

**EU Conditionality in Post-Conflict States:  
A Comparative Analysis of Bosnia-Herzegovina and Cyprus**

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## Abstract

Bosnia and Herzegovina has been an official potential candidate country for European Union membership since 2008. However, membership in the union is conditional upon the completion of 174 criteria, as set by the EU. As a result, BiH's path toward accession has been slow, lacking clarity and consistency. Moreover, as a post-conflict state, BiH does not have the institutional capacity necessary for a conditional integration framework. However, if all conditions are fulfilled, BiH will not be the first post-conflict state to enter the current 27-member union. In 2004, Cyprus gained full membership. Also a post-conflict state, ethnically and territorially divided, Cyprus provides an insightful perspective into the prospective accession of post-conflict states. Thus, the aim of this paper is to explore the EU's use of conditionality in a post-conflict state by examining BiH as a case study comparatively to Cyprus.

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## Introduction

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Bosnia and Herzegovina (BiH) has been an official potential candidate country<sup>1</sup> for European Union (EU) membership since 2008. As a potential candidate country, BiH follows the framework of the Stabilization and Association Process (SAP), and according to the European Commission, will continue to do so “all the way to their future accession” (2008: 1). Full membership remains conditional upon BiH’s capacity to meet the criteria as defined by a number of legal frameworks, including, the 1993 Copenhagen Criteria, the 1995 Dayton Peace Agreement, the 1997 Regional Approach, the 1999 Stability Pact for Southeastern Europe, the 2000 Zagreb Summit, and lastly, the 2003 Thessaloniki Agenda. In total, BiH must fulfill 174 provisions (Djukic 2012). As a result, BiH’s path toward accession has been slow, lacking clarity and consistency.

Several factors may attribute to BiH’s tumultuous accession progress—one being its status as a post-conflict state.<sup>2</sup> As a post-conflict state, BiH has a unique history, delicately institutionalized by a 17-year-old peace agreement, the Dayton Peace Agreement. An initial assumption is that the EU may have more leverage in fostering a legitimate<sup>3</sup> transition in a post-conflict state like BiH. With severe fragmentations, the EU may have more space to ‘Europeanize’ BiH, creating stable institutional arrangements. However, if all conditions are fulfilled, BiH will not be the first post-conflict state to enter the current 27-member union. In

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<sup>1</sup> It is necessary to distinguish potential candidate countries from candidate countries. Both groups classify as prospective member states, but candidate countries are further along in the accession process, having met a larger percentage of the conditional requirements. Currently, candidate countries are Iceland, the former Yugoslav Republic of Macedonia, Montenegro, Serbia, and Turkey. In addition to BiH, the other potential candidate countries are Albania and Kosovo (under UNSCR 1244/99) (Commission 2012).

<sup>2</sup> Although the focus of this paper is not on conflict resolution, the status of the two cases as post-conflict countries is extremely significant. Further reading on the EU’s role, more specifically, on conflict resolution can be found in Nathalie Tocci’s *The EU and Conflict Resolution: Promoting peace in the backyard* (2007).

<sup>3</sup> When speaking of EU legitimacy, I refer to its credibility in the accession process. This will be explored further in the theoretical section.

2004, Cyprus<sup>4</sup> gained full membership. Also a post-conflict state, ethnically and territorially divided, Cyprus provides an insightful perspective into the prospective accession of post-conflict states. The most apparent corollary of the Cypriot case to BiH is the EU's tightening of conditionality in BiH. In Cyprus, the EU rushed a divided ill-equipped state into membership. Rather than fix the political and economic problems of the country, the EU ossified tensions and further isolated the two communities. The prevailing assumption is that the EU has strengthened conditionality in BiH in an attempt to avoid a similar outcome to that of Cyprus. However, while the EU's criteria for BiH are lengthy and seemingly thorough, they fail to guide the country out of its political deadlock.

### ***Research questions and hypotheses***

The aim of this paper is to explore the EU's use of conditionality in a post-conflict state by examining BiH as a case study comparatively to Cyprus. I will seek to answer the following question: has the EU effectively used its transformative ability to foster stability in post-conflict BiH? Without placing a disproportionate amount of responsibility on the side of the EU, I will seek to answer the following as well: has BiH upheld its end of the responsibility, receptively adhering to the conditions set by the EU? In line with the existing scholarship, I hypothesize that a number of domestic and international factors have prohibited BiH from reaching the desired level of stability required for membership. This leads me to the final question: *why*, in fact, has accession conditionality not culminated in its potential transformative power<sup>5</sup> in BiH?

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<sup>4</sup> A note on terminology: I refer to the member state as "Cyprus" in line with the reports of the European Commission. If specifically discussing the Greek Cypriot territory, the Republic of Cyprus (RoC) will be used.

<sup>5</sup> In her 2006 book, *The EU's Transformative Power: Europeanization Through Conditionality in Central and Eastern Europe*, Heather Grabbe uses the term "transformative power," which means the EU's enormous potential influence in transforming candidate countries.

As mentioned above, I hypothesize that the answer is two-fold, in that both domestic and international factors have obstructed BiH's integration. On the domestic level, a political stalemate has negatively impacted the country since the 2006 elections, dividing political elites along ethnic lines. Because of nationalist tendencies, political elites have failed to construct a shared vision for future BiH relations with the EU. This will be further explored in the country's inability to pass a constitutional reform package, a vague provision of EU membership. On the international level, the EU has failed to provide credible incentives, credible conditions, and monitor BiH's progress effectively. Here, the EU's use of conditionality in Cyprus becomes important in analyzing the current situation in BiH.

### ***Research design***

In attempting to adequately assess the above-mentioned questions, methodologically, this paper will use an asymmetrical<sup>6</sup> comparative analysis. Although the focus will remain on BiH, BiH will be explored and analyzed through the lens provided by the Cypriot case study. The aim of this paper is not to draw sweeping generalization from the two cases. The two countries and their past conflicts are significantly different. However, as modern ethnic conflicts, they provide a sufficient basis for comparison. Moreover, the "Cyprus model"<sup>7</sup> for EU integration is viewed within the existing literature as a significant failure of the EU. Applying it in BiH would lead to similar outcomes, and such outcomes will be assessed. By focusing on two post-conflict states, this approach will contribute a new perspective to the large body of literature on the EU's use of conditionality. In its analysis, this paper will rely on the existing scholarship, EU progress

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<sup>6</sup> Although I use a comparative analysis, emphasizing its asymmetrical nature is important. This paper will not evenly make comparison between the two cases. Rather, the case of Cyprus serves as one lens in which to view the current situation in BiH.

<sup>7</sup> The "Cyprus model" in BiH would advocate for the separate EU integrations of the Serb-controlled territory and Bosniak-Muslim-controlled territory.

reports, and policy briefs. In the end, the utilized sources, along with my own analysis, will provide comprehensive empirical evidence to either support or refute my hypotheses.

### ***Paper structure and literature review***

This paper is structured in six chapters: the first chapter contextualizes the main concepts in the theoretical framework; the second chapter introduces the Cypriot case; the third chapter provides background information on BiH; the fourth chapter explores the use of conditionality in BiH and analyzes the domestic factors obstructing its prospective integration; the fifth chapter comparatively analyzes the international factors at fault in Cyprus and BiH; the sixth chapter concludes the main findings of this paper.

I will begin by positing my research within the larger theoretical framework on the use and effect of EU accession conditionality on potential new member states. The aim will be to define political accession conditionality according to leading theorists of the existing literature. Then, rationalist and constructivist frameworks will be presented to explain the theoretical implications of the successes and failures of conditionality. Here, the use of conditionality in post-conflict states will be explored. In their works, Schimmelfennig, Sedelmeier, Tocci, Anastasakis, Grabbe, and Phinnemore theorize the role of conditionality, focusing on international and domestic provisions for success. In this section, examples from the most recent enlargements of the Central and Eastern European countries will be used.

Next, I will present the Cypriot case study. I will analyze four main areas of the Cypriot case: evolution of its conflict, obstacles to solving the problem, bilateral relations between Cyprus and the EU, and the EU's failed use of conditionality in Cyprus. Relying on the works of Diez, Tocci, Akcali, and Kaymak, this chapter finds that the accession of Cyprus into the EU,

through the use of political conditionality, failed to solve the conflict on the island as was intended.

From the Cypriot case, I will delve into the primary case of BiH, first providing necessary background information on the evolution of the conflict in the 1990s and explaining the current institutional setup of the country. An entire chapter is provided for the background information because BiH's very specific history must be thoroughly understood in order to understand the present-day situation. In the following chapter, I will explore the EU's use of conditionality in BiH. I will analyze the EU's progress reports<sup>8</sup> from 2008 until 2011 to track BiH's progress in fulfilling or not fulfilling certain criteria. These years have been selected because in 2008, the EU and BiH reached a new European Partnership, which outlines the most current criteria for membership. Based on the reports, I will determine in which areas BiH has succeeded and in which areas it has failed to cultivate stability. From this, I will conduct an analysis on the domestic factors prohibiting BiH from complying with conditionality. This section will also rely on recent scholarly literature by Aybet, Bieber, Dzhic, and Wieser. In their works, they find that political conditionality has, for the most part, failed in BiH. They attribute the failures, mostly, to BiH's status as a post-conflict state.

In the final chapter, conclusions will be drawn, and limitations of the study and recommendations for further research will be presented.

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<sup>8</sup> Since 2002, the Commission has reported regularly on progress made by Western Balkan potential candidate and candidate countries in their "Progress Reports." According to the Commission, the progress report for BiH "briefly described relations between BiH and the Union, analyzes the situation in BiH in terms of the political criteria for membership, analyzes the situation in BiH on the basis of the economic criteria for membership, and reviews BiH's capacity to implement European standards...to gradually approximate its legislation and policies with the *acquis*, in line with a Stabilization and Association Agreement and the European Partnership priorities" (2008 Progress Report: 4).

## Chapter 1: Theoretical Framework

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### *Defining conditionality*

Since 1973, with each enlargement of the EU, conditionality has played a larger role in the accession process of the target state, transforming the governing structures, the economy, and the civil society of the candidate and potential candidate countries. In its broadest sense, conditionality is a strategy in which a reward is either granted or withheld depending on the fulfillment of an attached condition (Tocci 2007: 10). More specifically, “political conditionality entails the linking, by a state or international organization, of perceived benefits to another state, to the fulfillment of conditions relating to the protection of human rights and the advancement of democratic principles” (Smith 1998: 256 in Tocci 2007: 10). While other forms of conditionality exist, this paper will exclusively analyze political conditionality in an attempt to emphasize the notion of political transformation on the institutional level.

Moreover, some of the existing scholarship equates ‘political’ conditionality with ‘democratic’ conditionality. For the aim of this paper, a distinction is necessary. Simply, the instrument of EU conditionality is not always democratic; in fact, it can run counter to democratization. According to Anastasakis, conditionality is “based on an unequal and asymmetric power relationship of imposition, pressure, control, and threats” (2008: 366). Often, conditionality challenges democratization in post-conflict states when some of the demands prioritize law and order instead of elections and/or civil society. In post-conflict states, as the case of BiH will demonstrate, the rule of law is weak; thus “the goals of law and order take precedence over other democratic bottom-up goals and criteria” (Anastasakis 2008: 366).

