

Defining Documents in the EU Integration of Bosnia and Herzegovina: Where Is the “European Choice” Heading?

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Abstract: Over the past two decades, Bosnia and Herzegovina’s (BiH) European Union (EU) integration process has garnered significant scholarly attention in the context of Western Balkans studies. This article contributes to this discourse by employing a descriptive analysis approach to examine thirty-one key legal documents issued between 1992 and 2022 by the BiH Parliamentary Assembly, Council of Ministers, and Presidency. These documents serve as primary sources, offering crucial insights into BiH’s legal framework governing its EU integration efforts. Through rigorous textual analysis, this article evaluates the efficacy of these documents in facilitating the necessary reforms for EU accession. The findings reveal a significant discrepancy between the rhetoric of reform in governmental papers and the actual implementation of these reforms in BiH’s political landscape. This highlights systemic challenges within BiH’s governance that hinder effective reform implementation and EU accession progress. By critically analyzing these legal documents, this article provides a nuanced understanding of BiH’s EU integration trajectory, emphasizing the gap between policy formulation and implementation. It argues that mere rhetorical commitments in governmental documents are insufficient to drive meaningful reform in BiH and achieve EU membership.

1. Introduction

The Western Balkans, a region of strategic importance for the European Union (EU), has seen a varied trajectory in its integration process, as highlighted in scholarly literature.¹ The overall progress on their path towards EU membership remains a significant concern and represents the greatest challenge faced by the EU since the first enlargement of the Union in 1973. Croatia stands out as the only country in this region to have successfully acceded to the EU in 2013 after a protracted accession process that began in 2005.² This contrasts sharply with the more rapid accession of Central and Eastern European countries (CEECs) earlier on.³ In the EU Enlargement Strategy of 2018, Montenegro and Serbia were recognized as “frontrunners,” Albania and North Macedonia as “midfielders,” and Bosnia and Herzegovina (BiH) and Kosovo as being “in the rear” on their respective paths toward EU membership. The EU’s enlargement strategy in the Western Balkans has faced challenges, with other countries in the region, including BiH, still distant from full membership prospects.⁴ This disparity underscores concerns that the EU has struggled to replicate its earlier successes in the CEECs.⁵ However, the accession of the Western Balkan countries (WBCs) to the EU is a natural step in the Union’s completion.

¹ Jens Woelk, “EU Member State-Building in the Western Balkans: (Prolonged) Eu-Protectorates or New Model of Sustainable Enlargement? Conclusion,” *Nationalities Papers* 41, no. 3 (2013): 469–82, <https://doi.org/10.1080/00905992.2013.768978>; Jelena Džankić, Soeren Keil, and Marko Kmezić, eds., *The Europeanization of the Western Balkans: A Failure of EU Conditionality?* (Switzerland: Palgrave Macmillan, 2019); Solveig Richter, “Two at One Blow? The EU and Its Quest for Security and Democracy by Political Conditionality in the Western Balkans,” *Democratization* 19, no. 3 (2012): 507–34, <https://doi.org/10.1080/13510347.2012.674360>.

² Džankić, Keil, and Kmezić, *Europeanization of the Western Balkans*; Adea Gafuri and Meltem Muftuler-Bac, “Caught between Stability and Democracy in the Western Balkans: A Comparative Analysis of Paths of Accession to the European Union,” *East European Politics* 37, no. 2 (2020): 267–91, <https://doi.org/10.1080/21599165.2020.1781094>.

³ Milenko Petrović and Nikolaos Tzifakis, “A Geopolitical Turn to EU Enlargement, or Another Postponement? An Introduction,” *Journal of Contemporary European Studies* 29, no. 2 (2021): 157–68, <https://doi.org/10.1080/14782804.2021.1891028>.

⁴ Marko Kmezić, “Recalibrating the EU’s Approach to the Western Balkans,” *European View* 19, no. 1 (2020): 54–61, <https://doi.org/10.1177/1781685820913655>.

⁵ Solveig Richter and Natasha Wunsch, “Money, Power, Glory: The Linkages between EU Conditionality and State Capture in the Western Balkans,” *Journal of European Public Policy* 27, no. 1 (2019): 41–62, <https://doi.org/10.1080/13501763.2019.1578815>.

Scholars have extensively analyzed the efficacy and limitations of EU conditionality as a tool for fostering reforms in the Western Balkans.⁶ Despite being considered potent, EU conditionality has not uniformly driven progress towards EU accession in the region, leading to divergent outcomes from initial expectations. This context frames the complexities and challenges inherent in BiH's EU integration journey.⁷ Since gaining independence in 1992, BiH has consistently prioritized EU accession as a central objective of its foreign policy. However, despite the commitment, BiH lags behind its regional countries in the EU integration process, facing formidable challenges in translating its aspirations into tangible reforms.⁸

This article employs a descriptive analysis approach to explore BiH's EU integration efforts by comprehensively examining key legal documents and institutional frameworks. This article aims to elucidate the evolution, challenges, and potential implications of BiH's path towards European

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- ⁶ Vedran Džihić and Angela Wieser, "Incentives for Democratization? Effects of EU Conditionality on Democracy in Bosnia & Herzegovina," *Europe-Asia Studies* 63, no. 10 (2011): 1803–25, <https://doi.org/10.1080/09668136.2011.618681>; Florian Bieber, "Building Impossible States? State-Building Strategies and EU Membership in the Western Balkans," *Europe-Asia Studies* 63, no. 10 (2011): 1783–802, <https://doi.org/10.1080/09668136.2011.618679>; Gergana Noutcheva and Senem Aydin-Düzgit, "Lost in Europeanization: The Western Balkans and Turkey," *West European Politics* 35, no. 1 (2012): 59–78, <https://doi.org/10.1080/01402382.2012.631313>; Arolda Elbasani and F. Senada Šelo Šabić, "Rule of Law, Corruption and Democratic Accountability in the Course of EU Enlargement," *Journal of European Public Policy* 25, no. 9 (2017): 1317–35, <https://doi.org/10.1080/13501763.2017.131516>; Asya Zhelyazkova et al., "European Union Conditionality in the Western Balkans: External Incentives and Europeanization," in *The Europeanization of the Western Balkans*, 15–39; Richter and Wunsch, "Money, Power, Glory"; Florian Bieber and Nikolaos Tzifakis, *The Western Balkans in the World: Linkages and Relations with Non-Western Countries* (Abingdon, New York: Routledge, 2020).
- ⁷ Gülnur Aybet and Florain Bieber, "From Dayton to Brussels: The Impact of EU and NATO Conditionality on State Building in Bosnia & Herzegovina," *Europe-Asia Studies* 63, no. 10 (2011): 1911–37, <https://doi.org/10.1080/09668136.2011.618706>; Pol Bargué and Pol Morillas, "From Democratization to Fostering Resilience: EU Intervention and the Challenges of Building Institutions, Social Trust, and Legitimacy in Bosnia and Herzegovina," *Democratization* 28, no. 7 (2021): 1319–37, <https://doi.org/10.1080/13510347.2021.1900120>; Cvete Koneska, "Ethnicisation vs. Europeanization: Promoting Good Governance in Divided States," 135–57.
- ⁸ Hamza Preljević and Mirza Ljubović, "Contested Statehood and EU Integration: The Case of Bosnia and Herzegovina," *Politics in Central Europe* 20, no. 3 (2024): 403–35, <https://doi.org/10.2478/pce-2024-0018>.

integration by focusing on normative aspects and institutional dynamics. Methodologically, it utilizes a legal framework analysis, systematically examining thirty-one legal documents issued between 1992 and 2022 by the BiH Parliamentary Assembly, Council of Ministers, and Presidency. Legal framework analysis involves a systematic examination of legal documents and institutional structures within a specific context, in this case, BiH's EU integration process. It seeks to understand how laws, regulations, and institutional frameworks align with EU standards and their effective implementation on the ground. These documents constitute the backbone of BiH's EU accession process, providing a normative framework guiding institutional reforms and policy developments. The legal framework analysis facilitates a detailed exploration of the legal and institutional landscape shaping BiH's EU integration efforts, highlighting both alignment with EU standards and challenges in implementation.

