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Turning Sarajevo into a European Capital? Trajectories of Sovereignty in the Reorganization of Bosnia and Herzegovina

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Abstract

This paper explores the terms of a “paradox in the paradox” of sovereignty, which stems from the current EU-driven statebuilding of Bosnia and Herzegovina (BiH). International multilateral settings working on statebuilding have produced a paradox of sovereignty since the “outside-in” promotion of good domestic governance in failed/failing states inevitably generates constraints on sovereignty. When the highly-intrusive statebuilding project was initially launched, also the external actors involved in the Bosnian reconstruction project were unavoidably compromising crucial aspects of, paraphrasing Krasner, “Westphalian/Vattelien” sovereignty in order to foster a reorganization of sovereign powers and prerogatives among domestic political authorities. This reorganization aimed at establishing fluid interactions between multi-ethnic institutions. However, a further paradox has resulted from having a post-nation state organization, the EU, take the lead in the Bosnian multiethnic experiment: while it helps the re-organization of the state by containing the dispersions and the asymmetries of sovereignty produced by the implementation of the Dayton Peace Accords, it prepares this state to give up certain sovereign prerogatives when the appropriate time to join the Union arrives. Evidently, the interferences determined by the EU-driven statebuilding cannot be justified solely by the goal of rehabilitating what some scholars would refer to as the Bosnian “empirical statehood”, but rather by the latent conviction that the various internal fractures and wounds of BiH will be healed when the Bosnian sovereignty is diluted in the greater European architecture.

The aim of the paper is twofold. First of all, it assesses the very peculiar trajectory of sovereignty in post-Dayton BiH. Being in the hands of the EU, it seems that Bosnia could potentially “skip some steps” in the externally driven rehabilitation of its sovereign prerogatives. Second, the essay reconstructs the normative understanding of sovereignty and post-conflict stability that lays at the very bases of the EU commitment to BiH. Based on the analysis of official documents and extensive interviews in both Brussels and Sarajevo, the paper questions the idea that the vision of sovereignty as an internationally shared responsibility would be the crucial normative principle informing the strategies and the policies designed in Brussels on the two sides of Rue de la Loi. References to the literatures on sovereignty and statebuilding will be traced back to the Bosnian context and the *modus operandi* of the EU.

Keywords: Bosnia and Herzegovina, EU enlargement, EU prospect of membership, post-conflict stabilization, sovereignty, statebuilding.

Introduction

Skimming through the webpages of the EU Special Representative (EUSR) or the Delegation of the European Commission to Bosnia and Herzegovina (BiH) it is easy to be attracted by a series of images and banners that have been recently developed to synthesize “the EU commitment to BiH”. The most interesting animated gifs have in common one very particular “special effect”: every time the page is reloaded, the stars of the Bosnian flag start to spin and they end up inscribing a drawing of the Bosnian state boundaries in a circle of twelve stars on a blue background, evidently recalling the flag of the EU. This rather particular “e-marketing” of the EU prospect of membership arrives in one of the most delicate moments of post-Dayton BiH. Four years have passed since the (then only 15) EU member states gathered in Thessaloniki with all their partners from South-East Europe and convened that “the future of the Balkans is within the EU”;¹ but unfortunately, the destiny of BiH has not changed much since then.

In spite of the strenuous diplomatic and technical efforts undertaken by the multiethnic team that supports the Bosnian Negotiator for the EU Stabilisation and Association Agreement (SAA),² BiH is still far from being considered concretely on the way towards Brussels: Sarajevo is not yet the capital of a stable, efficient, and truly rehabilitated democracy; inevitably, the country continues to lose crucial positions on the EU integration agenda. This is due to a combination of several factors. If we look at the problem from an International Community perspective, the declining attention towards BiH can be easily traced back to two elements. First, it is evident that since the beginning of this year, a considerable part of the EU/International diplomatic resources have been readdressed on the Kosovo impasse. Second, it would not be absurd to talk about the spreading of a certain “Bosnia fatigue”, the symptoms of which have been shown by all international institutions deployed in Sarajevo and around, and that has nothing to do with Kosovo. On their sides, Bosnian political elites have done all that was in their powers and capacities to screw even the very few things that—under strict

¹ This statement was encompassed in the Council Conclusions adopted in Thessaloniki on June 16, 2007.

² The Bosnian negotiating team for the EU SAA has been assembled at the end of 2005. Since then, the task of leading the team has been in the hands of Igor Davidovic, former BiH ambassador to Washington. See Antonio Prienda, "Davidovic Wins Broad Backing to Lead BiH's SAA Negotiations with EU," *Southeast European Times*, November 17, 2005. Online, available at http://www.setimes.com/cocoon/setimes/xhtml/en_GB/homepage/ [last accessed July 30, 2007].

international supervision and guidance—BiH had been able to achieve in the months preceding the general elections of October 2006. So it happens that today the difficult stabilization and reorganization process of the Bosnian costly, inefficient, asymmetric, and fragmented state structures seems almost impossible to achieve. At the moment of writing, the Bosnian statebuilding process can be considered as dangerously stuck, while rumours from the field seems to confirm that probably—unless a miracle happens—the SAA will not be signed before June 2008 (even if there are still some sporadic but optimistic voices confirming that December 2007 remains a feasible deadline). In concrete terms, the passage “from Bonn to Brussels” envisaged more than two years ago by the International Commission on the Balkans has not taken place yet.³

When things like these happen, it should not be the work of scholars to release verdicts and proclaim who should be blamed the most and why. Nevertheless, academic research can still be oriented at understanding possible sources of problems. With such a spirit, this paper elaborates on a series of theoretical indications that should help to identify the reasons behind some of the most crucial deadlocks that are currently impeding a more fluid and rapid stabilization of post-Dayton BiH. The main theoretical challenge that will be presented in the following pages targets some flaws of the recently developed literature on the paradoxes of sovereignty and statebuilding. Scholars who have committed to elaborate on the sovereignty paradox have been dazzled by the idea of sovereignty as an internationally shared responsibility. This vision would hold *in nuce* the normative pillars that constitute the “ethics” of contemporary statebuilding. We have already argued elsewhere on the positive prospective implications of this concept and all its corollaries.⁴ Potentially, the work developed around the *responsibility to protect* (hereinafter, R2P) can be indeed seen as source of normative indications that could—at least ideally—resolve the so to say “latent conflict” between the residual peculiarities of the Westphalian world and the pillars that sustain the system of collective security hinged around

³ International Commission on the Balkans, *The Balkans in Europe's Future* (Sofia: Centre for Liberal Strategies, Secretariat, 2005), 37.

⁴ See Giulio Venneri, *From International to EU-Driven Statebuilding: The Reorganization of Sovereignty in Post-Dayton Bosnia and Herzegovina* (Research Project presented at the Second SIS Graduate Conference, University of Trento, December 13: 2006), 34-39. Online, available at http://www.ssi.unitn.it/en/dottorato/download/research_proposal_Giulio_Venneri.pdf [last accessed July 30, 2007].

the UN Security Council (UNSC) and never fully implemented. It cannot be denied that the International Community seems to have incorporated the idea of an internationally shared sovereignty in its jargon; this has happened especially when mandates and policy plans are elaborated in view of guiding multinational missions to be deployed for the promotion of peace, stability, and democracy in troubled areas. Formally, the principles originally elaborated by the International Commission on Intervention and State Sovereignty (ICISS)⁵ have been adopted by the UN General Assembly at the 2005 World Summit⁶ and received further approval by the UNSC.

Surfing on this R2P ferment, scholars ended up arguing that the impact of the concept of sovereignty as an internationally shared responsibility has been already internalized by the elites serving in international institutions and the members of the “Northern” diplomatic club. Moreover, some have asserted that the impact of this concept would be already so relevant, to influence even “statebuilding policies by providing a blueprint for the institutions to be built, and by serving as a justification for the continued governance of post-conflict territories by international administrations”.⁷ Reflecting on this fascinating and promising statement and having at the same time in mind the case (and all the contradictions) of BiH, a flow of questions inevitably arises. Did statebuilding missions truly change on the ground since the R2P has started to be consolidated? Can we truly cover under the normative cloak of the R2P all the strategic efforts of current statebuilding missions? If it can be easily accepted that the R2P provides a “comfortable” normative basis to justify massive interventions of peacekeeping and statebuilding, can we really prove that this idea has also generated a concrete blueprint and that this blueprint is generally respected in its broader terms by the international personnel operating on the field? More specifically, is the EU-driven statebuilding another “ordinary” mechanism through which sovereignty is temporarily compromised to be restored in the name of the shared responsibility ideal? Finally, is there truly confidence at the EU that

⁵ See ICISS, *The Responsibility to Protect. Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001). Online, available at <http://www.iciss.ca/pdf/Commission-Report.pdf> [last accessed July 30, 2007].

