

NEO-COLONIAL DISCOURSE AND THE EUROPEANISATION PARADOX: THE OHR'S BONN POWERS AND DEMOCRATIC REGRESSION IN BOSNIA AND HERZEGOVINA

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Summary

Bosnia and Herzegovina presents a central paradox of Europeanisation: while the country has formally advanced on the EU path, it remains subject to an external executive authority whose powers are difficult to reconcile with democratic accountability and the rule of law. Bosnia and Herzegovina was granted EU candidate status in December 2022, and in March 2024 the European Council decided to open accession negotiations, while inviting the Commission to prepare the negotiating framework. Yet the OHR continues to impose legislation, amend constitutional arrangements, and dismiss elected officials without democratic mandate, practices the European Commission itself condemned in 2019 as “in principle incompatible with the sovereignty of Bosnia and Herzegovina and therefore with EU membership.” This article argues that the Office of the High Representative (OHR) in Bosnia and Herzegovina functions as a neo-colonial institution whose exercise of executive authority through the extra-legal “Bonn Powers” systematically undermines the conditions for meaningful EU integration. Drawing on neo-colonial theory, the article examines the legal basis of the Bonn Powers, their use by successive High Representatives, and the EU’s response to their continued application under Christian Schmidt. It shows that the EU is pursuing Bosnia and Herzegovina’s accession while tolerating a form of external governance that contradicts the democratic and rule-of-law standards of that process. This structural double standard has produced what the article terms a Potemkin democracy: a system in which the formal institutions of democratic governance operate as a façade while actual authority remains vested in an externally appointed and unaccountable official.

INTRODUCTION

Bosnia and Herzegovina occupies a paradoxical position in the European Union's enlargement process. On the one hand, the country has formally advanced on the EU path: it was granted candidate status in December 2022, and in March 2024 the European Council decided to open accession negotiations while inviting the Commission to prepare the negotiating framework. On the other hand, Bosnia and Herzegovina remains subject to the authority of the Office of the High Representative (OHR), an internationally appointed civilian authority established after the 1995 Dayton Peace Agreement, whose continued exercise of executive powers has resulted in repeated interventions in the country's domestic legal and political order.

This contradiction is difficult to reconcile with the standards that the European Union formally requires from candidate states. Through the so-called Bonn Powers, successive High Representatives have imposed legislation, amended constitutional arrangements, removed public officials, and intervened in core areas of domestic governance. Although these powers have often been justified as necessary for peace implementation and political stability, they sit uneasily with democratic accountability, sovereignty, separation of powers, and the rule of law. The problem is therefore not simply that Bosnia and Herzegovina has an unusually complex post-conflict institutional structure, as it has often been portrayed. The deeper problem is that the country is expected to demonstrate democratic maturity while remaining subject to an external authority that can override its elected institutions.

The incompatibility is not merely theoretical. In its 2019 Opinion on Bosnia and Herzegovina's application for EU member-

ship, the European Commission stated that extensive international supervision was "in principle incompatible with the sovereignty of Bosnia and Herzegovina and therefore with EU membership" (European Commission, 2019, p. 7). Yet despite this assessment, the OHR has continued to exercise the Bonn Powers, including under Christian Schmidt, whose 2021 appointment remains contested because it was not confirmed by the UN Security Council. The EU has nevertheless proceeded with Bosnia and Herzegovina's accession process without directly addressing the tension between externally imposed executive authority and the democratic standards embedded in Europeanisation.

This article examines that tension. It argues that the continued exercise of the Bonn Powers has produced a form of neo-colonial governance in which Bosnia and Herzegovina remains formally sovereign but substantively constrained by an external authority that is not democratically accountable to its citizens. The central issue is not only the legality of individual OHR decisions, but the broader structure of authority they sustain. When an external actor can impose laws, alter constitutional arrangements, and discipline domestic political actors outside the ordinary mechanisms of democratic accountability, sovereignty becomes conditional and domestic institutions become structurally subordinated.

