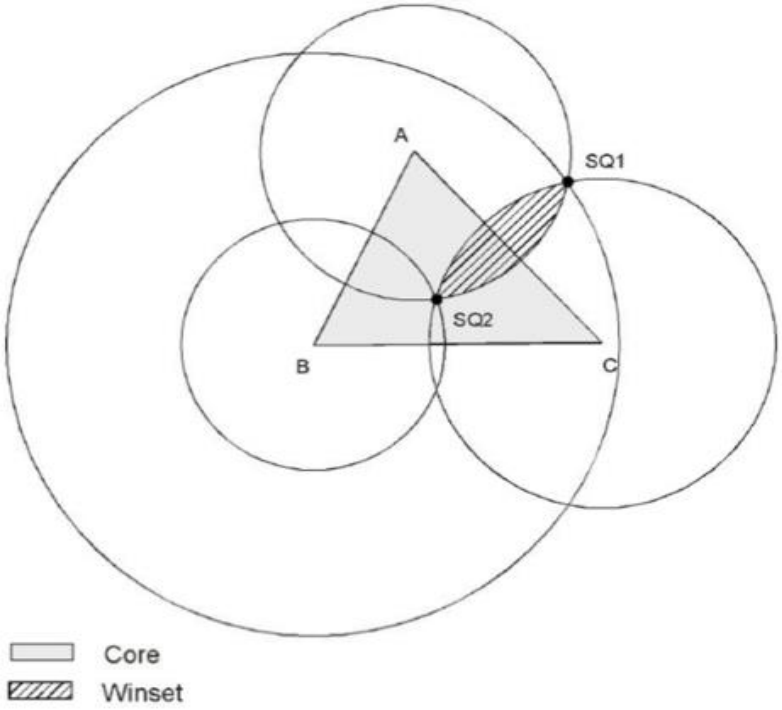
[1] In the context of this analysis, the institutional aspect is certainly more important, since it is the formal mechanisms established during the Dayton peace process that are being scrutinized; but the party veto players will not be neglected, as they come off objectively influential.

While the above mentioned concepts constitute the core of Tsebelis' theory, it is also crucial that other more detailed aspects of the veto-player theory be enlarged on and further given due attention to.

To explore the possibilities of changing the status quo, Tsebelis introduces two important concepts – the *winset of the status quo* (the area of change of the status quo) and the *unanimity core* (see Figure 1.1). The area of change of the status quo is a set of winning combinations that can change the established status quo. If we imagine it as a policy that currently exists, then the area of its change is a zone in which the interests of all veto players intersect, and it can be as large, and small, and may be completely absent. This area becomes small when there are many veto players, they are internally connected and there is a significant ideological distance between them (Tsebelis, 1995). A decision made unanimously in this area is considered a win for all players. It is also worth noting that an important condition for finding a specific point in the area of changing the status quo is to take into account the position of the veto player who initiated this change, since they have an advantage over everyone else. In other words, since the initiator will always strive for maximum profit, the primacy in setting the agenda gives them the opportunity to put forward a proposal to change the status quo, which suits everyone, but above all the initiator themselves. That is, the point in the area under consideration will be closer to it than to the others. Since any actor cares more only about political gain, they cannot accept political losses, so all players will look for the most acceptable option (Ganghof, Bräuninger, 2006).

The second concept – the "core of unanimity" – is an area in which the status quo does not bring losses to anyone. An alternative name for this concept can be the Pareto set, which shows such a set of alternatives to the state of the system, in which the value of each particular indicator, characterizing the system, cannot be improved without exacerbating the others. The smaller this area of change in the status quo and the larger the core of unanimity, the less likely it is that the costs incurred in implementing the changes will pay off, therefore, political stability increases.

The most important criterion for the stability of policy (provided that ideology and internal unity are taken into account) is the number of veto players. G. Tsebelis argues that a large number of them determines policy stability, and a small number may or may not create it. The actual number of veto players may decrease if one of them is located among the others. This is explained by the absorption rule, which shows that if a new veto player is added within the core of the unanimity of any set previously existing veto players, this player has no influence on the stability of politics (Tsebelis, 2002), i.e. adding a new veto player in this case will not diminish stability or generate any new political outcome.



Source: G. Tsebelis, 2022:22

Figure 1.1. Winset and core of a system with three veto players.

With the help of the policy stability indicator, it is possible to assess the position of the authorities and the overall government or regime stability in a state. So, if the state is characterized by high policy stability, then with a high degree of probability we can say that the government is unstable (Tsebelis, 2002). This is due to the fact that it is almost impossible to change the status quo in such states, even if there is a serious need for it. In such a situation, none of the veto players can claim a leading role in setting the agenda, since their number, serious ideological differences and low cohesion reduce the area of changing the status quo to almost zero. The powers of the veto players setting the agenda are directly proportional to the stability of policy. Greater stability is a smaller set of results that can alter the status quo, hence the importance of *who* sets this agenda decreases. For example, Tsebelis emphasizes that in the presidential system, the inability to solve the problem leads to a replacement with a military regime (Tsebelis, 2002). In the parliamentary system – to the weakness and inefficiency of the government.

At the same time, the impossibility of changing the legislative status quo may force bureaucrats and judges to be more active and independent of the political system (Tsebelis, 1999). The independence of officials and judicial bodies is directly riding on the veto players controlling the legislative process (the number and ideological distance between them).

Thus, constitutional courts may become an additional veto player in certain conditions. However, such situations are very rare, since the institutionally established rules for appointing judges are such that it is the veto players who most often select "suitable" candidates. In fact, the courts are absorbed by other veto players. But despite such situation, the courts can theoretically be a serious political force in the process of making state decisions (Volcansek, 2001). However, this is still more an exception than a rule, since courts by their nature ought to be apolitical and impartial. Nonetheless, one should not discount the fact that when studying certain areas of policy, not only the Constitutional Court can be considered, but also other courts in cases where their areas of competence are affected.

Tsebelis paid special attention to the study of individual representatives of the bureaucracy, regardless of the veto players, highlighting separately, in its analysis, the central bank (Tsebelis, 2002). Studies show that the central bank is institutionally more independent in countries where there are many veto players, because in order to influence it, it may have to change the law, and many veto players will most likely not be able to do this (The Encyclopedia of Public Choice, Vol. II, 2004). One ought not to lose sight of the fact that its independence is directly related to the way governing bodies are elected as well as the role of veto players in this process. Thus, when studying the configuration of veto players, it is necessary to take into account both veto players themselves and their structure, which, on the one hand, are dependent and determinable, and, on the other hand, can potentially claim to be defining variables.

It is worth mentioning separately that this concept ascribes great importance to ordinary voters who can express their will both at the elections of representative authorities and through referendums. If there is a possibility of using this institution (i.e. referendum), the number of veto players increases, and the results of the will of citizens are close to the positions of the average voter. Moreover, the very fact of such an opportunity is important, and not its actual implementation (Tsebelis, 2002). This is due to the fact that the veto players in the process of setting the agenda will take into account the opinions of the average voter, and therefore, without bringing it to a referendum, propose a solution that will be in the field of changing the status quo. Let us highlight the paradox of the referendum, which increases the status of this method of expressing the will of citizens, since it takes into consideration all groups of the population, even those that are not represented in parliament (Hug, Tsebelis, 2002).

By *the way* the veto player controls the agenda when holding a referendum, it is possible to assess its impact on the legislative process. If they instigate a referendum and pose a relevant question, their influence is quite significant, and the significance of the referendum decreases. The difference between democratic and non-democratic regimes can thus be assessed by

competitiveness in setting the agenda. It is impossible to draw an equity between the president and the parliament, which may include several hundred people with their own views on solving a particular problem. That is why the key role in the concept under consideration is assigned to the division of veto players into two types - individual and collective. Most often, the decision-making process involves the participation of certain collective veto players (parliament, parties, committees). Of course, there are cases when the veto players are specific individuals (for example, the US president) or monolithic entities (like the Communist Party in China), but they are less frequent. In this case, it becomes technically more difficult to ensure in the study the correspondence between the theoretical concepts at issue and the political reality.

The veto players may be different, but in democratic countries it is the parliament, government, and president that are of key importance, because they determine the agenda (or vote on the legislation) - that is why they are subjected to the most thorough analysis, but when studying collective veto players, a number of problems arise. For instance, the configuration of the status quo change area becomes more complex. Therefore, Tsebelis endeavors to find a way to study such results. So, when faced with the problem of the distribution of political power, it is difficult to establish the very presence of a collective veto player, because when the structure is closed, it is unclear who makes the decision (for example, the party leader can independently lead or obey the decision of a collegial body or their associates who have the right of veto). In such a situation of lack of information, it seems logical to replace the collective veto player with an individual one.

To determine the position of the veto players, Tsebelis suggests considering their institutional location in a multidimensional space, identifying party players based on a specific political situation, and also applying the rule of absorption and winnow out players if some of them are located in the core of the unanimity of others (Tsebelis, 2002). Tsebelis notes that it is possible to replace collective veto players with fictitious individual ones (Tsebelis, 2002). In this case, for example, it is possible to imagine a bicameral parliament with strict party discipline as two veto players participating in the legislative process. Or to imagine the coalition parties as such, since they will strive to act jointly and harmoniously if there is an area of change in the status quo, but if there is none at all, this may lead either to the impossibility of creating a coalition or to its collapse (Ganghof, Bräuninger, 2006).

Another problem in the study of collective veto players is that they, as a rule, cannot make a unanimous decision. In this case, it is generally difficult to envision that collective veto players would be able to make a choice, but from a practical point of view they can choose an alternative even in a small area of changing the status quo. As an example, if the collective veto player consists of three people voting on three issues, the results of their voting on each issue are as follows: 1 –

for–for–against, 2 – *for–against-for*, 3– *against–for-for*. As a result, it turns out that they voted "*for*" on all issues, but at the same time none of the actors was satisfied. The preferences of collective veto players are "non-transitive". This fact is confirmed by the Condorcet paradox. In various variants of the majority's choice between the three alternatives A, B and C, three statements are distinguished: *A > B, B > C, C > A*. However, together these statements are contradictory, so it becomes impossible to make some kind of coordinated decision and determine the will of the majority as a whole.

When studying collective veto players, it is necessary to take into account the rules by which laws are adopted: either they are adopted by a simple majority, or by a qualified one. According to the results of the study, Tsebelis concludes that decisions made by the rule of a simple majority increase political stability in direct proportion to the strengthening of the cohesion of members; decision-making by a qualified majority reduces stability in this case (Tsebelis, 2002). In general, in spite of the difficulties arising from studying collective veto players, Tsebelis offers quite a viable way to study them, develops a means to eliminate these problems and calculate the results of collective choice, when decisions of players with the right of veto are made by a simple or qualified majority. The theoretical framework helps to understand and predict political stability and the results of legislative decision-making in any political system.

1.2 European Union accession conditionality.

Before turning to methodology and the analytical part itself, it is crucial that due attention be drawn to how veto-player theory relates to EU accession and specifically, accession conditionality.

"Europeanization consists in the external projection of internal solutions" (Schimmelfennig, 2010). Political scientists often define it as a process of structural adjustment and systemic transformation based on a number of special requirements vital for full EU membership. Babic describes Europeanization outside the jurisdiction of the EU as a comprehensive process of state-building, which, among other things, is incomplete and permanent, i.e. stretched over time (Babic, 2014). This process aims to change local societies and policies taking into consideration the EU value standards through the implementation of a slew of relations between the EU and national actors. Moreover, the actions of the EU are also quoted as an external dimension of domestic policy. Based on the EU enlargement policy, Olsen sees Europe as a geographical concept (Olsen, 2002). Besides, Europeanization, which goes far beyond the EU, correlates with the desire of the EU to be surrounded by countries that share its norms and fundamental principles such as: the policy of enlargement can lead to the Europeanization of non-

EU member states, which, in turn, reflect the EU governance regime, this phenomenon is explained by the desire to cooperate with countries that have the same common values, beliefs and standards.

Schimmelfennig writes about the general model of external governance, thanks to which the EU projects its model and rules of governance beyond its borders and contributes to the Europeanization of international and national governance in candidate countries (Schimmelfennig, 2005). Thus, the EU is trying to export and impose various concepts, such as democratic constitutionalism, multilateralism, as well as regionalism. The foundations of democratic constitutionalism lie at the heart of the assertion that democracy and human rights are the basis of its external activities. Other experts limn external Europeanization more as a transfer of policy related to institutional framework and general principles, originating from the free expression of the will of states or, conversely, coercion. If we talk about somewhat more fundamental differences, then the main difference separates the socio-constructivist and rationalist spheres.

Moravcik and Vachudova apply the theory of negotiations to the policy of expansion. The specificity of this theory lies in a significant asymmetry: the negotiating demands of the applicant countries for recognition of their special circumstances were selected one by one until a deal was concluded that disproportionately reflected the priorities of existing member states (Moravscik & Vachudova, 2003). Negotiations give higher leverage to the EU, when it comes to EU relations with candidate countries, especially if we submit that this process is irreversible. There is also a claim that potential difficulties cannot have a significant impact on the overall course of this process, but only on its speed. Other experts tend to accentuate the changing nature of the complex process of external Europeanization, presenting it as a kind of political system in decision-making, making decisions and influencing internal structures. The role of personality as well as identity work out equally important in this matter. Europeanization can be effective only if it is not abstract and far from the experience of an ordinary person. It must be interpreted in a language that everyone comprehends.

Perfecting the first mentioned theory of negotiations, Schimmelfennig and Sedelmeier develop a rationalistic model of negotiations, which they call the "external stimulus model" (Schimmelfennig & Sedelmeier, 2005). They characterize this model by the search for maximizing utility by the involved participants. The applicants are credited with a set of awards, and allegedly without coercion or support from the EU. In other words, the state will adopt the EU rule if the benefits of the rewards are higher than the costs of adaptation. The authors were able to develop several more similar models. So, on the one hand, they received a model of social learning that goes beyond social constructivism and the logic of relevance. The evolutions of the interests and identities of national actors play an important role in this regard. On the other hand, another model,

the model of learning lessons, is aimed at the internal market and states that a state accepts EU rules only if this state expects that these rules will effectively and qualitatively solve the problems of domestic policy in the future (Schimmelfennig & Sedelmeier, 2005).

In Olsen's works, when the state does not follow the EU rules by default, i.e. automatically, changes are presented as a normative-conditioned phenomenon, which at the same time depends on a kind of the mechanical system of adoption of EU regulations (Olsen, 2002). There are five mechanisms extensively used by the EU when it comes to candidate countries, for example: consultations, monitoring of the situation, financial support and assistance, provision of certain models, as well as prospects for negotiations (usually on accession). No matter how diverse the mechanisms of European integration are, it is conditionality that is interpreted by a number of outstanding scientists in the field of European studies as the main mechanism that significantly influences the will of the applicant states to meet the requirements of the EU. This phenomenon can also be defined as a strengthening strategy (Olsen, 2002). Such a strategy is carried out in order to stabilize various kinds of political changes at the governmental level and is used by many international organizations and other actors in international relations.

