

Brexit, the stateness and the flow of Foreign Investment in the Western Balkans: a case study of Bosnia and Herzegovina

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Abstract

Attracting foreign direct investment to the Western Balkans has been in the last decades a major challenge for administrations and political parties ruling the respective countries. However, the perception that their legal system is slow, pressured by political influence and political frictions, that the government policies are unreliable, corrupted and affected by direct interference (immixtion directe) of the national political systems and their policies, have prevented foreign investors to invest massively in SEE.

Against this background, the findings of the article show that factors related to good governance such as the rule of law, including judicial efficiency, freedom from corruption, political environment and stability, efficiency in the public administration, environmental politics, risk and crisis management may be more relevant to attracting Foreign Direct Investment in the post war period than factors related to the economic potential or the capital and labor of the market, or other controversial elements such as taxation, wage variation, exchange rates, growth or trade balance.

However, in periods troubled by secessionist movements and tendencies, the process initiated by the UK government to withdraw from the EU – the Brexit process, could send a negative signal to the states where economic and political nationalism is an important factor in the rhetoric of the political class.

Keywords: Foreign Direct Investments, Brexit, economic growth, Bosnia and Herzegovina, Western Balkans

JEL Classification: F, F5

Introduction

The creation of effective accountability and governance provisions is essential to ensure that economic performance is sustainable and addresses the issues of social inclusion and poverty reduction in order to build prosperity and hence stable pace.

The SEE countries provide great investment and funding opportunities, such as a strong potential for elevated economic growth rates, higher expected returns and diversification benefits. As the World Bank stated “near-term growth prospects for the SEE6 are positive, but the risks highlight the importance of structural reforms for successful rebalancing from domestic to external sources of growth” (World Bank Group 2016, X). However, political uncertainty, conflicts and crisis issues – such as civil wars, regional conflict or the dynamics and challenges between various ethnic and religious groups of the respective countries – seem to seriously impede the desire of foreign investors to consider those states as a reliable, predictable and transparent economic and regulatory environment. The importance of addressing political uncertainty, weak governance environment, and advancing structural reforms is further augmented as providing a significant impact on all economic variables (*Ibidem*). Moreover, political instability associated with the risk of corruption, fraud and legislative fluctuation presents challenges and risks to the investment climate.

The link between the regional development, the process of creating a significant beneficial environment for foreign investors and the good governance in Bosnia and Herzegovina, shall be considered, meaning, among others, lack of corruption and coherent and predictable enforcement of relevant rules. In the pages that follow, it will be argued that, in specific post war countries, such as Bosnia and Herzegovina, good governance is crucial to attracting Foreign Direct Investment and realising the transition towards a Circular Economy. Removing barriers for a circular business design requires challenging frameworks in terms of regulation and good governance aiming at creating a new and solid market for pioneering enterprises and institutions.

Social and political setting in Bosnia and Herzegovina

Historical and political background

Bosnia and Herzegovina – along with other Western Balkans countries – was identified as a potential candidate for EU membership during the Thessaloniki European Council summit in June 2003. In December 2014, the EU adopted a common approach towards BiH including the initiative that the EU should assume the leading role in the region, against the current global security context and new risk factor profiling in the respective region. With that, the Stabilisation and Association Agreement (SAA) was ratified and entered into force on 1 June 2015 and in July 2015, an agreement was reached between BiH authorities on two additional documents to be finalised in the following months: the International Monetary Fund letter of intent and the co-ordination mechanism (Delegation to Bosnia and Herzegovina Special Representative in Bosnia and Herzegovina 2015). In this context, the two PMs stated that efforts shall be focused on harmonizing the establishment of “an integrated business environment” (*Ibidem*). FBiH Parliament passed new labour legislation in July 2015, with the aim to strengthen the implementation efforts of the Reform Agenda, adopted in July 2015, aiming at tackling the difficult socio-economic situation and advancing the judicial and public administration reforms (*Ibidem*; Commission Staff Working Document Bosnia and Herzegovina 2015 Report, 44).