The article draws on neo-colonial theory to analyze this condition, using Nkrumah's (1965) understanding of formal independence combined with external control and Said's (1979) critique of legitimating narratives of political incapacity. Building on Chandler's (2005) analysis of international governance in post-Dayton Bosnia and Herzegovina, the article argues that the OHR's authority has contributed to what may be described as

a Potemkin democracy: a system in which democratic institutions formally operate, while ultimate authority remains subject to intervention by an externally appointed and democratically unaccountable official.

The article proceeds in four steps. It first sets out the theoretical framework and methodological approach, linking neo-colonial governance, external authority, and the Europeanisation paradox while clarifying the article's qualitative case-study design and use of legal, institutional, and policy documents. It then examines the legal limits of Annex X of the Dayton Peace Agreement and the expansion of the High Representative's authority through the Peace Implementation Council and the Bonn Powers. The third section analyses the renewed use of these powers under Christian Schmidt, with particular attention to the July 2023 imposition of amendments to the Criminal Code of Bosnia and Herzegovina. The final section discusses the implications of the EU's response and argues that meaningful Europeanisation cannot proceed while the EU tolerates a governance structure that contradicts the democratic and rule-of-law standards on which accession is formally based.

THEORETICAL FRAMEWORK AND METHODOLOGICAL APPROACH

This article approaches the Office of the High Representative as a case of externally administered sovereignty. Its theoretical point of departure is Nkrumah's (1965) understanding of neo-colonialism as a condition in which formal independence exists alongside substantive external control. The article uses the concept in an institutional rather than economic sense. It does not claim that Bosnia and Herzegovina is subject to economic exploitation of the kind Nkrumah

analyzed in the African post-independence context. Rather, it draws on the structural logic of the concept: formal sovereignty coexisting with the effective external regulation of a politically constrained community. This logic is useful for characterizing the position of the OHR within Bosnia and Herzegovina's post-Dayton constitutional order. Said's (1979) critique of Orientalist representation enters the analysis at a specific point. External authority over a formally sovereign state is rarely justified through institutional arrangements alone; it also requires legitimating narratives. In the post-Dayton context, the Bonn Powers have repeatedly been justified through claims that domestic political actors are unable or unwilling to implement peace, reform institutions, or meet European standards without external enforcement. High Representatives and their international supporters have frequently characterized domestic obstruction as the primary obstacle to progress, presenting external intervention as a technical necessity rather than a political choice. This representational strategy, attributing persistent incapacity to the governed in order to justify the authority of the governor, reflects a dynamic central to colonial and post-colonial relationships of power. Its practical consequence in Bosnia and Herzegovina is a self-reinforcing paradox: democratic self-government is formally declared as the goal, while the capacity for self-government is simultaneously denied in practice. Chandler's (2005) analysis of post-Dayton Bosnia and Herzegovina provides the conceptual bridge between neo-colonial theory and the institutional role of the OHR. Chandler argues that Bosnia and Herzegovina remained formally sovereign while being subordinated to international governance structures whose authority did not derive from democratic legitimacy. This article builds on that analysis

in two respects. First, it updates it by examining the OHR's trajectory through the Schmidt period, including the qualitative escalation represented by the 2023 Criminal Code imposition. Second, it extends the argument analytically by treating the Bonn Powers not only as a peace-implementation mechanism, but as a structural feature of Bosnia and Herzegovina's political order that has become increasingly difficult to reconcile with the EU integration process the country is simultaneously pursuing.

The concept of "Potemkin democracy" is used to describe this institutional condition. It does not suggest that Bosnia and Herzegovina lacks democratic institutions altogether. The country has elections, parliaments, courts, and a constitutional order. Rather, the concept refers to a system in which those institutions remain structurally conditional: their decisions can be overridden by an authority that is neither elected by the citizens of Bosnia and Herzegovina nor accountable within its constitutional system. The point is not that domestic institutions never function, but that they function within a framework that preserves an external veto over their outputs. This framework clarifies the article's central concept of the Europeanisation paradox. Europeanisation normally implies the strengthening of democratic institutions, the rule of law, constitutional accountability, and domestic ownership of reforms. Yet the EU has advanced Bosnia and Herzegovina's accession process while tolerating the continued operation of a governance mechanism that its own 2019 Opinion described as incompatible with sovereignty and EU membership. The paradox is therefore institutional, not merely rhetorical: Bosnia and Herzegovina is being asked to meet democratic accession standards while remaining subject to an external authority

that can suspend the ordinary operation of democratic decision-making.