⁶ See UN, "Resolution 60/1 Adopted by the General Assembly: 2005 World Summit Outcome," September 16, 2005.

⁷ Dominik Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding* (Oxford: Oxford University Press, 2007), 237.

the Bosnian stabilization will arrive by restoring the full sovereign authority of the state and their exercise by the autochthon elites?

The argument unfolded in the following pages hinges around the idea that the EU-driven statebuilding of BiH cannot be understood with the tools that the literature on the sovereignty paradox has developed so far. This paper indeed clarifies that the above mentioned “EU commitment to BiH” is characterized by additional complexity if compared to “ordinary” international administrations working under the UN umbrella. This additional complexity cannot be overlooked and scarified for the sake of theoretical generalizations.⁸ The analysis of the terms underpinning the “paradox in the paradox” of sovereignty and statebuilding determined by the EU presence in BiH deserves close attention; indeed, it is highly probable that what is currently happening in BiH could emerge also in other Western Balkans states and, with more marked features, in the case of Kosovo.

The terms of this “paradox in the paradox” are unfolded through the reconstruction of the normative bases peculiar to the EU experience in BiH. The EU-driven statebuilding and its operative implications are presented with relation to one of the most crucial aspects of the reorganization of sovereignty in post-conflict states: the constitutional reform process. The reconstruction of the normative understanding of sovereignty and post-conflict stability that informs the EU initiatives for BiH will allow understanding some of the problems that at present are affecting the attempts to turn the Bosnian institutional architecture into something more efficient, affordable, and EU feasible. From this analysis, it will emerge how post-Dayton BiH is bound to experience a very peculiar trajectory of sovereignty. To understand such trajectory, the first section of the paper will elaborate references to the literatures on sovereignty and statebuilding, to trace them back to the Bosnian context and the *modus operandi* of the EU. The second section will present the EU-driven statebuilding as a very peculiar “hands-up statebuilding”. Developing this concept and the specific EU reluctance to impact more directly on the negotiations for the constitutional reform of BiH will make

⁸ An interesting warning against too ambitious generalizations has been offered by Keohane: since “no general theory of international politics may be feasible [it might be appropriate] to seek to develop cumulative verifiable knowledge, but we must understand that we can aspire only to formulate conditional, context-specific generalizations, rather than to discover universal laws”. Robert O. Keohane, "International Institutions: Two Approaches," *International Studies Quarterly* 32, No. 4 (1988).

clear that while Brussels keeps its feet on the Bosnian ground, most of the strategic thinking elaborated in the “capital of Europe” does not seem to be the product of an ideal R2P *forma mentis*.

1. The concept of sovereignty in International Relations

Prior to analyzing the terms of the paradox in the paradox of sovereignty that is determined by the EU-driven statebuilding of BiH, it might be appropriate to describe briefly some of the most relevant revolutions that have characterized the concept of sovereignty through the centuries. Biersteker and Weber admitted that “attention to sovereignty tends to raise more questions than it answers”;⁹ more recently, Boli recognized that probably “where sovereignty is located is [still] an open question”.¹⁰ Describing “the surrender of sovereignty to governance by international actors”, Fukuyama has depicted East Timor as a reality from which sovereignty was annulled and “located on a ship floating in the harbour outside the capital of Dili”.¹¹ But these trustworthy evaluations should not discourage. After all, as Chopra and Weiss make clear, the complexity and the doubts underpinning the concept of sovereignty simply stem from the fact that sovereignty is “a legal fiction that continues to evolve [but remains] the best mechanism for organizing human society at the global level”.¹²

1.1 From Westphalia to San Francisco

The concept of sovereignty virtually did not exist in the realm of political thought until the fall of the medieval Christendom. At that time, all the controversies between the Papal authority and the emperors were indeed “not about sovereignty but about political predominance.”¹³ A few scholars argue that the modern international community would have its origin in the relations between the three “sovereign” imperial entities that arose in the ninth century: the Carolingian, the

⁹ Thomas J. Biersteker, and Cynthia Weber, ed., *State Sovereignty as Social Construct* (Cambridge: Cambridge University Press, 1996), 2.

¹⁰ John Boli, "Sovereignty from a World Polity Perspective," in *Problematic Sovereignty: Contested Rules and Political Possibilities*, ed. Stephen D. Krasner (New York: Columbia University Press, 2001), 54.

¹¹ Francis Fukuyama, *State Building. Governance and World Order in the Twenty-First Century*, 2nd ed. (London: Profile Books, 2004), 132.

¹² Jarat Chopra, and Thomas G. Weiss, "Sovereignty is no Longer Sacrosanct: Codifying Humanitarian Intervention," *Ethics & International Affairs* 6 (1992): 102.

¹³ Neil J. Smelser, and Paul D. Baltes, ed., *International Encyclopaedia of Social Behavioural Sciences*, vol. 22 (Amsterdam: Elsevier, 2001), 78.

Islamic, and the Byzantine one.¹⁴ Nevertheless, the majority of them acknowledge that only when the Peace of Westphalia was agreed upon (at the end of the Thirty Years' War, 1618-1648) both the concept of sovereignty and the configuration of the modern state emerged. The settlement would have provided a series of secular elements, upon which new forms of political power could be constructed and the religious basis for authority replaced. Leo Gross defined the 1648 peace settlement as “the majestic portal which leads from the old world into the new world”.¹⁵ In the old world, kings could indeed declare but not create positive law, as they were themselves bound by it; in the new world, sovereigns had the right to create law and the duty to enforce it, not as if they were supposedly “above” the law, but better, as original “sources”.

If the Treaties of Münster and Osnabrück have been always defined as a watershed in the history of political theory and, particularly, in the development of the concept of state sovereignty, it does not have to be disregarded that the seeds of this particular “revolution” had already been sowed almost one century before 1648. In spite of the unconditional support of all the German Catholic Princes, in the first half of the sixteenth century, the attempt of Charles V to defeat the Protestant heresy failed. The conflict was ended with the 1555 Peace of Augsburg. The core concept of this peace settlement can be synthesized in the Latin formula *cuius regio, eius religio*. This recipe implicitly acknowledged the right of each entity with a defined territory and an established governing authority to develop its autonomy from external powers (the Catholic Church in particular).¹⁶ Nevertheless, it was Westphalia that, as critically stressed by Krasner, Osiander, and others, has become a “fascinating icon” for scholars.¹⁷

If one wants to propose a straightforward but comprehensive definition of sovereignty, this could sound like “supreme authority within a territory.” Reproposed by Philpott,¹⁸ this short but effective definition has gathered spread

¹⁴ In particular, see Roberto Ago, "Pluralism and the Origins of the International Community," *Italian Yearbook of International Law* (1977).

¹⁵ Leo Gross, "The Peace of Westphalia 1648-1948," *American Journal of International Law*, No. 42 (1948): 28.

¹⁶ See Smelser, ed., 14706-9.

¹⁷ See Stephen D. Krasner, "Westphalia and All That," in *Ideas and Foreign Policy*, ed. J. Goldstein, and R. Keohane (Ithaca, NY: Cornell University Press, 1993), Andreas Osiander, "Sovereignty, International Relations, and the Westphalian Myth," *International Organization* 55, No. 2 (2001), Daniel Philpott, "Westphalia, Authority, and International Society," *Political Studies* 47 (1999).

¹⁸ See Daniel Philpott, *Revolutions in Sovereignty. How Ideas Shaped Modern International Relations* (Princeton: Princeton University Press, 2001).

consensus. Most scholars actually have no doubts that such an expression perfectly describes the system of sovereign states that emerged in Europe after 1648 and that has been surviving with marginal changes for almost four centuries as a structure composed of relatively large territorial units internally organized under a central sovereign authority. This definition encompasses three distinctive elements, which are equally important to identify sovereignty: authority, supremacy, and territoriality. Scholars do not question that ideas on each of these elements have gone through several evolutions; nevertheless, they acknowledge that such a combination of terms might be optimal to clarify state sovereignty and, indirectly, to identify the essential peculiarities of both the international community and its juridical order.¹⁹ The one who is sovereign has inherently the right to exercise a certain authority, and he is as well the one that, domestically, in a hypothetical chain of authority is placed at the very top. At this point, territoriality completes the framework, as it defines “the set of people over whom the holder of sovereignty rules”.²⁰

This latter point remained practically unchallenged until the end of World War I. Prior to the spreading of the Wilsonian spirit through Europe, the community within a territory was indeed intended as a sort of “pertinence” of the sovereign authority, thus excluding the legitimacy of any type of external interferences (*quisquis in territorio meo est, meus subditus est*).²¹ In 1945, the tragedy of two World Wars and the negative experience of the League of Nations provided a clear incentive for the organization of a system that would update the normative bases of the Westphalian world and truly favour the promotion of international peace and security through institutionalized multilateral cooperation. Unfortunately, the full realization of this alternative model was hindered by the emergence of the bipolar dynamics and negatively affected by the missed implementation of those military components of the new construction that could have allowed overcoming Westphalia substantially.²² As a consequence, the UN system was put at work as another multilateral experiment that was not properly

¹⁹ Who supports this “classic” view usually stresses that even today, in spite of globalization, the structure of the interstate community remains totally “horizontal” (states originate and enforce internal law). Among others, see Natalino Ronzitti, *Introduzione al Diritto Internazionale* (Torino: Giappichelli Editore, 2004).