A need for an EU committed message to continuing the enlargement policy was redefined in December 2015 as a political tool of the Union for enhancing and promoting stability and prosperity in Europe (Council Conclusions on Enlargement and Stabilisation and Association Process 2015). The Council Conclusions on Enlargement and Stabilisation and Association Process (December 2015) drew particular attention to the positive developments in South Eastern Europe and the Western Balkans in regional cooperation, in particular progress on connectivity agenda within the region and with the EU. It fully supports initiatives and structures which reinforce regional cooperation. The respective initiatives complemented and brought a direct contribution to the enlargement countries' efforts towards EU rapprochement. As the EU Commissioner Johannes Hahn stated during a meeting held in 2015 with Western Balkans 6 Ministers of Foreign Affairs and Transport, it is clear that the connectivity agenda is closely linked to economic governance and notably the Economic Reforms Programmes submitted by those states to the European Union (*Ibidem*; Hahn, 2015).

The application of Bosnia and Herzegovina for the EU membership was submitted in February 2016 and in September 2016 the European Council invited the European Commission to submit its Opinion on the merits of Bosnia and Herzegovina's application, on the basis of replies to a comprehensive questionnaire. In September 2016, the European Council assessed that Bosnia and Herzegovina is back on the reform path necessary to move forward in the EU integration process. The Council welcomed the progress in the implementation of the Reform Agenda in July 2015, including economic and social reforms covering seven policy areas, and of the accompanying Action Plan adopted in October 2015 by BiH authorities (Council Conclusions on the application of Bosnia and Herzegovina for membership of the EU 2016).

In line with the renewed consensus on enlargement approved by the European Council on 14 and 15 December 2006, and the Council Conclusions issued on 15 December 2015, the Council adopted a balanced text on the application of Bosnia and Herzegovina for membership of the EU, released on 20 September 2016, conveying a positive message and reiterating the European perspective of the partners involved, in a context marked by policy challenges directly affecting the Western Balkan countries. The EU prompted political leaders of BiH to focus on implementing the Reform Agenda which aims at stabilizing the economy and creating new jobs, particularly for young people, and improving reforms in the area of rule of law and public administration. Consolidating unity and stability in BiH should be regarded as an essential element of BiH's political reform process and as a key element to the security and stability of the Western Balkans. In December 2016, Bosnia received the Questionnaire of the EC, covering all EU accession criteria (Commission Staff Working Document, Bosnia and Herzegovina 2018, 2).

In February 2018, Bosnia and Herzegovina submitted to the Commission a document answering 3,242 questions, relating to areas such as public procurement, agricultural and rural development, energy, economic policy, social policy, health care and education. In July 2018, Bosnia's government stated that it expects that the answers to follow-up accession questionnaire it received in June from the European Commission will be released within the next three months (Garaca 2018).

Credit arrangements were concluded with the international financial institutions, stressing the importance of measures aiming at public budget stabilization and fiscal sustainability, although in May 2018 an IMF mission concluding statement asserted that progress in the country on implementing reforms has been slower than expected and in July 2018, the same organisation postponed the conclusion of the review of its credit programme for Bosnia and Herzegovina (International Monetary Fund 2018, *Press Release / Kovacevic* 2018).

The Commission adopted its Opinion on the EU membership application of the country in May 2019, identifying 14 key priorities for the country to fulfill in view of opening EU accession negotiation, underlying the necessity for deep reforms in the areas of democracy/functionality, the rule of law, fundamental rights and public administration reform (European Commission 2019).

Civil society in Bosnia and Herzegovina

Over the last decade, there have been attempts to increase civil society organisations' (CSOs) capacity to monitor the EU integration process and the good-governance efforts. However, the European Commission constantly reported a lack of progress in developing mechanisms for dialogue and cooperation between the government and the civil society. The emergent post-communist civil society in BiH has been assessed as "fragmented, institutionally very weak, financially unsustainable and greatly dependent on political and financial support of the international community" (Žeravčić 2016, 6).

