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Why is the State of Bosnia and Herzegovina
Dysfunctional, 25 Years after the Dayton Agreement?

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Introduction

The collapse of former Yugoslavia between 1991 and 1995 resulted in the loss of almost three hundred thousand lives with fighting occurring mostly in its former federal republics of Croatia and Bosnia and Herzegovina. The Europeans decided not to undertake an active role in this conflict and thus relied heavily on dispatching the U.N. peacekeepers to the war-torn area which was not enough to stop the fighting. However it was the United States that intervened and asserted leadership, although “belatedly and reluctantly” (Holbrooke, 1999, p. 35) in late 1995 and brokered a peace agreement that secured the peace in Bosnia and Herzegovina and as a consequence in Croatia as well. During the 1990s, the chief custodian of peace processes has been the United Nations (UN) however an exception was made on two occasions as the United States overtook the role of the UN in the implementation of peace agreement on Bosnia and Herzegovina and the implementation of South African peace settlement (Stedman, 1997).

The General Framework Agreement for Peace in Bosnia and Herzegovina also known as the Dayton Peace Agreement (DPA¹) or Dayton Accords was negotiated at Wright-Patterson Air Force Base near Dayton, Ohio, United States in November 1995 and formally signed in Paris on 14 December 1995 which ended one of the bloodiest wars in Europe after the Second World War. Parties to the DPA are the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, however, most Annexes were agreed between the Republic of Bosnia and Herzegovina and its newly formed two entities. First one being the Serb-dominated entity the Republika Srpska and the Bosniak-Croat dominated entity the Federation of Bosnia and Herzegovina. Between these two entities lies the inter-entity boundary line which the ‘architect’ of the DPA, American diplomat Richard Holbrooke, characterized as one of the “hardest issues to negotiate at Dayton” (Merdzanovic, 2015, p. 135). The implications of the DPA made Bosnia and Herzegovina as *de facto* protectorate during the first decade following the signing of the peace agreement in December 1995 (Bieber, 2006b). Some scholars have designated the DPA as a blueprint for state-building which can be used as a template in resolving other conflicts around the world, such as the Syrian conflict which erupted in 2015 (Grgić, 2020). Most importantly, with its eleven Annexes the DPA made it possible to put a stop to the

¹ Throughout the paper the Dayton agreement will be characterized as DPA or Dayton.

Bosnian Civil War which lasted for three and half years from 1992 to 1995. The Annex IV of the DPA is the Constitution of Bosnia and Herzegovina which is, with series of amendments, in force to this day. Although the Annex IV was meant to be a temporary agreement until a new constitution would be brokered between all parties involved, this has never happened. Additionally, the Annex IV or Constitution still lacks the translation into local languages since it was drafted in English language (Gordy, 2015). Ever since the Annex IV was brokered it did manage to achieve its main goal - a cessation of hostilities - however there is a common scholarly understanding and general opinion that Bosnia and Herzegovina (henceforth Bosnia) is a dysfunctional state (Pinkerton, 2016; Sweeney, 2018; Gajić & Ejodus, 2018; Glenn, 2011). Bearing this in mind, the question that comes to mind is: Why or how did Bosnia become dysfunctional? Was it the flaw of the constitution (i.e. the DPA) or the political management on the ground in the form of the so-called 'spoilers' contributed towards Bosnia's dysfunctional nature?

The assessment that Bosnia is a dysfunctional state is precisely the main topic of this scholarly work and this master thesis explores the reasons for its dysfunctional nature. Many scholars agree that the DPA stopped the war and brought peace to the country, however at the same time many argue that the DPA failed to create a functional state. However the assumption that only the constitution is responsible for the creation of functional institutions of a state is oversimplified. Another important factor determining whether the state will be functional or not is the political will of the respected people living in the state. The political system created in Dayton was meant to function, however the question that follows is: why didn't it work? For better grasping the picture of Bosnia's complexity in the form of its territorial division, the Figure 1 below is envisaged to assist the reader of this master thesis. The DPA generated a huge and highly costly bureaucratic apparatus in Bosnia by creating two previously mentioned entities, both of which have a government (with a prime minister and ministers) as well as a president. Furthermore the Federation of Bosnia and Herzegovina (henceforth as Federation) is divided into 10 cantons all of which have a government with prime minister and ministers respectively. Then there is the special Brčko District with its own government and finally on the state level among 'common institutions' there is the State Presidency, the Parliamentary Assembly (with the House of Representatives and the House of Peoples) and the Council of Ministers acting as quasi-government. Some argue that dysfunctionality of Bosnia comes from

the entity veto right which Dayton established in a form of a protection of vital interest. This means that, in a nutshell, 10 out of 42 parliamentarians in the House of Representatives (of the Parliamentary Assembly) on the state level from one constituent people's group can block the decision-making procedure. As a consequence, the veto right amounted in blocking of almost 200 laws and proposals in Bosnia's institutions (Džihic, 2012). Furthermore, the critics of Dayton express dual nature of this brokered peace agreement, as Ćurak (2007) noted: "Frequently the Dayton Peace Agreement was described as an agreement that was a kind of a life jacket (in terms of stopping the war) but a straitjacket in terms of creating a functional state" (as cited in, Džihic. 2012, p. 332). On the other hand, in terms of explaining Bosnia's dysfunctional nature, there is also the opposite side of the argument which believes that much of the blame of the international set-up of the Dayton constitutions was misplaced (Bieber, 2006). In other words, the constitution *per se* is not solely to blame for the dysfunctional *status quo* in Bosnia.

Bearing this in mind, several questions arise when a closer analysis in dysfunctional Bosnia is taken. Was the DPA (i.e. the constitution of Bosnia) a stillborn concept doomed to fail from the beginning? In which way was Bosnia made dysfunctional by politics on the ground with political elites taking the form of 'spoilers'? Did the recent events contribute to a more dysfunctional state? What would be the appropriate and realistic future political system for Bosnia which would favor a greater functionality, bearing in mind Bosnia's ethnic divisions? Why was the collective identity not formed during the peaceful years? Different theoretical lenses will be used in testing three hypotheses for three research questions respectively. The testing of these research questions will be possible through application of the constructivism as one of the dominant international relations theories which is useful in explaining Bosnia's behavior in international environment as well as in its internal relations through 'interest' and 'identity' argumentation. The second theory is the consociationalism which will be used in elaborating the internal political structure of Bosnia and explaining its political system as well as suggesting in which direction the country is supposed to move in light of power-sharing model. Finally, the reasons for selecting these two theories in political science for the master thesis will be elaborated in the theoretical framework parts.

Figure 1: Territorial division of Bosnia and Herzegovina²



- | | |
|---|---------------------------------------|
| 1 Una-Sana Canton | 6 Central Bosnia Canton |
| 2 Posavina Canton | 7 Herzegovina-Neretva Canton |
| 3 Tuzla Canton | 8 West Herzegovina Canton |
| 4 Zenica-Doboj Canton | 9 Sarajevo Canton |
| 5 Bosnia-Podrinje Canton Goražde | 10 Canton 10 |

Methodology

From methodological point of view, the research questions in the master thesis will be answered by applying two theoretical approaches in political science. First one being the international relations theory of constructivism which follows the work of Alexander Wendt (1992) and his essay named “Anarchy is what states make of it”. The second theoretical approach will be in line with work of one of the leading scholars on consociationalism, Arend Lijphart. The constructivism is useful for explaining Bosnia’s behavior in international

² Source: <https://www.theguardian.com/news/datablog/2014/oct/08/bosnia-herzegovina-elections-the-worlds-most-complicated-system-of-government>

environment and internal dynamic through ‘interest’ and ‘identity’ argumentation as well as the instrumentalization of ‘fear’ by the dominant political actors. On the other hand, the consociationalism will be used in elaborating the internal political structure of Bosnia as well as suggesting which changes in the political system the country is supposed undertake that will relate to Lijphart’s power-sharing model in order to overcome the on-going post-Dayton political crisis. The analysis of the material will be undertaken by using different theoretical lenses of constructivism and consociationalism. International reports and documentation, relevant scholarly work, decisions of the Office of High Representative in Bosnia as well as communiqués and declaration of the Peace Implementation Council will be used as a research material during the writing of this master thesis. Concerning newspaper articles, the analysis is implemented in the most relevant electronic newspapers in which are dominant in Bosnia. These are for instance the regional *NI* network, Sarajevo-based *Oslobođenje* (“Liberation”), Banja Luka-based *Nezavisne Novine* (“Independent Newspapers”), Sarajevo-based “*Dnevni Avaz*” (“Daily Newspaper”), the international *Al Jazeera* network etc. As an addition in strengthening the argumentation, various opinion polls will be used as a supporting material. It is clear, however, that these surveys do not determine for a fact whether for instance the ‘fear of majorization’ is real or not or how all citizens perceive future political development in Bosnia. These opinion polls serve only as supporting factor in the research material analysis. Lastly, the timeframe analyzed in the master thesis will cover events and developments in Bosnia from 2006 until 2020 which is in accordance with four general election cycles 2006 - 2010, 2010 - 2014, 2014 - 2018 and 2018 – 2020 (including the first half of the year 2021). The reason why the starting date of the analysis corresponds to the 2006 general elections in Bosnia will be elaborated later in the paper because many consider that year as the most significant in paving the way for today’s dysfunctional nature of Bosnia.

Theoretical framework – Part I

Bearing in mind the complexity of Bosnia as a state, its ethnic, religious and cultural differences and in particular the previous Bosnian Civil War from 1992 to 1995, which theory of International Relations (IR) is best suited in explaining its ongoing post-Dayton political situation? This master thesis argues that is constructivism, as stated in the introduction part,

however to begin with, the constructivist criticism of the two dominant IR theories needs to be mentioned as well. In addition, constructivism as an IR theory will be introduced and finally in concluding the theoretical framework part the most relevant features of constructivism will be described and thus proving why this particular IR theory was selected for the master thesis.

Constructivist criticism of Realism and Liberalism

Realism and liberalism as two dominant theories of IR are however not suitable in explaining an ongoing political situation in post-Dayton dysfunctional Bosnia since they do not develop *inter alia* the concept of a 'structure of identity and interest' which Alexander Wendt (1992) elaborated in his essay „Anarchy is what States Make of it“. Wendt criticized (neo)realists and (neo)liberals because of their shared commitment to 'rationalism' since these theories treated identities and interests of agents as „exogenously given“ and focused on how the behavior of these agents results in outcomes. In particular his critic is aimed at rationalism which has a behavioral conception of processes and institutions since, rationalists argued, they only change behavior and not identities and interests. Wendt argued that both neorealism and neoliberalism share same beliefs about agents – which is that states represent dominant players in the international system and they in this regard define security in 'self-interested' terms. In other words, both dominant IR theories take the “self-interested state as the starting point of theory” (Wendt, 1992, p. 392). The problem with neorealism, Wendt argued, is that it does not see the self-help system as an 'institution' and does not address questions like identity- and interest-formation. He criticized Waltz's (1979) definition of political structure based on ordering principles (i.e. anarchy), principles of differentiation and distribution of capabilities, by not predicting state behavior with another state in terms of defining friends or foes, revisionist or status quo powers etc. To this end, Wendt added a fourth concept of political structure: “the intersubjectively constituted structure of identities and interests in the system” (p. 401). By developing the concept of a “structure of identity and interest” in helping predict the content or dynamics of anarchy, Wendt proved that Waltz's definition of political structure is not sufficient in explaining the social relations in anarchy. In other words, a (neo)realist thinking about anarchy and distribution of power lacks further elaboration in explaining why states “see” other states as friends and others as enemies. It is collective meanings that contribute to necessary structures which, as a consequence, influence and determine our action. As Wendt (1992) noted: “U.S.

military power has a different significance for Canada than for Cuba, despite their similar "structural" positions, just as British missiles have a different significance for the United States than do Soviet missiles" (p. 397). In other words, it is important how a state "perceives" another state, either as a friend or foe. Backing this argument is the recent example of Russia's president Vladimir Putin in a recent interview with American NBC News broadcaster which took place on 11 June 2021 in Moscow. Referring to the constant Russian discontent with the US and NATO's military capacity and growing development, the NBC News journalist Keir Simmons posed a direct question to the Russian president:

"China is working on its fourth aircraft carrier. It has two. Russia has one, and it's not in— in service at the moment. China refused to take part in arms control talks last year. You complain so much about NATO to your west. Why do you never complain about China's militarization to your east?" (NBC News Interview, 2021).

President Putin answered:

"We do not believe that China is a threat to us. That's one. China is a friendly nation. It has not declared us an enemy, as the United States has done. [...] Number two is that China is a huge, powerful country, 1.5 billion. In terms purchasing— power— parity, the Chinese economy has exceeded that of the United States. And in terms of trade for the previous year, last year, China has— China has tied Europe for the first place, whereas the U.S. has dropped to the second position. [...] However, we're not alarmed by it, including, among other things, by the fact that our defense sufficiency, which is how we describe it, is at a very high level, including because of this. But the most important thing is the nature and level of our relationship with China" (NBC News Interview, 2021).

In other words, Russia does not worry about the fact that China is building its fourth aircraft carrier because it does not "*see*" China as an enemy but as a friendly nation. This is something that realism could not explain since China's economic and military development is threatening to overcome the economic and military power of the US at some point in time. When it comes to liberalism, Wendt noted that it also falls prey to neorealist position of causal powers of anarchic structure, however liberals believe that this structure can generate cooperative behavior even in self-help systems which are exogenously given. Furthermore, Wendt makes a distinction between 'weak' and 'strong' liberals. The former sees anarchy which does "constitute states with self-interested identities exogenous to practice" (Wendt, 1992, p. 392) and the latter is "asserting an important role for transformations of identity and interest in the liberal research program" (p. 393), however it is privileging structure over process since "transformations of identity and interest through process are transformations of structure" (p. 393). Lastly, Wendt criticized

liberalism because of its failure to distance itself from the rationalist legacy and argued that “Regimes cannot change identities and interests if the latter are taken as given” (ibid., p. 393). The previously mentioned criticism of neorealist claim that self-help system is given by its anarchic structure exogenously to process, is based on Wendt’s claim that self-help and power politics do not necessarily derive logically or causally from anarchy. In other words, if we were to be found in the self-help system, it is “due to process, not structure” (ibid., p. 394) and the self-help system and power politics represent institutions and not essential features of anarchy or as Wendt puts it: “Anarchy is what states make of it” (ibid., p. 395).

Constructivism

Finally, the IR theory most relevant for this thesis is the one which successfully explains the notion of identities and interests which Wendt (1992), following its first definition from Nicholas Onuf, named ‘*constructivist*’. One of the leading constructivists today in his effort to reconstruct IR as a contribution to social theory, Nicholas Onuf (1989) argued that “people and societies construct, or constitute, each other” (p. 36) and used the terms ‘construct’ and ‘constitute’ as synonyms which form the basis of the theory of constructivism. It is a theory which has roots from different philosophers such as René Descartes, Immanuel Kant and Nelson Goodman. Similar to Hegelian term of synthesis as a solution to the duality of thesis and antithesis, Onuf (1989) managed to overcome dual constructions (e.g. mind/subject and matter/object) which were dominant in Western thought, by “treating people and society as each the product of the other's construction” (p. 41) and it is precisely this act of construction, or the co-construction of people and society which ‘makes history’ (ibid.). In other words according to Onuf (2013), constructivism is a “way of studying social relations—any kind of social relations” (p. 3). Despite not offering general explanation in what people do, how societies differ or how the world changes, constructivism “applies to all fields of social inquiry” (p. 3) and “finds value in diverse materials and forges links where none seemed possible” (p. 3). What Onuf (2013) considers fundamental to constructivism is the basic preposition that human being is a social being and that without our social relations; we could not be considered as a human. Furthermore, these social relations “make or construct people—*ourselves*—into the kind of beings that we are” (ibid., p. 4). Constructivism is a two-way process since it argues that people make society and vice-versa and what links these two elements are rules (or social rules to be exact) by which

“people and society constitute each other continuous and reciprocal” (ibid., p. 4). These rules are statements that tell people ‘what we should do’, where the “*what*” is a standard for people’s conduct in different situations and the “*should*” is telling us to match our conduct to that specific standard. Lastly, rules are used in telling us about who are active participants in a society and, according to constructivists; these participants are described as ‘agents’. As Onuf (2013) noted: “People are agents, but only to the extent that society, through its rules, makes it possible for us to participate in the many situations for which there are rules. No one is an agent for all such situations” (p. 4). Contrary to common belief, agents do not have to be people who act on behalf of other people but, according to constructivists, agency is a social condition. In this regard the government of a country is defined as a “collection of people and social construction” (ibid., p. 4-5). Since agents act in a society to achieve certain goals, every society must have certain rules that tell which goals are appropriate to follow and pursue by agents in a rational manner. Additionally, since rules are related to agents’ practices, they together form a stable pattern which serves agents’ intentions which is called an institution. In other words, institutions “make people into agents and constitute an environment within which agents conduct themselves rationally” (ibid., p. 5).

It is proven, however, that even these stable patterns may produce unintended consequences which along with rules and institutions provide society a structure. If agents, as observers, believe that consequences directed towards them are bad for them, these agents will act in an attempt to alter them. It is worth noting that Onuf (2013) mentions “outside observers” as well, which are agents in another society who may recognize a ‘more complex structure’ in a society rather than “regular” agents (i.e. observers) who live there. Onuf draws a nice distinction between structure and institutions where the former is what observers see, and the latter is what agents act within. Contrary to (neo)realists and (neo)liberals thinking about IR order, constructivists believe that anarchy is not an absence of rule (i.e. chaos) but it is “a condition of rule in which rules are not directly responsible for the way agents conduct their relations” (ibid., p. 7). In this system, agents decide to be ruled because it suits their goals, however, many agents have little or no choice but to accept this arrangement. In this sense, Onuf describes international anarchy as a social arrangement i.e. an institution but on a grand scale and that in every society it is rules that create necessary conditions of rule which is something that agents should follow (Onuf, 2013).

Onuf (2013) tackles two important terms for constructivism – interest and identity which are of grave importance for this master thesis and for understanding dysfunctional Bosnia’s as a state. Since rules are the ones that make agents stand out of individual human beings which agents use to act upon the world and with different consequences, agents use those means that are available in order to achieve their goals by appropriating material and/or non-material (e.g. institutions) resources that our social world offers. The end result is explained in constituting agents’ *interests*. It is worth noting that agents do not need to be aware what precisely their interests are, since they can follow (or observe) other agents’ interests and learn from them. Although not every agent requires the degree of self-consciousness i.e. an identity, they are mostly aware of their identities, be they singular or collective and it is enough for agents to have an interest in fostering their identity (Onuf, 2013). It is important to note that the title of an ‘agent’ can be transmitted from one person to another, as Onuf (2013) suggested:

“As agents, people can make other people into agents by giving the latter the opportunity to act on the former’s behalf for particular purposes. The former may do so individually or collectively, and the latter may be one or more individuals acting on the former’s behalf. Agents acting collectively become a singular agent. By using resources, they acquire a material existence, and, as the previous paragraph suggests, they become objects of identification” (p. 9).

According to constructivists, identity is “a process of social construction involving agents’ choices for themselves” (Onuf, 2013, p. 75). In this regard the term ‘self’ is treated as an objective condition since human beings come to possess an active and coherent sense of ‘self’ or identity while they mature in a society. Constructivists do not believe that the awareness of ‘self’ leads to alienation in any radical sense, on the contrary, it leads to the formation of a collective identity by grasping some sense of human beings together (Onuf, 2013). In his explanation on why the Cold War ended, Wendt (1992) argued that it had ended simply because two dominant super-powers, the United States of America and the Soviet Union, decided that they are no longer enemies. As he puts it: “It is collective meanings that constitute the structures which organize our actions” (Wendt, 1992, p. 397). By participating in these collective meanings, actors manage to acquire identities which are inherently relational. Just as a person can possess several identities linked to institutional roles e.g. father, citizen, banker so to can a state have different identities such as “sovereign”, “leader of the free world” etc. Furthermore, many identities can vary from one another, as Wendt (1992) noted: “[...] each identity is an

inherently social definition of the actor grounded in the theories which actors collectively hold about themselves and one another and which constitute the structure of the social world” (p. 398). Identities are, as Wendt puts it, “the basis of interests” (ibid., p. 398) and actors cannot define their interests by completely ignoring the social context they are faced with, instead, in the process of defining situations are their interests defined (ibid.). A strong argument for this explanation is the altering of national identities in the Balkans in the past decades within the short period of time. Taking for instance the case study of this master thesis, Bosnia, whose dominant ethnic group Bosniaks changed ethnic identity over the course of the 20th century several times. It occurred notably in 1968 from *muslims* into *Muslims* (as an ethnicity with capital M), thus becoming equal entity in communist Yugoslavia and finally in 1993 from *Muslims* into *Bosniaks* during the Bosnian Civil War (Jović, 2013). In addition, some authors argued that by recognizing *Bosnian Muslims* as a constituent nation of former communist Yugoslavia, *Bosnian Muslims* (future *Bosniaks*) became “vulnerable to Serb and Croat pressures, because neither group would accept the Bosnian Muslims as anything more than a religious entity—certainly not as a national entity” (Friedman, 1996, p. 1). Returning to Wendt (1992), he noted that a stable ‘structure’ of identities and interests ultimately forms institutions which are “fundamentally cognitive entities that do not exist apart from actors' ideas about how the world works” (p. 399). Since institutions represent something that actors collectively “know”, the process of institutionalization is internalizing new identities and interests, thus resulting in institutions being either cooperative or conflictual. Again contrary to Waltz’s definition of self-help system under anarchy, constructivists see the self-help as an institution that is part of various structures of identities and interests. Furthermore, the identity-formation is a process concerned predominantly about the “security” of the self. In this regard, Wendt labeled competitive and individualistic systems as “self-help” forms of anarchy, whereas the former represents ‘realist’ system and the latter ‘neoliberal’ system of power politics (Wendt, 1992).

Relevance of the constructivist theory for the master thesis

This section explains why the constructivist approach is more relevant and more suitable for this master thesis in explaining the on-going dysfunctional state of Bosnia contrary to other IR theories. The notion of identity and interest, the three cultures of anarchy, the non-formation of a collective identity and the symbolism of fear all represent important aspects relevant for

analyzing the given topic. To begin with, one could argue that the conflict in Bosnia is a result of an identity crisis which was followed by peaceful almost half a century after the Second World War ended in 1945. This identity crisis was constructed under the fear of threat in order to “redefine identities and ultimately modify norms by force in order to satisfy individuals, leaders or groups who seek to use shifts in identity for the purposes of group legitimization, asserting authority or national chauvinism” (David, 2001, p. 2). Another argument for constructivism is that since the DPA was ‘constructed’ from the ‘outside’ and enforced in Bosnia in order to shape state’s identity which would be in line with peace-building mission goals. In other words, peace-building is a clear example of constructivism in practice because its aim is to “rebuild shattered states in accordance with the norms embraced by the actors” (David, 2001, p. 2) and to develop a “strategy designed to establish (impose?) norms of conduct in the countries that are being rebuilt in order to minimize if not eliminate the risk of a resumption of hostilities” (ibid., p. 2). At the same time, the constructivist approach is advocated by supporters of the democratic model by trying to establish norms such as justice, respect for the rule of law and human rights etc. Regarding democratic developed, it turns out that the peace-building method did not lead in the direction in which it was intended. As the Freedom House (2020) demonstrated in its report which designated Bosnia as a ‘partly free’ country with corruption being a major problem in the government and in society.