²⁰ See Philpott, *Revolutions in Sovereignty. How Ideas Shaped Modern International Relations*, 16-17.

²¹ See Benedetto Conforti, *Diritto Internazionale*, VI ed. (Napoli: Editoriale Scientifica, 2002), 199.

²² For instance, the constitution of international military troops permanently at the disposal of the Security Council, as well as the creation of a unified military committee (disposed in articles 43 and 45 of the UN Charter) were never implemented.

equipped to fully replace the pillars, practices, and dynamics typical of the Westphalian order.

1.2 From the humanitarian intervention debate to the *responsibility to protect*

With the end of the Cold War, new political conditions paved the way for the progressive elimination of the points of friction between the surviving pillars of the Westphalian system and those of the collective security structure that could not “take off” due to the structural lacunas of the UN and the political dynamics of the bipolar international environment. The dramatic crises that spread in every continent in the early 1990s stimulated the debate on humanitarian intervention²³ and, consequently, a substantial attack on the *domaine réservé* was brought. In retrospective, the first concrete proposal to rethink sovereignty dates back to October 1991 and was limited regionally, precisely, to the pan-European context. The UN Charter states that, at least on a theoretical level, states are all equal because they are all sovereign entities.²⁴ Emphasis on equality was connected to the view that nothing could dismantle the inviolability of the *domestic jurisdiction*. At the third Conference on the Human Dimension of the CSCE, held in Moscow, 38 delegations from the pan-European context agreed on a document that would have opened a first important breach in the walls of the *domestic jurisdiction*. CSCE members agreed that the inviolability of states’ internal affairs was no longer a legitimate claim for matters falling within the realms of human rights, fundamental freedoms, democracy, and the rule of law. In the Moscow document it is clearly emphasized that

issues relating to human rights, fundamental freedoms, democracy and the rule of law are of *international concern*, as respect for these rights and freedoms constitutes one of the foundations of the international order ... [T]he commitments undertaken in the field of

²³ On humanitarian intervention, see Mario Bettati, *Le Droit d'Ingrérence. Mutation de l'Ordre International* (Paris: Éditions Odile Jacob, 1996), Chopra, Gene M. Lyons, and Michael Mastanduno, ed., *Beyond Westphalia? State Sovereignty and International Intervention* (Baltimore: The John Hopkins University Press, 1995). For more recent analyses, see Mohammed Ayoob, "Humanitarian Intervention and State Sovereignty," *The International Journal of Human Rights* 6, No. 1 (2002), Jens Bastian, "Humanitarian Intervention: Ethics and Legal Aspects," *Southeast European and Black Sea Studies* 5, No. 1 (2005), Alex J. Bellamy, "Humanitarian Intervention and the Three Traditions," *Global Society* 17, No. 1 (2003), J. L. Holzgrefe, and Robert O. Keohane, ed., *Humanitarian Intervention. Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003).

²⁴ Art. 2.1 of the UN Charter clearly stresses that “the Organization is based on the principle of the sovereign equality of all its Members”. See *Charter of the United Nations and Statute of the International Court of Justice*, (New York: United Nations Department of Public Information, reprint 2005).

the human dimension of the CSCE are *matters of direct and legitimate concern to all participating States* and do not belong exclusively to the internal affairs of the State concerned.²⁵

This formulation was radically innovative and of great significance, in spite of the *soft law* character of all CSCE/OSCE documents. However, it is the emergence of the understanding of sovereignty as an “internationally shared responsibility” that can be identified as a potential watershed. Indeed, it is this normative innovation that has potentially allowed practitioners to surmount the rigid and static scheme that had worked for decades. According to the novel formulation, the exercise of national sovereignty should be recognized as a privilege that governments enjoy, and that is dependent on the fulfilment of a set of responsibilities. This view allows emphasizing simultaneously the international and the domestic accountability of national governments. In the eyes of a scholar who promotes a neo-communitarian view of international relations, with this re-characterization of sovereignty, nations would have become less and less “free agents, [as] they will increasingly be treated as members of one community.”²⁶ The discourse on *sovereignty as responsibility* was originally inaugurated by Francis M. Deng *et al.*, who focused on the various issues related to the conflict management and the peacekeeping initiatives undertaken under the auspices of the International Community in several African states.²⁷ Six years later, the already mentioned ICISS—promoted by the Canadian government—unfolded Deng’s farsighted claims. In its final report, the ICISS argued for a *responsibility to protect*, to be accompanied by two corollaries: a *commitment to prevent* and a *responsibility to rebuilt*.²⁸

1.3 Does contemporary statebuilding truly have a consolidated ethics?

In recent times, some inquiries have attempted to prove that the *responsibility to protect* has actually become a driving principle for practitioners, especially for those who are involved in the work of international missions committed to the reconstruction of post-conflict societies and failing/failed states. Reconstructing

²⁵ CSCE, *Document of the Third Meeting of the Conference on the Human Dimension of the CSCE* (Moscow: Conference on the Human Dimension of the CSCE, 1991), 2. Emphasis added.

²⁶ Amitai Etzioni, "Sovereignty as Responsibility," *Orbis* Winter (2006): 83.

²⁷ Francis M. Deng, Sadikiel Kimaro, Terrence Lyon [et al.], *Sovereignty as Responsibility: Conflict Management in Africa* (Brookings Institution, 1996).

²⁸ See ICISS, 19-28, 39-46. Further clarifications on these concepts will be provided in section 2.2.

the normative vision of state sovereignty and post-war stability lying behind the activities of UN missions deployed in crisis areas, scholars have mostly argued in favour of the affirmation of this new understanding of sovereignty in international relations.²⁹ Moreover, careful analyses have concerned the terms of an ineluctable paradox stemming from statebuilding practices: international missions compromise domestic sovereign prerogatives³⁰ to foster the institutional reorganization of a collapsing/collapsed state, democratize it, and re-establish stable and well-functioning authorities that will properly exercise sovereignty again.³¹ Most research on this issue has been undertaken at the UN headquarter in New York, as well as among the personnel deployed within the framework of UN-sponsored missions. But what happens if we look at the specific EU involvement in the statebuilding of its potential candidates to membership? In particular, what results could we obtain if we x-ray the approach that the EU shows in BiH, its first statebuilding mission abroad? As anticipated in our introductory section and extensively clarified elsewhere,³² inquiring into the normative vision of sovereignty at the basis of the EU initiatives for the

²⁹ In the recent time some criticism has nevertheless started to be brought. For instance, observers warns that “subordinating the supremacy of state sovereignty to the higher authority of the international community undermines the project of making power more accountable, and restrains the exercise of political agency in international politics”. Philip Cunliffe, "Sovereignty and the Politics of Responsibility," in *Politics without Sovereignty: a Critique of Contemporary International Relations*, ed. Christopher J. Bickerton, Philip Cunliffe, and Alexander Gourevitch (New York: UCL Press, 2007), 40. A more articulated critique, equally focused on the problem of accountability, has been proposed by Chandler, according to whom the centrality of statebuilding in the international political debate perfectly serves the rationale of an *Empire in Denial*. David Chandler, *Empire in Denial. The Politics of State Building* (London: Pluto, 2006). For further discussions, also see Robert Schütte, Johanne Kübler, *The Responsibility to Protect: Concealed Power-Politics or Principled Policy?* (Marburg: AG Human Security, a.d. Philipps-Universität Marburg (AG HumSec Occasional Paper 2), 2007).

³⁰ According to the definition proposed by Krasner, Westphalian sovereignty is not violated until domestic rulers are “free to choose the institutions and policies regarded as optimal, [whereas] Westphalian sovereignty is violated when external actors influence or determine domestic authority structures.” However, violations of sovereignty differ since they can be based on *invitation* or *intervention*. When the latter occurs, both international legal and Westphalian sovereignty are simultaneously breached. But when domestic rulers voluntarily renounce to their domestic autonomy, only Westphalian sovereignty is breached. Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999), 20.