A Charter on Cooperation between the Council of Ministers of Bosnia and Herzegovina and CSOs was signed in November 2017. Bosnia and Herzegovina should further focus on taking steps towards adopting a national strategy, including a comprehensive implementation plan aiming at strengthening the role of CSOs in monitoring policy implementation. Implementation of structural reforms includes addressing the financial sustainability of CSOs and improving transparency – notably by providing and creating a clearly defined and transparent set of criteria for evaluating the different sources of funding for civil organisations, and implementing a flexible legal framework for CSOs registration procedures and operation. Therefore, a national

strategy on civil society has yet to be addressed, providing a new, modern and flexible legal framework (Preda, Rapporteur 2018, 6).

It is worth recalling, in a historical context, the joint visit paid by HR/VP F. Mogherini together with J. Hahn, EU Commissioner for European Neighbourhood Policy and Enlargement Negotiations, in Sarajevo on 23 February 2015 according to the mandate entrusted by Foreign Affairs Council. The message conveyed by the EU officials on that occasion involved not only the political leaders but also the civil society.

Electoral legislation in BiH

The 2018 European Commission's report on BiH assesses that Bosnia and Herzegovina's constitution remains in breach of the European Convention on Human Rights by not implementing the rulings of the European Court of Human Rights (ECHR) as per the *Sejdić-Finci* and related cases (*Zornić, Pilav* and *Šlaku* cases), failing to protect EU values and electoral rights by permitting discrimination between citizens in BiH (European Commission 2018)¹.

Strengthening capacities of the election administration may be an important factor for achieving the necessary efficiency and accountability in passing laws in BiH. Following the 12 October 2014 general elections, OSCE's Office for Democratic Institutions and Human Rights (ODIHR) issued a number of recommendations aimed at improving the holding of elections. Foremost among these is reviewing constituency boundaries to uphold the principle of voting equality, the removal of ethnicity and residency-based limitations on the right to vote and stand as a candidate and reviewing the regulatory framework for campaign finance. The ODIHR report recommends the upholding of media freedom strictly and securing impartial and balanced coverage to all parties and candidates by the public broadcaster. It also recommends that the right to file a complaint be provided to everyone at all stages of the electoral process.

Based on the assessment of the 2014 general elections, it has been agreed that Bosnia and Herzegovina should focus its work on continuing to reform the legal framework for elections in line with ODIHR and the Council of Europe's Venice Commission recommendations, in particular those related to strengthening campaign finance regulations.

The Council of Europe Action Plan for BiH 2015-2017 stipulates that the objectives of CE electoral assistance are three-fold: to strengthen capacities of the electoral administration, foster increased engagement of women in political processes and support a new generation of young politicians in promoting internal and cross-party dialogue (Council of Europe, The Council of Europe Action Plan for BiH 2015-2017, 19). The Plan also outlines expected results aiming at strengthening a democratic electoral system.

According to the Council of Europe, there was still a need for comprehensive reforms in this area aiming at enhancing the capacities of electoral bodies at all levels to administer elections in line with international standards, conducting training programmes for municipal and polling station commissions, increasing the participation of women, youth and minorities in the political process as party activists, candidates and voters. Bosnia should continue its work on taking additional steps to support the reform of the electoral legislation, including the reform of political party financing. A more inclusive and participatory process should be provided in line with the ODIHR and Venice Commission recommendations and opinions.

The Council of Europe Action Plan for BiH 2018-2021 reiterates the long-standing need for comprehensive reforms to address the situation of under-represented groups (women, youth and minorities) in order to facilitate their participation in public and political life of BiH, whether as candidates, voters and/or political party activists, and to improve the capacity of election administration to conduct credible election (Council of Europe, The Council of Europe Action Plan for BiH 2018-2021, 20). The ongoing Action Plan (2022-2025) reiterates the need for enhancing the quality of local democracy and creating opportunities for citizens to

¹ The BiH Constitution prevents citizens who do not declare themselves as Bosniaks, Croats or Serbs, from standing as candidates for the Presidency and the House of Peoples of the Parliamentary Assembly. The European Court of Human Rights (ECHR) ruled in 2009 that this is a violation of Article 14 of the European Convention on Human Rights taken in conjunction with Article 3 of Protocol No. 1 thereof, the applicants being a Roma and a Jew / Cristian (Dan Preda, Rapporteur 2018, 5).

engage in innovative participatory process (Council of Europe, The Council of Europe Action Plan for BiH 2022-2025, 31-33).

