

## CONSTITUTIONAL AND GOVERNANCE REFORMS IN BOSNIA AND HERZEGOVINA (II)

# Fighting Corruption Is a Priority Second Only to Resolving the Economic Crisis



**Much discussion on constitutional reform has focused either on the Sejdic-Finci ruling, or on broader, controversial ethnic issues like a Croat entity, or greater ethno-territorial autonomy. Yet the current constitutional structure of the country has an impact on more prosaic aspects including the economy, educational mobility and agriculture**

Constitutional amendments could extend to citizens the right to directly influence policy at the state-level (e.g. through referendum). There are many other such examples of how targeted constitutional reforms could have a functional impact on the country and could motivate targeted constituencies to action in support of incremental, practical improvements. The following themes were selected given either their recurrence in all or most of the surveys analyzed, or their relevance to the country's economy.

## Citizens' Views on Corruption

Corruption is a recurring theme throughout five of the seven surveys analyzed. The findings of the surveys with regard to corruption support and build upon each other to offer a complete perspective on citizens' views and perceptions of corruption in BiH. Throughout the past four years, corruption continues to be identified by citizens as the biggest problem in the country and fighting corruption as the highest priority. In 2009, citizens perceived addressing corruption as the highest priority for BiH, followed closely by the need to resolve the economic crisis. In 2013, this stance had not changed at all. 72.4% of respondents selected corruption first over a series of other problems that the country is currently facing. Corruption is of concern to the majority of the country's

**By Raluca Raduta**  
Democratization Policy Council

population, regardless of their declared ethnic affiliation, including 75.3% of FBiH Bosniak majority respondents, 74.9% of FBiH Croat majority respondents, 66.3% of RS Serb majority respondents and 74.5% of Others. When asked this question in a different manner by a separate survey, respondents again ranked "fighting corruption" as the highest priority for BiH at the moment. These findings are also confirmed by Transparency International's Global Corruption Barometer, which shows that almost 90% of citizens believe that there has been no progress in the fight against corruption, or that the situation has even deteriorated. 84% of Bosniaks, 73% of Serbs and 82% of Croats see corruption as the biggest problem because it impacts their daily life. The ways in which corruption affects the daily lives of citizens in BiH are manifold and explored in detail elsewhere.

## Corruption and the Economy

Corruption is closely linked with the economy and this link is made explicit in five of the seven surveys analyzed. In 2013 respondents aged 18 to 35 see fighting corruption as a priority second only to resolving the economic crisis, which they ranked as the number one

priority in BiH. This might be due to a desire to curb the high youth unemployment rate, estimated at over 60%. At the same time, Transparency International finds that: "In recent years, which have been characterized by extremely high unemployment and poverty, there has been a growing incidence of nepotism in recruitments, to the point that more and more citizens join parties so that they could get a job based on the party's influence."

A United Nations Office on Drugs and Crime (UNODC) report in 2013 shows that 39% of the average net monthly salary of citizens goes to bribes. But individual citizens and families are not the only ones forced to resort to corrupt practices; businesses have to do so as well. The same report shows that one in ten citizens and businesses pay bribes to public officials, with the average amount per bribe being around €27. Direct and indirect requests by public officials account for roughly two-thirds of all bribery cases, and almost half of the bribes are paid in advance. People and businesses pay bribes to speed up administrative procedures or to overcome a negative administrative decision, be it related to health inspections for businesses or to implementation of existing laws by police officers. The UNODC data are stark: 44.1% of businesses consider that reporting cases of bribery is pointless, not only because it is considered a common practice, but also

because nobody would really care. 60% of people do not consider it is worth making the effort to even complain. Both businesses and people show an enormous lack of faith in the accountability of public institutions and are resigned to resorting to corrupt practices in order to obtain positive outcomes of administrative decisions.

Having to choose between prioritizing addressing corruption and resolving the economic crisis is a hard decision for respondents to make, as in many ways they are two sides of the same coin.

## Corruption and Politics

The second way in which corruption affects the daily lives of people in BiH is through the country's current political system. This link is evident in six of the seven polls analyzed. In 2007, a total of 64% of people interviewed thought that all or most of the officials serving the citizens are corrupt. Although citizens think that the police, the judiciary and the government should be the institutions leading the fight against corruption, unfortunately, the government and the judiciary, together with the health system, are identified by respondents as the most corrupt institutions in BiH.

Faith in politicians is minimal across ethnicities. Survey 7 finds that 56% of citizens believe that politicians are not able to reach an agreement on state-level constitutional reforms because it is not in their interest to do so (58.2% FBiH Bosniak majority, 41.5% FBiH Croat majority, 56.6% RS Serb majority, 82.5% Brcko District respondents). Of the total BiH respondents, 87% think that politicians do not represent the interests of the citizens who elect them, but rather the interests of their parties. The 2013 UNDP commissioned survey notes that 87% of citizens have no confidence in political parties.

