

Ensuring political representation in a restructured Bosnia and Herzegovina

This policy brief highlights a largely overlooked problem in Bosnia and Herzegovina related to fictitious residence registration. In order to secure better social benefits or enable their children to receive an education in their mother tongue and instruction in the religion they practise, many citizens have opted to register themselves as residing in one entity while living in another. In so doing, they not only lose their eligibility to vote and to be represented politically where they live, but also limit their interaction with people of other ethnicities – and, accordingly, the possibility for reconciliation and genuine conflict resolution. This practice, encouraged by the lack of coordination between the entities, thus undermines the possibilities for democracy and sustainable peace in the country. How does the problem affect democracy and sustainable peace?

Key Questions

- What is the extent of the problem and which policy issues are affected?
- How does the problem affect democracy and sustainable peace?
- What can be done to improve the current dysfunctional system?

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Background

Under the General Framework Agreement for Peace in Bosnia and Herzegovina (hereafter, 'the Dayton Agreement'), the country was divided into two autonomous entities (the majority-Bosniac-Croat Federation of Bosnia and Herzegovina and the majority-Serb Republika Srpska), together with a third region, the Brčko District, which was initially internationally governed. The Federation was further divided into ten federal cantons. These arrangements established a complex political and administrative structure in the country, entailing numerous divisions of responsibility between the various governing bodies.

Under the arrangements, issue areas that were not regulated at the state level would be subject to legislation at either the entity or the canton level, which gave both the entities and the cantons considerable autonomy in numerous fields. As a result, several legal, social and educational systems now function in parallel in Bosnia and Herzegovina – often to the detriment of its citizens. This has been particularly problematic for returnees, internally displaced persons (IDPs) and those living along the Inter-Entity Boundary Line (IEBL) in prewar municipalities that were divided up under the Dayton Agreement.

Such individuals, for example, may find themselves in a situation where their current residence and their former place of employment are now in different entities, and they are consequently ineligible for certain benefits to which they would otherwise have been entitled. In response, many have chosen to register in the entity in which they are eligible for benefits, rather than in the entity in which they actually live. Such a flexible approach has been possible because it is only necessary to provide an address when registering, not to prove that one actually resides there.

Such practices, however, have a political downside, in that people are constrained to disenfranchise themselves in the process, giving up their political voice in the entity in which they live in order to access the social benefits they require or secure for their children an education in their mother tongue and religious instruction in accordance with their beliefs. Owing to the large number of Bosnian citizens that fall into the above categories, this is a significant problem – one that is under-

Ethnic composition before the war in BiH (1991)

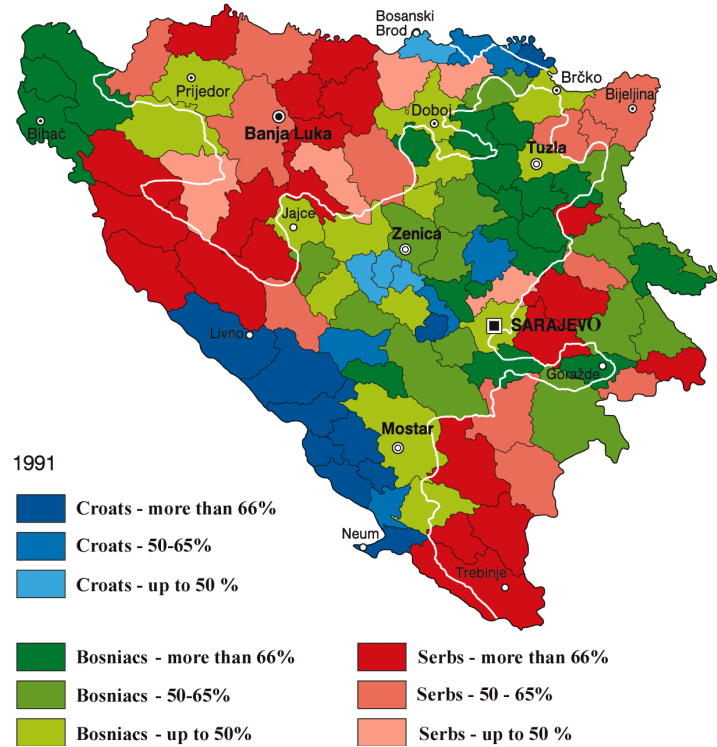


Figure 1. Ethnic composition in Bosnia-Herzegovina before the war. Source: Office of the High Representative (<http://www.ohr.int/>)

mining both democratic citizenship and the long-term sustainability of the peacebuilding process by bolstering ethnic division. This brief outlines the major issue areas that are of concern, the effects on the political system in the country, and some possible ways of addressing them.

