

PATH OF BOSNIA AND HERZEGOVINA TO THE MEMBERSHIP OF THE EUROPEAN UNION

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Summary: The reform process in Bosnia and Herzegovina is proceeding at a slow pace, as is Bosnia and Herzegovina's progress in the context of a European country. "Step back and forth two" is the most common epilogue of BiH's path towards European integration. The reason for the slow progress is primarily due to the poor political situation in the country, ie the inability of political leaders to agree on key issues. The political (in) stability of the country is one of the bigger problems in BiH. The parties in power do not offer a solution or make significant efforts, but rather hinder its European path and slow down the integration process. There is no institution in BiH responsible for guaranteeing investments by foreign investors, making it one of the countries with the highest political risk. In addition to the complex political structure, the problem of corruption and the informal economy also present the burning problems of BiH that must be addressed. It is crucial for BiH to establish a single economic market space, that is, to harmonize legal regulations. Despite the many brakes that have emerged on BiH's path to the EU, some progress has still been made. On February 15, 2016, BiH submitted a membership application, which was accepted at a session of the EU General Affairs Council, and received a Questionnaire in December. Bosnia and Herzegovina is currently the only Western Balkan country with Kosovo to have no candidate status.

Keywords: Bosnia and Herzegovina, European Union, Acquis communautaire (EU acquis), European integration, Stabilization and Association Agreement, reforms and Reform Agenda, candidate status

Introduction

Bosnia and Herzegovina has the status of a potential candidate country for EU membership. In its path to EU membership, Bosnia and Herzegovina faces many economic and political problems. Bosnia and Herzegovina's progress in the context of a European country has been slow. "Step back and forth two" is the most common epilogue of Bosnia and Herzegovina's path towards European integration. Negotiations on a Stabilization and Association Agreement, the first step before submitting a membership application, began in 2005 and were initially expected to be completed by the end of 2007.

However, there has been a delay due to disagreements over police reform, for which The EU insisted that it be centralized independently of the entities in Bosnia and Herzegovina. It was not until February 15, 2016, almost a decade later, that the application for membership of the European Union was submitted, after all the conditions of the European agenda necessary to consider the application had been fulfilled. Then, on September 20, the request was accepted at the session of the General Affairs Council of the European Union and an order was sent to the European Commission to prepare the Questionnaire for BiH. This means that Bosnia and Herzegovina will answer a set of several thousand questions in the coming

period. Bosnia and Herzegovina is currently the only Western Balkan country with Kosovo to have no candidate status. Candidate status for BiH would mean a clear membership perspective and a strong impetus for reforms and democratic political forces. By meeting the political criteria, BiH would further consolidate democratic reforms on the path to building a functional state and strengthen the rule of law mechanisms, while harmonizing legislation would further its own standards in the area of economy and economy. With candidate status, BiH would have the opportunity to withdraw and use EU pre-accession funds, which should ensure faster development and support for reforms in key areas.

The country's political instability is one of the big problems in BiH. The parties in power do not offer a solution or make significant efforts, but rather hinder its European path and slow down the integration process. There is no institution in BiH responsible for guaranteeing investments by foreign investors, which is one of the reasons why BiH is on the list of countries with the highest political risk. Given the image that BiH has been following for years, it is not surprising that foreign direct investment has been diminishing year by year. Resources in BiH are dwindling because of poor government concern about them. Foreign investment is declining because of the volatile political situation and the current government's inability to specifically address the problems it has faced for years.

In addition to the complex political structure, the problem of corruption and the informal economy are also the burning problems of Bosnia and Herzegovina, which BiH must tackle.

It is crucial for BiH to establish a single economic market space, that is, to harmonize legislation at the municipal, cantonal, entity and state levels. As long as the market of Bosnia and Herzegovina or its economic space remains fragmented, with different rules in force and applicable in

different parts of the country, real freedom of movement within its borders cannot be achieved.

The question therefore arises as to how a country without its own internal market can be expected to integrate into the internal market of the European Union. The causes of this problem are mainly political in nature. This is additionally favored by the dysfunctional and extremely complicated Dayton structure of BiH. The single market, first of all, does not function within the Federation because of its cantonal divisions, and furthermore in other parts of the country, which implies that the single market in BiH is still under construction.