## *Forms of conditionality*

Political conditionality exists in four forms: positive, negative, ex ante, and ex post. Positive conditionality promises a reward that is contingent upon the fulfillment of a predetermined condition (Tocci 2007: 10). Within the field of international relations, this reward is referred to as a ‘carrot,’ inducing good behavior from the target state. The most common ‘carrots’ used by the EU are economic assistance and full membership. Each of these incentives will be explored in the case studies: conditional assistance in BiH, and conditional full membership in Cyprus. On the other hand, a ‘stick’ is used to punish a target state’s non-compliance with the contracted conditions. Thus, negative conditionality involves the infliction of a punishment on a target state for violating a specified obligation (Tocci 2007: 10).

However, EU conditionality mainly follows a strategy of reinforcement by reward. This means negative conditionality is not used in its theoretical sense of reinforcement by punishment. Under the EU’s strategy, “the EU pays the reward if the target government complies with the conditions and withholds the reward if it fails to comply” (Schimmelfennig and Sedelmeier 2004: 663). According to the European Commission, it prefers “cooperation and engagement over punishment and coercion” (Tocci 2007: 10).

Ex ante and ex post refer to the timeline of the fulfillment of obligations. Tocci suggests, “either conditions are fulfilled before the contract is signed [ex ante], or conditions specified in an agreement need to be respected, otherwise the contracts may be lawfully suspended unilaterally” (Zalewski 2004 in Tocci 2007: 11). Ex ante and ex post delineate the two extremes at opposing ends of the timeline. Thus, in between the two extremes, conditionality can be exerted over time, not necessarily exclusively at the time of, or following the delivery of, specified side payments (Tocci 2007: 11).

### *Rationalist and constructivist explanations*

Within the existing literature, two frameworks dominate the current discourse: rationalist theory and constructivist theory. This section seeks to compare and contrast both theories in an attempt to contextualize political accession conditionality within the larger framework of EU enlargement.

According to rationalists, the EU's domestic impact follows a 'logic of consequences,' in that, "adaptational pressure from the EU changes the opportunity structure for utility-maximizing domestic actors. It empowers certain actors by offering legal and political resources to pursue domestic change. Formal domestic institutions and veto players are the main factors impeding or facilitating changes in response to EU adjustment pressures" (Sedelmeier 2011: 11). Rationalist theory deals explicitly with the EU's use of conditionality as a tool to influence potential candidate and candidate countries. According to rationalists, what determines the effectiveness of conditionality? The answer is two-fold, requiring effort from both the EU and the target country. First, on the EU's side, conditionality must be credible. According to Sedelmeier, credibility has two sides; "the candidates must be certain that they will receive the promised rewards after meeting the EU's demands. Yet they also must believe that they will only receive the reward if they indeed fully meet the requirements. Thus, credibility depends on a consistent, merit-based application of conditionality by the EU" (2011: 12). Also important to the credibility of conditionality is the EU's effective monitoring system (Schimmelfennig and Sedelmeier 2005).

The second answer to efficiency is in the domestic politics of the potential candidate and candidate countries. For instance, rationalist approaches suggest that in order to have influence, the EU needs to have domestic allies in target countries, or the adjustment costs for target

governments must be low (Sedelmeier 2011: 14). Low domestic adjustment costs are “instances in which governments can expect intrinsic benefits in domestic politics from adopting EU rules” (Sedelmeier 2011: 14). Moreover, administrative capacities play a significant role in the ability of the target state to align with the rules of the EU. Both government capacities and political preferences have a strong effect on the transposition of EU law in the candidates (Toshkov 2008 and 2009 in Sedelmeier 2011: 14).

Conversely, while rationalist thought follows the ‘logic of consequences,’ constructivism follows a ‘logic of appropriateness.’ According to constructivists, following a process of socialization, domestic actors internalize EU norms because they regard them as legitimate (Sedelmeier 2011: 11). The social learning process redefines the domestic identity, realigning it with the EU identity, which maintains its own set of values and interests. What, then, increases the likelihood that this model of persuasion and socialization is effective? Again, it is two-sided, dependent upon actions from the EU and the target state. First, at the international level, the key factor is the legitimacy of the rules that the EU promotes as well as the legitimacy of the process through which the EU promotes its rules (Sedelmeier 2011: 15). The rules are legitimized if they are codified internationally (Freyburg 2009 in Sedelmeier 2011: 15). Moreover, the process is legitimized if it allows for the active participation of the potential candidate or candidate country. By allowing the candidate to assist in setting conditions and making rules, the process shifts from external imposition to more of a mutual partnership.

As with rationalist theory, constructivist theory recognizes the role of domestic politics in the accession process. According to constructivists, “if a candidate country, elites and publics, positively identifies with the EU, or holds it in high regard, the government is more likely to be open to persuasion and to consider the rules that the EU promotes as legitimate and appropriate”

(Sedelmeier 2011: 16). Within the existing scholarship, this is termed a ‘cultural match’ or ‘resonance’ between the EU demands and domestic rules and political discourses (Brosig 2010; Epstein 2008; Dimitrova and Rhinard 2005).

In line with the recent works of scholars, this paper calls for the coalescence of the two theories. As Aybet and Bieber point out, “although the process of socialization occurs through a learning process...there has to be a degree of rationalization to initiate that process of social learning (Finnemore and Sikkink 1998; Risse-Kappen and Sikkink 1999; Schimmelfennig 2002 in Aybet and Bieber 2011: 1916). Treating the two frameworks as mutually exclusive is not applicable to the situations on the ground. Therefore, the following section will pull from both theories in an attempt to comprehensively understand the potential transformative power of the EU in potential candidate and candidate countries.

### ***Determining successful uses of conditionality***

Both rationalists and constructivists emphasize the importance of the simultaneous interaction of international and domestic factors (Schimmelfennig 2008: 920). This section will apply the theoretical frameworks mentioned above to establish a clearer understanding of the responsibilities of both the EU and potential candidate/candidate country.

As mentioned above, the EU must create credible incentives for the target state to comply with the contracted conditionality. However, not all incentives produce similar results.

According to Schimmelfennig, the size and kind of international incentives for compliance are crucial (2008: 920). Evidently, the largest incentive the EU can offer is that of full membership in the Union; nothing short of that has proven effective (Schimmelfennig 2008: 920). Non-material incentives of social learning, such as imitation, persuasion, or social influence do not generally overcome domestic resistance against the adoption of democratic and human rights

norms. Even material incentives below the threshold of full EU membership; such as, financial aid or association agreements, are too weak (Kelley 2004; Vachudova 2005 in Schimmelfennig 2008: 920). They emerge as futile attempts at sufficiently incentivizing target countries into compliance.

Moreover, once established, credible conditionality requires normative consistency (Johnson 2008; Schimmelfennig 2008: 920). According to Schimmelfennig:

First, and in line with Article 49 of the Treaty on European Union (TEU), the EU ought to offer a general membership perspective to ‘any European state’ adhering to the fundamental political ‘principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law norms’ (Article 6, TEU). In making its enlargement decisions, then, the EU ought to be guided only by the democratic and human rights performance of the target countries and it ought not to discriminate against any country either positively or negatively on the basis of other considerations (2008: 920).

Recent research of conditionality usage in the 2004 and 2007 enlargements in Central and Eastern Europe show, in fact, the EU has not maintained such desired consistency. In their research, Hughes and Sasse question the normalization of European and international norms with regard to minority rights protection. In analyzing EU treaties from 1993 until 1997, they find that the documents lack an overall consistency and clarity (2003: 1). For instance, the documents fail to define what constitutes a national minority. Further complicating the emergence of a European norm was the evident shift from protecting the individual rights of a minority to protecting the group rights with the Copenhagen criteria. This then shifted back to protecting group rights with the 1997 Treaty on the European Communities (TEC). Such ambiguity highlights an evident paradox; the EU is attempting to enforce minority rights protection on states outside of the EU while foregoing it for its member states (2003: 12). The authors also analyzed the Regular Reports of the Commission to track the candidate countries’ progress in protecting minority rights. They found that overall the Regular Reports show the EU lacks clear benchmarks on

measuring progress. The reports are designed to render each candidate country as a success story, superficially pushing them through the integration process. Moreover, other concerns that emerge from the reports are the preference of certain minority groups over others and emphasis on the integration of minorities, almost to indicate a preference for assimilation (Hughes and Sasse 2003).

Switching perspectives, potential candidate/candidate countries must also take on certain levels of responsibility. EU success is contingent upon favorable domestic conditions as well. According to Kelley, “authoritarian leadership or strong nationalist opposition in parliament decreases and sometimes even blocks institutional success” (2004: 175 in Schimmelfennig 2008: 921). For instance, in Romania, Bulgaria, and Slovakia, complying with EU membership requisites emerged as too costly for illiberal ruling elites. Compliance undermined their hold on power (Vachudova 2005: 4 in Schimmelfennig 2008: 921). In addition, if compliance threatens the security or integrity of the target state, domestic actors are less likely to comply—regardless of the credibility of membership incentives (Schimmelfennig, et al. 2006: 240). Thus, only when compliance costs are low for domestic actors, will political conditionality succeed.

### ***Using conditionality in post-conflict states***

EU conditionality poses problems when applied to post-conflict states (Aybet and Bieber 2011). This can be attributed to two assumptions the EU makes prior to the target state’s accession process. First, the EU assumes the target state has a strong central government. While it does not deliberately state this within the list of criteria, it assumes that a strong central government is in place, capable of implementing said criteria. However, most often, post-conflict states are weakened by inefficient central governments, rendering them incapable of implementing the contracted requirements for membership. The case of BiH will demonstrate

this point. According to Dzihic and Wieser, the limited functionality of Bosnia and Herzegovina's central government emerges as "an obstacle to further progress towards accession," for "due to its confined authority, the central government institutions and respective agencies are hindered by their weaknesses in implementing the criteria defined by Brussels" (2011: 1806). Moreover, Aybet and Bieber conclude "processes of conditionality work differently in post-conflict societies because state-level institutions are weak, and instead of engaging with state-level norms, the institution usually finds itself engaged in ethnic norms at the entity level" (2011: 1913).

The second assumption is that a unified political elite base exists within the country. However, in post-conflict states, conditionality, a largely top-down measure, fails because of its overemphasis on the role of political elites. According to Arend Lijphart, the role of political elites in ensuring stability in a divided society is crucial. Political elites representing the various segmented groups of society make up Lijphart's grand coalition (1977). However, he suggests, "a moderate attitude and a willingness to compromise" among the elites emerge as prerequisites to achieving a stable democracy (1977: 31). Such a prerequisite has not normalized within BiH, or most other post-conflict states for that matter. On the other hand, political elites in BiH are moving further away from a point of compromise, diverging along ethno-nationalist lines. Within the country, political elites disagree on the amount of power the central government should have. Opinions follow ethno-nationalist lines, with the elites of the Serb Republic supporting a decentralized government and the elites in the Federation supporting a centralized government. Although a census has not been taken since 1991, the Bosniak population still constitutes the majority in the country. Political leaders within the RS fear a tighter centralization

of governing powers would render them an ineffectual minority (International Crisis Group 2009: 6).