While descriptive analysis illuminates the normative foundations of BiH's EU integration, legal framework analysis also underscores the gap between legal frameworks and actual reforms. As discussed in existing literature, the EU integration in BiH faces significant barriers.⁹ These include a consociational power-sharing model that complicates decision-making, weak institutional capacities, societal divisions, and contested statehood. These obstacles complicate the effective implementation of EU-related reforms, reflecting broader challenges in aligning BiH's governance structures with EU norms and standards. This article contributes uniquely to this discourse by scrutinizing the divergence between BiH's legal commitments, as articulated in its documents, and the practical actions taken.

⁹ Gergana Noutcheva, "Fake, Partial and Imposed Compliance: The Limits of the EU's Normative Power in the Western Balkans," *Journal of European Public Policy* 16, no. 7 (2009): 1065–84, <https://doi.org/10.1080/13501760903226872>; Džihić and Wieser, "Incentives for Democratization"; Jelena Subotić, "Europe is a State of Mind: Identity and Europeanization in the Balkans," *International Studies Quarterly* 55, no. 2 (2011): 309–30, <https://doi.org/10.1111/j.1468-2478.2011.00649.x>; Adam Fagan, "EU Conditionality and Governance in Bosnia & Hercegovina: Environmental Regulation of the Trans-European Road Network," *Europe-Asia Studies* 63, no. 10 (2011): 1889–909, <https://doi.org/10.1080/09668136.2011.618701>; Woelk, "EU Member State-Building"; Bieber and Tzifakis, *The Western Balkans in the World*.

This paper is structured into five main sections, each addressing critical aspects of BiH's EU integration. The initial section contextualizes BiH's commitment and readiness for EU membership, emphasizing the country's historical trajectory and strategic alignment with EU objectives. Following this, the second section evaluates the roles and responsibilities of BiH's governmental entities in managing EU accession responsibilities, providing insights into the application process and institutional dynamics.

The third section delves into the evolution of BiH's institutional framework and coordination mechanisms for EU integration. It examines the development and current status of state-level coordination systems, crucial for navigating BiH's complex legal and institutional landscape. The fourth section comprehensively outlines BiH's reform agendas and action plans, highlighting key priority areas and measures to advance EU-related reforms. Subsequently, the fifth section critically examines the gap between BiH's formal commitments and its integration success, assessing ongoing critiques and evaluations from the European Commission's annual Country Reports spanning 2008 to 2022.

Thus, this article provides a comprehensive analysis of BiH's EU integration efforts through a legal framework analysis, elucidating its normative foundations and identifying implementation challenges. Despite BiH's steadfast rhetorical commitment to EU accession, the practical implementation of EU-related reforms faces significant challenges. These challenges are rooted in institutional complexities, societal divisions, and the intricate dynamics of post-conflict state-building. The gap between normative frameworks and actual reforms underscores the need for sustained political will, enhanced institutional capacities, and effective governance reforms.

Moving forward, addressing these challenges requires a strategic approach that goes beyond normative alignment to encompass meaningful reforms in governance, administration, and societal cohesion. BiH's journey towards EU membership demands not only legislative adjustments but also transformative changes that enhance democratic governance, the rule of law, and effective public administration.

2. Methodology

Documents encompass a wide array of written materials, as defined by various scholars. McCulloch describes them simply as “written items,”¹⁰ while Denscombe refers to them as “written sources.”¹¹ Guba and Lincoln broaden this definition to include “any written material other than a record that was not prepared specifically in response to some requests from the investigator.”¹² For the purposes of this study, documents are understood as government and institutional written sources – official, original, and relevant materials accessible to researchers for study. This definition encompasses a spectrum from public and institutional publications to private and personal items like diaries and letters.

The selection of documents in this study adhered to specific criteria to ensure their relevance and reliability in illuminating BiH’s integration process. These criteria involved identifying information-rich cases through purposive or judgmental sampling methods, expecting that selected documents would provide pertinent insights into BiH’s EU accession journey.

John Scott’s “quality control criteria” guided the assessment of selected documents across four dimensions: authenticity, credibility, representativeness, and meaningfulness of data.¹³ Authenticity, the foundational criterion, addresses the genuine nature and reliability of document sources, which are crucial for determining their authorship and integrity. To uphold this standard, rigorous measures were employed to authenticate the sources before analysis, ensuring their reliability and trustworthiness.

Credibility assesses whether document information accurately reflects real-life events without distortion or manipulation of perceptions. Beyond literal readings, it necessitates a nuanced understanding of contextual nuances to present a clear and accurate portrayal of events. The study aimed

¹⁰ Gary McCulloch, *Documentary Research in Education, History and the Social Sciences* (London: Routledge Falmer, 2004), 1.

¹¹ Martyn Denscombe, *The Good Research Guide for Small-Scale Social Research Projects* (McGraw Hill, England: Open University Press, 2010), 216.

¹² Egon G. Guba and Yvonna S. Lincoln, *Effective Evaluation* (San Francisco: Jossey-Bass, 1981), 281.

¹³ John Scott, *A Matter of Record: Documentary Sources in Social Research* (UK: Polity Press, 1990).

to collect documents that offered a balanced and unadulterated view of BiH's integration process, free from biases or intentional distortions.

Representativeness gauges the extent to which selected documents represent the diversity and breadth of relevant materials available for study. This criterion underscores the importance of comprehensive access to documents providing a holistic view of the research topic. The acquisition process, guided by the Law on Freedom of Access to Information in Bosnia and Herzegovina (Official Gazette of BiH, No. 28/00, 45/06 and 102/09), ensured access to a broad spectrum of documents relevant to BiH's EU integration, although some required special requests from relevant government departments.

Meaningfulness pertains to the clarity and comprehensibility of evidence within documents. Scott distinguishes between literal and interpretive meanings, emphasizing texts' readability and the deeper implications conveyed. This study interpreted documents to extract clear and substantive insights into BiH's EU integration journey, ensuring that data analysis was both rigorous and insightful.

Documentary analysis, despite its advantages – efficiency, cost-effectiveness, unobtrusiveness, stability, and comprehensive coverage over time – is not without limitations.¹⁴ Documents may lack detail, be challenging to retrieve, or exhibit biases not immediately apparent to researchers.¹⁵ To mitigate these challenges, this study employed a qualitative approach that excluded quantification, focusing instead on rigorous thematic analysis.

The analytic process encompassed three iterative steps: initial document review, thorough examination, and interpretation.¹⁶ The initial review involved skimming to identify pertinent passages and themes, facilitating data reduction to manage textual richness effectively. Subsequent close reading delved deeper into the texts, applying thematic analysis to categorize data and reveal connections between emerging themes.

Ultimately, the interpretation phase synthesized findings across documents, structuring them into five thematic categories: (1) Blueprint and

¹⁴ Glenn A. Bowen, "Document Analysis as a Qualitative Research Method," *Qualitative Research Journal* 9, no. 2 (2009): 27–40, <https://doi.org/10.3316/QRJ0902027>.

¹⁵ Sharan B. Merriam, *Qualitative Research and Case Study Applications in Education* (San Francisco, CA: Jossey-Bass, 1998).

¹⁶ Bowen, "Document Analysis."

Strategic Commitments to the EU; (2) From Strategy to Execution; (3) Creating the Coordinating System for EU Integration; and (4) From Action Plans to Acquis. This classification system streamlined analysis, providing a comprehensive framework to understand the complex dynamics underpinning BiH's EU integration journey. These four thematic units draw upon documents outlining BiH's normative foundations for EU integration. Section five, "Where Does Bosnia and Herzegovina Stand?" is derived from the European Commission's annual Country Reports spanning 2008 to 2022.

