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Of veto players and entity-voting: institutional gridlock in the Bosnian reform process

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Of veto players and entity-voting: institutional gridlock in the Bosnian reform process

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Entity-voting in the Bosnian Parliamentary Assembly is a veto mechanism in Bosnia's consociational institutional setting and an important reason for the country's orientation towards the political status quo. An empirical analysis of the number and nature of adopted and rejected draft laws during the legislative period 2006–2010, embedded in George Tsebelis's veto player approach, leads to the conclusion that the veto players in the parliament – either delegates from Republika Srpska or delegates from the Federation of Bosnia and Herzegovina – have pushed the consociational system of checks and balances to its extremes. Entity-voting enables the veto players to "hijack" the parliament for their exclusionary ethnic interests and discourages cooperation and compromise between the veto players. Significant legislation, which in the present article is defined as legislation relevant for the European Partnership, faces severe obstacles to getting passed. In the light of these findings, the article discusses three policy implications: institutional redesign, a change of the actors, and an active role of the European Union for providing the actors with a realistically achievable goal which they equally share. This should reset the current calculus of self-interest and encourage cooperation between the veto players.

Keywords: Bosnia and Herzegovina; veto players; entity-voting; consociationalism; European Partnership

Fifteen years after the signing of the General Framework Agreement for Peace in Dayton (GFAP, "Dayton Agreement") that ended the most savage of the Balkan wars in the 1990s, Bosnia and Herzegovina (hereinafter: Bosnia) remains a divided country, which struggles for a common idea of the presence and the future of the state. Until today, the country is still under international supervision, executed by a High Representative of the international community, which since 2002 also has taken over the role of the European Union (EU) Special Representative.[1] Vital reforms that would enhance institutional efficiency and effectiveness continue to be failures, because the country's three constituent peoples and former war parties – Croats, Muslims, and Serbs – cannot find a consensus on which reforms should be carried out or how. One aspect of this lack of consensus is the poor legislative output: The non-governmental organization Center for Civic Initiatives in Sarajevo deplores that only about 30% of the planned legislation for the legislative period 2006–2010 was actually adopted, while the rest either never reached the parliament, or failed during the legislation process (Centri Civilnih Inicijativa).

The present study analyzes the reasons for the poor legislative performance, focusing on the parliament as the constitutional legislator. There, veto players can stop any undesirable legislation at any stage of the law-making process with the powerful veto mechanism

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of "entity-voting." I argue that entity-voting is abused to protect exclusionary ethnic interests in a way that threatens the consociational system of checks and balances, and inhibits the adoption of reforms, which makes Bosnian politics highly status quo–oriented. In the context of this research, "ethnic interests" means the strong desire among the three peoples to protect themselves against the respective "others" in pursuing political strategies that serve these interests before all other issues.

Bosnia is only at first sight a very specific case to study; the points raised in this paper can be easily applied to other divided societies. For example, also in Iraq and Afghanistan similar institutional models are currently implemented following major pressure from the international community (Bieber and Keil; Jeffrey; Simonsen). The Bosnian case shows that the institutionalization of strong veto players according to ethnic or religious cleavages, though meant to keep a divided society together, can lead to a rather dangerous perpetuation of the political status quo. This study therefore also means to provide a guide to institutional designs to help avoid the pitfalls of calibrating ethnic arrangements such that they are based solely on some notion of balance and not also of workability.

The article is structured as follows. First a short introduction to the political institutions of post-Dayton Bosnia will be contextualized into George Tsebelis's veto player approach. There follows an empirical analysis of the deployment of entity-voting in the Parliamentary Assembly in the legislative period 2006–2010, with a particular emphasis on legislation required for the European Partnership. After a discussion of the empirical findings, the policy implications of the analytical findings will be outlined.

The context: post-Dayton Bosnia

Bosnia's institutional design exceeds common federal state constructions and resembles more a confederation than a federation.[2] The country consists of two highly autonomous entities, the Federation of Bosnia and Herzegovina (FBiH), which itself is divided into 10 cantons, and the centralized Republika Srpska (RS) (Bosnia and Herzegovina, "Constitution" Art. I Para. 3). The "inter-entity boundary line" between the Federation and RS mirrors the course of the front line when the Dayton Agreement was signed. At that time, ethnically pure areas had already been created by an exchange of population and ethnic cleansing in former ethnically mixed areas: While the population in the RS today consists of approximately 90% Serbs, the Federation is shared between 30% Croats and 70% Bosniaks (Bosnian Muslims), which mostly are concentrated in ethnically structured cantons.[3] These ethnic groups also form the three "constituent peoples" of Bosnia.

The Bosnian constitution – as "Annex 4" part of the Dayton Agreement – codifies the country's ethnic division through designing institutions along ethnic cleavages, guaranteeing that no ethnic group can dominate the shared institutions. The country's institutional landscape is thus considered to be a classic example of a consociational settlement (e.g. Aitken 255; Belloni, "Peacebuilding" 336; Kasapović 3; Simonsen 310). Consociationalism is a group-based democracy model which aims to bring stability to divided societies, through power-sharing, autonomy and self-rule, proportional representation of all relevant groups, and mutual veto mechanisms that impede the outvoting of one group (Lijphart 25). Indeed, Bosnia's electoral system guarantees the proportional representation of the constituent peoples, the entities ensure autonomy and self-rule, power-sharing is expressed in the three-headed state Presidency and an ethnically balanced Council of Ministers (CoM), and the veto mechanisms ensure the protection of ethnic interests.

Regarding legislation at the state level, it takes place mainly in the bicameral Parliamentary Assembly ("Parlamentska Skupština") that mirrors consociational

power-arrangements. The House of Peoples' (HoP – the upper chamber) 15 delegates, always five Croats, five Muslims, and five Serbs, are elected by the National Assemblies of each entity. The purpose of the house is to protect the ethnic interests of the constituent peoples; its delegates are organized in three ethnic caucuses. The House of Representatives' (HoR – the lower chamber) delegates are elected directly in general elections, 28 in the Federation, 14 in the RS. In contrast to the HoP, the HoR is designed to represent not collective ethnic but aggregated individual citizen interests through party politics. For legislation to be adopted, it must pass the respective committees, two readings, and both houses; in the case that the upper chamber adopts a different text than the lower, the bill is sent to a joint harmonization procedure (Bosnia and Herzegovina, "Rules of Procedure House of Peoples" Art. 9, Art. 116; "Rules of Procedure House of Representatives" Art. 8, Art. 122).

The present analysis will empirically assess how one specific consociational element in the parliamentary legislation process – the mutual veto mechanism of entity-voting – is undermining the consociational system by maintaining the political status quo. George Tsebelis's veto player approach will provide an appropriate framework to explain the difficulties of inducing policy change in Bosnia, especially with regard to the European Partnership.

Employing veto player analysis to explain legislative outcomes in Bosnia

In Bosnia, legislation must overcome an intricate web of veto mechanisms, which after the war were

> particularly important for Bosnia, as each of the three dominant groups was a potential minority: the Muslims, the largest group, could still be outvoted by the Serbs and Croats. To safeguard a unified Bosnia it was therefore essential to ensure that minority interests were protected in the constitution (Chandler 66).

These veto mechanisms generate strong veto players which, following George Tsebelis, increase the country's policy stability and hence decrease the political system's capability to induce policy change and react accurately to problems. Policy change is the ability to induce a significant change in the status quo, meaning to adopt "significant" legislation, while policy stability and status quo orientation imply the opposite (Tsebelis, "Veto Players: How Political Institutions Work" 166).[4]

how does the lack of internal cohesion influence veto behavior

The reference area for policy change or stability is the legislative outcome regarding significant legislation, which depends on several factors. Tsebelis names the differences in political positions or ideological distance between veto players, the lack of internal cohesion between them, and to a lesser degree the number of veto players as factors that have a negative impact on the ability to induce policy change. The duration of a government and the level of alternation between two governments (meaning differences between the former and the new government) positively affect policy change, although after the government has stayed in power for too long, its productivity regarding significant legislation decreases (Tsebelis, "Veto Players and Law Production" 595). In addition, bicameral systems contribute to greater stability, as do constitutionally required "super-majorities," which are hard to overcome. So-called grand coalitions can also be an obstacle for policy change, as they have to seek compromise. As Tsebelis notes, changing the status quo is considered "good" when the situation is undesirable for all players, or when an exogenous shock disturbs a desirable process. In these cases, the veto players can agree on policy change and may find a common *winset*, which is a "set of points preferred over the status quo by the veto players" (Tsebelis, "Veto Players and Law Production" 594).