Methodologically, the article employs a qualitative case-study design combining legal-textual and institutional analysis. The analysis covers the period from the Dayton Agreement's entry into force in 1995 through the European Council's March 2024 decision to open accession negotiations with Bosnia and Herzegovina, with particular attention to the Bonn Conference of December 1997 and the Schmidt period from 2021 onward. Legal-textual analysis is applied to Annex X of the Dayton Peace Agreement, UNSC Resolution 1031, the Bonn Conclusions of the Peace Implementation Council, and selected OHR decisions, including the July 2023 Criminal Code imposition. This method examines the relationship between formal textual authority and actual institutional practice, specifically the gap between the mandate established in Annex X and the powers assumed through the Bonn Conclusions. Institutional analysis traces the evolution of the OHR from a coordinating body for civilian implementation into an external executive authority. It focuses on the organizational mechanisms through which informal power became normalized institutional practice, including the Peace Implementation Council, the Bonn Conclusions, and the operational doctrine of successive High Representatives. The article also considers the political narratives through which the Bonn Powers have been justified, particularly claims of domestic obstruction, institutional incapacity, and reform necessity. These narratives are not treated as the object of a separate formal discourse analysis. Rather, they are used as contextual evidence for understanding how arrangements lacking a clear legal foundation were nevertheless accepted and normalized as political practice. The

article relies on primary sources, including the Dayton Peace Agreement, UN Security Council documents, OHR decisions, PIC conclusions, European Commission documents, and European Council conclusions, as well as relevant academic and practitioner literature. It does not seek to evaluate every OHR intervention since 1997. Instead, it focuses on the legal foundation of the Bonn Powers, their institutional consolidation and expansion, and their most recent use under Christian Schmidt as evidence of a structural contradiction between external executive authority and democratic Europeanisation.

THE OHR AND THE PIC: LEGAL LIMITS AND THE ASSUMPTION OF EXTRA-LEGAL POWER

In a 1997 interview with *Slobodna Bosna*, Carlos Westendorp, the second High Representative and one of the key architects of the Bonn Powers, articulated what became the operational doctrine of the OHR: “If you read Dayton very carefully, Annex X gives the final interpretation of Dayton to the High Representative. Annex X even gives me the possibility to interpret my own authorities and powers” (Slobodna Bosna, 1997). This was not merely a claim to interpretive authority. It was a claim that the High Representative could define the scope of his own mandate. That claim has no support in the text of Annex X. Formally titled the Agreement on Civilian Implementation, Annex X defines the High Representative’s role in Article II as coordinating, monitoring, facilitating, and reporting. The High Representative is authorized to monitor the implementation of the peace settlement, maintain contact with the parties, coordinate civilian organizations and agencies, facilitate the resolution of difficulties, participate in donor meetings, report peri-

odically to relevant international bodies, and provide guidance to the International Police Task Force (United Nations, 1995, Art. II). None of these functions includes the authority to impose legislation, amend constitutional provisions, dismiss elected officials, or prohibit legal challenges to OHR decisions. Article V of Annex X further limits, rather than expands, this authority. It provides that the High Representative is “the final authority in theatre regarding interpretation of this Agreement on the civilian implementation of the peace settlement” (United Nations, 1995, Art. V). The phrase “this Agreement” refers to Annex X itself, not to the Dayton Peace Agreement as a whole, and not to Annex IV, which contains the Constitution of Bosnia and Herzegovina. A mandate to interpret the civilian implementation annex cannot be transformed into a general constitutional authority to legislate within Bosnia and Herzegovina’s domestic order. This restrictive reading is supported by both legal scholarship and the institutional record. Blagojević (2018) argues that the High Representative’s interpretive authority remains valid only within the functional limits established by Annex X. Parish (2010, p. 86), writing from his experience as a former OHR official, observes that the original mandate was consultative, monitoring, and reporting in nature, not executive. UNSC Resolution 1031 confirms the same understanding, recognizing the High Representative as the final authority “regarding the interpretation of Annex 10 on the civilian implementation of the Peace Agreement” (United Nations Security Council, 1995). The resolution locates interpretive authority within Annex X; it does not convert the High Representative into a general constitutional actor (Kecmanović et al., 2021: 272).