Problematic issue areas

People opt to formally register themselves in areas where they do not actually reside for a number of key reasons. These include:

Pensions

In the postwar period, the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS) agreed that each entity would be responsible for the pensions of retired people living within their jurisdiction after the war, regardless of where individuals may have worked before the war. This agreement was reached at a time when the numbers of people

returning to their prewar homes remained minimal. Following a legal action by Republika Srpska, which required for the Federation to pay the pensions of those who retired on its territory before April 1992, the FBiH Law on Pension and Disability Insurance was amended in June 2012. According to the latest amendments, the Federation will cover the pensioners who retired there prior to April 1992 and have returned to live in the Federation.¹ Those who live in Republika Srpska, however, remain unaffected by these changes. As a result of the legal complications created by this situation, many people living along the IEBL and in nearby municipalities choose to formally register in a municipality of the entity from which they receive their pension or, if possible, where they are eligible for a higher pension.

Health insurance/healthcare

In many instances, decisions on where to

Ethnic composition in 1998

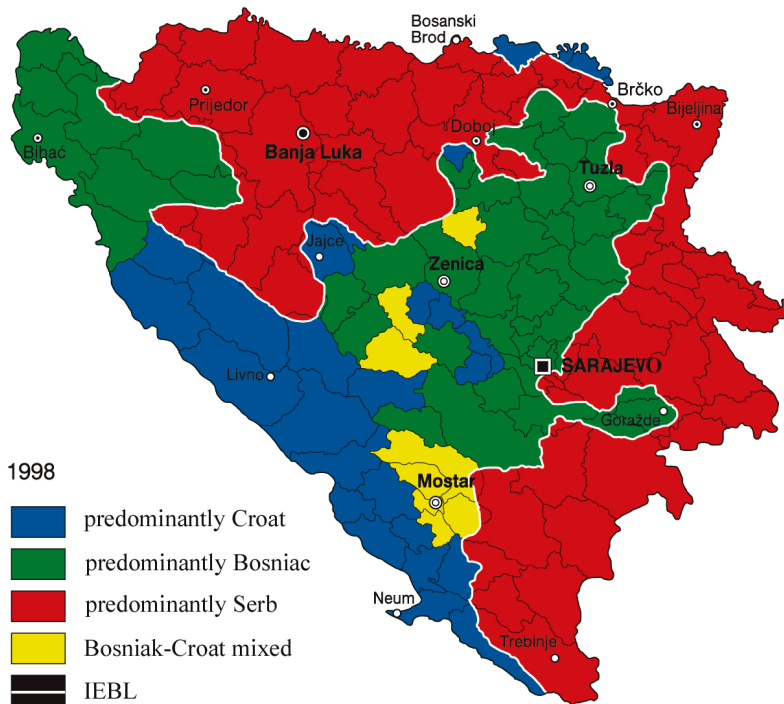


Figure 2. Ethnic composition in Bosnia-Herzegovina after the war. Source: Office of the High Representative (<http://www.ohr.int/>)

register are a question of which side of the IEBL provides medical services that are better and/or more proximate. Many of Bosnia and Herzegovina's existing medical facilities were originally established to serve people who now find themselves living in two different entities, each with its own health system, and they are no longer eligible to access healthcare services wherever they choose. There are accordingly instances where the closest hospital is less than 30 minutes away but is located in a different entity, while the nearest hospital in the entity in which the patient is registered is over one and a half hours away. This can give rise to serious problems, particularly for the elderly, which is why many choose to formally register in the entity that has better and/or closer medical facilities.

Education

Education is an issue that continues to divide postwar Bosnia and Herzegovina – with Republika Srpska, the Brčko District and the

individual cantons of the Federation all having their own systems. Although most of the core curricular content used in elementary schools throughout the country was jointly agreed upon under the Framework Law on Primary and Secondary education in Bosnia and Herzegovina of 2003, there remains a so-called national group of subjects – which in most places includes pupils' mother tongue, religious instruction, history, geography, nature and society/my environment, and music and art (in the case of the Brčko District) – that students attend separately.² Despite the progress in standardising the teaching of other subjects, teaching of pupils' mother tongue and religious instruction almost universally remains ethnicity/religion-based. Owing to these linguistic and religious divisions, many students who live in an entity where they do not belong to the ethnic majority travel several kilometres a day in order to attend a school that offers courses in their mother tongue and includes the religion that they practise, even

when their own village or town already has a school. This is the case with many students living near the IEBL. And, to ensure that their children are eligible to attend a particular school, many families are obliged to formally register in the entity in which the desired school is located.