The Bosnian constitution defines several institutional veto players that can employ veto mechanisms. Each of the three members of the state Presidency can invoke a "vital interest" veto, as can a caucus in the House of Peoples. This veto serves to protect the interests of the constituent peoples, but it is extremely rarely invoked.[5] The Council of Ministers has no specific veto instruments at its disposition, but its composition should guarantee that ethnic interests are well-balanced.

In the parliament, the most important veto mechanism for the veto players is entity-voting: Every parliamentary decision requires the support of at least one-third of the delegates elected from each of the RS and the FBiH in both houses. If such support is missing, the item can be "saved" within three days by a harmonization procedure in the three-headed Collegium of the respective house.[6] The constitution does not indicate under exactly what circumstances entity-voting can apply; neither do the Rules of Procedure of the houses. As a consequence, entity-voting can be used to cripple progress on any item (including draft laws, conclusions, requests, initiatives, and proposals).

It is important to understand that entity-voting is territorial voting by defining veto players according to their geographical origin. Needless to say, the fact that the two entities comprise not only territorial but also ethnic units gives entity-voting a strong ethnic dimension: In the legislative term 2006–2010, out of 14 RS delegates in the HoR two delegates were non-Serbs, while among the 28 Federation delegates only Croats and Muslims were represented (Parlamentarna Skupština Bosne i Hercegovine). However, the territorial principle prevails over the ethnic insofar as the Croats and Muslims, who "share" one entity, cannot deploy the veto each for themselves. This is especially problematic for the Croats, who are outnumbered by the Muslims in the House of Representatives. In the House of Peoples, a bill can be passed if only one Federation caucus supports it, which means that Muslims and Croats can outvote each other. As a consequence, only the RS delegates can unconditionally deploy entity-voting in all stages of law making, which puts them in an advantageous veto position.

Also, beyond the bicameral parliament which requires specific majorities to get legislation passed (not only with regard to entity-voting but also the required two-thirds majority for constitutional change), Bosnia's institutional design and the political agenda of the relevant actors indicate a strong orientation toward policy stability. Until the end of the legislative term 2006–2010, Bosnia was constantly governed by a grand coalition of Muslim, Croat and Serb parties with an exclusionary ethno-nationalist[7] agenda, with one exception between 2000 and 2002 (this coalition between moderate and multi-ethnic parties was tellingly called "Democratic Alliance for Change") – although the governing parties were fairly distant from each other, especially regarding the development of a common idea of the foundations of the Bosnian state:[8] Serbs aim to maintain the utmost possible autonomy of Republika Srpska, which they consider a safeguard for their ethnic interests, and reject any attempts of centralization. The RS Prime Minister between 2006 and 2010, Milorad Dodik, repeatedly threatened to organize an independence referendum if RS autonomy was not guaranteed. The Bosnian Muslims on the other hand opt for a more centralized and thus more efficient state. The Croats, finally, fight for an entity for themselves (International Crisis Group, "Bosnia's Incomplete Transition" 5–10). Although some parties in the grand coalition changed since the 1990s (the radical Serb Democratic Party was substituted by the more moderate SNSD), practically no alternation in the ethnic positioning occurred. Regarding the veto players themselves, they display different veto behavior: While for the Serbs the maintenance of the status quo is more favorable, the Croats and Muslims rather opt for policy change,

although they have competing goals – a pattern which can be observed also in the parliament. As a consequence, "significant" legislation enabling reforms tends to be stalled.

Operationalization

According to Tsebelis, the legislative outcome with regard to "significant" legislation indicates whether a country adheres to policy stability or opts for policy change. For the present study, "significant" legislation is defined as legislation that is required for the European Partnership. This partnership was introduced by the European Union as part of the stabilization and association process in the Western Balkans. The aim of the European Partnership is to assist these countries to develop economically and politically, and in the long term, prepare them for European Union accession. As a European Partnership country, Bosnia must "adopt a national plan setting out procedures and a programme [*sic*!] for implementing the priorities of the Partnership," which is evaluated in annual Progress Reports by the European Commission (European Partnership with Bosnia and Herzegovina). The most prominent tasks for the legislation period 2006–2010 were, for example, the start of the implementation of the Stabilization and Association Agreement,[9] the completion of the visa liberalization regime which was successfully concluded in December 2010, and all attempts to harmonize Bosnia's laws with the *acquis communautaire*.

Focusing on legislation with a European dimension does not mean that domestic legislation is not "significant" or important for the development for the country. However, such a focus gives not only an objective decision rule for selecting "significant" legislation, but the fact that such legislation is indeed significant is also underlined by three facts:

- The European Partnership necessitates policy changes which might question the current fabric of the state. Many reforms require better cooperation between the entities, a centralization of certain political agendas, or at least more efficient state institutions (see e.g. Commission of the European Communities, "Enlargement Strategies and Main Challenges 2009–2010" 27–35).
- The European Partnership covers various areas, especially the economy, the rule of law, good governance, security, and so on, which makes it an "overall project" touching many parts of state and society.
- Generally, the European Partnership is supported by all Bosnian elites and the Bosnian peoples, as it is considered to lead the country into a better future (Belloni, "Bosnia" 365; Džihić 362; Gromes 437). So far, no relevant political movement exists that is explicitly against the rapprochement to the European Union.

However, regarding this last point, we are confronted with a paradox: According to Tsebelis, it is significant legislation that faces severe obstacles in a political system with strong veto players. This would mean that bills required for the European Partnership would fail more often than domestic legislation. Still, it is also the European integration process that can unify the veto players whenever change is thought to have "positive" implications by all the parties involved. Legislation with a European dimension has thus the potential to create a winset between the veto players and foster cooperation. This leads to two competing scenarios:

(1) Bosnia's veto player game places severe obstacles in the way of adopting European Partnership legislation. Thus, such bills fail more often than domestically-oriented ones.

(2) The European Partnership is considered the only goal that the veto players in Bosnia share, creating a winset for the players and encouraging cooperation with regard to the adoption of European Partnership legislation.

Which of these two scenarios prevails will be tested in the empirical analysis: I analyzed the legislative outcomes in the Parliamentary Assembly of the legislative period 2006–2010 with regard to how many times entity-voting was applied to *both* European and domestic legislation, the latter serving as a reference area for "significant," European Partnership legislation. Although decision-making in the Parliamentary Assembly has been researched before (see e.g. Centri Civilnih Inicijativa; Trnka), this paper improves on existing work first by identifying the precise pattern and type of legislation that was adopted and rejected, and second, by anchoring the findings in a well-established theoretical framework in political science. Differences between previous analyses and the present one regarding the amount of adopted and rejected legislation can be explained by four missing parliament sessions that were not included here, and by a specific counting method which is introduced below.[10]

Entity-voting in the Parliamentary Assembly

The sources for the analysis of entity-voting are the minutes of the Parliamentary Assembly, provided by the Office of the High Representative/European Union Special Representative.[11]

The minutes of both houses cover the whole legislative term 2006–2010. The House of Representatives held 83 sessions between 20 November 2006 and 1 September 2010, while the House of Peoples met 49 times between 14 March 2007 and 1 September 2010.

Every session of the two houses was analyzed in terms of which bills were adopted, how many times entity-voting was applied to what kind of legislation, and who the proponents of the adopted and rejected legislation were. The analysis comprised both the first and second reading.[12] Moreover, the following additional specifications had to be made:

(1) Bills adopted under the so-called urgent procedure rule were counted as laws in second reading, as they underwent only one reading.[13]
(2) The failure of a bill was classified as entity-voting only if it was explicitly mentioned as such in the minutes. If a bill was rejected without indication of an entity veto, it was counted as "majority-voting," meaning that it had insufficient support by the delegates from either entity in the HoR, or alternatively was rejected by more than one caucus in the HoP.
(3) Lamentably, the minutes contain only limited information on the voting behavior of individual deputies, making it difficult to analyze whether there were any differences in the voting behavior of the Croat and Muslim deputies from the Federation; this however may be safely inferred from what we know anecdotally and the overall context. As already mentioned, in the HoR Croats can be outvoted by Bosniak delegates if the former do not support a bill. Nevertheless, sometimes we may infer the Croat position from the debates summarized in the minutes and the distribution of majority positions as reflected in the minutes; respective examples will be given.
(4) Legislation which was sent to "harmonization" after entity-voting was not added to the total number of draft laws, because the legislative procedure was still not over. The same applies to bills that were sent to joint harmonization. Thus, in

the present analysis the total legislation includes only bills that were finally rejected or finally adopted.