The expansion of the High Representative’s power occurred not through the Dayton

Agreement but through a parallel political structure. At the London Peace Implementation Conference in December 1995, the Peace Implementation Council was established as a coordinating mechanism for international involvement in Bosnia and Herzegovina. Its legal status has always been ambiguous. Chandler (2005, p. 338) characterizes it as a “legal figment” designed to organize international management of the Dayton process while avoiding the constraints of formal international law. Dame Pauline Neville-Jones, who played a central role in its creation, later acknowledged the improvised nature of the arrangement, describing it as “a phony” that was nevertheless considered politically necessary at the time (as cited in Chandler, 2005, p. 338). The significance of this admission is not simply that the PIC was institutionally improvised, but that it created a political mechanism outside the treaty-based limits of Dayton through which international authority over Bosnia and Herzegovina could later be expanded. The London arrangements did not formally amend the Dayton Agreement. Rather, they established an extra-treaty structure that made it possible for the High Representative’s coordinating mandate to be reinterpreted politically as executive authority.

The decisive shift occurred at the Bonn Conference in December 1997. The PIC’s Bonn Conclusions stated that the Council “welcomes the High Representative’s intention” to make binding decisions when he judged them necessary, including measures against officials found to be obstructing implementation of the Peace Agreement (Peace Implementation Council, 1998). These powers, which became known as the Bonn Powers, transformed the High Representative’s role from coordination and facilitation into direct executive intervention. The legal

standing of this transformation has been widely challenged in both legal scholarship and practitioner accounts. Parish (2007, p. 14) describes the Bonn Declaration as contradicting both the spirit and text of Annex X and as “legally indefensible.” Baros (2010) argues that the assumption of such powers was *ultra vires* because no authority outside the Dayton framework could validly expand the High Representative’s mandate beyond monitoring and assistance. Crawford (2011), a former British ambassador to Bosnia and Herzegovina, concludes that the Bonn Powers had no genuine legal basis and functioned as a political claim presented in legal language. Westendorp himself later conceded that the method by which the High Representative acquired these powers was “not very legal,” even if it was accepted politically (as cited in Merdzanovic, 2015, p. 256).

Paddy Ashdown’s account of his mandate as High Representative from 2002 to 2006 illustrates what this authority looked like from the inside. He described an office with a large staff, a budget of approximately €36 million, and “formidable powers” allowing him to impose laws and remove officials deemed to be obstructing the Dayton Agreement (Ashdown, 2010, pp. 346–352). The significance of Ashdown’s account lies in the casual normalization of extraordinary discretionary authority. His description of a mandate broad enough to extend across core areas of governance illustrates how far the office had moved from the coordinating role envisaged in Annex X. In institutional terms, the High Representative had become an external executive authority operating within a formally sovereign state while remaining outside the ordinary mechanisms of domestic democratic accountability (Kecmanović et al., 2021: 278).

The consequences of this expansion were

substantial. Between 1997 and 2014, the Bonn Powers were exercised 958 times (Bennett, 2016, p. 169). They were used to impose legislation, amend the constitutions of the Republic of Srpska and the Federation of Bosnia and Herzegovina on more than a hundred occasions, remove public officials without judicial process, annul domestic decisions, and restrict legal challenges to OHR interventions. Bennett (2016), writing as both an analyst of Bosnia and Herzegovina and a former OHR officer, argues that powers initially justified as instruments for overcoming procedural deadlock and specific threats to peace implementation gradually became a means of pressuring domestic leaders. In practice, they came to function as a parallel legislative process, allowing externally imposed decisions to substitute for domestic political agreement. The dismissal of public officials without ordinary judicial process or an effective domestic remedy also raised serious human-rights and rule-of-law concerns. This is particularly paradoxical given that the international presence in Bosnia and Herzegovina was formally justified, in part, as a guarantor of democratic standards and rights protection. The exercise of the Bonn Powers therefore rested less on law than on political authority backed by international power.