³¹ On the various “paradoxes” of sovereignty and statebuilding, see International Crisis Group, *Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building* (Sarajevo/Brussels: ICG - Balkans Report N°146, 2003), Susan L. Woodward, "Bosnia after Dayton: Transforming a Compromise into a State," in *After the Peace: Resistance and Reconciliation*, ed. Robert L. Rothstein (London: Rienner, 1999), Susan L. Woodward, "Compromised Sovereignty to Create Sovereignty," in *Problematic Sovereignty: Contested Rules and Political Possibilities*, ed. Stephen D. Krasner (New York: Columbia University Press, 2001), Dominik Zaum, "The Paradox of Sovereignty: International Involvement in Civil Service Reform in Bosnia and Herzegovina," *International Peacekeeping* 10, No. 3 (2003), Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*.

³² See Giulio Venneri, "The EU-Driven Statebuilding in Bosnia and Herzegovina: Creating a 'Paradox in the Paradox' of Sovereignty?" (paper presented at the ICCEES Regional European Congress on "Transcending Europe's Borders: The EU and Its Neighbors", Berlin, August 2-4, 2007).

reorganization of BiH encompasses a further element of interest if compared to the analysis of UN-lead initiatives, because it would allow us exploring the terms of a “paradox in the paradox” of sovereignty. As said, having the EU as the leading international actor of the Bosnian experiment creates a “complication” in the paradox of sovereignty and statebuilding. The reasons for such additional complexity are various but clear. The EU is a post-nation state organization that is based on the concentration of certain sovereign prerogatives originally attributed to its member states.³³ Indeed, the whole European experience has been based on the aim of “limit[ing] the excesses of national political spheres through transferring decisions and power to supranational level”,³⁴ at the early stages of the European Community life, moves in such a direction were given so much priority that the effort to find a solution for the most critical problems concerning the democratic character of the integration process had to be delayed.³⁵ Being in the hands of the EU, it seems that Bosnia could potentially “skip a step” in the rehabilitation of its sovereign prerogatives. Being subject to the “magnetic” force of the prospect of membership, BiH is moving towards integration in a greater supranational institutional organization that will absorb critical sovereign prerogatives in the name of peace and development, and with the reiterated promise of prosperity.

What kind of state is the EU designing in Bosnia? Carl Schmitt wrote that “sovereign is he who decides on the exception.”³⁶ Manipulating Schmitt’s well-known formulation, could we say that the EU—through its prospect of membership—is creating (even if indirectly) a Bosnian exception to traditional sovereignty? Statebuilding initiatives are complex and articulated projects; however, since the EU has taken over the responsibility of the Bosnian reconstruction, there has been the production of a clear objective: BiH has to be constructed as a state that can join the EU and give up some of its sovereign prerogatives. In the words of the Head of the Western Balkans Task Force at the Policy Unit of the EU Council:

³³ See Vincent Della Sala, "Oltre la Trasformazione e l'Adattamento dello Stato," *Rivista Italiana di Scienza Politica*, No. 2 (2006): 221.

³⁴ Christopher J. Bickerton, "Explaining Europe’s Role in World Affairs: Governance, Sovereignty and the Paradox of ‘Fragile Institutionalism’" (paper presented at the Joint Doctoral Seminar in International Relations 2006: European Governance, Global Governance’, 2006), 6.

³⁵ On the legal origins of the EU democratic deficit, see Ugo Villani, "Il Deficit Democratico nella Formazione del Diritto Comunitario," *Diritto Comunitario e degli Scambi Internazionali* 31, No. 4 (1992).

³⁶ Carl Schmitt, *Political Theology* (Cambridge, MA: MIT Press, 1922), 5.

The EU is ready to interact with a non-orthodox state structure. Even a country like Dayton Bosnia, until a certain degree, with all its anomalies with regards to sovereignty and institutional arrangements, can interact with the EU³⁷ ... Bosnia is a state apparatus that can be understood and thus changed only in relation to the European integration project. We cannot say, “Let’s do Bosnia and then we integrate it”. We are making Bosnia because of and through integration.³⁸

Actually, talking to practitioners that are working on the Bosnian file from both sides of Rue de la Loi in Brussels, the idea that BiH is in the making “because of and through” the EU integration process is a well rooted conviction. In line with such idea, building the Bosnian state means to tune the future institutions of BiH to a supranational institutional expressions set by the only possible hope of prosperity that the Bosnian people have: Western European countries. In brief, thanks to the prospect of EU membership, the constituent people of BiH have been induced to attach to a supranational context their idea of *developmental state*—using the terminology recently re-elaborated by Milliken and Krause.³⁹ For what instead concerns the elites, the core of the paradox in the paradox can be synthesized as follows: Brussels is convinced that most Bosnian political frictions and all sources of instability due to the ethno-religious partitions can be diluted in the wider European construction. On the basis of this conviction, the EU is pushing for a very technical anchorage of BiH (through the SAA agreement) that would produce a chain of positive and self-driven changes, possibly conditioning positively the political sphere as a whole. In the eyes of the EU personnel serving in Brussels—at both the Council and the Commission—as well as in Sarajevo, the technical developments of the SAA should put BiH automatically on the way of Europe and politico-institutional harmonization. The deadlines and changes that an SAA “imposes” are seen as the only possible means to unhinge the political instability of BiH. The Desk Officer for BiH at the EU Commission declared:

Obviously, the constitutional reform is at the basis of all. But I believe that with the SAA we should succeed to produce a reaction chain. Slowly—at least I hope—the Bosnians will understand that

³⁷ Michael Giffoni (EU Council), interview with the author, Brussels (March 30, 2007).

³⁸ Michael Giffoni (EU Council), interview with the author, Brussels (May 4, 2007).

³⁹ See Jennifer Milliken, and Keith Krause, "State Failure, State Collapse, and State Reconstruction: Concept, Lessons and Strategies," *Development and Change* 33, No. 5 (2002): 762.

the state they have does not work and they will start to change it, piece by piece and without our direct impositions.⁴⁰

The following section will further explain the approach of the EU and the latent normative principles informing it; nevertheless, it should be clear that the aim of this paper is neither to produce a sterile critique of the attitude of the EU nor to indirectly say that in the very long run the strategies developed in Brussels and tested in BiH are bound to inevitable failure. As it will be clear, this analysis is an attempt to shed light on the *modus operandi* of the EU, possibly in view of understanding why, at the moment of writing, the Bosnian statebuilding process seems stationary and the talks for the constitutional reforms have reached a stalemate.

2. *Quo vadis* sovereignty? The EU-driven statebuilding pushing BiH beyond the sovereignty paradox

In general, international multilateral settings working on statebuilding projects determine a paradox of sovereignty automatically: it is indeed inevitable that the “outside-in” promotion of good domestic governance in failed/failing states takes place while sovereignty is subject to constraints. In the words of Zaum, “international administrations compromise a fundamental aspect of a political community’s sovereignty by violating its right to self-governance, but do so with the aim of making it sovereign with regards to the relations between state and society”.⁴¹ Surely, establishing modern forms of protectorate has its own risks. According to Susan Woodward—a scholar with a consolidated expertise on both BiH and the paradoxes of sovereignty and statebuilding—sacrificing sovereignty to restore sovereignty can determine highly unstable situation, especially in ethnically divided states like BiH. Looking at the political tensions in Sarajevo, only a few years ago, Woodward stated

the only force in favour of Bosnia as a whole is the international community. While that does not mean that there are no domestic constituents of a sovereign Bosnia, the way in which this international operation is taking place gives free rein to those who

⁴⁰ José L. Sanchez Alegre (DG Enlargement, EU Commission), interview with the author, Brussels (June 4, 2007).

⁴¹ Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*, 27.

are opposed. It appears to provide no sanctuary or platform for those who are committed to Bosnia.⁴²

When the highly-intrusive statebuilding project was initially launched, also the external actors involved in post-war BiH were compromising crucial aspects of “Westphalian/Vattelien” sovereignty in order to foster a reorganization of sovereign powers among the domestic political authorities. This reorganization would have allowed fluid interactions between multi-ethnic institutions, with full respect for the basic institutional lines and procedures established by the Dayton Peace Accords (DPA). Until the prospect of EU membership was attached to BiH, the OHR represented the leading agency of an “ordinary” sovereignty-paradox-type administration, which was reinforced with the adoption of the Bonn Powers in 1997. But as clarified, a further paradox has resulted from having a post-nation state organization, the EU, hold the bridle of the Bosnian multiethnic experiment: while it helps the re-organization of the state by containing the dispersions and the asymmetries of sovereignty produced by the DPA and its implementation, it prepares this state to give up certain sovereign prerogatives when the appropriate time to join the Union arrives. Hence, the interferences determined by EU-driven statebuilding cannot be justified simply with the goal of rehabilitating the Bosnian authorities to the full and legitimate exercise of their “empirical statehood”,⁴³ but also by the latent conviction that the various internal fractures and wounds of BiH will be healed only when the Bosnian sovereignty is diluted, partially dispersed, and “domesticated” in the greater European integration machine.