To gain a better understanding of which kinds of bills were adopted or vetoed, the legislation was classified according to five categories. The categories should help to give an idea of the structure of the discussed legislation: With the large number of draft laws being analyzed, it was not possible to give information on each individual bill. These categories are:

(1) Democracy and Rule of Law – Political Criteria. This category comprises legislation on state institutions, public administration, anti-corruption, the judicial system, and human rights and minorities; also bills on the armed forces were categorized here.
(2) Economy – Economic Criteria. Here we can find legislation on political economy and macro-economic steering.
(3) European Standards. In this category bills are summarized that harmonize Bosnian legislation with the *aqcuis communautaire* in terms of the internal market, sectoral policies, and justice, freedom and security, the latter being especially important for the visa liberalization process. Naturally no domestic legislation was classified in this category.
(4) Culture/Reconciliation. The category contains draft laws on education (except higher education, which is an EU requirement and part of Category 3), state symbols, and reconciliation issues.
(5) Others. Legislation that did not fit in any of the other categories.

For the categorization I followed the official requirements that the European Union puts on Bosnia, assuming that turning these requirements into categories would comprehensively catch the "significant" legislation. The requirements are outlined in the Council Decisions on the European Partnership with Bosnia and Herzegovina and form the first three categories for the analysis (Official Journal of the European Union, "Council Decision of 30 January 2006," "Council Decision of 18 February 2008"). The first two categories on political and economic legislation also comprise domestic legislation which fit into the categories, while category 3 on European Standards naturally only contains EU-relevant draft laws. However, these three categories were not sufficient to capture the domestic bills that were discussed in the parliament. On the one hand there was a variety of proposed laws that treat single issues, like the Proposed Law on Sports. This kind of legislation was summarized in category 5, Others. Moreover, it was obvious that bills with a cultural dimension and draft laws that discuss the symbolic foundations of the state or deal with reconciliation issues (e.g. Proposed Law on State Anthem; Proposed Law on Decorations in BiH; Framework Laws on primary and secondary education; Revised Annex VII Strategy, de-mining, etc.) could not be classified in the categories derived from EU requirements. For this kind of legislation I created the category Culture/Reconciliation. This additional categorization, instead of putting the remaining domestic legislation in one large category of Others, seemed sensible: The delegates' voting behavior on draft laws which contain culture and reconciliation issues says a lot about different narratives on the nature of the state, and how the delegates deal with the country's recent violent history.

The categorized bills were then divided based on whether they were of relevance for the European Partnership or not. To be able to do so I used not only the information in the Council Decisions outlining the legislative requirements for the European Partnership but also the EU Progress Reports 2006–2009 (Commission of the European Communities,

"Bosnia and Herzegovina 2006," "Bosnia and Herzegovina 2007," "Bosnia and Herzegovina 2008," "Bosnia and Herzegovina 2009"; *Official Journal of the European Union*, "Council Decision of 30 January 2006," "Council Decision of 18 February 2008") and the key documents available at the homepage of the CoM's Directorate for European Integration (Direkcija za evropske integracije). These documents outline the bills required for the European Partnership. Unfortunately, these sources would not cover all legislation discussed in the Parliamentary Assembly, and therefore a small uncertainty remained when dividing legislation into EU and domestic. Hence I contacted the European Union Delegation in Sarajevo for assistance in unclear cases, which generously was provided.[14] The margin of error is thus unlikely to be more than minimal.

The House of Representatives

During the 2006–2010 legislative period, this house held 83 sessions. In the first reading, the house adopted 175 laws and rejected 61, which amounts to 25% of the discussed legislation. In the second reading, 36 draft laws or 15% of the debated legislation failed, while 204 bills were adopted. Regarding the adopted draft laws, Figure 1 shows that in both readings slightly fewer EU-related than domestic bills were adopted by the house: The proportion is about 46:54.

As defined, most of the EU legislation was adopted in category 3 (European Standards), whereas bills in category 4 (Culture/Reconciliation) and category 5 (Others) held no relevance for European integration. With regard to domestic legislation, category 1 stands out compared to all others, which may be explained by the fact that it is so broad-ranging, covering all kinds of political, legal, and administrative issues. The fact that legislation on the economy and culture are entity competences, whereas the central state can only adopt framework laws or legislation touching on the common institutions, may also explain this result.

Interethnic differences in the application of entity-voting: House of Representatives

In order to test the two alternative scenarios with respect to the impact of European Partnership stated above, it is useful to examine closely the bills rejected by entity-voting. The ratio between rejected EU and domestic legislation mirrors the ratio of adopted EU and domestic legislation (approx. 46:54 in both readings). *We therefore can*

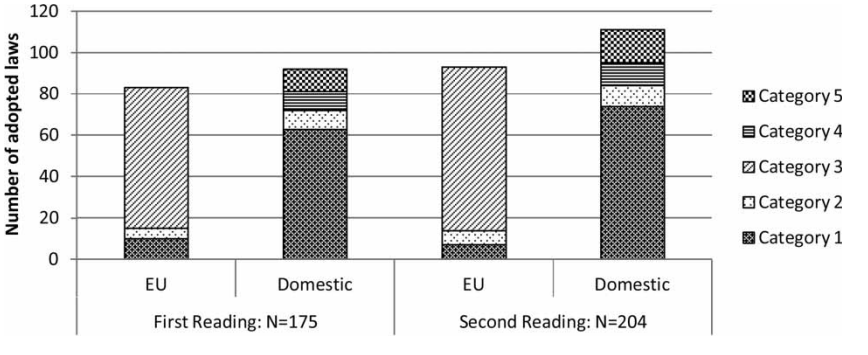

Figure 1. Adoption of legislation by category: House of Representatives. Note: Office of the High Representative/European Union Special Representative, Minutes of the House of Representatives of the Bosnian Parliamentary Assembly, Sessions 1–83, 20 November 2006–1 September 2010.

conclude that EU-related laws are as frequently rejected as domestic ones and that there is no "European Partnership bonus" that points to a better cooperation between the veto players – however, there is also no "malus." Rather, it seems that for the pursuit of the veto players' respective interests, it is of no relevance if the bills have a European or a domestic dimension. Figure 2 displays rejected legislation in categories (both readings together).

There were clear differences in the application of entity-voting between RS and FBiH delegates: RS entity-voting was the major reason for bills failing in the HoR, rejecting 50 draft laws, followed by majority-voting with 39 failed bills, while FBiH entity-voting was applied eight times. Incidentally, draft laws in the category Democracy and Rule of Law had the highest failure rate (but, as we have seen in Figure 1, also the highest rate of adoption), whereby RS entity-voting turned out to be the main reason for failed EU-related legislation. The second most frequently rejected laws fell into the category European Standards, marked by a slightly higher rate of majority-voting than of RS entity-voting. In one area, category 4 on Culture/Reconciliation, RS entity-voting stands out. Bills that were rejected due to RS entity-voting include the Proposed Law on State Anthem, the Proposed Law on Decorations, the Proposed Law on Holidays, and framework laws on education. FBiH delegates employed entity-voting on, for example, the Proposed Law on Holidays and Non-working Days, the Proposed Law on Prevention of Disorders in Sports Competitions, and the census law which will be discussed below.

Regarding majority-voting, the minutes show that in two-thirds of all cases, a negative opinion on the draft law from the respective committee was expressed before the vote, which means that the bill had too many deficits to be adopted. The house followed this negative opinion when rejecting the law.

Certainly, a mere look at the rejected legislation may bias our conclusions, if we do not take into account who the proponent was.[15] The minutes state that it was usually the CoM which proposed the adopted legislation to the house, submitting 83% of all EU-related bills and 76% of all domestic legislation. Individual delegates initiated 17% of the domestic and 10% of the EU-related laws; the rest were submitted by other institutions.

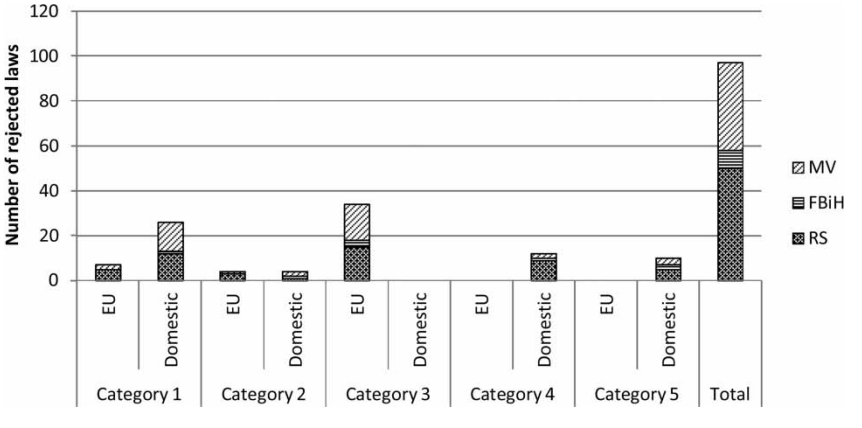

Figure 2. Rejection of legislation by category: House of Representatives (N = 97). Note: Office of the High Representative/European Union Special Representative, Minutes of the House of Representatives of the Bosnian Parliamentary Assembly, Sessions 1–83, 20 November 2006–1 September 2010. RS: RS entity-voting; FBiH: FBiH entity-voting; MV: majority-voting.