The process of conditionality is a voluntary and direct process, focused on consequences and their immediate logic (Olsen, 2002). The EU takes an active position and deliberately seeks to extend its model and rules of governance beyond its borders and then continues manipulating incentives and changing cost-benefit calculations in third countries (Olsen, 2002). As a rule, the EU uses soft power tools instead of sanctions (promises of accession and conclusion of agreements), provided that all EU requirements are met. However, other incentives may be involved here, such as political, social, material, financial, military protection, recognition, etc. So, direct participants in the negotiations may be concerned about the benefits and costs, in the sense that they are bidding for their economic and military security, as well as protection of national interests (Olsen, 2002). Consequently, these vulnerable states are forced to make concessions, since prospective membership is of serious value to them. There are three main mechanisms by which the EU intervenes in case of non-compliance with the rules. Among them: threats to block the accession process, refusal of financial assistance; direct support of laws, loyal parties, individuals; direct interference in the political life of the candidate's country (Olsen, 2002).

Lavenex and Ucarer argue that the uncertainty in the membership perspective, as well as the uncertain time frame, are factors that can limit the influence of the conditionality mechanism (Lavenex & Ucarer, 2004). There are three main effective conditions: the amount of international remuneration, the amount of domestic expenses for admission to EU membership and the reliability of political conditions; these and other issues will be considered further to assess

effectiveness. In general, conditionality remains a volatile mechanism, as the EU attempts to take into account the characteristic specifics of countries, using a tool for adapting their conditions and criteria. This fact illustrates a wide range of consequences in the applicant countries, based on differences in the degree of confidence in the costs and incentives to comply with the conditions (Lavenex & Ucarer, 2004). When studying the model of external stimuli, it becomes obvious that the behavior of subjects in the process of socialization fully corresponds to rationalistic ideas about instrumentalism, as well as ideas about egoism. While the candidate states comply with the necessary criteria of the requirements for joining the Union, as they see this as their own strategic interest. If we adhere to the logic of rationalism, this model implies instrumentally rational subjects-actors who manifest their desire to maximize wealth and power, based on the maxim postulating the irreversibility of the adoption of EU rules, in case the benefits of EU rewards exceed the internal costs of integration (Lavenex & Ucarer, 2004).

Theoretically grounded studies point to the fact that the external stimulus management model has the most significant explanatory power in terms of the transmission of EU rules and successful adaptation. Undoubtedly, there is a possibility of theoretical limitations of the model of external stimuli when analyzing the question why there are serious differences in the effectiveness of European conditionality mechanisms between the two regions – Central and Eastern Europe (such as Slovakia, Czech Republic, Hungary) and South-Eastern Europe (such as Bosnia and Herzegovina, North Macedonia, Bulgaria). However, it is not necessary to assume that these conclusions lead to the rejection of the model itself, hardly. Rather, these alternatives lead to an analysis from the point of view of "how" or "how successfully" to put into practice such incentives for the European integration of the countries of the Western Balkans.

1.3 Interplay between the accession conditionality and veto-player theory

Now that we have delineated the veto-player theory and its intricacies in the realm of policy stability and policy development, and, moreover, broached on the Europeanization theory that, among other concepts, encompasses the principle of European Union accession conditionality, this section established a connection between the European Union accession and veto-player theory.

European Union, by setting the wheels of accession conditionality in motion, necessitates a tangible institutional and political development in the countries vying to become a part of the Union. In other words, EU accession entails an implementation of a major reforms so that an applicant or candidate country could meet the accession requirements. Reforms play a pivotal role in the accession process of candidate countries, as they remain by far the most reliable and trustworthy progress assessment benchmark throughout all stages of EU accession procedure. The success of a reform, and even consistent attempts to carry them out, reveals country’s resolve and

willingness to conform to the offered standards in order to accede to the Union. The success or a failure to bring about those policy changes, however, can be riding on various factors and the reasons as to why certain attempts to carry a reform through are manifold. The lack of unswerving commitment from the administration (Serbia), social and economic challenges (North Macedonia), political instability (Turkey), significant level of state capture (Montenegro), dearth of resources and expertise to ensure an assiduous monitoring of a particular reform (Kosovo) could be listed among them. Some states grapple with issues related to abject corruption or other socio-political maladies blocking the way to successful and effective implementation of essential reforms. External influence from third-party states is a far less frequent cause. However, what largely determines a positive reform progress is the consensus, harmony and unanimity of the active candidate country's administration in the matter of EU integration prospects. As long as there is a clear and unequivocal position in regard to country's future in the European Union and its institutions, the reform progress is destined, if not to a guaranteed success, then at the very least to a steady development.

In this vein, the veto-player theory can provide a better understanding of European Union accession and offer an explanation as to how the accession progress is perceived and absorbed at the domestic level of a candidate country and what challenges it may have to surmount as far as the policy-making authority is concerned. This angle to the Europeanization theory in general, and, EU accession and EU conditionality phenomena in particular, has been largely understudied in the EU enlargement literature to this date. Comprehending what factors, mechanisms and veto points are involved in enacting an EU accession-related reform or legislation is crucial to addressing and highlighting the issues of inefficiency of EU conditionality in such regions as Western Balkans and, more specifically, with such veto-player-laden governmental structures as the one of Bosnia and Herzegovina. Veto-player theory allows to look at EU enlargement and accession process through a new lens of political behavior and game theory, especially when it comes to legislative behaviors and their outcomes – a mainstay of a successful (or troubled) EU accession process.

Theoretical expectations

Having established the main theoretical concepts employed in this work, I would like to recapitulate the chapter by providing theoretical expectations. The veto-player theory is aimed at determining the capacity of political systems to bring about change. In theory, stability, which increases with the number of veto players, is seen as the impossibility of changing the status quo, even when change is necessary or desirable. Stability is not necessarily a positive value. Whether stability is a goal, or whether the status quo is desirable, depends primarily on the needs of a society. However, a government that cannot carry out policy change, when necessary, will often

fail to achieve other values pursued by political scientists (such as efficiency or good governance). Such a government will have trouble responding to changes in circumstances or the needs of its own population, which make demands for new public policies or institutional arrangements. The theoretical expectations, thus, would envision the direct effect of a number of veto-players on reform progress. According to the theoretical concepts broached in this chapter, the veto-player's will and need to maintain the status quo will eventually lead to a considerable political deadlock or reform stalemate, which in turn would take its toll on the progress of bilateral relations between Bosnia and Herzegovina and the European Union.

2. RESEARCH DESIGN, DATA AND METHODS

This chapter is devoted to the research design and data and methods. Firstly, it will justify the case selection and provide background on Bosnia and Herzegovina in historical and political terms as well as in the context of the country's accession to the EU as a potential candidate. It will map out the main veto players both at the state and entity-levels. Secondly, since the reforms aimed at conforming to European standards lie at the heart of the empirical analysis of the research question, this chapter will justify the reforms selection and disclose their relevance to the country's accession progress. Thirdly and most importantly, the process tracing method will be presented in order to elucidate the interrelation between the convoluted political system of Bosnia and Herzegovina and its relations with the EU in the subsequent chapter. Finally, the second chapter will explain what sources and documents will be utilized in the course of this research project.

2.1 Case selection

The case selection is best explained by the convoluted structure of the government of Bosnia and Herzegovina which singles it out from such other Western Balkan nations as Serbia, Albania, Montenegro, North Macedonia, and Kosovo. None of the above has such an intricate and elaborate politico-governmental structure that pivots on the ethnic division and representation, involves a plethora of political actors and practically subsists on a war-concluding peace treaty in lieu of an actual Constitution. The unwieldy nature of the governmental composition quite logically engenders the emergence of an array of veto-players trying to hold their grip on various branches of power and sway over particular ethnic and social groups to maintain their control and influence in the political realm of the state. This makes Bosnia and Herzegovina a truly sui generis case and demarcates the state from its neighbors, even less any other country on the continent. Although it would be appropriate to concede that uniqueness of the selected case limits the replicability and reliability of the study, process tracing entails the *inductive* use of evidence from within a case to develop explanatory hypotheses, and *deductive* examination of the observable implications of hypothesized causal mechanisms to test their explanatory capability. Before turning to the elucidation of the process-tracing method and its relevancy, it is necessary to give an overview of the political and historical context in the light of European accession process to better understand the applicability of the chosen method.

2.2 Historical and political context

The roots of the complexity of the Bosnian government lie directly in the dramatic events that led up to the most recent political formations. In the late 1980's following the death of the

long-standing Yugoslav leader Josip Broz Tito, Yugoslavia witnessed the unprecedented turmoil that was expressed in the rising nationalist movements, political and economic crisis, food shortages, rampant inflation, crippling foreign debt. No Yugoslav republic managed to emerge unscathed, to one degree or another, from the throes of this political ferment, Bosnia and Herzegovina, perhaps, has incurred the biggest socio-economic losses among all the republics. After independence proclamations from Slovenia and Croatia in 1991 and 1992, the multi-ethnic republic of Bosnia and Herzegovina hazarded a secession attempt by passing an independence referendum, which gained an outpouring of support from Bosniaks and Bosnian Croats and, conversely, was utterly ignored by the Bosnian Serb population (*Malcolm, 1994*). The rifts between the ethnic groups within the republic as well as the external ambition of the Serbian government to "protect" and secure ethnic Serb territory within Serbia gave rise to the protracted armed conflict, later known as the Bosnian War, marked by bitter fighting, ethnic cleansing and systematic mass rape. The conflict lasted for almost 4 years from 1992 to 1995, with the total death toll amounting to at least 100,000 civil and military casualties (Calic, 2012).

The war formally ended with signing of the Dayton Agreement in 1995, which till this day practically serves as a National Constitution, as the annex 4 sums up the basic percepts that allow for legally proper functioning of the state. The agreement, since then, has come in for harsh criticism from the political experts both within and outside Bosnia and Herzegovina. The Dayton Agreement was originally seen as an interim measure, the prime objective of which was to bring the years of bloodshed and destruction to a halt. It essentially created an unproductive unwieldy political structure with a cumbersome bureaucratic apparatus that virtually precludes any chances for substantial change as any important reform is deadlocked within the central government as each party is championing opposing priorities that are based on ethnic policies and not shared ideals. Irrespective of these hurdles, however, since its 1992 independence and the 1995 Constitutional framework of the Dayton Agreement, Bosnia and Herzegovina has followed a path of state-building, while remaining under international supervision through the figure of the High Representative for Bosnia and Herzegovina. Bosnia and Herzegovina is a federation of two entities - the Federation of Bosnia and Herzegovina and the Republika Srpska, as well as the district of Brčko. Each of the entities has its own Constitution and extensive legislative powers. Aside from the path of state-building, just as its neighbors, the country has trodden the path of European integration, seeing its future in the European family of states with shared values and beliefs.

2.3 Bosnia and Herzegovina and European accession

The future of Bosnia and Herzegovina in the European Union has practically been endorsed by both EU officials and Bosnian administration right from the outset of the post-war Bosnia.

Bosnia and Herzegovina, similar to its neighbors in the region, made it its long-term aim to enter into the constellation of European states united by common rules, values, principles, beliefs and commitments in a host of various political, social, economic and cultural dimensions. Already in 1997, the EU has outlined the principal economic and political criteria instrumental in establishing tighter bilateral relations and reaffirming long-term political goals of the Western Balkan countries through setting in motion the external tools and instruments such as *EU-Bosnia and Herzegovina Consultative Task Force* (1998), *Reform Process Monitoring* (2006), *Instrument for Pre-Accession Assistance* (2008). The latter was enabling access to EU funds for Bosnia and Herzegovina, moving it a step closer to the longed-for candidate status. Having been proclaimed a potential candidate tentatively in 2000 and officially in 2003 at the European Council summit in Thessaloniki, Bosnia and Herzegovina witnessed moderate progress in its efforts and ambitions to secure candidate status in the first half of the 2000's. However, as time wore on, it become more apparent that Bosnia and Herzegovina was facing daunting challenges on its way to European Union accession, with some negotiations grinding to a halt and some agreement signatures being postponed for later (*Vachudova, 2005*).

That was the case with the Stabilization and Association Agreement (SAA), an agreement that constitutes an integral step towards consolidated and harmonious bilateral relations between an aspiring candidate and the EU itself. Negotiations on the SAA – required before applying for membership – started in 2005 and were originally expected to be finalized in late 2007, but negotiations stalled due to a domestic disagreement (veto placed by the Republika Srpska) over police reform. The agreement was still signed in late 2008, however, with a great emphasis on Bosnian vows and commitments to follow through with the stalled reforms in the nearest future. The entry into force of the agreement was also impeded by the failure of Bosnian government to find the common ground and honor their commitments in regard to vital structural and constitutional reforms. Thanks to the German-British initiative, that essentially proposed that the SAA enter into force without first passing the constitutional amendments required by the *Finci and Sejdic case* decision, the SAA entered into force in 2015. Bosnia and Herzegovina, however, had to pledge commitment to push through with the necessary constitutional amendments by approving a respective declaration. In this vein, it could be observed that the progress of Bosnia and Herzegovina is firmly dependent on the vows and pledges to implement reforms, most of which scarcely come to fruition. This was crowned with the most recent developments in the bilateral relations between the EU and Bosnia and Herzegovina in 2022, when the EU laid out a list of reforms that, if implemented wholly, timely and effectively, would guarantee an official EU candidate status to the embattled state. The consistent incapacity to enact these reforms throughout

the last two decades has been a major stumbling block to country`s institutional and political development.

2.4 Reforms at issue

I have chosen three reforms to test the hypothesis (Police reform – 2008, Judiciary reform – 2015, Constitutional reform regarding electoral law – 2022), the main rationale behind the choice of the reforms is that each of them was mentioned by the EU as instrumental in accelerating the association and integration process, and furthermore, was held to be a milestone in a institutional rebuilding and refinement of Bosnia and Herzegovina. As mentioned earlier, reforms relevant to the European Partnership and set forth in various bilateral agreements or pronouncements from the EU, have proved to be particularly difficult to implement for the Bosnian government in the last two decades. In practice, reforms of lesser international significance spark off much less controversy than the ones critical to potential political and economic integration with the EU. Seldom does a domestic policy-related reform encroach on a "*vital ethnic interest*" or affects the status quo greatly enough to cause one of the three parliamentary ethnic group representatives to have recourse to veto. This is largely due to the fact that quite often the reforms related to the EU integration and institution-building encompass the various domains of political, social, cultural and economic life, delve deep into the core of the governmental system, and invariably are aimed at uniting and unifying the country's entities, thereby wittingly or unwittingly safeguarding the interests of some, and jeopardizing those of others. Among such reforms are the ones that will be brought forward for the analysis.

One of the most heated and vigorous debates were precipitated by *the police reform* in 2008. The country, since the Dayton Peace Treaty, had (and still has) practically existed with two police systems – the centralized police system of the Republika Srpska and decentralized one with cantonal Ministries of Interior in the Federation of Bosnia and Herzegovina (as well as the police force of the stand-alone Brcko district). This, has obviously been determined by the EU as a major hurdle to the EU accession that would have to be surmounted by implementing a range of respective reforms. Since 2002, the EU has futilely attempted to promulgate the police institution-building by rolling out such external non-executive advisory instruments as EUPM (EU Police Mission). Monitoring and mentoring the police forces of both entities, the EU was collecting data and gathering information that would potentially be utilized in the restructuring reforms, which once brought before the Bosnian government was rejected point-blank by one of the entities. Not much progress has been achieved since then (Padurariu, 2014).

