



Universiteit Leiden

STRANDED BETWEEN A YUGOSLAV PAST AND A EUROPEAN FUTURE

*A study into the influence of the political and administrative division
of Bosnia and Herzegovina on its path towards membership of the
European Union*

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Abstract

This is a single case study into the effects of the internal political and administrative division of Bosnia and Herzegovina on the country's path towards becoming a member of the European Union (EU). Bosnia and Herzegovina is one of the most divided countries in Europe with a consociationalist power-sharing structure that reinforces existing ethnic divisions within the country. This research shows how this power-sharing structure is hampering the ability of the country to take effective steps in the EU accession process. It is also observed how internal political actors in Bosnia and Herzegovina are misusing EU conditionality for their own political agendas, causing distrust in Brussels further troubling the EU accession process for Bosnia and Herzegovina. With this research, I show how the pervasive ethnic divisions of Bosnia and Herzegovina are impacting the country's decision-making in internal relations and external relations. My research contributes to the academic knowledge in the fields of power-sharing structures, EU conditionality and the EU accession process of Bosnia and Herzegovina.

Key words: consociationalism, power-sharing, three-level games, EU conditionality, EU accession, enlargement, ethnic division, Bosnia and Herzegovina.

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Figure 1: Map of Bosnia and Herzegovina highlighting the administrative division.

Source: Toal & Maksić (2011).

1 Introduction

On the 14th of December 1995, the Dayton Agreement was signed in Paris. This agreement put an end to the war in Bosnia and Herzegovina, ending arguably the fiercest part of the series of conflicts that followed as Yugoslavia fell apart. During the war in Bosnia and Herzegovina, which started in 1992 with its secession from Yugoslavia, the country developed into the main battleground between the three main people groups – the Bosnians, the Serbians and the Croats – which were present in the country. Because of this, the country was in a very poor state by 1995, and events like the Srebrenica and Markale massacres pressured Western powers into a more active role (Cohen, 1995). The Dayton Agreement, formally known as the ‘General Framework Agreement for Peace in Bosnia and Herzegovina’, was brokered by Western powers whose main purpose was to ensure peace and stability in the country and to secure some form of regional balance with the other surrounding former Yugoslav countries (Cannon, 1995). One of the main aspects of the Dayton Agreement was the political division of the country that was agreed on and the subsequent administrative consequences that followed. The state of Bosnia and Herzegovina was to be divided into two separate political entities, namely the Federation of Bosnia and Herzegovina and the Republika Srpska, and a third neutral region named the Brčko District (ibid). This solution offered a balance between the warring people groups within Bosnia and Herzegovina, ensuring all groups are represented, but still maintaining the integrity of Bosnia and Herzegovina as a single state.

While the Dayton Agreement did bring peace to Bosnia and Herzegovina and has ensured stability up to today, this does not mean the agreement is without its flaws. The administrative division between the Federation of Bosnia and Herzegovina and the Republika Srpska has led to a situation in which the country at a state level has been unable to take any significant steps forward. This is because the power-sharing construct that has been put into place by the Dayton Agreement, is based on ethnic lines both on the level of the two entities and on the state’s level. Political parties are formed along ethnic lines, and each of the three ethnic people groups elect their own president who together form a three-headed Presidency of Bosnia and Herzegovina (McMahon, 2004). The Chair of the Presidency is rotated every eight months between the three presidents. These kinds of ethnic power-sharing contracts have led to the situation in which most of the political decision-making is done along ethnic lines, making it very difficult to reach any bipartisan decisions and to develop compromising policies. This has resulted in a situation of political deadlock which has impeded the progress of Bosnia and Herzegovina as a whole (McMahon & Western, 2009).

This political and administrative division impacts many facets of the political decision-making process, and arguably one of the most important areas that it impacts is the process of EU-accession for Bosnia and Herzegovina. Bosnia and Herzegovina is one of the countries in the Western Balkan region that still isn't a member of the European Union (EU) despite its geographic vicinity and cultural similarities with other EU member states in the region. The country is not even a candidate for EU membership yet, but marked as a 'potential candidate country' (European Commission, 2019a). Other ex-Yugoslav countries like Slovenia and Croatia have already become EU members in 2004 and 2013 respectively, and ex-Yugoslav countries like Serbia, Montenegro and North-Macedonia are candidate countries and either already are in negotiations to join the EU or are starting negotiations soon (Marusic, 2018). Only Kosovo and Bosnia and Herzegovina are not candidates yet, and for Bosnia and Herzegovina to be formally in the same stage as Kosovo should raise some eyebrows (European Commission, 2019a). While Bosnia and Herzegovina has been independent since 1995, Kosovo unilaterally declared its independence in 2008 and their independence is still being disputed. Serbia has not recognized the country, but also some EU member states have thus far refused to recognize Kosovo as a sovereign state (Hehir, 2018).

The lack of progress by Bosnia and Herzegovina in the process of becoming a candidate for EU membership with the ultimate goal of joining the EU is a situation worth further examination. The goal of this research will be to gain a better understanding of how the relationship between Bosnia and Herzegovina and the EU has been developing with regards to the future accession of Bosnia and Herzegovina and the country looking to become a full candidate in the near future. This research will be focussing on the impact of the political and administrative division of Bosnia and Herzegovina – which was initially set by the Dayton Agreement – on the country's path towards becoming a candidate for EU membership with the goal of ultimately becoming an EU member state. I will be researching if these internal divisions can explain the lack of progression with regards to future EU accession. I will carry out my research with the following research question: *“What is the effect of the political and administrative division of Bosnia and Herzegovina on its relationship with the EU and progress towards membership?”* In the following section, I will further expand on the societal relevance of this topic and what the societal contribution is of carrying out this research at our current time. In my section on academic relevance, I will further explain what the academic foundation is of my research question. I will also describe which academic fields and concepts I will be using and why these are relevant for this research in my section on academic relevance.

1.1 Societal relevance

This topic has societal relevance as the European Commission (EC) announced last year that they will be renewing its efforts regarding incorporation of the Western Balkan region into the EU. In July of 2018, European Commissioner for European Neighbourhood Policy and Enlargement Negotiations, Johannes Hahn, was interviewed about the current state of the Western Balkans in relation to the future expansion of the European Union. Hahn reflected on the progress states in the region have made with regards to a possible future membership. When asked about the scepticism of some member states towards enlargement of the EU, he responded by stating that his principle for expansion is to export stability rather than import instability, and that expansion towards the Western Balkans should be seen as an investment in the security and stability of the Union (Vytiska, 2018). When considering the potential future accession of Bosnia and Herzegovina in this context, the issue becomes a lot more salient. The economic and geopolitical gains of EU accession are hardly a disputed fact, as the long-term benefits for states offer them incentive to implement the required reforms in order for them to become EU members (Moravcsik & Vachudova, 2003). However, the current geopolitical situation regarding Europe and its neighbourhood offers up some new twists that need addressing. Commissioner Hahn already vaguely alluded to this in the aforementioned interview by stating that we should ‘not forget the geo-strategic aspect: it would be unwise and almost negligent to leave behind a vacuum that other international actors, whose values do not agree with ours, make use of’ (Vytiska, 2018). The connections to countries like Russia and Turkey are quickly made, as there have been tensions between these countries and the EU, and both countries have historically had influence in the Balkan region and ties with several countries in the region (Ben-Meir & Xharra, 2019).

It must be noted though that the critical comments which Commissioner Hahn faced regarding the scepticism of some member states towards further enlargement are not without reason. The idea of further enlargement in future years has proven to be quite divisive, with even a small majority of EU citizens opposing the idea of further enlargement by adding new member states (Eurobarometer, 2018). This is also where the concept of ‘enlargement fatigue’ ties into, where member states are emphasizing the negative effects and costs of incorporating new member states instead of focussing on the positive sides, thus causing them to be more sceptical of future enlargement (Devrim & Schulz, 2009). This in turn also impacts the readiness of candidates to implement further reforms, as accession remains uncertain (Brennan, 2014).

The scepticism towards further enlargement again ties into the broader development of anti-EU rhetoric, largely fuelled by populist movements within the EU (Balfour & Stratulat, 2012). It is important to show here that cases like the future accession of Bosnia and Herzegovina, even if they would be regarded to be of a more technical nature, make an impact in the broader context of societal developments and the important topics which we have to address in Europe. The geopolitical importance of the region, next to the economic benefits, cannot be underestimated, and Commissioner Hahn shows to be well-aware of this fact. However, it is very much the question if everybody in the EU looks forward to working with the Western Balkan region. At this point in time, it is very uncertain what will happen to the future of Bosnia and Herzegovina with regards to EU accession. One of the factors that had a big impact was the recent European elections, where the perspectives of the Western Balkan region with regards to enlargement only got worse as political parties who are sceptical of further enlargement grew significantly (Garcevic, 2019). Additionally, there is also the question if the new EC will have a Commissioner responsible for Enlargement in the same way as Hahn was (Interview Appendix I). At the same time, a country like France has recently adopted a new strategy for the Western Balkan region, intensifying their involvement in the region (EWB, 2019). It can be safely stated that, because of the aforementioned developments, that the EU accession process of the countries in the region – including that of Bosnia and Herzegovina – has been put in the spotlight again.

This spotlight became especially bright in May of 2019, when the EC published its new country reports for all the countries in the Western Balkans, evaluating the situation with regards to accession. This was especially important for Bosnia and Herzegovina, as the report for them this year would also provide the formal Opinion of the EC on their membership application from 2016. What became clear from the Opinion is that Bosnia and Herzegovina is not close to a EU candidate status yet, and that a lot of reforms are still needed (European Commission, 2019d). A deeper understanding of the situation in Bosnia and Herzegovina is necessary to be able to accurately assess how the process towards EU accession has developed and will develop, and how this will impact the country and the EU. With a better knowledge of the situation in Bosnia and Herzegovina, the EU could do a better job of tailoring its expectations and requirements to the rest of the process.

1.2 Academic relevance

With my research, my first aim is to deliver relevant academic contributions to the field of study regarding Bosnia and Herzegovina and the knowledge on the impact of the country's internal divisions on its external relations, and specifically on the EU accession process. It is the relationship between these two factors, the political division of Bosnia and Herzegovina and the country's path towards EU membership, that has lacked any significant academic attention in recent years. Much of the previous academic research into the topic focused either on the way in which Bosnia and Herzegovina has been structured with the two main political entities that each have their own identities and power (Bieber, 2002; Keil, 2013a; Toal & Maksić, 2011), or on the role that the EU has been playing in the post-war period regarding processes of state-building (Domm, 2011; Juncos, 2005; Sebastian, 2009). There is a significant gap regarding the research tying the political and administrative division of Bosnia and Herzegovina to the country's progress towards becoming a member of the EU, and through which causal mechanisms the likelihood of accession is impacted by the internal division. By focussing on this relationship, I aim to help close the gap in academic knowledge regarding this topic and to contribute to the societal discussion that surrounds the potential accession of Bosnia and Herzegovina as a member state.

There has been other research carried out that examined the EU accession processes of other countries in the Western Balkan region, like Serbia (Schimmelfennig, 2008), Kosovo (Economides & Ker-Lindsay, 2015), Albania (Kellermann, 2016) and North Macedonia (Hristova & Cekik, 2015). However, Bosnia and Herzegovina has gotten very little attention in this regard. It must be noted that the country isn't formally a candidate yet, but Kosovo isn't a candidate yet either, and has already got more academic attention regarding the accession recently. This lack of any recent research into Bosnia and Herzegovina's EU accession process is another aspect of the gap that exists in academic knowledge regarding this field. Especially now, as many interesting steps are being made in making the country eligible for a candidate status, should more research be conducted (Kovacevic, 2019; Lakic, 2018).

The second aim of my research is to deliver relevant academic contributions with regards to the theories and concepts which I am using to analyse the case of Bosnia and Herzegovina. In my research, I will be drawing from three theoretical fields in order to analyse my case. These are: 1) federalism and power-sharing constructs, 2) conditionality set by the European Union with regards to enlargement and 3) two-level and three-level games. I will be drawing my concepts from these three fields and subsequently apply them to my case. I would

argue that tying these theoretical fields to the case of Bosnia and Herzegovina provides interesting academic insights, especially as the recent developments made the topic more salient.

Regarding federalism and power-sharing constructs, Bosnia and Herzegovina is one of the few federal countries in Europe, and it is the only federation which is politically and administratively divided along ethnic divisions (Crampton, 1996). These divisions are deeply rooted, and as the war only further exacerbated these divisions, the question of how to integrate such a country into the EU has become very relevant. The Dayton Agreement brought peace and was initially seen as an example of a successful conflict resolution negotiation, but the issues and limitations are becoming more prominent (Hensel, 2017). The country runs on complicated power-sharing constructs that now have to deal with preparing them for a potential EU accession process. The new dynamic that has been taking shape in recent years offers an interesting opportunity to which the theories surrounding federalism and power-sharing can offer explanations for the progress – or lack thereof – that Bosnia and Herzegovina has been making in the EU accession process. This is also where the conditionality set by the EU comes into play, as this is the main tool which the EU uses to set the requirements which aspiring member states have to meet in order to join. The way in which this has been used has changed throughout the years, as the EU has had positive and negative experiences with the use when the former Eastern Bloc countries joined in 2004 and 2007 (Vachudova, 2014). Now, with the next expansion on the agenda being the Western Balkan expansion, and thus including Bosnia and Herzegovina, it is interesting to see how the EU is using conditionality now and how it can explain behaviours and outcomes during the process. The academic knowledge with regards to conditionality will receive an important update by researching how it is being used in this case. The two-level and three-level games are academically relevant because it offers a comprehensive way to research the multilevel aspect of the EU accession process both on the side of Bosnia and Herzegovina, but also on the side of the EU. Especially since research on three-level games has been rather limited insofar, it is quite unique that in this case, we have two different three-level systems interacting with each other, as literature up to now usually analysed the interaction between a three-level system and a two-level system (Larsén, 2007). The main academic contribution here will be that having three-level systems interacting with each other offers new insights, and that putting conditionality power-sharing constructs in a multilevel environment creates an interesting overlap that should provide some interesting observations. In the third chapter, the conceptual framework, I further explain how these three

theoretical fields are suited for answering my research question and how I will be using them for my case.

1.3 Overview of chapter content

In this section, I will provide an overview of all the chapters in this research and their purposes. The second chapter is the literature review, where I will examine three theoretical fields which provide me with the theoretical foundation for this research. In the third chapter, I provide an overview of the concepts and hypotheses that will be crucial in my research and which I will use to base my analysis on. In the fourth chapter, I explain which methodological choices I have made and which steps I have taken during the course of this research. The fifth chapter is a deeper examination of the case of Bosnia and Herzegovina, tracking the historical developments with regards to EU relations since its independence up to 2019. In the sixth chapter, I analyse the case and expound on the underlying causal mechanisms of the case. The seventh chapter is my discussion, where I discuss the findings from chapter six, note what the most interesting takeaways are and it is where I provide the answer to my main research question. The eighth chapter is my conclusion, summarizing my research and presenting some interesting avenues for follow-up research.

2 Literature review

This chapter consists of a literature review which is split up into three different sections, with each focussing on separate theoretical fields and concepts. These three fields are: 1) federalism and power-sharing constructs, 2) European Union conditionality and enlargement and 3) two-level and three-level games. The literature review provides an overview of previous academic research into these three fields., which will subsequently form the foundation for my application of these theories and concepts to the case of Bosnia and Herzegovina. By categorizing the literature over three topics, I Please note that there is a map available of Bosnia and Herzegovina under Figure 1 on page 5, and I included a schematic overview of the three-level games of Bosnia and Herzegovina and of the EU under 2.3.

2.1 Federalism and power-sharing

There are a number of concepts and theory's that I will look to apply in my analysis of Bosnia and Herzegovina's case regarding EU candidate status and future accession. The first definition that needs further clarification regards the internal division of Bosnia and Herzegovina. As I mentioned before, the country is divided in two different entities: the Federation of Bosnia and Herzegovina and the Republika Srpska (Cannon, 1995). For the purpose of my research, I will label the division as an administrative division, in the same line as Burg and Shoup (1999) and Toal & Maksić (2011). The latter two scholars defined the two entities as two autonomous administrative entities who were joined by a weak central government that could make decisions only with the support and cooperation of representatives from both entities (Toal & Maksić, 2011). I do recognize that the division is not merely an administrative one, as this would ignore the political and ethnic significance of the division (Bieber, 2002; Chandler 2000). These aspects of the division will be highlighted further in my research, but for the sake of clarity I will define the division as an administrative one between the two entities.