To complete the picture another consideration has to be made. The peculiarities of the EU-driven statebuilding are not just theoretical. The feature of this non-ordinary statebuilding cannot be found just by inquiring on what Brussels thinks. The “paradox in the paradox” cannot be explained simply by trying to reconstruct how Brussels intends stability for the Bosnian state. Evidently, the EU-driven statebuilding has profound differences also in the methodology and the choices made for field initiatives if it is compared to “ordinary” UN-lead operations of the same type. Stimulated to talk on these differences, a practitioner serving in Sarajevo and previously involved in the work of the ICISS, has convened that

⁴² Woodward, "Compromised Sovereignty to Create Sovereignty," 258.

⁴³ Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*, 35.

if the operations currently in place in BiH were still of an internationally driven statebuilding the trajectory of sovereignty would look very different. International statebuilding means: we put in place institutions; we stimulate a shift of the political culture in order to go beyond the rhetoric of wartimes—which unfortunately is still far than accomplished in today’s BiH; we implement confidence-building measures at all levels. This should help to re-establish a sovereign society/state. Only then, at an appropriate point, when reconciliation is achieved at all levels, this society would start to debate on what strategic and political decisions/directions should be taken, domestically and internationally.⁴⁴

2.1 The EU prospect of membership between successes and failures

Thanks to the initial strength of the EU prospect of membership, BiH was put on a very peculiar rehabilitation track, for which some of the steps above were left unaccomplished or, perhaps, not tackled with direct policies. After some years of experiment three questions arise. First, how “efficient” is still the EU prospect of membership? Second, can a mere indirect perspective truly create incentives for fluid political cooperation among elites representing three ethno-religious factions previously at war? Third, is the EU perspective reflecting imperial designs or is it purely developed along the lines of a “cold and distancing” technocratism?

Looking at Kosovo, Macedonia, Bosnia, and the degree of involvement of the EU in the stabilization processes of these complex realities, already in 2003 Sergio Romano, Italian diplomat and historian, proposed to talk about the emergence of new “European protectorates.”⁴⁵ Notably, the word “protectorate” has a negative connotation; however, in contemporary international relations it might be adopted also to suggest other nuances. Protectorates might characterize all the contexts in which international institutions (and/or highly-committed governments) take over responsibilities and financial burdens of instable states, with the aim of preventing possible security threats from finding fertile grounds and becoming uncontrollable destabilizing challenges—regional or even global. Such a “positive” understanding of the term protectorate could be possibly applied to the current commitment of the EU to the troubled states of the Western Balkans, even if some observers continue to put blame on the EU for spreading

⁴⁴ Steve Lee (OSCE Mission to BiH; chair of the Ottawa sessions of the ICISS), interview with the author, Sarajevo (June 22, 2007).

⁴⁵ See Sergio Romano, "I Protettorati Europei nei Balcani," *Est-Ovest* 6 (2003): 23.

the wind of, so to say, “a new colonialism”. For instance, when the handover between NATO and the EU in BiH took place, several critics questioned the possibility for Mission Althea to contribute to an amelioration of Bosnia’s future. By deploying a European force to BiH—skeptics claimed on the international press—the EU was trying to affirm itself as an exclusive regional player: the European troops (EUFOR) would have indeed “less to do with Bosnia’s needs than the EU’s ambitions as a military power.”⁴⁶

But can the label of imperialism—that is often attached to both statebuilding and the EU enlargement—be dismissed completely? The academic world is divided. Some scholars notice that these two processes can be easily distinguished from a supposed post-modern imperialism. While the rationale underpinning imperialist logics used to develop along pre-defined ideological tracks, statebuilding and European integration seem to be “organized along purely technocratic, administrative lines.”⁴⁷ In opposition to this view, other scholars and observers propose to reinterpret the EU precisely as a neo-medieval realm. Brussels would be the capital of a benevolent empire, with fuzzy borders, exporting rules and procedures in its neighborhood, establishing protectorates (e.g. BiH and soon Kosovo)⁴⁸, and sometimes even pushing forms of constitutional reorganizations that could suite European idealization but might result in complex institutional “straitjackets”.⁴⁹

Neo-colonial nuances or not, the stabilizing influence of the EU in the Balkans continues to operate. The prospect of membership—that has already showed some of its effects in Croatia, that at present is under critical testing in BiH, and that is expected to be the key element of the overall stabilization of the Western Balkans—represents an indirect statebuilding tool, which can be placed in a mid-way stop between traditional externally-driven statebuilding and the formal procedures typical of the EU enlargement process, which are put in place according the Copenhagen criteria. It is worth noticing that this concept is relatively new in the scholarly literature: it has been indeed practitioners who

⁴⁶ Nicholas Wood, and Graham Bowley, "EU Force Set to Take over in Bosnia," *International Herald Tribune*, December 2, 2004.

⁴⁷ See Christopher J. Bickerton, "Re-Building States, De-Constructing State-Building" (paper presented at the SAID Workshop, Oxford, 2005).

⁴⁸ Jan Zielonka, *Europe as Empire: The Nature of the Enlarged European Union* (Oxford: Oxford University Press, 2006).

⁴⁹ See Nebojsa Malic, "Bosnia's Straitjacket: Empire Pushes Centralization," May 31, 2007. Online, available at <http://www.antiwar.com> [last accessed July 31, 2007].

have coined it and first contributed to its development. Among others, the former Head of the OSCE Mission to the then Serbia and Montenegro has proposed an attentive account of the *Euro-Atlantic prospect*⁵⁰ shared among key Western Balkans states. Giuliano Amato, current Italian minister of Interior and head of the International Commission on the Balkans, has stressed that the idea of becoming a member of the EU is a widespread dream throughout the Western Balkans, and that this dream “is by far [the] most powerful force driving positive change”.⁵¹ Among the first scholars who are pioneering on the relatively unknown field of the European prospect of membership, David Chandler has attributed to this tool the effect of increasing the regulatory power of the EU, but has remarked that this new mechanism of indirect stabilization cannot solve alone the delicate problem of accountability.

The long process of negotiating European membership, through 'Partnership' agreements and the Stability and Association process, is the form international statebuilding takes; this process distances the potential accession states at the same time as giving the EU greater regulatory authority. The decision-making power lies with Brussels but the accountability rests with the governments of the Balkan states.⁵²

Unfortunately, the issue of accountability is not the only problem related to the process of approximation between the Western Balkans and the EU. If we really want to produce an evaluation of the EU prospect of membership as a stabilization tool, the Bosnian test offers bittersweet hints. On the one hand, it cannot be denied that the prospect of European integration has so far successfully bridled the centripetal forces characterizing Bosnian political environment as well as prevented them from producing critical institutional shocks. Bosnian political elites are divided on all most sensible issues, but they find in the European integration project the only possible ground for concrete cooperation and integration. One of the political advisors serving at office of the Bosnian Chief Negotiator for the EU SAA has declared:

⁵⁰ See Maurizio Massari, "Do All Roads Lead to Brussels? Analysis of the Different Trajectories of Croatia, Serbia-Montenegro and Bosnia-Herzegovina," *Cambridge Review of International Affairs* 18 (2005).

⁵¹ Giuliano Amato, "A European Success Strategy for the Balkans," *The Wall Street Journal*, 10 February, 2005.

⁵² David Chandler, "How 'State-Building' Weakens States," *Spiked*, 2005: 5. Online, available at <http://www.spiked-online.com/Articles/0000000CADDDB.htm> [last accessed July 30, 2007].