The second reform pertains to the judiciary branch of power of Bosnia and Herzegovina, a hotly debated topic since the genesis of post-war Bosnian statehood. The judiciary system in

Bosnia and Herzegovina is as unwieldy and complicated as the other branches of power. A draft law on courts in Bosnia and Herzegovina – which envisaged the creation of an appeals court, moving the appeals chamber of the Bosnian state court into a separate institution – was prepared in 2012. Bosnia's justice ministry and its judicial overseer, the High Judicial and Prosecutorial Council, both lent support to the idea of creating a new appeals court on the state level, but the country's Serb-led entity Republika Srpska rejected the plan because it objected to its powers of jurisdiction. In a reflection of the wider political divisions in the country, Republika Srpska wished to see more judicial autonomy, while the country's other entity, the Bosniak-dominated Federation would prefer a more strongly centralized, state-level judiciary. Since then however, the draft law has not been sent to the Bosnian parliament because of the rival views within the country about state-level jurisdiction. The issue came to a crisis point when the European Union stopped its funding for war crimes prosecutions in 2015 until a justice sector reform strategy is adopted[2]. No success has been made in this vein ever since.

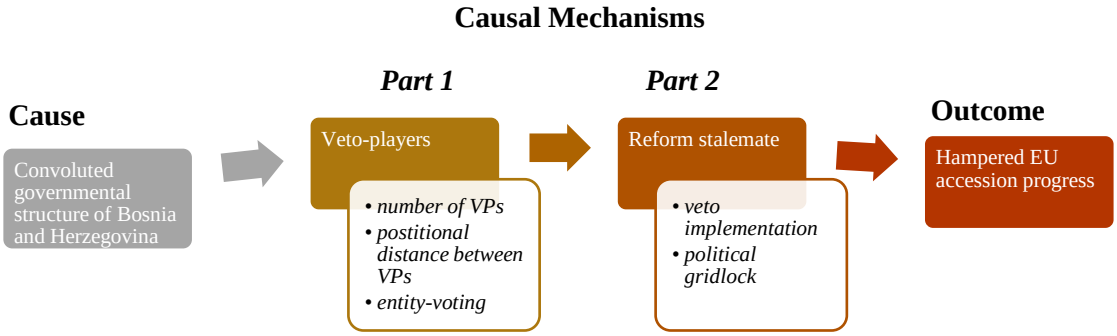
The third reform deals with the issues besetting the electoral system of Bosnia and Herzegovina. After a year of failed consultations on changes to Bosnia's election law between political leaders and the international community and less than four months before general elections, the Office of the High Representative, OHR, the international office overseeing Bosnia, intended to introduce changes using its executive powers in 2022. The change would mean that Bosnia's constituent nations – Bosniaks, Croats and Serbs – if their numbers in any Federation entity canton are less than 3 per cent, will no longer have representatives in the House of Peoples of the Federation parliament. The proposal was stalled by the Bosniak delegation, according to which the vital ethnic interest was impinged on. The Bosniak club believes that the decisions in the HDZ (Christian Democratic Party – Croat) proposal are discriminatory, that the Constitution of the Federation of Bosnia and Herzegovina was violated in the manner of election of Delegates in the Federal House of peoples, as well as the article of the Constitution of Bosnia and Herzegovina, and that violations of the convention on human rights and the Venice Commission were noted. The president of the SDA and the deputy chairman of the House of peoples of the Parliament of BiH Bakir Izetbegović believes that the HDZ's draft on the election law is fatally flawed[3]. The decision to rescind the law was met with fierce criticism from the European Union[4].

[2] Muslimovic Admir, "Funding Threat to War Crimes Prosecution in Bosnia", Justice Report, April 24, 2015
[3] Klix.ba news portal, "Klub Bošnjaka uložio vitalni nacionalni interes na HDZ-ov prijedlog Izbornog zakona" [accessible at https://www.klix.ba/vijesti/bih/klub-bosnjaka-ulozio-vitalni-nacionalni-interes-na-hdz-ov-prijedlog-izbornog-zakona/220427049] (accessed 7 October 2022)
[4] Ibid.

2.5 Process-tracing method

Process tracing is one of the main qualitative research method for tracking down causal mechanisms with the help of detailed, within-case empirical analysis of how a causal process plays out in an actual case. According to Derek Beach, process tracing can be applied both to case studies that "aim to gain a greater understanding of the causal dynamics that produced the outcome of a particular historical case and to shed light on generalizable causal mechanisms linking causes and outcomes within a population of causally similar cases" (Beach, 2017). The analytical added value of process tracing is that it enables strong causal inferences to be made about how causal processes work in real-world cases based on studying within-case mechanistic evidence. It is important to not lose sight of the fact, however, that process tracing is a single-case method, meaning that "only inferences about the operation of the mechanism *within* the studied case are possible because this is the evidence gathered through tracing the process in the case" (Beach, 2017). Therefore, naturally, it behooves the researcher to infuse their work with comparative methods to draw generalizations beyond the case in point. Nevertheless, when it comes to such sui-generis cases as the one at issue in this work, process-tracing method is suitable for attaining the research objectives and suffices to draw inferences on the causal mechanisms operative in the studied case.

In this research the causal mechanisms that connect the cause with the outcome are *veto players (their number and distance)* and *reform stalemate* leading to the *hampered accession progress* of Bosnia and Herzegovina. It is noteworthy that the process tracing method employed in this study is a theory testing method, where the causal mechanisms are hypothesized to explain the outcome. Thus, this research will attempt to conduct an analysis of how veto player voting brings about reform stalemate, which ultimately takes its toll on the EU integration prospects of Bosnia and Herzegovina as well as the application of EU conditionality in the country's political domain.



Source: author

Figure 2. Causal Process

2.6 Data and sources

To examine each stalled reform in question and process-trace decision-making in their contexts, I will turn to primary sources. The bulk of empirical data necessary for conducting the research and will be primarily drawn from the legal framework of Bosnia and Herzegovina and its legislation (legal acts, parliamentary session records and so on), including the constitution as well as voting records in the Parliamentary Assembly. This concerns both data on the institutional structure of Bosnia and Herzegovina (veto-players) and the reforms at issue. This will, in turn, help to get a more thorough understanding of the veto mechanisms in the country's political system and their dynamic, this especially holds true for the three chosen reforms. The documented processes will, in essence, be shored up by the process-tracing method, as they will provide sustenance for further building and drawing of causal explanations. Afterwards, the surveyed sources will be assessed against the hypotheses posited in this research. When it comes to the assessment of the EU accession progress of Bosnia and Herzegovina and general political climate in the country, it is imperative that the progress reports set out by the European Commission be taken into account and analyzed. Furthermore, a wide array of scholarly articles, news articles and opinion polls will be surveyed in order to gain insight into the "real world" concept of veto players and entity voting in Bosnia as well as its social and political repercussions felt across the board.

It is worth noting that most of the empirical data previously mentioned will be retrieved from the Internet sources where it is readily accessible, however some of the data required having

access to the University of Sarajevo library, which will not be a significant obstacle to conducting the research (timeframe of an Erasmus exchange semester from September 2021 until March 2022). Nevertheless, one of the few apparent problems which may arise in the course of the research project is the language of the sources. Although the majority of the documental sources are readily available in English, some of them are drawn up in the local languages (Bosnian, Serbian and Croatian). The challenge can be overcome by turning to neural machine translation services or to the staff of the Political Science faculty of the University of Sarajevo for translation help, where roughly half of the project will be carried out. Moreover, as regards the legislative reports, the most valuable data for the research is concentrated in the outcome of a particular item of legislation as opposed to its content part, thus the language issue poses a less serious challenge to the conduct of the research due to the concision of the information needed. It is worth mentioning that the lion's share of the research work will be conducted directly in Bosnia and Herzegovina at the University of Sarajevo. This both echoes with the case selection justification and, moreover, leads to the next section of empirical data and sources.

All of this will be conducted firmly based on the content analysis of legislation relevant to the EU integration-related reformation processes as well as journal and newspaper articles describing and evaluating the legislative gridlocks as they panned out. The bulk of the legislative data will be accessed and retrieved from the data bases available to the general public on the websites of the Parliament of Bosnia and Herzegovina (*Parlamentarna Skupština Bosne i Hercegovine*), Constitutional Court of Bosnia and Herzegovina (*Ustavni sud Bosne i Hercegovine*), Constitutional Court of the Federation of Bosnia and Herzegovina (*Ustavni sud Federacije Bosne i Hercegovine*), Constituional Court of the Republika Srpska (*Уставни суд Републике Српске*) and some others. Most of the legislative sources are available in Bosnian, Serbian and Croatian (understandable to the author), whereas articles addressing the veto player voting are available in both English and Bosnian/Croatian/Serbian.

When it comes to the assessment of the EU accession progress of Bosnia and Herzegovina and general political climate in the country, it is imperative that the progress reports set out by the European Commission (accessible at the official website of the European Commission) be taken into account and analyzed. Furthermore, a wide array of scholarly articles, news articles and opinion polls will be surveyed in order to gain insight into the "real world" concept of veto players and entity voting in Bosnia as well as its social and political repercussions felt across the board. University library of the University of Sarajevo has provided valuable access to the articles touching upon the political and legislative stalemate as well as articles dealing with the issue of EU and Bosnia and Herzegovina bilateral relations.

3. EMPIRICAL ANALYSIS: VETO PLAYERS AND THEIR EFFECT ON REFORM AND EU ACCESSION PROGRESS

The following chapter presents the results of the empirical analysis. First and foremost, it will map out and enumerate the main veto players both at the state and entity-levels, and, furthermore, will briefly mention other actors that could be considered as veto players in the context of Bosnia and Herzegovina as the case study. It will systematically process-trace decision-making in three reform processes: police reform, judicial reform and constitutional reform regarding electoral law, highlighting the role of VPs. The chapter will be logically broken down into four sub-chapters: three dedicated to studying the respective reforms and another one dealing with the veto players' constellation in the governmental structure of Bosnia and Herzegovina.

To begin with, it is necessary to scrutinize veto points of Bosnian politics and legislation by carrying out a concise analysis of the main veto-players functioning at the executive and legislative powers of the government of Bosnia and Herzegovina. It is also important to outline other "ancillary" veto players at the judiciary levels such as Constitutional Court of Bosnia and Herzegovina, to gauge whether political parties could be considered a bona fide veto-players as well as to determine the role of international actors in the decision-making process and whether it has a significant say in the politics and legislation of the country. Subsequently, I will conduct the analysis of the three selected reforms essentially pertinent to the EU accession agenda: the police reform (2008), judiciary reform (2015) and constitutional reform regarding electoral law (2022) with the help of primary legislative sources. Finally, the results of the analysis will be spelled out proving whether the effect of the veto players and associated reform stalemate on the EU accession progress is actually put in place in the selected study case.

3.1. Veto points of politics and legislation in Bosnia and Herzegovina

The situation in Bosnia and Herzegovina is significantly different from other newly emerged democracies, i.e. former socialist countries. In addition to the transitional context, which in itself has a great impact on the functionality of democracy, this state is also in a prolonged post-conflict period, balancing relations between the two entities, or three different ethnic groups. All this has resulted in a series of institutions, parties, groups, and a network of their relations and often opposing interests that influence the decision-making process on all levels.

The basic institutional arrangement of the state is laid down in the general framework agreement for peace in Bosnia and Herzegovina. The adoption of the agreement in November 1995 at Wright Patterson Air Force Base near Dayton, Ohio (USA) and its official signing on December

14 of the same year in Paris were preceded by several months of intensive negotiations between interested international actors and the parties to the conflict. Consequently, a number of international actors have been introduced into the constellation of veto players, which will be likewise addressed later. In addition to the basic text, the agreement contains eleven annexes and a series of agreements on individual solutions, principles and future relations: a total of 24 documents. The current political division and structure of institutions in Bosnia and Herzegovina has been agreed on the basis of Annex 4 of the agreement, i.e. Constitution Bosnia and Herzegovina. The complicated work on stopping the three-and-a-half-year conflict between the three nations has caused the priority of negotiations and the agreement itself to be focused on the cessation of the state of war, and on the principles of delimitation and power sharing between the warring parties, rather than on the functionality of institutions. Thus, the long-term functionality of the state is subordinated to the practical but short-term goal of ending the conflict, with the numerous problems that such an approach has proved to be fraught with.

Article 4 of the Constitution defines the competences and structure of the Parliamentary Assembly[5]. The Parliament of the central state is in this case a bicameral body, consisting of the House of Peoples (a total of fifteen deputies, five Croats, Bosniaks and Serbs each), elected by the entity parliaments (ten elected by the House of Representatives and other five by the National Assembly of Republika Srpska). This article also introduced entity parliaments as a kind of electoral veto players in the Upper House of Parliament. Likewise, the Article orders that the *Quorum* be nine members of parliament, provided that at least three from the ranks of each people are present. The lower, directly elected chamber is the House of Representatives, which consists of 42 members: two thirds are elected on the territory of the Federation of BiH, and one third on the territory of the Republika Srpska. The quorum is the majority of the total number of deputies, without ethnic or entity restrictions (See Appendix 3 for a detailed scheme of Bosnian institutions).

All laws require the approval of both houses, which in itself increases the number of veto players in the system. In practice, this means that both Houses of Parliament have to adopt the same text, and that the adopted amendments from the lower house are sent for adoption to the upper house and vice versa, and this significantly complicates and impedes the legislative procedure. Finally, in the event of disagreement over amendments, parliaments form a mixed commission to try to resolve the dispute[6]. Furthermore, other procedures in this article of the

[5] See: Article 4. Parliamentary Assembly, Annex 4, *Ustav Bosne i Hercegovine*, *Opšti okvirni sporazum za mir u Bosni i Hercegovini* [accessible at: https://www.ustavnisud.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf] (accessed 14 October 2022)
[6] See: ibid.

Constitution require that decisions or laws in both houses be made by a majority, and that MPs of both Houses "shall make every effort to have at least one third of the votes from the territory of each entity represented in the majority"[7]. Otherwise, after consultations, decisions can be made if they do not involve more than two-thirds of the MPs from one entity. With this decision, entity affiliation is practically institutionalized as a factor affecting the constellation of veto players. In "regular" parliamentary systems in which such peace-building mechanisms are not applied, within Parliament we find only party veto players whose relations determine ideological distance and internal cohesion. In this case, it is fair to say that party veto players do fall within the entity categories. Thus, the distance is first entity-relevant (or ethnic) and then ideological, which further complicates policy change and maintains the legislative status quo.