Joint UK-German initiative on Bosnia and Herzegovina

On 6 November 2014, the British and German foreign ministers proposed a new joint initiative, outlined and presented in an article in the German daily newspaper *Frankfurter Rundschau* and in an open letter addressed to BiH and neighbouring countries. Political leaders in BiH were urged to commit in writing to “making the country’s institutions fit” at all levels as a precondition for working effectively and improving the dialogue with the European Union; if the political leaders of BiH implement the necessary reforms, they “would work to achieve progress on the country’s path towards Europe” (House of Commons 2015, 3).

The DE-UK initiative was followed up in a visit paid to Sarajevo on 5 December 2014, by the EU High Representative Federica Mogherini and the Enlargement Commissioner Johannes Hahn. It was the first official visit abroad by the EU high-ranking official in an official capacity as EU representative for Foreign Affairs since she took office and should be seen as a positive signal to BiH. “The functionality of the state” as a prerequisite for continuing the reforms was strongly emphasised in an end-of-visit statement. “From our side this would mean not lowering the bar and changing the EU conditionality – this is not something that is on the agenda – but it might mean that we can look at how the sequence can be changed or can be better addressed to make sure that there are some concrete deliverables in terms of reforms, starting from the social and economic reforms and getting also to the functionality of the state. This is something that we will report to the Foreign Ministers of the European Union in a little bit more than a week, on December 15” (European Commission 2014, Announcements, Remarks by High Representative).

In addition, Bosnia Herzegovina was on the agenda of the 15 December 2014 meeting of the Council for Foreign Affairs. Discussing and advancing its EU membership prospects during the first meeting of the FAC chaired by the High Representative in her official EU capacity reaffirmed a strong political EU commitment towards a credible enlargement perspective for the Western Balkans. The Foreign Affairs Council re-addressed the necessity for ensuring *government efficiency*. The EU launched its renewed approach towards Bosnia and Herzegovina aimed at moving the country’s European perspective. The Council invited the High Representative and Commissioner Hahn to engage with the BiH leadership to secure its irrevocable written commitment to undertake reforms for EU accession. “The overall objective is to establish functionality and efficiency at all levels of government and allow Bosnia and Herzegovina to prepare itself for future EU membership. The text will also contain a commitment to work out in consultation with the EU an initial agenda for reforms, in line with the EU acquis. The reform agenda should be developed and implemented in consultation with civil society. This agenda should include first and foremost reforms under the Copenhagen criteria (socio-economic reforms including the “Compact for Growth and Jobs”, rule of law, good governance) and also agreed functionality issues (including the EU coordination mechanism)” (Council of the European Union 2014, *Press Release*).

The impact of the withdrawal process of the United Kingdom from the European Union

In the debate about the possible impact of Brexit, European Commission President Jean-Claude Juncker appealed to state leaders, such as the US vice-president Mike Pence, to not urge other countries to separate from the European bloc in a warning assuming that an eventual outcome of a process of disintegration across the Europe may potentially propagate a subsequent war in the Western Balkans (Barber 2017). Various authors found a correlation between a recurring nationalism and secessionist aspirations in BiH and the Brexit separatist example or precedent, raising fears over secessionist movements in Europe (Jovanovic 2016). In April 2011, a Croat National Assembly has been established and called for a new federal unit to be formed in BiH to protect Croat interests, challenging the state powers. Concerns were also expressed by the European Union over the holding an entity-level referendum on the state-level judiciary in Republika

Srpska. The Republika Srpska National Assembly unanimously adopted a written commitment to undertake the necessary reforms on Bosnia and Herzegovina's European path. A negative correlation has been observed between the decision to hold a referendum on the Bosnia and Herzegovina state-level judiciary and its jurisdiction in Republika Srpska and the commitment undertaken in February 2015. It is worth mentioning that the Constitutional Court of BiH held that the establishment of the state level judiciary was in accordance with the Constitution.

Various reports argued that the September 2016 RS referendum organised by the entity's authorities against the Constitutional Court of BiH's legally binding ban on a Republika Srpska national day aimed at disrupting constitutional order and reform processes and questioned the existence of the state.