Everybody in Bosnia considers the EU as ‘the’ anchor. Currently, the idea of working for the EU accession is the only issue on which all parties agree. Elites unanimously share the idea that our place is in the EU. Personally, I see Europeanization as a key component if not the sole engine of this complex statebuilding and normalization process.⁵³

On the other hand, the Bosnian political life of the last two years has shown a series of worrying signs. First, the political rhetoric—not only in the proximity of elections—sometimes seems to resemble the confrontation that preceded wartimes. “We are back to 1992 (!)” is a very common comment to be heard in these days in Sarajevo when Bosnian average citizens are asked to comment on national politics. Second, it is at least preoccupying that key parties have neither agreed on concrete constitutional reform, nor they have allowed any constitutional consolidation. This latter point is particularly significant: the structural and institutional changes that have been put in place so far (mostly through the imposition/interference of the OHR) did not receive any kind of constitutional formalization. This is a clear sign that the EU prospect of membership cannot stimulate substantially a domestic constitutional debate if it is not backed by an attentive work of constant and active mediation that aims to round off the angles between the various extremist lines promoted by the most accredited representatives of the three main ethnic groups. In the words of a scholar from the University of Sarajevo, “if the EU technocratic approach would have been the right way to produce positive change on the Bosnian political environment, then constitutional consolidation would have already taken place”.⁵⁴ Perhaps this statement overlooks that also Bosnian politicians have their stake in this failure. However, it would be also exaggerate to state that so far the EU has been always working as the “anchor for the process of inter-ethnic and inter-state reconciliation”.⁵⁵ For instance, the reform process of the Bosnian police is a specific field where the EU has not been able to handle the frictions between its own technocratism and rigid schemes on one side, and political rhetoric and inter-

⁵³ Maja Lolić (Political Advisor, Office of the Bosnian EU SAA Negotiator), interview with the author, Protaras, Cyprus (April 22, 2007).

⁵⁴ Šukrija Bakšić (Faculty of Law, University of Sarajevo), interview with the author, Sarajevo (June 26, 2007).

⁵⁵ Dimitar Bechev, and Svetlozar Andreev, *Top-Down Vs Bottom-up Aspects of the EU Institution-Building Strategies in the Western Balkans* (Oxford: South East European Studies Programme (SEESP) - Occasional Paper No. 3/05, 2005), 4.

ethnic confrontation from the field on the other. As clarified on the OHR webpage:

The European Union has made police restructuring one of the priority criteria for the start of negotiations on a BiH Stabilisation and Association Agreement ... [T]his reform must: place exclusive competence for police legislation and budget at the State level; recast regional police areas on the basis of functional police criteria; and, help protect the police from improper political interference.⁵⁶

At present, there is no agreement among the main Bosnian political parties on this reform package. It should be noticed that last year an agreement was almost reached. The failure arrived when the Bosniak leader Haris Silajdžić tried, so to say, to “hijack” the reform process and divert it against the existence of Republika Srpska (RS), thus determining in Banja Luka a firm and exasperated opposition against the whole reform package. When this happened, the EU “diplomacy” focused on Dodik (who at a fist stance had accepted the streamlines of the reform plan). Unfortunately, it seems that the “language gap” between Brussels and Banja Luka could not be bridged. While the EU pushed on the idea that the police reform is a necessary step to adopt “European standards” (that actually in the field of police do not really exist, even if we just look at the EU founding members there are different practices and substantial structural discrepancies) Dodik has strenuously defended the integrity of the RS Police as one of the last pillars of the entity “sovereignty” against the supposed Bosniak strategy to create a centralized and Muslim dominated BiH. In the recent weeks the OHR has re-launched a campaign (that partially was already made in 2005) that aims to dismantle all the “political myths” build around the police reform. The OHR has been forced to state openly that “[p]olice re-structuring is only about establishing a professional police service and will not abolish the Entities. There is no plan to abolish the Entities.”⁵⁷

At the moment of writing, there are two elements of interest that can be attached to this particular “struggle” for sovereignty. First of all, it is worth noticing that the fight for the integrity of the RS entity status is not a contingent political battle pursued merely by Dodik—who enjoying his position as RS premier

⁵⁶ OHR, "The EU Accession Process," (2005). Online, available at http://www.ohr.int/dwnld/?content_id=34264 [last accessed July 30, 2007].

⁵⁷ OHR, "5 Common Misconceptions About Police Restructuring," (2007). Online, available at http://www.ohr.int/dwnld/?content_id=34263 [last accessed July 30, 2007].

has also repeatedly threatened the possibility of a referendum for secession.⁵⁸ In Banja Luka, the RS has priority over BiH for the entire political spectrum. In the political programs of many parties it is possible to find formulas like “the X party is committed to the integration of RS and BiH in the European Union”.⁵⁹ Interestingly enough, the RS president Jelić took the celebrations for the statehood day as a chance to make a formal polemic against the International Community. Jelić argued that the “non-existent Bosnian statehood day” would represent a breach of the sovereignty of BiH, “a state of two *equal* and *integral* entities”.⁶⁰

2.2 The EU ‘hands-up’ statebuilding of BiH

While the EU/international efforts to break an agreement on the reform of the Bosnian police strenuously continue, the stall of the constitutional talks offer an interesting case to understand the attitude of the EU towards the politico-institutional dynamics of its most troubled “potential candidate member”. According to Joseph Marko—former international judge at the Bosnian Constitutional Court, currently in force at the OHR/EUSR legal department in Sarajevo—what is evident in BiH is that “[t]oo often, the IC and even the EU does not speak with one voice but is divided along national lines and spheres of interest”.⁶¹ Some international divisions (determined by both national fracture lines and intra-EU institutional frictions) evidently affect the ability of the EU to have constructive influence on the talks for the Bosnian constitutional reform. But the usual weaknesses of multilateralism are not the only explanation behind the EU “cold and evasive” approach towards the reform process of the Dayton constitution and the constitutions of the two entities (FBiH and RS). Elaborating

⁵⁸ It is very interesting to notice that at the end of 2006 Miroslav Dodik was elected “man of the year” by a well-known Croatian magazine based in the FBiH. The motivation behind this paradoxical decision was the incitation given by Dodik to the Croats to constitute their own entity at the expenses of the Bosniaks.

⁵⁹ Formulas like the one above are encompassed in the program and the rhetoric of the RS premier’s party, the Alliance of Independent Social Democrats (SNSD), but are made explicit also by other political groups. For instance, the Party of Democratic Progress (PDP, founded by and still run under the guidance of Dragan Ivanić) identified the motto “Europe, the house of the future” as first pillar of its strategy. Commenting on this choice, a member of the party’s executive board admitted: “The first point of our new strategy makes explicit what is actually clear since 1999, which was the beginning of our activity. We defined ourselves as a ‘EU-party’, whose main objective is the integration of RS and BiH into European networks and the EU”. Dusko Maslesa, interview with the author, Sarajevo (June 22, 2007).

⁶⁰ Milikic Slobodanka, "Bosnian Statehood Day is Breach of State Sovereignty - Serb Entity President," November 27, 2006. Online, available at <http://www.kfunigratz.ac.at/suedosteuropa/en/> [last accessed July 30, 2007]. Emphasis added.

⁶¹ Joseph Marko, "Post-Conflict Reconstruction through State- and Nation-Building: The Case of Bosnia and Herzegovina," *European Diversity and Autonomy Papers - EDAP*, No. 4 (2005): 16. Online, available at <http://www.eurac.edu/edap> [last accessed July 30, 2007].

on a series of interviews with participants and observers of the EU decision-making processes that concern BiH,⁶² it is possible to construct the idea of a very peculiar “EU hands-up statebuilding of BiH”, that takes us one step back from the promising and more optimistic reconstructions made on the basis of the sovereignty paradox literature.

Quoting again from Zaum, the sovereignty paradox should be unfolded in the following terms: “the international community compromises one important norm associated with sovereignty—self-governance—to create the conditions for full empirical statehood and sovereign authority in the country it intervenes in, by establishing the capacity of the state to fulfil its international and domestic obligations”.⁶³ At the basis of this mechanism, all contemporary statebuilding efforts would share the same ethic and ideological line. This “ethic” would have its normative core in the idea that sovereignty cannot be intended merely in negative terms, as a barrier. Internally, governments have duties and responsibilities towards the population under their jurisdiction—these obligations are both of *facere* and *non facere*. As made clear in section 1.2, the inability to fulfil fundamental governance requirements, would automatically allow the International Community to undertake initiatives that aim to prevent that the population of a failing/failed state is condemned to experience insecurity and sufferance. In the jargon of the ICISS, this idea would be identified as a generalized *commitment to prevent*. When plagues and forms of instability are in place, the duty on the shoulders of the IC would be to intervene for *the protection* of the affected population. Last, but nevertheless crucial corollary that completes this logic is the already mentioned idea of a *responsibility to rebuilt*.⁶⁴ In synthesis, normative basis and true engine of this series of commitments would be the understanding of sovereignty as an internationally shared responsibility.