3. Blueprint and Strategic Commitments to the EU

BiH has long expressed its aspiration to have full membership in the EU. This journey began amidst the turmoil of war and has been marked by significant milestones that reflect the country's dedication to European integration. This section provides a comprehensive analysis of the pivotal documents and strategic commitments that have shaped BiH's EU accession trajectory.

As a federal unit of Yugoslavia, BiH had limited competence in international relations and foreign policy, lacking its own minister of foreign affairs. Critical foreign policy decisions were primarily made in Belgrade.¹⁷ Following the dissolution of Yugoslavia, the former Yugoslav republics began formulating their own foreign policy documents. On June 26, 1992, the Presidency of the Republic of BiH published the document "Platform on the Activity of the Presidency of Bosnia and Herzegovina in War Conditions,"¹⁸ which outlined self-interest strategies, foreign policy goals, and the country's political position in the international community. Among other issues, the document expressed BiH's interest in EU membership. Although this was not a formal EU membership application, the Platform

¹⁷ Katrin Boeckh, "Allies Are Forever (Until They Are No More): Yugoslavia's Multivectoral Foreign Policy During Titoism," in *The Foreign Policy of Post-Yugoslav States, From Yugoslavia to Europe*, eds. Soeren Keil and Bernhard Stahl (New York: Palgrave Macmillan, 2014), 18–43.

¹⁸ The document is accessible in: Miroslav Tuđman and Ivan Bilić, eds., *Planovi, sporazumi, izjave o ustavnom ustrojstvu Bosne i Hercegovine 1991–1995 [Plans, Agreements, Statements on the Constitutional Arrangements of Bosnia and Herzegovina 1991–1995]* (Zagreb: Udruga Svetog Jurja, 2005), 99–102, accessed January 13, 2024, https://www.cidom.org/wp-content/uploads/2015/12/Ivan-Bili%C4%87-i-Miroslav-Tu%C4%91man-Planovi-sporazumi-izjave-o-BiH-91-95_opt.pdf.

marked a turning point in BiH's foreign policy orientation following the collapse of communist rule.

BiH, according to its national composition, geographical position, historical ties, natural potentials, and the structure of the economy, BiH is interested in connecting with all neighboring countries and other states based on mutual respect and equality. Bosnia and Herzegovina has a special interest to become an equal member of the European Community.¹⁹

The EU recognizes that its formal relations with BiH began in the late 1990s and early 2000s. Post-war, BiH's aspiration for EU membership was rekindled and formalized through key documents to facilitate critical reforms. By the end of the 1990s, three seminal documents were brought in the first five years following the war, namely the European Council's Declaration on the Special Relations between the EU and BiH on June 8, 1998, the Council of Ministers' Decision on Launching the Initiative for BiH's EU Accession on January 28, 1999, and the Resolution by the Parliamentary Assembly of BiH on European Integration and Stability Pact for South-East Europe on July 27, 1999.²⁰ These documents laid the groundwork for BiH's European perspective and journey toward EU integration.

The European Council's Declaration on the Special Relations between the EU and BiH, adopted during the 2104th Council meeting on June 8–9, 1998, was particularly significant.²¹ This two-page document, though concise, carried substantial political weight. It recognized BiH's path towards enhanced European integration and firmly rejected any ambitions to divide BiH between Croatia and Serbia, reinforcing the territorial integrity of BiH. This declaration was a critical acknowledgement by the EU of BiH's sovereignty and its future within the European structure, setting

¹⁹ Ibid., 100.

²⁰ European Commission, "European Council's Declaration on the Special Relations between EU and BiH," European Commission – Directorate General IA/F&, External Relations: Europe and the New Independent States, Common Foreign and Security Policy (DGIA/F6)," accessed February 8, 2024, <http://aei.pitt.edu/33628/4/A527.pdf>; BiH Council of Ministers (BiH CoM), *Decision on Launching the Initiative for BiH's EU Accession*, 1999, Official Gazette of BiH, No. 3/99; BiH Parliamentary Assembly, *Resolution on European Integration and Stability Pact for South-East Europe*, 1999, Official Gazette of BiH, No. 12/99.

²¹ European Commission, "European Council's Declaration on the Special Relations between EU and BiH."

a clear stance against any geopolitical aspirations that sought to undermine BiH's unity.

Close and cooperative relations between Bosnia and Herzegovina and her neighbors are essential for peace and stability in the region, and to enable democracy and prosperity to take hold. But these relations must also uphold Bosnia and Herzegovina's independence, sovereignty and unity within her current borders. There is no place in the European Family for ambitions to establish Greater Serbia or Greater Croatia.²²

The Council of Ministers' Decision on Launching the Initiative for BiH's EU Accession, passed on January 27, 1999, was another milestone.²³ This decision mandated the Ministry of Foreign Affairs and the Ministry of Foreign Trade and Economic Relations to spearhead political and economic activities related to EU integration. The decision established a foundational framework for BiH's subsequent efforts towards EU membership by assigning specific responsibilities to these ministries. It was essential in organizing and directing the country's resources and administrative efforts towards meeting EU standards and requirements.

The Resolution on European Integration and Stability Pact for South-East Europe, adopted by the Parliamentary Assembly of BiH on July 27, 1999, underscored BiH's commitment to EU integration.²⁴ This resolution highlighted the importance of political dialogue with the EU and demonstrated a unified political will within BiH to pursue the path of European integration. It emphasized the significance of regional stability and cooperation, aligning BiH's objectives with broader European goals for the region.

BiH's commitment to EU membership was further articulated in the "General Directions and Priorities for the Implementation of the Foreign Policy of Bosnia and Herzegovina," adopted in March 2003.²⁵ This document confirmed the European path as BiH's principal foreign policy objective, reflecting a strategic decision to prioritize EU integration above other foreign policy goals. By doing so, BiH aimed to further develop and

²² Ibid.

²³ BiH CoM, *Decision on Launching the Initiative*.

²⁴ BiH Parliamentary Assembly, *Resolution on European Integration*.

²⁵ BiH Presidency, *General Guidelines and Priorities for Implementation of Foreign Policy of Bosnia and Herzegovina*, 2003, No. 01-645-30/03, Sarajevo.

institutionalize its relations with the EU, aligning its policies with the Stabilisation and Association Process (SAP), which is a critical step towards full EU membership.

Geo-strategic position of Bosnia and Herzegovina restricts the priorities of its foreign policy activities, especially those of multilateral character. Strong and systematic step forward towards European and Trans-Atlantic integration, aiming at the improvement and institutionalization of mutual cooperation represents the strategic priority of Bosnia and Herzegovina.²⁶

On January 29, 2015, the Presidency of BiH adopted the “Declaration on the Commitment of Government Institutions in BiH at All Levels to Implement the Necessary Reforms in the Framework of the EU Accession Process.”²⁷ This declaration reaffirmed BiH’s strategic objective of EU membership and emphasized the need for comprehensive reforms at all government levels. Unlike previous documents, this declaration incorporated all levels of government and addressed both shared and exclusive competences related to EU-affiliated reforms. It highlighted the imperative involvement of all levels of government in the EU enlargement process and domestic reforms, showcasing a holistic approach to the complex process of EU integration.

The “Foreign Policy Strategy 2018–2023,” adopted on March 13, 2018, outlined BiH’s strategic trajectory for EU integration.²⁸ This comprehensive eleven-page document provided a detailed framework, emphasizing security and stability, economic prosperity, the protection of BiH’s nationals abroad, and the promotion of BiH on the global stage. Under the first pillar, it explicitly underscored one of BiH’s principal objectives: achieving full membership in the EU. This reaffirms BiH’s commitment to the aspiration of EU accession as a key component of its overarching foreign policy objectives.

²⁶ Ibid., 2.

²⁷ BiH Parliamentary Assembly, *Declaration on the Commitment of Government Institutions in BiH at All Levels to Implement the Necessary Reforms in the Framework of the EU Accession Process*, 2015, Official Gazette of BiH, No. 16/15.