Moreover, any proposed decision of the Parliamentary Assembly can be declared by one of the three constituent peoples harmful by the majority of the deputies from that nation, thus making it even more difficult to adopt decisions and underlining the status of ethnic groups as veto players. Furthermore, the decision to dissolve the House can only be made by a majority that includes a majority of deputies of at least two of the three constituent peoples. Every aspect of Parliament's work is thus, apart from ideological preferences, further burdened by entity or ethnic balance. In the regular legislative process in other countries, the parliament usually includes party veto players, which are primarily determined by the electoral system. In a *convoluted institutional arrangement* such as the Dayton agreement for Bosnia and Herzegovina, the proportional electoral system that usually results in party fragmentation is only a secondary factor in determining the number, distance and cohesion of veto players – the basic factor is *ethnic composition* and *entity division*.

The presidency of Bosnia and Herzegovina consists of three members, one Bosniak and one Croat elected from the territory of the Federation, and one Serb from the territory of the Republika Srpska[8]. This basic premise alone tells us that the presidency is not necessarily a singular actor, but in practice consists of three often distant individual veto players. Furthermore, the presidency makes decisions by consensus, and when that is not the case, each member may declare a decision detrimental to the vital interest of its entity. Such decisions are then forwarded to the parliaments of the entities (the National Assembly of the Republika Srpska, or the Croat or

[7] See: Article 4. Parliamentary Assembly, Annex 4, *Ustav Bosne i Hercegovine, Opšti okvirni sporazum za mir u Bosni i Hercegovini*
[accessible at: https://www.ustavnisud.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf](accessed 14 October 2022)
[8] See: Article 5. Presidency, Annex 4, *Ustav Bosne i Hercegovine, Opšti okvirni sporazum za mir u Bosni i Hercegovini [accessible at: https://www.ustavnisud.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf] (accessed 14 October 2022)*

Bosniak members of the House of peoples of the Federation), who can then challenge the decision of any presidency by a two-thirds majority. The Dayton agreement practically introduced entity representative bodies as veto players in the decision-making process at the Presidency level; which, in practice, not only reintroduces entities, but also ethnic and political preferences within them as a factor in the decision-making of one of the two actors of the bicephalic executive branch of power in the country.

The other actor is the Council of ministers, proposed by the presidency and approved by the House of Representatives. Likewise, herein the Dayton Agreement sets out the limitations relating to the appointment of Ministers: namely, there may be no more than two-thirds of them from the territory of the Federation; while the assistant ministers may not be from the same constituent people as the ministers. The Council of ministers is the primary proponent of a law (although every member of parliament is entitled to legislative initiative; the presidency or parliament may also delegate the Council of ministers to initiate the preparation of a bill), while the presidency proposes a budget to Parliament. However, from the perspective of the veto player theory, it is not so much the procedure of proposing, as the influence on passing i.e. blocking the law. In that sense, the mitigating circumstance of the complex structure of the executive in Bosnia and Herzegovina lies in the fact that none of these institutions has the obligation to confirm the law, i.e. the signing of laws, such as the heads of State in many countries; and in fact the prerogative of the presidential veto. Henceforth, it can be concluded that, despite being the key actors in the context of executive decisions and the proposal of the law, the presidency and the Council ministers are not veto players per se at least when it comes to the legislative process itself.

That leaves us with the Constitutional court as the last institution with the right of veto in the country's decision-making. The Constitutional Court may, under certain circumstances, be, indeed, classified as a veto player. However, it should be emphasized that the Constitutional Court of Bosnia and Herzegovina, composed of nine judges (four elected by the House of Representatives of the federation, two national assemblies of the Republika Srpska, and the remaining three-the president of the European Court of human rights after consultation with the Bosnian Presidency), it cannot act independently in the legislative process[9]. The procedure for assessing the constitutionality of a law may be initiated by members of the presidency, the president of the Council of ministers, the president or deputy president of any House of Parliament, or a quarter of members of any House of Parliament or any representative body of individual

[9] See: Article 6, Annex 4, *Ustav Bosne i Hercegovine, Opšti okvirni sporazum za mir u Bosni i Hercegovini* [accessible at: https://www.ustavnisud.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf] (accessed 16 October 2022)

entities. If this does not happen, the Constitutional Court cannot veto the law on its own. Also, this body, at least in principle, has no independent political preferences, but strictly interprets the legal compliance of laws and other decisions with the Constitution, and in that sense is not an independent actor in the process of passing laws, i.e. is not a veto player.

In Tsebelis ' theory, as previously mentioned, in addition to the institutional ones, there are party veto players. Although they are of course not conditioned or formed by the Dayton peace agreement, it is still worth discussing them, primarily so as to show all the complexity of the constellation of veto players in Bosnia and Herzegovina. In addition to the number, internal cohesion, as well as mutual distance, is particularly important for party players. Several factors affect the level of cohesion within party veto players: their size, electoral system, internal institutional structure and other factors. Since a proportional electoral system encourages centralized parties to control the candidacies of their members to state functions, and since the parliamentary system generally contributes to greater cohesion than the presidential one, it can be stated that political parties in Bosnia and Herzegovina are mostly cohesive. The leadership style among party leaders and the general lack of intra-party democracy contribute to this, where the decisions of party leadership (or more often, leaders themselves) are rarely questioned. Also, it should be noted that the break-ups of political parties in Bosnia and Herzegovina or major rifts in the majority cases do not come as a result of ideological or programmatic disagreements, but exclusively as a personal conflict between current leaders and candidates, which often happens on the eve or in the wake of party elections, indicating a low level of institutionalization of political parties. However, it must be noted that most of the parties in Bosnia and Herzegovina are cohesive.

Another important factor is ideological distance, although, the primary focus of political life in Bosnia and Herzegovina is on the line of ethnic division. Only within ethnic communities ought one to talk about ideological distance, which further reinforces the distance. For example, the party of social democratic orientation from the Bosniak community maintains an ideological distance from the conservative parties from its community, but also an ethnic distance from the ideologically related Social Democrats from the Serb people. In this sense, the distance between the party veto players in Bosnia and Herzegovina is even greater, and therefore there is less chance of consensus and a greater chance of preserving the legislative status quo.

The traditional party divisions that exist in Western democracies therefore cannot be mirrored in Bosnia and Herzegovina. In addition, ideological wanderings, a propensity for programmatic eclecticism, as well as the dominance of ethnic in political life further threaten the profiling of parties on ideological grounds. To all this, we can add the mentioned personal and interest conflicts that often grow into party divisions. Nevertheless, it is possible to identify certain

regularities within the three ethnic groups. Since the 2002 elections, the Republic of Srpska has identified a clear polarization of the party system around the two largest parties: the Alliance of Independent Social Democrats (SNSD) and the right–wing Serbian Democratic Party (SDS), with several other smaller parliamentary parties that are mainly classified within the existing ideological division of SNSD-SDS. The situation in the Federation of Bosnia and Herzegovina is somewhat more complicated, both because of its multinational character (Croats and Bosniaks) and because of the specificity of political life itself.

Table 1. Main political parties of Bosnia and Herzegovina

Party name	**Ethnic affiliation**	**Ideology**
SDA	Bosniak	Nationalist, conservative
SNSD	Serb	Nationalist, populist
HDZ	Croat	Christian democratic, nationalist
SDP	Multi-ethnic	Social-democratic
SDS	Serb	Nationalist, conservative

Source: author

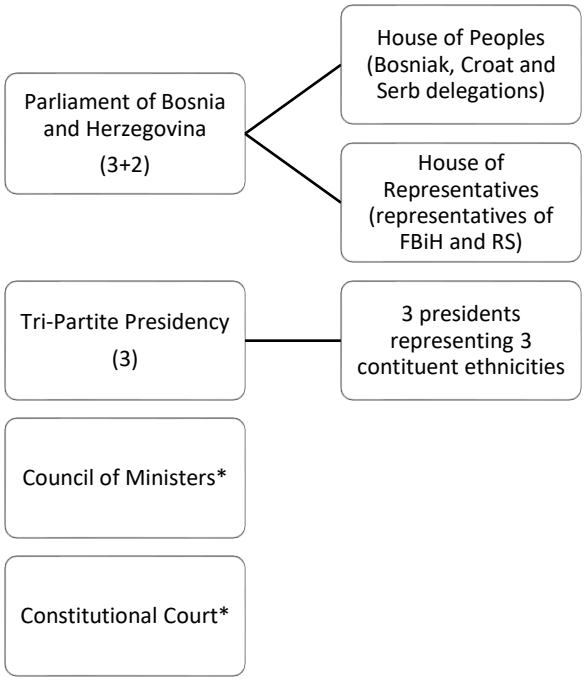
While within the Croat ethnic group, the dominant Coalition gathered around the Croat Democratic Union of Bosnia and Herzegovina (HDZ), with virtually the only rivalry between this party and its breakaway faction HDZ, arose on the basis of personal rather than ideological interests; in the case of "Bosniak" parties, the situation is somewhat more complicated. As practically the only party constant within this ethnic group, since the introduction of the multi-party system until today, stands the party of Democratic Action (SDA). In addition to it, with lesser or greater success in parliamentary life there is currently a number of political parties appearing on a unitarist or multiethnic platform (e.g. Party for Bosnia and Herzegovina, Alliance for better future of Bosnia and Herzegovina, Democratic front and the like). The Social Democratic Party of Bosnia and Herzegovina, despite the fact that this party has existed actively since 1992, and from 2006 to 2014 even had an elected member of the presidency from among the Croat people – although this election was mainly attributed to the poorly regulated electoral process in relations between the two peoples in the Federation of Bosnia and Herzegovina. On the basis of the above, it is evident that even though the party system has clear contours, many of which go back to the very beginning of multipartyism and show signs of fragmentation, the ideological distinction in its formation does not play a significant role, but the ethnic distance is primary in considering the potential change in the legislative status quo.

Finally, international actors have been an important veto player in Bosnia and Herzegovina since the beginning of the peace process. Already, the Dayton Accords mandated a number of international organizations to oversee and implement various components of the agreement: the military component of SFOR, or NATO-led IFOR, responsible for the military aspects of the agreement, the OSCE that organized the first elections, the multinational Peace Implementation Council, and finally, the Office of the High Representative for Bosnia and Herzegovina. The OHR (Office of the High Representative for Bosnia and Herzegovina) is an extracurricular category, since, formally, its primary jurisdiction (which includes oversight), coordination, reporting and assistance to the implementation of peace solutions) was established by Annex 10 of the peace agreement, i.e. Agreement on civilian implementation. However, in practice, it proved to be an extremely important veto player, especially because of the subsequent powers this position acquired at a meeting of the council for peace implementation in Bonn, December 1997. Based on the outcomes of this meeting, the High Representative may, among other things, make decisions when the competent authorities cannot agree, rescind the decisions of the institutions, as well as remove elected representatives and officials who, under an arbitrary decision, jeopardize the peace process. Also, what vests more power on that position its that there is no possibility to appeal the decisions of the Office of the High Representative, so they have immediate effect. A number of conditions have been set for abolishing the OHR, which include, among other things, resolving the issues of state property, fiscal sustainability, the rule of law, the status of the Brcko District, constitutional reforms in the context of the implementation of the European Court of human rights decision in the *Sejdic vs. Finci* case, as well as positive assessments by the Peace Implementation Council.

Although the logic of granting extraordinary powers to the OHR is precisely the breaking of the blockade of political processes created by the dysfunctional Dayton institutional arrangements and ethnic distance between political actors, in practice the decision-making process is burdened with another extremely powerful and politically irresponsible (the OHR is accountable only to the Peace Implementation Council, which is also not a constitutional category) veto player.

Thanks to the analysis of the institutional set-up of Bosnia and Herzegovina, we have managed to determine an extremely complex constellation of veto players, which at the central level introduces into the legislative process not only state institutions, but also entity institutions, ethnic categories as well as international actors. The same goes for executive power. The situation would be further complicated if the entities, cantons within the Federation of Bosnia and Herzegovina and the Brcko district, as well as their institutions and relations within them were included in the analysis. All this comes from party veto players with their interests and

relationships. The political system of Bosnia and Herzegovina owes its exceptional complexity to its subordination primarily to ethnic arrangements, in other words, solutions aimed at achieving peace. Therefore, one gets the impression that veto players in Bosnia and Herzegovina must first of all be seen in ethnic categories, and that the key veto players are actually constituent peoples (Croats, Serbs and Bosniaks), directly expressed through their institutions and parties. The possibility of declaring decisions of the Parliamentary Assembly or Presidency inimical to the interests of any of the three peoples further underscores and accentuates the status of ethnic groups as veto players. Only after that can one embed specific players in the veto institutions, whether state, entity or international.



Source: author

*veto-players in theory rather than practice

Figure 3. Veto-player constellation in the government of Bosnia and Herzegovina

The subsequent 3 sections will turn to the selected reforms to demonstrate the expected outcomes and provide results of empirical analysis.

3.2 Police reform

The outset of police reform in Bosnia and Herzegovina marked the beginning of inter-party conflicts between representatives of the authorities of Bosniaks, Croats and Serbs. It started in 2003 when the UN International Police Force was replaced by the EU police force, thus gaining an important role in the leadership of the police force. According to some European officials,

radical police reforms were necessary[10]. Since at that time there were over 18 different forms of police structures in Bosnia and Herzegovina, due to their number and overlapping responsibilities, they were not effective enough for the local government. Javier Solana, then-Secretary General of NATO, maintained that the body that would reform the police must not only rely on the Constitution but must also go in the direction of creating a functioning police force[11]. Besides, the restructuring of the police represents a crucial opportunity to break the practice of political restrictions on the police and establish a system that will serve all citizens of Bosnia and Herzegovina in the best possible way.

In order to carry out police reform and restructuring, based on the decision of the High Representative as of July 2004, the Police Restructuring Commission (PRS) was established as a short-term measure. The final report on the work of this temporary body was presented to the public in January 2005. The decision lists 12 principles that the Bosnian Police Service must adhere to in its future work. These principles include requiring the police service to be effective and effective in the future, financially sustainable, to reflect the ethnic structure of Bosnia and Herzegovina, to be protected by political influence and to be accountable to the law and the community. In addition, the police must act in accordance with democratic values, international human rights standards and best European practice, as well as in effective partnership with local communities and civil society. The international community has been involved in police reform since the end of the war. Annex 11 of the framework agreement for peace established the International Police Task Forces (IPTF), under the direction of the United Nations mission[12]. These forces have been put in place since 2003 under the auspices of the EU. They supervised, observed and inspected law enforcement activities, advised law enforcement personnel, etc.

In the opinion of the representative of these forces, at that time the police of Bosnia and Herzegovina were fragmented and could not coordinate their work within ethnic and administrative boundaries. The European Commission published a report on Bosnia and Herzegovina's readiness to enter into negotiations on the stabilization and association agreement (SAA) (feasibility study) in 2003, the same year, the EU officially called on the Bosnian authorities

[10] Кекіс D.: Полицијска мисија Европске Уније у Босни и Херцеговини, Европско законодавство, година II, број 6/2003, стр. 84–86.