Regarding the rejected legislation, Figure 3 illustrates that especially majority-voting can be related to a large number of individual delegates who submitted bills to the house without broader support and often accompanied by a negative opinion of the committee. However, 44 bills submitted by the CoM failed in the house, which amounts to 45% of the rejected legislation.

Certainly the CoM initiated the largest share of bills; still, one could expect that a grand coalition government with a parliamentary majority would have no difficulties getting the desired legislation passed. The decisive veto players are the RS delegates, who also vetoed more bills with the CoM being the proponent than individual delegates. This is a clear statement: Even if the CoM is ethnically balanced, it apparently does not protect RS interests enough, no matter if this concerns EU or domestic legislation.

To conclude, the House of Representatives appears as an important hurdle for legislation, both domestic and with EU-relevancy. One could assume that a bill that has "survived" the obstacles in the HoR hardly would fail the HoP, because it already underwent the tight scrutiny of ethnic interests. Is this really the case?

The House of Peoples

Between March 2007 and September 2010 this house held 49 sessions – being the upper house, it meets less frequently than the House of Representatives. As already mentioned, the HoP is responsible for the final adoption of the bills that passed the HoR. Figure 4 displays the adopted legislation in the house: 127 draft laws were passed in the first and 168 in the second reading. The HoP has remarkably lower rejection rates than the HoR – in the first reading, 24 bills failed (approx. 15% of the discussed legislation), and in the second, only 7 (approx. 4%). Still, it is interesting to note that bills also fail in the HoP: Why is unacceptable legislation not rejected from the beginning in the HoR? First, undecided delegates might give the bill another chance to be adjusted to their demands in the upper house; if the result is disappointing, they vote against it. Secondly, if a bill is rejected by entity-voting, this may not necessarily be its end, as legislation may still be saved by the harmonization procedure and pass the HoR. If the opponents of a draft law are not successful in rejecting it in the lower house, they might be in the HoP.

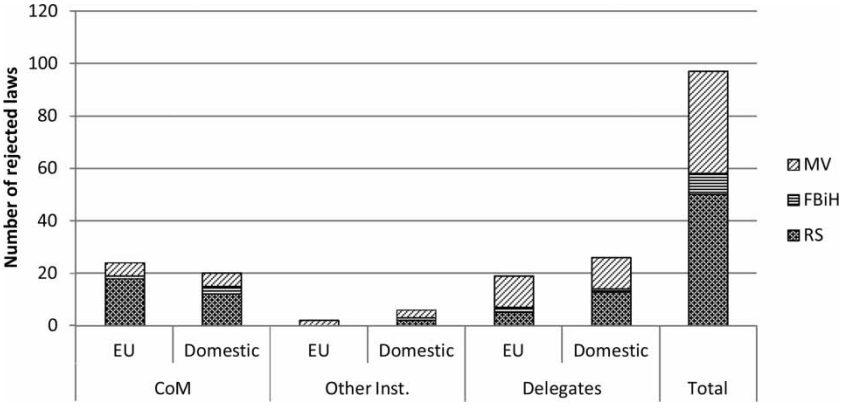

Figure 3. Rejection of legislation by proponent: House of Representatives (N = 97). Note: Office of the High Representative/European Union Special Representative, Minutes of the House of Representatives of the Bosnian Parliamentary Assembly, Sessions 1–83, 20 November 2006–1 September 2010. RS: RS entity-voting; FBiH: FBiH entity-voting; MV: majority-voting.

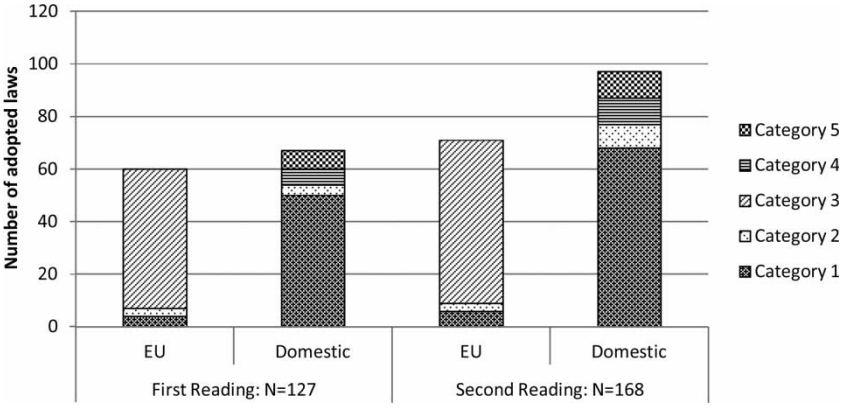

Figure 4. Adoption of legislation by category: House of Peoples. Note: Office of the High Representative/European Union Special Representative, Minutes of the House of Peoples of the Bosnian Parliamentary Assembly, Sessions 1–49, 14 March 2007–1 September 2010.

Nevertheless, the minutes state that in contrast to the HoR, where only every tenth bill was adopted unanimously, in the HoP more than half of all draft laws were passed without any opposing votes. This is not surprising if we consider how many "filters" a bill had to undergo already in the HoR: In the course of two readings, the discussions in the respective committees, and possibly a harmonization procedure, the delegates had enough occasions to shape the bill in a way acceptable to all. Turning to the adopted and rejected legislation in detail, we may ask whether there are any differences in terms of issue category and EU-relevance.

The picture we get while looking at the adopted and categorized legislation in the HoP is similar to the one in the HoR (see Figure 4). In the first reading, slightly fewer EU-related bills were adopted than domestic ones, the ratio being 47% to 53% and thus about the same as in the HoR. In the second reading, the gap is wider, with 58% of domestic bills and 42% of EU laws passed. As in the HoR, the categories with the most bills passed concern Democracy and Rule of Law for domestic, and European Standards for European legislation.

Interethnic differences in the application of entity-voting: House of Peoples

Generally, entity- and majority-voting are less frequently employed in the HoP than in the HoR. In contrast to the HoR, the HoP vetoed more EU-related than domestic bills (20 vs. 11 bills, the proportion being 64:36), which also supports the conclusion that the European Partnership is not a motor for cooperation. Figure 5 displays the rejected legislation by category (both readings together).

Again, RS entity-voting was the main reason for bills failing in the parliament. Of 31 failed bills, RS delegates rejected 19, while Federation delegates deployed entity-voting only once, on the census law (see below). RS delegates deployed entity-voting mostly when dealing with EU-relevant legislation grouped in category 3 (European Standards), followed by domestic legislation in category 1 (Democracy and Rule of Law). Also, in the HoP majority-voting was usually a result of a negative opinion on the law by the committee (8 of 11 cases).

As in the HoR, the main proponent of bills in the HoP was the CoM, which submitted 87% of the EU-related and 77% of the domestic laws adopted; in contrast to the HoR, other

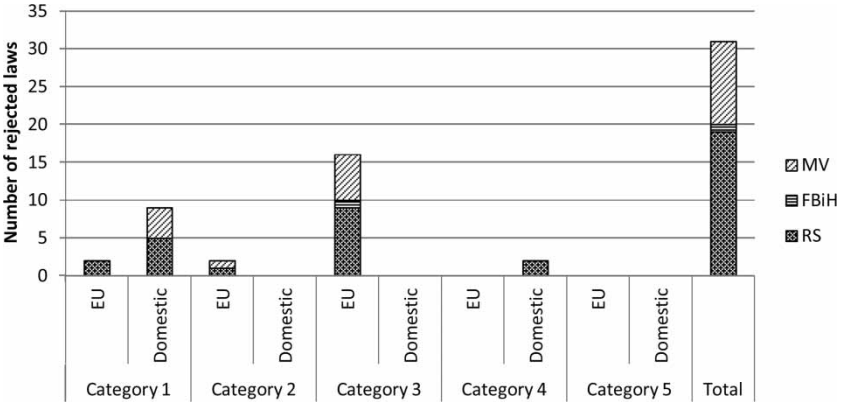

Figure 5. Rejection of legislation by category: House of Peoples (N = 31). Note: Office of the High Representative/European Union Special Representative, Minutes of the House of Peoples of the Bosnian Parliamentary Assembly, Sessions 1–49, 14 March 2007–1 September 2010. RS: RS entity-voting; FBiH: FBiH entity-voting; MV: majority-voting.

institutions were more active than individual delegates. Regarding the rejection by proponent, Figure 6 displays a similar pattern to that observed in the HoR.

