

IN SEARCH OF RIGHTS TO POLITICAL PARTICIPATION

THE EMERGING VOICE OF NATIONAL MINORITIES IN BiH IN LIGHT OF EU INTEGRATION

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In the immediate aftermath of the Cold War, few issues in Europe have been as contentious as minority rights. As minority discontent grew across countries of Central and Eastern Europe (CEE), so did the interest of the European Union (EU), which, in the case of these states gave much attention to minority rights and worked on insuring state compliance with human rights legislation. Nevertheless, things did not go in the same direction in the Western Balkans, which, unlike the states of CEE, underwent a much more turbulent and violent political period at the dawn of the 1990s. The latter is, most certainly, the biggest culprit for such diverse paths of these two socially and historically related regions, but the fact that the issue of national minority rights in post-conflict societies of the Western Balkans has not been high, both on the internal and EU political agendas, cannot be solely justified by the absence of democratically consolidated institutions which would govern these issues. Nowhere is this trend more obvious than in Bosnia and Herzegovina (BiH), a small state in the heart of the Balkan Peninsula, which, unlike its neighbors, underwent the longest and bloodiest conflicts of all, but also failed the most when it came to democratization efforts and socio-political inclusion of its national minorities.

Thus, this paper will comprehensively investigate the current impact of EU conditionality in BiH when it comes to a specific minority right – that of political participation – and argue that despite political unwillingness to move forward on the case, the EU conditionality policies are too unstructured and limited to adequately move the discussion towards a more favorable direction. However, in order to understand the complex network of these relations and examine the casualties of the issue, first of all, one must take a look at the institutional and legal foundations of BiH.

1. Dayton Peace Accords: the Birth of Constitutional Discrimination

From 1945 to 1992, BiH was a part of Yugoslavia,¹ a multinational state with a federal constitution. Throughout history, BiH was referred to as „Yugoslavia in miniature”. This was mainly due to its demographic structure, which, according to the data from the last census held in 1991 was the following: Muslims comprised 43.7%, Serbs 31.45%, Croats

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¹ From November 29, 1945 until April 7, 1963 Yugoslavia was called Federal People's Republic of Yugoslavia (FNRJ) when it changed its name to Socialist Federal Republic of Yugoslavia (SFRJ)



17.3%, while 5.5% of the population considered themselves „Yugoslavs”.² Yugoslavs were mostly (although, not exclusively) members of other *nations* and *nationalities* (according to the terminology used in SFRJ’s Constitution), but were also entitled to be equal under the Constitution.

Following the events that occurred from 1991 until 1992 in Slovenia and Croatia respectively, the independence of BiH, and subsequently its international recognition resulted, as indicated above, in the bloodiest and longest conflict of the former Yugoslavia³. The mixed ethnic picture only exacerbated the situation, which was finally settled in December 1995, when the Dayton Peace Accords were signed. The Agreement not only ended the conflict, but also laid down the institutional basis for the political and economic revival of the country. Despite the geographical divisions of two sub-state units,⁴ BiH remained a multi-ethnic state with three dominant ethnic groups in place just as before the war, and seventeen national minority groups. However, things are far from the pre-war state-of-art, and the sources of the current debate lie precisely in the Dayton Constitution.

Ironically, the eighteenth anniversary of the Dayton Peace Accords and consequently, the Dayton Constitution is celebrated this year. This year will also celebrate eighteen years of peace, pseudo-democratic institutions, feeble economy and the omnipresent ethnic divisions, which, or so it seems, are growing larger each and every day. But, could any of these factors, except, of course, peace be truly commemorated if one considers that we are talking about a potential EU member state here? Is there really a reason to celebrate those eighteen years of Dayton-created peace, since the former one failed to create a fully functional BiH? The answers to these questions are probably overly intricate and subjective, moreover, because peace accords have received a variety of remarks. The pro-Daytonists argue that much has indeed been achieved, but confess that there remains a significant amount of reforms to yet be introduced. On the other hand, the con-Dayton groups are rather critical towards the agreement and argue that it created a quasi-state, one imbedded in the principles of (ethnic) majority prevalence.