Another reason why constructivism is useful for this master thesis is because of its applicability related to the Bosnian Civil War in the last decade of the 20th century. The constructivism is applied in this regard by looking at subjective, normative and identity-based explanations, contrary to realist approach which uses objective, rational and historic explanations for origins of conflict such as the “ancient communal hatred and aggression” (David, 2001, p. 5) in the society among different ethnic groups. According to constructivists, elites make decisions during the civil war that are solely ‘constructed’ in the sense of a “particular and highly subjective understanding of identity differences” (ibid., p. 7). In other words these decisions of the elites led to “bellicose rhetoric aimed at stirring up the populace and prodding it towards a new identity” (ibid., p. 7). This thinking aligns with the fact what Bieber et al. (2014) highlighted as the role of elites in violent Yugoslav conflict and depicted the intra-elite conflict as “a driver of strategies of conflict, in particular as ways to demobilize populations that were politically mobilizing against existing structures of power” (p. 63). Additionally, he argued that the use of political

demobilization and images of threatening others as a political resource as well as grave violence in order to ‘construct’ politically defined definitions of identity were common political phenomena in the war (ibid.). Depending on whether there is an on-going war on the ground, the consequences of elites were important on ‘constructing’ political identities as previously mentioned when the communists in Yugoslavia recognized what is today the *Bosniak* ethnic unit as the *Muslim* (with capital M) only in 1968, however, seemingly without political purposes (Filandra, 2009). As previously mentioned, later during the civil war in 1993 Muslim intellectuals in Bosnia decided to change the name of the Muslims into Bosniaks in order to generate a distinction between religious and ethnic identity, thus asserting stronger ownership over the Bosnian state (Bieber, 2015). It is also worth noting an interesting event that occurred during the 1981 national census of population in Yugoslavia (one year after the authoritarian leader of Yugoslavia Josip Broz Tito died) which saw a sudden surge of those declaring themselves as ‘Yugoslav’ only. In total 1,215,000 citizens declared themselves in this manner which was a great increase compared to previous census in 1971 when the number was 273,077 Yugoslavs (Bieber et al., 2014). The Bosnian Civil War which followed can be explained by elites exploiting the sense of identity, as David (2001) noted: “Identity does not drive individuals; individuals drive identity” (p. 7) and one can argue that the construction of a threat can contribute to the consolidation of an identity as example of creating a new identity ‘Bosniaks’ in 1993 demonstrated.

Lastly the Annex X, Article 1 of the DPA established the Office of the High Representative in Bosnia which was using constructivist methods in fostering peace in the war-torn country. The mandate of the High Representative deviated from solely to ‘monitor the implementation of the peace settlement’ to a wider range of executive powers granted at the Bonn Conference in December 1997. Some examples of the High Representative’s decisions in the few years following the establishment of peace in Bosnia include *inter alia* appointing Bosnian ambassadors, choosing a new flag and anthem for Bosnia, adopting a common passport, replacing the ‘dinar’ currency with newly formed ‘marka’ et cetera (David, 2001). The subsequently added Bonn Powers to the High Representative contributed towards strengthening of ‘common institutions’ and weakening respective entities on the one side, and generating a ‘common identity’ on the other side (David, 2001). The issue of ‘common identity’ can easily be linked to Wendt’s notion of the Kantian political culture under constructivism, whose brief

elaboration is followed in the next paragraph. The Bonn Powers will be elaborated however later in the paper. In other words, the role of the High Representative in (re)constructing Bosnia as a functional state is relevant for the constructivism as a theory and also contributes to selecting this particular IR theory for this paper. Finally, as examples of the ‘construction’ of an identity were shown in the case of former Yugoslavia and Bosnia, all of which the theory of constructivism is relevant, proves why this particular IR theory was chosen for this master thesis. Next paragraphs will briefly elaborate three cultures of anarchy, relevant for constructivism as an IR theory in order to understand the internal and external ethnic relations in Bosnia. Furthermore these cultures represent an addition as to why constructivism proved most useful for this master thesis.

Three cultures of anarchy

In addition to identity and interest, elaborating the structure and tendencies of anarchic systems which Wendt (1999) named the Hobbesian, the Lockean and the Kantian culture is crucial in understanding the on-going dysfunctional post-Dayton Bosnia as a state. It is clear that Wendt’s different political cultures of anarchy mainly refer to the interstate behavior and to the reader it may seem that these cultures are not particularly useful for the internal dynamic of Bosnia. However bearing in mind that Bosnia is regarded as a ‘loose federation’, which under Dayton received (only) ten state competences³ (from foreign policy to air traffic control), leaving the rest for the respective two entities, one could argue that entities can also be considered as a factor in the international arena. Another reason why entities are not entirely bound with the central state (i.e. Bosnia) is their right to establish a “special parallel relationships with neighboring states consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina” (Dayton Agreement, 1995, Article III, Chapter 10, Paragraph a). Furthermore, taking for instance one of Bosnia’s entities the Republika Srpska, some scholars argued that it is not legally sovereign, but has nevertheless managed to function in a similar way. In other words, entities of Bosnia enjoy a phenomenon called the ‘ethnic sovereignty’ meaning that “entities may develop or simulate as many of the qualities of formal sovereignty as possible given international constraints” (Fawn & Richmond, 2009, p. 206). Consequently, the neighboring states of Bosnia which already enjoy the ascribed sovereignty i.e. Serbia and Croatia will either support the ethnic sovereignty of Bosnia’s entities or curtail it (ibid.). In addition to the relationship between one of

³ See Dayton Agreement (1995) Article III, Chapter 9, Paragraph a-j.

Bosnia's entity and a neighboring state, the relationship between two Bosnia's entities and with the weak central government is an important fact to bear in mind while discussing Bosnia's dysfunctional nature and connecting it with Wendt's (1999) three cultures of anarchy.

Bearing in mind the constructivist argument that states are "intentional, corporate actors whose identities and interests are in important part determined by domestic politics rather than the international system" (Wendt, 1999, p. 246), Wendt questioned if anarchy is compatible with more than one kind of its structure or "logic" and whether the international system can construct a state. He argued against the neorealist argument that anarchy follows a single logic on macro-level which is that anarchies are self-help systems that tend to create war, military competition and balance of power. Wendt stated that anarchy can have at least three kinds of structure (i.e. Hobbesian, Lockean and Kantian) that are based on which specific roles – enemy, rival and friend – are dominating the system. In regard to the question on whether the international system can construct a state, or in other words, if anarchy affects state identities and interests or solely state's behavior, Wendt argued contrary to rationalists that the "structure of international politics also has construction effects on states" (ibid., p. 248). He criticized a realist explanation that there is only a single logic of anarchy and the individualist view from a liberal conception that this logic of anarchy is being able to reduce entirely to its elements. He proposed a third approach: "(1) anarchic structures do construct their elements, but (2) these structures vary at the macrolevel and can therefore have multiple logics" (ibid., p. 249). In his argument for this approach, Wendt (re)introduced the term "political structure" since Hobbesian, Lockean and Kantian structures, which are social, might be constituted by private ideas however in reality it is shared ideas that construct the culture. As Wendt stated, the political culture "is the most fundamental fact about the structure of an international system, giving meaning to power and content to interests, and thus the thing we most need to know to explain a "small number of big and important things"" (ibid., p. 250). The notion of political structure will be elaborated further in the thesis regarding the theory on political system and explaining Bosnia's dysfunctionality. Lastly, Wendt (1999) argued that shared ideas are constructing the culture which is ideally clustered into three cultures and that the each core of anarchy has only one dominant subject position. For Hobbesian culture the main subject is "enemy", for Lockean culture it is "rival" and for Kantian culture it is "friend" (ibid.). All of these distinct cultures will be briefly elaborated.

The Hobbesian culture

Wendt (1999) argued that the Hobbesian culture is a “hard case” for constructivism because this type of anarchy seems like a natural link to realism. The reason for that is that its “high death rate makes it difficult for shared ideas to form, and if they do form it is still difficult to see why states would have the stake in them that is implied by the constructivist proposition that internalized ideas constitute identities and interests” (p. 259). Based on previous wars and violence that occurred, it seems that most of human history was Hobbesian until the Westphalian states system emerged. At the core of Hobbesian culture of anarchy sits ‘enmity’, which is differentiated from ‘rivals’ and ‘friends’ belonging to remaining cultures. Here is the use of violence between *Self* and *Other* crucial tool for enemies which stand at opposite sides of role relationships. As Wendt (1999) stated “Enemies are constituted by representations of the Other as an actor who (1) does not recognize the right of the Self to exist as an autonomous being, and therefore (2) will not willingly limit its violence toward the Self” (p. 260) Wendt highlights the difference between enemy and rival with the perceived scope of *Other*’s intentions i.e. whether the *Other* is trying to kill or enslave the *Self* or only to try to beat or steal from him. Enemy does not recognize the Self to exist as a (free) person whereas rival acknowledges the right of *Self* to life and liberty but seeks to alter only its behavior or property status. The difference of violence between two cultures is that enemy’s intentions are unlimited in nature, whereas rival’s intentions are limited or in other words ‘self-limiting’ since a rival recognizes the right of *Self* to exist. The Hobbesian culture creates enemy images which apart from ancient times when Greeks saw Persians as “barbarians”, Crusaders saw Turks as “infidels” etc. in the 20th century human kind witnessed the Armenian genocide, the Holocaust, Israeli/Palestinian clash, case of Northern Ireland, the Bosnian Civil War etc. When representing *Other* as an enemy, states will generate four implication on their foreign policy and state behavior. First implication is that states become ‘revisionists’ in their behavior (and not *interest*) following the principle “kill or be killed”. Second is following the ‘worst-case-scenario’ logic which reduces the probability of receiving cooperative approach from the enemy. Third implication tackles military capabilities since power becomes the key to survival and all players are following the “if you want peace, prepare for war” principle. Lastly, fourth implication on state’s foreign policy in the Hobbesian culture is erasing limitation when war occurs, meaning that there would be no end to violence and therefore keeping the enemy in a constant disadvantage. These four implication constitute the

Hobbesian anarchy following “war of all against all” and “kill or be killed” principle. This culture, as Wendt (1999) stated, is “the true “self-help” system [...], where actors cannot count on each other for help or even to observe basic self-restraint” (p. 265). The only knowledge that states share in the Hobbesian culture are norms of realpolitik where “war” becomes an institution for itself and as a consequence it creates a mechanical equilibrium known as the “balance of power” (ibid.).

The Lockean culture

After the emergence of the Westphalian states system, the logic of “kill or be killed” was replaced with the “live and let live” which represents the Lockean anarchic society. At the core of the Lockean culture sits the “rivalry” role structure instead of Hobbesian “enmity” (Wendt, 1999). Similarity between the two role structures is that rivals are structured with same representation about *Self* and *Other* regarding violence. In other words, when disputes occur so does violence. However the difference is that the Lockean culture is less threatening since rivals “expect each other to act as if they recognize their sovereignty, their “life and liberty,” as a *right*, and therefore not to try to conquer or dominate them” (Wendt, 1999, p. 279). Right to property is protected since states recognize each other’s territorial sovereignty which is a crucial right in the Lockean culture. As long as states recognize other state’s sovereignty as their right, then this sovereignty acts as an institution shared by many states. A major characteristic of this institution is shared belief that states will not take away each other’s life and liberty and this belief is protected under international law following the establishment of the previously mentioned Westphalian system. In this regard, international law becomes “a key part of the deep structure of contemporary international politics” (ibid., p. 280) which is considered binding even on states that did not recognize its implications. This modern rivalry between states is therefore based on the respect of the rule of law since state’s sovereign rights are recognized by international law. However since there is a possibility for the use of force in settling disputes, the Lockean culture is not a complete rule of law system. Unlike in Hobbesian culture, in this culture violence is expected in resolving disputes but it is limited by the “live and let live” premise. Wendt argued that in today’s world it would be unreal for states like Norway and Sweden to be represented as enemies, but very plausible as rivals. Wendt admitted that there are few exceptions when entities recognize each other as enemies i.e. the North and South Korea, Israeli and Palestinian radicals.

Implications of enmity are clearer than for rivalry since with enmity, states have little choice to respond to the act of violence. An asymmetry of roles can also occur e.g. when one side is characterized by rivalry and the other by enmity as the case of Hitler at the Munich conference had shown. Wendt noted that the Lockean culture also has four implications on foreign policy. First one being that states behave in respecting status quo fashion in regards to other state's sovereignty. Second is that the existence of security, which is guaranteed by the institution of sovereignty, makes states "more relaxed" since "risks are fewer, the future matters more, and absolute gains may override relative losses" (ibid., p. 282). Third, the dominance of military power does not have identical importance as in the Hobbesian culture since the institution of sovereignty changes the "balance of threat" which makes allies more trustworthy to each other. Lastly, fourth implication on foreign policy is the limitation on the use of violence expressed in the Just War Theory following the emergence of the Westphalian system. It is worth noting that both enemies and rivals are prone to the usage of violence however, the degree of its usage varies drastically which has implications in the field. Finally, the Lockean world enables small and weak as well as 'failed' states to exist because of their recognition on the international level (Wendt, 1999). Important to note is that Wendt (2004) later referred to this by following the traditional IR theory and dividing sovereignty into internal and external. As he noted: "Internal sovereignty refers to a state's ability to exercise *de facto* political control over its territory, external sovereignty to its recognition as a *de jure* member of the society of states (p. 294). Internal sovereignty was established in the Westphalian system, which "should have become" a precondition for the external one. Examples of Taiwan which has internal but not external sovereignty and Somalia with external but not internal sovereignty empirically demonstrate the flaws of the traditional IR theory (Wendt, 2004).

The Kantian culture

The last part of Wendt's (1999) three cultures of anarchy classification represents the final Kantian culture which he named "Kantian" because of Immanuel Kant's writing *Perpetual Peace*. This culture started dominating the North Atlantic region since World War II and thus replacing the dominance of the Lockean culture since the Treaty of Westphalia in 1648 with occasional returns to the Hobbesian culture. Wendt noted two possible reasons for shift from Lockean to Kantian culture in the 'West' since 1945 with the first reason being the rise of bipolar

structure (i.e. the United States and Soviet blocks respectively) with temporarily suppressed Western intra-state rivalries. A second reason for the shift is an idealist one with the emergence of new international political culture in the West where non-violence and team play dominate the political culture. At the core of Kantian culture sits the role structure of friendship i.e. the term “friend”. Although admitting that statesman calling other states a “friend” is a “cheap talk”, Wendt argued that this had great implications on state’s behavior. Proving it are examples of the US and Britain keeping “special” relationship over time or for instance cases of Germany and France which emphasize friendship rather than enmity or rivalry, despite their distasteful historical experience. Wendt defined friendship as a role structure where states should follow two simple rules: “(1) disputes will be settled without war or the threat of war (the rule of non-violence); and (2) they will fight as a team if the security of any one is threatened by a third party (the rule of mutual aid)” (ibid., p. 298-299). Wendt found these two rules independent and equally necessary condition for friendship since it exists only when states are expecting that other actors abide to these rules. Furthermore, friendship is only concerned about national security and not with other issue areas and lastly, friendship is temporally open-ended, in contrast to the term “allies”. A major difference is that allies “engage in the same basic behavior as friends, but they do not expect their relationship to continue indefinitely” (ibid., p. 299). Additionally, an alliance belongs more within rivalry or even enmity as Wendt noted: “An alliance is a temporary, mutually expedient arrangement within rivalry, or perhaps enmity, and so allies expect to eventually revert to a condition in which war between them is an option - and will plan accordingly” (ibid., p. 299). Following two previously mentioned rules for a friendship role structure will create tendencies related to “pluralistic security communities” and “collective security” whereas the former is defined as a system of states where members of the community have “real assurance” that they will not fight each other physically but resolve the dispute in some other manner. Wendt highlighted that this “real assurance” comes not from a fear of existence of a centralized power (i.e. the Leviathan) but from the “shared knowledge of each other's peaceful intentions and behavior” (ibid., p. 299). In the pluralistic security community war is no longer seen as a legitimate way of resolving disputes, but with negotiation, arbitration and taking the matter to courts has become an alternative way in conflict resolution. The pluralistic security system is concerned with disputes within a group which differentiates it from

a collective security system, a system which is concerned with disputes between a group and outsiders. As Wendt (1999) puts it:

“Collective security is based on the principle of mutual aid, or "all for one, one for all": when the security of any one member of the system is threatened by aggression all members are supposed to come to its defense even if their own individual security is not at stake” (p. 300).

Although it may seem that collective security is same as alliance, a qualitative difference between ally and friend forms the basis for differentiation. An alliance requires collective action from states that feel *individually* threatened by the same threat and when the threat is defeated, the collaboration is finished. Collective security on the other hand is “neither threat- nor time-specific” (ibid., p. 301) since its participants see themselves as “one team” and a single unit and have no fear of a latent threat from former allies once the collaboration is over. A necessary condition for the establishment of the Kantian culture at the global level is the existence of universal collective security which to this day did not occur. The existence of NATO as a security defense organization helps us explain the change of its member states from rivals to friends. Furthermore from an initial organization formed as a prominent case of a temporary alliance (i.e. as long as the Soviet threat existed), NATO managed to overcome this by possibly becoming a collective security system. Lastly, the Kantian culture based on the rule of law includes two dimensions for establishing the anarchy/non-anarchy order is “degree of centralization of power and the degree of authority enjoyed by the system's norms” (ibid., p. 308). Centralization of power must not be strictly “centralized” as Wendt acknowledged various theories that exist concerning the problem of centralization of power from “neo-Medievalism” and neo-Marxist option for an “international state” to the “constitutionalism” in the European Union (EU) and to Arend Lijphart’s theory of “consociationalism” (Wendt, 1999). The consociationalism will be deeply elaborated in next chapters of the paper in order to prove that a consociation is not a reason for not generating the Kantian political culture in Bosnia and thus a more functional state. Consociation serves also as a necessary Dayton Agreement compromise which political system (with slight adjustments) Bosnia must keep which is the goal of the master thesis. Three main ethnic groups or ‘constituent peoples’ in Bosnia (i.e. Bosniaks, Serbs and Croats) did not manage to build the Kantian political culture despite more than 25 years of peace on the ground. For that the responsibility lies on domestic political actors and, in part, on the international community and the Dayton Agreement itself.

Theoretical Framework – Part II

This part deals with the second theoretical approach relevant for Bosnia's case in this master thesis. There are different models upon which democratic states are organized, whether it is a majoritarian democracy on the one, and a federal consensus or consociational democracy on the other side, or something in between. Various factors can influence the organization of a democratic state such as whether it has homogenous or heterogeneous political culture, geography, religion, history and ethnic composition of a country. After the breakup of Socialist Yugoslavia and Yugoslav Wars, Bosnia followed an example of states which have similar internal ethnic composition and religious differences i.e. Belgium, Switzerland, Cyprus, Lebanon etc. The ruling Bosniak political party advocates for the unitary Bosnia solution and the dissolution of entities as well as of the special Brčko District in order to have a more functional state in comparison to the Dayton-created Bosnia. On the other side, Serbs and Croats in Bosnia advocate for at least *status quo*, which is a consociational state of Bosnia and Herzegovina. Important to note is Arend Lijphart's claim that for deeply divided societies, and Bosnia is a clear example, a certain consensus and compromise must be reached in order to have all sides satisfied without turning the country into 'majority dictatorship'. As Lijphart (2012) noted:

“In the most deeply divided societies, like Northern Ireland, majority rule spells majority dictatorship and civil strife rather than democracy. What such societies need is a democratic regime that emphasizes consensus instead of opposition, that includes rather than excludes, and that tries to maximize the size of the ruling majority instead of being satisfied with a bare majority: consensus democracy” (p. 32).

These deeply divided societies usually came to be after a series of internal conflicts, as Northern Ireland's case has showed with the clash between Protestants (Unionists) and Catholics (pro-Ireland) which ultimately split the island of Ireland in 1921 into two parts: the Republic of Ireland and the Northern Ireland belonging to the United Kingdom. The conflict or 'The Troubles' ended by signing the Good Friday Agreement or Belfast Agreement in 1998 which secured the power-sharing model and introduced self-determination of peoples as a potential option in the future.

Consociational democracy

In a response to previously mentioned Gabriel Almond's famous typology of political systems, Arend Lijphart introduced the concept of "consociational democracy" in order to more adequately elaborate Almond's typology. He admitted that he did borrow the concept from Johannes Althusius' concept in Latin *consociatio* in his work *Politica Methodice Digesta* and the term "consociational" was firstly used by David E. Apter in his work *The Political Kingdom in Uganda: A Study in Bureaucratic Nationalism* (Lijphart, 1969). Arend Lijphart criticized Almond's typology of political systems which are based only on two variables: political culture and role structure (i.e. high degree of subsystem autonomy) and because it gave results for Switzerland, Scandinavia and the "Low Countries" to be placed in the category 'in between' the Anglo-American and Continental European democracies. Lijphart (1969) adjusts Almond's typology on these two mentioned variables to two broad categories: (1) the Anglo-American, Old Commonwealth, and Scandinavian states; and (2) other European democracies, including France, Italy, Weimar Germany, the Low Countries, Austria, and Switzerland (p. 211). Furthermore, Lijphart argues that political stability cannot be secured only through variables of political culture and role structure and adds a third variable: the behavior of political elites which, as a consequence, makes a stable democracy which he names "consociational democracy". Austria and Switzerland, despite belonging to his adjusted second broad category with various subcultures, are not exhibiting great immobilism and instability and are prime examples of consociational democracy (Lijphart, 1969). According to Freedom House's country narrative report, on a 100-point scale (100 – the best score, 1 – the worst score) for political rights and civil liberties, both countries are rated as "Free" with high scores for Austria with 93 points and Switzerland with 96 points (Freedom House, 2021).

As a major condition for a successful consociational democracy, Lijphart (1969) borrows the term "cartel of elites" from sociologist Ralf Dahrendorf or in another words a universal participation. This applies in addition to the term "grand coalition" which follows successful example of Austria by bringing together two subcultures – the Catholic and Socialist *Lager*, which delivered deep cleavages and antagonism during the First Republic and introduced dictatorship later on, into a grand coalition after the Second World War. Apart from grand coalition in Austria which, as Lijphart (1969) puts it, "represents the most comprehensive form

of the cartel of elites” (p. 213), there are other examples outside of Western Europe concept of democracy such as Lebanon, Colombia and Uruguay. Lebanon is an example of presidential system where there is no room for sharing at the top of executive since the president is only one person. However, the compromise was reached when the Lebanese National Pact of 1943 was adopted which enforced that the President of the Republic must be a Maronite Christian and the seat for the President of the Council is reserved for a Sunni Muslim, thus satisfying demands and representation of two main religious groups. The Colombian case provided an alternative solution when two parties, Liberals and Conservatives, made a consociational agreement in 1958 and delivered that the presidency would be alternated for four-year terms between these two parties and that they would be equally represented on all levels of government. Lastly, the Uruguay case followed the Swiss-based system of government (i.e. a hybrid form of presidential and parliamentary system where all four dominant parties are represented on the executive level), only in the case of Uruguay there was a *coparticipacion* of both dominant parties on the executive level of government (Lijphart, 1969).

As previously mentioned, a major factor for establishing a consociational democracy, elite cartel provides a solid ground for it since it is able to “turn a democracy with a fragmented political culture into a stable democracy” (Lijphart, 1969, p. 216). However, establishing a consociational democracy does not necessarily mean that the system will survive the test of time as failed cases of Uruguay, Cyprus and Nigeria have demonstrated. Successful cases of Switzerland, Austria and (partly) Lebanon prove that elites played a pivotal role in maintaining the fragmented system together. There are four factors which, according to Lijphart (1969), constitute a basis for a successful consociational democracy which is:

“(1) That the elites have the ability to accommodate the divergent interests and demands of the subcultures. (2) This requires that they have the ability to transcend cleavages and to join in a common effort with the elites of rival subcultures. (3) This in turn depends on their commitment to the maintenance of the system and to the improvement of its cohesion and stability. (4) Finally, all of the above requirements are based on the assumption that the elites understand the perils of political fragmentation” (p. 216).

It follows that inter-elite cooperation among different subcultures in fragmented systems is crucial for maintaining a consociational democracy. There are three factors that can contribute to the establishment and maintenance of cooperation among elites in deeply divided societies with different subcultures. First factor is the existence of external threats to the country where the

cartel of elites banded together during times of crisis, especially during the First and Second World War. Lijphart mentions most prominent examples in Europe for the period of the First World War to be Belgium and Holland and for the Second World War countries such as Switzerland in 1943, Lebanon with previously mentioned Islam-Christian agreement or the National Pact in 1943 as well and the Austrian grand coalition which was formed during the occupation by allied forces. The second factor favoring cooperation of elites in forming a consociational democratic political system is a “multiple balance of power among the subcultures instead of either a dual balance of power or a clear hegemony by one subculture” (Lijphart, 1969, p. 217).