1. Advantages and disadvantages of EU membership

The benefits of EU membership are political, economic and social in nature. Membership means, first and foremost, the expansion of a zone of peace, stability and security, a contribution to faster economic growth and trade development and job creation, with the possibility of benefiting from Union funds, as well as a better quality of life. Of particular importance is the strengthening of the international reputation. The most important benefit for Bosnia and Herzegovina, as well as other candidate countries, is safe access to the vast EU market. EU membership brings with it market growth. Market expansion also brings greater opportunities for exporting goods and services to BiH. BiH would become part of the EU internal market, facilitating BiH exports. products to market with over 500 million consumers. In addition to access to the EU market, BiH would also have access to EU structural and other funds, which is also an additional incentive to strengthen the market system. The next benefit relates to the free movement, residence, work and education in other EU Member States, ie the free movement of people, goods, services and capital will be facilitated as the EU strives for free movement. BiH citizens will be

able to find employment in other Member States, while enjoying the same labor and social rights, the same tax benefits as the parent worker. Employment Opportunities BiH Citizens also mean increasing the number of quality jobs, as investments will increase. They will have at their disposal a EURES⁸⁵ network that acts as an intermediary between employer and worker in the EU market. Entrepreneurs are offered the opportunity to provide services in all Member States without a business establishment. They also get the opportunity to start a business. Students from BiH will be able to study under the same conditions as nationals of those countries. The number of visits to the country will increase, or tourism growth can be expected, as more and more people will get to know BiH, and it will be through tourism that the economy will reap the benefits. BiH citizens will have the right to vote and stand in the elections to the European Parliament. New EU member states saw faster GDP growth per capita than non-member countries. All EU accession member states achieved GDP growth. Most countries that have acceded to the EU, according to Eurostat⁸⁶ data, have recorded an increase in foreign direct investment. FDI will lead to the development of the energy market. EU membership also contributes to strengthening governments and better compliance with laws, improving investment opportunities, facilitating transfers and more. Within the EU, the problem of relations between developed and underdeveloped countries is intensifying. Developed countries should help developing countries because their lag

is blocking the further development of developed countries. These are contradictions between "old" and "new" EU members⁸⁷

It is certain that there are numerous and significant positive effects expected when BiH joins the European Union. The European Union makes it much easier for every potential Member State to join the Union with its funds. So is the process of becoming a member of the EU. The positive effects that would emerge for BiH by gaining EU membership are the following:⁸⁸

- With increased quality, competitiveness, peace and security, macroeconomic stability will be profiled;
- It will accelerate economic growth, technological development, scientific development and install modern technologies with lifelong employee education;
- European standards for currency and price stability, as well as realistic and up-to-date inflation control, will be established;
- Regional cooperation based on regional market, production and services will be ensured;
- Fiscal policy, tax policy, quality and quantity of production, as well as modern technologies and state-of-the-art education will establish a realistic and positive balance of coverage of imports by exports;
- Economic, market and political entity divisions, lack of reliable statistics, local interest and planning will also be overcome;

⁸⁵ EURES is a cooperation network aimed at facilitating the free movement of workers in 28 EU Member States, Switzerland, Iceland, Liechtenstein and Norway. The network consists of: the European Coordination Office (ECO), the National Coordination Offices (NCOs), EURES partners and EURES related partners.

⁸⁶ The Statistical Office of the European Communities (Eurostat) collects and publishes statistics from Member States, countries outside the

European Union and from international organizations in order to keep the institutions of the European Union informed and to monitor the effects of Community policies.

⁸⁷ Cengic, E, Bosnia and Herzegovina - The Road to the European Union, Sarajevo: BH MOST; 2010, p. 123.

⁸⁸ Kasumovic, M, Macroeconomic Effects of Bosnia and Herzegovina's Accession to the European Union, Tuzla: PrintCom; 2008, p. 197

- Innovation processes will be fostered, links between scientific institutions and access to all scientific, professional, educational, research and other programs of the European Union (eg Socrates, Erasmus, Aristotelos ...);
- Social problems will be addressed economically based on the standards and good experiences of the EU countries;
- Property rights, civil and liberally democratic, with economic sustainability and macroeconomic stability of Bosnia and Herzegovina will be realized;
- A quality internal and external economic strategy of Bosnia and Herzegovina will be built, while meeting the norms of transition parameters;
- General European standards on labor, production, ecology and wages will be established;
- Bosnia and Herzegovina will accept the common currency (Euro), that is, the nominal and real convergence criteria;
- A developing country such as BiH will intensify the exchange of services, knowledge and technology first in BiH, in the region and then in the Union. In particular, it will encourage the formation of joint ventures in the region for entry into domestic and foreign markets.