As a result of the recurrent high level of mistrust in politicians at all levels in most surveys analyzed, 79.6% of citizens, including a fairly high number of more than 6 in 10 Serbs, prefer that crime and corruption be tackled at the state level, and not at the cantonal or entity levels of administration. Over 80% of FBiH and RS respondents think that the politicians are to blame for the political crisis, which they identified as the third biggest problem the country is facing, after corruption and the economic crisis. The urgency of tackling corruption is felt throughout the country by 71% of Bosniaks, 59% of Serbs and 75% of Croats.

Despite these figures, not much has been done to respond to citizens' concerns. According to the EU, implementation of

the state-level anti-corruption strategy and action plan for 2009-2014 has been "significantly delayed," and strategies and action plans are being implemented without coordination at the entity level, in Brcko District, and in some cantons. Amendments to the Law on Conflict of Interest were adopted by the BiH Parliament in 2013, but this took place through "urgent procedure" with no public consultation, and has not had an impact on the fragment-



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ed anti-corruption efforts across the country. Furthermore, it has increased concerns over politicizing the fight against corruption because it has passed the responsibility to decide on conflicts of interest among politicians from an (ostensibly) independent Central Election Commission to the Parliamentary Commission. Activities to fight corruption remain localized and uncoordinated. Such problems continue to undermine citizens' faith in the political system and in democracy in BiH.

## Citizens' Views on the Justice Sector

This issue has been tackled by three of the seven surveys analyzed. They show that public discontent with the judicial system in BiH is deep and universal. The judiciary is fragmented with the Federation of BiH, the Republika Srpska, Brcko District and the State each having its own separate system. In the Federation of BiH, each canton has its own courts. While there is a Court of BiH and a Constitutional Court of BiH, there is no BiH Supreme Court (each entity has a supreme court) that serves as a final court of appeal for all citizens. But what kind of constitutional changes do citizens have in mind, and how could the judiciary be made more accountable in the provision of justice, and in particular, transitional justice? The polling data shows that in cities and towns across BiH, citizens see that the importance of reconciliation activities at the state level is considerably greater than for any local or regional processes, "regardless

of which political parties are strong in those cities". This is the case for respondents in the RS as well: 65% of RS respondents are not satisfied with the RS judiciary.

Asked if the judiciary should be addressed through state-level constitutional reforms, an overwhelming majority of 98.5% of those interviewed across the country responded affirmatively with almost no differences across entities and ethnicities. This shows that citizens clearly reject the current fragmented structure, which has led to ineffectiveness and lack of accountability in the judiciary at the entity and canton levels of government.

## Citizens' Views on Agriculture

Only one of the seven surveys analyzed asked citizens how they view the current agriculture sector. However, a large number of media, civil society and international reports have pointed to the problems posed by the country's constitutional structure as an obstacle to the development of this sector. The European Commission 2013 Progress Report on BiH stated that the country has a fragmented national economic space. This has a direct impact on the implementation of the EU's regulations and on the accession process, causing the loss of a great amount of funding. Farmers cannot directly access EU funds destined for agriculture and rural development because of the lack of a unified funds absorption structure<sup>16</sup> and the lack of a single payment system/coordinating body at the state level.<sup>17</sup> Losses stand at approximately €325 million in IPARD funds reserved by the EU for BiH for the period 2007 - 2013. Additionally, since Croatia's entry into the Union, BiH is not permitted to sell food produce to EU nations because the country's divided government cannot agree on how to meet EU hygiene codes. Not being able to export its produce is costing the country over €100 million annually, including some €30 million for dairy products alone.

The NGO Green Council has recently gathered a number of farmers from across the country into a Farmers Union, which called for a state-level Ministry of Agriculture and made its voice heard among BiH's international partners, including the EU. In 2013, not only farmers, but 97.2% of citizens across the country expressed their support for agriculture to be addressed in state-level constitutional reforms. This included 98.6% of Bosniaks, 97.6% of Serbs, 85.3% of Croats, and 100% of Others. Constitutional reforms should, according to more than 6 in 10 citizens, place the agriculture sector

under the jurisdiction of the state.