Referring to the case in Bosnia, while bearing in mind that Bosniaks comprise a narrow majority in Bosnia according to 2013 national census of population, the leading Bosniak SDA party and their elites are attempting to dominate over the Serb and Croat political elites rather than to cooperate. Lijphart (1969) warned on this issue by saying that majority will try to dominate rather than cooperate with its rival minority in the country. Additionally, if there is no clear majority on one subculture and there are two evenly matched subcultures in a divided society, Lijphart (1969) noted that “the leaders of both may hope to achieve their aims by domination rather than cooperation, if they expect to win majority at the polls” (p. 217). Lijphart names the case of Belgium where an attempt by the Catholic elite (which was close to majority status) to dominate Liberals and Socialists on the royal question led to a short civil war which prompted the return of consociational government. Belgium is known for another major cleavage and that is a linguistic one where the linguistic balance of power Lijphart (1969) names “a dual balance” since French-speaking Walloons in the south fear the numerical majority of Dutch-speaking Flemings in the north, whereas the Flemings dislike economic and social superiority of Walloons. Similar to Belgium, Bosnia has similar cleavages in terms of ethnicity and religion and it, one could argue, belongs to a fragmented society which has a tendency in showing great immobilism, something that the consociational model of democracy tries to avoid. The third and last factor that favors inter-elite cooperation in fragmented societies is the “relatively low total load on the decision-making apparatus” (ibid., p. 218). In other words, larger states tend to have heavier political burden than smaller states. As Griffith et al. (1956) stated that “democracy is more likely to survive, other things being equal, in small states. Such states are more manageable, in that the results of specific political action are more readily identifiable” (p. 102).

Lijphart (1969) also argued that smaller states are more 'manageable' since they are more likely to avoid the burden of an active foreign policy as Swiss, Austrian and Lebanese cases have shown. Following these examples, one would conclude that Bosnia as a small state should be manageable or functional since it has similar characteristics with other consociational democracies. However, in recent years that does not seem to be the case because of various issues which will be elaborated further in this master thesis.

Finally, in addition to inter-elite cooperation which favors consociational democracy, Lijphart (1969) adds another factor in terms of elite-mass relationship. He argues that distinct cleavages among different subcultures are also conducive to the establishment of a consociational state in three ways. First one is that they are more likely to be "concomitant with a high degree of internal political cohesion of the subcultures" (p. 221) because these elites are forced to cooperate with each other and to make a compromise without losing the support among their subcultures. When these subcultures form a cohesive political bloc, the support for their elites is more likely to occur. Second factor in which cleavages among distinct subcultures benefit a consociational state is that political parties or interest groups are representatives of respective subcultures. They may not be the best aggregators of subcultures, but they are at least an "adequate articulation of the interests of the subcultures" (ibid., p. 221) and the aggregation itself is mostly performed by the cartel of elites. This aggregation led to a near adoption of an important amendment to Bosnia's Constitution in 2006, called the April Package of Measures which should have created a more functional state. However, because of a small shortage of hands in the Parliamentary Assembly, the amendment was not adopted and reasons for its rejection will be elaborated later in the paper. Again Belgium and Switzerland are adequate examples for this elite-mass relationship where in Switzerland the political life takes place in linguistically homogenous cantons whereas in Belgium three principal political parties represent Catholic, Socialist and Liberal subculture. However the linguistic cleavage in Belgium does not relate to these subcultures which results in Flemings and Walloons being in all three political parties. A final factor in terms of elite-mass relationship favoring consociational democracy is the "widespread approval of the principle of government by elite cartel" (ibid., p. 221-222) be it a grand coalition executive in Switzerland which strengthened consociational principle or a grand coalition in Austria whose absence of British-style opposition made the Austrian state 'undemocratic' (Lijphart, 1969).

Other major characteristics of consociational democracy

In addition to ‘cartel of elites’ or ‘grand coalition’ as Lijphart names it, he added in his case study of India three more characteristics which are essential in forming a consociational state and these are cultural autonomy, proportionality and minority veto. Lijphart (1996) introduces these additional characteristics on the largest democracy in the world and a prime example of a consociational democracy – India. Despite belief from scholars such as John Stuart Mill’s argument that democracy is “next to impossible” in multiethnic societies and completely impossible in linguistically divided societies and Selig S. Harrison’s argument that India will face democratic failure and territorial disintegration, Lijphart used the example of India in order to formulate his final definition of a consociational state. The power-sharing theory states that democracy is possible in societies which are deeply divided and have different subcultures only in a form of a certain type of democracy – consociationalism. As mentioned, it is characterized by “(1) grand coalition governments that include representatives of all major linguistic and religious groups, (2) cultural autonomy for these groups, (3) proportionality in political representation and civil service appointments, and (4) a minority veto with regard to vital minority rights and autonomy” (Lijphart, 1996, p. 258). The ‘grand coalition’ characteristic was already deeply elaborated earlier in the thesis with approaches and terms of the ‘cartel of elite’, ‘inter-elite’ cooperation and ‘elite-mass’ cooperation. A second characteristic for power-sharing democracy represents cultural autonomy with its three main forms:

“(1) federal arrangements in which state and linguistic boundaries largely coincide, thus providing a high degree of linguistic autonomy, as in Switzerland, Belgium, and Czechoslovakia; (2) the right of religious and linguistic minorities to establish and administer their own autonomous schools, fully supported by public funds, as in Belgium and the Netherlands; and (3) separate “personal laws”- concerning marriage, divorce, custody and adoption of children, and inheritance-for religious minorities, as in Lebanon and Cyprus” (Lijphart, 1996, p. 260).

The third characteristic tackles proportionality in the electoral system in the form of proportional representation (PR) since the first-past-the-post and other majoritarian methods tend to overrepresent majorities and discriminate political parties representing minorities. Majoritarian methods also tend to create artificial parliamentary majorities i.e. “manufactured majorities” for political parties which are not able to win a popular vote what as a consequence poses a threat to minority parties (Lijphart, 1996). Additionally, proportionality helps in establishing guidelines

for the distribution of civil service appointments and the allocation of public funds for social services and projects (Goldman, 1985). Last characteristic for power-sharing model of democracy is the minority veto which is understood as minority's way of defending its autonomy by blocking ways of eliminating or reducing it. India provides a great example of veto policy in terms of informal veto⁴ where Hindi cannot be made an official language of the country as long as there is no approval from non-Hindi speaking regions in the south which opposed dropping English language as a language of administration (Lijphart, 1996).

In a nutshell, Lijphart (2002) defined two 'primary characteristics' of consociational democracy to be power-sharing of executive power (referring to mentioned 'grand coalition' characteristic) and group autonomy. Power-sharing refers to the participation of the representatives of all relevant groups in political decision-making process specifically on the executive level, whereas the group autonomy refers to the rights of these groups to possess the authority in governing their own internal affairs, specifically in the areas of culture and education. In addition to power-sharing, McEvoy (2014) defined the term as "a form of government recommended for deeply divided territories where majoritarianism is not a fair, realistic option to promote peace. It brings together representatives of groups previously in conflict to govern the country together" (p. 3). The third and fourth characteristic of consociational theory of democracy, proportionality and minority veto, represent its 'secondary characteristics' since they can strengthen and support the power-sharing and group autonomy characteristics. Finally, these primary and secondary characteristics are the core for the establishment of consociational theory of democracy (Lijphart, 2002).

Relevance of the consociational theory for the master thesis

When it comes to the reason why the consociational theory was selected for the case study of this master thesis – Bosnia, it is obvious that Bosnia possesses consociational institutions which fulfill Lijphart's four-part classification of power-sharing. As a consequence, Bosnia represents an example for the consociational theory along with countries such as India, Malaysia, Belgium, Switzerland, North Macedonia etc. Interestingly, Merdzanovic (2015) moved a step further and classified Bosnia as the 'Imposed Consociation', however this will be

⁴ According to an agreement in 1965 (Lijphart, 1996)

discussed later in the master thesis, while discussing the third RQ on the future appropriate and realistic political system for Bosnia. To begin with, forming a government on the both entity and on the state level requires a grand coalition from all constituent peoples. In both entities, the ratio is 8-5-3, meaning the Federation's government must comprise from 8 Bosniaks, 5 Croats and 3 Serbs whereas in the Republika Srpska it is *vice versa* with 8 Serbs, 5 Bosniaks and 3 Croats in its government. The state level requires no formal ethnic but entity quota with two thirds of ministers being from the Federation and one third from the Republika Srpska. Concerning minority veto, each constituent people group enjoys certain veto rights on the state, entity and most cantonal levels. A two thirds majority of delegates is required to block legislation in the Federation's House of Peoples and in the Council of Peoples in the Republika Srpska. On the state level, the House of Peoples and the Parliamentary Assembly provide a veto possibility with only one third of members from each entity. A proportional representation was enforced with constitution's amendments in 2002 which affected the structure of both entities governments as well as Bosnia's public administration. Finally, a group or segmental autonomy is provided at the state level to respective two entities and additionally in the Federation in a form of ten cantons which are mostly mono-ethnic with 5 predominantly Bosniak, 3 Croat and 2 ethnically mixed cantons (Bieber, 2006).

Criticism of the consociational democracy and power-sharing

As with every theory, consociationalism and power-sharing had their share of criticism among scholars. One critical approach was introduced by Brian Barry (1975) while explaining the rise of violence in Northern Ireland with his co-operation/co-optation model, resulting in a majority rule in a divided society where minority and majority would simply promise to 'behave moderately'. In the case of Northern Ireland the minority (i.e. the Catholic community) would have to accept to play the role as a 'loyal' opposition as long as the governing majority (i.e. the Protestant community) would be consisted from moderates (Lijphart, 2004). Furthermore, Barry (1975) argued that some form of power-sharing on the executive level was possible in the Netherlands between two Christian groups and secular *zuil* thus preventing the monopoly of one sectarian group. However this kind of power-sharing could not have been applied in Northern Ireland since there is no a middle option which could be a leverage towards another groups attempt towards monopoly. As Barry (1975) stated "[...] the division of Northern Ireland people

into two groups, with one permanently in the majority, removes the need or possibility of coalition government with an alternation of groups in power” (p. 406). Similarly he suggested that the Governing Council in Iraq would be made exclusively from moderate members of the Shi’ite majority whereas the Sunnis and the Kurds would be excluded from this governing authority. Lijphart (2004) argued that it is too naïve to expect minorities to be satisfied with its permanent ‘opposition status’ and, according to him, this proposal can therefore not be considered as an alternative to power-sharing model.

Following Barry’s proposal for inclusion of a moderate group as the sole member in a government in deeply divided societies, Lijphart (2004) connects Donald L. Horowitz’s theory of Alternative Voting to the Iraqi Governing Council and expressed serious doubts that minorities would be satisfied with this solution. Lijphart argued that Horowitz’s model of voting would make the Iraqi Governing Council mainly from members of the Shi’ite majority with “the proviso that most of these representatives would be chosen in such a way that they would be sympathetic to the interests of the Sunni and Kurdish minorities” (p. 98). Horowitz (1991) defined the Alternative Voting (AV) as “a system in which second and subsequent preferences of those voters whose first preference is not one of the top two candidates are reallocated until a candidate attains a majority” (p. 188). The AV was used in the 1982 and 1988 presidential elections in Sri Lanka as well as for the 2000 presidential elections in the Republika Srpska (entity of BiH). A combination of power-sharing and AV was used during the legislative elections in ethnically divided Fiji in 1999, however it was a short-lived attempt which collapsed in 2000 (Lijphart, 2004). In Sri Lanka, the consequence of the use of the AV model is the prolonged and worsened self-determination dispute, in the Republika Srpska it consolidated support for extreme parties which war participants in the Bosnian War and lastly, in Fiji it awarded political extremism and has precipitated two coups. The usage of AV model made situation on the ground even worse and increased ethnic divisions and tensions in societies (McCulloch, 2013).

Although admitting that societies with weak majorities or majorities that forecast future weakness due to the on-going civil wars might be willing to accept a consociational formula, like in the case of Northern Ireland in 1998, Cyprus in 1960 and Bosnia in 1995, Horowitz (2008) puts in doubt the durability and desirability of such consociational agreements. He recalls the

recent record of consociational constitutions in Belgium, Bosnia, Northern Ireland and India as well as in certain African countries as debatable and fragile with some cases providing leverage to extremist parties. In his first critic towards consociationalism, Horowitz (2002) calls it “motivationally inadequate” (p. 20) since it does not explain the real reason why majority leaders would be willing to share power with minority leaders since the motive to avoid ultimate mutual destruction is “based on a time horizon longer than that employed by most political leaders, who, in any case, are apt to think that retaining control for themselves is the best way to avoid disaster” (p. 20). The argument that the motive for power-sharing is not statesmanship but ‘the desire to enter into a coalition’ simply does not suffice. Horowitz argues that the failure in distinguishing different incentives of minority and majority group in a divided society is crucial in this regard. Second criticism is again regarding statesmanship and not self-interest as imputed motive for elites in divided societies to be more tolerant towards different ethnic groups and not to pursue advantage for their own group. Horowitz (2002) finds it dubious and provides an explanation from studies of ethnocentrism where educated elites are in some countries more or less ethnocentric than their followers and relying solely on statesmanship is very risky and not recommended.

Third criticism of Horowitz (2002) aimed for consociationalism deals with the issue of counter-elites which can arise as a consequence of an agreed compromise between two or more elites representing different groups in a divided society. These counter-elites can render the forming of a grand coalition as Horowitz provides examples of Lebanon, Malaysia, Surinam and the Netherlands which did not have a grand coalition in the 1970s. Fourth criticism tackles the notion of cultural autonomy with its cultural matters (e.g. designation of official language, and religion) and educational ones (e.g. language of instruction, content of curricula) are “divisive issues in severely divided societies” (ibid., p. 22). In order to make a compromise for all groups involved by equally recognizing them, an equal ownership of the state is needed to be conceded which is something that these groups are not willing to concede, especially those that advocate for group superiority status. Lastly, fifth criticism is regarding Lijphart’s failure to make a distinction between pre-electoral and post-electoral coalitions since the consociational theory is interested only in the latter. An emphasis is more placed on the pre-electoral coalitions which required compromise on ethnic issues across different groups, which proportional representation and ethnic support fail to address. As Horowitz (2002) argued “The combination of list-system

proportional representation and political parties based on ethnic group support does nothing to foster compromise on ethnic issues. The zero-sum relation of party lists to each other translates into a zero-sum electoral competition between ethnic groups” (ibid., p. 22). Horowitz noted that the former (i.e. pre-electoral coalitions) is elaborated by the centripetalist school which has the same goal as the consociational school and that is in fact the interethnic power-sharing, however with interethnic coalitions of moderates. In other words, the difference is that centripetalists “do not propose to substitute a consensual regime for majority rule, but attempt instead to create incentives, principally electoral incentives, for moderates to compromise on conflicting group claims, to form interethnic coalitions, and to establish a regime of interethnic majority rule” (Horowitz, 2014, p. 5).

Three problems of power-sharing

Bearing in mind the fact that about 78 countries experienced one or more series of ethnic conflicts between 1980 and 2010 in severely divided societies in Asia, Africa, the Middle East, Eastern Europe, the former Soviet Union and the Caribbean and that only about 20 of them managed to conclude some sort of power-sharing arrangement, Horowitz (2014) moves further with his criticism of power-sharing (be it a consociational or centripetal approach) in form of three distinct problems regarding the difficulty of creating durable institutions created on power-sharing principle. These problems are represented in to form of the *Adoption*, the *Degradation* and the *Immobilism* Problem. The first problem is a “congeries of bargaining problems” (p. 8) due to asymmetric preferences of a majority which prefers majority rule, and minority which prefers guarantees against majority rule or a consociation. Horowitz argues that the only way to establish a consociation is when majorities are momentarily weak and as soon as they regain their strength, they may overthrow the consociational model (Horowitz, 2014). If we were to connect this argument with the establishment of consociational democracy in Bosnia, at the time of its establishment the largest ethnic groups were Bosniaks which “comprised a large plurality, not a majority” (Horowitz, 2008, p. 1220) which makes an ‘adoption problem’ argument even more reliable. Another aspect of the Adoption Problem that there is a general risk-aversion since ethnic politics represent a high-stakes game and countries tend not to experiment. Additionally, elites that negotiate a new political (consociational) system naturally possess biases which as a consequence narrow choices. These biases are favoring one type of political system from

another, as well as historical biases that warn decision-makers from doing the same mistakes from the past. Since negotiations are not performed under a ‘veil of ignorance’, group elites can foresee pros and cons for their own group if they would to take an alternative path, and this presumed visibility of interests narrows choices as well. Final part of the Adoption problem is the availability of alternatives because if an alternative provides a better solution for a certain group, reaching a durable agreement will be harder to accomplish (Horowitz, 2014).

The second problem of power-sharing is the Degradation Problem which can affect vote-pooling centripetal coalitions of moderates, since majorities are not keen to ethnic limits, be it consociational or centripetal. Horowitz takes an example of Malaysia with the governing multi-ethnic Alliance comprised of three major groups, Malays, Indians and Chinese which were between extremist positions of both Malay and non-Malay parties i.e. the coalition of moderates. However Malays, who are a majority, soon began to take advantage of this coalition of moderates by influencing the apportionment of constituencies which ultimately created a more broadened coalition, thus reducing the influence of Chinese representatives. Horowitz admits that the case of the rule of law plays an important role in societies as well, as he stated: “The Achilles heel of electoral incentives as the route to durable interethnic accommodation is the weakness of the rule of law in many transitional countries” (Horowitz, 2014, p. 11).

Finally, the third problem of power-sharing system according to Horowitz (2014) is the Immobilism Problem which represents the inverse of the second problem. In other words it is a problem of inter-ethnic demands and counter-demands which a consociational democracy allows with its vetoes from all groups in a divided society. As a result of constant use of veto rights, an immobile system is created which pushes majorities in amending the current consociational constitution. As Horowitz (2014) noted: “For the same reasons that majorities are reluctant to surrender power to consociational regime, so too are they sorely tempted to abandon the consociational scheme” (p. 12). He warned on the rise of discontent among majorities in ethnically divided societies governed by a consociational political system in Northern Ireland, Belgium, Bosnia and Burundi. The consociational constitution of Cyprus adopted in 1960 collapsed after only three years after the emergence of the complete deadlock caused by the extensive use of veto powers granted to Turkish Cypriots which the Greek Cypriots, being a strong majority Cyprus, attempted to adjust in their favor. The overall result was the Turkish

military invasion and ultimately the *de facto* division of Cyprus which is present to this day (Wippman, 2018). Concerning Bosnia, the political program of the ruling Bosniak SDA party might be in line with Horowitz's Immobilism argument since according to the 2013 National census of population, Bosniaks comprise for the first time in Bosnia's history a narrow majority in the country with 50.11 percent, whereas Serbs comprise 30.8 percent and Croats 15.4 percent of the entire Bosnia's population (Statistika, 2013). It is also worth noting that the Republika Srpska has, to this day, not recognized the results of the Bosnia's 2013 National census of population due to not reaching an agreement between the Republika Srpska's statistical institute and the state's statistical institute on the used methodology for the census. In addition, some authors have even designated the 2013 national census as a "stillborn census" (Hayden, 2021, p. 318) since half of Bosnia did not recognize the results of the census. Lastly, the Immobilism Problem was surpassed only in two occasions after the Second World War and that was in Austria and the Netherlands. However, a major difference between these two cases and cases of Bosnia, Cyprus and others is that cleavages in Austria and the Netherlands were not ethnic but based on religion and social class which secularization and higher standard of living managed to overcome with time (Horowitz, 2014), thus reducing tensions in these divided societies.

Political system of Bosnia and Herzegovina

One of the leading political scientists and pioneers of the typology of political systems is an American scholar Gabriel A. Almond. In his article "*Comparative Political Systems*" published in 1956, Almond assessed classification of empirical political systems at the beginning of the post-World War Two international order. Belonging to the first classification is the Anglo-American (with some members of the Commonwealth), to the second is the Central European (without Scandinavian and Low countries which are a combination of Anglo-American and Central European model), to the third is the pre-industrial or partially industrial (which are outside of European-American model) and to the fourth classification belongs the totalitarian political system. Almond (1956) defined political system as a "system of action" (p. 193) since the bare description of legal and ethical norms cannot be sufficient in describing a political system. Almond related the term 'action' to political institutions or persons which execute their political roles relevant in the process of making political decisions in a state (ibid.). One could

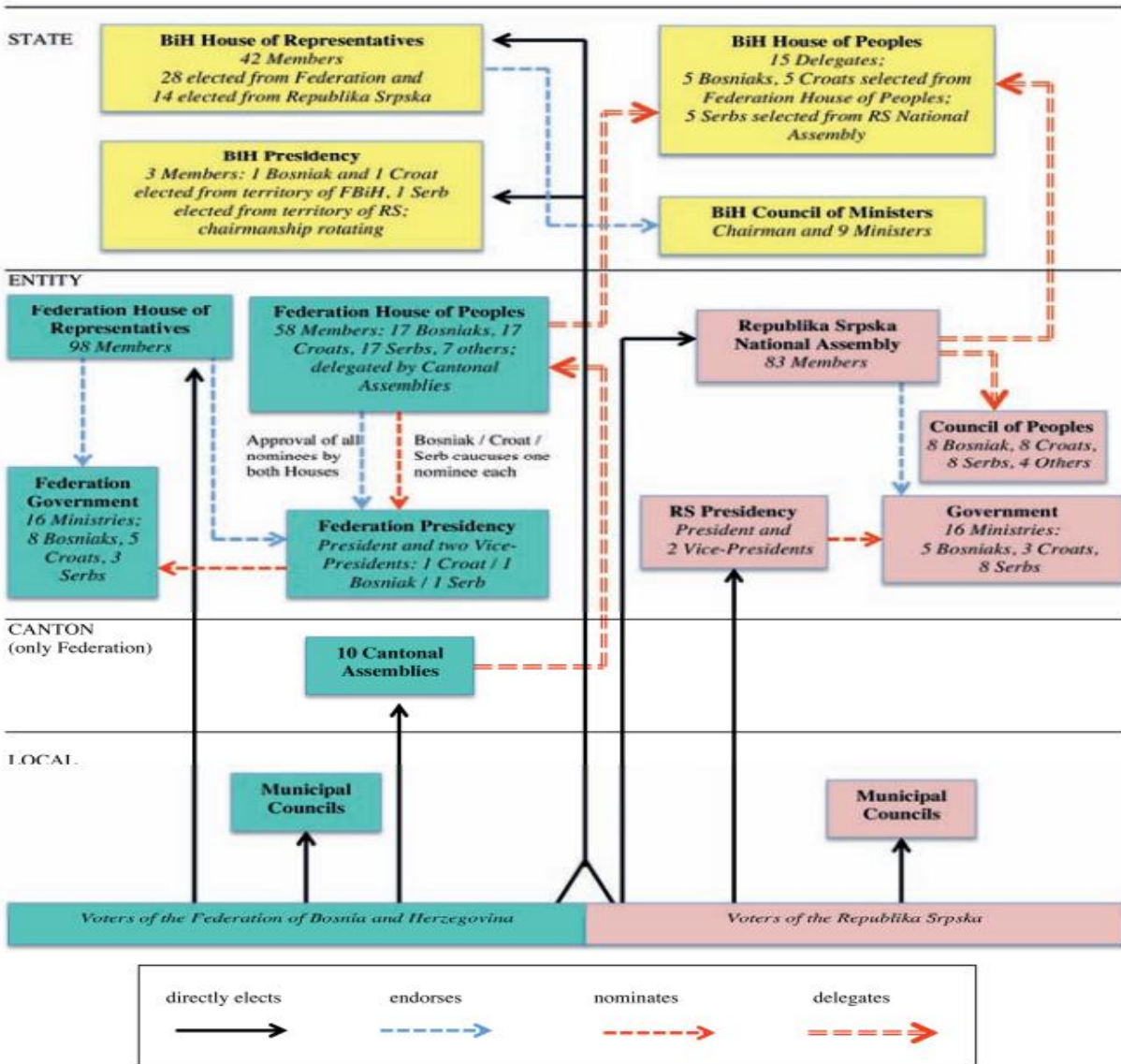
argue that the relationship of persons executing their political roles and the state itself i.e. in a form of explaining the cause of state's dysfunctionality is an important aspect for the state of Bosnia which is a case study of this master thesis.