However, apart from the mentioned advantages, the accession to the EU has some **disadvantages**. One of the biggest is cost. When a country wants to become an EU member, it must accept all EU standards and norms. Standards mainly concern standards in medicine, technology, energy, manufacturing systems and more. Costs also occur with the modernization of industrial plants to meet European

standards, the cost of improving legislation and the like. EU costs mainly relate to the costs of standardization and adoption of standards, monetary policy, the cost of free movement of labor. BiH will have to pay into the EU budget. The crisis mechanism to assist the Eurozone countries could put an additional budgetary burden on the public finances of the BiH state. EU entry will further increase imports of agricultural products from other countries, which can cause problems for BiH. to farmers. It is to be expected that some companies that currently hold a privileged position in the domestic market will lose that position, which will bring short-term economic losses. "Buy homemade" will be a prohibited advertisement.

"BiH, as a state, does not have the capacity of institutions, ie the competences necessary for it to achieve full membership in the EU, which necessarily imposes the need to reconstruct state institutions and implement EU standards in their structure."⁸⁹

Some of the disadvantages of joining EU membership are as follows:

- The state is losing its independence,
- Others decide the state,
- National identity is being lost,
- National sovereignty is being lost,
- The EU is in crisis, affecting less developed countries more,
- Competitiveness will decline, domestic production will encounter difficulties,
- The earth is borrowing,
- Leaving the land of young educated staff,
- Due to the impact of the crisis, faster economic progress, increased trade and an inflow of capital cannot be expected.

The loss of cultural diversity is one reason cited as a lack of EU accession. I join the EU, the potential candidate country must

⁸⁹ Cengic, E, Bosnia and Herzegovina - The Road to the European Union, Sarajevo: BH MOST; 2010, op.cit., P. 130

adopt all the legal norms and standards of the EU, thus the state loses its independence, borrows and loses its national identity.

Many reconstructions are needed in Bosnia and Herzegovina, primarily state institutions, and therefore the Constitution, and only then will it be possible to get a clearer picture when it comes to Bosnia and Herzegovina as a future EU member state. Considering all the shortcomings and costs that EU membership entails, it should be noted that there are still more positives. Some of the many and key benefits of EU membership are: market expansion, greater opportunities for economic growth, peace and stability, greater chances for young people, more regular and regulated laws, capital inflows.

2. Steps on the Road to the European Union - Step by Step

The reform process in Bosnia and Herzegovina has been slow. The reason for the slow progress is primarily due to the poor political situation in the country, ie the inability of political leaders to agree on key issues. Despite the many brakes that have emerged on BiH's road to the European Union, some progress has been made.

2.1. Steps taken

First of all, the European Union recognized BiH as a state. Diplomatic relations between the EU and BiH have been established. In March 1999, the BiH Council of Ministers adopted a decision to launch the initiative for BiH's accession to the EU. The Stabilization and Association Process was then established as a new framework for EU integration preparations, including financial support measures for reforms. Significant steps include the European Integration Guidelines. Roadmap⁹⁰ including 18 conditions for the

start of negotiations on the Feasibility Study, ie on BiH's readiness to accede to the Stabilization and Association Agreement, adopted by the BiH Council of Ministers in March 2000. The Stabilization and Association Agreement between the European Community and its Member States and Bosnia and Herzegovina was signed on 16.6.2008. in Luxembourg. However, instead of accelerating the European path after the signing of the SAA, a complete blockade of movement towards the European Union occurred in BiH. The SAA entered into force only seven years after it was signed, specifically in June 2015. The Stabilization and Association Agreement is one of the most significant EU agreements, based on general principles based on the Copenhagen criteria (with Madrid annex), trade arrangements and political cooperation. The Stabilization and Association Agreement, among other things, defines for the first time the contractual obligation of Bosnia and Herzegovina to transpose the *acquis communautaire* into its legislation.

An important step in the path of European integration is the adoption of the Reform Agenda for Bosnia and Herzegovina in the period 2015-2018. The Council of Ministers of Bosnia and Herzegovina, the Government of the Federation of Bosnia and Herzegovina, the Government of the Republika Srpska, together with the Governments of the Canton, have recognized the need to urgently initiate the process of economic recovery and its modernization, with a view to strengthening, sustainable, efficient, socially just and stable economic growth, job creation, increasing and better targeted distribution of social benefits, and creating a sustainable and equitable social environment. Reforms should set the stage for negotiations on individual financial and technical assistance programs of international financial institutions and the

⁹⁰ The Roadmap is a document adopted by the EU Council of Ministers in March 2000, which sets out

political, economic and guidelines relating to respect for human rights, democracy and the rule of law.