²⁸ BiH Presidency, *Foreign Policy Strategy of Bosnia and Herzegovina 2018–2023*, 2018, No. 01-50-1-936-27-1/18, Sarajevo, accessed January 8, 2024, <http://www.predsjednistvobih.ba/vanj/default.aspx?id=79555&langTag=en-US>.

One of the main strategic objectives of Bosnia and Herzegovina is its full membership in the European Union. Bosnia and Herzegovina, as a signatory to the Stabilization and Accession Agreement (SAA) with the European Union, as a country which filed its request for membership in the European Union and submitted its answers to the European Commission's Questionnaire, strives to obtain the candidate status as soon as possible, and to open its accession negotiations on membership.²⁹

The consistency of BiH's commitment to EU membership was further demonstrated through various formal statements and agreements. On December 12, 2018, following the submission of the membership application, the "Joint Statement of the Presidency of BiH on European Integration" emphasized EU membership as a crucial strategic foreign policy objective.³⁰ The Presidency expressed dedication to implementing reforms while respecting the constitutional regulations of BiH and the DPA. This statement highlighted the potential of attaining candidacy status as a compelling incentive to drive necessary reforms.

In continuation of this commitment, on October 15, 2020, the Presidency issued an additional "Joint Statement about the European path of BiH," reiterating its unwavering commitment to expedited EU accession.³¹ This statement called upon all governmental levels, operating within the constitutional framework and coordination mechanisms, to initiate the requisite procedures aligning with the *Avis* requirements. On June 12, 2022, in Brussels, the members of the Presidency of BiH and representatives of political parties participating in the Parliamentary Assembly of BiH reiterated their dedication to reforms essential for advancing BiH's European integration through the signing of the "Political agreement on principles for ensuring a functional BiH that advances on the European path."³² This

²⁹ Ibid., 6.

³⁰ BiH Presidency, "Joint Statement of the Presidency of BiH on European Integration Joint," 2018, accessed January 7, 2024, <http://www.predsjednistvobih.ba/saop/default.aspx?id=89052&lang-Tag=bs-BA>.

³¹ BiH Presidency, "Statement about the European Path of BiH," 2020, accessed January 7, 2024, <http://www.predsjednistvobih.ba/saop/default.aspx?id=82561&langTag=bs-BA>.

³² Council of the EU, "Political Agreement on Principles for Ensuring a Functional BiH that Advances on the European Path," 2020, accessed January 7, 2024, <https://www.consilium.europa.eu/en/press/press-releases/2022/06/12/political-agreement-on-principles-for-ensuring-a-functional-bosnia-and-herzegovina-that-advances-on-the-european-path/>.

agreement encapsulated the core principles and commitments crucial for propelling BiH's European integration forward, highlighting the establishment of a functional, democratic state aligned with EU values.

BiH's journey towards EU membership has been marked by a series of strategic documents and commitments that reflect a consistent aspiration for European integration. BiH has demonstrated a steadfast commitment to aligning with EU standards and values from the early post-war years to recent strategic frameworks. As BiH continues its path towards EU membership, these foundational documents and strategic commitments will remain crucial in guiding the country's efforts and ensuring its integration into the EU.

4. From Strategy to Execution

BiH's path to EU membership has been marked by a series of strategic commitments and reforms, reflecting the country's dedication to this ambitious goal. This section examines the critical documents and actions that have shaped BiH's EU integration process, highlighting the challenges and achievements along the way.

The journey began with the adoption of the "Master Plan of the Process of Integrating BiH into the EU" on July 23, 2015 by the Presidency of BiH.³³ This document provided a structured, time-bound framework outlining specific activities for BiH's EU integration. It designated responsibilities across all levels of government, assigning specific duties and setting deadlines for each task. The Master Plan, finalized on October 3, 2016, included eleven core activities such as the adoption of a declaration on the EU by the Parliamentary Assembly, the creation of an effective coordination mechanism among government institutions, the submission of a credible EU membership application, and the implementation of the European Court of Human Rights (ECtHR) judgment in the case of Sejdić and Finci v. BiH.³⁴

³³ BiH Presidency, *Master Plan of the Process of Integrating BiH into the EU*, BiH Presidency Conclusions, 2015, Document No. 01-50-1-1754-13/15.

³⁴ ECtHR Judgment of 22 December 2009, Case Sejdić and Finci v. Bosnia and Herzegovina, application no. 27996/06 and 34836/06, hudoc.int.

Initially scheduled for completion between 2015 and 2017, the Master Plan aimed for BiH to obtain candidate status by December 31, 2017. However, this timeline was not met; only seven activities were fully implemented, while the remaining four – implementation of the ECtHR judgment, adaptation of the integration plan, implementation of the Reform Agenda, and obtaining candidate status – were either partially or not implemented due to policy execution gaps and missed deadlines. For instance, the deadline for responding to the European Commission’s Questionnaire was set for May 31, 2017, but BiH submitted its answers on February 28, 2018, indicating significant delays.³⁵

Following the endorsement of the Master Plan, the Council of Ministers of BiH and all levels of government ratified the “Reform Agenda for the period 2015 to 2018” on June 10, 2015.³⁶ This agenda outlined reforms across six key domains: public finance, taxation, and fiscal sustainability; business climate and competitiveness; labor market; social welfare and pension reform; the rule of law and good governance; and public administration reform. Various government levels adopted action plans to implement the Reform Agenda, initiating a comprehensive wave of reforms. The action plans for BiH’s entity Federation of BiH (FBiH) and its ten cantons included 61 measures, while the action plan for the entity Republika Srpska (RS) encompassed 78 measures, and the state-level plan included 33.

Building on these reforms, the Presidency of BiH decided to apply for EU membership eight years after signing the Stabilisation and Association Agreement (SAA). On January 28, 2016, the Presidency ratified the “Decision on BiH’s EU membership application submission,” authorizing the then-Chairman of the Presidency to submit the application.³⁷ The “BiH Presidency’s EU membership application” was officially presented to the EU

³⁵ DEI (Directorate for European Integration), “BiH’s Responses to the European Commission’s Questionnaire,” 2018, accessed January 7, 2024, <https://www.dei.gov.ba/en/odgovori-na-upitnik-ek>.

³⁶ BiH Council of Ministers, “Reform Agenda for Bosnia and Herzegovina 2015–2018,” accessed February 4, 2024, https://www.vijeceministara.gov.ba/home_right_docs/default.aspx?id=20727&langTag=hr-HR.

³⁷ BiH Presidency, “Decision on BiH’s EU Membership Application Submission, January 28, 2016,” BiH Presidency Decision, 2015, Document No. 01–50–1–227–29/16.

on February 15, 2016.³⁸ The application underscored BiH's commitment to implementing necessary reforms in line with Article 49 of the Treaty on EU.

The Council of the EU acknowledged BiH's application, and on December 9, 2016, the European Commission forwarded a questionnaire comprising 3,242 questions to BiH authorities. Fourteen months later, on February 28, 2018, BiH submitted its responses to this extensive questionnaire. On June 20, 2018, the European Commission issued an additional 655 questions, to which BiH responded on March 4, 2019. These responses allowed the EU to formulate its opinion on BiH's application for membership, known as the *Avis*, which was submitted to BiH authorities on May 29, 2019.

In response to receiving the European Commission's *Avis* and following the lapse of the Reform Agenda for 2015–2018, the Entity governments endorsed the “Joint Socio-Economic Reforms for the period 2019–2022” (termed Reform Agenda 2) on October 10, 2019.³⁹ Reform Agenda 2 aimed to continue the reform process, aligning its priorities with EU recommendations, the European Commission's *Avis*, and the Sustainable Development Framework (SDF) for BiH. This agenda focused on sustained and accelerated economic growth, depoliticization and public enterprise reform, health sector reforms, and strengthening policies for youth, women, and vulnerable categories. Both entities within BiH reaffirmed their shared strategic goal of EU accession through this document.