And indeed, when looking at Dayton Constitution, one cannot do anything else but notice that it overemphasizes ethnicity. Firstly, the constitutional system is based on the principle of ethnic constituency or the principle of „constituent peoples”, which implies that each „constituent group” has equal rights to govern the state. Thus, the Constitution does not deal with the term „citizen”, but instead it divides citizens of BiH into three „constituent groups” – Bosniaks,⁵ Serbs and Croats. The Constitution also mentions a non-constituent group of people, plainly called „Others”. It is exactly in this paradox that the peril lies - while Bosniaks, Serbs and Croats are dominant and (homogenous) ethnic groups in BiH, „others” represent a discriminated and excluded heterogeneous constitutional category, including BiH citizens who belong to one of the seventeen national minorities,

² Woelk, Jens: *Federalism and Consociationalism as Tools for State Reconstruction? The Case of Bosnia and Herzegovina*. Federalism, Subnational Constitutions and Minority Rights (eds.: Tarr, Alan - Williams, Robert - Marko, Josef). Praeger Publishers – Westport, CT, 2004. 177.

³ Previous conflicts occurred first in Slovenia (1991), and then in Croatia (1991-1992), to be followed by BiH. Conflicts in Kosovo and Macedonia occurred much later in the 1990s.

⁴ Federation of BiH – FBiH (51% of the territory) and Republic of Srpska – RS (49%).

⁵ Not to be confused with the term „Bosnian”, which could be used (if legally applied) for all people living in BiH. Bosniak is a citizen of BiH. Although a large percentage of Bosniaks are Muslims, one should not fall victim to mere generalization as there are many other explanations why people in BiH choose to identify themselves with this ethnic group.

but also citizens who refuse to strictly identify with one of the ethnic groups.⁶ Nowhere is this constitutional inconsistency more obvious than in the case of political participation of national minorities, where such constitutionally legal mechanisms of exclusion have taken many forms on all levels, from state to municipal level politics. To further elaborate, it is essential to note that such an ethnically exclusionist constitutional arrangement „...prevents, *inter alia*, persons belonging to minorities from being elected to the three-member Bosnian Presidency and delegated to the upper chamber of the Bosnian Parliament.”⁷ And while this case stands as a clear-cut example of discrimination, the fact that we are examining the issue of participation in the political life of a single state brings us to yet another discriminatory practice which relates to the right of national minorities to participate in all spheres of political and public affairs, as prescribed in recent international legal instruments. Thus, in the context of political participation of national minorities in BiH, one must also examine the legal side of the issue. This is essential in order to fully comprehend the impact of European Union integration policies in BiH, and the pressure and conditional efforts that result from the discriminatory practices.

2. How BiH Became an International Outlaw: *Sejdić-Finci vs. Bosnia and Herzegovina* case

In the last decade, several new international minority rights instruments have been introduced, all with the aim of recognizing and reaffirming the legal support for identity and status issues of national minorities within state constitutional and political systems. A particularly essential right which surfaced in these new documents is the explicit reference to the right of minorities in political participation, more precisely, the right to decide in public „matters affecting them”.⁸ Thus, the focus is on collective political participation.⁹ Furthermore, the Framework Convention for the Protection of National Minorities (FCNM) interprets this right as rather „strong” and „started implementing it in unqualified terms, translating the minority cultural identity directly into the political plane”.¹⁰ Many other international legal provisions, such as the International Covenant on Civil and Political Rights (ICCPR) and its Article 25, deal with issues of equal rights regarding participation in the political life of the country, but to examine each of these documents in

⁶ Since this study deals with minority rights to political participation, the reminder of the paper will assume the usage of the term „Others” solely in relation to national minorities.

⁷ Hodžić, Edin: *Political Participation of National Minorities in Local Governance in Bosnia and Herzegovina: State of the Art, Prospects and Ways Forward*. Analitika, Sarajevo, 2011. 5.