EU. The main goals of the Reform Agenda are to increase growth and competitiveness, as well as macroeconomic stability. The reform agenda is presented through the following important areas:

- Public finance, taxation and fiscal sustainability,
- Business climate and competitiveness,
- Labor market,
- Reform of social protection and pensions,
- Rule of law and good governance,
- Public administration reform.

On February 15, 2016, BiH Presidency Chairman Dragan Covic submitted his application for EU membership, which was accepted in September of the same year.

2.2. Upcoming steps

The steps ahead for Bosnia and Herzegovina on its European path are opinions on the application for membership prepared by the European Commission, on the basis of which the European Council concludes on candidate status and the start of negotiations, as well as the decision on EU membership. However, prior to the opening of accession negotiations, it is necessary that the country applying for candidate status answers the questions in the Questionnaire sent to it by the European Commission. The questionnaire contains a detailed list of questions that follow the structure of the criteria for EU membership by its structure, the aim being to provide comprehensive insight into the political, legal, social, economic and administrative system of the country that applied for EU membership, and evaluate its compatibility with the system and values that exist in the EU and in EU Member States. After the country that wants to join the EU submits an application for membership to the EU Council, the European Commission submits a Questionnaire, and then invites

the EU Council to prepare an opinion (avis) on the application for membership. The questions are divided into several categories. The recently released census results will be a very important segment of BiH's response. The European institutions want information on the population in BiH, the buildings, the households in which the citizens live, the ownership of real estate (apartment, house, business premises, etc.). The questions from the Questionnaire also relate to information on the amount of weapons possessed by BiH, the state of crime in our country, the state of penal institutions and the number of prisoners. BiH will also have to answer the question about membership in other international organizations. Citizens' education and age are very important factors in the European Union. The EU is also interested in how old the children go to school, who prints school textbooks and by what criteria, how old we must be to pass the driving test. In the telecommunications segment, the number of mobile and landline phone subscribers, the ratio of women to men employed and other issues.

The next step in the EU accession process is the drafting of an avis opinion by the European Commission, that is, an opinion on the ability and preparedness of the country that has applied to meet the criteria for EU membership. Avis is done on the basis of a Questionnaire and more than thousands of questions sent to the applicant country, and the process itself takes about a year, but can take longer. The criteria to be observed are the so-called. Copenhagen and Madrid. In 1993, three criteria were defined in Copenhagen (the so-called Copenhagen criteria or the Copenhagen criteria) which must be fulfilled by any country wishing to become a full member of the European Union.

That are:⁹¹

⁹¹ Barac Z., EU Requirements in the Field of Tax Legislation with Special Reference to VAT

Harmonization, VIII International Reform Symposium in BiH - The Road to European Integration, Neum, 2007, p. 125.

1. **Political:** the stability of institutions that guarantee democracy, the rule of law, respect for human and minority rights, and acceptance of the Union's political objectives.
2. **Economic:** the existence of an efficient market economy and the ability of market factors to cope with competitive pressures and market laws within the EU.
3. **Legal:** Adopting the entire EU acquis. - At the Madrid European Council in December 1995, it was concluded that the implementation of all reforms (political, economic and legal) must be accompanied by appropriate administrative arrangements, thus establishing the fourth criterion (the so-called Madrid criterion), The fourth prerequisite for membership is:
4. **Administrative:** which means adapting appropriate administrative structures to ensure the conditions for gradual and harmonious integration (such as strengthening administrative capacity, creating an efficient public administration system to ensure an effective process of adopting and implementing the EU acquis).

If the country receives a positive opinion from the European Commission, the European Council decides to grant the candidate status to the applicant country. The step after gaining candidate status is to begin membership negotiations. Negotiations are actually a process of aligning the country's legislation with that of the Union, and the start of the negotiations depends on the political decision of the European Council. It can take several years to obtain candidate status and start negotiations. An example of this is Macedonia, which has had a candidate status for years due to a dispute with Greece.