[11] Remarks by Javier Solana, EU High Representative for the Common Foreign and Security Policy at the opening ceremony of the EU Police Mission in Bosnia and Herzegovina (EUPM). [ON-LINE]. [Bruxelles]: Council of the European Union, [19.02.2003]. S0004/03. [available at: http://ue.eu.int/pressdata/EN/discours/74122.pdf] (accessed 20 November 2022)

[12] See: Annex 11, Bosnia and Herzegovina. Constitution of Bosnia and Herzegovina. Version 2006., at https://www.ustavnisud.ba/public/down/USTAV_BOSNE_I_HERCEGOVINE_engl.pdf (accessed 21 November 2022)

to systematically reform their police structures[13]. The Commission insisted on structural police reform to streamline the police service, which is a necessary step in establishing the rule of law and a core element for Bosnian accession to the European Union. As an additional insult to the injury of the inefficiency of the police, the failure of the Republika Srpska in the capture and arrest of persons indicted by the International Criminal Tribunal for crimes committed on the territory of the former Yugoslavia in The Hague lent more support to the demands of the EU. The minimum requirements that the EU has set are:

1. the institutions of Bosnia and Herzegovina must have all powers in police matters in the state,
2. legislation related to all police matters must be exclusively at the state level,
3. political surveillance must be carried out by the Ministry of security at the state level, and
4. the size and shape of local police regions should be determined according to criteria that seem reasonable from the point of view of the effective work of the police, and not for political reasons[14].

First meeting in July 2004 the Commission adopted a working methodology based on the principle of consensus. According to this methodology, it was determined that there would be no vote on the points of discussion within this body, while the chairman (Prime Minister of the Council of Ministers of Bosnia and Herzegovina) retained the right to decide when the Commission reached an acceptable level of consensus on an issue. This methodology specified that the commission regards the legislative institutions of the government and Parliament as appropriate bodies for decision-making in the implementation of recommendations on police restructuring. All items on the agenda, on which consensus was reached at the previous meeting, were then incorporated into the conclusions, while items on the agenda on which a more detailed discussion was needed remained on the agenda until the next meeting (Padurariu, 2014).

The final report prepared by the Commission proposed to the president of the Council of ministers of Bosnia and Herzegovina and the High Representative recommendations for the establishment of a "Unified Police structure under the overall supervision of ministers within the Council of ministers"[15]. The Committee consisted of members, associate members and observers. In addition to the president and vice – president, the members were the minister of security of

[13] European Commission, Thessaloniki European Council 19 and 20 June 2003 Presidency conclusions [accessible at: https://ec.europa.eu/commission/presscorner/detail/en/DOC_03_3] (accessed 21 November 2022)
[14] European Commission, Thessaloniki European Council 19 and 20 June 2003 Presidency conclusions [accessible at: https://ec.europa.eu/commission/presscorner/detail/en/DOC_03_3] (accessed 21 November 2022)
[15] Padurariu, A 2014 The Implementation of Police Reform in Bosnia and Herzegovina: Analysing UN and EU Efforts. Stability: International Journal of Security & Development, 3(1): 4, pp. 1-18, DOI: http://dx.doi. org/10.5334/sta.db

Bosnia and Herzegovina , the Minister of the interior of the Federation of Bosnia and Herzegovina, the minister of the interior of the Republika Srpska, two ministers of the interior of the cantons of the Federation, one mayor from the Federation, and one mayor from the Republic of Srpska, the mayor of Brcko District, the representative of the president of the Council of Ministers of Bosnia and Herzegovina and the Commissioner of the EUPM. Representatives of SFOR, EUFOR and the US embassy were observers. With the initial initiatives of the members of the commission for police force reform the Commission sought to redirect the entity competencies in the field of police work to the Ministry of security of Bosnia. At the time, the president of the Republic of Srpska Dragan Cavic was opposed to such decisions (Padurariu, 2014).

Such proposals for police reform in Bosnia and Herzegovina were in line with the ideas and demands of the international community at the time (Padurariu, 2014). The Serb side was explicitly against the creation of a joint police in Bosnia because the creation of joint army and police would wrap up the statehood and unitarity of Bosnia and Herzegovina. At the initiative of Lord Paddy Ashdown, former High Representative of Bosnia and Herzegovina, the United Armed Forces of Bosnia and Herzegovina were formed at the beginning of that decade[16]. However, police reform was not implemented in the same way as army reform. The representatives of the authorities, as well as the public opinion in the Republic of Srpska, assessed as unacceptable the initiatives of some members of the Commission, which sought to redirect entity competencies to the common Ministry of security of Bosnia and Herzegovina. The minister of the interior of the Republic of Srpska and the police director have repeatedly left the sessions of the Police Reform Commission, because in their opinion, the satisfaction of one side in the negotiations, and the complete frustration of the other, cannot lead to a good solution (Padurariu, 2014).

The ambassadors assured the authorities in Banja Luka that police reform in Bosnia and Herzegovina does not pose a threat to the Republic of Srpska, but that it is an issue whose resolution will open the door to the European future for the whole of Bosnia. The main point was that if the Serbian entity government did not agree with the restructuring of the police with European principles, this entity would be more isolated than ever before. Bosnia and Herzegovina is only able to start negotiations with the EU if the government of Republika Srpska agrees to the restructuring of the police, otherwise the country will not be able to progress towards the accession. A year after numerous negotiations between the representatives of the authorities of all three peoples in Bosnia and Herzegovina, the Prime Minister of the Republic of Srpska Milorad Dodik expressed his belief that the police reform was in a deadlock, and that such a situation is a product

[16] Financial Times, He put Bosnia back together': Paddy Ashdown's efforts in war-torn country hailed, [accessible at: https://www.ft.com/content/a8dba12e-06bf-11e9-9fe8-acdb36967cfc] (accessed 21 November 2022)

of non-implementation of the political agreement on police reform (signed in 2005), and decisions in the Directorate for police reforms must be made in a complete unanimity[17]. Again, the highest representatives of the EU held talks with the Banja Luka authorities on the fact that police reform is a key condition for the signing of the SAA. In 2006 the Board of Directors of the reform Directorate adopted the plan and recommendations for police reform in Bosnia, which envisaged the organization of police structures at the state and local level (Padurariu, 2014). These recommendations and the police reform plan stipulated that the Ministry of security of Bosnia and Herzegovina be in charge of legislation and budget as regards the police forces in the country.

Early 2007 saw a serious stalemate in the reform process, where the sides could not agree on the conditions. The EU repeatedly extended the deadlines for Bosnian leaders to sign the protocol on police reform, presented to them by the High Representative. It was not until late 2007 that the Declaration on the commitment to the implementation of police reform signed ("Mostar declaration") with a view to initialing the SAA[18]. The Declaration adopted three principles of the European Commission: all legislative and budgetary competencies for all matters must be at the state level; no political interference in the operational work of the police; and, functional local police areas must be determined on the basis of technical criteria for the work of the police, with the operational command being implemented at the local level. The signatories of the Declaration consisted representative of two Bosniak, two Croat and two Serb political parties of Bosnia and Herzegovina[19]. After the signing of the Mostar declaration, pressure on the authorities of both entities to resolve the status of the police grew considerably, emanating from the EU and the High Representative. Representatives of the EU and BiH authorities initialed the SAA in December 2007, but as a condition for its signing, the adoption of the law on police reform remained crucial[20].

In 2008, the High Representative called for a compromise solution in a bid to satisfy all sides involved considering the stalled progress of the reform. At the meeting of the signatories of the Mostar declaration in Široki Brijeg at the beginning of February 2008. Bosniak leaders tried to compromise the agreement and withdraw the signatures from the Declaration and action plan on

[17] Worldview, Bosnia: Dodik Calls the Shots on Police Reforms, [accessible at: https://worldview.stratfor.com/article/bosnia-dodik-calls-shots-police-reforms] (accessed 23 November 2022)
[18] See: Office of the High Representative, Declaration on honouring the commitments for the implementation of the police reform with aim to initial and sign the Stabilization and Association agreement, [accessible at: http://www.ohr.int/wp-content/uploads/2015/12/Mostar-Declaration.pdf] (accessed 23 November 2022)
[19] Ibid.
[20] Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and Bosnia and Herzegovina, of the other, [accessible at: https://europa.ba/wp-content/uploads/2015/05/delegacijaEU_2011121405063686eng.pdf] (accessed 25 November 2022)

police reform (signed in Sarajevo two months earlier)[21]. In the opinion of the High Representative of BiH Miroslav Lajčak, such a statement by Bosniak politicians was counterproductive to bringing the country closer to the accession[22].

In April 2008, after nearly four years of arduous negotiations and open pressures on the Republika Srpska, the House of Representatives of the Parliamentary Assembly of Bosnia and Herzegovina adopted laws on police reform, which then were approved by the House of Peoples, which created conditions for the signing of the SAA with the EU. The final provisions of these laws define that many details of the police structure will be regulated after the change of the Constitution, that the structure of the Unified police force of Bosnia and Herzegovina will correspond to the constitutional structure of the country. Politicians in the Republika Srpska were satisfied with the laws passed and declared the policy of the previous high representative defeated. They regarded the adoption of these laws as key factor preserving the identity of the entity and preserving the achievements of the Dayton Agreement. By thwarting any attempts of Bosniak politicians to exercise sweeping changes to the Constitution, Bosnian Serbs managed to keep their status quo by standing their ground and ensuring that the Dayton Agreement would remain the basis for future negotiations on its amendment for the time being and that the integrity of their territory is not compromised (See Appendix A). Bosnia and Herzegovina signed the SAA in June 2008.

The laws passed on police reform in Bosnia and Herzegovina in 2008 were: *the Law on the Directorate for coordination of police bodies and on agencies for support of the police structure of Bosnia and Herzegovina*[23] and *the Law on independent and supervisory bodies of the police structure of Bosnia and Herzegovina*[24]. The former consists of 35 articles. The law established the Directorate for coordination of police bodies, the agency for forensic investigations and expertise, the agency for education and professional training of personnel and the agency for police support, as well as their competence and support in the entire structure of the Bosnian police. The competence of the Directorate is focused on the management of communication and cooperation

[21] B92, Lajčak: Police reform failure will hurt Bosnia's EU bid, [accessible at: https://www.b92.net/eng/news/region.php?yyyy=2008&mm=03&dd=29&nav_id=48921] (accessed 25 November 2022)
[22] Ibid.
[23] Parliament of Bosnia and Herzegovina, *Zakon o direkciji koordinaciju policijskih tijela I o agencijama za pordsku policijskoj strukturi Bosne I Hercegovine* [accessible: https://www.aeptm.gov.ba/sites/default/files/datoteke/Zakon%20o%20direkciji%20za%20koordinaciju%20policijskih%20tijela%20i%20o%20agencijama%20za%20potporu%20policijskoj%20strukturi%20BiH_0.pdf] (accessed 25 November 2022)
[24] Parliament of Bosnia and Herzegovina, *Zakon o nezavisnim I nadzornim tijelima policijske strukture Bosne I Hercegovine* [accessible at: https://www.parlament.ba/data/dokumenti/pdf/Zakon%20o%20Nezavisnim%20i%20nadzornim%20bs.pdf] (accessed 25 November 2022)

of police structures in Bosnia, cooperation and communication with foreign police, unification and analysis of security information important for Bosnia, implementation of international agreements important for the reform of the Bosnian police, standardization related to police issues, implementation of best international and European practices, organization and implementation of physical and technical protection of the facilities of the Bosnian authorities and diplomatic and consular missions, etc[25]. Directors of all agencies listed in the law shall be appointed and dismissed by the Council of Ministers of Bosnia and Herzegovina and their term of office shall last four years and may be shorter if it is established that the director is an active member of a political party, upon personal request, if convicted of a criminal offense, and other directors shall have their deputies[26]. The agency for forensic examinations and expertise deals with all professional and scientific examinations in investigative actions of the police, and the agency for education and professional training of personnel proposes and conducts programs for training of police officers in the entire territory of Bosnia, training of members of private security companies, professional training (seminars and courses), etc[27]. The police support agency is a body whose central task is to keep records in police bodies, necessary personnel in those bodies, internal control of budget funds, implementation of tender controls conducted for police bodies, etc. Interestingly enough, the law states that the structure of the Unified Police Force of Bosnia and Herzegovina should correspond to the constitutional structure of the country, and that the local-level issues between the bodies established by this law as well as local police bodies and other details of the police structure will be regulated after the reform of the Constitution of Bosnia. This should be done in accordance with three principles of the European Commission and in two basic laws: the law on police service in Bosnia and Herzegovina and the law on police officers of Bosnia and Herzegovina (neither has been subsequently implemented due to political discord between the entities)[28].

The law on independent and supervisory bodies of the police structure of BiH established an independent board, the Complaints Board of police officers and the Civil Complaints Board and determined their scope of work and their competence. It consists of 22 articles. The independent board is an independent body of the Parliamentary Assembly of BiH, and the work is determined by its rules of procedure. Its members must be exclusively professionals, not

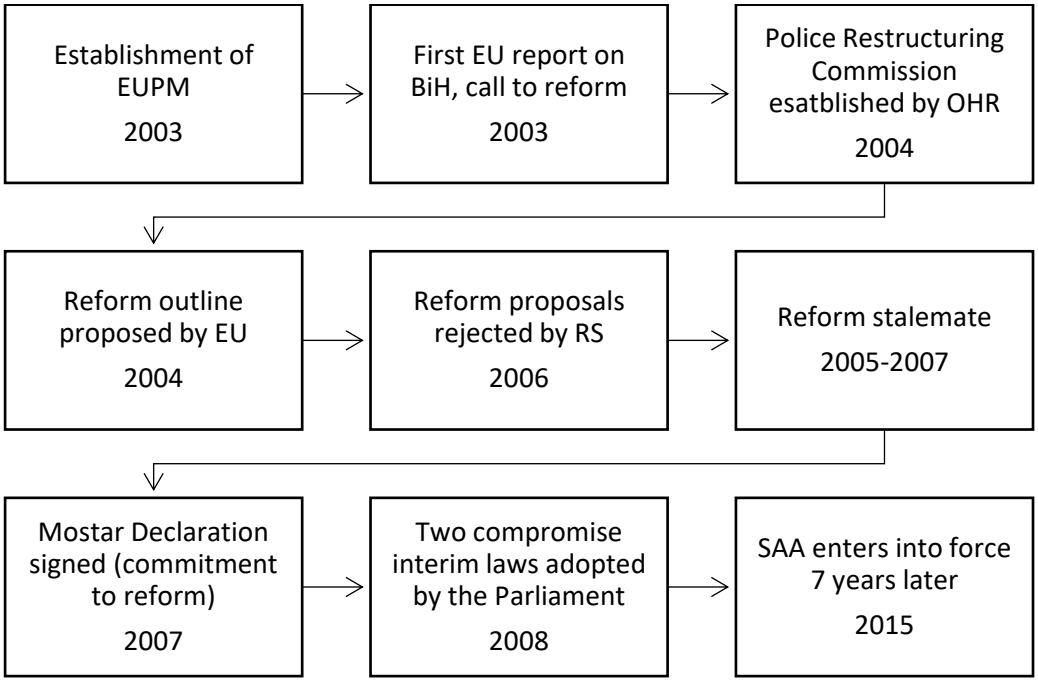
[25] Parliament of Bosnia and Herzegovina, *Zakon o direkciji koordinaciju policijskih tijela I o agencijama za pordsku policijskoj strukturi Bosne I Hercegovine* [accessible: https://www.aeptm.gov.ba/sites/default/files/datoteke/Zakon%20o%20direkciji%20za%20koordinaciju%20policijskih%20tijela%20i%20o%20agencijama%20za%20potporu%20policijskoj%20strukturi%20BiH_0.pdf] (accessed 25 November 2022)
[26] Ibid.
[27] Ibid.
[28] Ibid.

representing any political party or interest group[29]. The competence of this committee is reflected in the implementation of the process of selecting candidates and proposing and dismissing police heads of police bodies, publishing a competition and selecting candidates and submitting a list of up to five candidates for one management post to the minister of security, reviewing complaints about the work of managers and informing the minister of security and the Council of ministers, initiating disciplinary proceedings against the heads of police bodies, proposing their dismissal if they have committed criminal offenses prescribed by law, except in the case of criminal offenses from areas of traffic safety, etc. The members of The Independent Board shall be elected for a period of four years and shall consist of three Bosniaks, three Croats and three Serbs[30]. They are elected from the ranks of judicial bodies, retired police officers, retired and active civil servants, as well as prominent experts in public life, the field of law, criminal Sciences and police affairs. Members must meet the general conditions and must have a university degree, must not be members of a political party[31]. The committee shall have its president and vice-president, and its members shall be appointed and dismissed by an ad hoc committee consisting of six members, three of which shall be appointed by the House of Representatives., and there are three delegates appointed by the House of peoples of the Parliamentary Assembly of Bosnia and Herzegovina. Decisions made by an independent board shall be valid if at least seven members vote for them[32].