The largest share of the legislation vetoed in the HoP – 21 bills, or 67% of the rejected bills – was submitted by the CoM, again with entity-voting by RS delegates to be in the lead.

Together with the fact that a substantial proportion of EU-related legislation was rejected, what can we infer regarding the two scenarios outlined above?

The consequences of ethnic veto-playing: the hijacked parliament

The European Partnership is not the expected stimulus for cooperation between the veto players as formulated in the second scenario. The empirical findings support the first scenario at least partly: Significant legislation – here, legislation required for the European Partnership – is confronted with obstacles that the veto players generate and does not

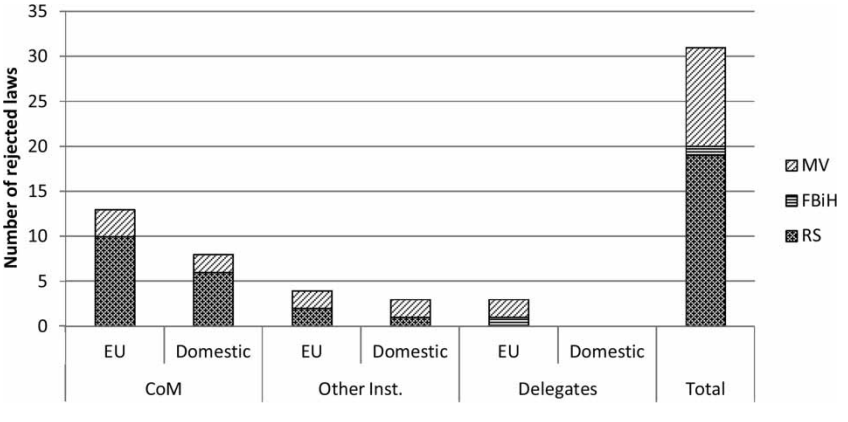

Figure 6. Rejection of legislation by proponent: House of Peoples (N = 31). Note: Office of the High Representative/European Union Special Representative, Minutes of the House of Peoples of the Bosnian Parliamentary Assembly, Sessions 1–49, 14 March 2007–1 September 2010. RS: RS entity-voting; FBiH: FBiH entity-voting; MV: majority-voting.

stimulate stronger inter-ethnic cooperation than domestic legislation. This responds to the core of Tsebelis's theory. However, we must consider that in the HoR, EU-related laws were as many times rejected as domestic ones; and even if EU bills failed in the HoP more often than domestic, this has to be seen in the context of a generally lower rejection rate and thus a small N.

Hence, even if European legislation does not foster cooperation it also does not generate greater obstacles for inter-ethnic compromise than the domestic type. I therefore conclude that the only parameter for either adopting or rejecting a draft law is the protection of ethnic interests, while other considerations such as economic and political development appear secondary.[16]

Moreover, the expectation was fulfilled that RS delegates show more orientation towards the current status quo. For observers of Bosnian politics, this should come as no surprise: During the legislation period 2006–2010, RS Prime Minister Milorad Dodik pointed out on several occasions that the RS would never give up any of its achievements (meaning the greatest possible degree of autonomy), even if this meant a setback in the European integration process (Džihić 365; International Crisis Group, "Bosnia's Incomplete Transition" 19). The above findings show that this is not only political rhetoric but political reality.

In contrast to Serb deputies, the delegates from the FBiH employed entity-voting only rarely. This leads us to wonder whether this finding indicates a stronger favor for policy change among Federation delegates, or rather is a result of the arithmetic settings of entity-voting. As already stated above, this question can be answered only partly, because the minutes do not give detailed information on individual Croat and Muslim voting behavior. It is a well-known fact that Muslims push toward a stronger central state, while Croats are unhappy about not having the possibility to employ entity-voting in the parliament themselves (Belloni, "Bosnia" 361; International Crisis Group, "Bosnia's Incomplete Transition" 5–10). One prominent example of how Croats fail to protect their interests was the adoption of the Proposed Law on Protection of Domestic Production within CEFTA.[17] Croat deputies criticized the bill for violating the CEFTA and thwarting trade with Croatia, but had no chance to stop it (Office of the High Representative/European Union Special Representative, "Minutes of the House of Peoples" Session 28 Item 13). Still, the minutes do not contain any evidence of Croats being frequently outvoted.

A case analysis of ethnic veto-playing

An illustration of how the parliamentary institutions can be "hijacked" by ethnic interests is the debate on the Proposed Law on Census in BiH 2011, which is one of the central requirements for the European Partnership (Official Journal of the European Union, "Council Decision of 18 February 2008" 2008 L 80/26). The bill was first submitted to the HoR in October 2008. The debate on the legislation is described in the minutes as "several hours of heated, tense, unconstructive debate, paranoia on unitary state, conspiracies, who fears what, ethnic cleansing, Annex 7, . . ., GFAP"[18] (Office of the High Representative/European Union Special Representative, "Minutes of the House of Representatives" Session 36 Item 6). Muslim and Croat delegates insisted that a census had more a political than a technical dimension in a country where ethnic cleansing had taken place; the bill was then rejected by FBiH entity-voting in the HoP. The draft law was again submitted to the HoR in September 2009, this time facing resistance from Federation delegates as it omitted the issue of the diaspora – according to them, people "forcefully driven out of the country." Thus, the bill was sent back to the committee without being voted on (Office of the High Representative/European Union Special

Representative, "Minutes of the House of Representatives" Session 60 Item 7). It was then discussed in first reading in Session 70 (missing), sent back to the committee again, which reported in Session 77 on its failure to find an agreement on a consolidated text (Office of the High Representative/European Union Special Representative, "Minutes of the House of Representatives" Session 77 Item 23). In May 2010, far too late to carry out the census in time, SDA tried to push through a version of the census law that would not permit giving any information on ethnicity or religion and related the implementation of the census outcomes to the "full implementation" of Annex 7 of the Dayton Agreement, fearing that otherwise ethnic cleansing would be retroactively "legalized" (Office of the High Representative/European Union Special Representative, "Minutes of the House of Representatives" Session 78 Item 4). This time, the RS parties rejected the bill. The process continued in Session 79, where an Interim Committee for the Preparation of the Proposed Law on Census submitted the bill, which then was adopted in the first reading: SDA accepted the bill, together with the RS parties, but without any further support from Federation parties (Federation delegates accusing each other even of treason).

In Session 80, the HoR finally managed to adopt the census law in the second reading, although with the lowest possible RS votes (Office of the High Representative/European Union Special Representative, "Minutes of the House of Representatives" Session 79 Item 13, Session 80 Item 7). After having passed the HoR with shaggy support, the project "Census 2011" finally failed in the HoP. Chair Dusanka Majkić (SNSD) made it clear that the Serb caucus could not adopt the bill with an Article stating that the implementation of the census results could only be carried out after the completion of Annex 7. Instead of rejecting it by entity-voting, Chair Majkić interrupted the session by stating that RS delegates had to wait for instructions from the National Assembly of Republika Srpska before they could vote on the bill – which was no legal requirement and thus harshly criticized by Federation deputies. The SNSD delegates, without whom the house lacked a quorum, walked out of the session (Office of the High Representative/European Union Special Representative, "Minutes of the House of Peoples" Session 48 Item 12, Session 49 Item 26). Given that this happened in the very last session of the legislative period, the bill could not be adopted, after having been pending in the parliament for two years.

Five conclusions drawn from the empirical analysis

To understand the process of entity-voting, we need to identify the mechanisms at work. Drawing on my empirical findings, I want to focus on the following five insights.

First, entity-voting has created a very complex situation that undermines the basic idea of checks and balances in consociational democracies. Consociational institutional models usually comprise three different veto types, which also define the specific veto players: Veto rights for federal units where minorities constitute the majority (territorial veto), an ethnic veto in shared institutions that should protect the vital national interest (ethnic veto), and an indirect veto through the introduction of special majorities for sensitive policy matters, for example constitutional changes (Bieber and Keil 352*f.*). In Bosnia, these three veto types have merged: Entity-voting is a special majority (even not only for sensitive matters), and it represents ethnic and territorial interests in one, at least with regard to Serb deputies, to be debated in the case of Federation delegates. The delegates of the state parliament, representing the entities, ethnicities, and political interests at once, have thus collectively become the main veto players. What further complicates the situation is the fact that the unified "super-veto" is duplicated by the institutional dynamics: The mechanism applies equally to both chambers; at the same time, both chambers consist of interest

representations that overlap with ethnicity and territoriality. It has therefore to be debated whether the Parliamentary Assembly still fulfills the requirements of a real bicameralism, where the upper chamber is not a mere mirage of the lower but controls it. What speaks in favor is the fact that the HoP uses its veto power when deemed necessary. Moreover, it is *not* the upper chamber that fails to fulfill its constitutional task: As already mentioned, initially only the House of Peoples was intended to be a chamber for collective ethnic representation, while the House of Representatives was to be the chamber where political parties represent the interests of individual citizens. The possibility of entity-voting has turned the HoR, as well, into a stage for ethno-nationalist agendas where the protection of ethnic interests and territorial interests are intertwined and dominate over other political goals. The basic task of any democratic parliament is the representation of individual citizens. With the HoR failing to do so, the "political personality of the citizen loses its meaning. In such a way the House of Representatives as the house of citizens is being transformed into the house of entities" (Ibrahimagić 194*f.*).