Germany, along with Great Britain, reaffirmed their engagement in Bosnia and Herzegovina through the initiative launched in November 2014, and Britain has been extremely active in Bosnia and Herzegovina through supporting the political perspectives of the country and the international aid. However, politicians and experts in Bosnia and Herzegovina say that the joint UK-DE initiative has been jeopardized by the results of the Brexit referendum and by a failure of Britain to build up its credibility in its attempts to reinforce the European prospects of Bosnia. The expectations are for the UK to diminish its influence in Bosnia, although in June 2018 the UK has hosted a summit, part of the so-called Berlin process, aiming at supporting the reforms in Western Balkans towards joining the EU bloc (Ilic 2016). The meeting has been called by the UK to encourage the aspirant countries to struggle in their efforts to join the EU and to continually reassure the candidate countries of the British commitment on promoting a more peaceful, prosperous and democratic Western Balkans, in the new post-Brexit context (GOV.UK 2018, Press release).

In February 2018, the European Commission adopted a strategy for "A credible enlargement perspective for and enhanced EU engagement with the Western Balkans", confirming the European future of the region as a geostrategic investment in a stable, strong, and united Europe based on common values (European Commission 2018).

Economic nationalism in a post-conflictual and post-socialist era

The issue of foreign direct investments remains a controversial subject in the policies of different countries. The incontestable relevance of the economic aspect, expressed by the fact that they contribute decisively to the development of a country, creates – due to the nationalist rhetoric and lack of information relating to this concept – divergences within the domestic policies of some states. Beyond the legal perspective of foreign direct investments, which is strictly objective, one cannot ignore the economic and social implications, but above all the political influences. The last point can be characterized by the return of the nationalist discourse into the economic policies of certain governments, a phenomenon present particularly in countries with a transition economy.

In countries with low living standard or transition economy large number of citizens perceive the source of their problems as being external. They display a tendency to blame multinational banks and the International Monetary Fund for their situation. Moreover, they express opinions that international financial institutions represent the interests of foreign business circles and that they pursue their own interests in negotiations with the respective state. In this outlook international financial institutions are inclined to assign in the responsibility of transnational companies the inefficient privatization and foreign direct investment contracts concluded with the state of residence (Pettinger 2016; Griffiths, Todoulos 2014, 4-5, 17). This is true particularly in the former socialist bloc countries, which promoted protectionist policies only a few decades earlier.

The idea of necessity and that of the potential benefits that would result from foreign direct investments began to emerge at an international level as far back as the early inter-war period. However, for a period that lasted until 1970s, the general attitude towards foreign investments was that of mistrust. It was based

in the post-war nationalization in Western Europe and the establishment of communism in Eastern Europe (Fatouros 1995, 184). During those years, special attention was paid to national control over transnational or multinational companies, in close connection with the affirmation of the principles of economic independence of states. The limitation of foreign investments has been manifested, primarily, by the promotion of restrictive policies concerning the access on the international market of transnational companies.

Post-war economic and political trends related to foreign investments, the massive penetration of the international capital market by multinational companies, have created a climate that in the early 1970s has led to the concept of *the problem of multinational companies* as a component of international political debates (Muchinski 1995, 3). Many developing countries feared that foreign control over the exploitation of natural resources and key industries would deprive them of economic benefits and will harm their economic and political independence. These countries, subsequently organised into the Group of 77, strongly supported by the Eastern European states, have generated the concepts of “New International Economic Order” and of the evolving new human rights concept related to the economic dimension of the right to self-determination called “the Right to Economic Self-Determination”. They have consistently voiced at international level concern about the effects that multinational companies create at the expense of the less developed countries and have consistently supported the theory of economic independence as a basis for political independence (Singer 1978, 539-548; UN Chronicle 2014; Mahiou 1974, 1-5).