⁸ Article 2(3) of the UN Declaration on Minorities (1992); Article 15 of the Framework Convention for the Protection of National Minorities (FCNM).

⁹ It is important to note that the use of the term „political participation” is rather ambiguous in this sense, as none of these documents considers the broader aspects of the term. In the language of political science, effective political participation is a much more comprehensive term, and as such refers to, among other things, participation (usually through membership) in non-state and semi-state bodies (chambers of commerce, labor and trade unions, boards of public broadcasting, etc.), political party membership and rights to form national minority parties, right to vote and right to be voted for, right to be elected and participation in various forms of consultations. Political participation also includes participation in the executive and judicial branches of the government, as well as in public administration.

¹⁰ Hodžić: *ibid.* 6.

detail would be a paper by itself. Thus, before moving to this specific issue in BiH, let us first mention that on the European level, the focus is on broad political participation, and not solely on „matters affecting them” (minorities) as it is the case with FCNM or ICCPR. This means that national minorities have the right to political participation according to the general direction in which their country is moving (usually through co-decision making).

Moving away from the legal norms and examining political participation from the point of view of democratic development, one can make a general conclusion that in states with overemphasized ethnic mobility and ethnic nationalism, minorities run the risk of being excluded from the political system. Being a state where ethnicity overpowers nationality and where ethnic nationalism looms large, BiH is certainly a country where the above mentioned legal documents play only a minor role. This is not to say that BiH has no laws, whatsoever, that deal with minority protection. Quite the contrary, the 2003 BiH Law on Minorities stipulates that persons belonging to minorities „*have the right to be represented in state institutions and public service at all levels in accordance with their share in population based on the last census*”.¹¹ Furthermore, the 2001 Election Law (enacted in 2004) also deals with the issue of political participation of national minorities on local levels. More precisely, the law established the „3% threshold principle”, which guarantees that, according to the 1991 population census, at least one seat is to be reserved for members of national minorities in those municipalities in which minorities constitute up to 3% of the population. The law also confirms that at least two seats are to be allocated to national minority representatives in municipalities in which they comprise more than 3% of the population. Furthermore, in 2008, an amendment to the Election Law introduced a different and more general provision that seems less favorable to minorities. According to the amended law, at least one seat is to be reserved for national minority members where they make up more than 3% of the population. However, this solution does not make the situation worse, but simply establishes a threshold beyond which the representation of minorities cannot be ignored.

Thus, if put simply, the laws on political participation of national minorities on local level in BiH do exist, and are fairly inclusive, but the problem is that they are not implemented. The non-implementation of these laws has several dimensions. Firstly, and as mentioned above, the 2001 Election Law came into force three years later, but much after the deadline for the registration of candidates for the 2004 local elections. Therefore, the 3% threshold relating to political participation of national minorities could not be implemented, and resulted in „non-participation”. Secondly, the 2008 Amendments to the Election Law were not respected in all municipalities¹² – a clear breach of the legal obligations prescribed in the Election Law.

On the other hand, if examining the applicability of the Election Law in general (state level) elections, the discriminatory principles of the Dayton Constitution surface to the top. In short, what this means is that the tripartite presidency of BiH¹³ consists of *only* three constituent groups. Article 8 Para. 1 of the Election Law, which specifies the election rules

¹¹ Hodžić: *ibid.* 6.

¹² Although there are very few municipalities in BiH that satisfy this numerical threshold, even in those municipalities where minorities do constitute more than 3% of the population, seats for minorities were not reserved.