To ensure the proper alignment of BiH's legislation with the *acquis communautaire*, the “Decision on the Procedures in the Process of Harmonisation of Legislation of Bosnia and Herzegovina with the *Acquis Communautaire*” was adopted.⁴⁰ This decision aims to monitor and report on the compatibility of BiH's legislation with the *acquis*. It obliges legislative drafters and the Directorate for European Integration (DEI) to oversee the entire alignment process, from drafting through adaptation

³⁸ BiH Presidency, “BiH Presidency's EU Membership Application, 2016,” accessed January 13, 2024, https://www.dei.gov.ba/uploads/documents/zahtjev-original-hrv-pdf_1604308434.pdf.

³⁹ CoM, “Joint Socio-Economic Reforms for the Period 2019–2022,” accessed January 12, 2024, [http://www.fbihvlada.gov.ba/file/zbhs-converted\(1\).pdf](http://www.fbihvlada.gov.ba/file/zbhs-converted(1).pdf).

⁴⁰ BiH Council of Ministers (BiH CoM), *Decision on the Procedures in the Process of Harmonisation of Legislation of Bosnia and Herzegovina with the Acquis Communautaire*, 2018, Official Gazette of BiH, No. 75/16 and 2/18.

and amendment. The decision established instruments to evaluate compliance of a draft or proposal with the *acquis*, such as the table of concordance and the statement of compatibility. The degrees of compliance are categorized as complete compliance, partially aligned, mismatched, and non-transferable. BiH is required to align its legislation with EU directives and decisions. Legislative drafters must translate the legislation into English after publication in the Official Gazette of BiH, and upon request from the European Commission, they must also translate drafts or proposals.

BiH's journey towards EU membership has involved significant strategic planning and implementation of comprehensive reforms. Despite encountering delays and challenges in executing these reforms, BiH has made substantial progress in aligning its policies and institutions with EU standards. The continuous efforts to address gaps and build on previous reforms demonstrate BiH's unwavering commitment to achieving full EU membership, underscoring the importance of strategic planning, effective policy execution, and collaborative governance in this complex integration process.

5. Creating the Coordinating System for EU Integration

BiH's organizational structure and institutional framework are notably intricate, presenting significant challenges in navigating the path towards EU membership. Effective internal coordination mechanisms are indispensable for meeting EU requisites and executing adopted policies. Recognizing this necessity, BiH established internal coordination mechanisms across various governmental levels to streamline communication between BiH institutions and EU officials, thereby facilitating the anticipated domestic changes required for EU integration.

From 2003 to 2009, the BiH Council of Ministers enacted six key decisions to institute coordination mechanisms and fortify internal communication among governmental tiers.⁴¹ These were the following:

⁴¹ BiH CoM, *Decision on the Directorate for European Integration*, 2003, Official Gazette of BiH, No. 41/03; BiH CoM, "Decision on the Realisation of Coordination in the Process of BiH's Accession to the EU," 2003, Official Gazette of BiH, No. 44/03; BiH CoM, *Decision on Establishment of Working Groups for Harmonization of Legal Regulations of BiH with Acquis Communautaire*, 2005, Official Gazette of BiH, No. 52/05; BiH CoM, *Decision on the Establishment*

1. Decision on the Directorate for European Integration (December 3, 2003);
2. Decision on the Realisation of Coordination in the Process of BiH's Accession to the EU (December 3, 2003);
3. Decision on Establishment of Working Groups for Harmonisation of Legal Regulations of BiH with the *Acquis Communautaire* (April 6, 2005);
4. Decision on Establishment of Organisational Units for European Integration in BiH's Administrative Bodies (July 3, 2008);
5. Decision on Establishment of the Commission for European Integration within the Provisional Stabilisation and Association Committee (October 6, 2008); and
6. Decision on Establishment of the Working Groups for European Integration (April 2, 2009).

These decisions formed an early framework for coordination within BiH, aimed at streamlining and facilitating the execution of EU-related tasks and domestic changes, thereby enhancing BiH's alignment with EU standards and protocols.

5.1. Establishing the Directorate for European Integration

The Council of Ministers of BiH adopted the "Decision on the Directorate for European Integration" on December 3, 2003, delineating its competencies, structure, and operational framework.⁴² This decision marked a significant transition, as the Directorate supplanted the former Ministry of European Integration of BiH, established in 2000. Functioning as a permanent entity under the Council of Ministers, the Directorate assumed the crucial role of coordinating BiH's activities in the EU integration process. It oversees the execution of decisions endorsed by relevant BiH authorities and institutions concerning European integration processes, aligning BiH's legal

of Organisational Units for European Integration in BiH's Administrative Bodies, 2008, Official Gazette of BiH, No. 66/08; BiH CoM, *Decision on the Establishment of the Commission for European Integration within the Provisional Stabilisation and Association Committee*, 2008, Official Gazette of BiH, No. 92/08; BiH CoM, *Decision on the Establishment of the Working Groups for European Integration*, 2009/10, Official Gazette of BiH, No. 47/09 and 65/10.

⁴² BiH CoM, *Decision on Directorate for European Integration*.

framework with EU standards and serving as the primary operational liaison with the European Commission. Additionally, the Directorate coordinates EU assistance activities within BiH.

Despite its significant role, the initial decision establishing the Directorate lacked comprehensive provisions for achieving vertical coordination (between state-level and lower levels of government) and horizontal coordination (between state-level institutions), which are crucial for harmonizing with EU requirements. Nonetheless, this step laid the groundwork for subsequent advancements in developing a robust and comprehensive coordination mechanism among various governmental tiers within BiH.

5.2. Realization of Coordination in EU Accession

Furthermore, on December 3, 2003, the Council of Ministers adopted the “Decision on the Realisation of Coordination in the Process of BiH’s Accession to the EU.”⁴³ This decision aimed to establish a practical framework for managing the complexities of European integration processes, delineating both horizontal and vertical coordination mechanisms essential for preparing and executing all activities, measures, and tasks pertaining to BiH’s EU accession process.

Vertical coordination involved the Council of Ministers of BiH, ministries, and other state-level administrative bodies and institutions, synchronizing their efforts with the ministries and administrative bodies of the entities – namely, the FBiH, RS, and the Brčko District. Notably, this coordination mechanism excluded the involvement of cantonal governments within the FBiH.

The Council of Ministers introduced a comprehensive framework, starting in 2003, to align BiH’s legislation with the *acquis communautaire*, a significant requirement arising from Article 70 of the Stabilisation and Association Agreement (SAA) with the EU. The “Decision on the Procedures in the Process of Harmonisation of Legislation of Bosnia and Herzegovina with the *Acquis Communautaire*” mandated BiH authorities to consider compliance with the *acquis* when drafting new regulations and laws.⁴⁴

⁴³ BiH CoM, *Decision on EU Accession Coordination*.

⁴⁴ BiH CoM, *Decision on Harmonisation of Legislation*.

5.3. Establishment of Working Groups and Organizational Units

In April 2005, the Council of Ministers passed the “Decision on Establishment of Working Groups for Harmonisation of Legal Regulations of BiH with the *Acquis Communautaire*,” which aimed to aid ministries and administrative bodies in the harmonization process.⁴⁵ This decision involved representatives from state and entity levels but excluded representatives from cantonal governments.

In 2008, the Council of Ministers enacted the “Decision on Establishment of Organisational Units for European Integration in BiH’s Administrative Bodies,” focusing on ensuring effective internal coordination within the responsibilities of state ministries and administrative bodies for the European integration process.⁴⁶ Additionally, the “Decision on Establishment of the Commission for European Integration within the Provisional Stabilisation and Association Committee” was adopted to facilitate efficient coordination and representation of BiH’s authorities at meetings with the Provisional Stabilisation and Association Committee, a joint forum involving the European Commission and BiH’s authorities.⁴⁷

In 2009, the “Decision on Establishment of the Working Groups for European Integration” formed seven working groups representing BiH in various joint bodies and committees related to the Stabilisation Association Sub-committee, trade agreements, and the Reform Process Monitoring (RPM). Representatives from competent ministries and institutions at the state and entity levels were appointed to these working groups.⁴⁸

5.4. The 2016 Decision on System Coordination

The “Decision on the System Coordination of the European Integration” enacted by the Council of Ministers in January 2016 instigated substantial changes to the vertical coordination structure in BiH.⁴⁹ This decision delineated the institutional and operational framework for coordinating BiH institutions concerning activities linked to BiH’s integration into the EU. Grounded in

⁴⁵ BiH CoM, *Decision on Working Groups for Harmonisation*.