During the Bosnian civil war and the bloody dissolution of Yugoslavia, the dominant ethnic political parties representing Bosniaks, Serbs and Croats had different views concerning Bosnia's future political system. On the one hand, the Bosniak political elite wanted Bosnia to be a unified and centralized state, on the other hand Serbs and Croats had similar aspirations in regards to a territorial autonomy and later the self-determination of 'Serb territories' for the former and of *Herzeg-Bosna* as Croat entity for the latter (Bieber, 2008). The end result was a restructured Bosnia that neither side originally sought to accomplish. As mentioned, there is a common scholarly understanding that Bosnia is a typical example of a divided society and, as elaborated in previous paragraphs, it represents a clear model of a consociational democracy by fulfilling Arend Lijphart's four-part classification of power-sharing. In addition to this elaboration, Bosnia can be described as a "triple power-sharing system" (Bieber, 2006, p. 44) since the power-sharing occurs on the state, entity and cantonal level respectively. Because of this structure, some scholars have argued that Bosnia served as an example for the United Nations Secretary General Kofi Annan's proposed plan in resolving the Cyprus issue which would have led to a *de facto* division of the island, something that Turkish Cypriots wanted but which Greek Cypriots rejected in a referendum (Hayden, 2005). Additionally, since entities are declared as the "composing elements of the state" (Merdzanovic, 2015, p. 167), Bosnia's political system is also defined as the "asymmetric federation", the "union" or the "federation *sui generis*" (ibid., p. 167).

The State, Entities and District

Regarding Bosnia's political system, as mentioned it is territorially divided into two entities, one district with special status and 10 cantons within one entity. This has as a consequence contributed to the complexity of the selection process for executive and legislative bodies, as shown at the Figure 2 below.

Figure 2: The selection process of the executive and legislative branches in Bosnia and Herzegovina⁵



According to the Dayton Agreement (1995) and its Annex IV being Bosnia's constitution, on the state level the executive comprises from collective head of state i.e. the State Presidency (consisting from one Bosniak, one Serb and one Croat member) and the Council of Ministers (Council henceforth) which is headed by its chairman who is nominated by the State Presidency and approved by the House of Representatives. The chairman of the Council is sometimes

⁵ Source: Merdzanovic (2015, p. 170).

referred as Bosnia's Prime Minister since the position of the chairman is no longer rotating due to the imposed decision of the High Representative. The legislative body on the state level comprises from the Parliamentary Assembly which consists from the lower house i.e. the House of Representatives (with 42 members – 28 members from the Federation of Bosnia and 14 from the Republika Srpska) and the upper house i.e. the House of Peoples (with 15 members – 10 are delegated from the Federation of Bosnia and 5 from the Republika Srpska). In other words, on the state level the State Presidency and the House of Peoples are reserved only for three constituent peoples (Merdzanovic, 2015).

Important to note is the election process for the State Presidency, namely in the Republika Srpska one Serb member is elected not only by Serbs but from all of the people groups being registered in that entity. Eligibility to vote is the same in the Federation of Bosnia entity for one Croat and one Bosniak member of the State Presidency however with the major difference that one ethnic group can influence the election outcome for the other ethnic group. As Gavrić (2013) stated “because Bosniaks are the majority, they can easily “outvote” ethnic Croats by nominating and voting for their own Croat candidate” (p. 32). This particular ‘outvoting’ of ethnic Croats by Bosniaks in the Federation of Bosnia will ultimately lead to the emergence of the ‘Croat Question’⁶ which continues to impact the political landscape in Bosnia.

On the entity level, the Republika Srpska as the unitary republic⁷ has the executive which comprises from the directly elected president and the government headed by a prime-minster, whereas the legislative body comprises from the Republika Srpska National Assembly with 83 members and ensuring that at least 4 members of one constituent people group will be represented and the Council of Peoples comprising from 8 members from each constituent people groups and 4 from the group of ‘Others’⁸ (Constitution of the Republika Srpska, 2011, Article 71). The other entity i.e. the Federation of Bosnia on the executive level has indirectly elected president and government headed by the prime minister and on the legislative level the Federation House of Representatives with 98 members and the Federation House of Peoples with 58 members (17 for each constituent peoples and 7 for ‘Others’) with veto powers. Furthermore,

⁶ More about the so-called “Croat question” will be analyzed in during the second research question.

⁷ Based on the Republika Srpska's Constitution in 1992 (Gavrić, 2013, p. 54).

⁸ The so-called ‘Others’ represent ethnicities in Bosnia which declare themselves as neither Bosniaks nor Serbs nor Croats.

the Federation of Bosnia (henceforth the Federation) is divided into 10 cantons each with its own executive, legislative and judicial branches containing competences which are not explicitly reserved for the Federation's government which include "traditionally centralized policy fields like police, education, culture, and media" (Gavrić, 2013). Finally, the Brčko District (District henceforth) enjoys a special status within Bosnia not belonging to either entity and being subject only to state control. With its hybrid status, the District might evolve into a federal unit similar with the two entities. The status of the District was decided during the final arbitration in 1999 since it was impossible to negotiate it in Dayton due to the District's strategic importance of being a corridor between two parts of the Republika Srpska (ibid.). From the first local elections in 2004, the District enjoys its own legislative, executive and judicial branches of government after it was run as a "full-fledged protectorate since 1999" (Bieber, 2006, p. 143).

The Office of the High Representative

Lastly, one important aspect needs to be mentioned when discussing Bosnia's political system and that is the DPA's establishment of the Office of the High Representative (OHR henceforth), represented by the High Representative with the "final authority in theater regarding interpretation of this Agreement on the civilian implementation of the peace settlement" (Dayton Agreement, 1995, Annex X, Art. V). The High Representative is proposed and the work of the OHR is supervised by the steering board of the Peace Implementation Council (PIC), comprising 55 members including individual countries and international organizations. At the beginning, the powers of the High Representative were only limited to actions such as to 'facilitate', 'coordinate' and 'report' which as a consequence resulted in parties completely ignoring the work of the High Representative. However, following the Bonn Conference of the PIC, the High Representative gained both legislative and executive powers to its mandate, including the dismissal of public officials that violate implementation of the Dayton Agreement, thus being the "only one not governed by power-sharing or democratic principles" (Bieber, 2006, p. 84). The most notable example represents the dismissal of public officials as was the case of Dragan Čović as the Croat member of the State Presidency in 2005 when he was dismissed by the High Representative Paddy Ashdown on the basis of indictment for criminal offenses (OHR Decision, 2005). Because of the OHR's establishment in Bosnia as the 'International Regulating Body' (IRB), Merdzanovic (2015) goes a step further describing Bosnia's political system as an

'Imposed Consociation', defined as a "full-fledged consociational system that owes its mere existence to some sort of external actors, and in which this kind of actors still influence the newly created political system" (p. 351). This brief description of Bosnia's political system underlines its complexity and, to some extent, its dysfunctional nature. However, this paper argues that Dayton itself is not the main cause of dysfunctionality since other actors also bear the responsibility in abusing this political system.

Political overview in Bosnia and Herzegovina 2006 – 2020

Before answering three research questions set in the master thesis, a brief political overview in Bosnia is needed. The starting year is in 2006 since that same year on the 1 October a political change following Bosnia's general elections occurred. The political landscape of Bosnia after the 1995 Dayton agreement was dominated by three nationalist political parties: Stranka demokratske akcije (SDA), representing mostly Bosniaks; Srpska demokratska stranka (SDS), representing mostly Serbs; and Hrvatska demokratska zajednica (HDZ), representing mostly Croats. These three ethnic parties (i.e. the SDA, SDS and HDZ) gained overwhelming electoral support in the first multi-party elections in Bosnia in 1990 and in the following years they have become chief protagonists in the Bosnian Civil War (Hulsey, 2010). At the time, some scholars have designated Bosnia as a 'disguised protectorate' due to drastic measures taken by the High Representative Carlos Westendorp acting almost as a "viceroy" in order to rebuild the state following the civil war and the Dayton agreement (David, 2001). Furthermore, the period from May 2002 until January 2006 was characterized by extensive usage of the so-called "Bonn Powers" by the High Representative and the former British politician and diplomat Lord Paddy Ashdown whose style resembled that of an "unstoppable tornado" (Leroux-Martin, 2013, p. 13). Ashdown's diplomatic approach differentiated from other diplomats in Sarajevo and during his tenure, new state institutions were created such as defense, intelligence, indirect taxation and judicial appointments (ibid.). Ashdown intervened on number of occasions during his tenure in order to overcome frequent use of entity veto rights which blocked Bosnia as a consequence from the inside and made it dysfunctional. A new turn by the international community was shown with Ashdown's successor by selecting former German minister Christian Schwarz-Schilling which announced not to follow his predecessor in extensive usage of Bonn Powers

(Džihčić, 2012). The extensive usage by the Bonn Powers and interference by the international community started slowing down by the time of the 2006 general elections in Bosnia. These elections were the first elections since Dayton was enforced in 1995 to be administered by Bosnia's authorities in their fullest extent. Prior to the October 2006 general elections, in April 2006 the international community made a final substantive effort towards constitutional change, however, Bosnia's Parliamentary Assembly failed to pass it⁹ (OSCE Final Report, 2006).

The period 2006 – 2010

The 2006 general elections were deemed with “historic importance” since the OHR was scheduled to depart from the country, thus allowing new political leaders in Bosnia to exercise complete sovereignty and theoretically paving the way for Bosnia's future membership in the European Union (Lippman, 2006). The electoral campaign of the 2006 general elections was marked by ethno-nationalist rhetoric which will dominate Bosnian political landscape until the present day. One could argue that it was neither the fault of the international community nor of the Dayton agreement itself but only an expression of a devious political will that contributed towards the emergence ethno-nationalist rhetoric. In other words, political elites in Bosnia extensively began using fear¹⁰ as a “political principle” (Džihčić, 2012, p. 335) which became politically profitable while at the same time the Dayton constitution made politicians unaccountable for these actions. Important to note is that prior to the October 2006 general elections a Serb politician Milorad Dodik, head of the Alliance of Independent Social Democrats Party (SNSD), became a Prime Minister of the Republika Srpska in March 2006 and stopped with the implementation of already agreed state competences which would strengthen common institutions in Bosnia (Džihčić, 2012). The election campaign was in light of the failed adoption of constitutional amendments in April 2006 which provoked a debate when key Bosniak politicians called for the unitary state of Bosnia and the dissolution of respective entities. At the same time, leading Serb politicians threatened with an option of the independence referendum for the Republika Srpska (OSCE Final Report, 2006). The main Bosniak politician who

⁹ Also known as the “April Package of Measures”, it was a last serious attempt in April 2006 to amend the current constitution of Bosnia. More about the constitutional amendments will be elaborated during the third research question of the master thesis.

¹⁰ The instrumentalization of “fear” in political arena is also a characteristic of constructivism which will be elaborated in answering the first research question of the master thesis.

advocated for the unitary Bosnia based on “citizenship and not ethnicity” is the former Minister of Foreign Affairs and former Prime Minister of the Republic of Bosnia and Herzegovina¹¹ Haris Silajdžić who was also the head of the Party for Bosnia and Herzegovina (SBiH). It can be argued that with his aggressive rhetoric aimed against the Republika Srpska and calls for its abolition, Silajdžić provoked Serbs in Bosnia into a nationalistic reaction which served against country’s unification (Lippman, 2006).

The rhetoric used during the election campaign served both Dodik and Silajdžić quite well since both of them achieved their election goals. The former received new term as the Republika Srpska’s Prime Minister and the latter won the Bosniak seat in the Presidency of Bosnia. In this regard Džihic (2012) noted that both of them acted as “foils for one another” (p. 337). Another important event occurred following the 2006 general elections which was the election of Croat member for the Presidency of Bosnia Željko Komšić. As previously mentioned, two members (one Croat and one Bosniak) of the State Presidency of Bosnia derive from the Federation entity, whereas one Serb member comes from the Republika Srpska entity.

The election of Komšić as a Croat member in front of the predominantly Bosniak-supported Social Democratic Party (SDP) came as a surprise, especially for Croats in Bosnia. As a consequence Croats openly objected the election of Komšić since that meant that a Croat representative for the Presidency was elected from mostly Bosniak votes. Overall, Komšić was deemed as illegitimate representative of Croat people in Bosnia (OSCE Final Report, 2006). During the period of 2006 – 2010, political leaders in Bosnia managed to accomplish several achievements on the international level. First one was the success of fulfilling necessary criteria in order to gain visa-free travel policy in the Schengen zone (Džihic, 2012). Second was that Bosnia signed the Stabilization and Association Agreement (SAA) with the European Union in June 2008 and was invited by the North Atlantic Treaty Organization (NATO) to join the Membership Action Plan (MAP) which was an essential step closer towards NATO membership on condition that certain policies were implemented. Finally, in this time frame Bosnia managed to become a non-permanent member of the United Nations Security Council for the period 2010-2011 (OSCE Final Report, 2010). In addition, the state-level Parliamentary Assembly is known

¹¹ The Republic of Bosnia and Herzegovina was *de jure* internationally recognized state which *de facto* controlled only the Muslim-Croat Federation of Bosnia and Herzegovina between 1992 and 1995.

for adopting relatively small number of laws in comparison to other countries. For instance, the Parliamentary Assembly in the period 2006 – 2010 adopted 169 laws whereas 125 laws were rejected (Parlament, 2010, p. 1). Finally, most important event followed the European Court of Human Rights in the Sejdic-Finci case, delivering the judgment on 22 December 2009 that the electoral system in Bosnia is discriminatory since it prevented “all those not willing or capable to affiliate with a constituent people (i.e. Bosniaks, Croats or Serbs) or not meeting a combination of requirements of ethnic origin and place of residence – from standing for election to the Presidency and the House of the Peoples” (ECHR Judgment, 2009). Connecting the consociational approach for the described time frame, Bosnia’s political landscape started to suffer from what Horowitz (2014) defined as three problems of consociational democracy. However, this period was dominated mostly by his Adoption and Degradation problems. The first one was demonstrated by the fact that the Bosniak political elite started advocating for the dissolution of the Republika Srpska as Bosnia’s entity, thus not accepting or ‘adopting’ the on-going Dayton state of affairs. The latter was demonstrated by the results of the general elections in 2006 by not electing the moderates in Bosnia and allowing ethno-nationalist parties to gather the electorate and win majority of votes. The constructivist approach of Wendt (1999) could be seen in the constant shift from the Hobbesian culture of anarchy towards the Lockean, meaning the change from an ‘enemy’ to a ‘rival’ and not to a ‘friend’ in the society of Bosnia. Naturally, the political elites bear responsibility of constructing this political atmosphere which ultimately benefited ethnic parties.

The period 2010 – 2014

The election campaign for October 2010 general elections was similar to the previous the campaign in 2006 which was dominated by aggressive ethno-nationalist rhetoric. In a nutshell, the results of the 2010 general elections in Bosnia “reaffirmed old dividing lines in the country and resulted in a complete standstill of any reforms” (Džihic, 2012, p. 338). The biggest winner of the election was the SDP party which gained most votes for state and Federation’s parliament as well as for the State Presidency with Komšić being re-elected for the position. The party SBiH and its leader Haris Silajdžić suffered a huge loss in favor of the SDA party and the SNSD party with Milorad Dodik managed to remain the dominant political party in the Republika Srpska although the seat of the Presidency was a close race. However, the formation of the Council of

Ministers was difficult to achieve and it took almost 15 months after the general elections in 2010 to form a new governing coalition. The new coalition on the state level consisted from six dominant political parties SDA, SDP, HDZ, SNSD, SDS and Croatian Democratic Union 1990 (HDZ 1990) after they agreed on ethnic quota system's proportional distribution of ministerial seats (Džihic, 2012). Interestingly, Komšić managed to gain more votes for the Presidency (337,065 or 60.61%)¹² than the other Croat candidates combined. The explanation for this was not because most Croats switched their preferences in favor of Komšić¹³, but because many Bosniaks that voted for a Bosniak candidate in 2006, now opted for a Croat candidate. As Armakolas & Karabairis (2014) argued:

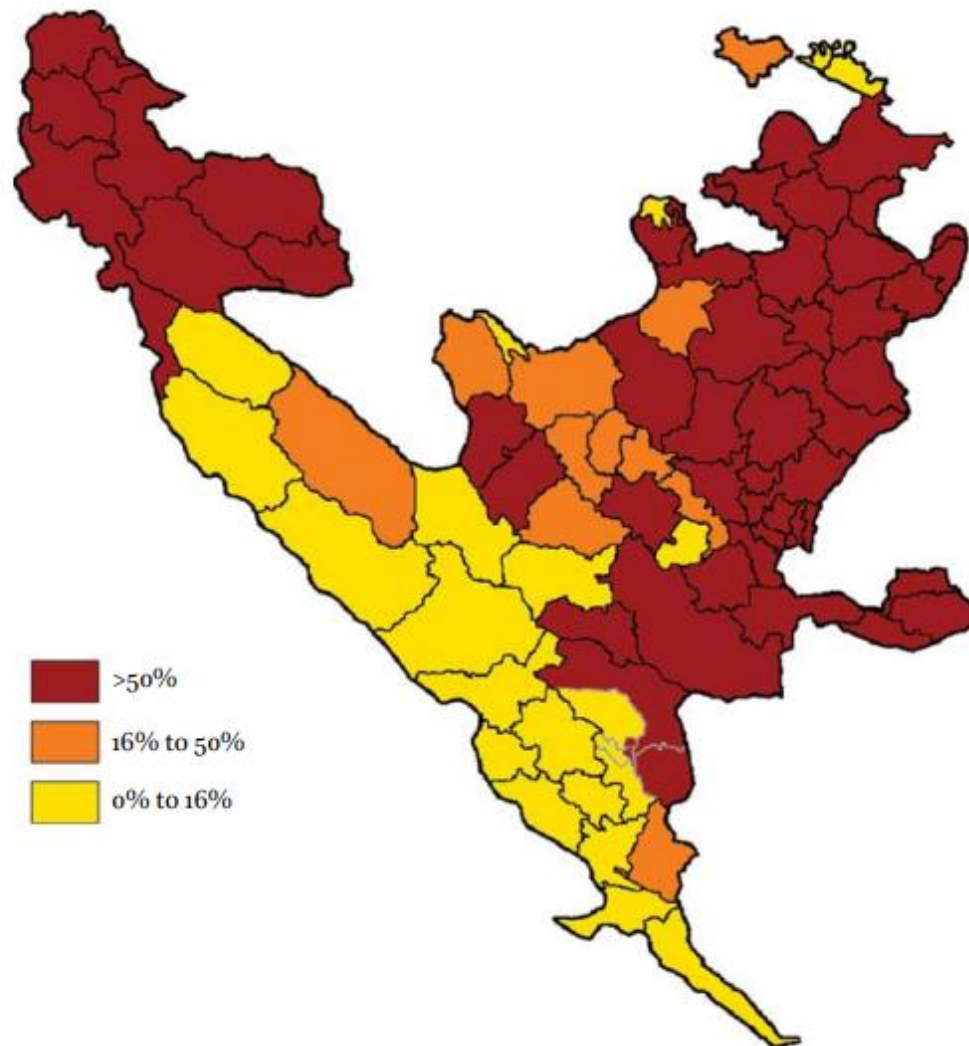
“It is indicative that in 2006 there were 293,383 valid votes cast for the Croat member, while in 2010 they climbed up to 555,911; meanwhile, the respective figures for the Bosniak member fell from 558,192 to 466,895 [...]. Most voters that switched from the race for the Bosniak member to the race for the Croat member likely also switched their party preferences” (p. 185).

All things being equal, according to the national census of population conducted in 2013, the total number of Croats in Bosnia amounts to 544.780 residents (Statistika, 2013) which clearly demonstrates that other ethnicities voted for the Croat member for state presidency. The map of the Federation shown below clearly demonstrates that Komšić gained overwhelmingly stronger support in Bosniak-majority areas for the Presidency elections in 2010 (see Figure 3 below). Croats perceived this result as an abuse by numerically superior Bosniaks and, as a consequence, Croat elite turned towards Serbs in the Republika Srpska in order to “counter-balance the increasing electoral and political strength of Bosniaks in the Federation” (ibid., p. 187). This political trend of bringing Serbs and Croats closer together against the common “enemy” represented in to form of numerically superior Bosniaks will continue to the present day as general elections in 2014 and 2018 have demonstrated.

¹² See OSCE Final Report (2010).

¹³ The so-called “Komšić case” will be thoroughly elaborated in the second research question.

Figure 3: Vote share of Željko Komšić for the Presidency of Bosnia in 2010¹⁴



Prior to the seventh post-war elections in Bosnia in October 2014 several important events occurred. First was the increasing polarized political environment which was characterized by lack of reform as well as with regression and stagnation that started in 2006. Second were the civic protests which occurred in 2013 and 2014 as a result of increased dissatisfaction with keeping the *status quo* in place and not providing better life standard for citizens. Finally, massive floods in May 2014 affected almost 1/3 of the country damaging public properties and infrastructure thus exacerbating the already weak socio-economic situation (Keil & Perry, 2015). Additionally, the incumbent Croat member of the State Presidency Željko Komšić formed a new

¹⁴ Source: Armakolas & Karabairis (2014, p. 186).

political party the Democratic Front (DF) in 2013 following his split from the former SDP party (OSCE Final Report, 2014). During the period 2010-2014 the Parliamentary Assembly adopted 85 laws and rejected 67 laws which represents a huge downturn compared to previous period of the legislative activity (Parlament, 2014, p. 4).

In respect to the two theoretical approaches, nothing in particular has changed when compared to the previously analyzed periods. The most important event was the national census of population in 2013 whose final results ethnic political elites managed to influence through 'identity and interest formation' in line with the elaborated constructivist theoretical approach. This has vastly contributed towards the formation of the 'collective identity' of each ethnic group in light of the constructivist scholar Onuf (2013) thinking of agent's social construction of an identity. In addition to Onuf, another link is made between the campaign of the national census of population in 2013 and the constructivist approach of Wendt (1992) in terms of associating it with collective meanings that are associated with actors which as a consequence manage to acquire inherently relational identities. Concerning consociationalism and the power-sharing system that follows, the regular implementation of the census of populations was necessary to execute precisely in order to protect constitutional peoples in Bosnia. One could argue that the 'Dayton-Bosnia' was created in such a way (i.e. the tripartite State Presidency, upper chambers of the parliament with veto rights etc.) that would reflect its ethnic diversity, as the 1991 national census of population demonstrated in results stating that 43.5% declared as Bosniaks, 31.2% Serbs, 17.4% Croats and 7.9% were belonging to 'Others' respectively (Statistika, 2013).

The period 2014 – 2018

The result of the 2014 general elections were the downfall of the SDP party and a huge win for the SDA which managed to represent itself as the "protector of Bosniaks in war and peace" (Keil & Perry, 2015, p. 84). Among Serbs, the SNSD and the SDS had a close race, however SNSD achieved big win for the Presidency and Republika Srpska's Parliament. The HDZ party representing ethnical Croats finally managed to gain the Croat member seat in the Presidency and emerged victorious in Croat majority cantons in the Federation. Following the 2014 general elections, Croat political elite managed to leverage the "Croat Question" and start a discussion on the necessary constitutional reform which deviated from the need of implementing

the 2009 Sejdić-Finci verdict from the European Court of Human Rights (Keil & Perry, 2015). Important to note is that Željko Komšić, after winning two consecutive terms, was ineligible to run in the 2014 elections for the state Presidency according to Article V, Chapter 6, Paragraph b, of the Dayton constitution (Dayton Agreement, 1995). Further to note is that the Parliamentary Assembly adopted 60 laws and rejected 61 during the period 2014-2018 which continued the negative trend of law-making that began in 2006 (Parlament, 2018, p. 4). By securing the seat in the State Presidency, Croat political leaders were eager in contributing towards Bosnia's dysfunctional nature by exacerbating the constructivist approach of instrumentalizing the 'fear of majorization' in the Federation entity where Croats form a minority compared to the Bosniak majority. In the vocabulary of the consociational political theory, the need for proportional representation was honored to a certain degree for Croats by securing the seat in the State Presidency and accumulating power in cantonal levels within the Federation entity. However, the 2016 verdict of Bosnia's Constitutional Court in the "Ljubić Case"¹⁵ further exacerbated the relationship between Bosniak and Croat political elite and sided with Croat claims on legitimate political representation.