Some doubts on the genuine diffusion of these norms have been already brought. But here another question arises: looking at the reluctance of the EU to have any role in the reform process of the Bosnian constitution(s) it seems that we

⁶² These interviews have been conducted in Brussels and in BiH. The list of interviewees includes both permanent staff and seconded personnel at the Brussels offices of the EU Commission and Council; diplomats from the member states employed at their respective national permanent missions to the EU and serving in the COWEB (the committee that prepares the work of the COREPER on the Western Balkans); officers employed at the various EU offices in BiH, at the OSCE Mission to BiH, and at the OHR/EUSR; members of the European Parliament (MEPs).

⁶³ Zaum, *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*, 41.

⁶⁴ See ICISS, 19-28, 39-46.

are in front of a very peculiar approach to responsibility. Building on Chandler—who has been among the first scholars who tried to contextualize statebuilding in the broader realm of global politics⁶⁵—we might look at Brussels and wonder: are we making a step back from the implicit *Empire in Denial* (that according to Chandler can be generalized to the West or, if we prefer, to Northern diplomatic club) towards an explicit but even more incoherent *denial of having the right to act* specific of the EU commitment to statebuilding? The EU approach towards the Bosnian constitutional change seems to move beyond a subtle and indirect transfer of responsibilities; rather, it resembles an *ex-ante* “denial/refusal of interference” that is totally incongruent with the massive field presence. The ambiguity of keeping the *hands-up* with respect to the constitutional reform process lies in the denial of any responsibility towards the Bosnian reconciliation project, something that EU officials interviewed on the matter have had no problem to confirm. A voice from the Policy Unit of the EU Council with a consolidated experience on BiH confirms: “we are not doing reconciliation in BiH; we are not in a position to face complex political issues as the harmonization of the Bosnian state pillars”.⁶⁶ More or less the same comment can be heard at the Commission; even though the personnel of the DG Enlargement has more care to emphasize that something positive still happens also on the ground of reconciliation. A practitioner with more than ten years of experience on the Bosnian file admits that, even if randomly, “things are moving. Surely, we are not tackling directly the constitutional deadlock because this would mean involving the Commission into a difficult effort for reconciliation. Still, we are doing reconciliation our own way, step by step, progressively, with different programs and means”.⁶⁷ Doubts on the effectiveness of this approach have been raised, even recently; but apparently, voices from the European Parliament (even when they seem to be wise) do not reach other European institutions so easily.⁶⁸

As we will see in the next section, what is truly paradoxical is that the attitude of most EU actors towards the Bosnian elites is based on the claim of “a quasi-sacred respect for sovereignty” that is constructed to hide a substantial

⁶⁵ Chandler, *Empire in Denial. The Politics of State Building*, 189.

⁶⁶ Interview with the author, Brussels (May 22, 2007).

⁶⁷ Interview with the author, Brussels (June 8, 2007).

⁶⁸ Speaking on the deadlocks of the Bosnian constitutional reform, an MEP from Süd-Tirol has questioned: “until we clarify the problem of guilt, how can people get together in a pluriethnic solution?” Mr. Sepp Kusstatscher (MEP), 9th EP-BiH Inter-parliamentary Meeting, Brussels (June 28, 2007).

inefficiency: the EU is currently unable to provide clear directions/stimuli to the Bosnian constitution-making process. The absence of a clear “R2P culture in Brussels”—with all the operational implications that this can have—has been recently remarked also by Gareth Evans. The critic brought by the ICISS co-chair and current head of the International Crisis Group (ICG) proceeds in very explicit terms.

So far as the EU is concerned, it is clear that there is some distance to go in giving R2P shape and voice. Members of the European Parliament have been quite vocally supportive, and the concept periodically surfaces in resolutions and debates there. But it is not very much in evidence at all in the work of the other main EU institutions. No doubt Javier Solana and his colleagues in the European Council are fully conscious of the principle, but they seem deeply reluctant to invoke it in any relevant context ... The Commission does not seem to see itself as having any particular responsibility to take the R2P concept forward by way of anything in the nature of formal programs.⁶⁹

2.3 Hiding behind a finger ... and sovereignty is said to be again sacrosanct

The EU stepped in the Bosnian field in 2003, when it took over the responsibilities of the international police mission formerly directed by the UN and installed its own mission (EUPM), which was the first deployment under the ESDP framework.⁷⁰ Since then, the EU presence in BiH has gone through a constant and significant “escalation”. EUFOR Mission Althea jumped into the feet of SFOR (the second NATO mission to BiH after IFOR);⁷¹ the EU Commission consolidated its field delegation;⁷² but most important, during the

⁶⁹ Gareth Evans, "The Unfinished Responsibility to Protect Agenda: Europe's Role." (paper presented at the EPC/IPPR/Oxfam Policy Dialogue on Europe's Responsibility to Protect: What Role for the EU, Brussels, July 5, 2007). Online, available at <http://www.crisisgroup.org/home/index.cfm?id=4936&1=1> [last accessed July 30, 2007].

⁷⁰ However, the first concrete sign that inaugurated “the EU commitment to Bosnia” was the Road Map drafted by the European Commission in 2000. Through this Road Map the Commission identified 18 areas of reform (divided into three fields: political steps, economic steps, and Steps in the fields of Democracy, Human Rights and Rule of Law) that the Bosnian government should have adopted to “allow” the Commission launching a Feasibility Study for the Stabilisation and Association Process. For further details on the various steps listed in the EU Road Map for BiH, see <http://www.ceps.be/files/ESF/Monitor11.php>

⁷¹ On the handover between the EU and NATO, see Anes Alic, "Filling Nato's Boots in Bosnia," *ISN Security Watch*, May 27, 2004: 28-34. Online, available at <http://www.isn.ethz.ch/news/sw/details.cfm?ID=8901> [last accessed July 30, 2007], Federico Eichberg, and Giulio Venneri, *Italy's near Abroad: The Adriatic Sea, the Aegean Sea, the Black Sea and the Danube River. Perception and Perspectives from a Geopolitical Region. A Bosnia-Herzegovina Point of View* (Roma: Centro Militare di Studi Strategici - CeMiSS, 2004).

⁷² At present, the EC delegation to BiH involves the work of over 100 officers, and it has thus become one of the largest EC missions abroad. For further details, see <http://www.delbih.ec.europa.eu/>

last part of Ashdown's mandate, the High Representative (HR) was given a "double hat" and his office was thus renamed OHR/EUSR.⁷³ In spite of this dominant position on the Bosnian field and the mentioned initial successes and proved potentials of its prospect of membership, Brussels has not engaged in the constitutional challenge. Until the beginning of this summer, the initiatives on this ground have been mostly left to the United States that, even with its changed geopolitical perspectives and renewed field activism in Iraq, has continued to show in Bosnia a relatively active diplomacy. Washington was behind the "April Package" of reforms⁷⁴ (which nevertheless sunk in the Bosnian parliament in spring 2006) and still remains the most active mediator between the leaders of RS and their Bosniak opponents, as shown by the recent (but unfortunately unsuccessful) attempt to bring around a table in Washington Dodik and Silajdžić.⁷⁵

How can it be that so far the EU has never intervened directly on the matter, at least with some systematic manoeuvres that could facilitate the domestic confrontation on constitutional issues? Evidently, the current impasse for the constitutional reform is seen as a mined field, too risky and too complex to be approached. This happens at times in which even The Dayton Project (i.e. the American NGO that has structured, supervised, and stimulated the constitutional talks that led to the informal political approval of the April Package) openly admits that only a greater involvement of the EU could be the crucial element to solve the deadlock at the basis of the current stagnation. Observers from the other side of the Atlantic recognize that the constitutional reform process in BiH should be given new lymph "via Brussels". An understandable call has been explicitly made in favour of a revitalization of this process through the establishment of clearer links with the SAA and through greater involvement of the EU in the difficult mediation.⁷⁶

⁷³ Some interesting consideration on the OHR/EUSR can be found in Stefano Recchia, *Beyond International Trustsheep: EU Peacebuilding in Bosnia and Herzegovina* (Paris: EU Institute for Security Studies - Occasional Paper N. 66, 2007). Online, available at <http://www.iss-eu.org/occasion/occ66.pdf> [last accessed July 30, 2007].

⁷⁴ The Dayton Project, "Amendments to the Constitution of Bosnia and Herzegovina" (April 26, 2006). Online, available at <http://www.daytonproject.org/publications/index.php> [last accessed July 30, 2007]. On the methodology employed by The Dayton Project, see Robert M. Hayden, and R. Bruce Hitchner, "Constitution Drafting in Bosnia and Herzegovina" (paper presented at the Dayton Project Seminar 323, May 10, 2006). Online, available at <http://www.daytonproject.org/publications> [last accessed July 30, 2007].