Continuing on this topic, the concept of federalism and the way we regard this form of government is very relevant in this research. Federalism has many variations to it, but there are two central elements that are present in all these variations: 1) the concern of territorial representation and 2) the representation of regional units in the national legislature (King, 1982). However, one should distinguish between the concept of federalism and a federation. Federalism should be viewed as a normative term and "refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule. It is based on the

presumed value and validity of combining unity and diversity and of accommodating, preserving and promoting distinct identities within a larger political union. The essence of federalism as a normative principle is the perpetuation of both union and non-centralization at the same time” (Watts, 1999). A federation on the other hand, should be defined as a “compound polity combining constituent units and a general government, each possessing powers delegated to it by the people through a constitution, each empowered to deal directly with the citizens in the exercise of a significant portion of its legislative, administrative, and taxing powers, and each directly elected by its citizens” (Watts, 1998).

For the case of Bosnia and Herzegovina, this federation structure has been embedded within its constitution that was agreed upon in the Dayton Agreement. Even though the constitution does not define the country as a federal state, it does state that “Bosnia and Herzegovina shall consist of the two Entities, the Federation of Bosnia and Herzegovina and the Republika Srpska” (Dayton Agreement, 1995). Building on the concept of federalism, Keil (2013b) has done important work regarding the development of federalism in Bosnia and Herzegovina and applied the concept of multinational federalism to Bosnia and Herzegovina. A multinational federation is a federal state among whose component states there is at least one component state that has a particularly enhanced sensitivity regarding its sovereignty based on linguistic, cultural, ethnic or historical tradition (Pinder, 2007). Well-known examples of these multinational federations are countries like Belgium, who has distinct Flemish and Walloon component states, and Canada, in which Quebec takes the position of the distinct component state. When applying the concept to Bosnia and Herzegovina, we see that the country is made up out of two component states and three different people groups. Moreover, the central government only has limited decision-making capacities, and even these developed over time (Keil, 2012).

The important difference between Bosnia and Herzegovina and federations like Belgium and Canada is that the country is lacking a federal compact or some form of common vision. There is no traditional “coming-together” or more contemporary “holding-together” principle, making the current federation an internationally administered federation which is an example of “imposed federalism” (Keil, 2013b). This poses some interesting questions regarding the legitimacy of internationally administered federations, but that is beyond the scope of this research. However, it does show how federalism is being used in a new way, as a tool for conflict-resolution and to address and transform deep-rooted sources of conflict (Ramsbotham, Woodhouse, & Miall, 2011). When conflicts revolve around diversity, territorial autonomy and power-sharing in central institutions, then federalism can be used as a

conflict-resolution tool (Keil, 2012). It is here where the concept of consociationalism also plays a role, which focuses the importance of elite cooperation, veto right and proportional representation (Lijphart, 1977). In consociationalist systems, executive coalitions are formed by elites in which leaders of all main social groups are represented; representation and the allocation of offices and resources is done proportionally; autonomy for the different ethnic groups; there is a mutual veto for minority groups when national interests are at stake (Bogaards, 2000). Majoritarian rule is an undesirable option for these strongly divided societies as it brings the risk of even stronger division and polarization with it.

However, the concept of consociationalism has evolved over the years, and Lijphart (2002) added to his views on the topic by introducing the broader term of power-sharing democracies. There are two kinds of power-sharing systems that can be identified. A more traditional consociational system can be developed in which either existing groups and divisions are used as the basis for political order, or in which a more integrative approach is taken and institutions are incentivized for elite and mass moderation with the goal of bridging the existing divisions between groups (Sisk, 2008). Even though power-sharing constructs were becoming more prevalent in post-conflict societies, there is a tension to be observed between democracy and power-sharing. One of the fundamental problems of the elitist aspect of it, relying of the role of elites to ensure stability. There are limits to mass participation and elite contestation, making power-sharing a form of constrained democracy, limiting the democratic elements of institutions (Rothchild & Roeder, 2005). Another problem is the reinforcement of existing divisions when power-sharing mechanisms are constructed based on existing groups. This leads to a situation in which cross-communal progress is difficult to bring about, as it is more appealing to politicians to focus on their own ethnic groups in order to achieve electoral success (Bogaards, 2006). Therefore, even though power-sharing has the capacity of bringing about peace, it should not be seen as a long-term solution (Sisk, 2008).

Problems do arise in power-sharing schemes when attempts are made to involve the masses in reforms of power-sharing constructs. Referenda are particularly popular options in these cases, but they pose a risk to the stability of the existing situation. There are a number of reasons why these majoritarian tools are not well suited in power-sharing environments. These are: 1) in the case of a yes or no vote, there is always a losing side, 2) minorities are almost always at a disadvantage with referendums, 3) referendums tend to be reduced to an ethnic census, 4) referendums might be used to legitimize outcomes from the war and 5) referendums might just be used as an empty, symbolic gesture (Reilly, 2008). Introducing referendums in power-sharing environments would introduce the idea that power-sharing constructs stand or

fall with the popular consent of the masses. This would put the relations in a power-sharing construct under severe pressure, making it nearly impossible to function effectively (Mac Ginty, 2003). There is thus a tension between mass legitimatisation on one side and effective elite accommodation on the other side, making a choice between democracy or power-sharing necessary. The interesting paradox here is that there might not be a way to democratically establish a power-sharing democracy (Bogaards, 2006).

An alternative would be a more integrative approach to bridge the divides between ethnic groups. One of the important critiques of the traditional consociational approach is that it ignores the ability of identities to change over time, and new divisions can arise which are not along ethnic lines (Horowitz, 2002). Instead, an integrative approach would propose a system in which heterogeneous groups are stimulated, where politicians would be rewarded for advocating cross-communal policies and attracting votes from other ethnic groups than their own. The focus here is on the dynamics of interactions between people from various groups, which should promote more integrative stances (Horowitz, 1985). However, the trade-off here is that there would be less protection for minority groups, as the aim is to establish more heterogeneous groups that are not based on ethnic lines. This would mean the integrative approach carries the risk of becoming a more majoritarian system if the society in question is too deeply divided (Reynolds, 2000).

It is important to consider what kind of power-sharing structure a country has; the traditional consociational approach, or the integrative approach? This is important as these are the two major options with regards to power-sharing within ethnically divided societies. These societies require a form of stable structure that distributes power within the country. The consociational approach focuses on the role of the elites in being the forerunners in ensuring stability, while the integrative approach focuses on creating a common ground among the elites and the populace. Both approaches have their drawbacks, with the consociational approach reinforcing the existing cleavages between the ethnic groups and potentially causing a deadlock which impedes progress. The integrative approach raises other questions, i.e. why would nationalist parties and leaders give up their positions of power in exchange for a more integrative approach? Why would the leaders of minority groups take the risk of becoming marginalized in an integrative power-sharing construct? A combination of federalist, consociational and integrative approaches offer a coherent toolbox in order to analyse questions of power-sharing in institutions, as all these concepts deal with different aspects of the power-sharing question in conflict-resolution and the foundation that is laid for the future. However, an important variable that is missing now is the influence of international players, which is

especially important in the case of Bosnia and Herzegovina. International players can offer guarantees to certain arrangements and try to promote integrative approaches, but this might also backfire as questions of legitimacy might arise when there is too much international intervention. Or what happens when the international players leave the country? One of the most important international players in Bosnia and Herzegovina is the EU, as the EU has provided a lot of support for the country throughout the years. With Bosnia and Herzegovina wanting to become a member of the EU in the future, it is important to keep an eye on the role that the EU is playing and how they interact with the country at the federal level.

2.2 European Union conditionality and enlargement

To gain a better understanding of the process of EU accession for Bosnia and Herzegovina, I will further examine the literature regarding EU conditionality and enlargement. Conditionality has become an important concept when researching the processes of cooperation and accession for the EU. A policy of conditionality is essentially focused on international organizations promising rewards – in the form of financial assistance or membership – to target states on the condition that these states fulfil one or more conditions that are set by the international organisation (Schimmelfennig & Sedelmeier, 2008). Conditionality is considered to be one of the EU's most powerful instruments for dealing with countries that seek accession, as it is a multi-dimensional and multi-purpose instrument. It is developed to aid reconciliation, reconstruction and reform, and the process takes place on multiple administrative levels and dealing with economic, political, social and security-related criteria (Anastasakis & Bechev, 2003). In the case of EU conditionality, there are a number of characteristics that have to be understood. First, EU conditionality and its implementation should be considered as an interactive process, meaning that is a dynamic of interaction between the EU on one side, and the applicant country on the other side. It is necessary to examine the political environment of the EU member states in which the EU conditionality is formulated, as well as the internal political competition regarding accession that is taking place in the applicant country (Džihic & Wieser, 2011; Pridham, 2005). Regarding the scope of this research, my main focus will be on the internal political competition within the applicant country, in this case Bosnia and Herzegovina. Second, the interactions in the process of conditionality are mostly limited to the level of elites and administrations (Grabbe, 2006). The interactions are based around exchanges between the EU-elites and the applicant country's elites, which results into a top-down process of implementation in the applicant country's (Džihic & Wieser, 2011). This means that when

the process of conditionality is ongoing, citizens of the applicant country rarely notice improvements on the short-term, as the focus is on institutional changes which should translate to tangible benefits for citizens in the long term (ibid). However, the reasons why applicant countries decide to go through the strenuous accessing process is because EU membership brings important economic and geopolitical benefits to the table. Applicants have to make many sacrifices to meet the conditions that the EU sets, but at the end of the balance sheet, there are many benefits too (Moravcsik & Vachudova, 2003). Especially as the alternative might mean being left behind while your neighbouring countries are making progress towards accession.

One of the major sources for academic research regarding the effects of EU conditionality has been the research regarding the process of accession of the Central and Eastern European states (CEES) since the 1990s. The Copenhagen criteria, which were set in 1993, are viewed as the standard for what was required of the CEES to become members of the EU. The Copenhagen criteria meant that an applicant country, in order to accede, had to meet the following requirements: 1) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, 2) the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union and 3) the ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union (Hillion, 2004). For the scope of this research I will be mostly focussing on democratizing effects of political conditionality, as this is also what the EU has been proven to be most effective at during previous enlargements (Schimmelfennig & Scholtz, 2008; Vachudova, 2014). Important to note regarding the process of EU conditionality is that this is primarily a positive in which countries receive assistance from the EU when they comply with the requirements, but aren't punished in situations of non-compliance (Smith, 2001). In this process, a balance between the costs and benefits for countries has to be sought in order to maintain support for reforms and the partial relinquishment of autonomy by the applicant country. Here, the promise of future enlargement and potential EU membership can offset the significant political costs that are made internally (Schimmelfennig & Scholtz, 2008).

Creditability is also an important factor in the case of conditionality. Non-member states, but also EU member states must be able to trust the EU that they will keep their promises. Both regarding the refrainment of giving out benefits in the case of non-compliance, but also in awarding countries benefits for complying with the requirements along the process (ibid). The factor of credibility is important in order for the EU to transfer the rules and

requirements which they have set for non-members successfully (Schimmelfennig & Sedelmeier, 2004). Furthermore, there is a tension to be observed between the EU giving benefits to an applicant country and to what degree further enlargement is to the benefit of member states of the EU. On one end, it is apparent that a neighbouring country's economy stands to gain greatly from a closer association with the EU and eventually joining. However, these neighbouring countries are economically only of marginal importance to the EU as their markets will already be very dependent on the EU (Moravcsik & Vachudova, 2005). On the other end, there is the question of rewarding the applicant countries and the ability and willingness of the EU to do so. Here the distribution of rewards could be in jeopardy if the costs become too high for the EU, especially as the gains for member states are relatively low compared to the costs (Schimmelfennig, 2003).

What becomes apparent when examining the theory and concepts surrounding conditionality is that while it is an important tool for the EU's interaction with potential and future members of the EU to promote i.e. democratic reforms, the process is not without its problems. There are also other possible mechanisms that could lead to non-member states to reform and adopt EU rules, such as countries regarding EU rules as solutions to their domestic policy challenges and thus adopting the rules independently of conditionality. As the EU offers incentives for non-members to reform and meet their requirements, the mechanisms underlying these incentives might be more related to processes of persuasion and learning in which non-members are socialized by the EU than simply coerced (Schimmelfennig & Sedelmeier, 2004). It is important to emphasize that the domestic costs of rule adoption play a large part in democratic conditionality, and that the effectiveness of conditionality can be severely hampered by high domestic costs, even in cases of large and credible rewards. Democratic conditionality would carry high costs for i.e. authoritarian regimes, who would then rather turn down EU membership instead of paying the political costs (ibid).

Regarding conditionality, examining the aforementioned accession of the CEES also provides a number of relevant observations. First off, it took some time in the 1990s in order for talks to have started with a number of the CEES, as EU member states were critical regarding the benefit-cost ratio. However, the decision to do strongly helped the credibility of the EU, and made political conditionality more impactful for non-member states who were not involved in the first round of negotiations (Schimmelfennig & Scholtz, 2008). However, after the Eastern enlargements of 2004 and 2007, member states became more critical of future enlargement and enlargement fatigue set in within the EU (Džihic & Wieser, 2011). It is also difficult to assume that conditionality would work the same way for South-East Europe – the

next logical area for enlargement – as it the CEES. The EU has had difficulty forging a long-term strategy for the region, as it has to deal with different kinds of issues than the CEES did. The legacy of ethnic conflicts in former Yugoslavia have created domestic obstacles for effective democratic conditionality, and they complicate the enlargement process even further (Anastanakis & Bechev, 2003; Schimmelfennig, 2008). Furthermore, the EU has also drawn its lessons from the Eastern enlargements and adjusted its conditionality strategy. Two of the most important lessons for the EU were that that leveraging applicant countries only works well before actual accession, and that a longer process of conditionality is needed in some area's (Vachudova, 2014).

2.3 Two-level and three-level games

In this part I will examine the theory of two level games in order to be able to develop a better understanding of the relationship between domestic influences and international affairs. This is relevant for my case because the multilevel component of negotiations is very important when dealing with the EU accession process. How do domestic actors respond to developing negotiations at the international level? And how do international actors respond to domestic shifts from internal actors? This theory builds on the literature regarding the domestic determinants of foreign policy, with the central premise that central decision makers – like the state – have to concern themselves with domestic and international pressures at the same time during policymaking (Katzenstein, 1978). In the dynamic between states in the international arena, it is important to take into account that it is not merely the bargaining positions of individual states, but to factor in the internal political situation and identities of groups (Gourevitch, 1978). It is necessary to focus on the political aspect in order to adequately assess domestic determinants: political parties, social classes, interest groups, legislators, public opinion and elections, instead of just executive officials and institutional arrangements (Putnam, 1988).

The theory regarding two-level games aids us in understanding the interaction between domestic influences and international affairs, moving beyond mere recollected accounts of mutual influence. The two levels refer to the domestic and international level, where processes of negotiation and bargaining – games – take place. At the domestic level, it is possible to distinguish interest groups who are trying to pressure the government into adopting favourable policies for their respective groups, and national political leaders are trying to build coalitions among these groups. Conversely, at the international level governments are trying to maximize

their ability to satisfy the internal demands from groups, while also trying to minimize the consequences of foreign influences (ibid). The interesting factor of these two-level games – which also makes them unusually complex – is the fact that certain actions which are rational for an actor at one level might be unfeasible or counterproductive at the other level (ibid). This means that you might develop a strategy or a solution which will work for you at one level, but that this solution then seems to be completely unfeasible at the other level, forcing you to rethink the strategy you developed. The main point here is that in such a situation, a balance must be sought out in order to be able to make coherent decisions over both levels.