⁴⁶ BiH CoM, *Decision on Organisational Units for EU Integration*.

⁴⁷ BiH CoM, *Decision on Commission for EU Integration*.

⁴⁸ BiH CoM, *Decision on Working Groups for EU Integration*.

⁴⁹ BiH CoM, *Decision on the System Coordination of the European Integration*, 2016, Official Gazette of BiH, No. 72/16.

BiH's post-Dayton internal legal and political structure, this decision aimed to ensure consistency and coherence across all governmental levels in BiH concerning fulfilling obligations stipulated by the SAA between the EU and BiH.

The coordination system established competent joint bodies within this framework, defining their compositions, competences, and interrelations. Its primary objective was to ensure institutional consistency and coherence across BiH's different levels of government and articulate a unified stance when engaging with EU institutions. This system was designed to operate based on consensus decision-making principles, paying particular attention to safeguarding competences prescribed by constitutional frameworks at various government levels.

Each government level independently regulated horizontal coordination structures, reflecting their respective administrative orders, legal specificities, and capacities. Vertical coordination encompassed mechanisms across different government levels, involving various joint bodies:

1. Collegium for European Integration: the highest political body within the coordination system; it fosters consensus on critical strategic and political matters concerning European integration. It involves representatives from diverse government levels and is presided over by the Chairman of the Council of Ministers of BiH.
2. Ministerial Conferences: forums for comprehensive and cohesive approaches to specific sectors covered by European integration. These conferences comprised relevant line ministers from various government levels, including the Council of Ministers, entity governments, cantonal governments, and representatives from the Government of the Brčko District. The "Instruction on Ministerial Conferences in the Coordination System of the European Integration Process in BiH" outlined 12 thematic Ministerial Conferences.⁵⁰
3. Commission for European Integration: responsible for technical, operational, and methodological coordination, ensuring inclusive representation of competent institutions across all government tiers. The Commission included the Director of the DEI, representatives from entities' and cantonal governments, the Government of the Brčko District, and a designated representative from the DEI acting as Secretary.

⁵⁰ BiH CoM, *Instruction on Ministerial Conferences in the Coordination System of the European Integration Process in BiH*, 2017, Official Gazette of BiH, No. 43/17.

4. Working Groups for European Integration: These groups comprise representatives from diverse government levels tasked with finalizing technical documents, organizing EU assistance programs, and translating the *acquis*. They evaluated the necessity for financial and technical aid from the EU, translated the *acquis*, identified educational and training needs, exchanged best practices among relevant institutions, and negotiated BiH's position on specific aspects of the *acquis*. The Council of Ministers, on June 11, 2021, affirmed their significance in the integration process by endorsing the "Decision on the Establishment of Working Groups for European Integration," establishing 36 Working Groups aligned with the *acquis* and accession criteria.⁵¹

In addition to these bodies, BiH and the EU established joint bodies for monitoring the SAA implementation, including the Council, Committee, and Sub-Committee within the Stabilisation and Association and the joint Special Group on public administration reform established under the SAA.

Despite the aim of streamlining the EU integration process, the intricate coordination mechanism adds complexity to BiH's functionality in fulfilling its European obligations, given the country's complex administrative structure. This complexity poses challenges in effectively executing the assumed obligations along the European path. Nonetheless, the establishment of these coordination mechanisms represents a significant step forward in BiH's ongoing efforts to align with EU standards and advance towards full EU membership.

6. From Action Plans to *Acquis*

On May 29, 2019, the European Commission released its Opinion on BiH's application for EU membership, delineating 14 key priorities for BiH to address. This Opinion includes an Analytical Report, an exhaustive document outlining 115 specific priorities aligned with the political and economic criteria and the *acquis* chapters. In response, the Council of Ministers of BiH ratified an "Action Plan for the Implementation of Priorities from

⁵¹ BiH CoM, *Decision on the Establishment of Working Groups for European Integration*, 2021, Official Gazette of BiH, No. 46/21.

the Analytical Report of the European Commission” on October 15, 2019.⁵² Formulated by the DEI, this Action Plan established deadlines for executing measures from July 2019 to May 2020. It encompasses 691 measures aimed at fulfilling the 115 priorities identified in the European Commission’s Analytical Report, distributed across various administrative levels: 230 for the state level, 391 for lower governmental tiers, and 70 spanning multiple levels of governance. The breakdown of planned measures includes:

1. laws – 115;
2. by-laws – 92;
3. strategic, planning, and program documents – 94;
4. strengthening of administrative capacities – 79; and
5. other measures – 311 (improvement of coordination, IT solutions, international agreements, memoranda of cooperation, operational activities, etc.).

A total of 231 institutions across all levels of government participated in formulating and executing measures in the Action Plan, including 47 at the state level, 32 from entities within the FBiH, 30 from RS, 17 from the Brčko District, and 105 associated with cantonal levels.

Despite these collaborative efforts, the Action Plan failed to yield significant performance outcomes. According to the “Final Report on the Action Plan for Implementing Measures from the Analytical Report” (endorsed by the Council of Ministers on October 22, 2020), only 288 out of the 691 planned measures (42%) were successfully implemented, leaving 403 measures (58%) unfulfilled.⁵³ The breakdown of implemented measures reveals the following:

1. Law adoption: 26 out of 115 measures (23%);
2. By-law directives: 26 out of 92 measures (28%);

⁵² BiH CoM, “Action Plan for the Implementation of Priorities from the Analytical Report of the European Commission,” 2019, accessed April 6, 2024, https://www.dei.gov.ba/uploads/documents/action-plan-for-the-implementation-of-the-priorities-from-the-ec-analytical-report_1620119866.pdf.

⁵³ BiH CoM, “Final Report on the Action Plan for Implementing Measures from the Analytical Report,” 2020, accessed April 5, 2024, https://www.dei.gov.ba/uploads/documents/finalni-izvjestaj-o-realizaciji-akcionog-plana-za-realizaciju-prioriteta-iz-analitickog-izvjestaja-evropske-komisije_1604657038.pdf.

3. Strategic planning and program documents: 28 out of 94 measures (30%);
4. Enhancement of administrative capabilities: 40 out of 79 measures (51%); and
5. IT, international agreements, memoranda of cooperation, and operational activities: 168 out of 311 measures (54%).

The DEI also formulated an Action Plan specifically addressing the 14 key priorities, but the Council of Ministers has not officially adopted this proposed plan.

6.1. The National Programme for Adopting the Acquis (NPAA)

By signing the SAA on 16 June 2008, BiH committed to formulating a comprehensive countrywide program known as the National Programme for Adopting the Acquis (NPAA), one of the 14 priorities highlighted in the European Commission's Opinion. Neighboring countries like Croatia (2003), Montenegro, and Serbia (2008) underscore the critical significance of the NPAA. In early 2019, the DEI prepared the "Information on the Programme for the Integration of BiH into the EU," approved during the 167th session of the Council of Ministers on February 26, 2019.⁵⁴ Consequently, the Council of Ministers mandated the DEI to inform the Collegium for European Integration about the imperative need to draft the Programme for the Integration of BiH into the EU. The Collegium, the highest political body within the coordination system, affirmed the necessity of formulating and adopting the Integration Programme on May 7, 2020 and entrusted the Commission for European Integration with preparing the "Methodology for the Preparation of the BiH Integration Programme in the EU," adopted on September 24, 2020.⁵⁵

The timeframe for completing the Integration Programme was set at 15 months following the adoption of the Methodology. However, the program has not yet been adopted. This comprehensive program, which would span four years post-enactment, has encountered complexities during its

⁵⁴ DEI, *Information on the Programme for the Integration of BiH into the EU*, 2019, private archive.