The Bonn Powers also altered the Dayton constitutional architecture by enabling externally imposed changes not only to ordinary legislation but also to entity constitutional arrangements, including the constitutional positions of the Republic of Srpska and the Federation of Bosnia and Herzegovina. The standard post-conflict justification that domestic actors were obstructing peace implementation and that external enforcement was therefore necessary carries some weight for the earliest phase of OHR operations. It cannot, however, account for a gov-

ernance model that persisted for nearly three decades and eventually extended to the criminalization of non-compliance with the High Representative's own directives. The prolonged use of the Bonn Powers also altered the political incentives of domestic actors in ways that compounded the original problem. As Sajić (2023) has argued in the context of federal decision-making in Bosnia and Herzegovina, the availability of external enforcement created a culture of dependency: political actors could appeal to the OHR, wait for international intervention, or frame disputes in terms designed to trigger external action, thereby avoiding the ordinary burdens of democratic bargaining. Rather than strengthening domestic responsibility for compromise, external imposition displaced political accountability upward to an authority that bore none of the domestic consequences of its decisions.

Carl Bildt, the first High Representative, remains the only officeholder who operated before the consolidation of the Bonn Powers. The transition from his coordinating role to the post-Bonn executive model is the central institutional transformation examined in this article. Once accepted as political practice, the Bonn Powers created a durable structure of external rule — one that would later be reactivated and intensified under Christian Schmidt.

CHRISTIAN SCHMIDT AND THE REASSERTION OF EXTERNAL EXECUTIVE AUTHORITY

Article I, paragraph II of Annex X provides that the High Representative is to be appointed consistently with relevant United Nations Security Council resolutions and that the tasks entrusted to the office are to be carried out as entrusted by a United

Nations Security Council resolution (United Nations, 1995, Art. I, para. II). Christian Schmidt's appointment by the Peace Implementation Council in 2021, without UN Security Council confirmation, therefore raised a significant procedural and legitimacy question. It marked a departure from the previous practice by which High Representatives had assumed office with Security Council endorsement. The appointment was contested by Russia, China, the Republic of Srpska, Serbia, and several other actors. Schmidt has nevertheless remained in post, while the procedural controversy surrounding his appointment has remained unresolved.

Schmidt's subsequent use of the Bonn Powers should be understood not as an isolated departure, but as the reactivation and intensification of an already established model of external executive authority. Since taking office, he has exercised the Bonn Powers twenty-one times. His interventions have included amending legislation, modifying electoral rules, transferring institutional competences, and, on one occasion, suspending provisions of the Constitution of the Federation of Bosnia and Herzegovina for a limited period in order to unblock government formation. This intervention is particularly revealing. A part of the constitutional order of a formally sovereign state was temporarily suspended not by parliament, not by a constitutional court, and not through an ordinary constitutional amendment procedure, but by the decision of an externally appointed official. Whatever the political justification, the constitutional implication is significant: the domestic legal order operates within a framework in which an external actor retains an overriding power of intervention.

The most consequential intervention occurred on 1 July 2023, when Schmidt imposed amendments to the Criminal Code

of Bosnia and Herzegovina by OHR decision. The imposed amendments introduced a new criminal offence, "Failure to Implement Decisions of the High Representative," prescribing imprisonment for official or responsible persons who fail to apply, implement, enforce, or otherwise comply with a decision of the High Representative, or who obstruct its implementation (Office of the High Representative, 2023). The decision entered into force immediately upon publication on the OHR website and was to remain in force until the Parliamentary Assembly adopted the law "without amendment and with no conditions attached" (Office of the High Representative, 2023). This decision represents a qualitative escalation in the use of the Bonn Powers. It blurs distinctions that are foundational to the rule of law: between the authority that issues binding decisions and the authority that enforces compliance with them; between external supervision and domestic constitutional authority; and between political non-compliance and criminal liability. An external official who is not elected by, and not accountable to, the citizens of Bosnia and Herzegovina imposed criminal law by decree, bypassed the elected legislature, and criminalized non-compliance with his own decisions.