In his two-level game theory, Putnam (1988) details how he distinguishes between the domestic level and the international level. He defines the bargaining process between negotiators at the international level, where a tentative agreement is reached, as Level 1, and defines the domestic talks with the different groups to get their support in order to ratify the agreement as Level 2. The interactions between Level 1 and Level 2 should be regarded as dynamic and non-sequential, as the important aspect to emphasize is that any agreement reached at Level 1 has to be ratified at Level 2. The only formal constraints in this context is that the Level 1 agreement can never be amended at Level 2 without reopening negotiations; any modification to the Level 1 agreement should be regarded as a rejection, unless all parties agreed on it (ibid). Subsequently, the concept of win-sets is then introduced for Level 2 and defined as all possible agreements that can be reached at Level 1 that could be considered as a ‘win’ for Level 2 in the form of reaching the required majority support (Shepsle & Weingast, 1981). The contours of the win-sets at Level 2 are very important for understanding agreements brokered at Level 1 for two various reasons: 1) larger win-sets increase the likelihood of an agreement being brokered at Level 1 when all other factors remain the same, and 2) the relative size of the Level 2 win-sets will affect the distribution of the joint gains from the negotiations at Level 1 (Putnam, 1988). Regarding the first reason, as the win-sets of all relevant parties at Level 2 have to overlap in order to reach a successful agreement, it becomes easier for individual win-sets to overlap with each other when they are larger. Smaller individual win-sets will make overlap less likely, and thus complicates the brokering of an agreement at Level 2. Regarding the second reason, when negotiators at Level 1 perceive the win-sets of an actor in the negotiations to be relatively large, the negotiations have more room to pressure the actor into accepting their demands. Having – or creating the perception of having – relatively small domestic win-sets can offer a bargaining advantage in the sense that it can force the other actors in the negotiations to move more towards your position as your ability to manoeuvre is limited. However, this strategy does carry the risk of deadlock as if you present your domestic win-sets

to be very narrow, other negotiators might be unable or unwilling to move towards your position (ibid).

In further developing the multi-level aspect of negotiations and their analysis, there is also the possibility of dealing with three-level games. A three-level game would entail that there is another level present in the equation whose input has to be taken into account, and which will influence the outcomes of the negotiations and whether an agreement will be reached. This three-level environment is particularly applicable to negotiation processes between the EU and a third-party actor, as the EU is a unique player in multilevel negotiations. The EU constitutes an international organisation on its own, meaning it is an international arena for the EU member states which make up the EU, but it is also a domestic actor in the negotiations with the third party (Larsén, 2007). Here, the negotiations between the third-party actor and the EU would constitute as Level 1, the negotiations between the member states within the EU as Level 2 and the negotiations between domestic groups within individual member states as Level 3. The interesting development here is that the same three-level system could be applied to Bosnia and Herzegovina. Because of the division of the country into the two entities and the necessity of power-sharing, there is an extra level to account for in international negotiations. Negotiations between Bosnia and Herzegovina at the state level and a third-party actor would constitute as Level 1, negotiations between the two different entities, the ten cantons and the Brčko District within the arena of Bosnia and Herzegovina would constitute as Level 2, and negotiations between groups within the various levels of government would constitute as Level 3. The concept of three-level games offers an interesting tool that can be used in order to explain the dynamics in more complicated multilevel environments and how these levels interact with one another.

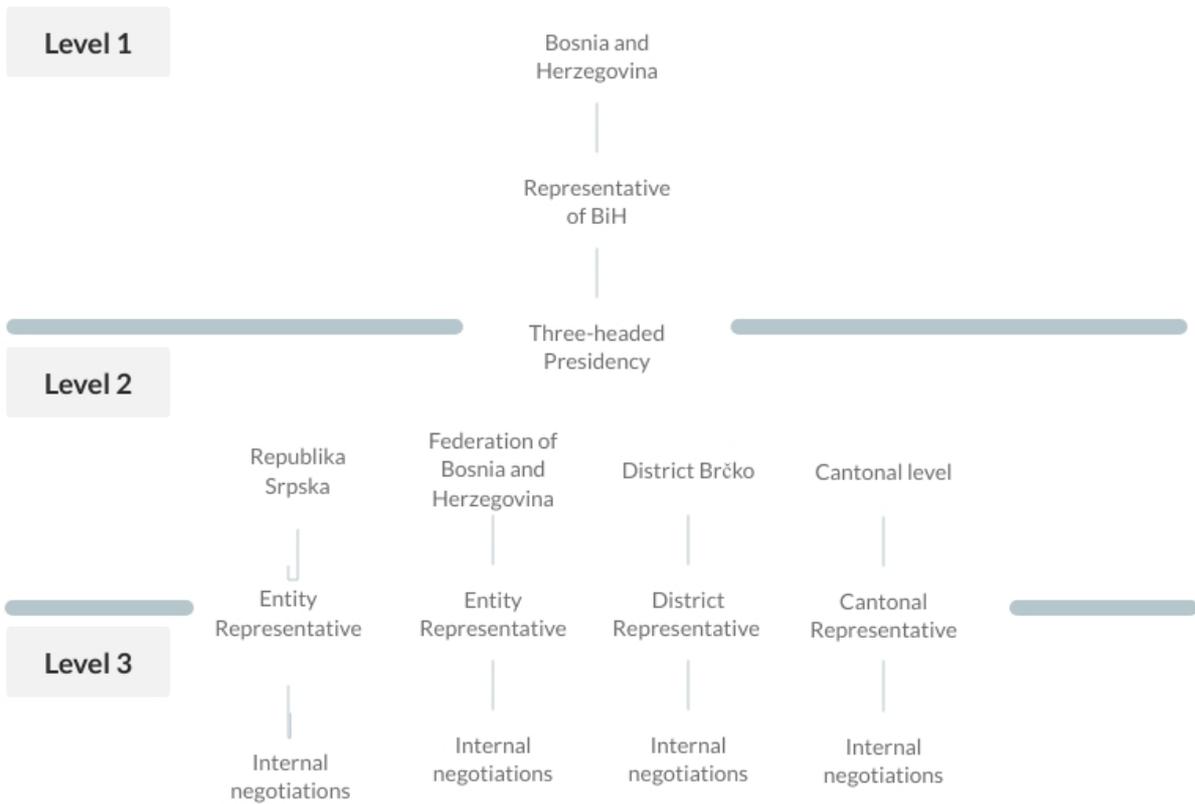


Figure 2: Schematic of the three-level game of Bosnia and Herzegovina.

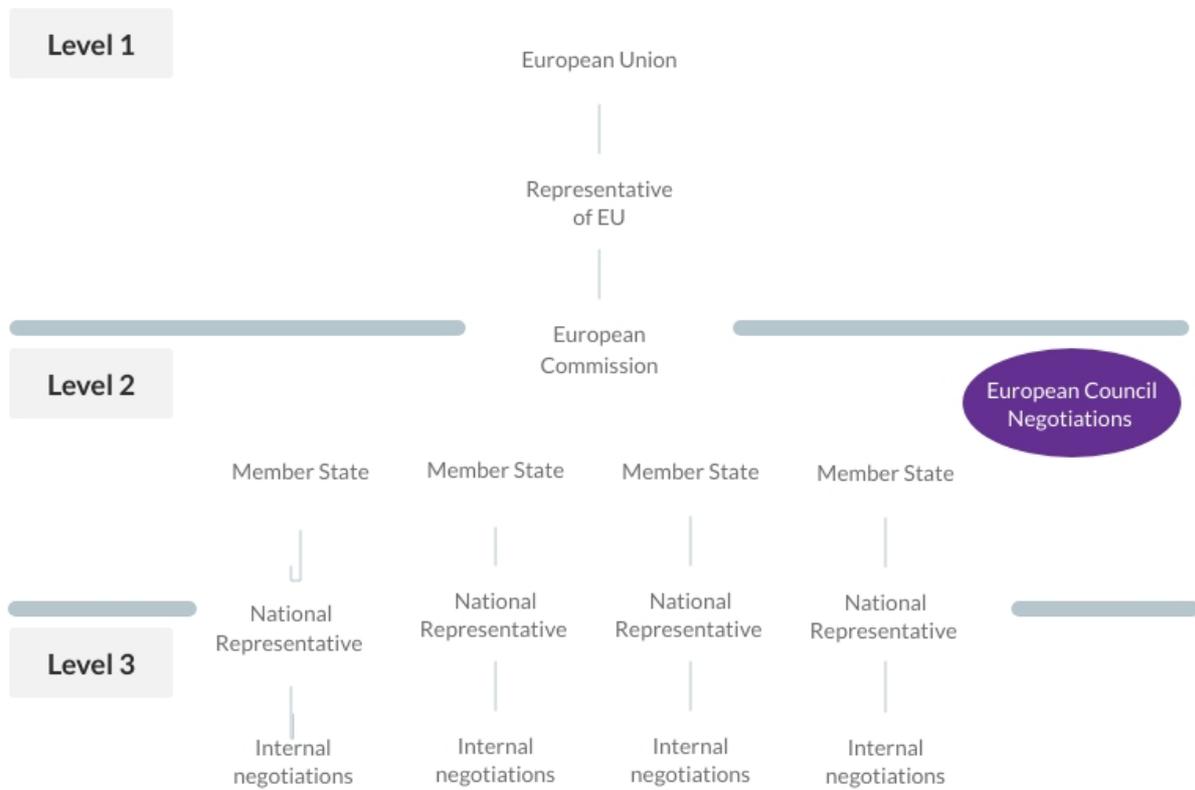


Figure 3: Schematic of the three-level game of the European Union.

3 Conceptual framework

This chapter focuses on the concepts which I will be using to further analyse my case in this research. These concepts are drawn from the three theoretical fields which I have reviewed in the previous chapter and are connected to three hypotheses which will also be outlined in this chapter. These hypotheses will form the basis for my analysis in chapter six, where I either confirm or reject the hypotheses from this chapter. To recapitulate, in the literature review I distinguished three main theoretical fields that I regard as relevant for my research: 1) federalism and power-sharing, 2) EU conditionality and enlargement and 3) two-level and three-level games. Drawing from these three fields, I will outline a number of concepts which I will be utilizing for my research. These will be: 1) consociational power-sharing and integrative power-sharing, 2) EU conditionality and 3) three-level games and win-sets.

First, regarding the concepts of consociational and integrative power-sharing, here I follow the distinction made by Sisk (2008) in the previous chapter. Consociational power-sharing systems are to be defined as systems in which existing groups and division form the basis for the political order, while integrative power-sharing systems are focused on incentivizing the moderation of the elites and masses in order to bridge the existing divisions between groups. The reason why these two concepts are relevant to my main research question is because they are closely linked to the political and administrative division of Bosnia and Herzegovina. The country is currently organised in a consociational fashion, with ethnic lines forming the basis for the power-sharing structures that have been setup between the different ethnic groups. With this concept, I want to examine if the consociational structures are indeed influencing the relationship of the country with the EU, and if so, I want to examine how it manifests itself in the functioning of the political system and how it influences the relationship with the EU and the path to membership. I also want to examine the possible existence or attempts at more integrative power-sharing structures, and how this might have clashed with the existing consociational structures. To analyse this, I will use the following hypothesis: *“The consociational power-sharing structure of Bosnia and Herzegovina is hampering the country’s ability and progress towards fulfilling the accession requirements of the European Union.”* By researching this hypothesis, I aim to create more clarity on how these internal power-sharing structures influence the country’s relationship with the EU.

Second, the concept of EU conditionality is important for my research question as it focusses on the role of the EU in the whole process. Conditionality is an important tool which the EU deploys to regulate the process of future enlargement, so it would be interesting to

research how this has been used insofar with Bosnia and Herzegovina. This concept will primarily revolve around a number of aspects that I will focus on when using the concept to analyse the conditionality relationship between the EU and Bosnia and Herzegovina. These aspects are: 1) the interactivity of the process (Džihic & Wieser, 2011), 2) the elitist character of the relationship (Grabbe, 2006) and 3) the importance of credibility regarding the promises which the EU makes (Moravcsik & Vachudova, 2003). I want to use these three aspects of the EU conditionality concept to analyse how the relationship between the EU and Bosnia and Herzegovina has developed over the years, and how successful conditionality has been for the process. Especially when examining the in May of 2019 published Opinion of the EC on the application of Bosnia and Herzegovina would it be interesting to examine which effects conditionality has had on the process. To analyse this, I will use the following hypothesis: *“Measures grounded in EU conditionality have so far been ineffective at stimulating Bosnia and Herzegovina to commit to implementing significant reforms.”* Researching this hypothesis should give more clarity on how effective the EU has been with regards to enlargement and the possible accession of Bosnia and Herzegovina.

Third, from the theory of two-level and three-level games, the concept of three-level games will be an important part of my research. This is relevant to my research question as it relates to the multilevel aspect of the process, as both the EU and Bosnia and Herzegovina have to deal with internal forces. In my research, I will primarily focus on the internal forces in Bosnia and Herzegovina influencing the process as this is the primary aim of my research question. Analysing the potential effects of the internal forces on the available win-sets is an important clue to understanding the effect which the internal division potentially has on the relationship with the EU. The concept of win-sets is important, as the developments at Level 2 and 3 within Bosnia and Herzegovina will influence the win-sets available in the negotiation process at Level 1. As I explained in my literature review, I will be defining the EU and Bosnia and Herzegovina as both being three-level arenas who are interacting with each other at Level 1 and where internally interactions are taking place between the levels (Larsén, 2007). To analyse this, I will use the following hypothesis: *“A lack of overlapping win-sets at Level 2 within Bosnia and Herzegovina makes it difficult for effective negotiations to take place with the European Union at Level 1”*. This hypothesis is important as it would provide insight into the ability of the central government of Bosnia and Herzegovina to negotiate with the EU.

4 Methodology

In this chapter, I will further elaborate on the methodological choices I made in order to carry out my research. I will explain which choices I make, and why I argue these are the best suited in order to answer my research question. In the first section, I will primarily focus on the choices which I made with regards to research design, in the second section I will further explain how I carried out my data collection and in the third section I will further explain the analytical method which I am using. To recapitulate, my research revolves around examining the relationship between the EU and Bosnia and Herzegovina, and how the internal political situation of Bosnia and Herzegovina is having an impact on said relationship. I focus on the EU accession component of this relationship, and how the internal political division is influencing the progress of Bosnia and Herzegovina towards membership.

4.1 Case study design

In order to research this topic, I have chosen a case study design in which I primarily focus on the position of Bosnia and Herzegovina in relation to the EU and the path towards membership. I selected the case study design as this is a design that is particularly suited for a qualitative study aimed at carrying out an intensive examination of a single case which I then engage in my theoretical analysis (Bryman, 2012). As defined by Gerring (2004), the case study is ‘‘an intensive study of a single unit for the purpose of understanding a larger class of (similar) units.’’ This single unit is spatially bounded, in my case it is a nation-state, and I observe it over a defined period. With regards to the case of Bosnia and Herzegovina, the country finds itself in a very interesting situation due to its complicated internal structure that is worthy of further research in order to understand what is happening there and how this is also affecting the EU. This is why I primarily focus on this case in my research and want to examine the process it went through with the EU since its independence up to 2019.

There are a number of case study types which can be distinguished: 1) the critical case, 2) the extreme or unique case, 3) the representative or typical case, 4) the revelatory case and 5) the longitudinal case (Yin, 2017). A critical case is a case which is chosen on the grounds that it will allow a better understanding of the circumstances in which a hypothesis will and will not hold, and is studied with a well-developed theory as basis. It is thus very well suited to study cause and effect relations. An extreme or unique case is a case that is highly unusual and is considered as an outlier. These cases are chosen by a researcher to develop a more in-

depth understanding of a certain phenomenon and to further substantiate certain explanations which the researcher offers. A representative or typical case has the objective to capture the circumstances and conditions of an everyday or commonplace situation and are chosen not because of being unusual in some way, but because embodies a broader category of cases. The revelatory case is based on the idea that a researcher has an opportunity to research and analyse a phenomenon that previously was inaccessible to scientific researchers. Lastly, the longitudinal case is specifically focussed on researching a phenomenon over time and affords the opportunity to be investigated at two or more junctures in the process (ibid). It must also be noted that a case study frequently includes a longitudinal element as the way processes develop are researched over time. (Bryman, 2012). For my research, I chose for an extreme case study as I regard the case of Bosnia and Herzegovina to be an outlier case that should be studied more thoroughly to develop a deeper understanding of how the situation in the country is functioning specifically. The complicated political and administrative division of the country make it different than the other countries in the Western Balkan region that are currently seeking membership of the EU. When working with an extreme case, it is important to select a case which demonstrates the most obvious differences from the rest of the potential cases (Jahnukainen, 2012). I argue that by studying the context of Bosnia and Herzegovina's EU accession process and tying it into the theories and concepts which I am using, that it would be possible to uncover the reasons behind the slow progress of the country towards EU membership, and if this is a consequence of the aforementioned division.

When setting up the research design, there are a few things to bear in mind. There are three main criteria for evaluating social research: 1) reliability, 2) replicability and 3) validity (Bryman, 2012). Reliability is mainly concerned with the question of whether the results of a study are repeatable, and is commonly used to see whether measures which are devised for concepts in social sciences are consistent. Though it must be mentioned that reliability is more often an issue with quantitative than with qualitative research designs. Replicability is closely related to reliability and deals with the question whether a research is replicable and if the steps taken by a researcher in his or her research are retraceable. Therefore, it is important to note the procedure in detail so that other researchers could replicate the research if they desire to do so. Validity is the third important criteria which focusses on the integrity of the conclusions generated by a research. Validity can be split up in two major parts which are relevant for my research, namely internal validity and external validity (ibid). Internal validity concerns itself with the issue of causality, and whether a conclusion that are founded on a causal relationship between two or more variables is reliable. External validity focusses on the question whether

the results of a research can be generalized beyond the specific context in which the research has been conducted.