In sum, this chapter serves as the theoretical foundation on which the subsequent chapters are based. Theoretically, conditionality serves as an influential tool, incentivizing potential candidate and candidate countries into compliance. However, the literature demonstrates that conditionality must be applied carefully in order to achieve the desired outcome. In some cases, as in post-conflict states, conditionality emerges as largely ineffectual. Weak institutions and a divided political elite prevent the state from advancing in the compliance process. The following case studies will explore this further, finding that more factors are at fault for unsuccessful conditionality. First, the case of Cyprus will be presented in the next chapter.

## Chapter 2: The case of Cyprus

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Recent research on the use and effects of political conditionality in post-conflict Cyprus has generated relevant findings on the role of conditionality in divided societies. Thus, it will serve as the comparative focal point of this paper. The case of Cyprus and its post-accession unresolved conflict provides a strong argument for the increased use of strict political conditionality to solve ethnic conflicts in countries before they become member states (Anastasakis 2008: 373). This seems to be the case when analyzing BiH's lengthy list of criteria. However, in order to adequately assess the current status of the post-conflict member state, I will first briefly summarize the conflict, present the obstacles to solving the problem, discuss the role of the EU, and finally, conclude by analyzing the EU's failures in Cyprus.

### *Evolution of the “problem”*

Tensions between Greek-speaking Orthodox communities and Turkish-speaking Muslim communities in Cyprus date back to the period of Ottoman rule (Tocci 2007: 31). However, this section will exclusively analyze the modern “problem” on the island, beginning with the emergence of conflicting interests under British colonial rule in the early twentieth century.

When discussing the past and present situations in Cyprus, careful terminology must be used. In an attempt to avoid simplification, this paper employs the terminology used by Diez. As Diez notes:

To provide a short summary of the history of the Cyprus conflict is easier said than done. In fact, there are many histories told, and even using the label ‘conflict’ will often be met by harsh reactions. Both in the academic literature and amongst politicians, the situation on the island is mostly referred to as the ‘Cyprus problem.’ To the Turkish side, even the latter is inappropriate because they insist that the ‘problem’ was solved in 1974. (Bahcheli and Rizopoulos 1996: 34 in Diez 2000)

Although difficult, scholars have identified 1920 as the starting point of the modern problem. In 1920, because of their dissatisfaction with British rule, the Greek Cypriot community sought to achieve an unconventional form of liberation. Rather than advocate for full independence from the British, the Greek Cypriots, viewing themselves as one people with Greeks from the mainland, initiated a movement for unification with Greece. They termed the movement “enosis” (Tocci 2007: 31). Their efforts for enosis led to an armed struggle against the British in the mid-1950s. In response, the British mobilized the Turkish Cypriot community, which, at the time, constituted 18% of the total Cypriot population, supported by Turkey, in their anti-enosis movement (Tocci 2007: 31). The hasty British mobilization of the Turkish Cypriot community against the Greek Cypriot community had dire effects, ossifying prior tensions.

By the late 1950s, the joint Turkish Cypriot, Turkish anti-enosis movement transpired into a movement of their own, termed “taksim.” Taksim called for the partition of Cyprus into two separate zones, a Greek sector in the south and Turkish sector in the north (Tocci 2007: 31). By this point, violence had escalated. Recognizing the need for immediate compromise between the Greek and Turkish Cypriots, the British shifted their position on independence. Starting in 1959, over the course of one year, representatives from Greece, Turkey, the United Kingdom, the Greek Cypriot community, and the Turkish Cypriot community reached agreements in Zurich and London, which established the framework for an independent Republic of Cyprus (RoC) (Tocci 2007: 32). In 1960, Cyprus gained independence. The Zurich-London agreements became the basis for the 1960 Constitution and were supplemented with three treaties: the Treaty of Establishment, the Treaty of Guarantee, and the Treaty of Alliance. According to Tocci:

The treaties explicitly ruled out both enosis and taksim. They provided for two sovereign British military bases, 950 Greek troops, 650 Turkish troops on the island, and entrusted guarantor status to Greece, Turkey, and the UK in Cyprus. The basic structure of the Republic was laid down in the 1960 Constitution, which established a bi-communal

partnership state. It was a hybrid consociational setup with elements of extra-territorial communal autonomy. Rather than through territorial separation, bi-communality was enshrined in community representation and power sharing at the center, and communal autonomy within the five largest municipalities. (2007: 32)

Despite the reached agreements at the institutional level, many Greek Cypriots expressed dissatisfaction. They regarded them as insufficient in their pursuance of enosis, and they contested the concession granted to the Turkish Cypriot community, perceiving it as over-generous in size (Tocci 2007: 32).

As dissatisfaction with the arrangement grew, by November 1963, the first president of the Republic presented a proposal for amendments to the Constitution. The amendments suggested transforming the republic from a bi-communal partnership to a Greek Cypriot unitary state with Turkish Cypriot minority rights (Tocci 2007: 32). In essence, the proposed constitutional changes would abrogate the existing power-sharing arrangements. Opposed to losing power, the Turkish Cypriot leadership, backed by Ankara, rejected the proposal, triggering a collapse of the constitutional order and a renewed round of inter-communal fighting. Greek interference in Cyprus culminated in the July 15<sup>th</sup> coup of 1967, which ousted the existing regime and extended the Greek military dictatorship on the island (Tocci 2007: 32). In response, Turkish forces invaded Cyprus on July 20, 1974, invoking its rights under the Treaty of Guarantee. Turkey occupied 37% of the island's territory, enforcing the partition between the north and south, roughly along the "Green Line," a ceasefire line established by the UN in 1963.

By 1975, the 1960 constitutional order was completely abandoned. Between 140,000 and 160,000 Greek Cypriots were displaced from the north and approximately 60,000 Turkish Cypriots were displaced from the south. According to Tocci, "both areas were almost entirely ethnically cleansed" (2007: 32). Since 1975, plenty of attempts, mainly by the United Nations, have been made to bring the two sides together and work toward de-securitization (Diez 2000).

However, according to Diez, all have failed to achieve their desired outcomes (2000). Tocci claims, “successive rounds of negotiations since 1974 have amounted to little more than a few superficial and inconsequential successes and a myriad of failures” (2007: 34). Resolution attempts will be more thoroughly analyzed in the following section, which focuses on the EU’s potentially transformative power through conditionality.

Currently, the problem has culminated in a stalemate. The island is still divided into two zones roughly along the Green Line. The northern zone, first declared the Turkish Federated State of Cyprus in 1975, is now the Turkish Republic of Northern Cyprus. Only Turkey recognizes the zone as a sovereign state. The international community regards it as a secessionist act (Tocci 2007: 32). In the south, the Greek Cypriots retain the title of the Republic of Cyprus. Since 1964, it serves as the only legitimate authority on the island (Tocci 2007: 33). As for future arrangements in attempting to solve the Cyprus problem, the two sides disagree on a shared vision of the island. The official government, comprised exclusively of representation from the Greek Cypriot community, supports a federal solution, modeled after the 1960 constitutional arrangement. Conversely, the Turkish Cypriot party supports a confederation, guaranteeing equal status for both sides, ensured by a weak federal authority (Mirbagheri 1998: 123-4 in Diez 2000).

### ***Obstacles to solving the problem***

Two significant characteristics emerge as obstacles in the resolution process. First, the conflict is based on two exclusive identities, Greek Cypriot and Turkish Cypriot. However, both are complex identities. According to Diez:

Cypriot identity is constructed as naturally European, and Cyprus as the cradle of European civilization. In his inaugural address to the (Greek) Cypriot House of Representatives in February 1998, President Glafkos Clerides put this representation in most clear terms, ‘Cyprus must belong, and naturally belongs, where its history,

geography, civilization, and social values have destined it to be—in united Europe.’  
(2000)

Diez contrasts the Cypriot identity with the Turkish identity, in that “the representation of Cyprus as being European has to be seen in contrast to the representation of Turkey as becoming European” (2000).

Second, sovereignty is often conceptualized as a zero-sum game; it either rests with the island as a whole, the official Greek-Cypriot position, or it rests with the individual communities, the official Turkish-Cypriot position (Diez 2002: 12). According to Diez, both of these characteristics are discursive. He claims:

Ironically, Cyprus never really was sovereign, given the influence of the guarantor powers, Greece, Turkey, and Britain as laid out in the Treaties of Guarantee, which bears some resemblance to the status of the Allied Powers in Western Germany before unification in 1990, which characterize the Federal Republic of Germany as a ‘semi-sovereign’ state. (Katzenstein 1987 in Diez 200: 12)

It is this modernism of the conflict that the EU framework promises to help to overcome (Diez 2002: 12).

Today, the problem has culminated in a total isolation of the two communities. This is evident in the veto issue. According to Kaymak, the Greek Cypriot leadership of the Republic of Cyprus threatens to use its veto power regarding Turkish accession talks to coerce Turkey into accepting RoC sovereignty (2006: 14).

### ***Bilateral relations between Cyprus and the EU***

Bilateral relations between Cyprus and the EU began in 1972, when both parties signed an Association Agreement, which was later complemented by a Protocol in 1987. However, it is important to emphasize that Cyprus’ accession process was launched and conducted exclusively by the Greek Cypriot Republic of Cyprus, although in its official documents, the EU incorrectly

refers to the Republic of Cyprus simply as “Cyprus.” Ackali claims, “the Turkish-Cypriot leadership in the Turkish Republic of Northern Cyprus questioned the legitimacy of the application at the time, on the grounds that the government of the Republic of Cyprus did not represent the whole island” (2008: 185). Thus, all incentives attached to conditionality only benefited the Greek Cypriot community. In addition to being excluded, the Turkish Cypriot community also experienced a significant decrease in financial assistance. For instance, the first financial protocol of 1977 awarded 20% of its funds to Turkish Cypriots. In 1984, this decreased significantly, according only 3% of funds to Turkish Cypriots (Bicak 1997 in Tocci 2007: 40).

In 1990, the Republic of Cyprus officially applied for membership, and in 1993, the European Commission considered the application made in the name of the whole island. Accession negotiations officially started on March 30, 1998 and included 29 sectorial chapters, focusing predominately on adopting and implementing EU legislation and institutional capacity building. In its final Regular Report on Cyprus’ progress toward accession, the European Commission concluded:

In the accession negotiations, 28 chapters have been provisionally closed. Cyprus is generally meeting the commitments it has made in the negotiations. However, delays have occurred with regard to the establishment of the fishing vessel register, and in the legal alignment as regards oil stocks and with the electricity Directive. These issues need to be addressed. Bearing in mind the progress achieved since the 1998 Regular Report, the level of alignment that Cyprus has achieved at this point in time, and its track record in implementing the commitments it has made in the negotiations, the Commission considers that Cyprus will be able to assume the obligations of membership in accordance with the envisaged timeframe. In the period leading to accession, Cyprus needs to continue its preparations, in line with the commitments it has made in the accession negotiations. (2002: 123)

For Cyprus, the EU categorized criteria requirements into four areas: political, economic, acquis-related, and prospects for a political settlement regarding the Cyprus problem. In terms of the first three, as mentioned above, Cyprus fulfilled its obligations. However, regarding the problem

between the Turkish and Greek Cypriots, the Commission de-emphasized its role in the conditionality process, claiming:

The conclusions of the European Council at Helsinki in December 1999 remain the basis of the EU position: ‘...a political settlement will facilitate the accession of Cyprus to the European Union. If no settlement has been reached by the completion of the accession negotiations, the Council’s decision on accession will be taken without the above being a precondition. In this the Council will take account of all relevant factors.’ (2002: 25)

Evidently, the EU maintained the view that the act of accession would bring the two communities, fostering an inevitable compromise. Thus, requiring a conditional resolution to the decades-long problem did not seem necessary, and was assumed to follow member-state status.