The complaints committee of police officers is an independent body of the Council of Ministers of BiH that operates on professional grounds, without representing the interests of any political party, and the procedure and manner of work of the committee to the extent not prescribed by the law is established by the rules of procedure of the complaints committee of police officers[33]. The Ministry of security provides the committee with administrative and technical support, as well as resources for work. The decisions of the board are final and must be executed without delay, provided that they may be subject to judicial review, in accordance with the law of Bosnia and Herzegovina, and they are submitted to the complainant and the police body[34]. The board has seven members, four of whom are police officers and three are state members. All constituent peoples must be represented on the committee, of which at least five members must be law graduates. The

[29] Parliament of Bosnia and Herzegovina, *Zakon o nezavisnim I nadzornim tijelima policijske strukture Bosne I Hercegovine* [accessible at: https://www.parlament.ba/data/dokumenti/pdf/Zakon%20o%20Nezavisnim%20i%20nadzornim%20bs.pdf] (accessed 27 November 2022)
[30] Parliament of Bosnia and Herzegovina, *Zakon o nezavisnim I nadzornim tijelima policijske strukture Bosne I Hercegovine* [accessible at: https://www.parlament.ba/data/dokumenti/pdf/Zakon%20o%20Nezavisnim%20i%20nadzornim%20bs.pdf] (accessed 27 November 2022)
[31] Ibid.
[32] Ibid.
[33] Ibid.
[34] Ibid.

president, deputy and members of the committee shall be appointed and dismissed by the Council of ministers for a term of four years. The Quorum consists of four members and decisions are made by a majority vote of the members present[35].



Source: author

Figure 4. Police reform implementation timeline

On the one hand, having adopted these laws, Bosnia and Herzegovina has moved one step closer towards the path of EU and Euro-Atlantic integration. These laws, however, to date, represent a temporary solution before profound and well-conceived legislative changes could be made to the (practically non-existent) Constitution of Bosnia and Herzegovina. The laws helped to overcome the protracted political crisis, but substantial police reforms have yet to be enacted, even a decade later. It took enormous efforts, time negotiations and compromises from all sides involved in order to carry the reform through, albeit in a form far from what it was originally conceived to be. Till this day, no progress is made as regards the constitution amendments in general, and police force unification in particular.

As can be seen from the analysis of the reform, the clash of interests, positional distance as well as the need to retain the status quo took their toll on the reform progress and prolonged the process over the span of four years, thereby letting each side to ensure that the minimal losses are

[35] Parliament of Bosnia and Herzegovina, *Zakon o nezavisnim I nadzornim tijelima policijske strukture Bosne I Hercegovine* [accessible at: https://www.parlament.ba/data/dokumenti/pdf/Zakon%20o%20Nezavisnim%20i%20nadzornim%20bs.pdf] (accessed 27 November 2022)

incurred and the maximal gains are made. By stalling the process and utilizing the right of veto, the government of Republika Srpska certainly gained an upper hand in terms of sustaining the least change for the sake of avoiding a greater one. The main interest of the Republika Srpska was to preserve the framework of the Dayton Agreement in which the entity occupies a much more favorable place, enjoying larger autonomy and authority than Croats and Bosniaks sharing the entity of the Federation of Bosnia and Herzegovina. This interest would be a prevailing one throughout the following years and practically remains the guiding principle of the Bosnian Serb policy in the legislative domain of Bosnian politics. While some progress was made in terms of nearing the longed-for EU accession, some negligible improvements were made, the protracted negotiations and bargaining led to a stalled reform progress that eventually resulted in the pruned reforms that were not followed up in the years to come, thus impeding the tangible EU accession improvements even further.

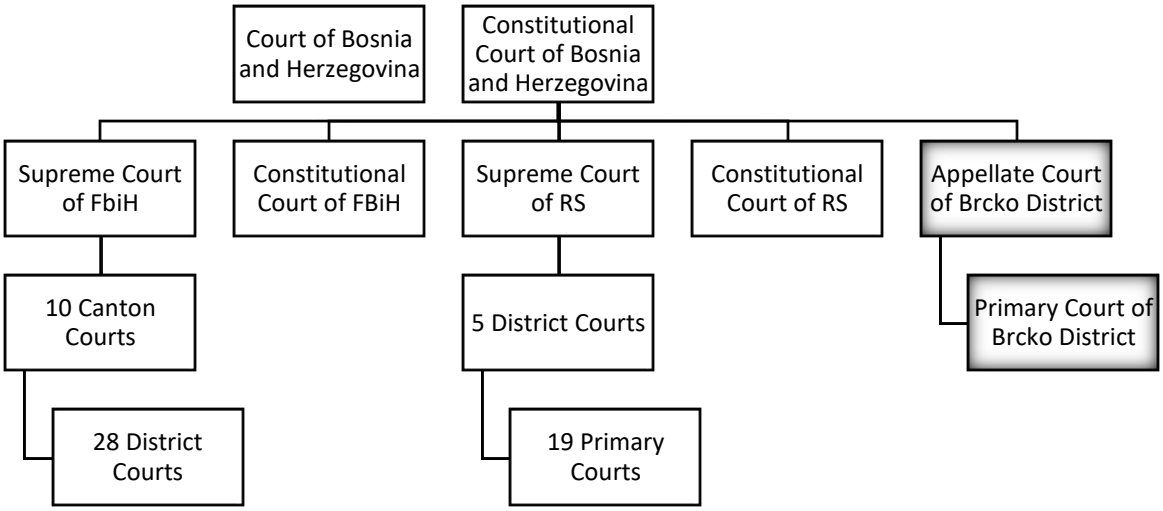
3.3. Judiciary reform

Judiciary reform, in its different forms and proposals, has been featured in various post-war opinions delivered by international actors like the UN and EU. In 2012 the EC narrowly outlined the expectations it holds as regards judiciary reform in its Draft Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina[36]. The Commission in no uncertain terms suggested that the Bosnian government undertake considerable efforts to "reform the judiciary in order to unify the system as much as possible and reduce decentralization (especially on the level of the Federation)[37]". The Commission also emphasized the necessity to make amendments to the constitution with a view to establishing the Supreme Court as well as the Court of Appeal (Appellate Court)[38]. Indeed, the judiciary system of Bosnia and Herzegovina arguably remains one of the most cumbersome judiciary structures in the world. The multiple layers, fuzzy jurisdiction distribution, absence of vital overarching courts such as state-level Supreme Court or Appeal Court are all inimical to a well-functioning and efficient legal system lying at the heart of the state. The nebulous state of Brcko District lends even more confusion and perplexity to the already intricate judiciary system.

To give a succinct overview of the composition of the judiciary branch of power in Bosnia and Herzegovina, the chief judiciary body at the state level is the Constitutional Court of Bosnia and Herzegovina (See Figure 3 for simplified version or Appendix B for more detailed). The

[36] European Commission for Democracy through Law, Draft Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina (2012), [accessible at: https://www.venice.coe.int/webforms/documents/?pdf=CDL(2012)039-e] (accessed 28 November 2022)
[37] Ibid.
[38] Ibid.

Constitutional Court of Bosnia and Herzegovina is an autonomous and independent body in relation to other authorities in Bosnia and Herzegovina[39]. No other institution in Bosnia and Herzegovina may enact laws, regulations and general acts concerning the work of the Constitutional Court and its role as established by the Constitution[40]. In default of a Supreme Court of Bosnia and Herzegovina, the Constitutional Court assumes the role thereof by deciding on the appeals of the Supreme Courts of the entities (on an ad-hoc and non-regulated basis). Another overarching judicial body with a more ambiguous jurisdiction is the Court of Bosnia and Herzegovina. The Court of Bosnia and Herzegovina was established to ensure the effective exercise of the jurisdiction of the state of Bosnia and Herzegovina and respect for Human Rights and the rule of law on its territory[41]. The Court of Bosnia and Herzegovina is vested with jurisdiction over criminal offences falling within the jurisdiction of that court under the law[42]. Technically, that means that latter jurisdiction encompasses all three entities, however, in practice, only a small proportion of cases reach the Court, most of the time being eventually delt with at entity levels.



Source: author

Figure 5. Judiciary System of Bosnia and Herzegovina (simplified)

[39] See: Article 2. Parliamentary Assembly, *Pravila Ustavnog suda Bosne i Hercegovine*, *Samostalnost i nazavisnost* [accessible at: https://advokat-prnjavorac.com/zakoni/Pravila-ustavnog-suda-BiH.pdf] (accessed 1 December 2022)
[40] Ibid.
[41] See: Article 13. Parliamentary Assembly, *Zakon o Sudu Bosne i Hercegovine*, *Sudska odjeljenja* [accessible at: https://advokat-prnjavorac.com/zakoni/Zakon_o_sudu_BiH_-_precisceni,_nezvanicni_tekst.pdf] (accessed 1 December 2022)
[42] Ibid.

When it comes to the entity levels, both the Federation of Bosnia and Herzegovina and the Republika Srpska have each entity-level Constitutional Court and Supreme Court, the latter practically serving as the equivalents of Appellate Courts. Then there are subordinate courts – 10 Canton Courts 28 District Courts in the Federation, and 5 District Courts and 19 Primary Courts in the Republika Srpska. Whilst Brcko District has an Appellate Court (equivalent of Supreme Courts in the entities) and one Primary Court. The role of the only proper Appellate Court in the country is unsurprisingly likewise abstruse. The Appellate Court of Bricko District refers the appeals that deal with the enactment, drafting or enforcement of the laws of Bosnia and Herzegovina to the Court of Bosnia and Herzegovina, whereas all the human rights related appeals are directly referred to the Constitutional Court of Bosnia and Herzegovina (See Appendix B).

As mentioned previously, the judiciary reform talks both inside the country and coming from the EU to streamline the authorities and jurisdictions of courts in Bosnia and Herzegovina have been on the agenda since the signing of the Dayton Agreement[43]. The proposals and drafts were mulled over throughout the most part of the 2000's, and in the mid-2010's the climax was reached when evident malfunctioning and inefficiency of the judicial system of Bosnia and Herzegovina began to surface (more specifically in the wake of the Draft opinion by the EC in 2012). In 2015, the Ministry of Justice of Bosnia and Herzegovina and its judicial supervisor, the High Judicial and Prosecutorial Council, supported the idea of creating a new state-level Appellate Court, but the Serbian-led entity of the Republika Srpska refused point-blank to approve the plan because it goes contrary to entity's powers of authority[44]. The Republika Srpska, reflecting the country's broader political divisions, insisted on greater judicial autonomy, while another entity in the country, a Bosniak-dominated Federation, stood for a stronger centralized judiciary at the state level. The draft law on courts in Bosnia and Herzegovina – which foresees the creation of an appellate court transferring the appellate chamber of the state court of Bosnia and Herzegovina to a separate institution – was drafted in 2012. However, the bill was never submitted to the Bosnian parliament due to the country's competing positions on jurisdiction at the state level[45].

The issue further reached a crisis point: the EU has stopped funding the prosecution of war crimes in 2015 until a judicial reform strategy is enacted[46]. The Appellate Court was the only issue

[43] See the full list of Venice Commission opinions and draft laws at https://www.venice.coe.int/webforms/documents/default.aspx?country=50&year=all&other=true

[44] Klix.ba news portal, "Proširene nadležnosti Suda BiH trebaju biti ukinute", [accessible at: https://www.klix.ba/vijesti/bih/anton-kasipovic-za-klix-ba-prosirene-nadleznosti-suda-bih-trebaju-biti-ukinute/150911126] (accessed 2 December 2022)

[45] Ibid.

[46] Denis Dzidic, Balkaninsight, "Reform Justice or Lose Funds, EU Tells Bosnia", [accessible at: https://balkaninsight.com/2015/04/22/jean-eric-paquet-no-funding-without-justice-sector-reform/] (accessed 2 December 2022)

that remained to be agreed in the strategy for judicial reform (it has not been fully implemented ever since). European Commission director for the Western Balkans Jean-Eric Paquet stated that the funds needed to pay salaries to more than 140 war crimes prosecutors, judges and assistants working across the country will not be released unless Bosnian authorities adopt judicial reforms[47].The EC has repeatedly warned the authorities of Bosnia and Herzegovina that this financial assistance will stop if nothing is done, especially considering the staggering 1,200 pending war crime cases[48]. The adoption of the strategy for judicial reform remains an important prerequisite for the continuation of the exceptional IPA budget support for the treatment of war crimes. The suspension of the fund tranche by the EC caused significant problems in the judiciary branch, as some prosecutors worked without pay, assistants were fired, and there were no funds for investigations.

The Serbian entity's main complaint to the Court of Bosnia and Herzegovina and the proposed state-level Appellate Court was, and still is, the current jurisdiction that allows it to take cases from the Republika Srpska and Federation's unitary courts at its own discretion. The reasoning of the Federation was that the new Appellate Court would heighten the perception of independence and bolster public confidence in the judiciary power at the level of state. That would also allow every citizen, regardless of their ethnic or entity-related affiliation, to appeal to a higher court, as opposed to entity-level Supreme Courts[49]. The politicians from the Republika Srpska emphasized the fact that the Court of Bosnia and Herzegovina was established by law imposed by the High Representative, despite the fact that the Bosnian Constitution (Annexes of the Dayton Agreement) does not provide a basis for such an institution, highlighting the conflict of law[50]. According to Bosnian Serb government, they would endorse the establishment of an Appellate Court on the sole condition that the Court of Bosnia and Herzegovina is rescinded as redundant, meddling in the entity judicial jurisdictions[51].