Assertion of the principle of permanent sovereignty over natural resources is considered the starting point for establishing of the New International Economic Order (Gebremariam 2017, 22). The foundations and principles of the New International Economic Order were established mainly in the following resolutions of the United Nations General Assembly: Resolution 1803 (XVII) of 14 December 1962 on the “Permanent Sovereignty over Natural Resources”, Declaration 201 (S-VI) of 1 May 1974 on the “Establishment of a New International Economic Order”, Resolution 3281 (XXIX) of 12 December 1974 – Charter of Economic Rights and Duties of States.

The Declaration on Permanent Sovereignty over Natural Wealth and Resources, adopted by consensus in 1962, recognized the right of peoples and nations to permanent sovereignty over their natural wealth and resources, including the right to nationalize and exercise control over those investments (Ng’ambi 2015, 155-156). This principle was further developed in the Charter of Economic Rights and Duties of States, adopted in 1974. Resolution 1803 (XVII). A major compromise between antagonistic positions, it includes provisions on appropriate damages and compensations in case of nationalization or expropriation, as well as on the general obligation to observe the provisions of the contracts concluded between foreign investors and governments. Consequently, the number of cases of nationalization and expropriation of assets and property of foreign investors in areas related to natural resources, greatly increased in the following years (Fatouros 1995, 185).

In view of the above, it has been argued that developing countries attempted to bring, especially in the 1970s, fundamental changes to the norms of international law. They mainly demanded the right to *nationalize*, to impose certain rules on foreign activities and foreign investments conducted by transnational corporations, and to resolve all disputes regarding those activities before the national courts (Wolfgang 1995, 7).

The recurrence of anti-globalisation and protectionist movements is amplified and ruled by extremist currents at the level of civil and political society, currents that emerged and gave birth to economic nationalism, manipulating and forcing the concept of national and state identity. This economic nationalism, associated with other causes, such as unstable or unpredictable policies, increases sharply the foreign investors’ reluctance to enter those markets. The phenomenon of nationalist rhetoric in the economic discourse may be further reinforced by the lack of information regarding the concept of foreign direct investments, negotiation and renegotiation of the direct foreign investment contract, to which the corrupt practices and the inefficiency of the public administration of a state are substantially added in the negotiation of such contracts, or the absence of a proper and comprehensive definition of the conflict of interest in the law of a state (Commission Staff Working Document, Bosnia and Herzegovina 2018, 14). The literature indicates that the absence

of information has often pushed some countries to accept substantially less advantageous contractual terms than the transnational companies were prepared and inclined to offer. Once this deficiency is discovered, the whole contract is again reopened for discussion and negotiations to address significant weaknesses, adverse past information and failure to respond to meaningful and significant risks of contract performance, especially when the issue becomes a controversial topic in the country's internal policy (Dell 1978, 373).

In Bosnia and Herzegovina, the international presence in the country's transition was harshly criticized in the nationalist rhetorical discourse on economic reforms. It was not grounded in stable, coherent and unitary political will, even if that international presence brought a major contribution to creating a market economy in BiH. The international involvement has allegedly created a *culture of political dependency* in BiH (Bertelsmann Stiftung, BTI 2018, 5). Corruption has been presented as a *positive* feature of ethnic conflict, and ethnic or religious differences associated with a decline in the economic situation could be invoked by leaders in demagogic policies that would stimulate hostility between different groups, thus increasing the risk of ethnic violence on a wider scale (Kartsonaki 2017, 488-516; Mauro 1995, 681-687; Mauro 1998, 263-279). On the other hand, polls have indicated that factors such as the status of the economy, labour, social services and corruption have a higher preponderance for citizens in their preferences than ethnicity or nationality issues (Bertelsmann Stiftung, BTI 2018, 7).

Stateness in Bosnia and Herzegovina

Under the 1995 Dayton Accords, Bosnia and Herzegovina is divided into two *entities*, the Federation of BiH (The Federation) and the Republika Srpska (RS). Under an arbitration ruling in 1999, District of Brčko has a separate status and operates under a separate administration. A third entity came into effect, whose government is under the authority of the international community, while the other two entities share sovereignty over areas. In March 2000, the High Representative formally established the institutions of the District, including its own Parliament, Constitution, and budgetary independence (OHR, 1999). The Federation is further divided into ten cantons (there are 4 Croat and 4 Bosniak cantons, the other two are mixed), each having a high degree of autonomy and possessing their own constitutions, parliaments, ministries and governments. Each of the above-mentioned main entities also has municipalities for a total of 143 municipalities in BiH (63 in the RS and 80 in the Federation). Overall, Bosnia and Herzegovina has 14 governments (1 at state level, 2 at entity level, 10 cantonal in the Federation entity of BiH and 1 for the District of Brčko). Substantial powers are delegated from the central government to the entity levels of government (Dapo, Ridić 2015, 100-101).