Within the existing literature, the role of the EU in the Cyprus problem has emerged as highly contested in two regards. First, scholars hesitate to speak of “EU” failings, *per se*, when the EU has not acted as the primary mediator throughout the negotiating process. For decades, the United Nations has been the actor principally responsible for mediating a comprehensive settlement (Kaymak 2006: 4). Therefore, the EU has assumed more of a supportive role. The EU avoided taking a direct role in mediation, and supported the UN in its mandate to solve the myriad of problems prior to accession (Kaymak 2006: 4). Second, a current debate exists over whether the EU has served as a third party, clearly outside of the scope of the conflict, or as a more involved second party, with clear interests. The European Commission argues that the EU has and will remain an external third part. However, the dominant discourse within the academic sphere, categorizes the EU as an interested secondary party following its adherence to the Greek Cypriot model for accession (Akcali 2008: 185; Erlap and Beriker 2005: 182).

To address the first issue, this paper does not seek to exaggerate the role of the EU in the entirety of the Cypriot conflict resolution process. Rather, it will focus on the EU’s attempted use of accession as a tool to foster resolution, specifically, focusing on the EU’s failure to achieve its

intended objectives through the accession process. As for the second issue, this paper follows the research of Akcali and Erlap and Beriker, considering the EU as an interested secondary party.

This will be analyzed further throughout this section.

### ***The EU's failed use of conditionality***

As outlined earlier, according to the theoretical framework, successful conditionality must provide credible incentives for the target state and maintain normative consistency throughout the process. In the case of Cyprus, the EU offered the most influential incentive at its disposal—that of full membership (Tocci 2007: 39-40). However, its inability to remain consistent hindered its potential positive impact. More specifically, it was the EU's inconsistent, and at times arbitrary, use of conditionality that de-legitimized its potential transformative power.

The main issue separating the Greek and Turkish Cypriot communities regarding prospective EU accession is whether or not a solution to the Cyprus problem should precede or follow entrance into the Union. From the beginning, Turkish Cypriot leadership supported a settlement of the conflict before membership, and demanded separate negotiations with the EU from those of the Greek Cypriots (Akcali 2008: 186). On the other hand, Greek Cypriots supported immediate accession, without reaching a settlement, because they hoped it would strengthen their bargaining hand in inter-communal negotiations (Akcali 2008: 186). Undoubtedly, if the EU either chose to require a settlement or to not require a settlement, it would imply that the Union chose to side with one of the conflicting parties. That is precisely what happened. In the beginning, at the launch of Cyprus' accession process, the EU stipulated that a settlement was a precondition of accession (Tocci 2007: 45). This understanding was clear in the Commission's 1993 opinion, which stated that accession negotiations would begin "as

soon as the prospect of a settlement is surer” (Tocci 2007: 45). In an attempt to balance a compromise, the Commission added an addendum, which allowed more flexibility in reaching a conditional settlement.

Another turn was taken, and by 1997, requiring a settlement was dropped from the accession requirements entirely. The Commission’s 1997 Agenda stated that accession negotiations with Cyprus could begin without a settlement being a precondition. (Tocci 2007: 45). According to Akcali, from this, “the EU abandoned its impartial position by deleting all references to the need for a Cyprus settlement before accession. From this point on the EU shifted from being that of an interested third party to that of an interested secondary one” (2008: 185). By only supporting the interests of one party, the EU lost crucial leverage in its role as an actor in the resolution process. It lost even more leverage and credibility during Turkey’s prospective accession process.

As was mentioned earlier, Turkish Cypriots closely identify with mainland Turkey. Thus, Turkey plays a vital role in the history, especially when determining EU credibility from the Turkish Cypriot perspective. While the Union did not force Cyprus to reach a compromise, it strongly requested it of Turkey in its own pre-accession process. This seems quite hypocritical. To the Greek Cypriot community, the Commission deemphasized the relevance of the conflict. However, Turkey’s 2001 Accession Partnership stated that Turkey should, “strongly support the UN Secretary General’s efforts to bring to a successful conclusion the process of finding a comprehensive settlement of the Cyprus problem” (Council 2001: 13 in Tocci 2007: 45). Two years later, the Commission claimed that the conflict posed a “serious obstacle” to Turkey’s own accession path (Tocci 2007: 45).

The EU's inconsistency is also reflected in its mismanaged timing, which severely impacted its leverage and credibility. Again, Turkey's own accession process signifies importance. In 2002, Turkey's potential candidacy for membership gained momentum. Following the Copenhagen European Council, a date was set for examining the possibility of opening Turkey's accession talks (Tocci 2007: 41). Tocci suggests that as a direct result of this, "Turkey and Turkish Cypriots began converging in support of the Annan Plan.<sup>9</sup> The mass mobilization in northern Cyprus and the policy shift in Ankara, which took place between late 2002 and April 2004, would not have occurred without the rising momentum in Turkey's accession process in those years" (2007: 41). Although brokered the UN, the Turkish Cypriot support for the Annan Plan demonstrates a new restoration of faith in international organizations, returning leverage to the EU.

But, Tocci suggests, "at the same time, the EU lost its leverage in the south" (2007: 41). By finalizing Cyprus' full membership, the final incentive that the EU had to offer was delivered. Consequently, the EU's influence in the Republic of Cyprus disappeared. In sum, the EU failed to offer the conflicting parties sufficiently valuable benefits in a coordinated fashion, thus, reducing its ability to positively influence the creation of a settlement (Tocci 2007: 41).

In sum, the EU had the opportunity to cultivate a stable settlement in Cyprus. However, it chose to hastily lump conflict resolution with the EU accession of only the Greek-Cypriot Republic of Cyprus. According to Akcali, "the EU has significant potential to act as a catalyst in bringing conflict parties to negotiate their differences and work together" largely because of the incentives embedded within the integration process (2008: 196). However, in the case of Cyprus, the EU exhibited its own structural weaknesses, specifically, in the field of conflict

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<sup>9</sup> The Annan Plan was the creation of former Secretary-General of the UN, Kofi Annan. A comprehensive resolution of the Cyprus issue, it proposed the creation of a United Cyprus Republic under a loose federation of two constituent states, one Greek Cypriot and the other Turkish Cypriot (Akcali 2008: 186).

transformation.<sup>10</sup> This was demonstrated in its fostering of “undistorted communicative action between the conflicting parties” (Akcali 2008: 196). Thus, although the “Cyprus model” for EU accession has been mentioned as an alternative for BiH’s own integration, it does not emerge a viable alternative. The case of BiH will be discussed more thoroughly in the following two chapters.

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<sup>10</sup> More specifically, the EU failed because of its own deficiencies in tackling socio-economic inequalities in Cyprus between the two ethnically diverse communities (Akcali 2008: 196). Refer to Diez’s and Tocci’s *Cyprus: A Conflict at the Crossroads* for further reading.

## Chapter 3: Background information to the case of BiH

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Prior to assessing BiH's accession path, background information must be presented in two areas: regarding the conflict of the 1990s and regarding the current institutional makeup of the country. Both are relevant and necessary for a further understanding of the EU's prospective integration agenda for BiH.

### *Evolution of the conflict*

Bosnia, like Cyprus, has had a tumultuous history. In fact, like Cyprus, Bosnia has had no experience of independence in its modern history prior to 1992 (Bieber 2006: 5). It underwent Ottoman rule in the 15<sup>th</sup> century and Austro-Hungarian rule in the early 20<sup>th</sup> century. Following the end of World War I, it became part of the newly created Kingdom of Serbs, Croats, and Slovenes (Bieber 2006: 8). Finally, in its last period of cohabitation, following the Second World War, it was a republic within the Yugoslav Socialist Federation. Despite its tumultuousness, I will solely focus on the most recent conflict in the 1990s.

According to Bieber, "the war in Bosnia is the sum of a number of overlapping and inter-linked conflicts" (2006: 26). Officially, the war began in April of 1992, following Bosnia's declaration of independence from Yugoslavia. However, even before Bosnia followed Slovenia and Croatia out of the Yugoslav state,<sup>11</sup> parts of Bosnia had begun experiencing warfare. Specifically, along its northern and southern borders with Croatia, small scale fighting took place between the joint Serb-Yugoslav forces and Croatian forces (Bieber 2006: 26). According to Ramet, clashes between Serbs and non-Serbs in Bosnia began in August 1991 (2005: 126). But,

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<sup>11</sup> For further reading on the breakup of Yugoslavia, refer to Sabrina Ramet's *Thinking about Yugoslavia: Scholarly Debates about the Yugoslav Breakup and Wars in Bosnia and Kosovo*.

it was not until the official declaration in April 1992 that the Serbian assault on Bosnia began in earnest (Ramet 2005: 126).

I hesitate to categorically ‘ethnicize’ the war in BiH. Throughout the war, a number of other factors contributed to its severity and duration. However, the conflict undoubtedly ossified ethnic tensions in BiH, rendering a solution to the current political stalemate rather difficult to reach. For the most part, the actors mobilized along ethnic lines. According to Ramet, “the war eventually became a four-sided conflict, with Bosnian Serbs, Bosnian Croats, Bosnian forces loyal to the elected government of Alija Izetbegovic, and forces loyal to Fikret Abdic, self-declared head of the Autonomous Province of Western Bosnia, variously fighting each other or collaborating” (2005: 126). The “Bosnian” forces that Ramet refers to are the Bosnian Muslims,<sup>12</sup> termed also Bosniaks.<sup>13</sup>

Prior to its declaration of independence, in March 1991, Alija Izetbegovic’s<sup>14</sup> government conducted a referendum concerning Bosnian independence (Ramet 2005: 10). According to the Badinter Commission,<sup>15</sup> “a referendum was a prerequisite for international recognition of independent” (in Ramet 2005: 10). The vote produced a clear majority in favor of Bosnian independence. However, the results of the poll are highly contested. The overwhelming majority of Serbs in Bosnia boycotted the referendum because of a decision made by Radovan Karadzic’s<sup>16</sup> Serbian Democratic Party of Bosnia (Ramet 2005: 10).

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<sup>12</sup> A note on terminology: according to Bieber, “Muslims does not describe a religious group, but a nation distinguished mainly, but not solely, by the different religion from Catholic Croats and Orthodox Serbs. Most Muslims [in BiH], as most inhabitants of Socialist Yugoslavia, have not been religious” (2006: xv).

<sup>13</sup> In 1993, a congress of Bosnian Muslim intellectuals chose to adopt the name ‘Bosniak’ when referring to the Bosnian Muslim community (Bieber 2006: xv). It has since been the primary term in legal documents.

<sup>14</sup> In 1991, Izetbegovic served as the president of the Republic of Bosnia and Herzegovina under the Presidency of Yugoslavia. In 1996, he assumed the role as the first Bosniak member of the rotating Bosnian Presidency.