The period 2018 – 2020

Finally, the most recent general elections in Bosnia occurred in October 2018 showed that the SDA remains the largest and strongest Bosniak ethnic party with Bakir Izetbegović as its leader. On the other hand, Croat ethnic parties showed less fragmentation in comparison to previous elections when the HDZ and HDZ 1990 formed a coalition together with other Croat parties in order to counter Bosniaks and Komšić's DF party. As a consequence of the threat of majorization¹⁶, Croat party HDZ managed to consolidate itself and prevent further fragmentation. After the necessary four-year gap from previous Presidency, Željko Komšić managed to win it again for his third term which provoked an outrage among Croat parties. Regarding elections in the Republika Srpska, Milorad Dodik's SNSD party managed to keep its hold on power which started in 2006. Dodik increased his rhetoric concerning the question on the independence referendum of the Republika Srpska and noted his close ties with Russia's President Vladimir Putin. Important to note is the meaning of personality in the SNSD party

¹⁵ More about the "Ljubić Case" will be elaborated in the second research question part.

¹⁶ The so-called "fear of majorization" will be discussed in detail further in the master thesis.

since Milorad Dodik contested and won the seat for the Presidency in 2018 after his party member Željka Cvijanović failed win in the 2014 general elections to opposition's candidate Mladen Ivanić (Hulsey & Keil, 2020). Overall, the OSCE observer mission provided the accurate analysis regarding the background of the 2018 general elections in Bosnia. The OSCE Final Report (2018) stated:

“The 2018 elections took place against a backdrop of political stagnation and insufficient economic growth, in an atmosphere of enduring disillusionment of the population with public institutions. The three constituent peoples rely almost exclusively on their respective communities for electoral support. The lack of a joint vision with respect to the country's future and insufficient intra- and inter-ethnic co-operation often result in a political impasse” (p. 4).

From 2018 general elections until the 31 December 2020, the Parliamentary Assembly continued negative trend of minimum law adoption with only 10 laws adopted while 26 laws were rejected for adoption (Parlament, 2020, p. 4). It goes to show how lawmakers are unable to deliver results for what they were elected, thus contributing towards general opinion that Bosnia is a dysfunctional state. Similar to the elections for the State Presidency in 2006 and 2010, the outrage among Croats relating to Komšić's third electoral win paralyzed institutions of Bosnia, predominantely in the Federation entity, for instance the government of the Federation entity has not yet been formed and remains in a technical mandate from the previous 2014 general elections. Although this is not a clear example of Horowitz's (2014) *Immobilism* Problem of consociational democracy, the fact that major institutions are not functioning due to the lack of cooperation from the smaller ethnic people groups adds to the overall criticism of Lijphart's power-sharing model. The following sections of the paper will more deeply analyze material in the time frame from 2006 to 2020 (in addition with the first half of the year 2021) and explain reasons for Bosnia's dysfunctional nature in answering first and second research question with the application of already elaborated constructivist and consociational theoretical approaches.

Research question I

Several questions come to mind when discussing the dysfunctional nature of Bosnia. One of that questions whether the dysfunctionality was laid down in the constitution or it developed over time within political dynamics of political elites by not accepting the idea of a common

state? It seems that what Bieber (2006a) argued 15 years ago that Bosnia had failed to present itself as a “self-sustaining state with reformist political elite governing it” (p. 16), serves as a valid statement to the modern Bosnian state. In this regard it would be interesting to research the reason for today’s dysfunctional nature of Bosnia. Furthermore, in line with Bieber’s (2006a) assessment that much of the blame solely on the Dayton itself is misplaced, the first research question (RQ) of this master thesis is as follows: In which way did the domestic political elites in the form of ‘spoilers’ contribute towards the dysfunctional nature of Bosnia and Herzegovina? As already stated in the introduction part of the paper, there is a common understanding that Bosnia is a dysfunctional state.

This RQ tries to provide explanation for Bosnia’s dysfunctional nature. There are also authors who argue that Bosnia can be considered as a failed state due to “weak and ineffective central government as well as extensive corruption and criminality” (Seizovic, 2014, as cited in Seizović & Šimić, 2016, p. 32). However, this assumption is exaggerated since there are currently few completely failed states in the world such as Somalia, the Democratic Republic of Congo (DRC), Syria and Afghanistan with the recent withdrawal of the United States and its allies, thus paving the way for Taliban to take over. Ideally, state should possess something that Krasner (1999) calls “domestic sovereignty” which is defined as “the formal organization of political authority within the state and the ability of public authorities to exercise effective control within the borders of their own polity” (as cited in, Börzel & Risse, 2016, p. 149). It is worth noting that most states in the world suffer from ‘problems of limited statehood’ since they do not possess an ideal typical statehood which is “the ability to rule authoritatively and to implement and enforce decisions” (Börzel & Risse, 2016, p. 149). In this regard, dysfunctional state institutions are common phenomena in the modern international system and that most countries can be regarded as dysfunctional in basic Weberian sense. One could argue that Bosnia with its two semi-autonomous entities, the Serb-dominated Republika Srpska and the Bosniak-Croat Federation of Bosnia-Herzegovina, belongs to countries which exhibit “areas of limited statehood”. As Risse (2011a) pointed out these areas represent “parts of the territory or policy areas where central state institutions are unable to effectively implement and enforce decisions” (as cited in Börzel & Risse, 2016, p. 149).

Furthermore, the dysfunctionality can also be connected to the democratic development of a country. Following Džihic's (2012) argument, there are several factors that contribute to the crisis of democracy in Bosnia. He outlined Dayton and its non-functioning power-sharing model as the first obstacle, which is followed by permanent political crisis which comes as a result of "structural weaknesses and prolonged ethnonationalism" (p. 331) and finally weak socioeconomic foundations or simply put social and economic inequalities. As a consequence, these obstacles cause mistrust between citizens and elites, disenchantment with politics and political and social exclusion. Lastly, this affects crisis of democracy in Bosnia by enabling ethnocracy, partocracy and clientalism (Džihic, 2012). By using theoretical lenses of constructivist IR theory, the explanation is provided for the first research question. The hypothesis is that the political elites in form of spoilers contributed towards dysfunctional nature of Bosnia by using fear as a political principle and ascribing 'dysfunctional identity' to the state of Bosnia in order to mobilize their respective ethnic constituency which as a consequence caused mistrust among citizens towards national institutions. This will be an answer to the first research question of this master thesis. The next paragraphs will focus on political actors as 'spoilers', their usage of ethno-nationalist rhetoric and the instrumentalization of fear in order to connect their responsibility to the dysfunctional state of Bosnia. As mentioned, the timeframe analyzed will be from 2006 until 2020 (as well as first half of the year 2021) where the starting date corresponds to the already elaborated 2006 general elections in Bosnia.

The Spoilers

First of all, who are the so-called 'spoilers' and why are they important to mention when we discuss political elites in Bosnia? There is a vast literature on peace-making processes particularly after the emergence of several civil wars in Europe, Asia and Africa during the 1990s. In this regard, modern-day Bosnia is the outcome of the 1995 Dayton peace process which ended the civil war. Important to distinguish is the difference between (political) actors during a civil war and peace period that comes afterwards. The civil war stage is dominated by combatants who can take the form of rebels, bandits, rogues, terrorists etc. whereas the peace period is represented in the form of 'spoilers'. In this manner, peace processes usually generate spoilers since "it is rare in civil wars for all leaders and factions to see peace as beneficial" (Stedman, 1997, p. 7). Furthermore, spoilers pose the greatest risk to the effort of peace-making

or as Stedman (1991) argued, spoilers represent “leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it” (as cited in, Stedman, 1997, p. 5). The outcome of spoiler’s success in damaging the peace attempt was proven devastating for a country by creating much higher numbers of casualties from failed peace than from the war itself as examples of Angola in 1992 and Rwanda in 1994 have shown (Stedman, 1997). Spoilers use the ‘spoiling behavior’ to which belong “activities of any actors that are opposed to peaceful settlement for whatever reason” (Newman & Richmond, 2006a, p. 102).

Another important distinction to be made is between *inside* and *outside* spoilers where the inside spoilers are representatives that sign the peace agreement, express their willingness to implement the agreed decisions but ultimately fail to fulfill necessary obligations of the peace agreement. On the other hand, outside spoilers represent parties who either excluded themselves from peace processes or were excluded by custodians of peace processes, and as a consequence use violence in order to undermine the peace process (Stedman, 1997). Although Bosnia enjoys peace since the Dayton agreement was brokered in 1995, it faced and still faces constant threats from the inside and outside spoilers which could undermine the achieved peace process. In the first two years following the Dayton agreement Bosnia suffered constant blockade by hardline nationalists (Richter, 2018). These political nationalists can be considered as inside spoilers in peace process vocabulary and they were dealt with when the international supervisory body i.e. the Peace Implementation Council introduced “adjustment measures” or additional competences to the existing mandate of the High Representative in Bosnia (under Annex 10 of Dayton) at the Bonn Conference in December 1997. The added competences included competences such as to “remove from office public officials who violate legal commitments and the Dayton Peace Agreement, and to impose laws as he sees fit if Bosnia and Herzegovina’s legislative bodies fail to do so” (OHR, 2021). Regarding the outside spoilers that use violence in order to obstruct peace process in Bosnia, the usage of war veterans’ associations as well as their close relationship with political leadership could represent one type of outside spoilers. The most prominent examples were among Croats in Bosnia with the establishment of the Association of Croatian Military Invalids of the Homeland War (HVIDRA) and the Association of Volunteers and Veterans of the Homeland War (UDIVIDRA) in 1994. These war veterans associations

obstructed the implementation of the Annex 7¹⁷ of Dayton by carrying out activities directed at non-Croat returning refugees. These activities were done in order to achieve the ultimate goal which was the Croat autonomy thus countering the existing fears of marginalization in the Bosniak-dominated Federation (Newman & Richmond, 2006).

One could argue that the second type of outside spoilers represent dominant political elites who sit at the front of the strongest ethnic parties in Bosnia i.e. the SNSD, SDA¹⁸, SBiH¹⁹ and HDZ²⁰ during the 2006-2020 timeline which was briefly elaborated in previous paragraphs of this paper. Although the violence itself was very rare since 2006, these outside spoilers bare responsibility for today's dysfunctional Bosnia because of their constant ethno-nationalistic political rhetoric and non-willingness to cooperate. Following this reasoning and using constructivist vocabulary, political elites in the form of spoilers managed to contribute towards dysfunctional state nature of Bosnia by 'constructing' fear among ethnic groups by the means of ethno-nationalism. Even though many scholars accuse solely the Dayton constitution for creating and enabling dysfunctional Bosnia, one could argue that this is an oversimplified accusation. As Bieber (2006a) noted:

“On the other hand, many of the weakness of Bosnia and Herzegovina cannot be narrowly blamed on ‘Dayton’ or the institutions it sets up. The importance of ethnic politics and national parties³ is certainly not solely the result of the state structure, but at least equally the consequence of the war, even if the institutions at the time facilitated the dominance of such parties. The high degree of decentralization has also created obstacles to economic development but, again, high unemployment and low levels of foreign investment are also a consequence of the war and of deep reservations about stability, and they do not stand out in the regional context” (p. 17).

To this end, political elites in Bosnia bare a tremendous part of responsibility for Bosnia's dysfunctionality by ascribing the 'dysfunctional identity' towards their respective constituency. As already mentioned, the political campaign in Bosnia for general elections in 2006 was marked by ethno-nationalist rhetoric and the usage of 'fear' became a 'political principle' which was seen as a “dominant tool in the hands of political elites for maximizing their power” (Džihčić,

¹⁷ The Annex 7 of Dayton represents the Agreement on Refugees and Displaced Persons.

¹⁸ Since the SDA party leader participated during the Dayton peace talks, it could also be considered as an 'inside spoiler'.

¹⁹ To be exact, the SBiH party was mostly dominant during the 2006 – 2010 periods.

²⁰ Franjo Tuđman, the former president of Croatia and the signatory of the Dayton Peace Agreement, was the president of the HDZ party in Croatia, which is a sister party of the HDZ in Bosnia.

2012, p. 335). More importantly, spoilers continued exercising this political principle to this day since it helps them mobilize their ethnic constituency for elections.

The Instrumentalization of Fear

Moving to the question of fear, what exactly is fear and why is it relevant in explaining the dysfunctional nature of Bosnia's political system? Aristotle was one of the first philosophers to define fear as a "pain or disturbance due to imagining some destructive or painful evil in the future" (Lebow, 2008, p. 88) and argued that it is caused "by whatever we feel has great power of destroying us, or of harming us in ways that tend to cause us great pain" (ibid., p. 88). Fear is the opposite of confidence since it is associated with danger or the expectation of something terrible. It is "an emotion, not a fundamental human drive" (ibid., p. 89) and it "arises from imbalance and the application of human imagination to its likely, or even possible, consequences" (ibid., p. 89). Given that Bosnia can be designated as "small Yugoslavia" due to its ethnic composure, a connection could be made with Yugoslavia's dissolution in the sense of 'fear creation'. Meaning that the conflict in former Yugoslavia could be associated with 'fear' of main ethnic groups that they would become minorities in newly formed independent states. In other words, it was the fear of losing the ethnic status of *nation* or *nationality* to that of "minority" (Jović, 2001). It can be associated with the lack of security that former *nations* in Yugoslavia would possess as soon as they would become *new minorities*. Jović (2001) further argued that the nationalist members of the counter elite created the fear of becoming a minority and this fear as a consequence became the trigger for large parts of ethnic groups in Yugoslavia to opt for separation and ultimately secession. The explanation provided by Lebow (2008) further supports Jović's argumentation:

"Fear triggers a desire for security which can be satisfied in many ways. In interstate relations, it is usually through the direct acquisition of military power (and the economic well-being that makes this power) or its indirect acquisition through alliances. It is also a catalyst, as it is at the domestic level, for institutional arrangements that provide security by limiting the capabilities and independence of actors who might do one harm" (p. 89).

Furthermore, as soon as actors began framing and changing their behavior in order to make a phase transition from friends, colleagues or allies towards adversaries and enemies, actors entered into fear-based worlds. Fear-based worlds are in this sense not related to the realist logic of anarchy but "to a breakdown in *nomos* caused by the lack of constraint by elite actors"

(Lebow, 2008, p. 89) which in turn “set the escalatory process in motion, and are often the ones who feel most threatened” (ibid., p. 90). This argumentation could be connected to the usage of fear as political principle during general election campaigns in Bosnia, in particular since the general elections in 2006. In the words of constructivists, one could argue that political elites are ‘constructing’ fear in the population in the manner of ethno-nationalism and ethnopolitics for their own benefit which as a consequence creates the impression of completely dysfunctional state institutions in Bosnia (Džihic, 2012). In other words, the social reality of Bosnia is above all else dominated by ethnopolitics which is defined as “the political narrative and practice intended to justify this ethnically-based social construct” (Mujkić, 2007, as cited in Abazović, 2010, p. 324), and politization of ritual places and religious activities in order to mobilize ethnic constituency (Abazović, 2010).

Hypothesis testing 2006 – 2020

As previously mentioned, the hypothesis to the first RQ of the master thesis is that the political elites in form of spoilers contributed towards dysfunctional nature of Bosnia by using fear as a political principle and ascribing ‘dysfunctional identity’ to the state of Bosnia in order to mobilize their respective ethnic constituency which as a consequence caused mistrust among citizens towards national institutions. In the following segments of the master thesis a brief analysis of dominant political ethnic party presidents will be implemented in order to support the argumentation of the ‘fear construction’ within population in Bosnia which is related to the issue of trust and subsequently is one of the reasons for Bosnia’s dysfunctional nature. Let us begin with the examination of the speech by Haris Silajdžić, the president of the nationalist Bosniak SBiH party, at the pre-election rally in September 2006 when he addressed the crowd stating: “all those who want to divide Bosnia that, if they couldn't do it with tanks, they certainly won't do it with microphones” (Nezavisne novine, 2006). Another example of fear-creation from Silajdžić, this time as Bosniak member of the state presidency in 2007, was the accusation that “Europe has swallowed that Greater Serbian fascism is closer to it than the democracy of Bosniaks in BiH” (Nezavisne novine, 2007) or statement that “Bosnia is facing the policy from Greater Serbia circles” (Nezavisne novine, 2007a). Additionally, Silajdžić attacked the Dayton itself which enabled the ‘entity vote’ as a “mechanism of ethnic cleansing” (Nezavisne novine, 2007b). Furthermore, Silajdžić attacked another ‘Dayton creation’ i.e. the Republika Srpska

when he stated: “The path to the abolition of the Republika Srpska is the one that this entity is taking now because it does not respect the constituency of the people and the rights of the non-Serb population” (Nezavisne novine, 2008). Naturally, the harsh rhetoric from Silajdžić came under huge backlash from Serbs in Bosnia and their strongest political party and its president, Milorad Dodik. In his interview for the Radio Free Europe (2009), Dodik used constructivist approach in order to alienate Serbs from Bosnia and highlighted that Serbia is the true homeland of Serbs in Bosnia, and not Bosnia itself. As he stated: “We accept Bosnia because we must, and because it is part of the agreement we signed. But that agreement says nothing about love, and if we're talking about love, it's an intimate feeling and I have the right to feel the way I do” (ibid.). Additionally he highlighted discomfort of Serbs in Bosnia who feel under constant threat, as he stated: “Again, we respect the [Dayton] agreement, but we feel uncomfortable inside Bosnia because the role of the Republika Srpska is constantly being diminished, and its authority undermined, as a result of Bosnian centralization. It's a state of permanent unease” (ibid.).

The period 2006-2010 also marks Dodik’s first attempt of constructing the narrative that the independence referendum for the Republika Srpska would be necessary and openly threatened to pull out from Bosnia’s common institutions. Interestingly, the ethno-nationalist rhetoric by both parties had consequences on citizens in Bosnia by constructing the narrative of enemy and rivalry, similar to Hobbesian and Lockean cultures of anarchy introduced by constructivist Alexander Wendt. One could argue that consequences of political elite’s rhetoric distanced citizens in Bosnia from national government and made them trust other institutions instead such as religious or military ones. Most importantly, national institutions can play a vital role in restoring trust among ethnic groups and promoting reconciliation in Bosnia, as Sam Whitt’s (2010) research has demonstrated. Institutions are important because they help reduce trust barriers in divided societies and Bosnia represents a clear example of a country for such divided society. Most importantly, institutions can be critical to overcoming fears of victimization and contributing towards alleviation of fear and prevention of opportunism (ibid.). The situation on the ground demonstrates that national institutions are least trusted in Bosnia. As the public opinion poll conducted by the Balkan Monitor (2010, p. 28) demonstrated, religious institutions were shown as most trusted among Serbs with 67% and Croats with 65% of respondents. Among Bosniaks most trusted were military institutions which enjoyed 70% of support along with religious institutions with 53% support. Additionally, according to the public opinion poll

implemented by the National Democratic Institute (2009), more than two thirds (83%) of citizens believed that Bosnia is moving towards wrong direction. A clear differentiation can be seen between correspondents in the Federation²¹ and in the Republika Srpska concerning potential territorial arrangement of Bosnia whereas the former is dominated by 60% in view that entities should be abolished whereas in the latter the status quo was mostly favored along with the option to divide Bosnia into three independent states (ibid.).

By constructing the narrative of fear, political elites in Bosnia contribute towards growing dichotomy between three ethnic groups or ‘constituent peoples’. Although public opinion polls prove that the fear itself is ‘constructed’ successfully, they cannot determine whether the fear is real *per se*. The period 2010-2014 was, as mentioned, also marked with ethno-nationalist rhetoric, most notably between SDA’s president Bakir Izetbegović (now as the Bosniak member of the State Presidency) and SNSD’s president Milorad Dodik (now as the president of the Republika Srpska). In an escalated ‘war of words’ Dodik claimed that Serbs overwhelmingly support secession from Bosnia and addressed Bosniaks as self-proclaimed nation existing since 1993 (Radio Free Europe, 2011). He also accused Bosniaks from wanting to dominate Bosnia and “marginalize and subjugate the country's Serbs and Croats”. Izetbegović returned by saying:

“It has to be clear to everyone: any attempt to put the territorial integrity of the country in danger will be met by the resistance of 100 percent patriots who are ready to defend Bosnia-Herzegovina at any moment, [...] It is you, Mr. Dodik, who will bear the historic and every other responsibility if this leads to conflicts, which you have been provoking with your public statements” (Radio Free Europe, 2011).

This political ethnic rhetoric resembles to the one between the ethnic warlords Alija Izetbegović and Radovan Karadžić during the 1992-1995 conflict in Bosnia. This example shows how political elites try to mobilize the ethnic group from which they originate for their personal benefit by creating fear of secession from Bosnia or fear from future inevitable conflict and essentially a civil war. It does not come as a surprise that, according to one opinion poll in January 2013 among youth in both of Bosnia’s entities, around 81% of respondents would emigrate “tomorrow” if they could (Balkan Insight, 2013). The period 2014-2018 was characterized by continued accusations on the line Dodik-Izetbegović where Dodik was depicted as the greatest threat towards Bosnia’s and the region’s stability. On the other hand Izetbegović

²¹ According to 2013 national census in Bosnia, as mentioned, the Federation is dominated by Bosniaks and Croats whereas the Republika Srpska is dominated by Serbs in terms of ethnic population size.

was accused of wanting to make Bosnia an Islamic state thus fulfilling the dream of his father Alija Izetbegović (Al Jazeera, 2016). For instance the possibility of Bosnia becoming an Islamic state represents another example of ‘fear construction’ among the elite in order to spread uncertainty and mobilize the ethnic constituency. This could be related to the bleak outlook on Bosnia’s future direction, as one opinion poll conducted in 2018 demonstrated:

“A clear majority (86 percent) of respondents think the country is heading in the wrong direction, while only 9 percent believe it is heading in the right direction. A striking 53 percent find the country’s security situation to be unsatisfactory, with 42 percent of respondents expressing the view that ethno-nationalism is the most pervasive type of extremism in the country” (International Republican Institute, 2018).

Following the 2018 general elections, one important event managed to add more fuel to the fire in terms of fear construction among ethnic groups. At the 7th congress of the strongest Bosniak political party SDA, a new political declaration (Declaration henceforth) was adopted (SDA Declaration, 2019). The Declaration advocates *inter alia* for the establishment of the “Bosnian-Herzegovinian identity” for all citizens of Bosnia which would be above existing national identities of Bosniaks, Serbs and Croats which comprise about 95 percent of Bosnia’s population. Another major innovation of the Declaration is the call for complete restructuring of Dayton-created Bosnia by abolishing its two entities and one autonomous Brčko District in favor of a more functional and stronger state. The aim of the Declaration is to revive a state very similar to the Republic of Bosnia and Herzegovina as it was under that name recognized by the UN during the Bosnian Civil War from 1992 to 1995. The SDA stated:

“Our primary and long-term goal is to adopt an introduction that would define Bosnia and Herzegovina as a democratic, regionalized, legal and social state called the Republic of Bosnia and Herzegovina with three levels of government: state, regional and local with the city of Sarajevo being a political, administrative, cultural and economic center of Bosnia and Herzegovina” (SDA Declaration, 2019, p. 5).