¹³ The head of the state in BiH is not a single person. The presidency consists of three directly elected representatives from each constituent group. According to Article 8 Para. 1 of the Election Law, in FBiH the electoral body can vote for either one Bosniak candidate or one Croat candidate. Voters cannot vote for both candidates. In the RS, voters can vote for one – Serb – candidate.

for the BiH Presidency, does not even refer to national minorities („Others”). Furthermore, when it comes to elections of the House of Peoples of BiH Parliament, subheading B, Article 9 Para. 12 states that: „The House of Peoples of BiH Parliamentary Assembly has 15 representatives, of which two-thirds are from FBiH (five Croats and five Bosniaks) and one-third from RS (five Serbs)”.¹⁴ Again, this article does not refer to „Others”, thus, excluding national minorities from participating in elections for higher offices. But, the Election Law of BiH is not the only source of discrimination of the national minority groups that live in BiH. Under BiH's constitution, only ethnic Bosniaks, Serbs and Croats can be elected members of the Presidency of BiH or the Parliament (Articles IV and V of BiH Constitution).¹⁵ Thus, one can only conclude that the state of BiH severely impedes the right to political participation of its national minorities.

This *status quo* remained for years. The attempts of national minority members to participate in the political life of BiH were scarce and unheard until December 2009, almost exactly fourteen years after the signing of the Dayton Peace Accords, when Jakob Finci (a Jew) and Dervo Sejdić (a Roma) claimed that BiH Constitution was discriminatory on the basis of race, religion and association with a national minority.¹⁶ Both plaintiffs made reference to Protocol 12 of the European Convention on Human Rights (ECHR), which BiH signed on 1 April, 2005. Initially, these were to separate cases, which were then merged into one by the European Court of Human Rights. It is interesting to note that neither Sejdić nor Finci claimed their rights before the signing of ECHR on the part of BiH, as they both believed that no legal basis existed for their complaints prior to this period.¹⁷ The second (mutual) motive behind their complaint was the failure of the so called „April Package”¹⁸ of constitutional reforms from 2006, which were not adopted due to the fact that only two pro voices were missing.

Thus, in December 2009, the Grand Chamber of the European Court for Human Rights ruled that BiH was guilty of violating Protocol 12 and Article 14 of the ECHR due to ethnic discrimination ingrained in its constitution. Following this ruling, BiH's ruling politicians showed some initial efforts to implement the decision. The pressure was growing on the part of the Council of Europe (CoE), which called for immediate implementation of the Court's decision, so that national minorities can stand for high office positions in the general elections that were to take place in October 2010. The efforts behind CoE's pressures resulted in the adoption of an action plan and a formation of a working group (within BiH's Council of Ministers), but the plan was short-lived. Numerous working group meetings did not result in any constitutional amendments by October 2010, despite severe

¹⁴ Centralna izborna komisija BiH: *Izborni Zakon BiH* [Election Law of BiH]. <http://www.izbori.ba/Documents/documents/ZAKONI/POIZpw19032013-1-bos.pdf> (time of download: 26 March 2013).

¹⁵ Steiner, Christian - Ademović, Nedim: *Ustav Bosne i Hercegovine – Komentar* [The Constitution of Bosnia and Herzegovina – Commentary]. Konrad Adenauer Foundation, Sarajevo, 2010. 563-591.

¹⁶ Dervo Sejdić was unable to stand as a candidate for the presidency, while Jakob Finci was not allowed to present a candidacy for the House of Peoples of the parliamentary assembly.

¹⁷ Hodžić, Edin – Stojanović, Nenad: Novi – stari ustavni inženjering? Izazovi i implikacije presude evropskog suda za ljudska prava u predmetu Sejdić i Finci protiv BiH [New-Old Constitutional Engineering? Challenges and Implications of the European Court of Human Rights Ruling in the Case “Sejdić and Finci vs. BiH]. Analitika, Sarajevo, 2011. 26.

¹⁸ The April Package included a whole set of new constitutional reforms. It was expected that the package be adopted in April 2006.

international pressure and concrete proposals made by various actors. The major hindrances were the ruling ethnic parties, which, throughout the process, interchangeably obstructed any substantial proposals for the implementation of the Court's decision.

