

13 APRIL 2026

# Unlocking Bosnia and Herzegovina's EU accession path

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## INTRODUCTION

The EU framed Bosnia's accession process as a vehicle for post-war state-building, assuming that the prospect of membership would provide sufficient incentives to drive reform. More than two decades later, the anticipated transformation remains incomplete and the country's accession path is stalled.

This stagnation is the result of a combination of factors: the EU's inconsistent application of conditionality and misleading communications, the EU's enlargement hesitation and the consequent erosion of the credibility of the membership perspective, the state capture and instrumentalisation of the accession process by domestic elites, and the exclusion of civil society and citizens from reform processes.

Although 2022 brought renewed momentum for enlargement and led to steps forward for Bosnia and Herzegovina – including candidate status and the green light to open accession talks – these developments resulted primarily from EU political impetus rather than sustained domestic reform performance.

Since the Council's decision to open accession negotiations, Bosnia and Herzegovina's EU trajectory has again stalled. In Brussels, attention is focused on the frontrunners – Montenegro, which aims to close negotiations by the end of 2026, and on Ukraine, whose membership the EU is trying to make viable – while the laggards remain largely out of focus.

To avoid enlargement becoming a band-aid fix,<sup>1</sup> with only a few new members joining in the coming years, the EU must keep the prospect of accession alive to those further from meeting the criteria, including Bosnia and

Herzegovina. While responsibility for reforms lies with domestic political leaders, the EU can – and should – deploy its leverage more efficiently.

Restoring the EU's credibility and transformative power will require adherence to six core principles: predictable conditionality, quality-based assessment, transparent political choices, broader societal ownership, renewed debate of constitutional reform and fair delivery.

## BACKGROUND

### *Why EU accession was meant to transform Bosnia and Herzegovina*

Bosnia and Herzegovina (BiH) has a complex institutional system, with several layers of governance, territorially decentralised competences and a weak central state. A consociational power-sharing structure was established by the Dayton Peace Agreement, intended as a compromise to stop the war, not as a permanent institutional arrangement.<sup>2</sup>

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While the agreement succeeded in ending the war, it failed to establish a state with stable institutions guaranteeing democracy, the rule of law, human rights and respect for minority rights – a condition any aspiring EU member must meet.<sup>5</sup>

The international community viewed the prospect of EU membership as an incentive for domestic leaders to address the country's constitutional shortcomings and complete the post-conflict transition and consolidation as a democracy.

In 2005, the Venice Commission held that BiH needed to reform its institutional set-up to advance on the EU path and noted that the shared interest in European integration should make consensus possible.<sup>4</sup>

The EU gradually embedded these requirements into its conditionality. In 2000, the European Commission set out 18 measures intended to strengthen BiH's institutions as a condition for launching the feasibility study for the Stabilisation and Association Agreement (SAA), the first step in the integration process.

Constitutional reform was explicitly embedded into BiH's accession framework in 2011 as a requirement for the entry into force of the SAA. The decision was prompted by a ruling of the European Court of Human Rights (ECtHR),<sup>5</sup> which found the constitution discriminatory and in violation of the European Convention of Human Rights.

Since then, constitutional reform and the restructuring of the institutional architecture have been at the heart of EU conditionality, included again in the Commission's 2019 opinion on BiH's membership application.<sup>6</sup>

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### ***Why transformation remains incomplete***

Today, the anticipated democratic transformation and state-building consolidation remain incomplete, and EU membership continues to be a distant goal.

This stagnation results from a combination of factors: (1) the EU's inconsistent application of conditionality and misleading communications, (2) the EU's enlargement hesitation and the consequent erosion of the credibility of the membership prospective, (3) the state-capture and instrumentalisation of the EU accession process by

domestic elites, and (4) the exclusion of civil society and citizens from reform processes.

### **1. Inconsistent conditionality**

Conditionality is intended to make the EU accession process objective, predictable and performance-based. However, in Bosnia and Herzegovina, the EU has applied conditionality inconsistently: backtracking on requirements, validating insufficient reforms and communicating poorly.

One example of backtracking was the launch of Bosnia's Stabilisation and Association Agreement (SAA) feasibility study in 2002, despite the conditions set two years earlier not being fulfilled. At the time, the EU considered the roadmap "substantially completed". but a year later, the completion of the 18 measures was reintroduced as a condition to start SAA negotiations.<sup>7</sup> Another example is the constitutional reform requirement: introduced in 2011 as a condition for the entry into force of the SAA, dropped in 2014,<sup>8</sup> and reintroduced in 2019 as one of the 14 conditions to open accession talks. When the Council gave the green light to open accession negotiations in 2024, this requirement still remained unaddressed.