A second observation is that the same parties that also form the government reject legislation that was submitted to the house by the CoM – this concerns especially the SNSD, which had the majority in both the HoR and the HoP among Serb parties and was also part of the 2006–2010 government. The oppositional behavior of government parties can be explained by the fact that no official ethnic veto mechanisms exist in the Council of Ministers; unanimity is no prerequisite for passing a bill to the Parliamentary Assembly.[19] The conflict ought to be delegated to the parliament, where plenty of veto opportunities exist, or, to use Tsebelis's terms: The divided government is built into the legislative institution ("Veto Players: How Political Institutions Work" 157). This is quite an unusual situation. If a government does not find the required majorities for its policies, it usually steps down. Clearly, this is not the case in Bosnia, where the actors have turned the normal democratic conflict between government and opposition into a universal conflict over ethnic interests that is not related to the institutional roles the constitution and its framers had intended. Moreover, the parliament has become a very strong institution, compared to the rather weak government.

This brings us to the third point. If governments do not get significant legislation passed, they give their core task out of hand, which is the control of the political agenda. Agenda-setters are usually in an advantageous position, because they define the winset between the veto players (Tsebelis, "Veto Players and Law Production" 605). Not in Bosnia, which is a rather specific case: Critics assume that the real agenda-setter in Bosnia is not the domestic elite but the international community, which presses Bosnia to adopt the necessary legislation for the European Partnership. Giving the agenda-setting out of domestic hands might partly explain why it is so hard for the RS entity to abandon the status quo: Attempts to strengthen the central state – which often went hand in hand with reforms conditional to the European Partnership – stimulated fears of losing parts of the large autonomy and were frequently vetoed. Since 2007, Serb elites have been increasingly confrontational, especially RS Prime Minister Dodik, regarding actions and decisions by the High Representative.[20] The parliament, with its extensive veto mechanisms, consequently turned to the stage where national ownership was exercised. There, the veto players were so powerful that they began shaping political affairs. Specifically, they have defined the agenda through constant defection, that is non-support. Especially the Serb veto player has become the principal "negative agenda-setter," investing the necessary power in itself via entity-voting, undermining the constitutional agenda-setter (the government) as well as the informal agenda-setter (the international community, de facto the European Union).

Fourth, the institutional design of the parliament does not offer any incentives for the veto players to cooperate. The costs of cooperation are higher than the pursuit of self-

interest by entity-voting, as any compromise would require abandoning the maximalist strategy, signaling a loss for the players, while the advantage of cooperation remains unclear. As a consequence, the veto mechanisms have trapped the political actors in a Pareto-optimal situation. The reason for this situation is the lack of consensus on how Bosnia as a state is to develop, and whether or not the status quo should be continued or abandoned. In this question, the veto players follow opposite strategies. The central conclusion to be drawn is that as long as the veto players' self-interest cannot be combined with inter-ethnic cooperation, the deadlock will continue – especially as for one veto player the status quo is clearly preferable. Moreover, uncooperative actors not only go un-punished, but are rather rewarded – the general elections in Bosnia in October 2010 were a triumph for Milorad Dodik's SNSD in the RS, himself being elected RS president, although in the Federation, the multi-ethnic SDP (Socijaldemokratska Partija – Social-Democratic Party) left the ethno-nationalist parties behind for the first time since 2000 (Centralna Izborna Komisija).

Finally, the veto player game in Bosnia is ethnically uneven, privileging one group: The Serbs are the only constituent people who can apply entity-voting in all legislative stages unconditionally, which puts them in a rather comfortable position, especially the strongest party, SNSD. This might explain the International Crisis Group's observation that

> there is some evidence, though party leaders deny it, that the SNSD uses its influence to obstruct the operation of the state, with the aim of making it appear hopelessly dysfunctional in contrast with a modern and efficient RS. SNSD representatives at the state level have opposed or frustrated institutions required for European integration, while establishing analogous ones in RS (International Crisis Group, "Bosnia's Incomplete Transition" 8).

Summing up, the focus on power-sharing for any prize maintains the political status quo. As a consequence, the state's ability to carry out the reforms necessary for the European Partnership is severely undermined. The veto players' behavior has pushed the consociational system of ethnic "checks and balances" to extremes. This does not automatically imply the model's failure if a new calculus for selecting a strategy based on self-interest is set, such that a winset for the veto players becomes possible. Several policy implications can be derived from the above findings that have the potential to create such a winset.

Policy implications

In institutional theory it is assumed that policy change can be induced through (A) a redesign of the institutional setting, (B) a complete change of the political actors, or (C) an external shock that makes cooperation unavoidable (March and Olsen 11). All these possibilities share the point that the players need to abandon their maximalist and exclusionary strategy. To achieve that, the calculus must make cooperation more rewarding to the veto players than deploying a veto – which is currently not the case.

Institutional redesign

Suggestions of what a redesign of Bosnia's institutions should look like have been innumerable. For example, Belloni proposes three scenarios: abolishing the entities, instead carrying out a re-cantonization of the country, or establishing three entities which will also give the Croats large autonomy and self-rule. As Belloni himself admits, all three scenarios are unlikely, as "the process of revising the constitution is burdensome, and likely to be easily stopped by any dissenting group" ("State Building" 54–58). Kasapović

on the other hand presents a model which is a summary of "second best options," as every actor has to withdraw from his or her maximalist positions (21–23). Similar to Belloni's scenario of re-cantonization, she proposes a free territorial-political organization of the three constituent peoples, which would allow self-rule, but impede a state within the state. The state government should remain organized according to mechanisms similar to consociationalism, although some decisions should be submitted to qualified majorities, while veto issues and veto actors should be precisely defined.

Another approach is to redefine entity-voting in its substance, for example by removing its ethnic aspects and turning it into pure territorial voting – which initially it was meant to be. This would require a separation of ethnicity and territory, something envisaged by the Annex 7 Strategy of the Dayton Agreement. If ever implemented, the territories would be multi-ethnic and entity-voting would lose its ethnic dimension. Realistically, a "de-ethnization" of entity-voting will not happen soon, if ever: Even after the war, "ethnic engineering" has been used by all ethnic groups in order to relocate refugees to where they are politically most useful. These practices help manipulate the majority-minority configuration and discourage a return. Furthermore, economic incentives that would encourage the return from the mostly urban to the abandoned rural areas are lacking; returnees fear discrimination by the majority population, or simply do not want to go back to the place from where they had once been expelled (Ó Tuathail and Dahlman; Stokke 271).

In contrast to the more visionary than realistic de-ethnization of territories, a re-cantonization would offer a more practicable solution, as it would provide for the separation of ethnicity and territory without depending on a return, while ensuring enough autonomy to avoid the domination of one group. Several cantons with the respective veto possibilities would appear to make the situation more complex. Despite Tsebelis's assumption that a larger number of veto players can impede policy change ("Veto Players: How Political Institutions Work" 24), in Bosnia an increase of the number of players, together with the introduction of qualified majorities similar to the EU Council of Ministers, could end the political deadlock, as this would require coalition-building and compromise – given that the veto players are not defined along ethnic lines but by locality. The system of checks and balances would be maintained without giving any group the opportunity to "hijack" the institutions for ethno-politics.

However, such a reform could only be implemented if the veto players considered these proposals in line with their self-interest. The so-called Prud Process that launched talks between the party leaders of the main ethno-nationalist parties in November 2008 envisaged the creation of four political units instead of two entities. However, the reforms discussed in Prud were never realized, as "each side preserved its preferred solution: the Serbs considered the Serb Republic one of the units, the Croats saw the agreement as a way to carve out a Croat-dominated entity, while the Bosniaks hoped to redraw the political map to cut across existing ethnic lines" (Belloni, "Bosnia" 366).