From the standpoint of EU accession standards, this contradicts the principles that the accession process formally requires. The EU accession framework places the rule of law, democratic accountability, separation of powers, and respect for legislative procedure at the centre of what is expected from candidate states. Schmidt's Criminal Code decision conflicts with each of these principles. The issue is therefore not only whether the decision was politically controversial. The deeper problem is that it is incompatible with the institutional standards Bosnia and Herzegovina is formally expected to satisfy

as a candidate country. The EU's response was notably restrained. In March 2024, less than nine months after the Criminal Code imposition, the European Council decided to open accession negotiations with Bosnia and Herzegovina while inviting the Commission to prepare the negotiating framework. The Commission's 2022 and 2023 Bosnia and Herzegovina Reports referred to the High Representative's interventions, including the use of executive powers in relation to electoral standards, financing, the electoral framework, and the suspension of provisions of the Federation entity constitution (European Commission, 2022, 2023). However, they did not address the broader compatibility of the Bonn Powers with democratic accountability and rule-of-law conditionality. The Commission's March 2024 Report on progress in Bosnia and Herzegovina recommended the opening of accession negotiations and referred to the non-application of decisions of the Constitutional Court and the High Representative, but it did not directly address Schmidt's contested appointment, the legal basis of the Bonn Powers, or the July 2023 Criminal Code imposition as a rule-of-law problem (European Commission, 2024). The European Council conclusions of 21–22 March 2024 likewise decided to open accession negotiations and invited the Commission to prepare the negotiating framework, without confronting the compatibility of continued OHR executive authority with the accession standards on which that decision was formally based (European Council, 2024). This omission is analytically significant. It represents the empirical core of the Europeanisation paradox: the EU has advanced Bosnia and Herzegovina's accession process while avoiding direct engagement with a governance structure that contradicts the democratic and rule-of-law standards on which

that process is formally based.

DISCUSSION: THE EU, DEMOCRATIC CONDITIONALITY, AND THE EUROPEANISATION PARADOX

The EU's approach to Bosnia and Herzegovina operates through two frameworks that are formally incompatible and practically unreconciled. The first is the accession framework, which requires candidate states to demonstrate progress in democratic governance, the rule of law, constitutional functionality, and institutional accountability. The second is the tacit tolerance of OHR governance, under which an external authority may impose legislation, override elected institutions, alter constitutional arrangements, and, since 2023, criminalize non-compliance with its own decisions. The EU has maintained both frameworks simultaneously. It has not explained how they can coexist, nor has it indicated which framework takes precedence when they conflict.

This dual-framework approach has consequences beyond institutional inconsistency. External executive authority cannot function as a democratic remedy without simultaneously becoming part of the democratic problem. When the institutional response to political dysfunction is the suspension or circumvention of elected institutions, the long-term result is not democratic consolidation but structural dependency. Domestic political actors continue to operate in a context in which the ordinary consequences of political failure — pressure to compromise, loss of electoral legitimacy, or constitutional deadlock that must be resolved internally — can be displaced upward to an external authority that bears none of the domestic political consequences of its interventions. The Bonn Powers do not merely substitute for domestic consen-

sus; they weaken the incentive to produce it. In this sense, OHR governance is not merely an exceptional intervention into domestic politics, but an alternative decision-making structure operating alongside, and at times above, domestic democratic institutions. This is the deeper problem that the Europeanisation framework, as currently applied to Bosnia and Herzegovina, has failed to address.