2.3. Harmonization of BiH Legislation with EU Legislation - Takeover and Application of the EU Acquis

The *acquis communautaire* is one of the most important legal and political principles of European integration. The term refers to the overall rights, obligations and commitment to the Community. The *acquis communautaire* covers primary (founding treaties) and secondary law (legislation enacted by EU institutions; the case law of the Court of Justice), as well as international treaties, customary international law and general EU legal principles.

Every country applying for EU membership must be prepared to accept the *acquis* fully and be able to implement it. The terms and conditions for adopting and implementing the *acquis* are the content of the EU membership negotiations conducted by the candidate country with the Member States and for this purpose are divided into negotiation chapters.

The task of aligning legislation with EU law is also before Bosnia and Herzegovina, and until the EU *acquis* is fully accepted and BiH is not ready to implement it, it will not be able to accede to the European Union. By signing the SAA, Bosnia and Herzegovina has also accepted the obligation to gradually align its legislation. Harmonization of legislation, ie harmonization of legislation with the provisions of the *acquis*, is the most complex and time-consuming process in the process of Euro-integration. Successful harmonization of legislation and implementation of harmonized regulations represent the most important conditions for BiH's further steps towards EU membership. There are three institutions in charge of harmonizing regulations in Bosnia and Herzegovina:

1. Directorate for European Integration,
2. RS Ministry of Economic Relations and Regional Cooperation,
3. Federal Legislative Office.

The complexity of the BiH legal system is a fundamental challenge and an additional difficulty in the European integration process. According to the FBiH Constitution, there are certain areas where the Federation has exclusive jurisdiction. There are also areas where jurisdiction is exercised separately and through the joint action of the Federation and the cantons. There are areas in which the cantons have jurisdiction, but with the coordination role of the Federation, which implies the complexity of transposing EU regulations at the FBiH level.

The process of harmonization of the regulations of Republika Srpska is regulated by the Government Decision on the procedure for harmonization of RS legislation with the *acquis communautaire* and Council of Europe legal acts⁹². The Ministry of Economic Relations and Regional Cooperation monitors the implementation of the Decision and reports to the Government of the RS and the RS National Assembly on the significant results achieved in the field of transposition of the *acquis communautaire*, as well as on any problems encountered in the process of harmonization of legislation.

State institutions will also have to harmonize their laws with EU law, which requires the most time and costs the most. State institutions must be in charge of establishing new legal provisions, since the speed of BiH's accession to the EU depends on state institutions. For BiH to become part of the EU internal market, its institutions must adapt their legislation to the content of the White Paper, or about 100,000 pages of EU legislation, which exists as an EU legal legacy - *Acquis Communautaire*. BiH is required to establish a clear constitutional and legislative framework in order to protect civil rights and freedoms.

Key constitutional and legal changes relate to human rights. There is no comprehensive implementation of international conventions on human rights and freedoms in BiH. One reason for this is the incompatibility of BiH legislation with the European Convention on Human Rights. The overall commitments in the area of constitutional reform and legislation illustrate the need to adopt about 1200 different laws, regulations and regulations in order for BiH to harmonize its legal system with the EU legal order in various fields, especially in terms of structure, efficient functioning and decision-making.

After completing the questionnaire procedure and giving a positive opinion, negotiations will open. Upon the opening of negotiations, the so-called screening concerning the assessment of the compatibility of national legislation with Union law. This grading is done for each chapter and takes about a year. Upon completion of the negotiating chapter, all the conditions are fulfilled, followed by the signing of the Accession and EU Membership Agreement.

The chart provides a schematic overview of the steps taken within the framework of European integration, as well as those that are ahead of Bosnia and Herzegovina towards the achievement of the final goal, ie the acquisition of EU membership.



⁹²RS Official Gazette, No. 46/11

Graph 1: Steps on BiH's path to EU membership

3. Conclusion

Membership in the European Union is one of the main goals of Bosnia and Herzegovina. But on the path to membership, in addition to the accomplished ones, there are other obligations that he must fulfill. The membership application is a key event that marked the beginning of 2016 when European integration and BiH are concerned. Among the more significant, if not the most significant, step that BiH needs to fulfill is compliance with EU legislation, as well as its implementation. There are a number of positive effects of EU accession, which are primarily reflected in market expansion, access to EU funds, GDP growth and the application of European standards. The most significant benefits of EU accession are political, economic and financial in nature. EU membership means expanding the zone of peace and security, economic growth and increasing investment. Through EU membership, Bosnia and Herzegovina gets its chance for economic, legal, social, political and social progress and development.

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