A more precise reform would contain a clear definition of veto issues and veto actors as suggested by Kasapović. Entity-voting as a "super-veto" would be split into its three basic components: A veto applied only by special majorities for sensitive issues (e.g. constitutional change); entity-voting reserved for territorial representation, limited to issues that concern the territories directly; and a vital interest veto for the constituent peoples and – to be discussed – for the "Others." The first two types would apply only in the House of Representatives, while the House of Peoples would only be entitled to a vital interest veto. A further consideration might be to allow entity-voting only in the first reading. An often-cited role model for more effective decision-making could be the Rules of Procedure

of the Parliamentary Assembly in the Brčko District (Council of Europe). There, specific legislation requires "affirmative votes" in order to be passed, comprising at least one-third of votes from each of the three constituent peoples – but only in cases outlined in the District Statute.[21] Bieber describes decision-making in Brčko as an "integrative system which requires cross-community consensus rather than a narrow majority subject to vetoes" ("Local Institutional Engineering" 120). However, even in Brčko blocking is still possible, as was demonstrated in 2008–2009 when the assembly could not agree on the election of a new mayor for several months. Only after District Supervisor Raffi Gregorian temporarily suspended the salaries of the District Councilors did they finally manage to find consensus (Office of the High Representative, "Supervisory Order").

Surely such a reform on the state level would meet severe resistance by the veto players, as happened in 2007 when Serbs walked out of the common state institutions after High Representative Miroslav Lajčak amended the CoM's and Parliament's Rules of Procedure in the light of the unsuccessful police reform (see below). Lajčak abolished entity-voting for bills that have successfully passed the harmonization procedure in the Collegium. Also, the quorum arrangements in the HoR were simplified, which put an end to the strategy of blocking sessions by simply not showing up (Office of the High Representative, "Explanatory Note"). Regarding these events, a mere focus on institutional redesign might be counterproductive, especially as it would be short-sighted to derive the Bosnian gridlock only from the institutional design. As Bieber stresses ("Constitutional Reform"), decisions can be taken also through the current constitution, "as long as there is political will to proceed with EU integration." This points to the role of the political actors and external incentives for the European Partnership.

Changing political actors

New political actors who do not pursue exclusively the narrow ethnic self-interest could certainly be a motor of change: "if the passage of legislation is so important for some parties and so damaging for others, a different government would have to enact this legislation" (Tsebelis, "Veto Players and Law Production" 594). However, it is hard to succeed for multi-ethnic or moderate parties on the state level. One part of the problem is that parties only compete within their own national electorate, which is territorialized in the two entities. The current electoral system discourages a shift from nationalist to inter-ethnic interest parties, as it draws the constituencies around ethno-territorial lines. A countrywide "centripetalist" system, or one single constituency throughout the whole country, would provide incentives for politicians to push their partisan agenda beyond ethnic boundaries, as they would also depend on the votes of other groups (Aitken 260; Belloni, "Peacebuilding" 339). This should engender a nationwide competition between the parties and encourage abandoning the maximalist strategies that are exclusively designed for one ethnicity.

Realistically, it would be rather surprising if the nationalist parties adopted an election law that would contribute to their disempowerment. However, the elections in October 2010 proved that a change in actors is not impossible: While in Republika Srpska the ruling SNSD of Milorad Dodik could even strengthen its position, the ethno-nationalist parties in the Federation faced a defeat, with the multi-ethnic SDP becoming the strongest party (Centralna Izborna Komisija). Nevertheless, the fact that the strongest veto player remained uncontested raises doubts as to whether these elections foster an orientation in the direction of a policy change.

External shocks and incentives

An external shock can lead to an undesirable situation and thus the abandoning of the status quo and induce policy change. In the context of Bosnia, several such scenarios exist, such as increasing the pressure from the neighboring countries to solve ethnic issues; increasing the activity of the international community in Bosnia, acting through its High Representative/EU Special Representative; or the introduction of an external goal that all major actors in Bosnia equally share, and which would reset the calculus of the veto players.

The first two scenarios are quite unlikely: Croatia and Serbia deal cautiously with Bosnia's ethnic tensions; besides, such an involvement would decrease rather than increase the country's political stability. The international community pushes towards more national ownership in planning to close the Office of the High Representative, although the closure was postponed several times during 2008–2010 due to the constant political crisis. It can be doubted if the High Representative would be capable of introducing major reforms, especially without Serb consent: As already mentioned, conflicts between the High Representative and RS elites had been on the rise during the recent legislation period. Besides, it is questionable whether international top-down intervention could bring the desired result, or if it would rather undermine local accountability and the development of a democratic political culture.

As mentioned above, European integration is a goal all political actors share – but, as proved by the empirical results of the present analysis, far from unconditionally: "The sake of EU-integration alone" is clearly not enough reason for the major political forces to compromise (Bieber, "Constitutional Reform"). How can the EU define a common winset for the players? To answer this question, we have to be mindful of two problems:

(1) the interest of the main veto player (the Serbs), which is the preservation of the autonomous RS – and which clashes with many EU-induced reforms that preview a strengthening of the central state institutions (Gromes 440);
(2) a currently incoherent approach of the European Union towards Bosnia, combined with vague long-term goals that offer few incentives for cooperation (International Crisis Group, "Bosnia's Dual Crisis" 6).

One of the most frequently cited examples of a failure of EU policy toward Bosnia is the police reform that envisaged the centralization of the entity police forces. Serbs fiercely resisted the reform, which together with the above-mentioned amendment of the Rules of Procedure by Miroslav Lajčak caused a severe political crisis in 2007. The EU traded the signing of the Stabilization and Association Agreement with Bosnia for a weak compromise on the reform, undermining thereby its own conditionality. As Gromes comments, "on the one hand, through softening its demands regarding the police reform the EU has perhaps rescued Bosnia and Herzegovina's integration prospect. On the other hand, this move could induce the parties … to question further demands by the EU" (441). Another problem is that the goals for European Partnership tend to be extremely vague and oriented toward the long term, which does not offer any incentives for the local players to cooperate – especially when they need to deliver tangible results for their electorate (Belloni, "European integration" 329). It would be imperative to turn towards a reward-system with clear short-term goals, which should encourage cooperation and impede what Džihić describes: the instrumentalization of European integration for ethno-nationalist political goals without truly acting according to European values (386*ff.*). The EU should thereby follow a mixed approach of advice, guidance, and the offering of clear options to prepare not only for accession negotiations but also for

membership. Moreover, it is unavoidable to accept that Bosnia is a decentralized country. Only if the required reforms meet this basic interest will the Serb veto players be ready to start negotiating the future of a united Bosnia in Europe (Bieber, "Constitutional Reform").

Certainly, the interests of all local veto players must be taken into account when developing a strategy for Bosnia's EU path to Europe. If the reforms required for the European Partnership are not to their advantage, all efforts will be futile – which means that such advantages have to be offered. One thing is sure: Only if all actors make concessions will Bosnia be capable to carry out the reforms it needs to survive.

Conclusion

As predicted by Tsebelis's veto player approach, Bosnia's veto players display a strong status quo orientation. Especially the institutional design of the Parliamentary Assembly discourages inter-ethnic cooperation between the veto players: Its most important veto mechanism, entity-voting, has turned into a super-veto which pushes the consociational setting of checks and balances to its extremes, making non-cooperation more advantageous to the veto players than compromise. Moreover, entity-voting has thwarted democratic agenda-setting as much as the political representation of the individual citizen and is thus detrimental to the country's democratic development.

What lessons can be learned from the Bosnian case? Political systems that do not enjoy an overarching acceptance by all relevant groups and are built on ethnic or religious cleavages will generate veto players with the potential to cause institutional gridlock. The resulting policy stability will lead to system instability, as is the case in Bosnia. As a consequence, institutions must be designed from the beginning in such a way that none of the decisive political groups can "hijack" them for any exclusionary interests, but that cooperation between the relevant groups is implied by the institutional design. As soon as the veto players are institutionalized, it will be extremely difficult to change the rules of the game: Although a combination of institutional redesign, new political actors, and exogenous shocks can encourage them to leave a detrimental status quo, only the veto players themselves can eventually define a common winset.

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Notes

1. Annex X of the Dayton Peace Agreement establishes the presence of a High Representative (since 2002 also EU Special Representative). The High Representative watches over the adherence to the Dayton Agreement by the former war parties. To carry out this task, he has large competencies ("Bonn Powers") that entitle him to actively intervene in Bosnian politics through "Decisions," if he considers the Agreement as being endangered (Bosnia and Herzegovina, "The General Framework Agreement" Annex X; Chandler 157).
2. Kasapović calls Bosnia an "asymmetrical confederation" (4), Bose "confederal in character" (20), and Carl Bildt, the country's first High Representative, the "most decentralized state in the world" (qtd. in Belloni, "State Building" 44).