⁵⁵ DEI, *Methodology for the Preparation of the BiH Integration Programme in the EU*, 2020, private archive.

drafting phase, involving active participation from administrative bodies across all levels of government in BiH. The adoption and implementation of the Integration Programme are crucial as they would establish a comprehensive database of all BiH regulations harmonized with the EU acquis, supplemented by essential information and indicators.

The Methodology mandates annual revisions to the Integration Programme, considering changes in EU legal acquis, feedback from the European Commission, and a deepened understanding of the European integration process within BiH. The DEI would also be tasked with quarterly reports on the program's implementation, requiring validation from the Commission for European Integration before submission to the European Commission.

Structured according to the adopted Methodology, the Integration Programme would include action plans for aligning legislation with the EU acquis and implementing European Commission recommendations unrelated to acquis transposition. It would address administrative capacities across negotiation chapters, outlining specific institutions needing legal alignment or regulatory adjustments to comply with EU standards. This comprehensive structure would integrate the three Copenhagen criteria (political, economic, and legal) alongside the Madrid criteria (administrative benchmarks) pertinent to EU membership considerations.

6.2. Future Steps

The formulation and partial implementation of the Action Plan addressing the 14 key priorities outlined in the Commission's Avis and NPAA underscore both advancements and persistent challenges within BiH's endeavors toward EU integration. The establishment of numerous measures and the involvement of a wide range of institutions demonstrate a robust commitment to aligning with EU standards. However, the significant proportion of unfulfilled measures underscores the difficulties inherent in BiH's complex administrative structure and the need for more effective coordination and implementation mechanisms.

Moving forward, BiH must prioritize the adoption of the Action Plan, which addresses the 14 key priorities and ensures its thorough implementation. Enhancing vertical and horizontal coordination among various governmental levels and institutions will be crucial in overcoming existing

challenges. Additionally, maintaining transparency and accountability through regular reporting and revisions of the Integration Programme will be essential for aligning with evolving EU requirements and achieving successful EU membership.

7. Where Does BiH Stand?

The rhetoric and legal commitments surrounding BiH's path to EU integration starkly contrast with the practical progress documented in EU assessments. The European Commission's annual Country Reports, formerly known as Progress Reports, serve as the authoritative measure of BiH's advancements towards fulfilling EU membership criteria. Established in 1997 to monitor CEECs' accession progress, these reports have since been adapted for the WBCs. They provide a rigorous evaluation framework, guided by the conditionality principle, which assesses BiH's institutional reforms and policy implementations essential for EU integration. This analysis explores the dynamics between the aspirational rhetoric of EU accession and the pragmatic realities reflected in EU assessments of BiH's progress.

The reports play a vital role in setting tasks, publicly monitoring, and evaluating pre-accession and accession countries across various policy domains, guided by the conditionality principle. They provide the Commission's annual assessment of each candidate's readiness for accession, systematically identifying strengths and shortcomings, often referred to as a "performance report". They also draw on assessments from institutions such as the European Court of Human Rights, the Venice Commission, the International Criminal Court, and the OSCE. Criticisms within these reports can significantly influence domestic debates in the WBCs, prompting governments to enact specific institutional and policy reforms.

The format of the reports, while highly standardized with occasional structural adjustments over time, adheres to the Copenhagen criteria and the *acquis communautaire*. They refrain from naming individual politicians, focusing instead on institutional functions. The Commission determines whether accession conditions are met, with reports promptly available online upon publication for governments, politicians, and experts.⁵⁶

⁵⁶ Tatjana Sekulić, *The European Union and the Paradox of Enlargement: The Complex Accession of the Western Balkans* (Cham, Switzerland: Palgrave Macmillan, 2020).

They also attract substantial attention from domestic and international media annually, although voter engagement with the reports' contents and EU membership issues during political campaigns in BiH remains limited.

The accession and enlargement process reveals a significant asymmetry between the EU, which establishes stringent accession norms, standards, and procedures under rigorous conditionality, and the applicant countries, which must meet these conditions. Despite this dynamic, a concept of “negotiable conditionality” has emerged in BiH. The EU has at times adjusted its approach, exemplified by the postponement of the entry into force of the Stabilisation and Association Agreement (SAA) due to BiH's non-compliance with the Sejić-Finci ECtHR ruling.⁵⁷ Subsequently, a “renewed approach” allowed for re-sequencing conditions without altering their fundamental requirements, demonstrating flexibility while upholding accession criteria.⁵⁸ In BiH's case, the EU reached a compromise on the voting rules of the Stabilisation and Association Parliamentary Committee (SAPC) in 2020, thereby resolving a five-year deadlock and fulfilling one of the requirements outlined in the Commission's Opinion on BiH. Established in 2015, the SAPC initially failed to adopt Rules of Procedure (RoP) due to the insistence of some BiH parliamentarians on including provisions based on ethnic voting principles, which diverged from European standards. The adopted RoP represents a compromise where decisions require a two-thirds majority of BiH parliamentarians (ensuring ethnic representation), contrary to the European Parliament's preference for a simple majority. Thus, this condition was also met through EU concessions on strict requirements.

Additionally, in October 2022, the European Commission, through its 2022 Communication on EU Enlargement Policy, once again adjusted its approach by granting conditional candidate status to BiH, allowing for a re-sequencing of conditionality while maintaining the fundamental

⁵⁷ European Commission, “Bosnia and Herzegovina, 2014 Progress Report,” Brussels, SWD(2014) 305, EUR-Lex: EU law, 2014, accessed 4 April 2024, <https://eur-lex.europa.eu/legal-content/DE/TXT/?uri=CELEX%3A52014SC0305>.

⁵⁸ European Commission, “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions/SWD(2016) 365 final,” 2016a, accessed February 12, 2024, https://www.ecoi.net/en/file/local/1015402/1226_1480929961_20161109-report-bosnia-and-herzegovina.pdf.

accession criteria.⁵⁹ This decision enabled BiH to attain candidate status after meeting eight specified reform conditions without full compliance with all 14 Key Priorities outlined in the 2019 Commission's Opinion on BiH. Notably, the EU deferred reforms on critical structural issues for BiH's candidate status, specifically neglecting reforms under points 4a (introduction of the substitute clause) and 4f (implementation of the Sejdić-Finci ECtHR ruling) of the 14 Key Priorities. This re-sequencing of conditionality is not unprecedented; for instance, in December 2014, the EU similarly re-sequenced conditionality, including the implementation of the Sejdić-Finci ECtHR ruling, to facilitate the entry into force of the SAA, which BiH signed in June 2015. Despite expectations that the application process would catalyze comprehensive reforms in BiH, progress on structural issues has remained stagnant.

The re-sequencing of conditionality has not proven effective in driving domestic reforms within BiH. However, it does not absolve BiH of its obligation to eventually comply with all 14 Key Priorities outlined in the Commission's Opinion for eventual EU membership. BiH still faces significant challenges spanning structural and civic space issues that hinder its EU integration prospects. The adjustment in conditionality could be interpreted in two ways: either as a strategic move by the Commission to compel action from BiH's political factions towards EU alignment or as a compromise where the EU appears to relax its stringent conditionality.

BiH often struggles to meet timelines for implementing necessary reforms, as reflected in the reports, which frequently highlight limited progress. Table 1 provides an overview of BiH's performance on established conditions from 2008 to 2022, crucial for its EU membership aspirations. Despite some achievements, the European Commission's annual reports on BiH have generally been critical, prompting scrutiny of the EU's efforts to facilitate BiH's EU integration process. An analysis of the EU reports concluded that BiH fulfilled only a minimal number of conditions between 2008 and 2022. The establishment of the coordination mechanism and progress on the SAPC were resolved, while most other requirements

⁵⁹ European Commission, "2022 Communication on EU Enlargement Policy," accessed February 8, 2024, https://neighbourhood-enlargement.ec.europa.eu/2022-communication-eu-enlargement-policy_en.