In this case, Bosnian Serb politicians (at the House of Representatives) as a veto-player faced two options, both of these options' outcomes would be advantageous for the entity and far outweigh the losses potentially incurred. The first option would see the Republika Srpska block judicial reforms, thereby weakening state-level institutions and consolidating their autonomy. The second option would involve a concession to establish an overarching Appellate Court that would

[47] Denis Dzidic, Balkaninsight, "Reform Justice or Lose Funds, EU Tells Bosnia", [accessible at: https://balkaninsight.com/2015/04/22/jean-eric-paquet-no-funding-without-justice-sector-reform/] (accessed 2 December 2022)
[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Ibid.

satisfy the demands of the Serbian side and in the long run be lauded by the EC as a well-balanced step (compromise) towards the EU accession. Despite the external pressure and disincentives from the EU, the entity ended up following through with the first option and as of now, there was no judicial reform implemented and no Appellate Court has been established. The latest Opinion from the EC was issued in October 2022 following the proposal to grant an official candidate status on condition that the country implements a set of reform, on of which is a judicial reform[52]. The progress on the reformation of the judicial branch of power in Bosnia and Herzegovina have yet to be witnessed.

3.4 Constitutional reform regarding electoral law

Along with judiciary law, profound alterations to electoral law have been long featured in various EC opinions and recommendations as a vital element of the institutional restructuring of Bosnia and Herzegovina. In the Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative (2005), the EC accentuated the need of solid reforms to ensure more efficient functioning of the institutions and the government in general[53]. National vital interest issues, decision-making processes as well as electoral law were broached in the document, however, little fruit was borne by the government of Bosnia and Herzegovina. These persistent issues and blatant obstacles to the democratic functioning of the electoral law in Bosnia would be reiterated by the Venice Commission (Council of Europe) later in 2006, 2008 and 2010 in various opinions and draft laws[54]. The necessity of the significant change to the electoral law was stoked up by the resounding Sejdic and Finci case (2009), wherein two Bosnian plaintiffs of Jewish and Roma origins filed a lawsuit against the state of Bosnia and Herzegovina to the European Court of Human rights and subsequently won the case[55]. The ECHR ruled that a violation of Article 14 of the European Convention on Human Rights took place, however, even after the unequivocal signals from the EU to redress the issue and exercise the necessary changes to the Constitution, no changes were made to date[56].

[52] European Commission for Democracy through law, Draft law and explanatory note on courts of Bosnia and Herzegovina, [accessible at: https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2022)045-e] (accessed 3 December 2022)
[53] European Commission, Opinion on the constitutional situation in Bosnia and Herzegovina and the powers of the High Representative, [accessible at: https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2005)004-e] (accessed 3 December 2022)
[54] See the full list of Venice Commission opinions and draft laws at https://www.venice.coe.int/webforms/documents/default.aspx?country=50&year=all&other=true
[55] European Court of Human Rights. Sejdic´ and Finci vs. Bosnia and Herzegovina. ECHR Judgment 22, December 2009, No. 27.996/06 and 34.836/06. [accessible at: https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22001-96491%22]}] (accessed 7 December 2022)
[56] Ibid.

The electoral reform as an amendment to the Constitution of Bosnia and Herzegovina had long been a contentious topic in the country (practically since the end of the war), most often brought up by Bosnian Croat politicians and Croat civil society. The main concern of the Croat population was that the ethnic group does not receive enough places in the House of Peoples of Bosnia and Herzegovina, since the cantons with little to no Croat population do not send their delegates to the respective institution. After the resounding Sejdic and Finci case in 2009, the attention of Bosnian politicians wandered off towards other crucial political changes. However, in 2014 the issue was re-raised and this culminated in the Ljubic case, when Bozo Ljubic, an MP from the Croat HDZ party, lodged a complaint to the Constitutional Court of Bosnia and Herzegovina clamouring that the Electoral law breached the constitutional rights of Croats living in the Federation of Bosnia and Herzegovina[57]. While the court ruled that the electoral law must be amended in accordance with the latest census (the seats would be allocated according to the ethnic composition of cantons), the amendment never took effect as it was met with harsh criticism from the Bosniak representatives.

In early 2022 to speed up, or rather awaken, the progress at least toward the electoral law amendment, the High Representative issued a statement in which called on the Bosnian government to take into account a list of points in the run-up to the October 2022 general elections. The statement claimed that the implementation of the suggested reforms and amendments would "set the stage for further electoral and constitutional reform, including to meet BiH's commitments for EU integration and to address concrete problems facing the country[58]". Among the measures enlisted in the statement, the High Representative advised to improve the proportionality of representation of constituent peoples from each canton in the Federation House of Peoples[59]. This measure was supposed to increase the number of seats in each constituent people's caucus from 17 to 23[60]. The resulting distribution would correct the most severe over-representation of all three constituent peoples in cantons with very small populations of each people[61]. Every constituent people in every canton would maintain the possibility to have at least one representative in the House of People[62]. The measure increases the number of seats in the "Others" caucus from 7 to

[57] The decision of the Ustavni sud (Constitutional Court), on the legitimacy of the norms of the Electoral Law in the matter of elections of the members of the Chamber of the Bosnia and Herzegovina people, also in the light of the opinion expressed by the Commission of Venice as Amicus Curiae (2016), Case Law U-23/14 (01/12/2016), [accessible at: http://www.europeanrights.eu/public/sentenze/Bosnia-1dicembre2016_Election_law.pdf] (accessed 7 December 2022)

[58] Office of the High Representative, Measures to improve Federation Functionality [accessible at: http://www.ohr.int/measures-to-improve-federation-functionality/] (accessed 7 December 2022)

[59] Ibid.

[60] Office of the High Representative, Measures to improve Federation Functionality [accessible at: http://www.ohr.int/measures-to-improve-federation-functionality/] (accessed 7 December 2022)

[61] Ibid.

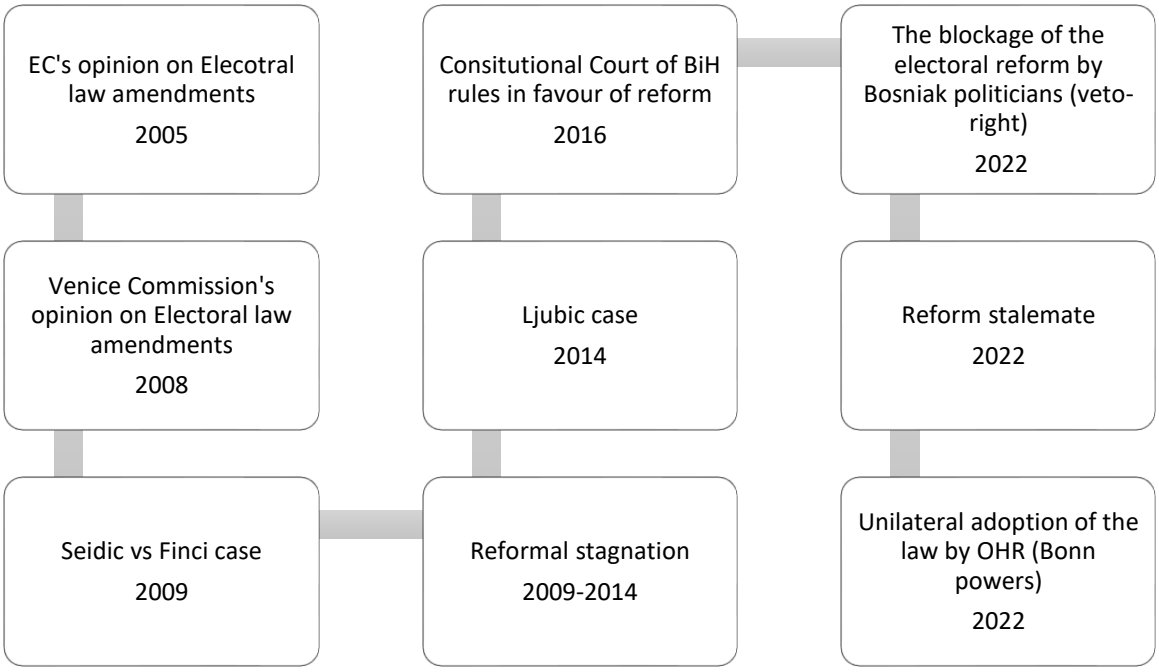
[62] Ibid.

11, meaning that for the first time, "Others" from all cantons may be represented in the House of People of the Federation[63]. However, the discussion and adoption of the electoral law in the Federation of Bosnia and Hercegovina took an unfortunate yet habitual turn.

After two sessions fell through due to the lack of a quorum, delegates of the SDA, SBB and SDP (Bosniak parties) eventually came to the session in June 2022 and unanimously utilized the vital national interest (veto-right) after it was adopted that the bill goes according to the urgent procedure[64]. The Bosniak delegation believed that the decisions in the HDZ (Croat party) proposal are discriminatory, that the Constitution of the FBiH was violated in the manner of election of Delegates in the Federal House of peoples, as well as the article of the Constitution of BiH, and that violations of the Convention on human rights and the Venice Commission were likewise highlighted. Bosniak delegation dubbed the measure as "anti-European" and inferred that the change would denote that Bosnia's constituent nations – Bosniaks, Croats and Serbs – if their numbers in any Federation entity canton are less than 3 per cent, will no longer have representatives in the House of Peoples of the Federation parliament[65]. The procedure after the vital national interest has been used is supposed to be as follows: the speaker of the House of peoples of the BiH Parliament convenes a joint commission (three delegates each from the Bosniak, Croat and Serb Caucus) to try to resolve the issue. If no agreement is reached within five days, the case will be referred to the Constitutional Court of Bosnia and Herzegovina under an urgent procedure. Later, the Constitutional Court ruled that the HDZ's proposal was not encroaching on the constitutional rights of Bosniaks and other constituent people to participate in the elections, however, the law was never properly adopted since due to the continued discord between the parties[66]. In October 2022, in the wake of general elections, the law was single-handedly adopted by the OHR (in accordance with "Bonn powers[67]") without the mutual

[63] Office of the High Representative, Measures to improve Federation Functionality [accessible at: http://www.ohr.int/measures-to-improve-federation-functionality/] (accessed 7 December 2022)
[64] Parliament of Bosnia and Herzegovina, Prijedlog zakona o izmjenama i dopunama Izbornog zakona Bosne i Hercegovine, Broj PZ: 02-02-1-639/22 od 22.4.2022. Pitanje vitalnog nacionalnog interesa pokrenuo je Klub delegata bošnjačkog naroda na 10. hitnoj sjednici Doma naroda, održanoj 27.4.2022 [accessible at: https://www.parlament.ba/data/dokumenti/pdf/vazniji-propisi/vni%2016%20-%20odluka%20ustavnog%20suda%20bih%20-%20sl.%20glasnik%2038-22%20-%20B.pdf] (accessed 10 December 2022)
[65] Ibid.
[66] Kilx.ba news portal, Ustavni sud odlučio da HDZ-ov prijedlog izbornog zakona nije štetan po Bošnjake [accessible at: https://www.klix.ba/vijesti/bih/ustavni-sud-odlucio-da-hdz-ov-prijedlog-izbornog-zakona-nije-stetan-po-bosnjake/220526128] (accessed 10 December 2022)
[67] The so-called Bonn Powers further empower the High Representative to adopt binding decisions and remove public officials from office.

agreement of Bosnian political parties as a last-ditch effort, which was later lamented by the EU officials[68].



Source: author

Figure 6. Timeline of the electoral law reform

Results

As could be vividly seen from the analysis above, in all three cases reforms were stalled and brought to a halt due to a clash of interests and significant discord between the main veto-players. While two of the cases that dealt with the state-level reforms were vetoed by the politicians of the Republika Srpska, the third one was relative to the entity-level legislative matter and was hindered by the Bosniak representatives. In each case, the reform contestation or vetoing was preceded by lengthy, years-long talks and discussions within the country and consistent persuasion or, at times, coercion from the EU. The judiciary, electoral and police reforms were all advised and recommended by the EC as critically essential for the substantial institutional consolidation and rebuilding in the light of potential accession to the EU. As expected, all three reforms met with adamant opposition from one of the veto-players in the government of Bosnia and Herzegovina, which involved bargaining, time-stalling and the use of veto rights in a bid to maintain the status quo and evade substantial change at minimal cost. Even though veto-players had different reasons as to why they found it necessary to block any of the selected reforms, they

[68] Delegation of the EU to BiH & EU special representative in BiH (2022), "EU in BiH on the decision by the High Representative to amend the BiH Election Law and the Constitution of the Federation of BiH", [accessible at: http://europa.ba/?p=76074] (accessed 11 December 2022)

still shared the common motive – retention of the status quo and, if not possible, then incurring the least tangible losses.

The means utilized for the retention of the status quo in all three cases led to a political gridlock, in other words, reform stalemate. The legislative standstill, in turn, caused multiple deferrals of plenums and either dismissal of the reform or partial implementation thereof in the future. As of the end of 2022, none of the studied reforms have been enacted or, at best, reconsidered at the Parliament of Bosnia and Herzegovina, in spite of repeated pleas, opinions and unambiguous messages from the EC to push through with the improvement of the country's legislation as far as institution building is concerned. Owing to the slow progress of reform implementation from the Bosnian side, the bilateral relations between the EU and candidate country have been marked by constant reminders from the EC to straighten out the persistent governmental, political, social, constitutional and economical issues and utter incapacity from Bosnia and Herzegovina to adequately meet those requirements. Despite recent EU's good will gestures to meet Bosnia and Herzegovina halfway and offer an official candidate status to the country (provided that appropriate measures are undertaken), no significant has been made. Based on the analysis above, it would be safe to deduce that convoluted structure of the government of Bosnia and Herzegovina and, particularly its ineffective institutional mechanisms such as too powerful veto players, have in no small part led to a hampered and stately EU accession progress.

Conclusion

The objective of this thesis was to assess how veto players in the political system of Bosnia and Herzegovina influence the reform progress in pursuit of the country's EU accession. The main research questions were: *(a) how does the institutionalized political division of Bosnia and Herzegovina hamper the progress towards European Union accession?, and (b) which entities have vetoed reforms requested or recommended by the European Union and why?*. The theoretical approach utilized for understanding and examining the effects of convoluted state structure of Bosnia and Herzegovina on the European accession progress was veto-player theory. The chief hypothesis of this thesis was the more there are veto-players, the less likely are the reforms/changes of status quo.

In the first instance the thesis focused on the theoretical component of the research and unfolded the concept of veto players developed by George Tsebelis. With the help of the analysis of this game theory of political behavior it was established that stability level (the status quo) depends on the number of veto-players. This entailed that the more veto players, the greater the possibility of blocking decisions (it is more difficult to reach consensus), and the possibility of changing the status quo is significantly less. In this vein, it was also established that in systems with a large number of veto players it is difficult to make major changes, and consequently, they are more stable. Moreover, the chapter drew a distinction between institutional and party veto players, highlighting the importance of congregation and internal cohesion in the former. It emphasized the difficulties associated with collective veto-players (agenda-setting, unanimity) when compared to individual ones. Veto players as a factor was demonstrated to incentivize status-quo orientation and have a detrimental impact on the ability to induce policy change in bicameral systems, which helped to unravel the research puzzle. An overview of European accession conditionality, as an element of broader Europeanization theory, was provided by author to understand how veto-theory relates to European accession. The thesis revealed that veto-theory is instrumental in comprehending what factors, mechanisms and veto points are involved in enacting an EU accession-related reform or legislation, which in turn, is crucial to highlighting and tackling the issues of inefficiency of EU conditionality in such regions as Western Balkans.