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The EU has also validated insufficient reforms in order to move the process forward, fearing that insisting on higher standards would risk another deadlock. In 2024, the Commission validated the law on conflict of interests – one of the conditions to open accession talks – and only half a year later noted that the law "was not fully in line yet with the European standards".<sup>9</sup>

Although breakthroughs have often resulted from political decisions rather than domestic performance, the EU has continued to frame the accession process as purely merit-based. This was the case in 2014, when EU leaders insisted that the removal of the constitutional reform requirement was "not about reducing conditionality".<sup>10</sup>

Furthermore, the EU has repeatedly praised Bosnia's political leadership for its commitment to the EU path despite the stagnation of the reform process.<sup>11</sup> In 2024, Commission President Ursula von der Leyen applauded the "impressive steps forward",<sup>12</sup> although many conditions remained unfulfilled.

This approach has validated leaders' management of the accession process, allowing them to take credit while weakening mechanisms for civil society and other non-governmental stakeholders to hold authorities accountable and demand effective reforms. At the same time, it has eroded the credibility of the process and its merit-based character and reduced incentives for genuine reform commitment.

## 2. Political override of the merit logic

Although the EU consistently insists that the accession process is driven by the performance of aspirant members in aligning with EU law, enlargement is fundamentally a political project. Political will has ultimately been the most decisive factor in driving enlargement forward.

That political determination has fluctuated over time. The enthusiasm of the early 2000s turned into fatigue after the 'big bang'. This crystallised in the 2014 enlargement moratorium announced by Commission President Jean-Claude Juncker, which led to the stagnation of the Western Balkans' EU path.

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In the meantime, the accession process became increasingly instrumentalised by some member states, which used their leverage to resolve bilateral disputes with aspirants or advance domestic political agendas. The Greek and Bulgarian vetoes on North Macedonia are among the most flagrant cases.

In 2022, the process was reinvigorated after enlargement regained political attention following Russia's full-scale invasion of Ukraine. However, the breakthroughs that followed resulted primarily from EU political impetus rather than from sustained domestic reform performance.

The political override of the merit-based logic has created the perception that the process is externally driven, not domestically owned. This has weakened the agency of domestic authorities and, consequently, their responsibility to deliver reforms.

## 3. State capture and instrumentalisation of the accession process

Decision-making mechanisms have constantly been abused by nationalist leaders to block the normal

functioning of institutions, serve their own interests and consolidate their share of power. This has turned decision-making into a zero-sum game and plunged Bosnia into chronic institutional paralysis and political stalemate.

Over the past decade, the escalation of the secessionist agenda by the leadership in Republika Srpska (RS) has directly challenged the integrity and functionality of the state. RS authorities have increasingly undermined human rights and fundamental freedoms with the reintroduction of defamation as a criminal offence and the adoption of a 'foreign agents' law targeting civil society and independent media. This points to a broader pattern of democratic backsliding that runs counter to the core requirements of EU accession.

The rapprochement of former RS President Milorad Dodik with Russian President Vladimir Putin further widens the political gap with Brussels.

Although European integration is formally a shared objective among Bosnia's political leaders, and institutional reform clearly indispensable for EU membership, rhetoric has not translated into sustained reform efforts. Rather than acting as a driver of reform, accession has been instrumentalised by political elites to advance sectarian agendas. The blockade that kept the Growth Plan's reform agenda on hold for a year and led to the loss of 10% of the funds is a case in point. Judicial reform and the appointment of a chief negotiator also remain blocked due to political gridlock over ethnic and party representation.<sup>15</sup>

## 4. Civil society marginalisation

Civil society has long warned about the lack of genuine commitment of Bosnian authorities to EU integration.<sup>14</sup> However, allowing BiH to advance along the EU path has ultimately validated leaders' management of the process, allowing them to take credit for it. This has placed civil society in a difficult position, caught between endorsing progress and implicitly validating weak reform efforts, or criticising EU decisions for overlooking poor performance and risking being portrayed as obstructing the country's EU future.

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Throughout the process, domestic civil society organisations (CSOs) have played an active role in monitoring progress, advocating for high-quality reforms, holding authorities accountable and reporting on developments on the ground. However, although the EU recognises civil society participation in the enlargement process as a priority,<sup>15</sup> their involvement is not formalised in the methodology.

The executive character of the process leaves it largely to domestic governments to decide the level of engagement of other actors. As a result, civil society involvement remains limited, with little room for meaningful contribution. Public consultations are often treated as a formal box-ticking exercise used to legitimise decisions, rather than as a genuine effort to incorporate external input.