When looking at my choice for a case study design, the primary concern with this design is the validity. The reliability and replicability can be properly safeguarded by providing a detailed explanation of the steps I took in my research, which I will provide in the next two sections. There has been academic debate on researcher subjectivity, with some arguing that qualitative measures only appear to be objective as concepts only exist because we can interpret them, and that thus objectivity is not meaningful (Berg & Lune, 2012). However, I would argue along the lines of Flyvbjerg (2006) that a case study has no greater bias towards verification than other research methods, and we can even see that with case studies there is a stronger bias towards the falsification of preconceived notions. The internal and external validity pose more of a challenge because of a number of reasons. First, regarding internal validity, it is difficult to make definitive conclusions with regards to causal mechanisms from within a single case. The possibility of other factors causing the effect which I am researching is difficult to control for within a single case (Gerring, 2004). However, by triangulating my data with the use of multiple data sources and collection methods, the internal validity is enhanced as there is more variation in the input data which is used to establish causal inference. Second, regarding external validity, how can a single case study be representative for a larger number of cases? The simple answer is that it cannot, especially not when researching an extreme case, and a researcher should not attempt to generalize a single case when this is not possible (Bryman, 2012). I would that for the case of Bosnia and Herzegovina, generalization is not essential as I am researching an extreme case. The goal of this case study is not to generate results that can be generalized over a broader population of cases, but that the primary aim is to generate more knowledge about the case of Bosnia and Herzegovina (Toshkov, 2016). Because of this, I will not try to generalize my results from this research over other cases similar to Bosnia and Herzegovina, i.e. other countries with a federal state structure. The results could however spark interest for follow-up studies into other federal countries and the way they interact on the international stage.

4.2 Data collection

In this section I will further outline the choices I made with regards to data collection, the steps I took and how I am approaching my analytical section. For data collection, my focus lies with two sources of data: interviews and documents. The reason why I have two main sources of

data is because it is important to differentiate in your data sources which will enable you to triangulate the findings from the research (Mathison, 1988). This triangulation strengthens the credibility of my findings, because if different types of data and evidence point towards the same conclusions, then we can be more certain about the validity and credibility of the research.

My first choice for interviews was based on the idea that interviews would offer me the ability to gather the interpretations of the process which I am researching of my respondents. This is an important benefit of using interviews as a data source: when interviewing people, the main benefit is that you hear their interpretations of the world on which you are questioning them (Seidman, 2006). Different respondents will highlight different things in the process which I am researching, and offer different explanations for what is causing certain effects. These descriptions provide me with the ability to expose the underlying mechanisms in order to provide a coherent answer to my research question. For my interviews, I chose to conduct semi-structured interviews as these would offer a flexible method where I could pick up on interesting answers from my respondents, but also have a set of topics and questions prepared so there is a certain amount of structure to the interview (Bryman, 2012). This was especially desirable as I already had a clear picture of the variables I wanted to focus on, and wanted to apply it to the single case of Bosnia and Herzegovina.

When choosing respondents for my interviews, I focussed on people who have had experienced or studied the EU accession process of Bosnia and Herzegovina from different angles. I managed to conduct four interviews, and I added the transcripts of these interviews in appendices C through F. I anonymized my respondents and censored any important personal details from the transcripts, the uncensored versions are securely stored by myself. My first respondent (Interview Appendix C) is an advisor on European integration for the Council of Ministers in Bosnia and Herzegovina, which is the highest executive body of the country. This was especially interesting for examining the government's side of the process and how they experienced the internal processes within the country. My second respondent (Interview Appendix D) is an analyst at a European think tank who is specialized in the relations between the EU and Bosnia and Herzegovina with regards to enlargement. This interview was interesting as it provided me with more information on how past and current process are unfolding, and the dynamics that exist between the two sides. My third respondent (Interview Appendix E) is a political scientist specialised in European integration, Western Balkan politics and civil society, and was also the co-founder of a think tank in Bosnia and Herzegovina that tracked the EU accession process. From this interview, I gained a lot of information regarding the civil society in Bosnia and Herzegovina and what role organisations have played within the

country. My fourth respondent (Interview Appendix F) is a policy analyst specialised in post-conflict regions and how people within Bosnia and Herzegovina adapt to changes in conflict-affected areas. This interview was interesting as it offered me more insight into the internal situation in Bosnia and Herzegovina, and what role civil society is playing in change. With these four interviews, I have managed to gather data from multiple angles, which One limitation of my interviews is that I did not get the chance to interview anybody at the lower levels of government within Bosnia and Herzegovina. Even though the interview with my first respondent was very illuminating and relevant, it would have been interesting to speak to officials at the entity and perhaps even at the cantonal level to gather their perception of the process and i.e. the coordination mechanism.

My other important source of data are documents. One of the great benefits of using documents is that they provide an insight into what message the producer of the document is trying to convey, and it says a lot about the context in which that happens. Therefore, documents should not just be seen as a neutral source that simply reflects reality, but as a source which has a distinct purpose in mind and are significant for what they were supposed to accomplish (Atkinson & Coffey, 2011). I assess the quality of documents which I use based on four important criteria: 1) authenticity, 2) credibility, 3) representativeness and 4) meaning (Scott, 1990). Authenticity refers to the origin of evidence and if it is genuine, credibility looks at if evidence is free from error and distortion, representativeness considers if evidence is typical or untypical, and meaning refers to the clarity and comprehensibility of said evidence. I have used a number of document types, most importantly I consulted official documents published by the government of Bosnia and Herzegovina and by the EU. I have added a list of these documents under Appendix A. A benefit of these documents is that they score well on authenticity and on having meaning, as they are directly published by the official authorities and are understandable for the researcher (Bryman, 2012). With regards to representativeness and meaning, here we see that there is a risk of bias being present in the documents. However, this also offers the opportunity for interesting explanations, as revealing biases in official documents can say a lot about a case (Abraham, 1994). I have added a list of the official documents of Bosnia and Herzegovina and the EU which I incorporated under Appendix A. Along with these official documents, I have also used mass media sources to track processes relevant which I considered relevant for my case. It also helped me get a better picture of the important moments from the process, and to read how they were interpreted at the time. Mass media sources score quite well on representativeness and meaning as using a wide range of sources makes sure there are typical and untypical sources present, and news sources are

generally understandable when the researcher is knowledgeable of the contextual factors. There has to be more attention to authenticity as it sometimes is not clear who the writer is, and credibility can be an issue too (Bryman, 2012). However, as stated earlier in this section, uncovering biases and distortions can also be the objective of an analysis.

4.3 Analytical approach

The main approach which I use in my analysis of this case is process-tracing. Process-tracing can be defined as “the systemic examination of diagnostic evidence selected and analysed in light of research questions and hypotheses posed by the investigator” (Collier, 2011). This approach is distinctive in three ways. First, the evidence on which process-tracing focuses corresponds to so-called causal-process observations. This highlights the contrast between the empirical foundation of qualitative research and the observations which are made by the researched based on the data (Collier, Brady, & Seawright, 2010). The second way is the description, and this is very important as the method is inherently focussed on analysing processes of change and causation, but this is only possible when a solid description of the process is present. The analysis will fail without a “static” description of every step in the process (Collier, 2011). The third thing is sequence: process-tracing as a method pays close attention to the sequencing of the process, as this is important when trying to establish what is relevant evidence and in what order it should be examined (ibid).

The central concern of process-tracing is with sequences and mechanisms that help unfold the hypothesized causal processes which a researcher seeks to either confirm or reject (Bennet, 2010). The first stage of the process is establishing correct descriptive inference by carefully describing the process that took place. This means that key steps in the process have to be characterized and described, which will form the basis for a good analysis of change and sequence (Collier, 2011). Establishing descriptive inference is what I will do in the fifth chapter by outlining all the relevant moments in the process of the relationship between Bosnia and Herzegovina and the EU with regards to accession of the country. Subsequently, we can move on to causal inference, which revolves around testing the relevant moments from the process – the evidence – and seeing if it supports or rejects the hypotheses I formulated in my conceptual framework. There are four types of tests for causation which can be used within the context of process-tracing: 1) the straw-in-the-wind test, 2) the hoop test, 3) the smoking gun test and 4) the doubly decisive test (Bennet, 2010). There are two important elements with regards to these tests for causation. One element of the test is if the test is sufficient to establish causation, and

the other element is if the test is necessary to establish causation (Collier, 2011). The four types of tests all correspond with these two elements, meaning that every type either is sufficient or insufficient to establish causation, and is necessary or unnecessary to establish causation. The straw-in-the-wind test is the weakest test, which if passed does increase the plausibility of the hypothesis being accepted, but still is insufficient and unnecessary to establish causation. However, a hypothesis passing multiple straw-in-the-wind tests would still build up to important affirmative evidence (ibid). The hoop test is the test which is not sufficient to establish causation, but is necessary to establish causation. This means that if evidence doesn't pass the hoops test, the hypothesis gets rejected, but passing the hoops test does not confirm the hypothesis. Passing the test does affirm the relevance of the hypothesis (Bennet, 2010). The smoking gun test is the test which is sufficient to establish causation, but is not necessary to establish causation. Passing this test would mean that a hypothesis would be confirmed, but failing it would not reject the hypothesis (ibid). Finally, the doubly decisive test is the strongest test as it is sufficient and necessary, and passing this test would confirm the hypothesis and eliminate alternatives, but failing the test would eliminate the hypothesis (ibid). It must be noted that these tests are rare to find, but combining a hoops test and a smoking gun test for instance would achieve the same analytical goal (Van Evera, 1997). On the next page, I have included a table of the four causal inference tests which I described above.

Table 1: Process Tracing Tests for Causal Inference

		SUFFICIENT FOR AFFIRMING CAUSAL INFERENCE	
		No	Yes
NECESSARY FOR AFFIRMING CAUSAL INFERENCE	No	1. Straw-in-the-Wind	3. Smoking-Gun
		a. Passing: Affirms relevance of hypothesis, but does not confirm it.	a. Passing: Confirms hypothesis.
		b. Failing: Hypothesis is not eliminated, but is slightly weakened.	b. Failing: Hypothesis is not eliminated, but is somewhat weakened.
		c. Implications for rival hypotheses: Passing <i>slightly</i> weakens them. Failing <i>slightly</i> strengthens them.	c. Implications for rival hypotheses: Passing <i>substantially</i> weakens them. Failing <i>somewhat</i> strengthens them.
	Yes	2. Hoop	4. Doubly Decisive
		a. Passing: Affirms relevance of hypothesis, but does not confirm it.	a. Passing: Confirms hypothesis and eliminates others.
b. Failing: Eliminates hypothesis.		b. Failing: Eliminates hypothesis.	
	c. Implications for rival hypotheses: Passing <i>somewhat</i> weakens them. Failing <i>somewhat</i> strengthens them.	c. Implications for rival hypotheses: Passing <i>eliminates</i> them. Failing <i>substantially</i> strengthens them.	

Source: Collier (2011), adapted from Bennet (2010).

Process-tracing as an analytical approach has many benefits which can help a researcher achieve his or her research objectives. It allows for the identification and description of novel political and social phenomena, it lets the researcher evaluate existing hypotheses, discover new ones and allows the assessment of causal claims and it offers insight into causal mechanisms (Collier, 2011). However, there has also been some critique on the approach, citing two main problems: the “infinite regress” problem and the “degrees of freedom” problem. The first problem suggests that with the focus on detail in process-tracing, one could eventually regress into studying an infinite number of small steps between two links in a causal mechanism (King, Keohane, & Verba, 1994). The second problem revolves around the worry that qualitative research on a small number of cases with a large number of variables would raise issues of indeterminacy, as the number of cases in a data set should be far greater than the number of variables in order to effectively test a model (Bennet, 2010). In response to these critiques, it should be stated that the important thing with process-tracing is not the amount of evidence that is analysed, but what evidence can say about a hypothesis. A researcher does not have to analyse every little piece of evidence, even one piece can strongly confirm or reject a

hypothesis. By carrying out the aforementioned tests, even a single case study can provide salient pieces of evidence (ibid).

These are also the reasons why I found process-tracing to be particularly suitable for my case study. Even though the focus is on one case, it is still possible to gather interesting pieces of evidence and piece them together to uncover the underlying causal mechanisms. The method of testing evidence is also very suitable for my research goal, as I seek to confirm or reject my hypotheses, and answer my research question based on that. Another element that makes process-tracing suitable is the necessity of descriptive inference. The complicated nature of the political and administrative situation in Bosnia and Herzegovina makes it important to have a solid descriptive foundation to build your causal inference on, which is a significant part of process-tracing. The method provides an appropriate framework by combining descriptive and causal elements, which I will further outline in the following two chapters.

5 Case description: the complicated history of Bosnia and Herzegovina

In order to gain a better understanding of how the internal political divisions of Bosnia and Herzegovina came into existence, it is necessary to dive deeper into the history of the country and to give a case description that adds context to my research. In this chapter, I will examine the history of Bosnia and Herzegovina since its independence in 1995, and the way in which the country has developed its relationship with the EU, specifically with regards to accession. I have decided to only briefly mention the pre-1995 history, as this is beyond the scope of this research, but still important to mention as it is relevant to the developments of the 1990s. For the rest of the process, I focus on the period from independence in 1995 up to 2019, as this is the relevant timeframe for the relations between the country and the EU with regards to accession. This timeframe is split up in four sections, each focussing on a different period that was important in the process leading up to 2019. By combining these areas into a broad case description, this chapter will provide a coherent overview of the situation regarding Bosnia and Herzegovina and its relationship with the EU. The descriptive overview of this process will be the basis for my analysis in the sixth chapter, where I examine the underlying causal mechanisms in the process.

5.1 1995 – 2005: Independence, Dayton and the problems that followed

When the Federal People's Republic of Yugoslavia – later renamed as the Socialist Federal Republic of Yugoslavia – was formed in 1945 under the leadership of Josip Broz Tito, the communist leader was very aware of the precarious relationship between the different people groups making up the country. Various groups fought among each other on different sides during the war, most notably the Croats and the Serbians (Levy, 2009). In the aftermath of WW2, it was important to setup a system that would keep the peace internally. Tito developed a system in which no individual group would be given preferential treatment over the others. Tito himself stated that a balance between the different groups was a crucial thing, as Yugoslavia couldn't exist without this balance (Bringa, 2004). As an extended, in-depth analysis in why Yugoslavia fell apart is outside of the scope of this research, the short version is that the balance which Tito had manufactured during his reign began to fall apart after his death in 1980 (Denitch, 1997). There are four stages of this process of disintegration that can be identified: 1) various degrees of political pluralism were introduced, which benefitted the individual republics that made up Yugoslavia, 2) precedence was given to national goals over

economic interests and political reform, 3) national states were established as ethnocracies in which citizen's rights and obligations were differentiated on along ethnic lines and 4) the question of Yugoslavia's political form was being negotiated (Pesic, 1996). These factors would eventually lead to a civil war breaking out in 1991, and Yugoslavia falling apart into a number of different states.

One of these new, independent states would become Bosnia and Herzegovina. The situation of the country was rather complicated after its formal independence in 1995, as the country formed the main battleground between Bosnian, Croatian and Serbian forces during the war. It must be noted that even though Yugoslavia formally still existed during the war, this was effectively only Serbia and Montenegro which sought to hold on to the name of Yugoslavia (EBRD, 2001). For the sake of clarity, I will define Yugoslavia here as Serbia and Montenegro. The war in Bosnia and Herzegovina was complicated because the country itself was ethnically split between three groups: 1) the Muslim Bosniaks, 2) the Bosnian Serbs and 3) the Bosnian Croats. These three groups were fighting among each other during the war, where the Bosnian Croats were supported by Croatia and the Bosnian Serbs were supported by Serbia and Montenegro (Pesic, 1996). This turned Bosnia and Herzegovina in a uniquely complicated battlefield, with the Bosniaks being caught in the middle between these two other powers (Burg & Shoup, 1999).