Subsequently, the work introduced the methodology, enlarged on the case to be examined and spelt out the data and sources used in the empirical chapter. Compared to other qualitative methods, process-tracing only enhanced the suitability of the veto-player theory and strengthened the use of the methodology in the thesis. The case selection was justified by the unwieldy convoluted nature of the governmental composition that engenders the emergence of an array of

veto-players trying to hold their grip on various branches of power and sway over particular ethnic and social groups to maintain their control and influence in the political realm of the state. Bosnia and Herzegovina was determined to be a truly sui generis case when it comes to veto-player number and prominence in the country's policy and decision-making. Furthermore, the brief description of three relevant reforms was provided along with a historical and political background of Bosnia and Herzegovina to further heighten the relevance of the case study.

The third chapter presented the results of the empirical analysis. First and foremost, it mapped out and enumerated the main veto players both at the state and entity-levels, whilst mentioning other actors that could be potentially considered as veto-players. The thesis determined the total number of veto players, which amounted to as many as eight: three presidents representing three constituent peoples in the Tri-partite presidency (3), three delegations representing the three constituent peoples in the upper chamber of the Parliamentary Assembly (3), and finally the two delegations representing the Republika Srpska and the Federation of Bosnia and Herzegovina in the lower chamber of the Bosnian Parliament (2). The systematic process-tracing of the decision-making in three reform processes: police reform, judicial reform and constitutional reform regarding electoral law – helped to deduce that in all three cases reforms were stalled and brought to a standstill owing to a clash of interests and significant discord between the main veto-players. Answering one of the research questions, it was determined that while two of the cases that dealt with the state-level reforms were vetoed by the politicians of the Republika Srpska, the third one focused on the entity-level legislative matter and was hindered by the Bosniak representatives. In each case, the reform contestation or vetoing was preceded by lengthy, years-long talks and discussions within the country and consistent persuasion or, at times, coercion from the EU. The judiciary, electoral and police reforms were all advised and recommended by the EC as critically essential for the substantial institutional consolidation and rebuilding in the light of potential accession to the EU. Retention of the status quo and incurring the least possible losses proved to be the main motivations behind veto-players' behavior. The analysis helped to establish that convoluted structure of the government of Bosnia and Herzegovina and, particularly its ineffective institutional mechanisms such as too powerful veto players, have indeed resulted in a hampered and sluggish EU accession progress.

By way of conclusion, this thesis contributes to the understanding of the effect a convoluted political structure of Bosnia and Herzegovina has on the European accession process with the help of veto theory that delineates the veto-players as the main political factors impeding the reform progress and, subsequently, impairing EU accession chances in the nearest future. The timescale of the reforms chosen is highly relevant, as these reforms (or attempts to carry them through) took

place in the period from 2008 until 2022, thus proving the actuality and pertinence of the research puzzle in the study of European integration. The current trends, however, are expected to remain unchanged in the years to come, unless substantial changes are made to the structure of the government of Bosnia and Herzegovina. This seems barely conceivable considering the recent decades of slow reform progress, political gridlock, ethnic divisions and low morale of the population. Despite the recent grant of official EU candidate status, Bosnia and Herzegovina is still lagging well behind its Western Balkan neighbors in terms of reformation and democratic institution-building. The EU is anticipated to remain the only international actor endorsing and encouraging tangible political and institutional change in Bosnia and Herzegovina.

The current thesis could be used as a basis for studying the effects of governmental institutions and veto-players on the European accession progress in the candidate countries to the EU. The process-tracing method could be further used to research the reform progress in other long-standing candidate countries and provide assessment to their institutional development and determine the factors that might be hampering it. Future research could explore different research designs and methods like interviews as well as weave in a comparative study of multiple candidate countries vying for the membership in the EU to draw inferences about the factors that hamper accession. Veto-theory could likewise be elaborated upon or complemented by other theoretical approaches to yield further insights into the convoluted veto-player-laden structure of Bosnia and Herzegovina.

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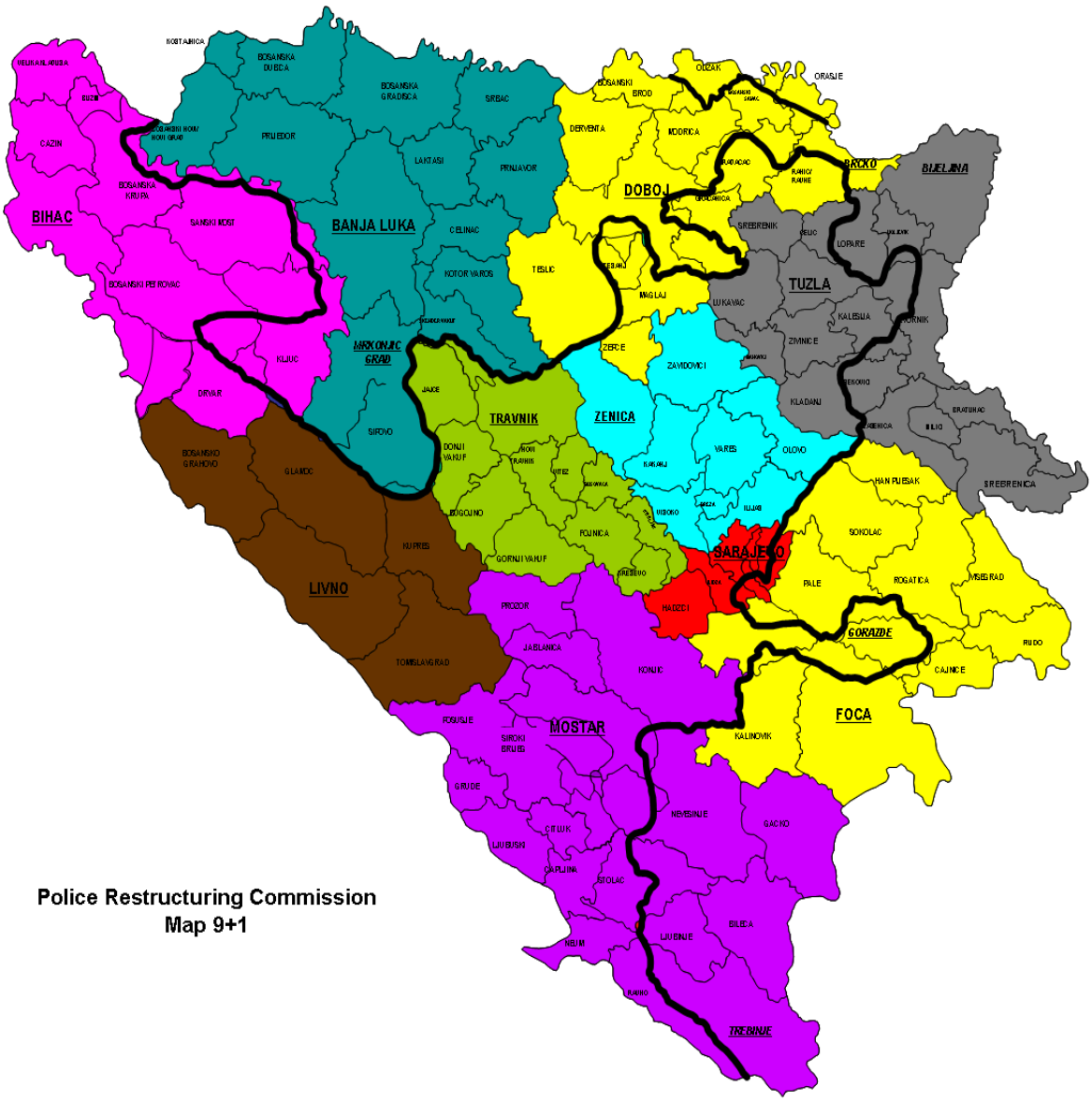
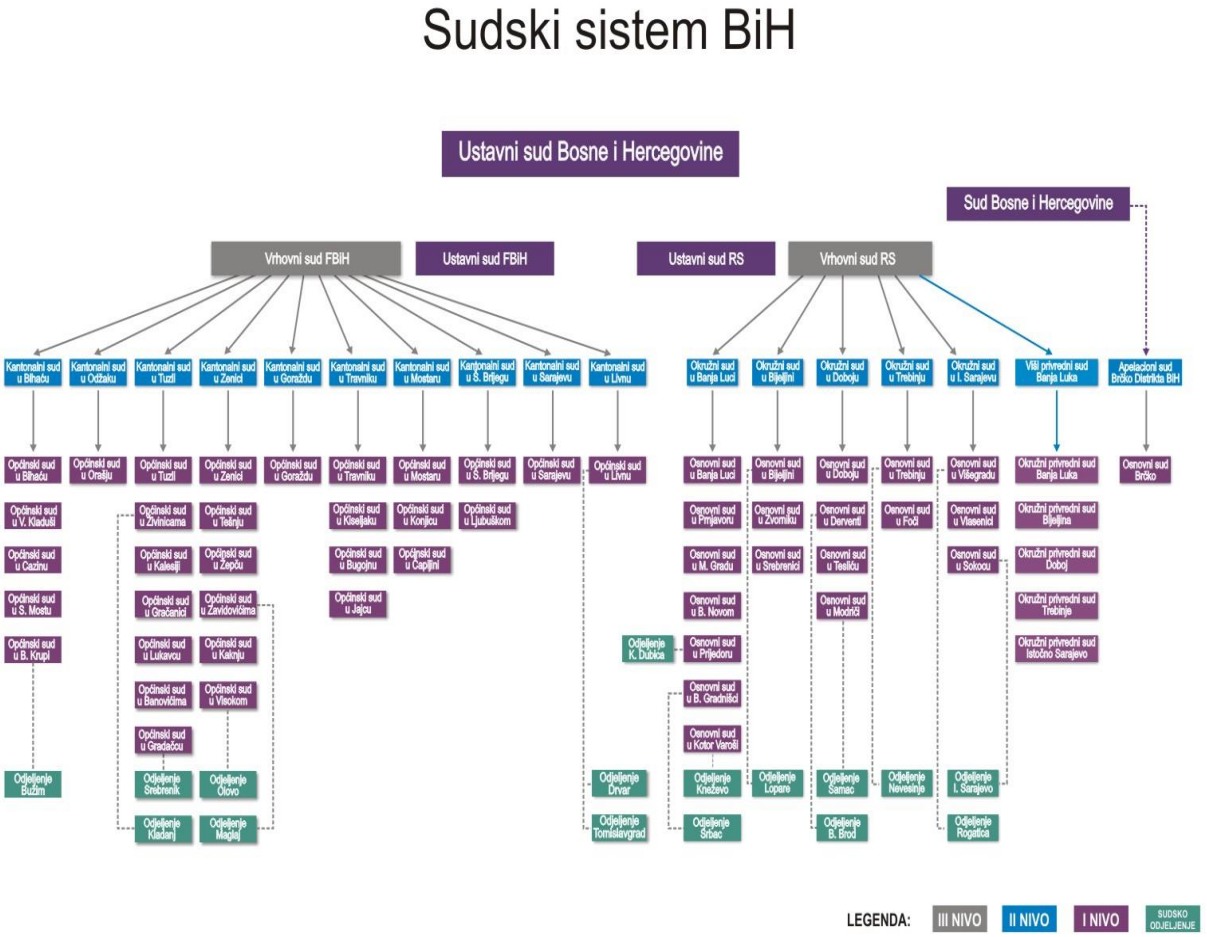
Appendices

Appendix A: *The entities border and the suggested territorial distribution of local police areas in Bosnia and Herzegovina.*



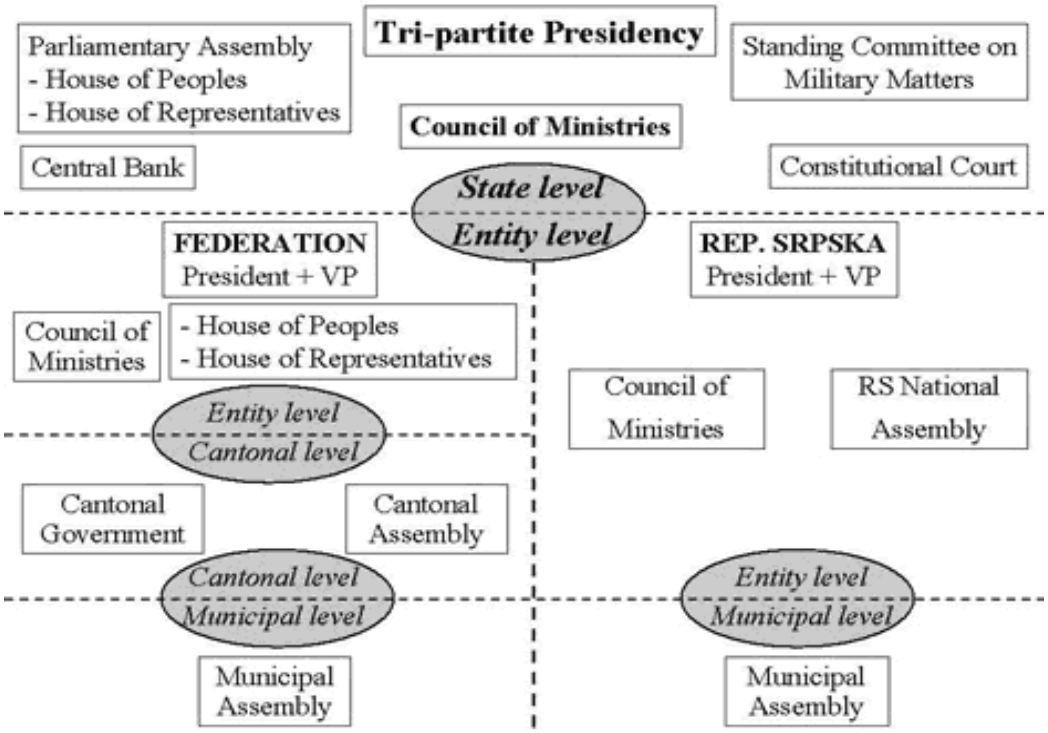
Source: Office of the High Representative in Bosnia and Herzegovina website [accessible at: http://www.ohr.int/en/] (accessed 20 November 2022)

Appendix B: Judicial system of Bosnia and Herzegovina (detailed)



Source: Justice portal of Bosnia and Hercegovina [accessible at: https://cin.ba/navrat-nanos-skrpljen-pravni-sistem/] (accessed 1 December 2022)

Appendix C: Political system of Bosnia and Herzegovina



Source: North Atlantic Treaty Organization [accessible at: https://www.nato.int/sfor/indexinf/125/p03a/b01031a.htm] (accessed 22 November 2022)