Three years later the political stalemate still persisted. A lengthy chronology of events related to this case only demonstrates that the procedural labyrinth in BiH is too bureaucratic and non-transparent. Furthermore, the fact that BiH has been on the European list of "outlaws" for too long, does not change the situation when it comes to political willingness to resolve this issue. Secondly, and as strange as it may seem, the likeliness that any form of sticks will be applied against BiH for not implementing the Court's decision is zero to none. What is certain is that the government's inactivity regarding this issue will result in BiH's slower advancement towards its EU membership. In light of this, it is essential to note that the critiques and threats from the international community towards BiH's ruling parties were much more stringent in the initial period after the ruling. As soon as the working group failed to bring any concrete results, the international community, notably the EU, was not as „loud" in their pressures on BiH's government as before. Thus, two open queries still remain – what does the failure to implement the Court's ruling and advance minority rights to political participation on part of BiH really mean when it comes to its European path, and is EU pressure in this case limited only to its advisory role?

3. Current Approach to the Issue of Political Participation of National Minorities in BiH and the Role of Civil Society

In theory, the search for rights to political participation of minorities signifies a paradigm shift, where there is a move from a discourse of protection to that of empowerment of minorities. Thus, when examining the constitutional provisions of BiH when it comes to this issue, one can conclude that this paradigm shift has not yet occurred.

The ruling of the ECHR in the case of *Sejdić-Finci vs. BiH* was the first judgment in the history of this Court that questioned the constitutionality of an ECHR member state. Despite the initial steps that were taken on part of BiH towards the implementation of the Court's ruling, and the fact that the Election Law does envision (at least on a local level) to some degree of participation for national minorities, they still do not have a meaningful option to politically participate in the state level. From the point of view of EU integration this means that minority issues in BiH (including their right to political participation) are still treated as part of the „approach to vulnerable groups" and mainly, in the context of social inclusion. Hodžić rightfully argues that:

„The political participation of minorities is still understood by many relevant actors as related to the ethics of care and protection, financial needs and budgetary considerations, and not as a matter of co-decision making in sectors of particular relevance to minorities and in broader aspects of political life. In such a perspective, political participation of minorities is seen mostly as an ad hoc problem-solving mechanism rather than continuous dialogue that would enable persons belonging to minorities to voice their concerns and positions in decision-making and at the same time also inform the general directions of development of a society.”¹⁹

¹⁹ Hodžić: *ibid.* 48.

Thus, when minorities are consulted, the consultation process is *ad hoc* and confined to several issues, but mainly financial allocations to different minority organizations. This also means that less organized minority groups (those without formal associations) are excluded from this process. This brings us to an important argument – the importance of the civil society, notably, associations of minority groups and NGOs.

Minority leaders and NGOs, at least in CEE states, have helped bringing domestic and international attention to minority issues. Yet in BiH, it seems that minority organizations have not fully realized this. When seen from the perspective of national minority associations on local level, the system of their political participation looks like a system of lobbying and pushing for action through personal connections,²⁰ rather than an institutionalized mechanism of political participation through dialogue and co-decision making.²¹ Thus, unlike in most EU member-states, the sources of minority demands are very few, and when combined with discriminatory constitutional provisions, it is to no wonder that minority rights are often secondary or even ignored. What minority groups need to acknowledge is the fact that only a strong and vibrant minority civil society will help them move closer to their rights. Moreover, the more pressure they put on state level actors, the more likely is that the EU will take a firmer stance on the issue. It cannot be expected that only two men will change the situation in relations to minority rights to political participation in BiH. Any potential disagreements over the ECHR's ruling among the seventeen national minority groups in BiH, and the current lack of a concrete and unified approach to this joint issue (or better a collective voice), will only make it more difficult in terms of their demands to domestic actors and the EU.