Adoption of European Union laws in BiH was specifically and directly tackled by one of the seven surveys analyzed. The previous section of this study showed that popular support for constitutional changes that would bring the country closer to EU integration has experienced a downward trend since 2007. It also showed that citizens believe that the country can survive without integration in the EU. However, there is interest among citizens in reforms that would confirm the supremacy of EU law over BiH domestic law to ease the harmonization process. Citizens favor EU laws over the country's laws knowing that this would be a way to motivate country-wide reform and provide access to funding that would advance the much needed progress on all economic fronts. A large majority of 79.1% of citizens support this, including 81.9% of Bosniaks, 73.6% of Serbs, 81.1% of Croats and 73.7% of Others, with no differences across urban and rural areas. More than two out of three Serb respondents, and more than three out of four RS respondents, agree that constitutional amendments to ensure and confirm the primacy of EU law over domestic law make sense.

### Citizens' Views on Civil Liberties and Political Rights

Dayton BiH is built around the equality of its three constituent peoples, and not on the equality of its citizens. Even if ethnicity is important to citizens and constitutes part of their individual identities, the interests of individuals are not constrained by their ethnicity. Although this issue is tackled head-on by only one survey of the seven analyzed here, the previous subsections have shown that across ethnicities people want a better economic and political situation. This subsection confirms this by revealing citizens' support for equal political rights, regardless of ethnicity.

In 2013, people were asked whether citizens from the category of "Others" should be able to run for the BiH Presidency, all parliaments and all governments in the country. The answers showed a high support for equal participation of "Others" in political life in BiH, with more than 4 out of 5 respondents supportive of such equality. In particular, 83% of Bosniaks, 80.6% of Serbs, 62.1% of Croats, and 94.7% of Others support equality of citizens, regardless of their ethnic background or if they belong to constituent peoples or not. (The Croats represent a some-

what lower majority, likely due to recent resurgent rhetoric on the need for a de facto or de jure third entity).

Even the 2014 report of the ICG, which recommends formalizing political party domination in many ways, notes that the Bosnian crisis is about politics, not personal identity or ethnicity. The economic problems, as this paper has shown, are directly linked to top-heavy political and administrative structures, as employment in government institutions provides for durable patronage systems. Broad support for a state based on civic rather than simply on ethnic rights makes it clear that across the board what citizens mostly want is a country that works for all its citizens and not merely for the privileged few.

### Main Take-Away Points

Corruption is the country's biggest problem and fighting it should be the highest priority. Corruption in BiH is so high that it not only affects people's opportunities for employment and business development in the country, but it is also seen as a given in the country's governance institutions.

Citizens want to take the justice system out of the hands of politicians, who are widely perceived as corrupt and who are seen by almost 90% of citizens to represent the interest of their parties at all levels of government. People oppose the current fragmented justice system, which prosecutes crime and corruption cases at the entity and cantonal levels of government and where opportunity for political influence is high. 79.6% of all citizens want state-level judicial institutions that can tackle corruption effectively. Citizens rank justice as one of the top five sectors to be addressed in state-level constitutional reform.

To avoid losing more EU funds for agriculture and rural development, and possible revenues from exporting produce to the EU, more than 6 out of 10 people in BiH understand the need for a state-level authority in agriculture, such as a state-level Ministry of Agriculture.

79.1% of citizens favor EU laws over domestic laws knowing that this would be a way to motivate country-wide reform and provide access to funding that would advance much-needed progress on all economic fronts.

80.6% of citizens believe that "Others" should enjoy representation in BiH's parliaments and governments.

**In next issue:** *Constitutional And Governance Reforms in Bosnia And Herzegovina (III) - Territorial Party Politics*

## Terror Attack Victims Mourned in Balkans



*A man lights a candle in Kosovo Pristina*

Politicians, journalists and ordinary people across the Balkans have paid tribute to the victims of the terror attack in Paris, which claimed the lives of 12 people. In Serbia, local people including journalists spontaneously gathered in front of the French embassy in Belgrade to honor the staff of Charlie Hebdo. About 40 people lighted candles paying respect to the victims.

In the capital of Kosovo, Pristina, several hundred citizens gathered in front of the National Theatre in the centre of the city to show solidarity with the victims of the Paris shooting. The head of the Kosovo parliament, Kadri Veseli, was among those who lit candles on the steps of the theatre.

In the Croatian capital, Zagreb, local people started laying flowers and lighting candles in an act of solidarity and condolence.

In Macedonia, Prime Minister Nikola Gruevski sent a telegram of condolence to his French counterpart, Manuel Valls, condemning "this terrorist act", which he called an "attack against integrity and democratic values".

Ali Ahmeti, head of Macedonia's junior ruling party, the ethnic Albanian Democratic Union for Integration, DUI, said: "I am convinced that after this cowardly attack France will remain strong and rise above the murderers' efforts to plant hatred among people."

An Orthodox Church Bishop, Kiril, said fundamentalists failed to understand their own religion.

"If you are not able to laugh at the expense of your own little faith, or lack of it, you have a serious problem with your understanding and something is not right," Bishop Kiril said.