Table 1. Requirements Mapping and Compliance Matrix for BiH 2008–2022

EU conditions	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018	2020	2021	2022	Compliance rate
<i>Spills-Final ECtHR Ruling (and related cases)</i>	BiH committed to full compliance with the ECtHR	---	No tangible results	Issue of serious concern, failure to reach an agreement	Little progress	Still pending, no progress, failure to implement	No tangible progress, a key element for BiH's membership application	BiH's Constitution remains in breach of the ECtHR	BiH's Constitution remains in breach of the ECtHR	BiH's Constitution remains in breach of the ECtHR	BiH's Constitution remains in breach of the ECtHR	BiH's Constitution remains in breach of the ECtHR	Significant reforms are needed to ensure equal rights for citizens	NO
<i>Coordination mechanism</i>	Lack of coordination in EU integration matters	A need for a stronger coordination mechanism	No proper coordination mechanism exists	A matter of urgency, lack of progress, need for one	A matter of priority, need for one	Urgent need for one	Needed, remain to be a key requirement	Needed, remain to be a key requirement	Resolved	---	---	---	No progress was made on the functionality	YES
<i>Stabilisation and Association Parliamentary Committee</i>	---	---	---	---	---	---	---	Established, a legal obligation under SAA	Failed to adopt Rules of Procedure, need for one	Failed to adopt Rules of Procedure, need for one	Some progress	Good progress, Resolved	BiH needs to ensure proper functioning of SAA	YES
<i>National programme for the adoption of the EU acquis</i>	---	---	---	---	---	---	---	---	Remains to be adopted, need for one, a legal obligation under SAA	Remains to be adopted, need for one	No progress	No progress	Took no steps to develop NPAA	NO
<i>Public administration reform</i>	Some progress	Some progress	Little progress	Limited progress	Little progress	Limited progress	Very limited progress, serious concern	Early-stage with the reform, no progress, backsliding has been recorded	Early-stage with the reform, no progress, backsliding has been recorded	Early-stage with the reform, no progress	Early-stage reforms, limited progress	Early-stage reforms, some progress	Limited progress	NO
<i>Judicial system reform</i>	Sustained efforts are needed	Limited progress	Limited progress	Limited progress	Limited progress	Limited progress	Little progress	Some progress	Some progress	Early-stage, some progress	Early-stage, no progress	Early-stage, no progress	Early-stage, no progress	NO
<i>Fight against corruption</i>	Little progress	Little progress	Limited progress	Early stage	Early stage	Early stage	Little progress	Some progress	Some progress	Some progress	Early-stage reforms, no progress	Early-stage reforms, no progress	Early stage, some level of preparation	NO
<i>Death penalty repeal in RS entity</i>	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	Needs to be repealed	---	NO
<i>Prevention of torture and ill-treatment</i>	State and Entity constitutions prohibit torture and ill-treatment, failed to appoint a member to the Anti-Torture Committee	Failed to appoint a representative in the Anti-Torture Committee	Not appointed a representative to the Council of Europe Committee on the Prevention of Torture (CPT)	Pending	Pending	Pending	Appointed its representatives to CPT	National preventive mechanism against torture needed	Not established, pending, needed	Not established, pending, needed	Not established, pending, needed	Designate preventive mechanism against torture and ill-treatment, needed, obligation	Designate preventive mechanism against torture and ill-treatment, needed, obligation	NO
<i>Media freedom</i>	No progress, serious concern	No progress, serious concern	No progress	In jeopardy, little progress	In jeopardy, little progress	Issue of concern	Limited progress	Backsliding	No progress	No progress	No progress	No progress	No progress	NO
<i>Alignment with the EU Common Foreign and Security Policy</i>	---	Aligned when invited (78% alignment)	Aligned when invited (91% alignment)	Aligned when invited (68% alignment)	Aligned when invited (56% alignment)	Aligned when invited (66% alignment)	Aligned when invited (52% alignment)	Aligned when invited (62% alignment)	Aligned when invited (77% alignment)	Alignment has to be improved (65% alignment)	Has been made and should be further improved (75% alignment)	No progress (41% alignment)	Improved alignment with EU Foreign Policy (81% alignment)	NO
<i>Cooperation with ICTY and later with EMMCT Mechanism</i>	Generally satisfactory	Satisfactory, remained good	Satisfactory, remained good, needs to be strengthened	Satisfactory	Generally satisfactory	Satisfactory	Satisfactory	Satisfactory	Satisfactory	---	Satisfactory	Satisfactory	Constructive cooperation with BRMCT Mechanism	IN PROGRESS
<i>Good neighbourly relations and regional cooperation</i>	Essential for moving towards the EU, participate actively in regional cooperation	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Essential for moving towards the EU, continued to participate actively in regional initiatives	Continued to participate actively and maintain good relations	Continued to participate actively and maintain good relations	IN PROGRESS

Source: Author's compilation; European Commission, Country (Progress) Reports for BiH (2008; 2009; 2010; 2011; 2012; 2013; 2014; 2015; 2016b; 2018; 2020; 2021; 2022b)

either remained unmet or showed limited progress. In spite of repeated commitments for the EU membership, European Commission reports consistently conclude that inertia prevails in BiH. According to Tobias Böhmelt and Tina Freyburg, BiH may encounter challenges in fully incorporating EU legislation by 2050, emphasising the complexity of aligning with the EU *acquis*.⁶⁰

8. Conclusion

The analysis of legal documentation and records from the BiH Presidency, the Council of Ministers, and the Parliamentary Assembly of BiH has illuminated a comprehensive framework outlining BiH's dedication and responsibilities towards EU membership. BiH's aspiration for EU accession notably predates the DPA, a historical fact often overlooked in academic and policy circles. As early as June 1992, shortly after BiH's admission to the United Nations, the country formally expressed its keen interest in full EU membership through the "Platform on the Activity of the Presidency of BiH in War Conditions." This pivotal document, despite its foundational role in shaping BiH's foreign policy trajectory, has been overlooked in both local and EU-centric historical narratives, obscuring its significance.

During the 1992–1995 war, BiH was not on a trajectory towards EU accession, with the document explicitly addressing BiH's wartime constraints. Nevertheless, it serves as a critical artefact in understanding BiH's enduring commitment to European integration despite the challenges posed by conflict and post-war reconstruction efforts.

The theoretical commitment to EU integration has been fervently articulated within BiH's domestic reforms, aligning with the overarching "European choice." However, translating this commitment into tangible actions faces significant hurdles within BiH's complex political and societal landscape. Despite pronounced intentions, substantive reforms have been slow and sporadic, revealing a stark disparity between professed commitment and effective implementation. The gap between rhetoric and action underscores the formidable challenges inherent in achieving EU membership,

⁶⁰ Tobias Böhmelt and Tina Freyburg, "Forecasting Candidate States' Compliance with EU Accession Rules, 2017–2050," *Journal of European Public Policy* 25, no. 11 (2017): 1667–85, <https://doi.org/10.1080/13501763.2017.1348385>.

demanding comprehensive legislative amendments and practical implementations across all levels of governance.

The axiom that “commitment without action bears no fruit” resonates profoundly in BiH’s journey towards EU integration. The discrepancy between articulated commitment and actual reform efforts underscores the need for a paradigm shift from symbolic gestures to substantial actions. Overcoming structural impediments, institutional complexities, and political obstacles is paramount for BiH to align with EU standards and expectations. This recalibration must prioritize transformative reforms that mirror the functionality and norms of EU member states.

Ultimately, achieving EU membership for BiH requires not only steadfast commitment but also resolute action in implementing necessary reforms. The path forward necessitates a concerted effort to bridge the gap between aspiration and achievement, ensuring that BiH’s integration into the EU is grounded in substantive reforms that uphold European values and standards.

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