The EU is not unaware of the contradiction. The European Commission's 2019 Opinion made it explicit: extensive international supervision is incompatible with sovereignty, and therefore with EU membership (European Commission, 2019, p. 7). Chandler (2005, p. 343) had identified the same risk earlier, warning that the EU risked applying “double standards” by overlooking the democratic deficit created by the Bonn Powers while simultaneously presenting European integration as a process of democratic consolidation. The documents examined here — the 2022 and 2023 Commission reports on Bosnia and Herzegovina, the Commission's March 2024 Report on progress in Bosnia and Herzegovina, and the European Council conclusions of 21–22 March 2024 — do not ignore the High Representative altogether. They do, however, avoid the central compatibility question: whether the continued exercise of the Bonn Powers, Schmidt's contested appointment, and the July 2023 Criminal Code imposition can be reconciled with the democratic accountability and rule-of-law standards required by the accession process (European Commission, 2022, 2023, 2024; European Council, 2024).

This is therefore not simply a matter of omission. It reflects the EU's willingness to allow accession progress and OHR governance to proceed in parallel without requiring a resolution of their incompatibility. The consequences of this approach are structur-

al. EU conditionality loses credibility when it is applied selectively: when Bosnia and Herzegovina is required to demonstrate judicial independence, legislative accountability, and constitutional compliance in domestic matters, while an external actor subject to none of these standards retains overriding authority. This selectivity does not merely undermine rule-of-law benchmarks in the Bosnian context. It raises a broader question about whether the accession process functions as a genuine framework for democratic transformation, or as a diplomatic instrument whose normative requirements can be relaxed when geopolitical or institutional interests make this convenient.

The domestic political dimension also matters. As long as domestic actors know that an external authority may intervene decisively, the ordinary incentives for internal compromise remain distorted. As long as the EU tolerates such intervention without directly addressing its compatibility with accession standards, its rule-of-law conditionality cannot be taken entirely at face value by domestic actors committed to democratic reform. And as long as the OHR retains the power to criminalize non-compliance with its decisions, the distinction between democratic governance and coercive compliance becomes unstable within a state that is simultaneously being evaluated as a candidate for membership in a community of democratic states.

This argument does not require accepting the premise that Bosnia and Herzegovina's political complexity justifies external executive rule. The post-Dayton order is marked by contested competences, competing constitutional interpretations, and recurrent political disputes, but such conflicts are not exceptional in complex power-sharing and federal arrangements. They are part of the political burden of constitutional democracy and should be addressed through constitution-

al procedures, democratic bargaining, and domestic institutional responsibility. The central issue, therefore, is not whether external intervention has occasionally been defended as politically useful, but whether an external authority lacking a clear legal foundation, operating outside domestic democratic accountability, and normalized as a corrective to elected institutions can be reconciled with democratic Europeanisation. It cannot.

CONCLUSION

As Banning (2014) argues, the Bonn Powers do not qualify as legal powers in the ordinary sense. They rest on a political construction that has repeatedly been presented as legal authority despite the absence of a credible legal foundation in either the Dayton Agreement or the relevant UN Security Council resolutions. That construction has persisted because it has remained politically useful to the states most influential in the OHR's operation. Understanding why it now poses a fundamental problem for EU integration has been the central task of this article.

Three interconnected findings have been established. First, the Bonn Powers have no clear legal basis in Annex X of the Dayton Peace Agreement, in UNSC Resolution 1031, or in any subsequent Security Council mandate. Annex X establishes a coordinating, monitoring, facilitating, and reporting role for the High Representative. It does not authorize the imposition of legislation, constitutional amendment, the dismissal of elected officials, or the criminalization of non-compliance with OHR decisions. The expansion of the High Representative's authority occurred through the Peace Implementation Council and the Bonn Conclusions, not through the Dayton Agreement itself, and was acknowledged as legally dubious by some of those

involved in its creation and administration.

Second, the governance model created by the Bonn Powers has produced a durable structure of external authority in Bosnia and Herzegovina. What may initially have been defended as a post-conflict emergency mechanism became a long-term mode of governance. The OHR developed into an authority capable of overriding domestic institutions while remaining outside the ordinary framework of democratic accountability. This has contributed to a Potemkin democracy: a political order in which elections, parliaments, courts, and constitutions exist, but in which their authority remains conditional upon the decisions of an externally appointed official, and in which the political incentives of domestic actors have been progressively shaped by the availability of external intervention rather than the necessity of internal compromise. The Bonn Powers did not remain an emergency instrument; they became a parallel mechanism of governance that altered domestic incentives and displaced political accountability.