CSOs have criticised that some reforms adopted to secure the Council's green light were merely 'cosmetic changes', often adopted through urgent and non-inclusive procedures, and warned about the lack of implementation.<sup>16</sup> More recently, they denounced the refusal of the Ministry of Justice to publish the draft law on courts<sup>17</sup> and criticised the draft law on the High Judicial and Prosecutorial Council (HJPC) for being sent to the Council of Ministers while consultations were still ongoing, warning that the existing version risked further undermining judicial independence.<sup>18</sup>

Civil society and the broader population have also been systematically excluded from constitutional reform attempts, which focused on facilitating backroom deals between the ethnic political leaders on the assumption that the population would subsequently endorse the agreements. This strategy produced poor results, allowing leaders to sabotage the process based on short-term political goals. It also weakened civic reform ownership and buy-in, and reinforced elite-driven decision-making at the expense of broader societal participation.

## STATE OF PLAY

2022 marked renewed momentum for enlargement, which led to steps forward for Bosnia and Herzegovina. The country was granted candidate status in 2022 and received the green light to open accession talks in 2024. However, these breakthroughs resulted primarily from EU political impetus rather than from sustained domestic reform performance.

The decision to open negotiations was intended to inject renewed momentum into the reform process, as the holding of the first Intergovernmental Conference (IGC) remained conditioned on the fulfillment of the eight steps set out in 2022. At the time, Bosnia's leadership promised to accelerate efforts to complete the pending reforms.<sup>19</sup> Two years later, however, the conditions for formally launching negotiations remain unmet. The laws on Courts and on the High Judicial and Prosecutorial Council have yet to be adopted, the National Programme for the Adoption of the EU Acquis (NPAA) has not been put in place, and no chief negotiator has been appointed.

The Council of Ministers had intended to complete the reforms ahead of the European Council meeting in December 2025, in time for EU member states to announce a date for the first IGC before the end of the year. However, the session was cancelled at the last minute due to lack of consensus on the agenda. EU Ambassador Luigi Soreca expressed his regret at the missed opportunity.<sup>20</sup>

At the technical level, progress has also been limited. The Commission's 2019<sup>21</sup> and 2025<sup>22</sup> reports show that progress on paper has not been matched by substantial alignment with the EU acquis. In most chapters, Bosnia is at an "early stage" or has only "some level" of preparation, the same categories as in 2019. Out of the 33 chapters, only three have moved from the lowest to the second-lowest rank. The sentence "the Commission's recommendations from last year were not implemented and therefore remain valid" is repeated throughout the 2025 report.

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The political and institutional impasse has not only hampered the country's democratic transformation and fundamental reforms but has also affected performance in areas directly relevant to citizens' daily lives, from social policy, education and health to transport, energy and environmental protection, evincing the tangible socio-economic costs for citizens of institutional stagnation.

The domestic political situation continues to be marked by instability, mainly triggered by Republika Srpska authorities. Political tensions and institutional dysfunction escalated following the conviction of Milorad Dodik in February 2025 for defying decisions of Bosnia's High Representative. After the ruling was confirmed and his mandate terminated, Dodik continued to pull the strings and announced a referendum to contest his dismissal – a vote that ultimately never took place.

Dodik received support from Moscow and Budapest, which have long backed his destabilising secessionist agendas.<sup>23</sup> Russian President Vladimir Putin and Hungarian Prime Minister Viktor Orbán hosted the Bosnian Serb leader on various occasions following the verdict and continued to treat him as the legitimate authority in the entity. The Kremlin described the Constitutional Court verdict as absurd, unjust and anti-democratic,<sup>24</sup> and Hungary framed it as an act of "external interference".<sup>25</sup>

Furthermore, in October, the United States announced the withdrawal of sanctions against Dodik, imposed in 2017 for undermining the Dayton accords and again in 2022 for corruption and destabilising activities.

Meanwhile, enlargement discussions in Brussels are focused elsewhere. The Council is working on the Accession Treaty for Montenegro, which aims to close negotiations by the end of 2026 and become an EU member in 2028. The EU is also looking for ways to make Ukraine's membership viable. Earlier this year, Kyiv declared its ambitions to join in 2027 and the Commission came up with the 'reversed enlargement' proposal to allow accession before the completion of reforms.

Although enlargement has returned to the EU agenda, attention to frontrunners contrasts with the silence surrounding the laggards.

If nothing changes, Bosnia is likely to remain out of focus until Sarajevo completes the pending reforms or a renewed political push puts the country back on the agenda. With general elections scheduled for October 2026, major political agreements or breakthroughs appear unlikely in the short term.