4. EU Transformative Power in the Case of Minority Rights to Political Participation in BiH – Does it really Work?

The protection of human rights, including minority rights has been high on the priority list for each European state aspiring to join the European Union family. In fact, minority rights have been identified as one of the core prerequisites for EU membership by its numerous treaties, but also external policy documents, including the Maastricht Treaty, the Amsterdam Treaty and most recently the Lisbon Treaty, the Common Foreign and Security Policy (CFSP) and the Copenhagen Criteria (human rights aspect and political aspect). Furthermore, the EU expects its future members to join the CoE and to comply with its conventions on human rights and minorities, since pan-European organization can help aligning the laws and institutions of its members „into conformity with European norms”.²² The CoE's 1949 Statute states that every member „must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms” (Art. 3).²³ Moreover, the ECHR and the FCNM (which came into force in 1998), represent the CoE's two primary legal texts, which must be honored by all its member states. The latter is also one of the first legally binding multilateral agreements

²⁰ Hodžić: *ibid.* 48.

²¹ Co-decision making is seen as the best model of political participation on minority groups, as the scope of decision includes all those aspects which have a general relevance to the entire society, issues which are partially minority relevant and issues that are only minority relevant.

²² Cf. *The Council of Europe and Human Rights*. Council of Europe, Strasbourg, 1991. 31.

²³ *Ibid.*

on minority rights, and its main concern is to promote equality and create internal conditions which would help protecting and preserving minority cultures and identities.

But despite the plethora of legal provisions, minority discontent still remains a potential threat to democratic consolidation across Europe, which is a primary reason for considerable EU involvement with regards to this issue in all potential candidates and candidate states of the Western Balkans. What is more, over the past decade, the EU has used membership criteria to impose conditional measures, so as to ensure compliance with the above mentioned human rights agreements and regulations. Yet, this ostensible dominance of the EU in the internal politics of the region has come under scrutiny in BiH, where the conditions of EU membership seem to have little impact when it comes to resolving the issue of national minority rights to political participation. But, why does the „magnetic pull” of the EU fail to result in acceptable reforms in BiH? Has the EU lost its power to transform, the power that it applied so successfully in CEE states just a decade ago, or is BiH a lost cause? The answers to these queries could be examined through many angles, but this work will only outline four dimensions which influence the successfulness of EU conditionality in BiH, notably, in light of minority rights to political participation.

5. What does the EU Fail to Acknowledge in BiH?

It is not arguable that the reform process in BiH is frozen. It is also a fact that one of the many reasons for BiH being trapped in the „blind alley” lies precisely in its discriminatory constitutional provisions and practices. But, what is worrisome is that, for the first time in its accession history, the EU has not succeeded in dealing with several challenges that are presented to it. The fact that the European Union has not been as firm as it could have been on the issue of discrimination of national minorities in BiH, notably, in light of their right to political participation, has its roots in four distinct approaches applied by the EU towards the dead-end situation in this country.

Although, one cannot ignore the impact of domestic politics in BiH and the current political stalemate, it can be argued that the EU has not taken considerable measures when it comes to aligning its accession measures and instruments to the peculiarities of an ethnically divided post-conflict state. The frozen conflict in BiH, where the three predominant ethnic groups do not fail to use every opportunity to attract attention to their „ethnic cause” has brought the EU to a situation in which it realized (too late) that it must face „three different cost-benefit calculations concerning EU membership”.²⁴ While all three ethnic groups, at least in theory, accept the notions of EU integration, they are not willing to sacrifice their share of power just for the sake of the EU membership. Thus, national minorities have slim chances of gaining their right to political participation (at least on the state level). If implemented, the likely outcome of the Sejdić-Finci case will be the following: at least one of the three ethnic groups will not be satisfied, thus, potential application of the decision will be blocked. Any agreement with the EU on part of one ethnic group is viewed as a „conspiracy case” by another one. Thus, EU is often viewed as a „cheating player”, the one that can suddenly side with the other party.

²⁴ Cf. Tzifakis, Nikolaos: Bosnia’s slow Europeanisation. *Perspectives on European Politics and Society*, Vol. 13 (2012) No. 2, 131-148.

Secondly, BiH's politicians are aware of the fact that EU has gone beyond its *acquis communautaire* when it comes to constitutional reform issues, so many ask „why do we even need to politically include minorities when the EU does not have the power to change our Constitution?” The perceived partiality described above and the low level of conditionality of EU policies in BiH only question and even ridicule its role in BiH. Thus, it can be concluded that the EU can only have an advisory role and not an enforcer one, in the case of political participation of national minorities in BiH (and the implementation of the ECHR's decision in case of *Sejdić-Finci vs. BiH*).