As Bosnia and Herzegovina was such a heterogeneous country where there was a lot of animosity between the three ethnic groups in the aftermath of the war, forming a unified state was challenging. The Dayton Agreement was signed in 1995, marking the end of hostilities in Bosnia and Herzegovina and officially granting the country independence. The Agreement also laid the foundation for the country's future administrative structure. One of the core principles of the Dayton Agreement was to decentralise power in Bosnia and Herzegovina and to create a power-sharing structure between the three dominant people groups. Because of this, the country became federally divided into two separate entities, namely the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS) (Cannon, 1995). The FBiH was predominantly made up of Bosniaks and Croats, while the RS was predominantly made up of Serbs. The aim was to create a structure in which all groups were protected, as even the largest group – the Bosniaks – could be outvoted by the Serbs and Croats, meaning every group could become a minority. This way, Bosnia and Herzegovina could exist as a unified state and could security be guaranteed (Chandler, 2000). This was the compromise that was reached with the Dayton Agreement, and considering the situation in 1995, it was the best compromise that could be agreed on by all sides. Subsequently, the country was flooded with foreign aid and

organizations who were looking to help the country rebuild. In a year's time, 17 different foreign governments, 18 UN agencies, 27 intergovernmental organizations and around 200 NGO's became involved in the reconstruction process (McMahon & Western, 2009).

Initially, the structure that was put in place by the Dayton Agreement was seen as a success, being described as an example of a successful conflict resolution negotiation (Hensel, 2017). The Agreement did put an end to the bloodshed, created an environment in which multiple municipal and national elections could be held, enabled the creation of a multi-ethnic Bosnian army, facilitated the widespread return of refugees and displaced persons and created the conditions for modest economic growth (McMahon & Western, 2009). These accomplishments were no easy feat in the post-war period considering the intensity of the war in Bosnia and Herzegovina and the dilemma of on one hand looking to unify the country, but on the other hand also seeking to protect minorities with institutional safeguards (Chandler, 2000). However, the Dayton Agreement was never meant to be a long-term instrument, but merely as a temporary solution until internal stability could be established again. The fact that the Agreement, and subsequently the constitution of Bosnia and Herzegovina too, were written in English, testifies to the temporary nature of the instrument (Hitchner, 2006).

There are a number of significant problems which find their source in the structure that was setup by the Dayton Agreement. The two main problems I will address here are those of 1) political gridlock and of 2) corruption. The first important problem is the political gridlock between the two entities and the three ethnic groups which make up the country. Bosnia and Herzegovina became a consociational democracy whose political and administrative structure was based on principles of decentralisation and power-sharing. This meant that both entities had their own government, police forces, educational systems. Power was decentralised wherever possible and quotas were adopted in national institutions to prevent any of the three groups from dominating over the others (McMahon & Western, 2009). The prime example of the power-sharing quotas is the three-member presidency, which is made up of a Bosniak president, a Croat president and a Serbian president who each have the power to veto legislation if they believe that the legislation hurts the vital interests of their ethnic group (Chandler, 2000). The same quotas are found in the Council of Ministers and in the State Parliament. In the Council of Ministers, the highest executive body of the country, no more than two-thirds of all ministers could be appointed from the Bosniak-Croat Federation – with the rest from the Republika Srpska – and deputy ministers were not allowed to be from the same ethnic group as the minister. The State Parliament also has an equal proportional division over the three ethnic groups in both its Houses (ibid). However, this consociational structure has led to

politicians and political parties to primarily focus on their ethnic groups in which they pledge to “protect” their own groups instead of advocating for greater national unity and building bridges between groups. These political and administrative are reinforcing the ethnic partitions instead of breaking them down and promoting cooperation (McMahon & Western, 2009).

The second major problem which is rooted in the Dayton Agreement is that of corruption. As public offices are allotted on the basis of ethnic quotas, a spoils system has developed that led to large-scale patronage networks and corruption (ibid). Because entities and cantons set their own budgets and have a degree of autonomy in revenue raising and developmental policies, economic power became highly decentralised and thus fragmented. This presented opportunities for politicians and public officials to engage in rent-seeking and abuse (Divjak & Pugh, 2008). The public sector grew up to the point at which it consumed almost half of the country’s GDP, a result of the inefficient power-sharing structure which created the need for tremendous amounts of civil servants (McMahon & Western, 2009). This proved to be an excellent feeding ground for corruption and an inefficient state apparatus that has a crippling effect on the economy and growth of Bosnia and Herzegovina.

5.2 2005 – 2015: Negotiating the Stability and Association Agreement (SAA)

In this section, I will further explain how the relationship between the EU and Bosnia and Herzegovina has developed throughout the years. As my research focuses on the EU accession process and negotiations of Bosnia and Herzegovina, I will primarily examine this area of the relationship. The first steps in this process were made in 1999, when the EU with the Stabilization and Association Process (SAP). This plan aimed at offering a framework for countries that have expressed the wish to join the EU. For these countries, the EU would look to negotiate Stabilization and Association Agreements (SAA’s) which could be tailor-made to suit the particular problems and needs of individual countries. By using SAA’s, the EU has the ability to exchange benefits for commitments to reforms by individual countries, and SAA’s would provide a basis for the implementation of the accession process (European Commission, 2019b). In 2000, the European Council recognized that all SAP-countries are potential candidates for EU accession, and in 2003 the European Council reiterated this by stating that the SAP will be the main framework for relations between the EU and the Western Balkans.

The negotiations for the SAA with Bosnia and Herzegovina started in 2005, but were halted in 2007 as there was a disagreement over the implementation of police reforms in Bosnia and Herzegovina, with the EU wanting to centralise the police away from the entity level of

authority and to organise the police on functional criteria rather than ethnic ones (Juncos, 2018). After solving this disagreement in 2007, the SAA was formally signed in 2008 and the then-Commissioner for Enlargement Olli Rehn would state that the SAA “will not only bring practical benefits in trade and thus for the economy, but it is also the gateway towards candidate country status for EU accession” (Euractiv, 2008). Subsequently, after the signing, several decisions were made and processes were set in motion in the period between 2008 and 2011. The process for visa liberalisation was started in 2008 and finalized in 2010, an Interim Agreement on trade and trade-related issues entered into force and Bosnia and Herzegovina and the EU signed the Instrument for Pre-accession Assistance (IPA) Framework Agreement with the country (EUD/EUSR, 2019). These steps were made under the premise that Bosnia and Herzegovina would continue their internal reform agenda in order to meet the Copenhagen Criteria for accession.

However, attempts by representatives from the three ethnic groups were largely unsuccessful when they sought to negotiate new agreements. These failures to reach important compromises became apparent on multiple occasions, most notably after the Prud and Butmir Processes. While the Prud Process did yield some successful results with regards to budget questions, a census and the status of the Brčko District, constitutional reforms were the most important part of the talks and here no agreement was reached (Zdeb, 2017). Subsequently, the Butmir Process focussed solely on the necessary constitutional reforms, but failed due to inter-ethnic competition and the amount of media attention for the process. This led to many actors using the process for self-promotion oriented towards the demands of the electorate, and not focussing reaching collective agreements (ibid). Interesting to note here is the role which the international community played in the Butmir Process. International mediators tried to put pressure on all parties involved to agree to major concessions, in order to speed up the process of constitutional changes. However, when the involved parties realised there were neither carrots nor sticks on the negotiating table, most of them walked away (Bieber, 2010).

Another infamous issue that arose in the period between 2008 and 2011 was the court case of *Sejdić and Finci v. Bosnia and Herzegovina*. The two applicants contested the 1995 Constitution of Bosnia and Herzegovina – which finds its origins in the Dayton Agreement – as the Constitution and electoral laws only allowed members from the three dominant ethnic groups to run for president or the upper house of parliament. The applicants were respectively Roma and Jewish, and stated that these provisions in the Constitutions were discriminatory and violated the European Convention on Human Rights (Claridge, 2010). In 2009, the Grand Chamber of the European Court of Human Rights agreed with the applicants in the ruling, and

this had significant effects on the reform process for Bosnia and Herzegovina. When France as the last country to ratify the SAA with Bosnia and Herzegovina in 2011, the agreement was supposed to enter into effect within 40 days. However, because the EU required Bosnia and Herzegovina to implement the *Sejdić and Finci*-ruling with an amendment to their 1995 Constitution, and because the country still had not adopted new laws with regards to state subsidies and a national census, the SAA process was frozen (ESI, 2014). In the following years, Bosnia and Herzegovina would still struggle with implementing the *Sejdić and Finci*-ruling, missing multiple deadlines which resulted in the SAA still not entering fully into force. This is the result of the inability of the party leaders from the different ethnic groups to reach a compromise, and instead focussing on protecting their own power bases (Jukic, 2012: Wakelin, 2012). At the same time, in Brussels the then-Commissioner for Enlargement Štefan Füle stated that the objectives for Bosnia and Herzegovina would not change, and that the *Sejdić and Finci*-ruling had to be implemented (European Commission, 2012).

This deadlocked situation would last until 2014, and the first signs of progress came from Croatian Foreign Minister Vesna Pusić who argued at a session of the Council of the European Union that a more proactive stance towards Bosnia and Herzegovina needs to be taken in the negotiation and accession process. She argued that the EU couldn't just put their demands on the table and "wait for something to happen", and also that the implementation of the *Sejdić and Finci*-ruling should not impede the country's progress towards becoming a candidate for EU membership (Krasnec, 2014). Subsequently, later in 2014 the Foreign Ministers of Great-Britain and Germany would take the initiative to break the deadlock with Bosnia and Herzegovina. They would propose that the SAA would fully enter into force without requiring Bosnia and Herzegovina to implement the *Sejdić and Finci*-ruling at that point in time (Bruno, 2016). However, this would only happen on the condition that all three presidents would sign a declaration in which they would commit to the reforms necessary for further European integration (Jukic, 2014). This would mean that Bosnia and Herzegovina would be able to profit from the benefits which the SAA would provide, while at the same time not lowering the standards for a candidacy status and still requiring the country to implement reforms. The three presidents would agree to this proposal, signing the declaration at the beginning of 2015 (Jukic, 2015). In June of 2015, the SAA would fully enter into force, seven years after the SAA was formally signed between the EU and Bosnia and Herzegovina.

Soon after the formal signing of the SAA, the Reform Agenda for Bosnia and Herzegovina was presented for the period 2015 – 2018, in which the three highest levels of authority in Bosnia and Herzegovina – the federal level and the two entities – committed to a

broad set of reforms. These reforms included socio-economic reforms, administrative reforms, and reforms with regards to good governance and the rule of law (EUD/EUSR, 2015). The Reform Agenda was considered by the EU to be the best opportunity for Bosnia and Herzegovina to implement reforms in a comprehensive way, as it was the result of “the most extensive consultation period Bosnia and Herzegovina has ever seen” at that point in time (Wigemark, 2015). The Reform Agenda is a good example of the effort and commitment the EU put into trying to help Bosnia and Herzegovina forward, and into trying to stimulate progress and reforms from their side.

5.3 2015 – 2016: Steps towards a candidate status

The signing of the SAA between the EU and Bosnia and Herzegovina was an important step for the country on its path towards EU membership. It provided the foundation that Bosnia and Herzegovina needed in order to become a candidate member and to eventually start negotiations with the EU on the individual chapters of the *acquis communautaire*. The *acquis communautaire*, better known as simply the *acquis*, is the set of EU legislations, legal acts and court decisions which collectively form the body of common rights and obligations that is binding to all the EU member states. Candidate countries are required to accept and implement the *acquis* before they can join the EU, needing to incorporate EU law into their national legislation (European Commission, 2016). In order to get to this stage, Bosnia and Herzegovina had to prepare its application for membership of the EU, which when accepted would give the country an official candidate status. They formally submitted their application in February of 2016, and in September of the same year the Council of the EU invited the EC to submit their opinion on the application. In the conclusion by the Council, they stated that they welcome the progress that Bosnia and Herzegovina has made, but that the country should continue to implement their Reform Agenda, and that socio-economic reforms, reforms in the area of rule of law and public administration are also necessary. The Council also noted that they would like the EC to pay special attention in their opinion to the implementation of the *Sejdić and Finci*-ruling in Bosnia and Herzegovina (European Council, 2016).

In December of 2016, the EC prepared and handed over the Questionnaire to Bosnia and Herzegovina. The Questionnaire is the tool which the EC uses to gauge a potential candidate member’s readiness and ability to implement the required changes and to prove its readiness for the *acquis*-related talks. These talks span across 33 different chapters – recently this was changed 35 different chapters as a few chapters were reorganized – and are all related

to different parts of EU law, forming the basis for the rest of the accession negotiations (European Commission, 2019c). The Questionnaire refers to these chapters, and for Bosnia and Herzegovina, the Questionnaire consisted of 3.242 questions divided over 33 chapters (EWB, 2016). By following the structure of the questions in the Questionnaire, a potential candidate member would automatically follow the structure of the criteria for EU membership. This means that the answers to the questions would give the EU a comprehensive insight into the political, legal, social, economic and administrative of a potential candidate member by assessing the answers which are provided (MVTEO, 2018). Based on this assessment, Brussels can formulate its opinion and see if it regards the potential candidate member as compatible with the rest of the EU.

In order to process and be able to provide answers to the Questionnaire, Bosnia and Herzegovina took two important measures. The first measure was setting up 33 working groups in accordance with the various chapters, where every working group would be responsible for formulating the answers – or the parts of answers – for the questions that were related to their respective group (ibid). While this measure is considered to be necessary and quite routine in order to be able to answer the questions in a proper way, the second measure provides a more interesting dimension. Because of the decentralised nature and the power-sharing structures between the ethnic groups in Bosnia and Herzegovina, the central government had to find a way in which to appease all the groups and levels of authority while at the same time staying able to deliver coherent answers to the EC on time. Considering the difficulties Bosnia and Herzegovina has had with formulating common positions on the national level, as seen with i.e. the case of the *Sejdić and Finci*-ruling in the SAA-process, this would be a difficult task.

The solution that the country found was the coordination mechanism, a system which was setup to facilitate the creation of consensus between all levels of authority within Bosnia and Herzegovina with regards to the Questionnaire. There are three central aspects with regards to the coordination mechanism: 1) the incorporation of all layers of authority, 2) the requirement of consensus and 3) the quorum requirement (Vijeće Ministara, 2016). The first aspect regards the way in which the coordination mechanism handled representation. It was decided that representatives from 14 layers of authority within Bosnia and Herzegovina would take a seat in the working groups and would get the opportunity to deliver input during the deliberations (ibid). This means that representatives from the federal level, the entity level, the canton levels – in the Federation of Bosnia and Herzegovina – and the District Brčko were all involved in the working groups. The second important part of the coordination mechanism is that it was necessary to have a consensus between all representatives from all sides within the

working groups on position and answers. The third important aspect was that all the meetings of the working groups had a quorum requirement, and the quorum requirement in the coordination mechanism was that at least one representative from each level of authority had to be present at the meeting in order for the meeting to be valid (ibid). This solution provided an inclusive arena in which all ethnic groups and different levels of authority were represented and committed towards working together on the Questionnaire.

The creation of the coordination mechanism was well-received by Brussels, with the European Parliament stating that they “welcome the agreement on setting up a coordination mechanism for EU matters aimed at improving functionality and efficiency in the accession process, including in relation to EU financial assistance, and enabling better interaction with the EU” (European Parliament, 2017). Federica Mogherini and Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn were similarly positive with regards to the coordination mechanism, stating that “the coordination mechanism aims at improving the country’s policy coordination and implementation, including as regards EU financial assistance, as well as ensuring better interaction with the EU. [...] The meaningful implementation of the reform agenda and the coordination mechanism on EU matters – together with the adaptation of the Stabilisation and Association Agreement, an agreement on which was recently initialled – are key for progress on the country’s EU accession path” (EEAS, 2016). In the following section, I will further examine how Bosnia and Herzegovina proceeded with answering the Questionnaire, how the coordination mechanism was put into practice and how in general the process developed up until 2019.

5.4 2016 – 2019: Coordinating the Questionnaire and looking for progress

With the coordination mechanism having been approved in 2016 and the Questionnaire handed over to Bosnia and Herzegovina in December of 2016, it was now the responsibility of the country to provide the EC with their answers. Receiving the Questionnaire was “one of the most important moments in the process so far”, as stated by Denis Zvizdić, the then-Chairman of the Council of Ministers in Bosnia and Herzegovina (EWB, 2016). It was also interesting to note that at the same event, Zvizdić stated that the answering of the questionnaire is the key precondition for obtaining a candidate status, and that “there are no additional conditions set by either the EC or any other European institution” (ibid). This is an interesting statement because even though Zvizdić might be right that there aren’t any other formal requirements embedded in the process, it would be hard to think that the EU would not demand any

additional reforms from Bosnia and Herzegovina before accession. The EU has made it clear with i.e. the *Sejdić and Finci*-ruling that it still requires the country to implement significant institutional and administrative reforms before it could become a candidate member. Because of this, the Questionnaire should not be seen as the only thing that has to happen before Bosnia and Herzegovina can receive its candidate status – despite what Zvizdić tries to claim – but it should be seen as a part of the broader process which the country has to go through. This broader process also includes things like executing the Reform Agenda, embarking on rigorous administrative reforms and implementing the *Sejdić and Finci*-ruling.