As a response to the adoption of the Declaration, the Serb SNSD leader Milorad Dodik repeated his stance on self-determination until secession of the Republika Srpska if the goals of the Declaration were to begin to be implemented, whereas the Croat HDZ leader Dragan Čović criticized the SDA objective of seeking domination of Bosniaks over other people groups (Al Jazeera, 2019). Apart from political elites of Serbs and Croats, this Declaration was also

criticized from Bosnia's former High Representative, an Austrian diplomat Valentin Inzko²², who stated that internal organization of Bosnia can only be adopted in accordance with the Dayton Constitution which "requires a comprehensive process of consensus-building and agreement across the entire political spectrum" (N1 Info, 2019). One could argue that the SDA's Declaration is in line with Horowitz's (2014) criticism of consociational democracy in the form of the Adoption Problem i.e. willingness of majorities to overthrow the consociational state model as soon as they regain their strength and the Immobilism Problem i.e. the state blockade or dysfunctionality generated between inter-ethnic demands and counter-demands which arise due to the usage of extensive veto rights.

The consequences of the ethnonationalist rhetoric as well as framing others or those from different ethnic group as a (potential) enemy are severe towards the population in Bosnia. As another public opinion conducted by the International Republican Institute (2018a) showed, in a direct question "In the long term, which of the following issues do you fear could threaten our way of life and children's future?" (p. 12) the majority of answers (with 32%) included the option of an open conflict or war. The Kantian political culture and the idea of common identity were not constructed in Bosnia during the analyzed period by spoilers on the ground, but a surrounding of constant ethnic tension and uncertainty. In other words, ethnic parties and their leaders managed to exploit the idea of common identity in order to mobilize their respective constituency for personal gains and not for gains of the common state in terms of its functionality. This part of the master thesis has shown that political elites in the form of spoilers constructed mistrust between citizens and state institutions, ascribe the meaning of 'dysfunctional identity' of Bosnia and make it appear that Bosnia cannot continue its existence as a sovereign state due to constant ethnic tensions or from the ongoing fear of majorization. The following part of the master thesis will focus on the legal prerequisites for Bosnia's dysfunctional nature by tackling the recent events such as the elections for the State Presidency in 2018 and the verdict from the Constitution Court of Bosnia in 2016 thus contributing to the argument of explaining reasons for dysfunctional Bosnia.

²² The Austrian diplomat Valentin Inzko was succeeded as the High Representative in Bosnia by the German politician Christian Schmidt on 1 August 2021. See <http://www.ohr.int/about-ohr/high-representative/>

Research Question II

The second RQ of this master thesis is: Did the ‘Croat question’ contribute towards dysfunctional nature of Bosnia and, if it did, in which way? The so-called ‘Croat question’ is the main focus of this part of the master thesis which contributes to the assessment that Bosnia is a dysfunctional state and frames elections for the Croat member of the State Presidency, constitution of the House of Peoples of the Federation and the spoiler’s act represented in form of the Croat political elite in explaining the dysfunctionality of Bosnia’s state. In other words contrary to the first RQ of this master thesis, the second RQ will focus on legal prerequisites that have contributed to Bosnia’s dysfunctional nature. In short, the hypothesis of the second RQ is that the ‘Croat Question’ contributed towards the dysfunctional nature of Bosnia through the abuse of legal prerequisites that have greatly affected the election outcomes for the State Presidency on state level and for the House of Peoples in the Federation entity. These legal prerequisites will focus on the recent events such as the so-called “Komšić Case” i.e. the 2018 Bosnia’s general elections in particular for the Croat member of the State Presidency by demonstrating that a Croat member was elected three times (in 2006, 2010 and 2018) unconstitutionally, but legally according to Bosnia’s election law from 2001. Another recent event strengthening the ‘legal prerequisite argument’ is the so-called “Ljubić Case” i.e. the legally binding verdict of Bosnia’s Constitutional Court from 2016 concerning the selection of delegates in the House of Peoples of the Federation (Federation’s House henceforth) which is essentially the upper house of the Federation’s Parliament.

Theories used in providing a strong support for the argumentation of the second RQ are implemented through lenses of constructivism and consociationalism respectively. In a nutshell, the re-election of Željko Komšić as a Croat member of the State Presidency as well as the continued illegal selection of Croat delegates in the Federation’s House caused an outrage among Croat political elite in Bosnia (to some extent in Croatia as well) and managed to mobilize their ethnic Croat constituency leaning towards the HDZ party which as a consequence is making the state (or Bosnia’s entity i.e. the Federation to be exact) dysfunctional. For instance, the HDZ party has as a consequence of these elections blocked *inter alia* the election of the new Federation’s government which is still serving in the technical mandate since 2018 elections, the state budget of Bosnia, the Federation’s Constitutional Court, the purchase of vaccines against

Covid-19 virus etc. (Istraga, 2021). Additionally, there are other questions to be asked in this regard: Could it be that the election of Komšić was an attempt to break the concept of ethnic-power sharing? Was this a move which was envisioned in the constitution?

The Federation of Bosnia and Herzegovina

To better understand the problematic of the “Komšić” and “Ljubić” cases (which comprise the ‘Croat Question’ in Bosnia), a brief overview of the functioning of the Federation entity is required. The constitution of the Federation was mediated by the United States concerning the Republic of Bosnia and Herzegovina and the Republic of Croatia in 1994 in the context of the Washington Peace Agreement, which provided a possibility for the Federation to enter into a confederation with Croatia at one point (Bieber, 2006, p. 63). The agreement resulted in finally ending the war between Bosniaks and Croats in Bosnia. Furthermore the Federation represented solely the “Bosniak-Croat project” (ibid., p. 64) which as a consequence excluded domestic Serbs from governance. However this political situation was only changed because of the decision of the High Representative in 2002, essentially securing Serbs as constituent peoples in the Federation along with Bosniaks and Croats (OHR Decision, 2002). In the light of Lijphart’s power-sharing, the government of the Federation has consociational elements regarding the separation of power in order to ensure that Croats and Serbs are not being overruled by the Bosniak majority in the newly formed Federation entity of Bosnia (Gavrić, 2013).

In contrast to the Republika Srpska as the centralized entity, the Federation can be considered as a ‘loose federation’ since it consists from two predominant nations and ten cantons (see Figure 4 further below) which are based on pre-war areas dominated by Croats and Bosniaks respectively (Bieber, 2006). To be precise, each canton has its own legislative, executive and judicial branches. Regarding the legislative branch, as mentioned, all cantons in the Federation have their own assemblies which are ranging between 21 and 35 representatives elected for four-year tenure with 3% election threshold. According to the national census in 2013, Bosniaks represent a majority in five cantons: the Canton 1 (Una-Sana), the Canton 3 (Tuzla), the Canton 4 (Zenica-Doboj), the Canton 5 (Bosnian Podrinje) and the Canton 9 (Sarajevo). On the other hand, Croats comprise a majority only in three cantons: the Canton 2 (Posavina), the Canton 8 (West-

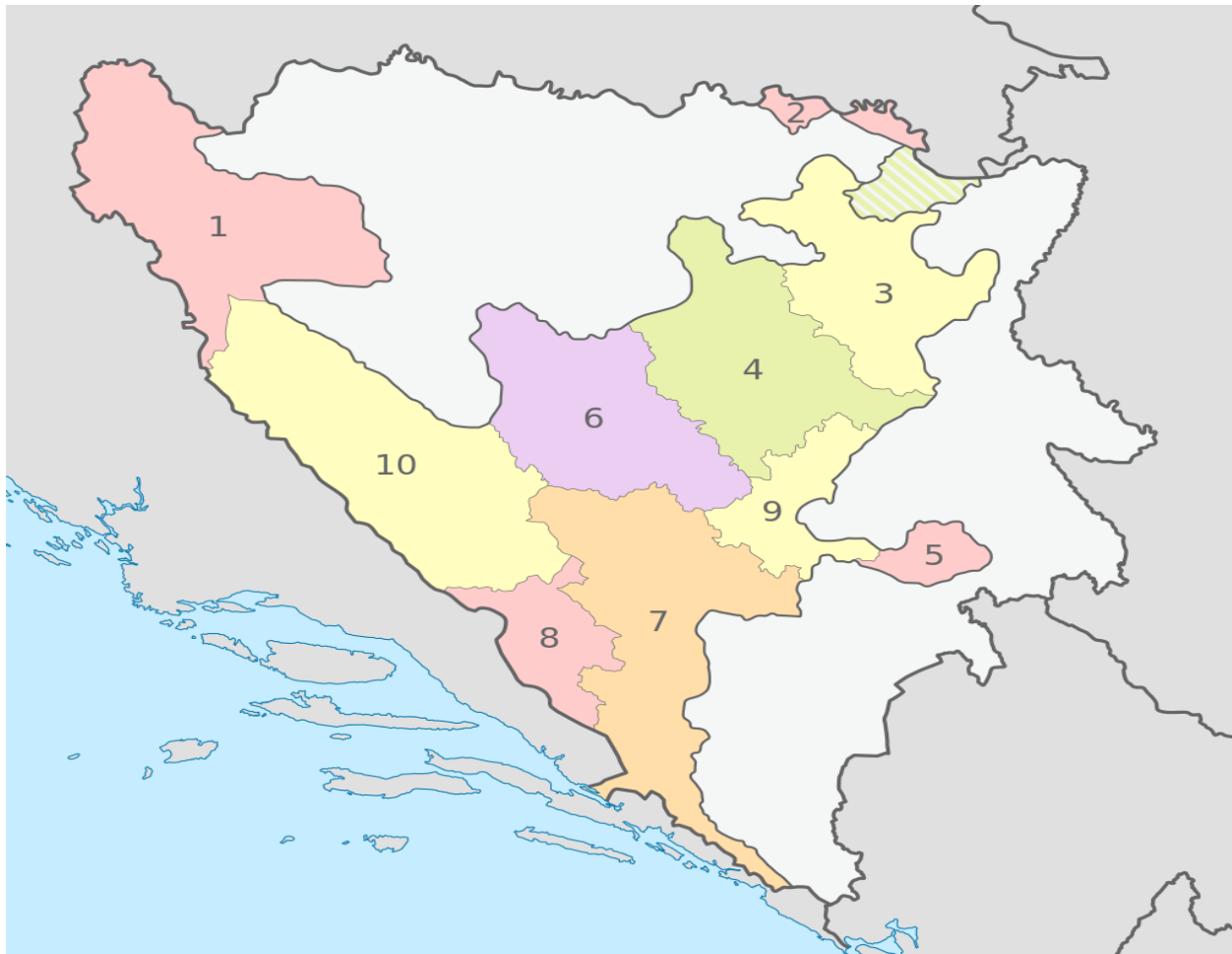
Herzegovina) and the Canton 10 (Livno). Finally two cantons contain ethnically mixed population with absence of a clear majority of one ethnic group towards the other: the Canton 6 (Central Bosnia) and the Canton 7 (Hercegovina-Neretva). Naturally, the number of cantonal institutions has vastly contributed towards the immense bureaucratization in the Federation because of the existing parallel structures on the entity and state level (Gavrić, 2013). Lastly, the complexity of corruption due to huge bureaucratic apparatus poses a serious problem for the country as it was demonstrated in a report showing the prevalence of bribery significantly higher in the Federation with 25,3% than in the Republika Srpska with 10,5% (UNODC Report, 2011, p. 7).

Bearing in mind Federation's ethnic composition and the political difficulty for the formation of the government institutions, Croat political elite managed to mobilize their ethnic constituency as the counter-balance against the Bosniak dominance in other parts of the Federation. Ultimately, the political complexity of the Federation was summed up well by Hulsey & Keil (2020):

“The FBiH in this respect is a microcosm of Bosnia as a whole, because the entity itself is ethnically mixed (mainly between Bosniaks and Croats), there are substantial differences across the ten cantons when comparing electoral outcomes. In the three cantons in the FBiH, in which the Croats have a majority, the HDZ BiH and the HDZ 1990 remain the two main dominant Croat parties, although there is a clear indication that the HDZ BiH has been able to re-establish itself as the leading party representing Croats in Bosnia at local, cantonal, entity and national level” (p. 355-356).

In other words, the Federation's complexity is much more apparent when compared to the Republika Srpska due to the Federation's ethnic composition and the territorial organization as demonstrated on the Figure 4 below.

Figure 4: Territorial division of the Federation of Bosnia and Herzegovina²³



Because of the ethnic composure of the Federation where not all Bosniaks or Croats live in one canton alone, Bosniak political parties tend to advocate for a strong state on the central level to the detriment of local self-government. On the other hand, Croat political parties tend to support positions of strengthening the local self-government and decentralization, an approach similar to Serb political parties in the Republika Srpska (Bieber, 2006). Finally, one could argue that the Federation is defined as a ‘regional consociation’ which closely follows Lijphart’s interpretation of the consociational theory. However, Kasapović (2016) pointed out the danger of this political structure as she argued:

²³ Source:

[https://en.wikipedia.org/wiki/Cantons_of_the_Federation_of_Bosnia_and_Herzegovina#/media/File:Bosnia_and_Herzegovina_administrative_divisions_-_Nmbrs_\(cantons\)_-_colored.svg](https://en.wikipedia.org/wiki/Cantons_of_the_Federation_of_Bosnia_and_Herzegovina#/media/File:Bosnia_and_Herzegovina_administrative_divisions_-_Nmbrs_(cantons)_-_colored.svg)

“the two-segmental structure of a divided society is extremely unfavourable for the success of a consociational democracy since one of the important prerequisites to its success is the non-existence of a majority segment that can behave imperialistically towards the smaller segment“ (p. 176).

Bearing in mind the numerical superiority of Bosniaks in comparison to Croats in the Federation as well as the issue of “legal representatives”, the elaboration in previous paragraphs provided a necessary background in order to enable more attention and closer examination of two prominent examples contributing towards Bosnia’s dysfunctionality. The next two paragraphs will try to discuss which legal prerequisites along with the spoiler’s act have contributed to the dysfunctional nature of Bosnia following the development of the so-called of the “Komšić case” and “Ljubić case” respectively.

The “Komšić Case”

The phenomenon of Željko Komšić, a Croat from Sarajevo, as the Croat member of Bosnia’s State Presidency and the so-called ‘Croat question’ has drawn a considerable attention among scholars (Bieber, 2013a; 2014; Pepić & Kasapović, 2019; Kasapović, 2016; Pehar, 2019). To begin with, let us examine a brief overview of the ‘Komšić case’ in order to understand the political dynamic in Bosnia (in particular in its Federation entity), thus contributing to the general topic of this master thesis. In a nutshell, the main argument is that Komšić, being the current Croat representative in the State Presidency, was elected predominantly from Bosniaks and not from Croats in the Federation. In this regard, some scholars have even regarded Komšić as the “Vidkun Quisling” (referring to the imposition “from the outside” of local leaders in conquered countries loyal to Nazi-Germany during the Second World War) due to his imposed electoral success whose outcome could be considered as an “absurd consequence of an absurd and unfounded interpretation of the Dayton Constitution” (Pehar, 2019, p. 135). Useful explanation in proving that Komšić was elected predominantly by Bosniaks was provided by Kasapović (2016) while analyzing the outcome of the 2006 State Presidency elections which represent the first time Komšić came to power predominantly thanks to Bosniak voters:

“Firstly, more than a 100,000 voters, more than in the previous elections, voted for the Croat member of the Presidency, which made them conclude that numerous members of other communities, above all of the Bosniaks, gave their votes to the Croat member. Secondly, an analysis of territorial origin of votes they received showed that Komšić

gained very few votes in the areas in which the Croats were in the majority and the most votes in those areas in which the Bosniaks formed a majority of the population” (p. 180).

In contrast to the analyzed electoral success above, Željko Komšić defended his position and political view in a personal interview given to Merdžanović (2015) in light of the quasi-liberal argument stating that he is not just legal but also a legitimate representative to the State Presidency by being elected in the Federation and being a Croat, as he argued:

“If the Bosniaks mainly voted for me—let us say [for the sake of argument] that they most probably did—what is the problem? The constitution clearly states that this is [legally] possible. So, is it not the aim to trust each other in this country? If you have to prove that you are a good Croat by having Bosniaks or Serbs hate you—or that you are a good Serb if Bosniaks and Croats hate you—what country is that? I do not want to live in [such a country]! That is not the paradigm according to which I want to behave. Regardless of all the tragic experiences in this country, I do not accept to live like that. I do not want to live like that” (Merdžanović, 2015, p. 216).

On the other hand Komšić’s repeated successful election outcome continues to exacerbate the anger and fear among the Croat political elite and their respective political parties in Bosnia. Croats argue that the electorate is precisely the one which elects a Croat member and it is a key feature that determines whether a candidate has legitimacy or not. As Božo Ljubić, a former member of an ethnic Croat party in Bosnia stated in a personal interview given to Merdžanović (2015):

“Željko Komšić is an ethnic Croat. Nobody denies his belonging to the Croat nation because he declares himself accordingly. That is enough for me. But Bosniaks elected him twice. That is the root of our frustration! I keep repeating it: I am born as a Croat in southern Herzegovina, in a region almost entirely inhabited by Croats. But this is not the reason why I am a political representative of the Croats—I am because of the people who voted for me” (p. 217).

One could argue that it is precisely Komšić’s election outcome for the State Presidency that contributed towards increased dysfunctional nature of Bosnia. Ethnic Croat parties and the Croat elite (including the Serb elite to some extent) fear that Komšić is hampering their national interests that should be protected under the State Presidency which has competences for *inter alia* naming ambassadors and naming the Chairman of the Council of Ministers for the state level. Furthermore since Croats do not have their legitimate representative in the State Presidency in Bosnia, none of their candidates could be appointed as the Chairman of the Council of Ministers. This as a consequence greatly influenced the formation of a new coalition

government after the general elections in 2010 by prolonging the process for one and half years (ibid.). As previously mentioned, the same election outcome for the Croat member of the State Presidency occurred two more times, namely in 2010 and in 2018²⁴ and one could argue that this violates Arend Lijphart's (1996) principle of proportional representation as the third characteristic of consociationalism. The tripartite representation was introduced by the Dayton Agreement (1995) which replaced the previous seven member presidency in the Federal state of Bosnia and Herzegovina (as part of the former Yugoslavia) to a tripartite one, as Dayton asserted:

“The Presidency of Bosnia and Herzegovina shall consist of three Members: one Bosniac and one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republika Srpska” (Annex IV, Article 5).

At the first glance, it may seem that Lijphart's principle of proportional representation was honored, however the reality on the ground beg to differ. Furthermore the logic of the Annex IV, Article 5 of Dayton should have been that most (if not all) Bosniaks will vote for a Bosniak member of the State Presidency, Serbs for a Serb member and Croats for a Croat member. In other words, a Bosniak will represent Bosniaks, a Serb will represent Serbs etc. All of this changed following the new election law in Bosnia adopted in 2001 which stated in Chapter 8, Article 8.1 for the State Presidency elections in the Federation the following:

“A voter registered to vote in the Federation may vote for either the Bosniac or Croat member for the Presidency, but not for both. The Bosniac and Croat member that gets the highest number of votes among candidates from the same constituent people shall be elected” (OHR Election Law, 2001, p. 35).

Important to note, the Republika Srpska entity was crafted in the same manner as the Federation as one electoral unit regarding elections for the State Presidency elections, as the law stated:

“The member of the Presidency of Bosnia and Herzegovina that shall be directly elected from the territory of RS – one Serb shall be elected by voters registered to vote in the Republika Srpska. Candidate who gets the highest number of votes shall be elected” (ibid., p. 35).

The election law enables all peoples regardless of their ethnicity to vote for a Bosniak or a Croat in the Federation and for a Serb in the Republika Srpska as the member of the State Presidency.

²⁴ As mentioned, Komšić could not have run for the State Presidency in 2014 since it would have violated the Article V, Paragraph 6 (b) of the Dayton constitution of exceeding two consecutive terms in office.

However this does not disturb nor jeopardize the Serb political elite since Serbs compose 81,5% of the Republika Srpska's entire population and the danger of their marginalization from other ethnicities is practically non-existing (Statistika, 2013). On the other hand during elections for the State Presidency the Article 8.1 of the election law provides a possibility for Bosniaks, who comprise 70,4% of the population in the Federation, to 'legally' marginalize or 'outvote' Croats (who comprise only 22,4%²⁵ of the Federation's population (ibid.), by electing or at least to a great extent influencing the election outcome of a Croat candidate for the State Presidency elections.

One could argue that there are at least two ways of interpreting electoral win of Željko Komšić as a Croat member to the State Presidency, elected predominantly from Bosniak votes. First one would be that his success represents a positive example that other ethnicities can have more favorable opinion of a candidate that does not originate from their ethnic unit. The second way of interpreting Komšić's success is that he is an example of Croat marginalization in the Federation and threatens to extinguish the ethnic power-sharing which essentially ended the previous civil war. Although the first way of thinking might seem reasonable and favorable to a liberal thinking, it is precisely the danger of what Horowitz (2014) elaborated as the *Adoption* problem of consociational democracy. In other words, it is an attempt of formerly weak majorities to overthrow consociational arrangements that they have previously agreed upon. As a consequence, the Croat political elite are hampering functioning of the Federation entity, thus contributing to a great extent for Bosnia's dysfunctional nature. Following the successful election of Željko Komšić for the State Presidency in 2018, a series of protests occurred among Croats accusing Komšić of not being the legitimate Croat representative (Balkan Insight, 2018). The leader of the HDZ party Dragan Čović even stated that the 'Komšić project' was drafted in mosques and financed by the Bosniak SDA party and its elite in order to marginalize Croats in Bosnia with a clear aim to construct a unitary Bosnia for their own benefit (Dnevni Avaz, 2018). Shortly after the 2018 elections the important declaration was adopted by the Croatian National Assembly (HNS), a leading political organization gathering most of the relevant Croat political parties and associations in Bosnia, which urged for *inter alia* legitimate political representation and the need for amending the election law which is a necessary prerequisite for formation of

²⁵ Ibid.

governments in the country (HNS Declaration, 2019). If Komšić were to officially announce his candidacy for the State Presidency for the fourth time which would deliver a high chance of winning another term in office, this action alone might push Croats to boycott the 2022 general elections if the election law (in force since 2001, as mentioned) is not amended in accordance with the 2016 Bosnia's Constitutional Court ruling. The consequence of the potential boycott of the next general elections by Croats and (possibly) Serbs would be a *de facto* end of Bosnia, as the former High Representative in Bosnia Wolfgang Petritsch reiterated in his recent interview concerning Bosnia's on-going political turmoil (N1 Info, 2021a).

One can argue that “vote-pooling” of Komšić's SDP party across ethnic lines may lead to the election of a moderate candidate on ethnic issues, however his election outcome raised fears among Serbs and Croats that their ethnic interests are being marginalized by this legal political process. In other words, the fear is based on the assumption that the majority (i.e. Bosniaks) will try to deprive minorities (i.e. Serbs and Croats) of their political rights and protection (Bochsler & Schläpfer, 2016). Since the SDP party is predominantly a Bosniak political party enjoying a Bosniak support, one could connect the understanding of fear among Croats and Serbs with the Degradation Problem introduced by Horowitz (2014) in his criticism of consociational democracy arguing that majorities are not keen to ethnic limits which are present in order to protect minorities. In addition, while being officially defined as the ‘leftist’ party, Pepić & Kasapović (2019) argued that the SDP is a “leading multi-ethnic party, but notably a Bosniak party according to its programme, membership and voters” (p. 564). Furthermore even if the electoral strategy of the SDP by putting forward a Croat candidate for the State Presidency elections was intended to “subvert the principle of ethno-national representation” (Murtagh, 2020, p. 80) it did the exact opposite: it fueled ethno-nationalism in Bosnia and “pushed” ethnic Croat parties in pursuing a solution similar to the creation of their ‘third entity’ (ibid.) which some could relate to the return of the wartime project of the Herzeg-Bosnia²⁶. Although admitting that Komšić's election was legal and legitimate under the acting electoral law, Pehar (2019) argued that his election is unconstitutional since it violates the Article V of the Dayton constitution stating that the State Presidency is a representation of three constituent peoples. In this regard, since Komšić was elected mostly from Bosniak votes, it implies that the State

²⁶ Herzeg-Bosnia or the Croatian Republic of Herzeg-Bosnia existed as a para-state during the Bosnian war until the Washington Agreement was signed in 1994.