Bosnia has been transformed and achieved much in the last decade, although the Dayton Constitution, designed to reconcile three constituent peoples, has created a highly decentralised fragmented state over the five levels of government: municipal, cantonal, entity, Brčko district and state levels. Governments in the two entities – the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS) – are responsible for internal affairs, economy, environment, social and health policies, justice and direct taxation. The state-level authorities have responsibility for foreign policy, foreign trade, defence, customs policy, monetary policy, immigration, refugee and asylum policies, international and inter-entity law enforcement, communications, air traffic control, and payment of international financial obligations. The state has assumed responsibilities for indirect taxation and the regulation of police, intelligence, judicial and prosecutorial bodies, following a transfer of responsibilities from the two entities (Bertelsmann Stiftung, BTI 2018, 6-8). A general assessment of the BiH state and society reveals “a fragmented, institutionally very weak state, financially unsustainable” with weak central state institutions and two sub-state entities: a majority Serb, highly centralised Republika Srpska (RS) and the Federation of BiH, with a weak federal center and strong cantons (Žeravčić 2016, 6; Bertelsmann Stiftung, BTI 2018, 6-8; European Commission, Commission Staff Working Document, Bosnia and Herzegovina 2018, 4-6).

Veto powers have been distributed among the three constituent entities, in state institutions and in both entities, designed to ensure fair political participation, such as participation in the procedures for government formation and voting in the state parliament and presidency. However, due to the absence of a coherent vi-

sion of the political leaders of *the role of the state*, associated with lack of coordination, the power sharing arrangement has frequently impeded the efforts of adopting a common agenda (Bertelsmann Stiftung, BTI 2018, 1-4; European Commission, Commission Staff Working Document, Bosnia and Herzegovina 2018 Report, 4-6).

In October 2017, the European Council has confirmed the EU's readiness to maintain a military deployment (European Union Force Althea, EUFOR Althea) to support Bosnia and Herzegovina's authorities to sustain the safe and secure environment, under a renewed UN Mandate (Council of the European Union, 2017).

Public administration reform: a major factor influencing FDI in BiH

Among other obstacles, complex and a multi-tiered architecture of the government structure in BiH creates significant barriers to foreign direct investment (United Nations Conference on Trade and Development 2015, 3-5; U.S. Department of State 2017, 5). In assessing the FDI potential for Bosnia and Herzegovina, investment climate statements or reports on business climate have included, primarily, among the factors hindering the investment activities, a multi-tiered legal and regulatory framework that can be duplicative and contradictory and is not conducive to attracting foreign investors (U.S. Department of State 2017, 3). An ineffective administration has been identified as the major constraining factor for creating an attractive business climate and a major risk being faced by FDI at present in BiH. Enacting government reforms at the state and local levels became a key component for enhancing the economic prospects of BiH. The business environment in BiH is the least friendly in the region, as it is burdened by a large and complex public administration system and layers of administrative approval authorities which increases costs (World Bank Group 2014, 5-10).

The government structure of Bosnia-Herzegovina enables multiple regulatory regimes. The unique situation of BiH has been summarized as follows: "A political and institutional structure with multiple layers presents unique challenges to the investment environment and is reflected in a complex regulatory framework". Mainly, major challenges facing public administration stem from the existence of multiple regimes and enforcing authorities across the different parts of BiH (United Nations Conference on Trade and Development 2015, IX).