<sup>15</sup> The Badinter Commission is also referred to as the Arbitration Commission of the Peace Conference on Yugoslavia. Set up in 1991 by the Council of Minister of the European Economic Community, it provided legal advice to the Conference on Yugoslavia.

<sup>16</sup> Karadzic established the Serbian Democratic Part of Bosnia and served as the first president of Republika Srpska.

As the war escalated in 1992, Bosnian Serb forces, largely constituted by Yugoslav army officials and equipment, sieged Sarajevo. The siege lasted until the end of the war in late 1995 (Bieber 2006: 26). Also during the siege, Bosnian Serb forces “engaged in a war of conquest” in eastern and northwestern Bosnia, seeking to bring a large part of Bosnian territory under their control, employing drastic measures, such as, mass murder, expulsion, and destruction of Muslim and Croat property (Bieber 2006: 26). In May of 1992, Croat and Serb political leaders began discussions over the partition of Bosnia (Bieber 2006: 27).

However, the violence did not subside. In 1993, new rounds of fighting began between Croat and Muslim forces in western Bosnia, culminating in the destruction of much of the city of Mostar. The UN created “safe havens” for Bosnian Muslims in Sarajevo, Gorazde, and Srebrenica, in which their protection was guaranteed under UN supervision. However, in 1995, Bosnian Serb forces, under General Ratko Mladic,<sup>17</sup> entered Srebrenica, committing their most appalling massacre of the war. Despite the town’s so-called “safe-haven” status, men and boys were separated from their families with the forced aid of UN peacekeeping soldiers. Some fled into the hills, intending to reach the Bosniak-controlled city of Tuzla, which is approximately 100 kilometers from Srebrenica. However, those who fell into the hands of the Bosnian Serb forces were executed, and after a period of five days the death toll reached an estimated 8,000 people (Duijzings 2007 in Murphy 2010: 10). By the time the war officially ended in November 1995, approximately 215,000<sup>18</sup> people had been killed (Ramet 2005: 126).

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<sup>17</sup> Mladic commanded the Bosnian Serb forces throughout the duration of the war.

<sup>18</sup> Among the 215,000 people killed, roughly 160,000 were Bosniak, 30,000 Croat, and 25,000 Serb (Ramet 2005: 126).

### *The Dayton Peace Agreement: a peace treaty*

On November 21, 1995, the Dayton Peace Agreement (Dayton), initialed by the governments of Bosnia, Croatia, and Yugoslavia, ended the war (Chandler 1999: 1). Initially, the Dayton Agreement was celebrated as marking a major step forward in the development of Bosnian sovereignty, “creating the opportunity for Bosnians to establish a democratically accountable state after years of war and division” (Chandler 1999: 38). According to the International Crisis Group, in addition to calling for a cease-fire, arms reduction, and boundary demarcation, the Dayton Peace Agreement, went far beyond the goals of a traditional peace treaty (1999: 9). The majority of annexes to the Dayton Peace Agreement were, in fact, related to “the political project of democratizing Bosnia, of reconstructing a society” (Bildt 1996 in Chandler 1999: 43). The goal of the peace agreement was to:

Create a new country, the unified state of Bosnia and Herzegovina, comprised of two multi-ethnic entities. This unified state would have a functioning central government, hold democratic elections under international auspices, adopt and adhere to international human rights standards, and allow freedom of movement. The state’s human rights commission would enforce international human rights obligations. Displaced persons were to be allowed to return to their homes, or to be compensated for their loss in cases where return wasn’t possible. Joint public corporations were to be established, as was a commission for the protection of national monuments. Indicted war criminals were to be arrested and turned over to The Hague, and all foreign fighters and soldiers were to leave the country. (International Crisis Group 1999: 13-14)

Although Dayton granted BiH its sovereignty, it did so on the basis of substantial international involvement. According to Chandler, Dayton “stressed the necessity for the long-term involvement of international organizations in political institution building and governance” (1999: 34). The eleven annexes of Dayton gave significant and influential power over the Bosnian state to institutions of the international community. The table below presents a brief

overview of the agreements reached in Dayton and the extensive international institutional power included.

*Figure 3.1. The Dayton Peace Agreement: Annex by Annex*

<b>Annex</b>	<b>Area of Authority</b>	<b>International Body with Institutional Power</b>
1	Military Aspects Regional Stabilization	NATO OSCE
2	Inter-Entity Boundary Line	NATO
3	Elections	OSCE
4	Constitution Constitutional Court Central Bank	UN High Representative ECHR IMF
5	Arbitration	
6	Human Rights	OSCE; Council of Europe
7	Refugees and Displaced Persons	ECHR
8	Commission to Preserve National Monuments	UNESCO
9	Commission on Public Corporations	Bank for Reconstruction/ Development
10	Civilian Implementation	UN High Representative
11	International Police Task Force	UN

*(Source: Chandler 1999: 45)*

From Dayton, a couple of the agreements must be emphasized. As was mentioned above, Annex 2 established the inter-entity boundary line, which divided the country into two entities: the Muslim-Croat controlled Federation of BiH and the Serb controlled Republika Srpska (RS). Refer to the map below, which depicts the inter-entity boundary line separating the two entities. Moreover, the tenth annex created the Office of the High Representative (OHR). Initially, the OHR was intended to monitor the implementation of the peace process, but the office was provided with no legally binding powers to do so. Thus, legally binding powers were given at the Bonn Peace Implementation Council Conference in 1997 as a result of the 1996 elections. The members of PIC believed that democratic elections would foster the election of political moderates, as opposed to the status-quo ethnic nationalists. However, the 1996 elections failed to produce and sustain reconciliation. Therefore, the Bonn powers function as a “correction mechanism in case of deviation from the Dayton Peace Agreement defined framework of action”

(Bojkov 2003: 15). If domestic parties fail to reach an agreement, the High Representative may exert legal influence. In sum, the Dayton Peace Agreement created a highly fragmented state based on ethnic exclusivity. With a weak central government, Dayton provided the majority of the power to the two entities and various international institutions.

### ***The Dayton Peace Agreement: a constitutional framework***

The Dayton Peace Agreement served many purposes, including as a state constitution. The Constitution was agreed at Dayton as the fourth annex. It codified the three predominant ethnic groups of BiH (Bosniak, Serb, and Croat) as the “three constituent peoples,” carefully balancing all further power sharing along ethnic lines.

In all facets of the institutional level, the Constitution employed power-sharing mechanisms. Within the executive branch, the three-member presidency serves as the head of state. The collective presidency is comprised of three members: a Serb from the RS, a Bosniak from the Federation, and a Croat from the Federation. The Chairman of the Council of Ministers serves as the head of government. The Presidency nominates the Chairman, which then requires the approval of the House of Representatives. The Chairman, then, nominates the other ministers. The Council of Ministers is made up of nine Ministries: the Ministry of Foreign Relations, the Ministry of Security, the Ministry of Finance, the Ministry of Justice, the Ministry of Defense, the Ministry of Foreign Trade and Economic Relations, the Ministry of Communication and Transportation, the Ministry of Human Rights and Refugees, and the Ministry of Civil Affairs. Together, the Chairman and the Ministers are responsible for carrying out the policies and decisions of BiH in and for reporting to the Parliamentary Assembly.

Within the legislative branch, BiH’s bi-cameral Parliamentary Assembly consists of the House of Peoples and the House of Representatives. The House of Peoples is made up of 15

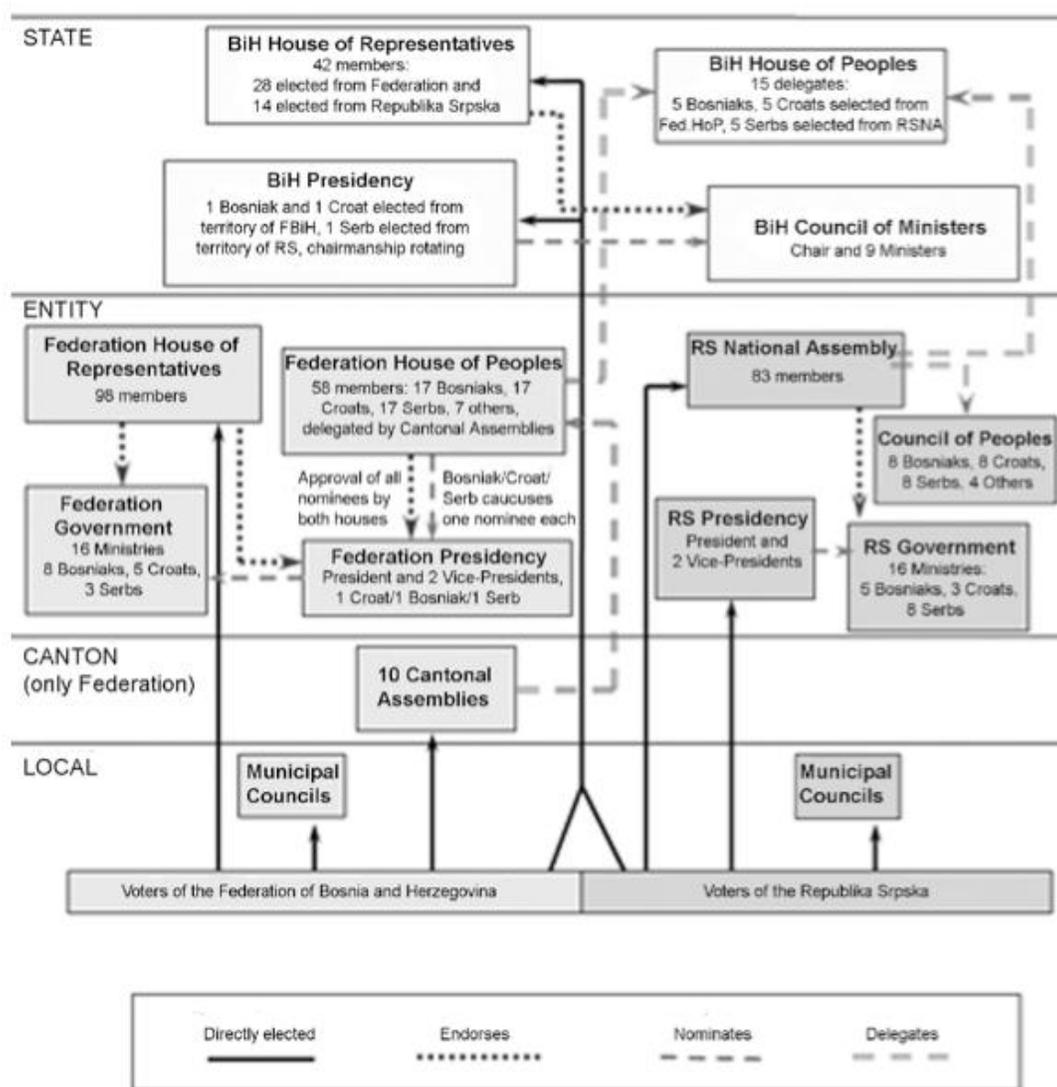
delegates; five Bosniak, five Croat, and five Serb, with members elected by the Federation's House of Representative and RS's National Assembly to serve four-year terms. The House of Representative consists of 42 members; 28 from the Federation and 14 from RS. Members are elected by popular vote for four-year terms.