Third, the renewed use of the Bonn Powers under Christian Schmidt has intensified the Europeanisation paradox. Schmidt's appointment without UN Security Council confirmation created a procedural legitimacy problem that remains unresolved. His use of the Bonn Powers, especially the July 2023 imposition of amendments to the Criminal Code of Bosnia and Herzegovina, marked a qualitative escalation: by imposing criminal penalties for failure to comply with decisions of the High Representative, the OHR transformed external supervision into direct penal coercion. This contradicts the rule-of-law standards that Bosnia and Herzegovina is expected to meet as an EU candidate country.

The EU's response reveals the central structural problem. The European Com-

mission explicitly stated in 2019 that extensive international supervision is incompatible with Bosnia and Herzegovina's sovereignty and therefore with EU membership (European Commission, 2019, p. 7). Since then, the EU has continued to advance Bosnia and Herzegovina's accession process while not directly addressing the renewed and intensified use of the Bonn Powers. This silence has allowed two incompatible frameworks to operate in parallel: a Europeanisation framework based on democratic accountability and the rule of law, and an OHR framework based on external executive authority that is answerable to neither Bosnia and Herzegovina's citizens nor its constitutional institutions.

Meaningful Europeanisation cannot proceed on that basis. If the accession process is to signify more than formal progress through administrative stages, the EU must confront the contradiction at the heart of its policy toward Bosnia and Herzegovina. The exercise of the Bonn Powers must cease, or at minimum be brought into strict conformity with the limited mandate contained in Annex X of the Dayton Agreement. Otherwise, Bosnia and Herzegovina's European path will remain a Potemkin process: one that generates the appearance of institutional progress while leaving unresolved the foundational condition of democratic self-government.

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Прегледни научни рад

НЕОКОЛОНИЈАЛНИ ДИСКУРС И ПАРАДОКС ЕВРОПЕИЗАЦИЈЕ: БОНСКА ОВЛАШЋЕЊА ОХР-А И ДЕМОКРАТСКА РЕГРЕСИЈА У БОСНИ И ХЕРЦЕГОВИНИ

Кључне ријечи

Босна и Херцеговина;
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Резиме

Босна и Херцеговина представља централни парадокс европеизације: иако је земља формално напредовала на путу ка ЕУ, она и даље подлеже спољном извршном ауторитету чија је овлашћења тешко ускладити са демократском одговорношћу и владавином права. Босна и Херцеговина добила је статус кандидата за чланство у ЕУ у децембру 2022. године, а у марту 2024. године Европски савјет одлучио је да отвори приступне преговоре, истовремено позивајући Комисију да припреми преговарачки оквир. Ипак, ОХР наставља да намеће законе, мијења уставне аранжмане и смјењује изабране званичнике без демократског мандата — праксе које је сама Европска комисија 2019. године оцијенила као „у принципу неспојиве са суверенитетом Босне и Херцеговине и стога са чланством у ЕУ“.

У овом чланку заступа се теза да Канцеларија високог представника (ОХР) у Босни и Херцеговини функционише као неоколонијална институција чије вршење извршне власти путем ванправних „бонских овлашћења“ систематски подрива услове за смислено укључивање у ЕУ. Ослањајући се на неоколонијалну теорију, у чланку се испитују правни основ бонских овлашћења, њихова примјена од стране узастопних високих представника и одговор ЕУ на њихову континуирану употребу за вријеме мандата Кристијана Шмита. Анализа показује да ЕУ спроводи процес приступања Босне и Херцеговине, док истовремено толерише облик спољног управљања који је у супротности са демократским стандардима и стандардима владавине права на којима тај процес почива. Овај структурни двоструки стандард произвео је оно што се у чланку назива Потемкиновом демократијом: систем у којем формалне институције демократског управљања функционишу као фасада, док стварна власт остаје у рукама споља именованог званичника који не подлијеже демократској одговорности.