Effects on the political system

When they register in a neighbouring entity, however, people lose their eligibility to vote in elections in their place of residence. This distorts political representation, undermines political participation and reinforces ethnic dividing lines. Though there have been instances where people have registered in a location other than where they live as a form of a protest or resistance, the reasons for this have primarily been the same as those outlined above – based on economic and social factors.

Crucially, since the entities have separate budgets and taxes are collected directly, the phenomenon of fictional residence registration directly impacts the tax receipts of the entities. Budgets are also affected by the payments, or lack thereof, of benefits to citizens.

Most importantly, such a situation runs the risk of cementing divisions along ethnic lines, especially in cases where people register elsewhere because of the courses offered in schools. Without interaction between the different ethnicities, conflict resolution is hardly possible and sustainable peace unobtainable.

Given that the last official census data for Bosnia and Herzegovina are from 1991, and the census scheduled for April 2013 has been postponed, it is difficult to estimate precisely how many people are affected by the aforementioned policies. However, the numbers are without a doubt significant. According to the UN High Commissioner for Refugees, Bosnia and Herzegovina hosts over 113,000 IDPs.³ In addition, while some have exchanged properties and stayed in the places where they sought refuge during the war, many others moved back to their prewar homes. Equally importantly, the inter-entity line is about 1,150 km long, out of which 630 km passes through public and 520 km through private land, affecting the lives of many that live along or near it.⁴

Policy recommendations

In addressing the problems identified above, it will be necessary not to undermine the autonomy that the entities have been guaranteed under the Dayton Agreement. At the same time, the issue demands the attention of both national political elites and international community representatives in the country.

This policy brief has highlighted the so far largely overlooked problem in Bosnia and Herzegovina whereby the political system structures individual choices in a manner that undermines democracy and sustainable peace. The solution is not to eliminate such individual choices but to create political, legal and institutional conditions that empower individuals to act on their interests and rights in a socially and politically responsible manner. Reforms that can help align individual choices in the issue areas discussed above and desired macro-political outcomes include:

- **Demarcation of the inter-entity line in its entirety.** Since 1mm on the Dayton map represents around 50m on the ground, and the inter-entity line passes through 42 municipalities, some 14,000 people are directly affected by the demarcation and face the problems identified in this policy brief.⁵
- **Completion of the implementation of Annex 7 of the Dayton Agreement** – that is, the Agreement on Refugees and Displaced Persons, and adoption of the newly proposed law on refugees, returnees and IDPs by the Bosnian Ministry for Human Rights and Refugees.
- **Setting higher requirements for registration** (e.g. proof of accommodation/residence) and fostering coordination and data exchange between the entities.
- **Removing the 30-day temporal restriction**

in the Federation regarding people's registration with the Employment Institute, with which they are granted health insurance.

- **Signing of an agreement between the Federal Pension and Disability Insurance Institute and the Fund for Pension and Disability Insurance of Republika Srpska** that guarantees Bosnian citizens the right to receive their pensions from the entity where they worked (and retired), irrespective of where they now reside.
- **Cooperation between the Federal Ministry of Health and the Ministry of Health and Social Protection of Republika Srpska** to prepare the ground for the signing of a memorandum of understanding between (1) the RS Fund for Health Insurance, the Federal Institute for Health Insurance and the cantonal institutes for health insurance, and (2) neighbouring municipalities along the IEBL, to make regional medical centres available to the citizens of both entities and the District, without additional costs or bureaucratic procedures.
- **Coordination between the RS Ministry of Education, Science and Technological Development, the FBiH Ministry of Education and Science, and the cantonal ministries of education** in organising elementary school mother tongue and religious instruction courses for non-majority students in places along the IEBL where survey shows demand. This would allow students not only to attend school in their place of residence, but also to study together and interact with peers of other ethnicities on a daily basis.

- **A statewide media campaign** informing citizens of the implemented reforms and the implications for their everyday lives.

It should be noted that if this issue is to be resolved adequately, reforms will need to take

place in parallel within several areas. Undertaking the first two of the above suggestions for reform alone, for instance, will only eliminate the outcomes of the problem, without addressing its root causes. ■

Notes

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THE PROJECT

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