Lastly, BiH has three courts: a Constitutional Court, a BiH State Court, and a War Crimes Chamber. Similar to institutions within the executive and legislative branches, the Constitutional Court employs quotas to ensure equal ethnic representation. It is made up of six national judges (four from the Federation and two from RS) and three international judges appointed by the European Court of Human Rights (ECHR). The BiH State Court, comprised of 44 national judges and seven international judges, has jurisdiction over cases related to state-level law and cases initiated in the entities that question BiH's sovereignty, political independence, or national security (CIA World Fact Book). A War Crimes Chamber also opened in March 2005, aimed at alleviating the traffic at the ICTY.<sup>19</sup> Refer to the chart below for a comprehensive breakdown of the legislative and executive bodies of BiH.

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<sup>19</sup> The International Criminal Tribunal for the former Yugoslavia (ICTY) is a United Nations court of law that deals with war crimes that took place during the conflicts in the Balkans in the 1990s. According to the ICTY, "since its establishment in 1993 it has irreversibly changed the landscape of international humanitarian law and provided victims an opportunity to voice the horrors they witnessed and experienced." Refer to [www.icty.org](http://www.icty.org) for more information.

Figure 3.2. Legislative and executives bodies of BiH



(Source: Toal, O'Loughlin, and Djipa: 2006: 62)

As the chart more clearly demonstrates, the institutional setup of BiH, as enshrined by the Dayton Peace Agreement, is very complex with an overabundance of bureaucracies blocking decision-making processes (Venice Commission 2003: 5). Moreover, decision-making processes are further obstructed by the prevalence of power sharing. With power sharing among the three

constituent peoples present in every institution on every level, decisions inevitably lead to a gridlock (McMahon and Western 2009: 73).<sup>20 21</sup>

### ***Bilateral Relations between BiH and the EU***

In 2003, the EU recognized Bosnia and Herzegovina as a “potential candidate” for EU membership following the Thessaloniki European Council (Commission). For a list of key dates in the EU accession process, refer to the table below.

*Figure 3.3. BiH’s progress toward EU accession*

<b>Year</b>	<b>Action</b>
<b>1997</b>	EU established the Regional Approach, political and economic conditionality for the development of bilateral relations
<b>1998</b>	EU/BiH Consultative Task Force established
<b>1999</b>	EU proposed SAP for five Southeastern European countries, including BiH
<b>2000</b>	Feira European Council stated that all SAP countries are potential candidates for EU membership
<b>2003</b>	Thessaloniki European Council confirmed the SAP as the EU policy for the Western Balkans, confirming the EU perspective for the countries
<b>2004</b>	EUFOR replaced NATO’s SFOR mission
<b>2005</b>	SAA negotiations opened in Sarajevo
<b>2007</b>	Visa facilitation/readmission agreements with the EC signed
<b>2007</b>	EU initialed the SAA
<b>2008</b>	New European Partnership is signed; BiH signed the IPA Framework Agreement
<b>2008</b>	SAA and Interim Agreement on Trade Issues signed

*(Source: European Commission 2012)*

<sup>20</sup> For further reading on the Dayton Peace Agreement, refer to Chandler’s *Bosnia: Faking Democracy After Dayton* (1999).

<sup>21</sup> For further reading on the failures of the Dayton Peace Agreement, refer to the International Crisis Group’s *Is Dayton Failing? Bosnia Four Years after the Peace Agreement* (1999).

The table above lists a number of significant documents that provide BiH with the criteria for fulfilling membership. They are: the 1993 Copenhagen Criteria, the 1997 Regional Approach, the 1999 Stability Pact for Southeastern Europe, and the 2003 Thessaloniki Agenda.

The Copenhagen criteria, set in 1993, aimed to provide a guiding framework for admitting future member states into the European Union. Specifically, it requires that:

the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union. (Copenhagen European Council, 1993, Presidency Conclusions)

The criteria emphasize political and economic stability and the role of democracy in providing such stability. The Central and East European enlargements of 2004 and 2007 led the EU to place political criteria at the core of its conditionality (Anastasakis 2008: 367). Since its establishment in 1993, the scope of political conditionality has increased to include further criteria: the fight against corruption, social and cultural rights, and good neighborly relations among states (Anastasakis 2008: 367).

Then, in 1996, the Commission adopted a “Regional Approach” to the countries of Southeastern Europe. In 1997, the Commission attached political and economic conditions to the Regional Approach to be fulfilled by the target countries. According to the Commission, the Regional Approach served as “the basis for a coherent and transparent policy towards the development of bilateral relations in the field of trade, financial assistance and economic cooperation, as well as of contractual relations” (1997). While the Regional Approach attempted to tailor conditionality more specifically to the Western Balkans, “it had limited success and

focused more on the suspension of, and/or exclusion from agreements, or the freezing of financial assistance” (Anastasakis 2008: 368).

In 1999, following the end of the war in Kosovo, the EU made another attempt at tailoring conditionality to the region with the SAP and the SP. According to Anastasakis:

Its political conditionality placed the emphasis on the principles of peace, justice for war crimes, reconciliation, anti-discrimination, and good neighborly relations. The EU asked explicitly for the return of refugees to their pre-war properties, compensation for lost or damaged property, cooperation with the Hague-based International Criminal Tribunal for Yugoslavia (ICTY) for the crimes committed during the Yugoslav wars, and compliance with the peace agreements of Dayton in Bosnia. (2008: 368)

For BiH, conditionality was further expanded in 2003, following the Thessaloniki European Council, to include 1) cooperation with the International Criminal Tribunal for the former Yugoslavia, 2) reform of governance, 3) reform of public administration and the judiciary, and 4) protection of human rights (Aybet and Bieber 2011: 1920). Currently, BiH only has two more conditions to fulfill as a potential candidate country: amend the constitution to reflect the ruling in the *Sejdic and Finci v. BiH* case,<sup>22</sup> and adopt the 2012 budget. After fulfilling those, it can begin implementing the SAA and transition from a potential candidate country to a candidate country for membership.

In sum, the background information to the two cases has allowed for a sufficient comparative analysis to be conducted. Although the two cases differ, the ethnic and territorial divides during and following the conflicts allow for a fruitful comparison. With high levels of ethnic tension still prevalent within the upper echelons of BiH political leadership, adoption of the Cyprus model allegedly will only foster an even more permanent divide of the country, as was the case in Cyprus. In the following section, BiH’s prospective integration progress between

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<sup>22</sup> Jakob Finci and Dervo Sejdic, a Jew and Roma respectively, filed suite against the State of BiH, arguing that BiH's Constitution is discriminatory. As minorities, Sejdic and Finci cannot run for office in BiH's presidency or parliament. In December 2009, the ECtHR ruled in favor of Sejdic and Finci, rendering constitutional reforms necessary for EU accession.

2008 and 2011 will be assessed and analyzed. Only the years after 2008 will be analyzed because only in 2008 was a new partnership reached for current and future BiH relations with the EU.

## Chapter 4: The case of BiH

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### *Assessing BiH's progress from 2008-2011*

In 2008, the EU and BiH agreed upon a new partnership,<sup>23</sup> which sets out the current principles, priorities, and conditions. Regarding conditionality, the Commission states, “assistance to the Western Balkan countries is conditional on progress on satisfying the Copenhagen criteria and on meeting the specific priorities of this European Partnership” (2008: 1). In total, the Commission set 174 criteria for BiH to fulfill. The Commission measures “progress” on the basis of decisions taken, legislation adopted, and measures implemented (2008: 4). Thus, this section aims to track BiH’s progress in fulfilling the set political criteria between 2008 and 2011 according to the Commission’s annual reports.<sup>24</sup>

In its 2008 progress report, the Commission deconstructed political criteria into six areas: constitution, parliament, government, public administration, judicial system, and anti-corruption policy. I will seek to categorize the areas by how much progress was made as determined by the Commission. The only area making “no progress” was the reform of the constitutional framework. The Commission found that “very little progress” was made on improving its tools to fight corruption (15).

Both improvements to the efficiency of the Parliamentary Assembly of BiH and to the public administration made “some progress.” But both are continually plagued with the “unstable political climate and systemic voting along ethnic lines” (9). More specifically, public administration continues to be undermined by “the country’s complex and cumbersome institutional structure” (12). According to the Commission, BiH made “limited progress” in the

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<sup>23</sup> For the full agreement, refer to document “32008D0211” on the EUR-Lex server, [eur-lex.europa.eu](http://eur-lex.europa.eu).

<sup>24</sup> Refer to the European Commission’s site, [ec.europa.eu/enlargement/how-does-it-work/progress\\_reports](http://ec.europa.eu/enlargement/how-does-it-work/progress_reports), for access to all of its progress reports.

governmental sphere, specifically on “making the state-level government more functional and efficient to address their commitments regarding European integration” (11). The only area that made substantial progress was the judicial system, in which “an effective and efficient judicial system has been advancing” (14).

In its 2009 report, minor differences were reported. Regarding the constitutional framework, BiH went from “no progress” to “little progress” (9). Progress in the judicial system changed from “advancing” in 2008 to “limited” in 2009 (12). Anti-corruption policy progress subtly improved, from “very little” in 2008 to “little” in 2009 (14). In 2010, no significant changes in progression were reported. Lastly, in its most recent report, the Commission found that overall:

Bosnia and Herzegovina has made limited progress in addressing the political criteria. One year after the general elections...the process of establishing executive and legislative authorities remains to be completed with the establishment of a State-level Government. This long delay has had a negative impact on Bosnia and Herzegovina's much-needed reforms. The Council of Ministers issued a decision regarding the establishment of a new working group to harmonize the Constitution with the European Court of Human Rights (ECtHR) ruling in the Sejdic-Finci case. The lack of a credible process for the harmonization of the Constitution with the above ECtHR ruling remains an issue of serious concern...The complicated decision-making process contributed to delaying structural reforms and to reducing the country's capacity to make progress towards European Union integration. The coordination mechanisms between the State-level and all authorities on EU-related matters require substantial strengthening. (2011)

As the Commission's annual reports show, although a thorough list of conditional requirements has been set for BiH, the country is not making significant progress in reaching its intended goal. In my analysis of the reports, I have found that a common hindrance is prohibiting BiH's transformation—the state's constitution. Frequently, the Commission blames the ethnicization of the political sphere, which is most visible in the discourses and actions of the country's political elites. Moreover, the cumbersome institutional setup is blamed for obstructing BiH's progress. Both the political ethnicization of BiH and the institutional structure of BiH are codified within

the constitutional framework enshrined within the Dayton Peace Agreement. It is for these reasons that Dayton is flawed. The constitutional framework that is in place in BiH keeps BiH at a standstill, one that began 17 years ago with its signing.

However, the EU has not made constitutional reform a requirement for membership. In fact, the EU has de-emphasized the need for its reform in recent years. Lumped in a requirement with governance, the short-term constitutional reform requires BiH to “ensure structured and institutionalized state/entity coordination by establishing functioning mechanisms for political, legislative, and technical coordination between the state and the entities; Ensure due follow-up to the reports issued by BiH’s supreme audit institutions” (European Commission 2008). Moreover, the long-term constitutional reform requires BiH to:

Continue the process to agree on and adopt changes to the constitution of Bosnia and Herzegovina that will contribute to creating more functional and fiscally sustainable institutional structures, improving respect for human and fundamental rights and supporting the process of European integration; Ensure continued progress with taking full national responsibility for policy formulation and decision-making. (European Commission 2008)

Such stipulations neither emphasize the imperative nature of the reform nor provide effective measures to go about such a considerable task. If reforming the constitution is so imperative, why, then, has the EU failed to enforce it? I argue that, similar to reaching a settlement in the Cyprus problem, it is a daunting and overarching task. The next section will explore the reform process. Breaking down the constitutional reform process serves as a microcosm for analyzing BiH’s entire accession process, fraught with challenges and inevitable stalemates.