Presidency is illegitimate. Furthermore there are strong arguments supporting the fact that the ‘Croat majorization’ in the Federation by Bosniaks is present on the ground in the sense of ‘outvoting’ ethnic Croats due to their numerical size. Naturally, it is something that the constitution was supposed to protect Croats from (International Crisis Group, 2012).

The “Ljubić Case“

The so-called “Ljubić-case” represent a second part of the ‘Croat Question’ related to the second RQ of this master thesis. It demonstrates an important aspect next to the “Komšić case” in contributing to the general assessment of Bosnia’s dysfunctionality which is international community’s imposed changes of electoral rules for the House of People of the Federation in 2000 and later again in 2002. As mentioned, the consociational order of the Federation comprises from:

“(a) cantons as federal units; (b) proportional and parity representation of the two ethnic segments in the legislative and the executive branches of government; (c) the power of veto which entitles the Bosniak and the Croat parliamentary groups to protect vital national interests in the House of Peoples of the federal parliament” (Kasapović, 2016, p. 177).

The election rules for the House of Peoples of the Federation were changed in 2000 by the Ambassador Robert Barry in front of the Organization for Security and Co-operation in Europe (OSCE) which represented the body of Bosnia’s Electoral Commission at the time. New rules implied that “the national delegates in the House of Peoples are elected by cantonal legislative representatives of any people, regardless of which ethnic group they belong to” (Pepić & Kasapović, 2019, p. 566). In other words, it changed the voting type from *intra-ethnic* to *inter-ethnic* which meant that everybody in the Federation could vote for everybody regardless of their ethnicity (ibid.). The sudden change of election law managed to rebalance the very composition of the House of Peoples of the Federation, as Bieber (2006, p. 69) illustrated in the Table 1 below:

Table 1: The Composition²⁷ of the House of Peoples of the Federation²⁸

Canton	1996				2000				2002				
	B	C	O	Total	B	C	O	Total	B	C	S	O	Total
1	3	1	1	5	4	3	2	9	2	1	2	0	5
2	1	3	1	5	0	2	1	3	1	1	1	0	3
3	5	2	3	10	7	4	3	14	3	1	2	2	8
4	4	4	1	9	5	5	3	13	3	2	2	1	8
5	1	0	1	2	1	1	1	3	1	1	1	0	3
6	5	5	1	11	4	4	2	10	1	3	1	1	6
7	5	5	1	11	4	4	1	9	1	3	1	1	6
8	0	4	0	4	0	3	0	3	1	2	1	0	4
9	5	2	3	10	5	2	6	13	3	1	5	2	11
10	1	4	2	7	0	2	1	3	1	2	1	0	4
Total	30	30	14	74	30	30	20	80	17	17	17	7	58

In other words, the amended election law in 2000 enabled all cantonal assembly members to elect the delegates to the House of Peoples of the Federation (Federation’s House henceforth) which is the upper house of the Federation’s Parliament, thus legally allowing Bosniak deputies to determine the selection outcome for Croat delegates. Truth to be told, the vice-versa process may occur within Croat-dominated cantons, however their influence is minor due to numerical dominance of Bosniaks in the Federation. The Serb delegates were added later within the constitutional amendment imposed by the High Representative Wolfgang Petritsch in 2002 which provided the equal number of seats within the Federation’s House which comprised from 58 seats reserved for three constituent peoples (Bosniaks, Serbs and Croats) with 17 seats each and 7 seats reserved for ‘Others’ (Bieber, 2006). The Croat political elite dominated by the HDZ party, fears the majorization aspect in this sense because of the “everybody votes for everybody” principle. In other words, it means that Bosniaks being a strong majority in almost all cantonal assemblies of the Federation are able to greatly influence the election outcome of Croat delegates for their reserved 17 seats in the Federation’s House, which is a body crucial in forming the Federation’s government and the state level House of Peoples (Pepić & Kasapović, 2019). Bearing in mind that the Federation’s House and the state level House of Peoples carry the important veto rights for each constituent peoples under the protection of ‘vital national interest’, the claims of the HDZ party that the Croat-majorization exists received a greater weight. Truth to

²⁷ The letters *B*, *C*, *S* and *O* in the Table 1 stand for Bosniaks, Croats, Serbs and Others respectively.

²⁸ Source: Bieber (2006, p. 69)

be told, the result of the 2018 elections for the Federation’s House demonstrated that the Croat HDZ party managed to secure 13 out of 17 seats reserved for Croat delegates (Federacija Parlament, 2018). However this was achieved to the detriment of political plurality of Croat parties in Bosnia amidst the present fear of majorization from Bosniaks, as one of the leaders of the Croat HNS Božo Ljubić stated in an interview²⁹ for the Sarajevo-based TV broadcaster Face TV. One could argue that in this instance, the fear of majorization was constructed by ethnic Croat parties in order to mobilize the Croat constituency and create a monopoly for one political party of ethnic Croats in Bosnia – the HDZ party. However it is evident that if Croats were to allow political plurality and division among themselves in order to compete in a democratic environment before the next elections for the Federation’s House scheduled for the year 2022, it is most likely that this action would be a “political suicide” since it would decrease the number of seats for ‘legitimate Croat representatives’ in Bosnia’s institutions. Ultimately, it is something that Croat political elite want to avoid by all means necessary.

Most importantly, ethnic Croat parties managed to receive a judicial justification for their protests and anger for the imposed election law with the so-called “Ljubić Case“ and the Bosnia’s court’s verdict. The name “Ljubić Case” derives from an appeal against the amended election law in 2000 which was submitted to the Constitutional Court of Bosnia (Court) by one of the Croat HNS leaders Božo Ljubić in 2016. In a nutshell, the Court partially granted Ljubić’s appeal in part concerning the electoral mechanism for the establishment of the Federation’s House. Furthermore, the Court found the election law to be unconstitutional, as it stated:

“It is established that the provision of Sub-chapter B, Article 10.12 (2), in the part stating that each of the constituent peoples shall be allocated one seat in every canton and the provisions of Chapter 20 – Transitional and Final Provisions of Article 20.16A (2), items a-j of the Election Law of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina, 23/01, 7/02, 9/02, 20/02, 25/02, 4/04, 20/04, 25/05, 52/05, 65/05, 77/05, 11/06, 24/06, 32/07, 33/08, 37/08, 32/10, 18/13, 7/14 and 31/16) are not in conformity with Article I(2) of the Constitution of Bosnia and Herzegovina” (Constitutional Court Decision, 2016, p. 2)

In other words, all elections that occur in the Federation’s House following the Court’s decision in 2016 are deemed to be illegal as the 2018 elections have shown. Additionally, one could argue

²⁹ Božo Ljubić argued that at least 35 (out of 58) delegates are elected from Bosniak-dominated cantons. These include 17 Bosniaks, 2/3 of Serb delegates, 3/4 of ‘Others’ delegates and 6 Croat delegates. See min. 38:00 <https://www.youtube.com/watch?v=IJdu4mmgVVw>

that this issue creates the 'Pandora's Box' since without the formation of the Federation's House there cannot be the constitution of the House of Peoples at the state level. Furthermore, without the Federation's House, the State Presidency and the Council of Ministers would become more dysfunctional because of the 'symmetric bicameralism' at the Federation entity and the Bosnia's state level (Pepić & Kasapović, 2019). As a consequence of not changing the previously amended election law in line with the Court's decision, the spoiler's act concerning Bosnia's dysfunctionality is in this sense the Croat HDZ political party for blocking the formation of the Federation's government until the election law is appropriately amended. As previously mentioned, the Federation's government is functioning in a technical mandate since the October 2018 elections which consequently hinders the usage of government's full capacity.

Lastly, Kasapović (2016) argued that the introduction of the election law in Bosnia was the consequence of the adoption of Donald L. Horowitz's "centripetal approach" or "integrative majoritarianism". The adoption of Horowitz's theory and gradual distancing from Lijphart's consociational approach meant that the Dayton Agreement was coined as the "transformative conflict settlement" (ibid.). In other words, it meant that Dayton was only a temporary post-war solution and has had a "hidden" goal of slowly evolving over time in favor of the centripetal school of thought. In light of this argument Weller & Wolff (2006) argued that the original aim of Dayton was the "gradual evolution of the institutional system, rather than large-scale changes, emphasises the transformative effects of the institutional arrangements agreed at Dayton" (as cited in Kasapović, 2016, p. 177). The previously mentioned example of the OSCE's imposition in the form of the new electoral system in 2000 represents a classic example of implementing Horowitz's theoretical approach (ibid.). Interestingly, Kasapović & Pepić (2019) warned the gradual suspension of consociational elements in the Federation will ultimately lead to the "Cyprusization of the Federation which increases political tensions and divisions between the two communities" (p. 553). The argument relates to the Republic of Cyprus which was established in 1960 following the Zurich–London Agreement between the United Kingdom, Greece and Turkey on the consociational basis. Furthermore, the term "Cyprusization"³⁰ refers to the political situation in Cyprus following the abolition of consociational arrangements after the Greek Cypriot leader Makarios abolished the Thirteen Amendments related to the veto rights of

³⁰ For a detailed analysis of the Bosnia-Cyprus comparison, see Kasapović & Pepić (2019).

ethnic groups in 1963 which triggered an escalation of events that resulted into a (civil) war that ultimately left the island politically, physically and ethically divided (ibid.).

To summarize: how did the ‘Croat question’, in the form of Komšić’s repeated election as a Croat member to the State Presidency and Ljubić’s appeal against the election law concerning the Federation’s House, contribute towards dysfunctional nature of Bosnia? The answer is simple. The consequences of the ‘Croat Question’ generated and exacerbated the ‘fear of majorization’ among ethnic Croats (and to some extent Serbs) in Bosnia. It is in particular manifested in their respective political elites which managed to use this political situation to their advantage by mobilizing their ethnic constituency and gaining support for constant blockade of the state on various levels. The example of the Croat majorization in the Federation shows Serbs in the Republika Srpska what would have happened if they were to delegate more competences from the entity to the state level, thus favoring the unitary state of Bosnia. In other words, the ‘fear of becoming a minority’ gained a greater leverage and has as a consequence led to a dysfunctionality of state institutions in order to halt or slow down the process of slowly abolishing consociational arrangements in Bosnia which ended the previous civil war. The already mentioned Declaration of the leading Bosniak SDA party regarding the abolition of entities naturally contributes to the awareness and instrumentalization of fear among Serbs and Croats since they do not comprise a majority in Bosnia. Ironically the former Bosniak member of the State Presidency and a man who is in favor for the solution of the unitary state of Bosnia, Haris Silajdžić argued with Željko Komšić in a TV debate during the 2006 general elections campaign that all political participants should comply with Bosnia’s ethnic power-sharing system as it is in force (Večernji list, 2018). In addition, Silajdžić criticized Komšić’s political actions (referring to his candidacy for the State Presidency) and stated that these actions will “make Croats disgust Bosnia as a state”³¹ (ibid.). One could argue that Silajdžić’s words acted as a prophecy for the present-day dysfunctional state of Bosnia in light of the ‘Croat Question’.

³¹ Personal translation.

Research Question III

In concluding part of this paper and bearing in mind the implemented research on explaining the dysfunctional nature of Bosnia, the following brief analysis will tackle the third and final RQ of the master thesis: What should be the appropriate and realistic political system in favor of more functional Bosnia? The hypothesis to the third RQ would be that by resolving the ‘Croat’ and ‘Serb Question’ respectively through the necessary adjustment measures, Bosnia will be more functional in the Federation (due to the Croat co-operation) and on the state level (due to the Serb co-operation). This type of RQ emerged from the constant need for the political system of Dayton-Bosnia to be amended with three political movements colliding on the issue. As mentioned throughout the master thesis, the first movement is deriving from the Bosniak political elite advocating for the unitary/majoritarian³² Bosnia (in line with the mentioned SDA’s Declaration) which is similar to the Greek Cypriots approach for Cyprus issue (Pepić & Kasapović, 2019). The second movement is deriving from the Serb political elite which advocate either the return to the ‘original Dayton’ from 1995 (i.e. the return of previously transferred competences from the entity to the state level) or a peaceful dissolution of Bosnia (Beta, 2021). Finally the third movement is represented by the Croat political elite which hold a position somewhat in the middle mostly advocating for a constitutional reform concerning the election law which would enable legitimate representation of Croats. Truth to be told, occasional attempts for the resurrection of the Herzeg-Bosnia project are coming from certain prominent Croat figures as a response mostly to the first movement. In essence, the *status quo* is that Bosnia remains a state of ‘Frozen Conflict’ as the former High Representative Valentin Inzko stated in his semi-annual report to the UN Security Council in May 2021 on the state of affairs in the country (UNSC Report, 2021).

After the Dayton Agreement was brokered, there were number of debates and scholarly writings that discussed political scenarios concerning Bosnia’s future bearing in mind its ‘new normal’ following the end of Yugoslav wars (Solioz, 2004; Woodward, 1998). Some scholars from the

³² See Allan (2017) who nicely summarized the working definition of the majoritarianism: “In its broadest sense, 'majoritarianism' can refer to any component of a constitutional system in which those with final decision-making power have an equal say or vote in resolving disputes. [...] the term describes not a substantive good but rather a type of procedure for making decisions - every person in some defined group counts the same and then to determine what to do or who wins or whom to elect or whether an amendment passes or fails you simply let the numbers count. More beats fewer” (Allan, 2017, p. 188).

realist school of thought (e.g. John Mearsheimer) have even advocated that a legal partition of Bosnian state would have been the ‘simplest solution’ since Dayton *de facto* partitioned Bosnia (David, 2001). On the other hand, some scholars argued that a balance between international community’s engagement and indigenous self-dependence was needed for Bosnia’s stability. For instance, it is similar to what Bugajski (2000) stated: “As international dependency relationships develop, the incentive for disengagement invariably diminishes” (p. 190). Finally, Jović (2003) questioned whether it would be possible to stabilize Bosnia without the formation of the *Bosnian citizenship* or, to be in line with liberal-democratic sense, the *Bosnian political peoples*. Needless to say, the 2013 national census campaign demonstrated that the *ethnic* aspect of a society in Bosnia has kept greater leverage in comparison to the *civic* one and showed various difficulties that civic campaign had to face in an ethnically divided country (Cooley, 2019).

In a nutshell, more than 25 years after the Dayton Agreement with a clear absence of the creation of Alexander Wendt’s Kantian political culture and the collective identity formation in Bosnia, the short general and realistic hypothesis to the third RQ of this master thesis would be: in order to make Bosnia more functional, more constitutional adjustments are required, however the ethnic power-sharing of Arendt Lijphart, which essentially ended the civil war, should remain intact. Truth to be told, it is however worth to mention Stojanovic’s (2020) criticism of the consociational model because of its tendency to collapse into either an ‘ethnocracy’ (i.e. where citizens are marginalized because the power is shared only among the main ethnic groups) or to become a non-consociational liberal democracy. However since the consociational model in Europe has proven to work in countries such as Belgium and Switzerland, a future of Bosnia similar to these political systems is a realistic option which has the greatest chance of reaching an intra-ethnic consensus. Lastly, the inspiration for exploring this particular topic came from the report of the International Crisis Group (2014) and the Friedrich Ebert Stiftung’s publication (Pasch, 2012), both of which tackled several political scenarios concerning Bosnia’s future. Before more deeply elaborating the hypothesis for the third RQ, it is necessary to mention previous attempts from the international community to amend Bosnia’s constitution on several occasions which would have greatly contributed towards Bosnia’s functionality as a state.

Previous attempts to resolve the “Bosnian Knot”

Since Dayton in 1995 there were several attempts from the international community to resolve the issue of Bosnia’s dysfunctional nature. As already elaborated in the first and second RQ of this mater thesis, the “original” Dayton itself is not solely to blame for country’s dysfunctionality but also the role of political elites (in form of spoilers) and the subsequent amendments imposed by the High Representative relating to the ‘Croat Question’. Let us briefly review the notable three attempts in amending Bosnia’s Dayton constitution, namely the April Package of Measures in 2006, the Prud Agreement in 2008 and the Butmir Process in 2009, all of which have failed to be adopted in the end.

The April Package of Measures (April Package henceforth) was a first serious attempt led by the United States and based on the Council of Europe’s Venice Commission opinion to amend Bosnia’s constitution eleven years after Dayton was brokered (Venice Commission opinion, 2005). It managed to gather a wider ethnic consensus among political elites however it failed to reach the necessary two-thirds majority in the House of Representatives of the state Parliamentary Assembly by falling short of two votes (in total 26 out of 42 representatives voted in favor). In this regard, the spoiler was the Bosniak SBiH party and its president Haris Silajdžić and those who can be considered as modern spoilers were in favor of constitutional amendments in 2006. To summarize, the April Package (2006) had intended to tackle the general division of power and the organization of the state level institutions i.e. the State Presidency, the Parliamentary Assembly and Council of Ministers to some extent. The goal was to strengthen the state level by creating the new Defense Ministry, the highest court and the prosecutor’s office while at the same time sharing competences with respective entities in fields of “taxation, electoral processes, judiciary, agriculture, science and technology, environment and local self-government” (Džihic & Wieser, 2011, p. 1815). The April Package would have created one president of Bosnia with two vice-presidents, reformed Parliamentary Assembly with increase of members from 42 to 87 for the House of Representative and from 15 to 21 delegates for the House of Peoples. The Council of Ministers would have had a *prime-minister* instead of a *chairman* with increased number of state competences delegated from two entities. Most importantly, the protection of the vital national interest had remained as a key tool in the House of Peoples which was reserved for 7 Bosniak, Serb and Croat delegates each (April Package,

2006). Truth to be told, even the “reformed” House of Peoples would have discriminated non-constituent peoples i.e. the “Others” in line with the ECHR Sejdic-Finci judgment in 2009 which would have paved the way for renewed reform talks. Overall, one could argue that the April Package would have led to a more functional state of Bosnia than it is today due to the large number of delegated competences from respective entities to the state level, thus strengthening the central government.

Following the failed attempt to adopt the April Package, the international community tried again with reform talks under the so-called Prud Agreement which started in November 2008 among three strongest ethnic parties, the Bosniak SDA, the Serb SNSD and the Croat HDZ. The goal was to show that Bosnia’s politicians are able to implement domestic reforms with the “lack of intra-ethnic competition which allowed to constrain the influence of the electoral arena on the process” (Zdeb, 2017, p. 375). To summarize, the Prud Agreement intended to regulate the issue of the state property, set the date for the national census scheduled in 2011, resolve the legal status of the Brčko District and reconstruct the Council of Ministers. However the negotiations ended in February 2009 after Dodik’s ultimatum requesting that the status of the Republika Srpska must be guaranteed, that the ethnic voting must remain and that entities should receive the right to secede (Zdeb, 2017). The Prud Agreement example demonstrates how the political actors which played the role as cooperators at one point of time could become spoilers in negotiations by constructing the narrative of fear for the Republika Srpska in this case, and in the case of the April Package the fear for the whole Bosnia. Finally, the Butmir Process in 2009 represents the last serious attempt by the international community to reform Bosnia’s constitution. The Butmir Process was essentially a revised April Package which included the change in which members of the House of Representatives were supposed to be elected (e.g. shift from directly elected representatives from an entity to a state level election) and diminishing the powers of the House of Peoples concerning the veto procedure. However, this agreement ultimately failed as well which some could have easily predicted bearing in mind the proximity of the planned general elections for October 2010, the crisis in the city of Mostar and tensions between the Republika Srpska and the OHR (Zdeb, 2017).

The realistic solution for Bosnia and Herzegovina

Answering the third RQ of the master thesis regarding what the appropriate political system of Bosnia should be, poses a difficult task when bearing in mind conflicting schools of thought represented by Lijphart and Horowitz. However, one could argue that the realistic solution with the highest chance of reaching the *intra-elite cooperation* among dominant ethnic groups and thus positively contributing towards Bosnia's functionality would be a scenario between the "Dayton Mail – Status quo" and "Trans BiH Arrow – Functional decentralised state" as outlined in the Friedrich Ebert Stiftung's publication (Pasch, 2012, p. 19-20) or a combination of the "Muddling Through" and "A Three-Entity Bosnia" scenarios proposed by the International Crisis Group (2014, p. 36-37). The answering of the third RQ will try to challenge the on-going instances such as the 'Croat' and 'Serb Questions' respectively, the issue of "Others", the existence of the OHR and the problematic of the Constitutional Court of Bosnia in order to prove that by resolving this issues, Bosnia would become more functional as a state.

The 'Croat Question'

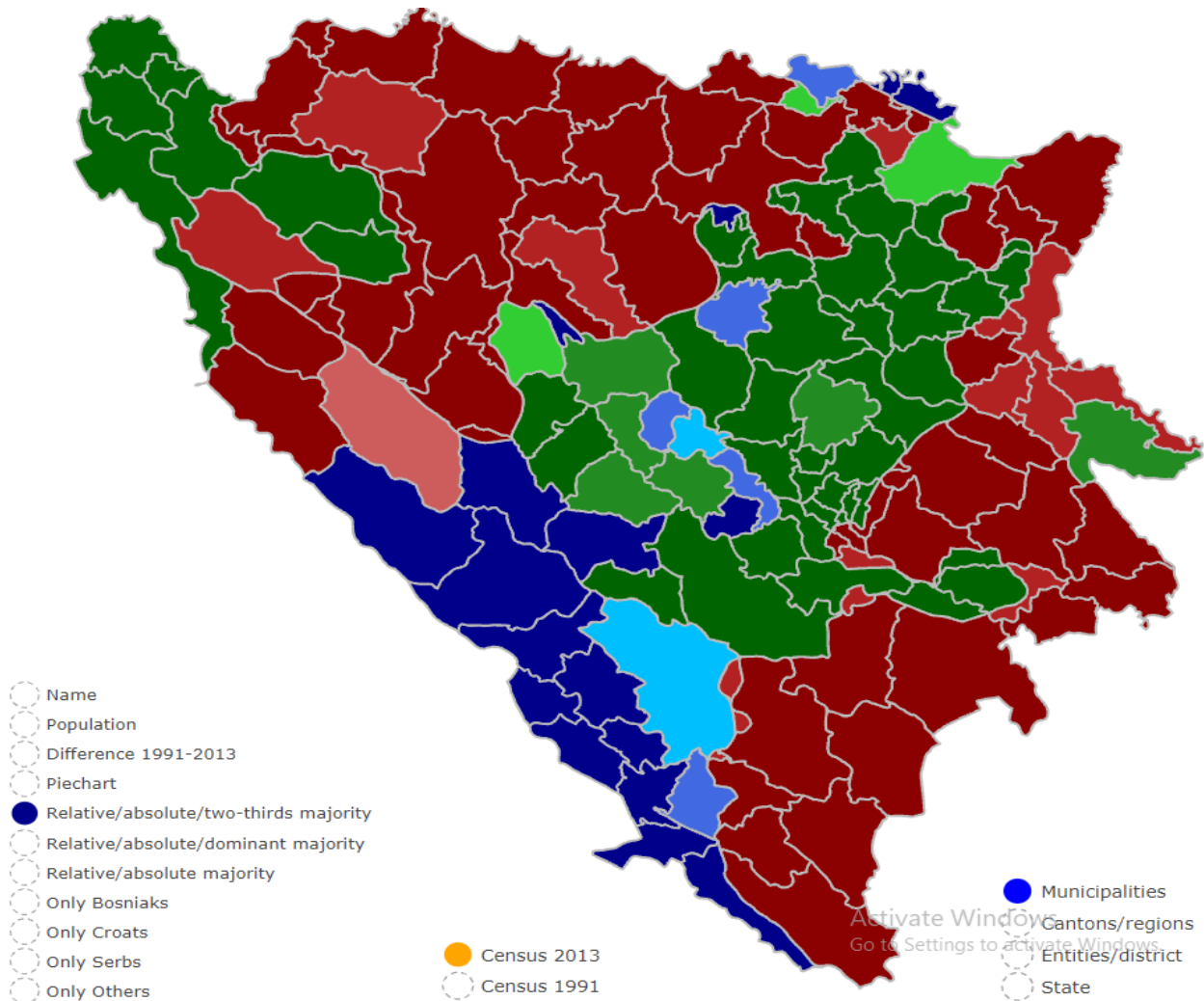
As previously elaborated, the complexity of the Federation lies in its division on the entity and cantonal levels as well as ethnic mixture of Bosniaks and Croats. The application of Horowitz's model of the 'integrative power-sharing' should have encouraged the necessary cooperation among different ethnic groups through the alternative voting system. However this particular voting system failed to provide the election of moderate candidates as the elections for the Bosnian presidency in 1990 and in the Republika Srpska in 2000 clearly demonstrated. One could argue that the civil war left everlasting consequences on Bosnia's ethnic groups in terms of fear awareness and trust issues, as Bieber (2006) noted: "It has become nearly unimaginable in the postwar period that Bosniaks, for example, would vote for the SDS or even a more moderate Serb party" (p. 148). Ultimately, the application of Horowitz's model has led to the so-called "Cyprusization" of the Federation as Pepić & Kasapović (2019) demonstrated in their research which poses an issue already elaborated in the second RQ. Returning to the third RQ, if Bosniaks and Croats would be willing to resolve the 'Croat Question' in the Federation entity, it would greatly contribute towards a more functional and stable Bosnia. Meaning, the political elites should reach a compromise in terms of amending the election law in force which would secure

the legitimate representation of Croats in the State Presidency and the Federation's House. In other words, the vast majority of Croats in Bosnia must be in a position to elect their legitimate representative according to the Dayton constitution. One could argue that ethnic Croats in Bosnia perceive the election of Željko Komšić as a Croat member to the State Presidency as the "Trojan Horse" whose only alternative is to play the Bosniak card, thus favoring the unitary solution for Bosnia's deadlock. Naturally this is something that minorities want to avoid since the ethnic power-sharing is the only reliable tool in protecting them from marginalization.