The process of providing the EC with answers to the Questionnaire did not proceed as quickly as some would have hoped. Bosnia and Herzegovina was supposed to deliver the answers to the Questionnaire within six months of receiving the Questionnaire (N1 Sarajevo, 2019). In February of 2017, when the coordination mechanism was being setup and the working groups were being formed to process the Questionnaire, 13 of the 14 levels of authority in Bosnia and Herzegovina had their draft replies ready and submitted into the central information system. All the draft replies together would form the basis for the further talks within the working groups. However, the Republika Srpska entity refused to submit their draft reply to the central information system and to take part in the working groups, citing two reasons. The first was that they did not recognise the data from the national census published in 2016 on the number of people in Bosnia, and the second reason was because – according to them – the working groups were not defined within the coordination mechanism yet (Lakic, 2017). The RS stated that they were afraid that their data would not be protected in the central information system if they would join the working groups, and they would only submit their data to the system when the coordination mechanism was fully setup (Interview Appendix C). As they were the owners of the data, the central government had no way of forcing the entity to submit their data beforehand. These differences had to be resolved, causing a significant delay in the process. This meant that the working groups started working in September of 2017, when a compromise was reached and the RS was prepared to submit their draft reply and join the working groups (ibid).

From September on, the process moved a lot quicker, with the answers to the Questionnaire being finalized in February of 2018 and subsequently handed over to the EC. During the process, a total of around 1300 representatives were involved in all the working groups in the coordination mechanism, with every working group numbering from 60 to 120 people (ibid). Considering that the working groups started in September, the process was effectively carried out in six months, with a consensus by all levels of authority within the

country. This could be considered as a success, as large-scale deliberations across ethnic lines have not been very successful in Bosnia and Herzegovina, as seen with the Prud and Butmir processes. However, this has to be put into perspective again, as Bosnia and Herzegovina did miss the initial six-month promises deadline, and also missed the second promised deadline in December of 2017 as a result of the delays. To make matters worse, by comparison, Serbia answered the European questionnaire in 45 working days, Croatia in three months, and Montenegro, Albania and Macedonia in four months (Lakic, 2017). When putting this alongside the fact that Bosnia and Herzegovina took over a year to answer theirs, the complexity of the situation in the country becomes painfully clear.

The answers which Bosnia and Herzegovina handed in initially did raise additional questions for the EC, who subsequently in June of 2018 handed the country a number of follow-up questions in which they sought clarification on a number of answers Bosnia and Herzegovina had provided and requested information that was still missing (Lakic, 2018). The 655 follow-up questions concerned a number of topics, but the largest category by far were follow-up questions regarding the political criteria, with 106 questions just being about that (Dragoljovic, 2019). For the follow-up questions, the government received an indicative deadline of three months, which was again missed by the government (N1 Sarajevo, 2018). One explanation for missing this deadline was the fact that there were elections held in the autumn of 2018, and that is a ‘containing period’ for the process as the working groups wouldn’t be active during this period. The answers to the follow-up questions would eventually be handed over to the EC in March of 2019 (Dragoljovic, 2019).

While Bosnia and Herzegovina was busy with answering the Questionnaire, there were also some developments in Brussels. In February of 2018, the same month as when Bosnia and Herzegovina submitted the initial answers to the Questionnaire, the EC published their new strategy for the Western Balkans called ‘A credible enlargement perspective for and enhanced EU engagement with the Western Balkans’. In this strategy, the EC stated that all Western Balkan countries will be able to join the EU in the future once they fulfil the necessary criteria, even though ‘none meet these criteria today’ (European Commission, 2018). They outline three areas in which crucial reforms and progress are still necessary if the Western Balkan countries want to meet the necessary criteria, namely 1) the rule of law, 2) the regional economy, 3) regional cooperation and reconciliation (ibid). While the lack of a competitive economy troubles all countries in the region, and that bilateral disputes – most notably between Serbia and Kosovo – need to be resolved, in the case of Bosnia and Herzegovina the strategy again emphasised the need for reforms of the democratic system and the public administration.

Specifically, with regards to the public administration reforms, the strategy listed a number of import reforms that need to happen: 1) increasing the quality and accountability of administration, 2) increasing professionalism, 3) de-politicisation and transparency, also in recruitment and dismissals, 4) more transparent management of public finances, 5) better services for citizens and 6) an appropriate balance between central, regional and local government (ibid).

These reforms within the field of public administration which the EC pointed out are especially interesting when looking at the situation in Bosnia and Herzegovina and what the country has to do to take significant steps forward in the process. The fact that the EC points these reforms out indicates how important they are for the general strategy of the EU with regards to the region and to Bosnia and Herzegovina, and how necessary it is for the country to make progress in this field if they want to receive a candidate status. MEP's have also expressed their concern with the speed at which Bosnia and Herzegovina is implementing reforms, stating that there has been a considerable slowdown in implementing reforms since mid-2017 (European Parliament, 2019). The MEP's also referred to the aforementioned elections in the autumn of 2018 and expressed their concerns with the ethno-nationalistic rhetoric used by parties who were ‘‘too focused on divisive issues linked to the past, rather than on proposing solutions to the daily concerns of BiH citizens’’ (ibid).

The real question then becomes how much reforms and progress there has been since the adoption of the Reform Agenda, which was an important piece which the EU supported and that outlined a set of reforms for Bosnia and Herzegovina. It would seem that the Reform Agenda has not delivered the necessary stimulus for the country to make real headway with reforms, and one interesting analysis suggests that EU officials are partly to blame due to three reasons. First, the EU did not stick to the strict conditionality it advocated earlier in the process, and lowered the bar as the process went along and resorted to negotiating with politicians and officials from Bosnia and Herzegovina behind closed doors. Second, the stance of the EU began to diverge from the stance of the International Financial Institutions (IFI's) – most prominently the IMF – who wanted to adhere to the strict demands of conditionality. Instead, the EU, looking to relax the conditionality requirements, pressured the IMF into softening its demands for strict financial conditionality. Thirdly, the requirements for rule of law reforms in the Reform Agenda were quite weak, which led to the situation in which a weak foundation for systemic reform was created (Weber, 2018). One example of the EU lowering the bar would be the fact that the European Council invited the EC to submit its Opinion on Bosnia and

Herzegovina's application for EU membership in 2016, even though many reforms were still waiting to happen.

Most recent developments would again suggest that Bosnia and Herzegovina still has a lot to do if it would want to receive its candidate status and eventually become an EU member state. In May of 2019, the EC published its official Opinion on the application of the country for EU membership. This Opinion was long-awaited by Bosnia and Herzegovina, as it would mark the first moment of feedback from the EC after handing in their answers to the Questionnaire. The major takeaway from the Opinion is that Bosnia and Herzegovina has not yet sufficiently fulfilled the necessary criteria, and that the accession process cannot yet be opened until a necessary degree of compliance has been achieved, in particular with the Copenhagen political criteria set which require the stability of institutions guaranteeing democracy and the rule of law (European Commission, 2019d).

The Opinion provides a comprehensive analysis of the political criteria and the conditions of the SAA which contains a number of statements which are very relevant to this research. First, commenting on the internal administrative structure of the country, the Opinion professedly states that “the country faces a number of structural issues stemming from its complex institutional set-up coupled with ethnicity-related procedures that adversely affect its functionality” (ibid). A good example which the Opinion also mentions is the *Sejdić and Finci*-ruling which shows that the 1995 Constitution has certain discriminatory provisions in it with regards to the ethnic divisions within the country and its political and administrative structure. The EC states that the ethnic criteria, which are the basis for the composition and decision-making of several administrative bodies, risks affecting the implementation of the *acquis* (ibid). Second, because of the decentralised nature of the country and the division of competencies between the state level and the entities, disputes often arise stemming from this distribution which negatively impact the effective implementation of the *acquis*. Especially worrying is the fact that there is no existing procedure at the state level to prevent and remedy breaches of EU law by other levels of government, as the country would be held liable as a whole (ibid). Third, at the executive level, coordination between all 14 levels of authority is lacking as a result of weak administrative capacity and ineffective coordination. This is very noticeable at the cantonal level, where the capacity to deliver on EU membership obligations is insufficient. The EC states that a decentralised state structure is compatible with the EU, but if Bosnia and Herzegovina wants to effectively participate in EU decision-making and be able to implement the *acquis*, it needs to reform. This becomes especially important if the country would be a member state in the future and there are decisions to be made on the European level that require

unanimity from all member states. One member state that is unable to form a coherent position in such a situation could pose risks for the EU as a whole. Even though Bosnia and Herzegovina has made steps with the coordination mechanism, there is still a lot that has happen to strengthen the country's administrative capacity and to make sure it can fully function in the European context (ibid).

The Opinion concludes by summarizing a number of key priorities to improve the legislative and institutional framework of Bosnia and Herzegovina, primarily focussing on democracy and functionality, rule of law, fundamental rights and public administration. The important message to remember of the Opinion is that a candidate status for Bosnia and Herzegovina is not on the table yet, and that the country has to progress at a faster rate than it is doing. The fact that at this moment the country is only ‘moderately prepared’ in two of the 40 areas described in the Opinion – those being free movement of capital and intellectual property law – and them being at an early stage or having ‘some level of preparation’ for the other 38 speaks volumes (ibid). In the meantime, all other countries in the Western Balkan region are making steps towards future EU membership, with only Bosnia and Herzegovina lagging behind together with Kosovo (Interview Appendix F). As I mentioned in my introduction, the fact that Bosnia and Herzegovina is at the same level as a country that is barely a decade old and still has its independence disputed also exemplifies the complexity of the country and the situation.

6 Analysis

In this chapter, I will offer a further analysis of what specifically has been happening in the relationship between the EU and Bosnia and Herzegovina with regards to the accession process. I will focus on the underlying causal mechanisms of the case, tying them to the literature which I outlined in my second chapter and to my conceptual framework and hypotheses from the third chapter. This chapter will be divided into four sections, with the first three sections each revolving around one of my hypotheses. In these sections, I will highlight and explain which causal mechanisms are to be observed in relation to the case of Bosnia and Herzegovina. This will be done by testing the pieces of evidence which I have put together in the previous chapter to see if my three hypotheses will either be confirmed or rejected. In the fourth section, I will answer my main research question by bringing all elements from my analysis together. The three hypotheses which I will base the analysis around are: 1) *‘‘The consociational power-sharing structure of Bosnia and Herzegovina is hampering the country’s ability and progress towards fulfilling the accession requirements of the European Union’’*, 2) *‘‘Measures grounded in EU conditionality have so far been ineffective at stimulating Bosnia and Herzegovina to commit to implementing significant reforms’’* and 3) *‘‘A lack of overlapping win-sets at Level 2 within Bosnia and Herzegovina makes it difficult for effective negotiations to take place with the European Union at Level 1’’*.

6.1 The consequences of consociational power-sharing

My first hypothesis primarily revolves around the influence of the consociational power-sharing construct within Bosnia and Herzegovina on the country’s ability to form a common stance towards the EU, and how they are able to effectively meet the requirements which the EU has for the country. When looking at how the process has developed in the past, but also in recent years, I would argue that the consociational power-sharing structure indeed has a significant impact on the country’s ability to effectively communicate with the EU and to implement changes. First off, what becomes apparent is that at the political and administrative level, the concept that Bosnia and Herzegovina is based on a consociational power-sharing construct is something that is certain. In my second interview, my respondent aptly stated how Bosnia and Herzegovina’s current power-sharing structure results into *‘‘having two different legal orders [...] You have no Supreme Court, you have no single legal space, you don’t have a single market in Bosnia [...] There are a lot of things which Bosnia does not have in practical*

terms, and those are all things that have to change” (Interview Appendix D). This quote says a lot about the effect that the power-sharing structure has on the country, and things like the ethnic power-sharing quotas reinforce the consociational system that exists in the country (Chandler, 2000; McMahon & Western, 2009).

When I am looking to tie the internal consociational system to the effectiveness of the government to implement the requirements for EU accession and the ability effectively communicate with the EU, the most important piece of evidence for this hypothesis is the presence and functioning of the coordination mechanism. I would argue that the coordination mechanism hampered progress as the embodiment of the consociational power-sharing structure, and I would argue that it is a smoking-gun type of evidence. One reason is how the mechanism was created with the goal of creating a systematic solution to make Bosnia and Herzegovina able to “speak with one voice towards the EU” (Interview Appendix C). By setting up the working groups, having representatives from each level of authority in every working group and having a quorum in order to be able to meet, this shows to what extent the government had to go internally to get the coordination mechanism setup. However, the consequence for the process was that “the coordination mechanism that was ultimately negotiated internally in Bosnia and Herzegovina, is a result of large political compromises. [...] It is setup to be very complex, heavy, and in terms of the decision-making process, very lengthy. Because what it assumes, is the consensus of all appointed representatives on all levels, in all bodies foreseen by the coordinating mechanism” (ibid).

The effect which the coordination mechanism has on the process of engaging with the EU cannot be understated. One telling example of this effect was the time it took Bosnia and Herzegovina to answer the Questionnaire it received from the EC. It took the country over a year to deliver their initial answers to the Questionnaire – disregarding the follow-up questions and the fact that the country even left some initial questions unanswered – while, by comparison, it took Serbia 45 working days to answer theirs, and the second longest were Albania, Montenegro and Macedonia who took four months (Lakic, 2017). In the recent Opinion by the EC on the membership application of Bosnia and Herzegovina, they also stated how long it took the country to submit all their answers, and that “despite the establishment of a coordination mechanism on EU matters, the authorities could not agree to submit answers to 22 questions” (European Commission, 2019d). This kind of performance reflects poorly on Bosnia and Herzegovina, and would only give the EU more reason to doubt the readiness of the country for a candidate status and eventual membership. It raises questions on the EU’s side with regards to the commitment which Bosnia and Herzegovina is showing, and there are

doubts in general about the commitment of Bosnia and Herzegovina (Interview Appendix D & F). As one of my respondents also stated, Bosnia and Herzegovina “didn’t even manage and left to answer the last twenty questions, which says a lot about the commitment, or lack of commitment to the EU accession process of the B&H government [...] There is some kind of belief that the Commission in the end will just say ‘okay, the rules won’t apply to you’, but that is not the case” (Interview Appendix D). I would argue that this passes the smoking-gun test, and that it confirms the main hypothesis of this section.

A second piece of evidence which I want to bring up is an explanation offered by my fourth respondent with regards to the coordination mechanism. The respondent suggested that the coordination mechanism might play a role in the bad performance of Bosnia and Herzegovina when they were answering the Questionnaire, but that the lack of experience within the government can also be an explanation for taking so long (Interview Appendix F). It is an interesting alternative hypothesis, but when putting it through the hoop test, there are some problems that arise. First off, as I have shown by comparing the time Bosnia and Herzegovina took compared to other countries in the region, the country took more than double the time to just answer the initial questions. On top of that, my first respondent stated how the process was delayed for half a year because the Republika Srpska did not want to take part in the working groups until the coordination mechanism was fully established (Interview Appendix C). This shows that it was the consequence of an internal dispute that the working groups did not start work earlier, and it would be hard to imagine that more than a doubling in the time needed to answer the Questionnaire would just be caused by inexperience, while other countries in the region lack the same experience. Because of this, the alternative hypothesis does not pass the hoop test, which strengthens my argument that the power-sharing structure is the main source of negative impact on the accession process.

The third piece of evidence I would cite is the elitist characteristic of the consociational power-sharing structure. The importance of elites is inherent to consociational structures as they are responsible for ensuring stability by forming executive coalitions in which leaders of all main social groups are represented (Bogaards, 2000). By carrying out a hoop test, I want to examine if there is indeed an elitist game to be observed, as failing the test would mean that the consociational structure could not be responsible for the poor progress in the EU accession process. When looking at Bosnia and Herzegovina, we see these executive coalitions take shape at the federal level with i.e. the three-headed presidency and the ethnic quotas in parliament (Chandler, 2000). My third respondent confirmed that “the relationship at the moment is very much elitist in the sense that it only exists with the governments, it doesn’t

necessarily exist with the civil society actors or with civil society as a whole” (Interview Appendix E). In this context, the elites are another factor which are reinforcing the consociational power-sharing structure, and thus reinforcing the system which makes effective progress difficult. This means that the elitist characteristic passes the hoop test, affirming the relevance of my main hypothesis.