### ***Attempts at constitutional reform: Analyzing domestic factors***

As mentioned above, a weak central government cannot successfully implement the European Commission’s criteria. Thus, a number of reform packages have focused on

strengthening the powers of the central government, and, consequently, lessening the power of the entities. However, compromises between the RS and the Federation have been minimal, and because of this, have failed to achieve any substantial reforms toward a more effective constitutional structure. Thus, I will argue that this inability of political elites to compromise is one example portraying EU conditionality as a futile attempt to achieve stability within BiH. This section will track the attempted reforms from 2006 until 2009.

It is important to note that prior to 2006, progress had been made in reforming the BiH governing structure. In 2000, following the ruling of the ‘Constituent Peoples’ case, the two entities amended their constitutions to ensure the full equality to the country's three constituent peoples (International Crisis Group 2009). In his opinion, Judge Hans Danelius, stated that articles from both the Serb Republic’s Constitution and the Federation’s Constitution were not in conformity with the Bosnian Constitution. One challenged provision finds fault with only referring to “Serbs” as the people of RS, constituting discrimination against all other “citizens.” Similarly, Article I of the Federation Constitution only referred to Croats and Bosniaks as its constituent peoples, discriminating against Serbs of the Federation (Danelius 2000: 3). Indeed in violation of the preamble of the BiH State Constitution, the court noted that the “collective equality of constituent peoples prohibits any special privilege for one or two of these people, any domination in governmental structures, or any ethnic homogenization through segregations based on territorial separation” (Belloni 2008: 59). The court’s ruling further asserted that both Entities were not providing equal status for all their peoples, and ruled as unconstitutional twelve provisions of the RS constitution and four articles of the Federation’s Constitution (Belloni 2008: 60).

The major political parties reached an agreement, and in April 2002 and October 2002 the HR imposed the amendments to the Entity Constitutions. In an attempt to ensure the equality of all constituent peoples throughout BiH, power-sharing provisions, including a vital interest veto, similar to the provisions at the state level, were introduced in the entities and the cantons within the Federation. Also, rules allocating the most important positions equally among the three constituent peoples were included in the respective Constitutions (Venice Commission 2005: 4). The ‘Constituent Peoples’ case highlighted the need for Constitutional reforms to take place on the entity and state levels.

However, the reform process began slowing down in 2006 with the failure of “the April Package.” Named after the month in which it failed in the House of Representatives, the April Package began as a private initiative of former deputy HR, Donald Hays. With the financial support of several European countries, namely Sweden, Switzerland, and Norway, and the backing of the US Department of State, the reform talks culminated in a proposed set of amendments in March 2006, agreed upon by eight Bosnian party leaders. These amendments included:

a new format for the election of the Presidency along with a reduction of its powers; new competences granted to the state; the creation of two new ministries, namely agriculture and technology; the strengthening of the Council of Ministers; and an increase in the number of MPs in both parliamentary chambers (Sebastian 2007: 4).

The April Package emerged as a significant step when compared with other reform processes because it “marked a clear shift in the relations between domestic and external actors...It was chaired and led for the first time by domestic actors” (Sebastian 2007: 4). However, despite the domestic participation, the reform package fell two votes short of approval by the House of Representative in April 2006. The only parties opposed to the April Package were the Party for BiH, SBiH, and the Croat HDZ 1990. Haris Silajdzic, head of SBiH, claimed to have rejected the

reforms on the grounds that they did not weaken the entities as he demanded; they were merely a “cosmetic” solution (Mustajbegovic 2007: 1). Representatives of the parties that rejected the package assert it failed to address some of the key issues preventing the state from being fully functional (Sebastian 2007: 5). According to the International Crisis Group, “the April Package is widely believed to have failed when BiH’s parties mobilized for the 2006 general election campaign and began trying to win points by adopting maximalist positions attractive to the electorate” (2009: 5). Rather than agreeing to the smaller reforms, which will gradually attribute to state functionality, some political leaders from the Federation dismissed the April Package in its entirety.

The year 2006 also emerges as a significant year because of the results of the general elections. Dzihic and Wieser cite the Bertelsmann Transformation Index for 2008, “While the October 2006 elections seemed to mark a political shift away from the dominant nationalist parties, they in fact merely confirmed the transition to an ethnically based and confrontational party system, hardly a step toward democratic consolidation” (2011: 1816). The victors, Milorad Dodik and Haris Silajdzic, “continued relying on ethno-nationalist arguments and ethnopolitics” (Dzihic and Wieser 2011: 1816), rendering compromise futile. The political deadlock thus ensued.

The next significant attempt at reform was a locally driven initiative, beginning in the village of Prud in November 2008 and ending in March 2009. In attendance of the series of meetings were the leaders of the SDA, Sulejman Tihic, SSDN, Milorad Dodik, and HDZ BiH, Dragan Covic<sup>25</sup> (SE Times 2009). The leaders met to address issues of State functionality; such as, the organization of a population census in 2011, the status of Brcko, and constitutional

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<sup>25</sup> SDA, the Party of Democratic Action; SSDN, Alliance of Independent Social Democrats; HDZ BiH, Croatian Democratic Union of Bosnia and Herzegovina.

reform. Although the meetings effectively led to the adoption of the first Constitutional amendment on the status of the Brcko district, it failed in producing concrete results and failed in bringing the parties closer in positionality.<sup>26</sup> According to Kurt Bassuener, the Prud Process “delivered less than was advertised.” It emerged as proclamations of unspecified deals without results; thus, it “counts for little and should not be touted as signifiers of progress” (2009: 13).

The next attempt at reforms was with the Butmir Package. According to the International Crisis Group, Butmir was a reaction to the 2009 events that transpired between HR Valentin Inzko and RS Prime Minister Milorad Dodik (2009: 4). On September 18, 2009 Inzko used his Bonn powers to impose eight new laws in BiH. The following day, his principal deputy imposed another law, totaling nine new laws within two days. Less than a week later, RS Prime Minister Dodik “publicly rejected all nine [laws] and threatened to pull all Serb representatives from Bosnian government if Inzko tried to impose further measures” (2009: 2). The International Crisis Group suggests that the conflict between the two levels of government is not over the “minutiae” of what the legislation entailed, but “a struggle over the authority to impose decisions between the Office of the High Representative and the RS premier and his supporters” (2009: 3).

Therefore, in an attempt to alleviate tensions, the United States and the EU organized a high-level package, allowing the OHR to close and pushing BiH toward EU and NATO membership. The package included:

Reforming state structures to make them comply with the European Convention of Human Rights (ECHR); creating a larger, more powerful and unicameral legislature and a larger and more powerful Council of Ministers with a prime minister; and giving the state authority to assume responsibilities and make commitments in the EU accession process (International Crisis Group 2009: 4).

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<sup>26</sup> Report from the Committee on the Honoring of Obligations and Commitments by Member States of the Council of Europe.

Similar to the fates of previous packages, the Butmir Package also failed, and this time, the international community shoulders the majority of the blame (Bieber 2010: 2). While the package's sponsors initiated the reform process with the right intentions, the approach was miserably flawed. Moreover, again, political elites from the three constituent peoples failed to diverge from their ethno-nationalist interests to engage in any sort of compromise. In an attempt to understand why the talks at Butmir failed, it is important to understand the ethno-nationalist interests of the three parties involved.

Most Bosniak leaders within the Federation believe BiH does not function under Dayton. Instead of smaller constitutional reforms, they would rather see a comprehensive revision of the entire constitution, which would centralize power at the state level and maintain a significant international presence. First, Bosniak leaders see the centralization of power as the answer because powerful Entities deadlock decision-making processes. With so much power, RS can block most state decisions and institutions. Second, they believe that without international supervision, RS will try to secede from BiH (International Crisis Group 2009: 6).

In simplest terms, Croat political elites want to ensure their equality within Bosnia and Herzegovina. The smallest of the three constituent peoples, making up 14.3% of the population in 2000,<sup>27</sup> equality emerges as their biggest concern. Equality can be preserved through the vital national interest veto and their ability to elect a member of the state presidency (International Crisis Group 2009: 6).

Lastly, political elites within the Serb Republic seek to maintain its Entity's broad autonomous governing powers. Therefore, "they are suspicious of international initiatives that focus on building the central state by increasing institutional functionality," to them, these attempts weaken Republika Srpska (International Crisis Group 2009: 6).

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<sup>27</sup> In 2000, Bosniaks made up 48% of the population and Serbs made up 37.1% (CIA World Factbook).

Thus, with three opposing wills along ethno-nationalist lines, it comes as no surprise that the Butmir package, like its attempted predecessors, also failed. Much blame can be put on the three constituent peoples' ethnic leaders. Milorad Dodik and Haris Silajdzic not only rejected the package, but also "continued the practice of formulating maximalist demands and making mutual accusations. Milorad Dodik even went a step further by describing the Butmir talks as an 'unnecessary adventure' and as a process 'that does not exist,' leaving the EU and the US officials and OHR confused and desperate about the further reform steps and real effects of their political initiatives to change the parameters of the Bosnian constitution and make the country more functional" (Dzihic and Wieser 2011: 1817).

The EU played an interesting role in the Butmir talks. While the union claims to seek to foster democratic stability through the use of conditionality, it did just the opposite at Butmir. In the end, the EU contributed to creating the sense of crisis rather than alleviating it (Bieber 2010: 1). The EU, along with the support of the US, proposed the three parties agree on a far-reaching deal with the Butmir Package. As this research has shown, a compromise among the ethno-nationalist political elites will never be achieved with a maximalist attempt. Even further complicating the process was the international community's "all or nothing approach, in which BiH leaders were to act on a bundle of reform measures without the ability to pick and choose" (International Crisis Group 2009: 6). This leads to an inevitable deadlock because Bosniaks will not agree to a full package that does not include overarching reforms and RS will reject a package with significant reforms. Bieber further summarizes the international community's Butmir failures into three reasons:

The EU and US were ill-prepared, suggesting 'quick fix' solutions to the parties. Second, international mediators had little to offer in exchange for reform, especially to those parties which would have lost out as a result. Third, by creating a sense of emergency in

Butmir's army barracks, the mediators suggested that extra-institutional and quasi-coercive means might be used to change Bosnia's political structure (2010: 1-2).

Ultimately, the international community acted out of haste and fear. It feared an impending conflict between RS and the OHR, so it threw together a list of cosmetic reforms, ignoring the actual problem.