In a report released in October 2015, United Nations Conference on Trade and Development (UNCTAD) asserts that improvements in the public administration sector should be a priority. Their positive impact on the capacity of the country to attract FDI has been characterized as immeasurable. UNCTAD recalls that "inefficiencies and duplications in the public administrations are often referred to as a key barrier to FDI" (United Nations Conference on Trade and Development 2015, 3-5). Furthermore, in assessing the economic development and competitiveness, the European Commission states in its 2018 Report on BiH that key remaining issues are a weak rule of law and a fragmented and inefficient public administration (European Commission 2018, Fact Sheet, Key findings of the 2018 Report).

In April 2018, the European Commission has published, for the first time together with the Enlargement Package, its annual assessments of the Economic Reform Programmes for the Western Balkans and Turkey. The Commission highlighted the transformative power of the enlargement policy and the mutual benefits of this process for both candidates and potential candidates, and for the Member States and the European Union as a whole as well as the Commission's commitment to continue this policy. It expressed very clearly the commitment of the Commission towards the enlargement process. Its approach is a pragmatic one emphasizing its guiding role for the efforts of candidate and aspirant countries in their path of their future EU membership.

Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn called upon the prime ministers in the region to reinforce their approach towards the acceleration of their reforms aiming at improving the regional economic zone. His initiative was viewed as a step ahead for a more comprehensive enlargement process as mentioned during the kick-off meeting on the strategy for the

Western Balkans convened by the Commission services in March 2018. However, European Commission assessed that Bosnia and Herzegovina is at an early stage with the reform of its public administration and no progress has been achieved in the previous year (European Commission 2018, 6.). It should be remarked that the balanced assessments provided by the Commission in the key findings of the 2018 Report on BiH reflected both progress and areas where further efforts are needed. Noting the importance of pursuing reforms to attain an efficient, transparent and accountable public administration, it is worth mentioning the 2014 joint initiative of the OECD and the EU (SIGMA) to develop the Principles of Public Administration to support the European Commission's reinforced approach to public administration reform in the EU enlargement process. A correlation between fostering Bosnia and Herzegovina's socio-economic development and strengthening rule of law has been enhanced in June 2016 within the framework of Nicolaidis Group, with the aim of providing a clear view of Common Foreign and Security Policy (CFSP) Priorities in 2017 (Council of the European Union, 2016, 8-9). A number of vulnerable points have been constantly identified in the efforts of the country to create a stable and potential economic environment for foreign investors, such as a complex regulatory framework, driven by the state of the country divided into two governmental entities; a lack of transparency in business procedures, especially in calls for public tenders, a central government of a low standard, lacking the ability to perform demanding tasks for the country (Santander Trade Portal 2018). Summarizing the facts, the European Commission has found that Bosnia and Herzegovina is at an early stage with the reform of its public administration. No progress has been achieved in the previous year and the Commission's recommendations from 2016 have not been implemented. However, "there has been an increase in political support for development of a country-wide public administration reform strategy", yet to be adopted (European Commission 2018, Commission Staff Working Document, 6).

There are five areas of public administration reform the Commission has raised and identified in April 2018 as being significant and of immediate concern: policy development and coordination, public financial management reform programmes, accountability of the administration, service delivery to citizens and business, the need for a strategic framework for public administration reform (European Commission, 2018, Commission Staff Working Document, 6). Weaknesses identified can be summarized as follows: economic stagnation, poor governance and corruption. This requires that BiH identifies at the outset risks and measures that are best handled.

However, European Commission in its Commission Staff Working Document, released on October 2022, stated that the strategic framework on public administration reform (PAR SF) 2018-2022, and the related PAR action plan 2020-2022 "needs to be extended due to weak implementation in the period of its validity between 2018-2022" (European Commission 2022, Commission Staff Working Document, Bosnia and Herzegovina 2022, 13-14).

Conclusions

The inefficiency of public administration is more than ever invoked as a reason for breaches of human rights, as a justification of the failure to apply the law, a defective and inconsistent application of legal standards, and for the conclusion of foreign investment contracts controversial for the domestic economy and policy of the state concerned. In periods troubled by secessionist movements and tendencies, the process initiated by the UK government to withdraw from the EU, could send a negative signal to the states where economic and political nationalism is an important in the rhetoric of the political class, trying through an unconstructive demagoguery to divert the attention of citizens from major state problems resulting from the absence of law or a faulty implementation of the present one.

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