3. These are just estimates. Until today no official numbers exist on the post-war ethnic composition of Bosnia. The last census was held in 1991, when Bosnia was still part of Yugoslavia. Today, approximately 7% of the total population belong to minorities like Jews, Roma, or are offspring of mixed marriages. They are subsumed under the term "Others" and can run for public office in the state government and the House of Representatives – but not for the three-fold Presidency and the House of Peoples. This constitutional arrangement was rejected by the European Court of Human Rights in December 2009 as being discriminatory (European Court of Human Rights), urging Bosnia to carry out a respective constitutional reform, which so far has been stalled.
4. Tsebelis distinguishes between institutional veto players (players defined by the constitution, such as the houses of parliament, the president, etc.) and partisan veto players (players generated by a country's political game, such as coalition partners). The consent for policy change of institutional veto players is both a necessary and sufficient condition, whereas the consent of partisan veto players is not sufficient, as their agenda still can be vetoed by institutional players like the parliament. In the case of over-sized majority or minority governments, their consent is also not necessary, as the players can bypass each other ("Decision Making" 302).
5. In the HoP, the vital interest veto was invoked only four times in 11 years (Trnka 13).Vital interest has one decisive disadvantage, compared to entity-voting: It does not stop the legislation process for good. Whenever vital interest is invoked, the HoP has to set up a commission to decide on its justified invocation; if there is no agreement in that commission, the Constitutional Court will rule if the vital interest of the complaining ethnicity was indeed threatened (Bosnia and Herzegovina, "Rules of Procedure House of Peoples" Art. 161, Art. 162; Trnka 13). Between 2006 and 2010, vital interest was deployed only once, by the Bosniak caucus in May 2008, when the house adopted a non-binding resolution asking the CoM to submit legislation that would allow the creation of a Croat public broadcaster. However, the Constitutional Court decided that vital interest had not been violated, which probably did not encourage a more frequent use of the veto (Constitutional Court of Bosnia and Herzegovina).
6. The Collegium consists of the chairman, the first, and the second chairman of the respective house. It is responsible for the cooperation between the houses and represents them before the Presidency and the CoM. It is also responsible for the harmonization of a parliamentary item, if it was rejected by entity-voting. If the Collegium comes to an agreement, the item in question is considered adopted. If there is no agreement, the item under consideration has to undergo a second round of voting by the house before it is either finally rejected or ultimately adopted, provided the number of dissenting votes does not amount to two-thirds or more of the delegates present and voting, of each entity (Bosnia and Herzegovina, "Constitution" Art. IV Paras. 3e, 3f; "Rules of Procedure House of Peoples" Arts. 73, 74; "Rules of Procedure House of Representatives" Arts. 79, 80).
7. "Ethno-nationalism" means the construction of exclusive identities and a delimitation towards the "other" by emphasizing ethnicity as a main reference frame for nationality. Ethno-nationalism has resulted in "ethno-politics" after the war: a political style that follows exclusively ethnic self-interest, relating it to a narrow concept of nationality. For a detailed discussion on ethno-nationalism and ethno-politics see Džihić.
8. The government coalition that shaped the Council of Ministers during the 2006–2010 legislation term consisted of parties that saw their mission primarily in representing the interests of their respective ethnicity: Serbs were represented by SNSD (Savez Nezavisnih Sozijaldemokrata – Alliance of Independent Social Democrats), whose party leader Milorad Dodik was also the RS Prime Minister. He repeatedly expressed his desire to lead RS into independence – still, compared to its big rival party in RS, the Srpska Demokratsa Stranka founded by Radovan Karadžić, the SNSD was considered to be more moderate. Muslims were represented by SDA (Stranka Demokratske Akticje – Party for Democratic Action), whose party leader Sulejman Tihić was known as a rather moderate politician, but had a difficult stand due to the radical elements in his party, and by SBiH (Stranka za Bosnu i Hercegovinu – Party for Bosnia and Herzegovina), which pursued a radical anti-RS course (calling for its abolition) under its leader Haris Silajdžić. Finally, two Croat nationalist parties, the HDZ BiH (Hrvatska Demokratska Zajednica Bosne i Hercegovine – Croat Democratic Union of Bosnia and Herzegovina) and its split-off, the HDZ 1990, completed a pretty unlikely government coalition.
9. In 2008, Bosnia signed the Stabilization and Association Agreement (SAA), which sets the pathway for an intensified European integration by harmonizing domestic legislation with the *aqcuis communautaire*, granting access to the European market as well as economic and

technological assistance (Delegation of the European Union to Bosnia and Herzegovina). However, the agreement was not yet in force during the 2006–2010 term, meaning that harmonization activities were carried out on a voluntary basis.

10. Two sessions of each house were not available for analysis. For the HoR, these are Session 12 and Session 70; for the HoP, Session 7 and Session 43. Therefore, the analysis does not include the complete legislation period, which, however, should not thwart the overall trend which is assessed in the present investigation.
11. I would like to express my sincere gratitude for this cooperation, which made this research project possible.
12. For the overall view of adopted and rejected legislation I analyzed the first and second reading separately. Most bills failed already during the first reading due to entity-voting, which therefore required special attention. However, for the in-depth analysis of rejected legislation I abstained from distinguishing between first and second reading, for two reasons: It had no further relevance for the overall analysis, and it would have affected the readability of the empirical part (especially regarding the Figures).
13. The Rules of Procedure of the houses allow a bill to be adopted in "urgent procedure," meaning that it has to undergo only one reading, if the delegates take a respective decision (Bosnia and Herzegovina, "Rules of Procedure House of Peoples" Art. 122; "Rules of Procedure House of Representatives" Art. 127).
14. I would like to thank Elisabet Tomasinec from the Political Economic Section of the EU Delegation in Sarajevo.
15. Authorized proponents who can submit a draft law to the Parliamentary Assembly can be any member of one of the houses, a parliamentary committee and the joint committees of the houses, the Presidency, and the CoM (Bosnia and Herzegovina, "Rules of Procedure House of Peoples" Art. 92, "Rules of Procedure House of Representatives" Arts. 101, 102).
16. As already mentioned, domestic legislation can also certainly be "significant" in terms of importance. Unfortunately, the present analysis cannot distinguish "significant" from "non-significant" domestic legislation or create a hierarchy of importance, because the development of the required objective decision rule is beyond its scope. We therefore cannot assess if "significant" domestic legislation failed more or less frequently than bills which could be considered as less important.
17. Central European Free Trade Agreement. Member parties are the successor states of Yugoslavia (except Slovenia), Albania, and Moldova (see Central European Free Trade Agreement).
18. Annex 7 of the Dayton Peace Agreement obliges the contracting parties to support the return of refugees to the regions from where which they were expelled during the war (Bosnia and Herzegovina, "The General Framework Agreement" Annex VII). However, until today it has not been fully implemented, and it is doubtful if it ever will be.
19. Decision-making in the CoM usually is carried out by a majority vote that requires at least one vote of each constituent people, "on all matters and topics which are subject to final decision-making by the Parliament." On other matters the CoM decides by consensus, "particularly on regulations, appointments, and assignments." The Rules of Procedure state that if the Council fails to reach consensus, the Chair should negotiate the issue separately with its opponents ("harmonization"). In case that consensus fails, the CoM can pass decisions by majority vote, which also has to include the vote of at least one of the three constituent peoples (Bosnia and Herzegovina, "Rules of Procedure Council of Ministers" Article 48 Paras. 1, 2, 3).
20. Since 2007, the relationship between RS politicians (especially Dodik) and the international community and its High Representative has been extremely tense. The 2007 reform of the Council of Ministers' and parliament's Rules of Procedure by High Representative Miroslav Lajčak in the context of the unproductive struggle for a state-wide police reform irritated the Serbs so much that the CoM's Chair Nikola Špirić resigned and Serbs walked out of CoM (Belloni, "Bosnia" 365; International Crisis Group, "Bosnia's Incomplete Transition" 12–14). In September 2009, High Representative Valentin Inzko imposed eight laws by using the Bonn Powers. Soon after, RS Prime Minister Dodik publicly rejected these laws and threatened to pull all Serb representatives from the Bosnian government. Given the fact that the High Representative did not enjoy the international support his predecessors did, he had little authority to sanction this uncooperative behaviour (International Crisis Group, "Bosnia's Dual Crisis" 2*f.*).

21. The Brčko Statute notes that at least one-third of the votes of each ethnicity are necessary for the adoption and amendments to laws or decisions proposed by Councilors that would otherwise be "subject to affirmative voting in the Government." The adoption of amendments proposed between the house's two readings also require the votes of one-third of each caucus, if the concerning law has been subject to affirmative voting in the Government before (Bosnia and Herzegovina, "Statute of Brčko District in BiH" Art. 36). Affirmative voting, both in the Assembly and the Government, is also required for issues on religion, culture, education, language, budget, spatial planning, national holidays, and monuments (Art. 33a Para. 1, Art. 53).

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