A fourth piece of evidence which is important for this section is what the EU has been saying about the readiness of Bosnia and Herzegovina to become a member. To look at the latest state of affairs regarding the position of the EU, we should turn to the published Opinion of the EC on the membership application of Bosnia and Herzegovina. From the Opinion, it becomes clear that Bosnia and Herzegovina is not ready to be a candidate any time soon, and that it “does not yet sufficiently fulfil the criteria related to the stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities” (European Commission, 2019d). The *Sejdić and Finci*-case is a good example of this, showing how the country could not implement the ruling because of internal differences which caused a significant delay in the EU accession process for Bosnia and Herzegovina (Interview Appendix E). The country finds itself in a problematic situation as it is hard to reform the country because of all the institutional safeguards, i.e. the veto powers and ethnic quotas. The consequence is that the lack of reform is severely hampering the chances of the country to become a candidate, and to eventually become a member state. The fact that the EU is openly communicating this in their statements is an important sign, and that is why this piece of evidence is also passes the smoking-gun test, and also confirms the main hypothesis.

The root of the inability to effectively answer the Questionnaire and interact with the EU stems from the coordination mechanism and the consociational power-sharing that seeped into so many facets of decision-making in Bosnia and Herzegovina. Going back to the literature, it becomes quite apparent that Bosnia and Herzegovina is indeed a federation which is more based along the concept of “holding-together”, instead of having a common vision which unites the people (Keil, 2013b). This is again related to the observed tension between power-sharing structures and democracy, as cross-communal progress is difficult to achieve because politicians focus on their own power ethnic power bases (Bogaards, 2006). As my second respondent stated, “it is basically the fact that we can’t trust that what one member of the presidency says, that the other two agree” (Interview Appendix D). I will focus more on this in the following section regarding conditionality, but what becomes apparent is that there is no mass mobilisation for the idea of EU integration, and the relationship between Bosnia and Herzegovina and the EU is rather elitist (Interview Appendix E). This is in line with the

consociational concept of elite accommodation, but the result is that the masses are not engaged and civil society plays a rather weak role in contributing to the process and exerting a controlling role on the reforms that Bosnia and Herzegovina has to make (Interview Appendix E & F). In this context, the consociational power-sharing is preventing any shifts towards a more integrative approach across ethnic lines, and instead reinforcing them. This becomes very apparent with the coordination mechanism, which strongly adheres to quotas based on levels of authority which are formed over ethnic lines (Interview Appendix C).

Bringing it all back together to the main hypothesis of this section: *“The consociational power-sharing structure of Bosnia and Herzegovina is hampering the country’s ability and progress towards fulfilling the accession requirements of the European Union.”* I consider this hypothesis to be confirmed based on the evidence I presented in this section. The main problem which this section illustrates is the tension between the current institutional and political arrangement on one end, and what is necessary in order to simulate reforms on the other end. A more integrative approach would benefit progress in the sense that reforms should be easier to pass and implement, but the current consociational system does not reward politicians and parties who promote and have the ability to implement cross-communal policies. This has produced a situation from which it is very difficult to break free, as that would require the three main ethnic parties and party leaders to give up their secure power base in favour of uncertain medium and long-term perspectives with regards to EU accession.

6.2 The impact of European Union conditionality

My second hypothesis primarily focusses on the EU side of the coin, and how the EU has used conditionality and if this has been effective with regards to Bosnia and Herzegovina. My hypothesis claims that the measures which have been taken so far as a result of the EU conditionality have been ineffective at stimulating Bosnia and Herzegovina to reform. There are a number of important measures that are grounded in conditionality which have been taken with regards to Bosnia and Herzegovina. A few prominent examples are the visa liberalisation process and the *Sejdić and Finci*-ruling, but also in general the reforms which the EU is looking to stimulate in the areas like the economy, rule of law and public administration (European Commission, 2018). Many of these reforms are required by the EU of countries who seek membership to make sure a potential member state is capable of successfully integrating and implementing the *acquis*. However, the main thing with conditionality is that it has to be appealing for countries to implement the requirements set by the EU. As my second respondent

stated, “the basis for conditionality is that the country and the administrations will implement the conditions set by the EU because they think it is either good for them, or they think they get something in return for it. Or they believe it will be bad for them if they don’t do that. That is the basic premise of the conditionality” (Interview Appendix D). Working from this basis, I will look at a few pieces of evidence and try to confirm or reject my hypothesis that EU conditionality has proven to be ineffective at stimulating Bosnia and Herzegovina.

The first piece of evidence is the issue of high domestic costs of rule adoption in Bosnia and Herzegovina to bring about reform and change. This builds on what I touched upon in the previous section, which is that because of the consociational power-sharing structure it is very difficult to bring about reform, and that the required costs for reform are rather large. These costs usually translate to some form of political capital, with i.e. established political leaders having to give up their power base (Schimmelfennig & Sedelmeier, 2004). One interesting observation is that the costs for democratic conditionality are usually high for authoritarian regimes, but that in the previous section we established that consociationalist power-sharing also is at odds with democracy, which makes it possible to draw a parallel in this context with the same issues that authoritarian regimes face. For this piece of evidence, I would conduct a straw-in-the-wind test, as the presence of high domestic costs does affirm the relevance, but does not confirm the hypothesis. I would argue that there are high domestic costs because of the consociational fashion in which the country is constructed, as I have examined in the previous section. This results into high domestic costs, as it is not very appealing for the status quo to implement changes that eat away at their power base.

The second piece of evidence is closely related to the first one, and this is that the EU is lacking a coherent strategy for the Western Balkans on the long term. This is a critique which I heard often during my interviews, best summarized by my third respondent: “I would also argue that the EU did not really have this really set of long-term planning process. I mean, for them it is really a ticking of the boxes, unless you do this, this and this, having very little vision with what happens with the country and the region as a whole” (Interview Appendix E). While the EU has published and helped with many plans for reform for Bosnia and Herzegovina, there is a point to be made that an overall strategy and vision is lacking in the process. One of the signs for this is the ad hoc nature of some choices made on the side of Brussels, which was i.e. done with the relaxation of the financial conditionality rules for Bosnia and Herzegovina (Weber, 2018). This showed how the EU would change up its policies, and my third respondent also remarked how “every time you think you have fulfilled these certain conditions,

something else will come up” (Interview Appendix E). This was supposedly done by the EU to coerce Bosnia and Herzegovina into implementing more and more reforms, but it did not work out that way. Here the problem of short versus long-term perspective which was illustrated by Džihic & Wieser (2011) comes into play. By pushing the dot on the horizon further and further, the actors driving the change forward become discouraged because the benefits become less and less clear. This leads to diminishing returns, which in turn hampers the democratizing effect of the conditionality. I am applying a straw-in-the-wind test to this piece of evidence, and I argue that it passed this test due to the fact that it becomes apparent that the EU could significantly enhance their side of the bargain by developing a more coherent strategy with regards to accession for Bosnia and Herzegovina.

The third piece of evidence, which is arguably the most important, is the politicisation of conditionality in Bosnia and Herzegovina. The primary trigger for this piece of evidence was a quote by my first respondent: “Every time that the EU poses a condition towards Bosnia and Herzegovina, that condition becomes a tool for internal power plays” (Interview Appendix C). The way in which conditionality is being used is not just as a neutral tool to stimulate reform, but it turned into a political tool used by internal forces within Bosnia and Herzegovina to promote their own agendas. One example is with the coordination mechanism, where Republika Srpska refused to participate in the working groups, effectively holding the process hostage until some concessions were made to them (ibid). A different example is the *Sejdić and Finčić*-ruling, where a judicial ruling became very political as politicians within Bosnia and Herzegovina used the ruling for their own agendas (ibid). This was possible because the EU made the ruling a condition that had to be met before the rest of the process could continue, which effectively stalled the process for four years as politicians could not reach a compromise (Appendix Interview C & D). I am applying the smoking-gun test to this evidence as it says a lot about the effectiveness of the conditionality. In general, it becomes clear that when the EU tries to prescribe solutions for Bosnia and Herzegovina, these solutions have only made the situation worse and prolonged the process, from the police reforms to the *Sejdić and Finčić*-case (Appendix Interview C). This means that conditionality has not had the effect that it intended, and that there are some significant issues with the way it is being used to stimulate Bosnia and Herzegovina to make progress. Because of this, I argue that this evidence passes the smoking-gun test, and confirms the main hypothesis here that EU conditionality has so far been rather ineffective.

Going back to the literature on EU conditionality, we see some other important aspects developing in the relationship between the EU and Bosnia and Herzegovina. First, regarding

the interactivity of the process, we thoroughly examined what is happening in Bosnia and Herzegovina with regards to the power-sharing and the internal competition between ethnic groups. However, the political dynamics in Europe have also changed with the most recent European elections. The results from this last election have only worsened the outlook for the Western Balkans, as parties who are critical of further enlargement have been growing (Garcevic, 2019). It will also be the question, when the new Commission gets installed, if there will be a successor for Johannes Hahn, the current Commissioner responsible for Enlargement (Appendix Interview F). This is going to have a big impact on the course for the coming few years with regards to the accession process and conditionality. Another aspect from the literature that should be touched upon is that of credibility. Especially the second piece of evidence has shown that there is a fundamental lack in credibility with regards to what the plans of Brussels are for Bosnia and Herzegovina. One interesting observation from my second respondent is that Bosnians have to realise that the candidacy offer is not on the table with the current climate – the latest Opinion confirmed this too – and that they have to take steps themselves to align themselves with the EU without expecting to become a member any time soon (Appendix Interview D). Bosnia and Herzegovina can make itself more credible by taking these steps and stopping with “criticising each other internally, and to demand from the EU to pick one of the three or four sides” as this is only acts counterproductive (ibid).

Going back to my main hypothesis for this section which was the following: *‘Measures grounded in EU conditionality have so far been ineffective at stimulating Bosnia and Herzegovina to commit to implementing significant reforms’*. I consider this hypothesis as confirmed based on the evidence I presented previously in this section. Even though there are some examples of conditionality that provided positive results – like the visa liberalisation – these are rare and short-term. Conditionality has to be a long-term process of stimulating Bosnia and Herzegovina to take steps towards reforming and preparing the country for EU membership, and the conditionality mechanisms are currently not effective with regards to this aspect.

6.3 Win-sets influencing the effectiveness of negotiations

My third main hypothesis revolves around the idea that the lack of overlapping win-sets at Level 2 within Bosnia and Herzegovina hampers effective negotiations at Level 1 with the EU. As I explained in chapters two and three, I argue that in the multilevel environment of Bosnia and Herzegovina and the EU there is effectively a three-level game taking place between both

sides. For a schematic overview of the three-level game, go to section 2.3. The win-sets at Level 2 are influenced by Level 3, which is the level of civil society and voters in Bosnia and Herzegovina. Level 2 of the country is the level where all 13 non-national levels of authority reside in, which are the two entities, the ten cantons and the Brčko District. While Bosnia and Herzegovina has not opened formal *acquis* negotiations with the EU yet, there have already been a number of negotiations with regards to the SAA and a few other measures. However, in this section I will mostly focus on the conceptual level of the negotiations and the win-sets.

The first piece of evidence that I would bring up is the role of the civil society at Level 3. For a country that has so much to gain from EU membership, it is rather surprising to find out that the role of civil society is relatively weak within the country. It has been part of a declining trend, where civil society was much stronger surrounding the years 2007 and 2008, but have since then become significantly weaker (Interview Appendix E). One good example with regards to the accession process is when comparing the amount of civil societies present at the Berlin Process, my fourth respondent would state “I have to say that the number of Bosnian civil society organisations who work on these issues is smaller than from other countries, and certainly not as prominent as in other countries” (Interview Appendix F). The consequences of this are twofold: on one end, a weaker civil society means that there is less control and monitoring on the progress with reforms that the government is supposed to make (ibid). On the other end, and this is important, less input from Level 3 would imply that the win-sets at Level 2 get bigger as there are less constrictions being imposed by organisations at Level 3. When layers of government are not being held accountable by civil society, then government has more room to move. As I assumed beforehand that civil society from Level 3 was an important factor in restricting the win-sets at Level 2, when carrying out a straw-in-the-wind test, it then becomes apparent that the main hypothesis does not pass this test. Even though a strong or weak civil society does not directly confirm or reject this hypothesis, it does weaken it somewhat in this case.

The second piece of evidence that I considered for my main hypothesis was the other major source of input at Level 3, which are the voters. Politicians at Level 2 have to take their voter bases into account when taking positions, as positions that are viewed as unfavourable by a majority of voters could mean that the politician loses the next election. This is very important in a country like Bosnia and Herzegovina, as elections are relatively regular and polarised (Interview Appendix C). The fundamental problem here is that voter bases run along ethnic lines, and that cantons and entities are in large part also divided over these ethnic lines. This traces back to the consociational power-sharing system, where I would argue that in the

case of Bosnia and Herzegovina the win-sets of different levels of authority at Level 2 – and thus of the dominant ethnic party per level of authority – have very little overlap. The win-sets are fundamentally different because of the ethnic divides and politicians using these divides to reinforce their own power bases (Interview Appendix F). The result is that politicians from Level 2 will seek voter approval from Level 3, and thus narrow the win-sets which in turn make effective negotiations at Level 1 difficult. What makes this arrangement even more complicated is that because of factors like the rotating presidency, representatives at Level 2 each have their own representative at Level 1, which splits Level 1 into three segments which each have their own interests. A good example of this is with the case of answering the Questionnaire, as even after two and a half years, Bosnia and Herzegovina was still unable to provide answers to a few questions on the Questionnaire due to internal disagreements. The same was seen with the *Sejdić and Finci*-case, where the inability to find common ground at Level 2 led to a delay of four years at Level 1. I would apply a smoking-gun test to this evidence, and argue that this evidence passes the test. When considering how strong the influence of the ethnic division is on the behaviour of politicians, it has a significant effect on the ability to effectively negotiate with the EU on the highest level. Going back to the quote from my second respondent, ‘‘it is basically the fact that we can’t trust that what one member of the presidency says, that the other two agree’’ (Interview Appendix D).

Connecting this to the theory surrounding two- and three-level games, what would be interesting to see is how negotiators from Bosnia and Herzegovina behave when negotiating with the EU. As the EU knows that the country is very divided, negotiators from Bosnia and Herzegovina could use this to their advantage by creating the perception that their win-sets are relatively small and thus hope that the EU will move more their way (Putnam, 1988). This is still very risky, as it would more likely cause a deadlock as the public support for enlargement isn’t that high at the moment, and thus the EU would not feel pressure to cave in to Bosnian demands. It would be interesting to compare this to the experiences with the previous enlargement in Eastern Europe, as subpar outcomes were accepted during that time to speed up enlargement (Vachudova, 2014). It seems very unlikely that the EU would accept similar outcomes this time around, and would thus be stricter to avoid past mistakes.

Going back to the main hypothesis of this section, which was the following: ‘‘*A lack of overlapping win-sets at Level 2 within Bosnia and Herzegovina makes it difficult for effective negotiations to take place with the European Union at Level 1*’’. Even though my initial expectation for this hypothesis was different as I would have expected a more prominent role from civil society, the explanation with regards to voter bases and ‘‘ethnic win-sets’’ is even

more interesting as it adds a new dimension to the role of the internal divisions of the country. Therefore, I would consider this hypothesis as confirmed, but with an asterisk: because there have not been any ‘real negotiations’ yet in terms of the *acquis*, this hypothesis focusses more on a theoretical explanation of how the process could be explained when these formal negotiations were to start.

7 Discussion: Bosnia and Herzegovina in a state of limbo

In this section I will return to my main research question and provide an answer based on the analysis which I carried out in the previous chapter. I will also discuss some other interesting things that came up as a result of this research, and try to provide some broader explanations for my findings. The research question was: “*What is the effect of the political and administrative division of Bosnia and Herzegovina on its relationship with the EU and progress towards membership?*” First off, it has become quite clear that there are some interesting effects to be observed with regards to this relationship. There are three main causal mechanisms which I discerned in my analysis which tie the political and administrative division of the country to its relationship with the EU. These are: 1) the consociational power-sharing structure, 2) European Union conditionality and 3) the three-level game.