## RECOMMENDATIONS

Bosnia and Herzegovina's trajectory has exposed the gap between a formally merit-based framework and a politically driven practice. To unlock Sarajevo's EU path, the EU must restore its credibility and transformative power. This requires adherence to six core principles: predictable conditionality, quality-based assessment, transparent political choices, broader societal ownership, renewed debate of constitutional reform and fair delivery.

### 1. Predictable conditionality

The process's sequencing must be clear and predictable from the outset: What is required at each stage and what are the conditions to take the next step, allowing for planning and dispelling the idea that rules of the game are constantly changing.

Conditionality must be applied consistently, without backtracking. Lowering standards, rephrasing requirements or quietly removing obligations erodes the EU's leverage and reinforces incentives for obstruction. The EU should avoid repeating the approach followed with the constitutional reform requirement. If, at any point, the EU decides to eliminate or postpone criteria and advance the process, this should be communicated transparently as a political decision, not presented as evidence of reform progress.

The EU must act on its words and match its actions with the merit-based narrative. The bilateralisation of the accession process by member states damages the integrity of the performance-based logic, undermines the power of conditionality and weakens the EU's collective authority.

Member states must refrain from instrumentalising the accession process and to resolve bilateral disputes with aspirants or to advance domestic political agendas. Where such attempts occur, other member states must exert greater pressure to prevent further instrumentalisation.

### 2. Quality-based assessment

The European Commission must strengthen its role as a strict assessor and refrain from validating reforms or legislation that fall short of EU standards simply to justify procedural progress. Progress should be grounded in the quality and sustainability of reforms, not box-ticking compliance.

The Commission should avoid repetitions of episodes such as the law on conflict of interests, which not only undermine the quality of legislation but also erode trust in the Commission as a strict and objective assessor.

The Commission should be particularly firm on reform quality in sensitive areas that affect institutional integrity, such as judicial reform. Short-term political advances should not come at the expense of long-term state functionality. Instead, the EU needs a forward-looking vision that prioritises durable reform outcomes over quick political fixes.

### 3. Transparent political choices

The EU must enhance how progress, achievements and setbacks are presented. If steps are taken despite unmet criteria, this should be communicated transparently as a political choice, not presented as evidence of reform success. This also implies greater willingness to publicly identify sources of blockages.

Otherwise, the EU will further weaken the credibility of the merit-based logic, validating leaders' management of the process, reducing incentives for genuine reform commitment and weakening accountability mechanisms.

The EU should also improve the communication on the accession process and the reform priorities, using the electoral cycle strategically to shape the public debate and place EU-related reforms higher on the political agenda.

### 4. Broader societal ownership

For the process to be truly transformative, it must go beyond its current executive character and involve a broader range of stakeholders, including the state-level parliament, local governments and civil society. This does not mean adding new layers of decision-making or opportunities for political bargaining, but rather promoting greater political and civic ownership.

Civil society should be included in the EU accession process in a meaningful, structured and transparent way. This includes establishing clear and systematic entry points for participation and ensuring feedback on how input is used. This is not only important for making the

process more democratic, but for improving the quality of legislation, strengthening accountability mechanisms and increasing societal buy-in for reforms.

### 5. Serious constitutional reform debate

Amending the Dayton framework to address its discriminatory provisions, strengthen democracy and the rule of law and ensure institutional functionality is indispensable for BiH to align with European standards and eventually assume the obligations of EU membership.

Although the constitutional reform debate has been repeatedly postponed, it will need to take place ahead of accession. Even if this appears to be a distant milestone, the EU should keep the issue on the table.

The EU should draw on past lessons: constitutional negotiations should no longer take place behind closed doors and among only nationalist leaders.<sup>26</sup> Instead, the EU should support a more inclusive, bottom-up reform process that allows new actors and ideas to enter the debate beyond entrenched party positions. Civil society, lower levels of government, reformist political actors, businesses and academics must also be involved. The broader population should also participate, for example through citizens' assemblies.

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Long-lasting change will require broad-based societal consensus that can in turn push leaders towards compromise.

### 6. Political push and fair delivery

Delivering on enlargement commitments quickly and fairly when candidates meet the criteria is key to restore the transformative power of the membership prospect.

Completing Montenegro's accession during the current institutional mandate would send a strong signal that EU membership remains achievable and that reforms will pay off.<sup>27</sup> Other aspirants should also remain on the agenda.

The Commission should use the current momentum to develop an ambitious enlargement roadmap outlining clear next steps and objectives. This should be linked to a parallel reform agenda for the EU itself, clarifying how the Union will adapt to enlargement.<sup>28</sup> Linking these processes would help rebuild trust among both member states and candidate countries.

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