Concerning the "Ljubić Case" issue, a solution would be to abide with the decision of the Bosnia's Court thus allowing the selection of legitimate Croat delegates in the Federation's House from Croat representatives in respective cantonal assemblies. Regarding the "Komšić Case" thus resolving the issue for the election to the State Presidency, the Croat HDZ party proposed a solution in dividing the Federation into three electoral units based on the 2013 national census in Bosnia. The first electoral unit or area "A" would comprise from municipalities where two-thirds of Bosniaks live, the second electoral unit or area "B" from municipalities where two-third of Croats live and finally the "C" would comprise from the remaining municipalities³³ (Radio Slobodna Evropa, 2021b). According to the HDZ's proposal concerning the Federation entity, the member of the State Presidency (probably a Bosniak) would be a person that won more votes in areas "A" and "C" than in "B" and "C" whereas the second member of the State Presidency (probably a Croat) would be elected by winning in areas "B" and "C" in comparison to areas "A" and "C" (see Figure 5 below).

³³ In this sense, the area "A" represents dark green color on the Figure 5, the area "B" represents dark blue whereas the area "C" includes dark red, light red, light green and light blue colors in the Federation entity of Bosnia).

Figure 5: Ethnic composition of municipalities in Bosnia based on the two-thirds majority³⁴



The HDZ model of election law demonstrates that two members of the State Presidency (from the Federation) would be those candidates that have won either solely the dark blue and light blue areas or dark green and light green areas respectively. Meaning that one member of the State Presidency would enjoy electoral support from “A” and “C” areas whereas the other would be from “B” and “C” areas. Important to note here is that the potential adoption of the HDZ proposal would jeopardize the relationship between the SDA’s leader Bakir Izetbegović and his coalition partner Željko Komšić from the DF party because the new electoral model would

³⁴ Source: <http://www.statistika.ba/?lang=en> (the dark blue color represents municipalities with two-thirds Croat majority, dark green with two-thirds Bosniak majority, whereas dark red with two-thirds Serb majority).

severely diminish Komšić's chances of electoral victory by not receiving a majority of votes in "Croat areas" i.e. areas "B" and "C". Additionally, if Bosnia were to join the European Union at some point, it would need to abide with the mentioned 2009 Sejdic-Finci verdict from the ECHR by allowing "Others" i.e. those who do not wish to declare themselves as neither Bosniaks nor Serbs nor Croats, to have the right to be elected in the ethnically reserved institutions³⁵. In this sense, the HDZ's proposal did not enforce the ethnic prefix for the member of the State Presidency, thus allowing "Others" to be elected if for instance the most of the Croat population so desires. Paradoxically, if the SDA party leader Bakir Izetbegović were to agree to the HDZ's proposal for election reform, it would place him against his coalition partner Željko Komšić for the State Presidency elections since both Izetbegović and Komšić receive predominant electoral support from voters who are predominantly Bosniaks, favoring a 'citizen' democracy option.

Another solution for the 'Croat Question' would be to create a third federal district which would comprise most of the Croat population in the Federation as one electoral unit which would elect the representative of the that federal district and not the Croat peoples *per se*. Meaning that in theory the new Croat-dominated federal district could elect a member of the State Presidency that is not necessarily a Croat. Naturally, this potential electoral reform would also apply in the Republika Srpska entity and the newly-formed Bosniak electoral unit within the Federation. In other words, the second alternative in the Federation would be to combine cantons with predominant Bosniak majority on the one hand and with predominant Croat majority on the other in order to form two distinct federal districts. The problem, however, lies in ethnically mixed cantons where neither ethnic group holds a two-thirds majority which makes this solution less realistic. Lastly, this particular solution is very similar to the argumentation of "A Three-Entity Bosnia" solution proposed by the International Crisis Group (2014) which would erase the need for ten cantons in the Federation and make the relation between the state and entity consistent throughout Bosnia. In this sense, both the "Komšić Case" and "Ljubić Case" which comprise the so-called 'Croat Question' would have been resolved and there would be no need for purposeful obstruction of Bosnia by the Croat political elite, especially in the Federation. Finally, by resolving the ethnic representation in Bosnia's institutions, the issue of "Others" would have

³⁵ As mentioned these institutions are the State Presidency and the House of Peoples on both the entity and state level.

been resolved as well which would lift the mark of Bosnia as a ‘case study’ for depriving minorities of passive election rights.

The ‘Serb Question’

Turning towards the next issue contributing to the on-going Bosnia’s dysfunctionality is the instance of the OHR and the blockade from Serb political elite of state institutions due to the recent imposed decision by the former High Representative Valentin Inzko, thus enacting the law on amendment to the criminal code of Bosnia concerning *inter alia* genocide-denial (OHR Decision, 2021). The aim of this paragraph is not to enter a debate whether or not the Srebrenica massacre was a genocide or not, but to show that a more consensus-based approach by the High Representative and not a direct imposition would lead to higher co-operation among ethnic political elites and not to a deadlock in domestic politics as *status quo* demonstrates. Instead of following the classic model of peace-building by imposing decisions and legislation in the country from a foreign actor, the argumentation of this master thesis follows the empirical research study of Bochsler et al. (2020) which analyzed more than 2700 press releases related to the imposed decisions by the OHR. The authors proposed the “Arbiter model” as the most appropriate way of reaching compromise solutions and raising the degree of co-operation between ethnic political elites. In other words, their research demonstrated that the “international intervention can act as an arbiter between domestic elites, and prioritize decision-making within the democratic institutions” (ibid., p. 125). In other words, Bosnia’s politicians should always strive in reaching a decision solely within democratic institutions. Otherwise, the role of these institutions is meaningless if the High Representative would “do the job of politicians”. As Bosnia is still awaiting its “Candidate status” for the EU membership, the European Commission (Commission henceforth) issued the Opinion concerning Bosnia’s application for the EU membership status. The Commission criticized the usage of “Bonn powers” granted to the HR since it is “in principle incompatible with the sovereignty of Bosnia and Herzegovina and therefore with EU membership” (European Commission Opinion, 2019, p. 7). In this sense, the OHR is scheduled to dissolve as soon as the objectives of the “Agenda 5+2”³⁶ are fulfilled. The

³⁶ The objectives included: “Acceptable and Sustainable Resolution of the Issue of Apportionment of Property between State and other levels of government; Acceptable and Sustainable Resolution of Defence Property; Completion of the Brcko Final Award; Fiscal Sustainability (promoted through an Agreement on a Permanent ITA Co-efficient methodology and establishment of a National Fiscal Council); and Entrenchment of the Rule of Law

dissolution of the OHR institution in Bosnia would comfort the Serb political elite and it would as a consequence contribute to overcoming the constructed fear that the international community is in essence biased. In other words, two possibilities for the OHR lie at hand. Either the OHR should always pursue the “Arbiter model” in resolving Bosnia’s internal issues or the OHR should be completely dissolved thus removing the stigma placed upon Bosnia of being a ‘protectorate’ in the 21st century and more than 25 years after the end of the civil war. In any case, both options for the OHR would contribute to a more functional Bosnia from the Serb political elite point of view.

In addition, the issue of Bosnia’s Court needs to be resolved as well. The Serb political elite perceives it as an institution undermining mostly the interests of Serbs in Bosnia, as one Serb official argued that the Court “continuously makes harmful decisions for the Republika Srpska that go beyond the framework and jurisdiction of this court”³⁷ (N1 Info, 2021b). The enforcement of the Court’s decision is always under question due to the constant opposition from ethnic political elites. According to the Dayton Agreement (1995), the Court consists from nine members³⁸, as stated:

“Four members shall be selected by the House of Representatives of the Federation, and two members by the Assembly of the Republika Srpska. The remaining three members shall be selected by the President of the European Court of Human Rights after consultation with the Presidency” (Article VI, paragraph 1a).

The role that constitutional courts have in divided societies is greatly connected to the ethno-national affiliation affecting judicial behavior. The explanation for that behavior lies within the judges’ appointment process that is dominated by ethno-nationalist parties which can select “their” judges. In addition, the judicial behavior follows in-group favoritism, a psychological finding that people tend to favor members of their own group which ultimately leads to ethnic biases (Schwartz & Janelle Murchison, 2016). One could argue that because of this empirical finding (i.e. ethnic biases of judges) the Dayton constitution added three ‘international’ judges

(demonstrated through Adoption of National War Crimes Strategy, passage of Law on Aliens and Asylum, and adoption of National Justice Sector Reform Strategy) and Signing of the SAA; and a positive assessment of the situation in BiH by the PIC SB based on full compliance with the Dayton Peace Agreement” (OHR Agenda, 2008).

³⁷ Personal translation

³⁸ The unofficial practice is that two Bosniak, two Serb, two Croat and three ‘international’ judges compose the Constitutional Court. However there is not an ethnic precondition for ‘domestic’ judges belonging to either of three constituent people groups.

belonging to neither constituent people group in Bosnia. On numerous occasions it has happened that ‘international’ and Bosniak judges managed to ‘outvote’ either Serb or Croat judges or both together as the recent Court decision of annulling the Law on Forests of the Republika Srpska, stating that forests represent the state’s and not the entity’s property (Radio Slobodna Evropa, 2021a). Naturally, the Serb political elite objected this decision as they believe that it is an attack to the Republika Srpska’s sovereignty. Furthermore, one could perceive these rulings from Bosniak and international judges (which comprise the necessary majority of 5 votes out of 9 in the Court) as a marginalization which contributes to the perceived fear of legal marginalization of Serbs and, to some extent, Croats in Bosnia (Radio Slobodna Evropa, 2021c). In other words, more adjustments are needed in the Court that would allow its impartiality to the detriment of ethno-national affiliations of judges. As long as there is a presence of “foreign” judges in the Court, Bosnia cannot be considered as a sovereign state. In the mentioned Opinion published by the European Commission on Bosnia’s EU membership status, it is highlighted the need to reform the Court, “including addressing the issue of international judges, and ensure enforcement of its decisions” (European Commission Opinion, 2019, p. 15). In other words, by reforming the Court in terms of removing the ‘international’ judges, the political leaders of numerically smaller ethnic groups in Bosnia (i.e. Serbs) would not feel discriminated and marginalized. By diminishing the fear of majorization in accordance with the Court’s reform, the enforcement of Court’s decisions would be more effective and ensured.

The ‘Bosniak Question’

Lastly, in the view of the Bosniak political elite, the SDA party president Bakir Izetbegović announced at the beginning of 2021 that his party would be in favor of returning to either integral or amended April Package, as described in previous paragraphs, in order to resolve the political stagnation in Bosnia (Oslobođenje, 2021). However, the adoption of the April Package is not a realistic option since those who supported the idea back in 2006 (i.e. the Serb SNSD and SDS parties and the Croat HDZ party) are now acting as spoilers and are against that idea since the ‘fear construction’ was greatly exacerbated since over the period of fifteen years. In addition, another aspect needs to be addressed and that is case of the classification of a majority. The so-called “majority classification” was described by Sartori (1987, p. 221) as the following:

(a) qualified majorities (often a two-thirds majority); (b) simple or absolute majority (50.01 per cent); (c) relative majority, or plurality, that is, the major minority (a less than 50 percent majority)” (as cited in Lijphart, 1991, p. 484).

Following this classification, Bosniaks belong to a “simple or absolute majority” as the 2013 national census demonstrated which represents a shift from the previous national census in 1991 when Bosniaks were a “relative majority”. The need for a majoritarian democracy (in line with the mentioned SDA’s Declaration) increases opposition from smaller ethnic groups since they do not believe that democratic restraints imposed on the majority would protect ethnic minorities. This fear was in fact constructed over the period of time and has vastly contributed towards dysfunctional nature of Bosnia. In other words, the goals of the Bosniak political elite are undermined by the fact that the Dayton constitution itself did not envisage the possibility of all Bosnia’s citizens to identify themselves as “*Bosnians and Herzegovinians*” in the first place (Seizović & Šimić, 2016, p. 32).

One potential solution for Bosniaks in the future might be to combine Bosniak-dominated cantons of the Federation into one canton, thus reducing the bureaucracy apparatus and easing the relationship between institutions on different levels of government. Ironically, this solution would have been considered as a betrayal of Bosnia among Bosniaks since they tend to view Bosnia as an undivided country internally as it has been throughout history, although almost always as part of a larger state or empire. Truth to be told, reducing the number of cantons in the Federation from the existing 10 into 2 or 3 would benefit the functionality of the Federation itself since more cantons bring more bureaucratic burden on the state itself as common sense implies. Finally, one could argue that from the Bosniak political elite point of view, amending the political system in Bosnia is required since there is an overall problem of the consociational model for a state which is characterized with a divided society. In other words the problem of consociationalism is that it is static in terms of not reflecting the change of the numerical size of ethnic groups within a population over a period of time. In other words, when Dayton was brokered it considered the population size of ethnic groups based on the 1991 national census. Over time, the structure and size of ethnic groups has shifted in favor of Bosniaks as the last national census of population in 2013 demonstrated by proclaiming Bosniaks as a narrow majority in Bosnia. The calls for the creation of the unitary Bosnia, which would as a consequence mostly benefit the current majority in the country, are unfounded and unrealistic

without the support of parties and ethnic groups that established the power-sharing system in Dayton, thus ending the civil war. By advocating a majoritarian solution for Bosnia, Bosniak political elite could generate a zero-sum game with ‘winners’ and ‘losers’ faced solely with binary choice, as Mueller (2019) argued in his article concerning the majoritarianism in Spain and its impact on the autonomy of Catalonia.

To summarize, by resolving the issue of the ‘Croat Question’ (composed from the elaborated cases of “Komšić” and “Ljubić”) and the issue of the ‘Serb Question’ (relating to the existence of the OHR institution and the Court), Bosnia would stabilize its internal structure and generate more trust among ethnic political leaders over time. In other words, the Bosniak political elite should accept the fact that Dayton avoided on purpose the creation of “Bosnians and Herzegovinians” as an identity formation since it was the only logical solution to stop the civil war. The dream of the unitary or “*citizen*”³⁹ state may sound appealing to the liberal school of thought, however the case of Cyprus has shown where the consequences of abolishing veto rights would lead. As long as smaller constituent people groups feel marginalized on different levels due to their numerical size, Bosnia’s functionality as a state will always be placed in question and it will fail to present itself as a functional decentralized democracy. As long as there is the failure of generating the Kantian political culture in Bosnia and the constant shift from the Hobbesau to Lockeau political culture and *vice versa* in line with Wendt’s (1999) theoretical approach, Bosnia will remain dysfunctional with even stronger tendencies to protect ethnic power-sharing.

Conclusion

More than twenty five years after the civil war, Bosnia remains a deeply divided and polarized country. Although the international peace-building engagement was meant to be a temporary solution, the fact that it is to this day present in Bosnia, poses a serious concern for the country’s future. It seems that the international engagement in particular during the ‘Paddy Ashdown Era’ represented in the form of extensive usage of Bonn Powers by the High Representative did not contribute to a more functional state. In other words, Bosnia was truly

³⁹ It is essentially a democracy where every citizen enjoys equal political rights with one-man-one-vote system, absent from protections of the ethnic power-sharing.

“functional” as long as decisions and laws were imposed from the above which poses a serious detriment of democracy in the heart of Europe. Furthermore, Bosnia represents one of rare cases of the ‘imposed consociation’ as series of imposed amendments from various High Representatives have demonstrated. This master thesis tried to contribute and offer viable solutions that would favor Bosnia’s functionality as a state in international and domestic affairs.

The key findings in explaining the reasons for Bosnia’s dysfunctional nature lie not only in domestic political actors but also in ‘legal prerequisites’ that Dayton introduced along with viceroy powers granted to the High Representative in 1997. By constructing fear and mobilizing their ethnic constituency, ethnic political elites managed to secure their winning position following each general election as protectors of Bosniaks, Serbs or Croats. At the same time, citizens of Bosnia became alienated from the state institutions due to the ethno-nationalist rhetoric and wide range corruption that follows it. The way forward in this regard would be to reach an intra-ethnic compromise in order for political elites to gather along topics that unite rather than divide them. It is precisely the shift from the Hobbesian to the Lockean political culture of ‘enemy-rival’ without the leap towards the Kantian political culture of ‘friends’ that contributes towards dysfunctional nature of Bosnia. Another key finding of this master thesis is the significance of the ‘Croat Question’ which exacerbated the functionality of Bosnia’s institutions in particular in the Federation entity. The political situation started to deteriorate in 2000 following the reform of election rules for the Federation’s House and in 2006 with the election of Željko Komšić as the Croat representative to the State Presidency. These two instances greatly contributed to the ‘legal - legitimate representative debate’ which are typical for ethnically divided societies governed by Lijphart’s power-sharing system. Finally, the last finding of the master thesis relates to the realistic and appropriate solution in overcoming the on-going political crisis in Bosnia by offering viable solutions in resolving the well-based fears of Serbs and Croats as smaller constituent people groups. By appealing to demands of Serbs and Croats, thus removing the need for fear-construction through ethno-nationalism, Bosnia’s internal reform could greatly enhance its functionality and raise citizens’ trust in Bosnia’s institutions.

Naturally, the greatest responsibility lies in Bosnia’s largest ethnic group – Bosniaks, whose political elite still strongly relies on the warlord political party the SDA without a clear

alternative at hand. The alternative would not be a “civic” political party since it would be de fact a Bosniak party according to its policy programs, but an approach willing to make a compromise and not push for the abolishment of ethnic power-sharing which ended the civil war. As the EU is unwilling and unable to accept new members to its club, there is a fear in the international arena that other regional players such as Turkey could step up its influence in the region and use the dysfunctional state of Bosnia in order to appeal to the Bosniak-Muslim population, which would necessarily cause a back-lash from Serbs and Croats. Lastly, the paper tried to demonstrate that the notion of national identity plays a crucial role in political landscape which is closely related to the fear-instrumentalization of domestic threat in terms of majorization or an international threat in a form of the OHR.

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Abstract

This master thesis seeks to provide an explanation for the on-going dysfunctional nature of Bosnia and Herzegovina, twenty five years after the end of the civil war. The study focuses on the role of ethnic political leaders and on the Dayton constitution itself as the base for elaborating the reasons for Bosnia's dysfunctionality. In other words, the study examines the relationship between different actors in the form of 'spoilers' and the state's functionality as a consequence. It explores the ways in which ethnic political leaders use ethno-nationalism in order to mobilize their ethnic constituency to the detriment of a functional state through fear-construction and alienation of citizens overall from the central state. In particular it explores the political events which originated back in 2006 with the unofficial abolition of the extensive intervention from the international community in Bosnia's domestic affairs with occasional resurrection of the interference as the study will demonstrate. Furthermore, through the lenses of constructivism and consociationalism a deeper analysis is implemented in explaining in which ways the ethnic political elites contributed towards Bosnia's dysfunctional nature. Another type of the argumentation aimed at elaborating the dysfunctionality of Bosnia is focused on the 'legal prerequisites' argumentation, as outlined in the Dayton constitution or to be more precise, in series of constitutional amendments from the international community which seriously hampered the ethnic-power sharing model. The gradual shift from the consociational model towards a majoritarian one in particular in one ethnically mixed entity in Bosnia strengthens the 'legal prerequisite' argument. The final part of the study moves a step forward and tries to provide viable and realistic solutions that would empower Bosnia's state in terms of its functionality by addressing and appealing to the demands deriving from Serbs and Croats as smaller constituent people groups which face gradual challenges similar to those that ethnic minorities in unitary or majoritarian democracies have to face.

Zusammenfassung

In dieser Masterarbeit wird versucht, eine Erklärung für die anhaltende Dysfunktionalität von Bosnien und Herzegowina fünfundzwanzig Jahre nach dem Ende des Bürgerkriegs zu finden. Die Studie konzentriert sich auf die Rolle der ethnischen politischen Führer als 'Spoiler' und auf die Dayton-Verfassung selbst als Grundlage für die Erarbeitung der Gründe für die Dysfunktionalität Bosniens. Mit anderen Worten: Die Studie untersucht die Beziehungen zwischen den verschiedenen Akteuren und die daraus resultierende Funktionsfähigkeit des Staates. Sie untersucht die Art und Weise, in der ethnische politische Führer den Ethno-Nationalismus nutzen, um ihre ethnische Wählerschaft zu mobilisieren, und zwar zum Nachteil eines funktionierenden Staates durch die Konstruktion von Angst und die Entfremdung der Bürger vom Zentralstaat insgesamt. Insbesondere werden die politischen Ereignisse untersucht, die 2006 mit der inoffiziellen Abschaffung der umfassenden Einmischung der internationalen Gemeinschaft in die inneren Angelegenheiten Bosniens begannen, wobei diese Einmischung, wie die Studie zeigen wird, gelegentlich wieder auflebte. Darüber hinaus wird durch die Brille des Konstruktivismus und des Konsoziationsmodells eine tiefere Analyse durchgeführt, um zu erklären, auf welche Weise die ethnischen politischen Eliten zur Dysfunktionalität Bosniens beigetragen haben. Eine andere Art der Argumentation, die darauf abzielt, die Dysfunktionalität Bosniens herauszuarbeiten, konzentriert sich auf die Argumentation der "rechtlichen Voraussetzungen", wie sie in der Dayton-Verfassung oder, genauer gesagt, in einer Reihe von Verfassungsänderungen der internationalen Gemeinschaft dargelegt sind, die das Modell der ethnischen Machtteilung ernsthaft behinderten. Die allmähliche Abkehr vom Konsoziationsmodell hin zu einem Mehrheitsmodell, insbesondere in einer ethnisch gemischten Entität in Bosnien, stärkt das Argument der "rechtlichen Voraussetzungen". Der letzte Teil der Studie geht einen Schritt weiter und versucht, praktikable und realistische Lösungen anzubieten, die den bosnischen Staat in seiner Funktionsfähigkeit stärken würden, indem sie auf die Forderungen der Serben und Kroaten als kleinere konstituierende Volksgruppen eingehen, die allmählich mit ähnlichen Herausforderungen konfrontiert werden wie ethnische Minderheiten in unitarischen oder majoritären Demokratien.