



High Representative/Vice-President, Josep Borrell Fontelles
Commissioner for Neighbourhood and Enlargement, Olivér Várhelyi

Brussels, 4 May 2021

Subject: Concerns regarding format and content of EU facilitated negotiations in Bosnia and Herzegovina

Dear High Representative, dear Commissioner,

as you know very well, Bosnia and Herzegovina is a country whose citizens have suffered enormously under military campaigns of ethno-nationalists in the 90s. We have been closely following your recent statements saying that it is now time to go from Dayton to Brussels and leave behind ethnic divide, segregation, and discrimination of all those who are not identifying themselves as being part of the three dominant ethnic identities. We fully subscribe to the idea that BiH should now make a big step forward in its European path and become very soon a candidate country.

We do support strongly the idea that BiH must now invest in fulfilling all 14 EU key priorities in order to get the candidate status. However, we address this open letter to you, because we wish to share our concerns as regards the EU's role on the ground. More specifically, our concerns relate to the format and the content of EU facilitated negotiations on electoral reforms during the last weeks and months.

We have observed that EU facilitated negotiations and talks focus on a very limited number of political actors, mainly from two political parties which both intent to represent two of the three constituent peoples of Bosnia and Herzegovina. This is an extremely exclusive approach, which we strongly criticise, since it presents a risk for the political stability of the country and its future. In our view, reforms with far reaching consequences for the entire population and its political system, such as constitutional and electoral reforms, should, as a matter of principle, be discussed and negotiated within a very inclusive and open framework and process: All political parties and their elected office holders, as well as a wide array of civil society actors and organisations as well as interested public, should be included in a meaningful manner. In addition, it is very important that citizens understand and can follow the discussions closely if they wish and by doing this avoid any potential flash points in an already heated situation. This means that talks behind closed doors should be the exception and not the rule. Unfortunately, this is not the case and so far, the EU has failed to launch such an inclusive and transparent dialogue with the meaningful participation of all political parties and civil society representatives. With continuation of this practice, we risk not only BiH's stability, but also the credibility of the EU as a mediator and as an actor in the region.



In our view, this has to be changed as a matter of urgency. It must be clear that the EU stands for plurality, inclusiveness and openness of political processes. In addition, it would be necessary to make sure that the Central Election Commission BiH formally becomes a fully-fledged member of the Inter-Agency Working Group (IAWG). Opposition party members must be included in the process of election law reform, and actively considered in all the bilateral discussions between international community and local actors.

Furthermore, we are equally worried about two other aspects related to the items, which are currently being discussed. While acknowledging that the implementation of OSCE/ODHIR and Venice Commission recommendation concerning elections is part of the key priorities, we fear that the current strong focus on the electoral reform goes far beyond the mandate covered by the 14 key priorities and is even in contradiction to some of them. Media has largely reported that EU facilitated negotiations mainly focus on electoral law reform, and in particular on questions related to the representation of the Croat constituent people, and a ruling of the BiH Constitutional Court. In our view, this direction is not in line with the OSCE/ODHIR and Venice Commission recommendations on elections, which, according to the key priorities, mainly focus on political party financing and transparency, and only randomly on adjusting the legal framework.

In addition, we are concerned about the sequencing and prioritisation. In our view, one of the most important key priorities relating to elections are constitutional reforms necessary to implement the Sejdić-Finci, Zornić, Pilav and Šlaku rulings of the European Court of Human Rights (ECtHR). Therefore, it would only be logic to first change primary law and bring the constitution in line with the ECtHR rulings before aligning and changing secondary law, such as election law. We would therefore strongly urge you to prioritise the compliance with the European Convention on Human Rights by focussing on the implementation of all ECHR rulings in the EU's approach towards the European Integration of BiH. Non-discrimination and minorities rights are at core values on which our common European project was founded, thus they should be at the foundation of the accession process of new Member States. In this context, we also have strong doubts about the EU promoting an artificial deadline of the 2022 general elections for such potentially far-reaching reforms. Further to this, we would like to emphasise that most of the key priorities relate to the rule of law where there is only very little progress, if at all.

Please be assured that we share the same objective: We wish that all stakeholders can agree and move forward on far reaching reforms without further delay, thus enable the country to progress on the path towards EU integration. Keeping this in mind, it is now of crucial importance that the EU sets the right parameters on the ground and indicates clearly at what point negotiations deviate from the 14 key EU priorities or run counter to key principles, values and norms, which would not be acceptable. Currently we see a high risk that electoral reform ideas even contradict the 14 EU key priorities and by this create an unfavourable public perception of the EU and its role and of the European idea in general. Most



importantly, the election law reform must not lead to further ethnic or territorial divisions in the country.

For us, the basic goal of EU integration and for the future of the country is a functioning civic democracy and overcoming the legacy of the past. Therefore, any legal and political steps that the EU facilitates and supports must go into this direction and help eliminating segregation and ethnic divide. We fear that the current direction of the negotiations on electoral reform would also deviate from the Council's position, which concluded that no legislative or political steps should be taken which would make the implementation of the ECtHR rulings more challenging.

We expect the EU to take a leading and active role in facilitating and supporting the implementation of the 14 key priorities, offering the country a clear path towards the prospect of achieving candidate status. In our view, this entails defining a roadmap, outlining a clear order in which the Commission expects the 14 key priorities to be implemented. In this context, the EUSR should facilitate a fully inclusive and open dialogue, involving all actors in the process and going beyond the divisions along ethnic lines.

Lastly, we would express our grave concerns about recent statements and non-papers by actors calling for the dissolution of BiH, some allegedly even originating from EU Member States. We expect the Commission and EU Delegation to take a clear stance on this, and publicly speak out against these divisive statements, which are endangering the European future of BiH and stability of the region as a whole.

We are looking forward to your answer.

Sincerely,

Tineke Strik, Greens/EFA
Tanja Fajon, S&D
Klemen Grošelj, Renew Europe
Dietmar Köster, S&D
Ilhan Kyuchyuk, Renew Europe
Thomas Waitz, Greens/EFA