The most important factor in the entire case has to be the consociational power-sharing structure which influences decision-making at every level. The pervasiveness of the ethnic division in the country is made very clear when focussing on this structure, and it is significantly hampering the ability of the country to effectively engage in the implementation of reforms. One of the most relevant quotes was by my second respondent, who said the following about the EU membership process of Bosnia and Herzegovina: “there is a promise of EU membership, but most of the people who work on Bosnia in Brussels and in the EU member states, they don’t believe that Bosnia and Herzegovina can join with the current constitutional framework, or with the current decision-making process as a federal state. But at the same time, they don’t see a clear path or roadmap to reconcile those two things. Basically, Bosnia is being kept in a limbo of that situation” (Interview Appendix D). This state of limbo is one of the central takeaways from this research, that the political and administrative division of Bosnia and Herzegovina is keeping the country in a state of limbo between on one side the country’s troubled past and fragile balance, and on the other side the promise of a better future within the EU.

The country is having a lot of difficulty trying to break out of this state of limbo, as radical change and reform risks to destabilize the country and to endanger the fragile internal peace. However, at the same time it becomes very difficult for the country to make any progress with regards to EU accession, because preparing the country for the implementation of the *acquis* and meeting all other requirements makes it necessary to implement some impactful reforms. Croatia went through the same process, having to amend its constitution on a few things and having to implement a lot of radical reforms (Interview Appendix C & F). However,

Croatia does not have to deal with the same kind of internal power-sharing structure and ethnic divides as Bosnia and Herzegovina has. No other country in the region has to deal with similar issues, which also yields problems for the EU as they have little experience dealing with federal countries that have such a troubled past applying for membership. This could in part explain why EU conditionality has proven to be so ineffective in the context of Bosnia and Herzegovina, but the main problem is that it is ineffective and often even counterproductive. Here, the internal politicisation of EU conditionality plays a role, and the conditionality in a sense is the perfect example of where the two elements of Bosnia and Herzegovina's state of limbo meet. On one end, there is the helping hand of the EU trying to help the country forward, and from the other end come the old ethnic groups and divides, led by nationalistic leaders who seek to protect their power base and misuse the opportunities which EU conditionality offers. There is a constant tug of war taking place between these two factors, and here Bosnia and Herzegovina should take on the responsibility of guiding the process. As my fourth respondent stated, it is now the task of Bosnia and Herzegovina to prove to the EU that it can take on the obligations that come with the accession process, and that it can stick to the agreements it closes (Interview Appendix F).

The coordination mechanism is one of the more interesting phenomena which I researched, and even though I critique the mechanism, there is also a positive side that has to be mentioned. The coordination mechanism is indeed slow, lengthy, unwieldy and in general very unpractical to deal with a process like the EU accession process, but it at least is a step towards progress. Even though the mechanism reinforces the current political and administrative divisions, the EU accession process is forcing representatives from all levels of authority to work together, which could lead to more cooperative attitudes in the future (Interview Appendix D). My second respondent painted this as the choice between being an idealist, saying that there should be cooperation between representatives from different layers of authority without the EU accession process forcing them to come together, and being a realist, and see it as a success of the process of answering the Questionnaire (ibid). However, I would still argue that even though steps are made, this should not be a reason to celebrate a construct that reinforces the ethnic divides on which it is based. The very same was observed with the three-level games, where powerful politicians would staunchly protect the interests of their ethnic groups. This kind of politics is very difficult to put a stop to, and even though parties like *Nasa Stranka* and politicians like Željko Komšić offer alternatives, they are still a significant minority within Bosnia and Herzegovina (Interview Appendix F).

The three main causal mechanisms each provide a partial answer to my research question. When bringing them all together into one coherent answer, I would argue that the effect of the political and administrative division of Bosnia and Herzegovina on its relationship with the EU and progress towards membership is that consociational and ethnic power-sharing structures are forcing the country into a slow and inefficient process with regards to becoming a member of the EU. The structures are reinforcing the existing divisions between ethnic groups, which impedes progress as reforms and cooperation is necessary that reaches across ethnic lines. Subsequently, the EU conditionality is misused by internal political actors within Bosnia and Herzegovina to advance their own agenda, which causes delays and distortions in the EU accession process. These delays and distortions cause distrust in Brussels, which makes the process even more difficult as more doubts regarding commitment on both sides start to arise. Finally, political leaders who operate from an ethnic power base of voters make use of an ‘us versus them’- rhetoric, further reinforcing the ethnic divisions within the country and making it harder to find common ground between groups. This is in turn translated to higher levels of authority, where cooperation becomes difficult because of the entrenched ethnic positions which nationalistic leaders have taken. This makes it hard to setup and pass reforms, as reform processes require broader support outside of one’s own ethnic group.

When looking at the future, it is a difficult question what should happen in Bosnia and Herzegovina, but also in the EU if progress must be made. For the EU, it would be advisable to develop a more coherent long-term strategy for the wider Western Balkan region, and for Bosnia and Herzegovina, so that there is a structured roadmap to follow for the future. For Bosnia and Herzegovina, the question is a bit more difficult. One would argue that the way in which Bosnia and Herzegovina is internally structured is only of concern to the country itself, as long as the country can adhere to the EU standards and implement the *acquis* (Interview Appendix C). Another would state that it is just important that you need to convince 28 other member states and Brussels that you are capable to make decisions, to take on obligations and stick to the obligations which it has taken (Interview Appendix D). However, one thing everybody agrees on is the necessity of reforms in multiple areas, from rule of law to the socioeconomic field, to prepare Bosnia and Herzegovina for EU membership in the future.

8 Conclusion

My research revolved around uncovering which causal mechanisms can explain the influence which the political and administrative division of Bosnia and Herzegovina had on its relationship with the EU and its progress towards membership. My main research question was as follows: ‘*What is the effect of the political and administrative division of Bosnia and Herzegovina on its relationship with the EU and progress towards membership?*’ My main answer to the research question is that the power-sharing structures, which are based on ethnic divides, form an impediment for the government of Bosnia and Herzegovina to effectively progress along the path of EU accession. I uncovered in my research how consociational power-sharing structures, EU conditionality and three-level games all play a role in hampering the progress that Bosnia and Herzegovina can make with regards to eventually becoming a member of the EU. By focussing on the case of Bosnia and Herzegovina, I have made relevant contributions to the knowledge about the country, its internal dynamics and problems, and its relationship with the EU. Academically, I would argue that I have been quite successful in providing an interesting application of the theories. The gap which existed in recent years with regards to academic research into the EU accession process of Bosnia and Herzegovina is one of the important contributions of this research, especially as the timing of many important developments in the first half of 2019 was rather fortuitous.

Furthermore, the academic context of my thesis was very important as it provided me with a solid foundation on top of which I could carry out my research. Regarding the theory of federalism and consociational power-sharing, I would argue that the recent developments in Bosnia and Herzegovina should serve as another example which can be used academically to evaluate the desirability of power-sharing structures which run along ethnic lines. Especially when combining it with the concept of EU conditionality, putting these two theories together is one of the unique academic contributions of this research as it shows how consociational power-sharing structures can also lead to measures like EU conditionality being used for internal ethno-political power plays. This is also interesting for the existing academic knowledge on EU conditionality in of itself, as now with the Western Balkan region, the EU just started writing a whole new chapter in its experiences with conditionality. This research contributes to that knowledge, as research from the past into the last big enlargement – the Eastern European enlargement – has been done in quite a different European political context than the current one. The political climate at that time was a lot more positive towards enlargement than it is now, and the EU has to deal with a lack of majority support for

enlargement if it decides to continue on with the process. The problems which the Western Balkans are dealing with are also quite different than those of the Eastern European countries due to its complicated wartime history, adding another dimension which makes examining the effectiveness of conditionality interesting.

Even though this research produces interesting and original findings, we must be careful with drawing broader conclusions from this research, as it still is a single case study and therefore the results cannot be generalised to a greater number of cases. This is the most important area of improvement of this research, finding a way to improve the external validity and to make the results more generalizable over a wider set of potential cases. Nevertheless, as the main goal of this case study was to generate more specific knowledge about the extreme case of Bosnia and Herzegovina, I would argue that this goal has been met. This research can serve as a starting-off point for future research, as there are a number of interesting avenues for scholars to look into. One of those would be to do a time-series-cross-section study into this topic across all countries in the Western Balkans. By adding this comparative element, it would be interesting to see how unique the case of Bosnia and Herzegovina is, and how processes developed in the other countries in the region. The shared history of the region makes it very suitable for adopting the same timeframe for every country, and the shared history also makes the region very appealing for a Most Similar Systems Design study. This would provide more generalizable results than this research, and also offer more insight into the internal situation and the conditionality process of other countries in the Western Balkan region. Another possible avenue for research could be to research other federal countries in the world who have consociational power-sharing structures, and to examine how these structures manifest themselves in the country, but also how they affect the external relations of a country.

Concluding, Bosnia and Herzegovina is a complicated country with a complicated history and a complicated political and administrative system. This system has a negative impact on the country's ability to make effective progress on the path towards EU membership, and reforming the system itself seems to be just as difficult. The country is practically in a state of limbo, balancing between its historical baggage and a yearning for a European future. Nevertheless, there are some hopeful signs from within the country that progress and change is slowly coming about. The issues and obstacles are many, and the hope lies with the coming generations to bring about change in Bosnia and Herzegovina.

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10 Appendices

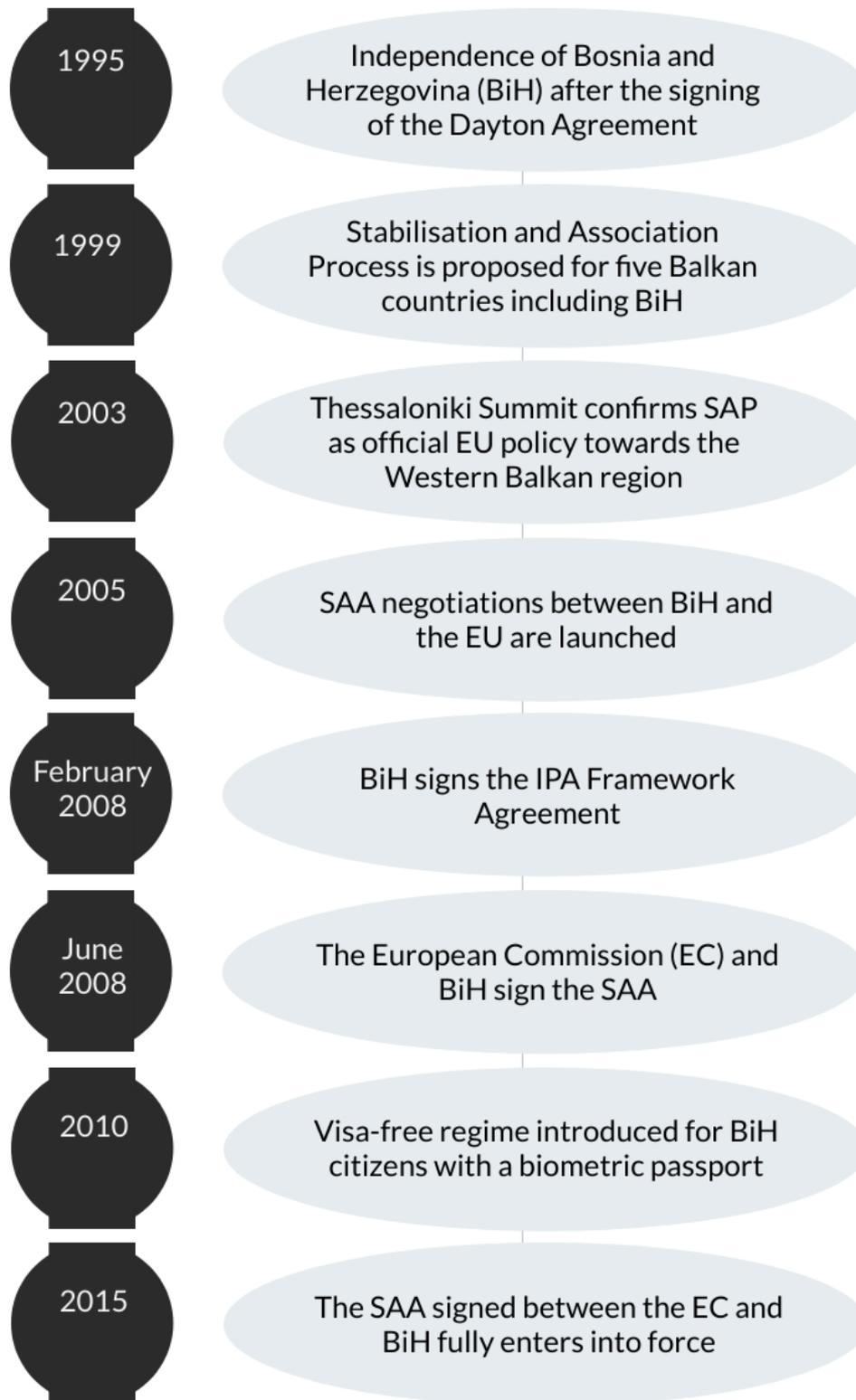
10.1 Appendix A: List of government and EU documents consulted for this research

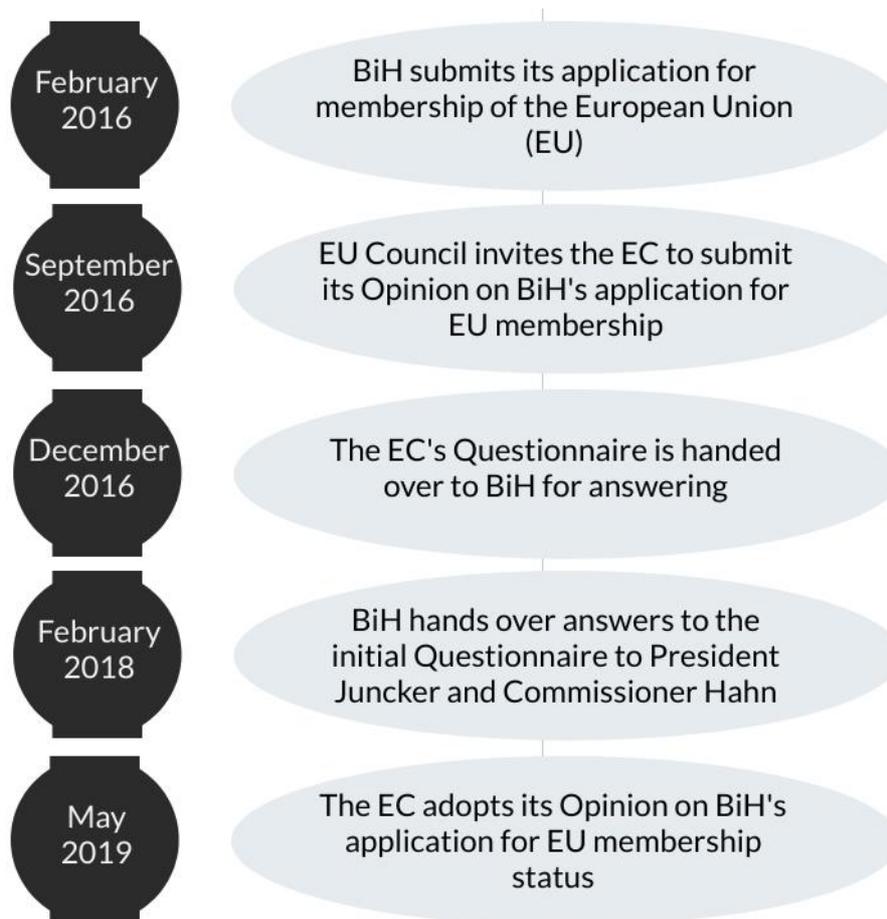
- The General Framework Agreement for Peace in Bosnia and Herzegovina (The Dayton Agreement), 1995.
- Reform Agenda for Bosnia and Herzegovina 2015 – 2018, 2015.
- A credible enlargement perspective for and enhanced EU engagement with the Western Balkans, 2018.
- Chapters of the *acquis*, 2019c.
- Commission Opinion on Bosnia and Herzegovina's application for membership of the European Union, 2019d.
- Council conclusions on the application of Bosnia and Herzegovina for membership of the EU, 2016.
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10.2 Appendix B: Overview of key dates in the relationship between Bosnia and Herzegovina and the European Union with regards to accession.

- Timeline -

KEY DATES IN THE BIH-EU RELATIONSHIP





10.3 Appendix C: Transcript interview

[Transcript has been removed for publication due to privacy reasons].

10.4 Appendix D: Transcript interview

[Transcript has been removed for publication due to privacy reasons].

10.5 Appendix E: Transcript interview

[Transcript has been removed for publication due to privacy reasons].

10.6 Appendix F: Transcript interview

[Transcript has been removed for publication due to privacy reasons].