Furthermore, the EU has failed to play a credible role when it comes to imposing accession requirements. As mentioned above, Brussels often finds itself in a position to demand major changes from BiH (mostly those outside of its constitutional framework), and is faced with hardheaded players (BiH's politicians). Knowing that the reward for instant compliance is not immediate EU membership, BiH's leaders have very little incentive to agree. What is more, many of the EU players in BiH, including the High Representative and EU Special Representative (HR/EUSR), the European Commission (EC) and individual EU member-states, send different signals when it comes to compliance with certain reforms, and creation of a situation in which BiH's politicians feel like they can pick and choose when, where and how to comply. Thus, in the case of inclusion of BiH's national minorities into the political life of the country, the state's politicians seem to avoid any fast decisions. This is to no wonder, since the interest to preserve ethnic power on all levels certainly remains much more important than weak conditionality and non-uniform approach of EU actors in the case of national minorities' rights to political participation.

Lastly, the fact that the EU is divided on what is important and what is not in the case of BiH's reforms is something that BiH's politicians have greatly used in their favor. Considering that BiH has been under heavy influence of the international community in the immediate aftermath of the war²⁵, and that the international players have often adopted key reforms instead of BiH's political elites, has created a situation in which the international community could eventually be blamed for all failures. Once the role of the former one has decreased and the ruling parties were given greater accountability over the reform process, they quickly learned that the EU was much divided over the issue of importance of individual reform processes. This is not to defend BiH's politicians, but such mixed signals from the EU only create confusion and an atmosphere in which this supranational actor is not taken seriously.

Thus, if the EU wants to take part more seriously in the implementation of the *Sejdić-Finci* case, and ultimately act as an enforcer in the process of constitutional reforms in BiH, it must first create a single common position. In other words, the EU and all of its umbrella actors need to be either more stringent in their approach or accept that they are viewed only as an advisor (an ignored one, nonetheless) in this case. This is not to say that the EU should create more conditionality policies and apply them with more sticks and carrots, but to learn how to make BiH's elites more compliant with what has already been demanded. Lastly, the EU must realize and acknowledge to its Bosnian counterparts, that the implementation of the ECHR's decision in the case of *Sejdić and Finci vs. BiH* does not suggest that the constitutional crisis in this country will be permanently resolved. What is more, the EU should make it clear that this is just the first step towards more intricate and pressing demands of the newly emerging national minority voices in BiH.

²⁵ The HR/EUSR ruled BiH almost as an international protectorate up until 2006.

6. A Few Concluding Remarks

The issue of political participation of national minorities in BiH came as a blow to the country's already shattered and deeply divided political scene. It is not arguable whether or not will the newly emerged collective voice of BiH's national minorities change the direction in which both BiH's governing elites and the international community will go. Although, we might be currently looking into two opposing paths, this new dimension on BiH's political agenda and an old issue for the EU, will certainly result in two outcomes: the EU will acknowledge the failure of its negotiable conditionality and hopefully replace it with a more stringent approach to accession requirements, while BiH will not be able to ignore future minority demands, as it will result in more instability and threaten democratic sustainment. In light of this, national minorities in BiH must come out of the silence and start using their government's EU membership discourse (and objectives) as a tool to attain greater rights.

Lastly, with all this in place, it will be hard for BiH to ignore the implementation of the Sejdić-Finci case's ruling. This will create a favorable situation for the EU to correct its integration approach in BiH. Thus, the EU should stop being satisfied with just *any* progress or any verbal agreement concerning the implementation of the decision. If the EU succeeds in bringing about this new approach, BiH's politicians will find themselves having to trade personal (ethnic) interests for the sake of EU integration, just as Serbia did on numerous occasions. This, in fact, could be a good thing.