Switching perspectives, in analyzing the constitutional reform process in BiH, critics of my argument may problematize the causal link I have drawn between the Dayton Peace Agreement and current political deadlock in BiH. According to Aybet and Bieber, "for the first decade the institutional framework provided for the gradual emergence of a Bosnian state with core state functions" (2011: 1913). While this may be true, Dayton may have been the framework for the past, but it is no longer the framework for the future. Moreover, critics argue an overemphasis of the state constitution's role in Bosnia's current political gridlock undermines "the deep divisions which shape Bosnian society" (Aybet and Bieber 2011: 1913). I find fault with this argument. This paper has shown that although Dayton did not create the ethnic divisions in BiH, it institutionalized them. That institutionalization has had a significantly negative impact on future progress. Furthermore, an incontestable result of the constitutional framework agreed upon at Dayton is the organization of Bosnian politics along ethnic lines. With intricate power-sharing arrangements for the three constituent peoples, it is no surprise that political parties, for the most part, organize and mobilize along ethnic lines. Thus, political leaders seek to serve the ethnic interests of their respective constituent group. With this, it is clear that the political elites within Bosnia posit themselves on opposing ends of almost every issue, rendering inter-entity compromises among elites difficult.

The inability of political elites to agree on constitutional reforms demonstrates this difficulty. The April Package, the Prud Process, and the Butmir Package all failed in their

intended goals to strengthen the efficiency of the central government of Bosnia and Herzegovina—a requirement set by the EU in order to facilitate Bosnia’s integration into the Union. To simplify, one or more of the political elites from the three constituent peoples found the reform packages incapable of furthering their ethno-nationalist interests, thus failed the package in its entirety. Elites within the Serb Republic adhere to maintaining the integrity of the Dayton Peace Agreement, for it prevents them from becoming a minority within a centralized Bosnian state. While, on the other hand, elites within the Federation seek to achieve a maximalist reform package.

This chapter presented the domestic factors prohibiting BiH from fulfilling the conditions set by the EU. Here, I chose not to use a comparative analysis; rather, employed a process tracking approach through the analysis of the EU’s progress report. The reason for this is simple. The role of the EU, specifically its use of conditionality, can be comparatively analyzed in both cases because the EU is the constant variable in both. However, domestic factors do not lend themselves to such a comparison. This chapter finds, on the domestic level, BiH does not have the institutional capability to comply with the measures required. A political stalemate continues to negatively impact the country. It contributes to the divide of political elites along ethnic lines. As the EU continues pushing for reform through conditionality, no progress will be made until substantial institutional reform is made, beginning with the constitutional framework.

## Chapter 5: Comparing conditionality in BiH and Cyprus

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This section will explore the prohibitive potential of international factors in the accession process. I will apply the theoretical framework from the first chapter to comparatively analyze the EU's use of conditionality in BiH and Cyprus. The aim is to understand how the EU can improve relations with BiH by comparatively analyzing its failed use of conditionality in Cyprus. The EU's use of conditionality will be compared in three specific areas: credibility of incentives, credibility of obligations, and monitoring mechanisms.

### *Credibility of incentives*

As Schimmelfennig, Sedelmeier, and Tocci have indicated, the prospect of EU membership is the most valuable incentive the EU can offer to encourage compliance from the target state. For Cyprus, the prospect of membership was codified in the 2002 Council Decision of the European Commission. The agreement sought to “prepare [Cyprus] for membership.” The agreement went on to mention “membership” eight more times throughout the document. Thus, from the beginning, Cyprus maintained a strong contractual relationship with the EU, and this gave the Union higher potential to influence Cyprus. Cyprus' accession process provided strong objective gains to the Greek Cypriot community (Tocci 2007: 159). However, this incentive only benefitted one of the two communities of Cyprus. Thus, it comes as no surprise that it further divided Turkish and Greek Cypriots.

On the other hand, membership is not yet on the table for BiH. Its partnership agreement with the EU does not mention “membership” but, instead, offers “assistance” upon compliance with the stipulated requirements. Although assistance can incentivize, it does not give the EU strong enough leverage in BiH. Moreover, assistance can come from other external actors. If BiH finds another actor willing to assist, financially or in another aspect, requiring a lower adjustment

cost from BiH, it will have virtually no reason to comply with the EU's high-cost requirements. Considering the above-discussed domestic factors, a stronger incentive is needed to unite the country's political elites. If membership is officially offered, it may bridge the ethnic divide, compelling domestic actors to work toward the common incentive. However, the EU must be careful when offering incentives. If it isolates the two communities, as it did in Cyprus, and offers only one party a particular incentive, it will risk further dividing the country.

### ***Credibility of obligations***

As discussed, the credibility of the conditions being imposed is vital in its successful adoption by the potential candidate or candidate country. The process of creating credible conditions is two-fold; the target state must be certain that it will receive the promised reward after meeting the demand, and it must believe that it will only receive the reward if the demand is fully met (Sedelmeier 2011: 12). In the case of Cyprus, the EU did not uphold the latter. The EU lost credibility after it no longer required Greek and Turkish Cypriots to reach a settlement regarding the problem. In the end, the Greek Cypriot community received the reward of full membership, without having to fully meet the initial demands set by the Union. Then, upon accession, the EU lost its leverage in Cyprus.

To prevent a similar outcome from occurring in BiH, strict compliance with criteria must be enforced. For instance, as mentioned above, only two requirements stand between BiH as a potential country versus a candidate country: adopting the 2012 budget and amending the constitution in line with the ECtHR ruling. Although I argue BiH needs to become an official candidate country, it must do so only after complying with the final two conditions. If BiH pushes an ill-prepared BiH into official candidacy, the EU will lose its credibility as an enforcer

of its own requirements. For this to happen even earlier in the accession process than in Cyprus, it could have negative consequences.

Another factor determining the credibility of conditionality is the clarity and/or consistency of the obligations (Tocci 2007: 166). Unfortunately, the EU has a tendency to use vague language. Perhaps as a result of speaking on the behalf of 27 members, the EU must hone and clarify its voice. When clear requirements with clear benchmarks are set, target states can more easily fulfill them. For instance, in Cyprus greater clarity came with the Annan Plan, but, according to Tocci, “this occurred at a very late date in the accession process” (2007: 166) and neither Cyprus nor the EU benefitted from it. For BiH, it seems as those requirements dealing with individual human rights and the rule of law have greater clarity, rendering BiH more capable of fulfillment.

### ***Monitoring mechanisms***

The EU monitored, and is currently monitoring, Cyprus and BiH respectively with annual progress reports. According to the Commission, the progress reports are “where the Commission services monitor and assess in detail what each candidate and potential candidate has achieved over the last year and areas where more effort is needed”<sup>28</sup> (2012). However, the EU’s monitoring mechanisms fail to significantly impact the potential candidate and candidate countries for similar reasons as outlined above: vague, inconsistent language. For instance, in their reports on Cyprus, the EU takes a similar approach as was taken in the CEECs, superficially pushing Cyprus toward membership. In BiH, a vague threshold has been set for measuring progress. The Commission states BiH has made either “no,” “very limited,” “limited,” or “some”

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<sup>28</sup> For further reading, refer to the Commission’s website: [ec.europa.eu/enlargement/how-does-it-work/progress\\_reports](http://ec.europa.eu/enlargement/how-does-it-work/progress_reports).

progress. However, the reason behind their selection remains unclear. An overall improvement can be made in regards to the EU's monitoring mechanisms in potential new member states.

In sum, international factors also undermine the EU's successful application of conditionality. This chapter finds that the EU has failed to provide credible incentives, credible conditions, and monitoring mechanisms in BiH. The comparison between BiH and Cyprus sheds light on the severe potential for failure in BiH. If the EU continues on its conditional trajectory, it may risk an outcome in BiH similar to that of Cyprus.

## Chapter 6: Conclusion

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This paper explored the EU's use of conditionality as a tool to influence its potential candidate country, BiH. An asymmetrical comparative analysis was employed to analyze the primary case study through the lens provided by Cyprus' own accession path, which ended in 2004. Methodologically, the comparative analysis allowed for the isolation of the EU's unsuccessful use of conditionality in Cyprus to offer a new perspective on the EU's efforts in BiH. This new perspective will contribute to the existing scholarship on the EU's use of conditionality in the integration of post-conflict states.

Overall, my findings support my hypotheses.<sup>29</sup> The application of conditionality does not lead to the intended outcomes in post-conflict states like BiH and Cyprus. My research posed several questions, aiming to comprehensively analyze the two-fold process of integration: first, has the EU effectively used its transformative ability to foster stability in post-conflict BiH? Second, has BiH upheld its end of the responsibility, receptively adhering to the conditions set by the EU? Finally, why has accession conditionality not culminated in its potential transformative power in BiH? For BiH, stability entails progressing out of the current political stalemate. Moreover, throughout this paper, the effectiveness of conditionality has been determined by whether or not the objections agreed upon in the potential candidate/candidate's Partnership agreement with the Union have been met.

Before assessing BiH, I first analyzed Cyprus. For Cyprus, the primary objection, attempted through the use of conditionality, was to have a unified Cyprus enter the EU. As this paper has shown, this did not happen. After the divided country joined, reaching a prospective

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<sup>29</sup> However, my findings refute the initial assumption stated in the introduction. In the introduction, I assumed that the EU may have more leverage in fostering a transformation in a post-conflict state like BiH because of the space provided by the weak institutions. Conversely, the existing scholarship has shown that the opposite, in fact, holds true. Weak institutions prohibit potential candidate and candidate countries from implementing the EU's criteria.

settlement between the RoC, a new EU member-state, and the TRNC, a non-EU recognized territory, became less feasible. This paper extensively analyzed the EU's role in Cyprus' accession. It found that the EU's inconsistent, and at times arbitrary, use of conditionality delegitimized its potential transformative power. In all three categories analyzed: credible incentives, credible incentives, and monitoring mechanisms, the EU did not provide the post-conflict state with the more effect conditionality framework.

The findings from the case of Cyprus shed new light on the case of BiH. Much of the existing scholarship problematizes BiH's prospective integration because of the domestic factors. However, as Cyprus has shown, the role of the EU in providing an effective accession model emerges as equally as important. Thus far in BiH, the EU has failed to provide a credible incentive (full membership), has failed to provide credible conditions (only a vague requirement of constitutional reform), and has, overall, lacked an effective monitoring mechanism.

However, the aim of this paper has not been to treat domestic and international factors obstructing the accession process of post-conflict states as mutually exclusive. Rather, by isolating one from the other, I have sought to deconstruct the potentially prohibitive factors. For future BiH relations with the EU, the Cyprus model is not a viable solution. The findings of this paper show that in order for conditionality to succeed in BiH, a more tailored approach is needed, one conducive to a post-conflict state, still in the reform process of its own state-building.

### ***Limitations of the study***

Inherently, comparative analyses have limitations. In this study, comparing two countries with lengthy and complex histories required forgoing more extensive analysis for providing thorough background information. I chose the latter in an attempt to avoid simplifying and

generalizing for the sake of a comparison. Moreover, isolating EU conditionality as the primary variable that transforms post-conflict states into EU member states may emerge as problematic. I isolated EU conditionality because it is the most effective tool of the EU in the accession process. However, in conducting a qualitative analysis, it is difficult to control for external variables. This research may lend itself to a quantitative analysis, in which external variables may be more easily controlled.

### ***Recommendations for further research***

As mentioned above, a statistical analysis could expand the scope of this project. Moreover, analyzing EU conditionality in more post-conflict states would provide more substantial empirical evidence.

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