⁷⁵ "Bosnian Leader Says Talks Aimed at Achieving Unity Fail," *International Herald Tribune*, May 24, 2007.

⁷⁶ "One option to consider is for the EC and US to meet in Brussels with the leaders of the State, the entities, and representatives of Mostar, Tuzla, Sarajevo, and Banja Luka to discuss this issue and indicate that, although

Any reaction from Brussels? As said, so far not much has happened. Rumours from the DG Enlargement confirm that at least fundraising has been made. According to one EU official, the Commission has already gathered “adequate” financial resources that, potentially by the end of the year, could be destined specifically to support the process of constitutional reform. The same source has further specified: “people in BiH have been informed about this. If they want to start talking about the constitution we put the money, and perhaps some of our expertise. We are ready to set up proper frameworks and bureaus for this. For the rest, we keep going with the Stabilization and Association Process (SAP).”⁷⁷ The readiness of the EC—at least on the financial level—has to be undoubtedly appreciated. But stimulating complex processes like this, unfortunately, does not only depend on the availability of financial resources. Clearer *political* decisions on strategies to be implemented and paths to be chosen and pursued are probably more relevant in such cases. At the moment of writing, no common European strategy has been adopted on the matter. As said, the frictions are institutional and diplomatic, normative and methodological, and for several aspects, they have a lot to do with sovereignty. According to a diplomat serving at the COWEB in Brussels, it should be clear that

...the EU does not have its own vision of the Bosnian sovereignty and does not intend to produce direct policies related to the reorganization of sovereignty. There is not indeed a design for the redefinition of the Bosnian sovereignty. Who is dealing with sovereignty is the UN. Probably Kosovo will be an exception to this EU reluctance, but it is too early to say. The interference with sovereignty in BiH takes place with the use of the Bonn Powers, not with the hat of the EUSR.⁷⁸

Even if it addresses only indirectly the problem of the current constitutional impasse of BiH, this statement offers a series of interesting points of discussion. A preliminary clarification has to be made. After a long series of interviews with other diplomats attached to national permanent missions to the EU, I can define the statement above as a perfect synthesis of the vision of sovereignty and EU

completely abandoning the Dayton institutions may not be necessary, nevertheless without significant change in the constitution and the way in which Bosnian governmental entities function, there will be little if any chance for Bosnia to obtain EU membership”. The Dayton Project, *One Last Chance in Bosnia* (2007). Online, available at <http://www.daytonproject.org/publications> [last accessed July 30, 2007].

⁷⁷ Interview with the author, Brussels (June 8, 2007).

⁷⁸ Interview with the author, Brussels (March 26, 2007).

responsibilities shared by diplomatic elites sitting in Brussels and working on BiH and the Western Balkans. On these bases, the constitution is identified by definition as the maximum expression of the sovereignty of a state, so that it would be too much even to intervene formally and provide external incentives to stimulate the process for the revision of the DPA. Constitution is seen as the final test for the maturation of the country that should not be faked by any kind of European carrot or stick. Further element of interest, is that once specifically asked on the massive EU field presence, practitioners make no direct or indirect reference to the idea of sovereignty as an internationally shared responsibility; at best, they produce general statements on guilt and the EU mistakes of the early 1990s, a vague idea of a “European family” based on common history, and the necessity for the EU to test its operational capability in neighbouring areas.

Interestingly, when specifically asked to elaborate on the EU reluctance to intervene on the constitutional field, some of the diplomats have pointed their finger merely to the prolonged indifference of the Commission—presented as the *Deus ex machina* of the EU enlargement process⁷⁹—and apparently forgetting that also what is happening in the Council and among the permanent missions is peculiar.⁸⁰ On the paper, from the Justus Lipsius building a timid sign was given at the beginning of the year. Precisely, this arrived last February when a renewed mandate of the EUSR was officially adopted. According to the letter of article 3(p) of the “updated” mandate, the EU Representative to BiH should, among many other tasks, “provide political advice and facilitation in the process of constitutional reform”.⁸¹ It is too early to say whether Lajčák, the new Slovak

⁷⁹ A practitioner who has recently completed his four-year mandate in the COWEB declared: “if the EU has not had yet any role with regards to the Constitutional debate in Bosnia this can be understood by looking at the attitude of the Commission. At the very beginning, the Commission was particularly reluctant to think that it might have had some kind of interference with regards to the Bosnian constitutional debate; even the mere possibility of acting to facilitate the talks was seen as a task falling outside the possibility, the powers, and the intensions of the Commission. The constitutional restructuring of the Bosnian state is not seen as essential *per se*, what is truly essential for the Commission in particular is that reform for a more functional state takes place through the SAP”. Interview with the author, Brussels (March 26, 2007).

⁸⁰ The same attitude towards the Commission can also be sensed at the EP; even though, at a closer look, the criticism from the EP involves both the Council and the Commission. For instance, interviewed on the matter, Doris Pack has declared: “I didn’t understand why Dodik and Silajdžić went to Washington. Anyway, this has been a failure of the Commission and mostly of Solana to change the political climate in BiH. The Bosnians need people who really understand them. In particular, I have the impression—the German MEP has further specified—that the EC is too technically oriented. You have to go there and speak to politicians. The EC sees itself as a technical body”. Doris Pack, interview with the author, Brussels (July 07, 2007).

⁸¹ European Council, *Council Joint Action Amending and Extending the Mandate of the European Union Special Representative in Bosnia and Herzegovina* (Brussels: Council Joint Action 2007/87/CFSP of February 7, 2007).

HR/EUSR,⁸² will be backed with appropriate political support to stimulate the constitutional debate or, at least, will be allowed to have more structured discussions with the elites from Bosnia on how to make the constitutional consolidation of the institutional changes already in place. A voice of criticism from within the OHR/EUSR claims that not much can change since

in Europe there is no shared model, no pre-determined understanding of what is a state or a constitution. Moreover, there is no shared vision over democracy, the rule of law, the idea of nation, or even the idea of rights. Evidently, there cannot be smooth political convergence at the Council that would allow overcoming these normative clashes. The problem is that only by solving these divergences it will be possible to choose a path between the nation-building approach and the technical approach. The former is a latent idea that is always there at the Commission, mostly because of the national background of the people that are currently on the Bosnian file. But the latter remains a predominant vision, based on the idea that all countries are the same and that there is not so much difference between Bosnia and the other former Communist states that already went through the enlargement process.⁸³

To complete the reconstruction of the “hands-up” attitude shown by the EU towards the Bosnian constitutional impasse, a conclusive look at the work of the European Parliament (EP) is due. The Brussels-Strasbourg-based institution has not any direct or substantial impact on the CFSP or the enlargement process; nevertheless, it remains a relevant forum for discussion from which interesting hints on BiH can be elaborated.⁸⁴ Last March, in a recommendation from the EP to the Council the Bosnian constitutional issue was dealt with particular care. The EP recognized that “deep reflection should be undertaken among the different components of society in BiH on how to transcend the rigid ethnic division of the country so as to reform its structures and make it more flexible and compatible with the European democracies”.⁸⁵ But what were the responsibilities on the side of the EU to properly stimulate a similar parcours of reconciliation? Not much was said on the matter. But even if indirect, an answer seems to have come during

⁸² For some interesting information on Lajčák’s background and nomination as EUSR/HR, see Anes Alic, “Slovak for Bosnia High Representative,” *ISN Security Watch*, May 16, 2007. Online, available at <http://www.isn.ethz.ch/news/sw/details.cfm?id=17624> [last accessed July 30, 2007].

⁸³ Interview with the author, Sarajevo (June 26, 2007).

⁸⁴ The following analysis has been developed by monitoring since early 2007 the work of the EP Foreign Affairs Committee, its Sub-Committee on Security and Defence, the Delegation for SEE, as well as the preparatory work and final 9th EP-Bosnia and Herzegovina Interparliamentary Meeting.

⁸⁵ European Parliament, *Recommendation to the Council of 15 March 2007 on Bosnia-Herzegovina* (Brussels: doc. P6_TA-PROV(2007)0077, 2007).

the closing session of the yearly EP-BiH Inter-parliamentary Meeting. Talking to her colleagues from BiH on constitutional reform, the German MEP chairing the meeting (who is also president of the EP delegation for SEE) made clear:

We have the money, we have the know-how and we could put it. But we have no responsibilities. You have to find the compromise ... It is your constitution ... Moreover, note that I do not like that there is someone who goes to Washington to discuss his own constitution. You do not want to become members of the United States of America, so come here to us! Let's stay home, doing homework without taking this long trips to Washington, that is so far away!⁸⁶

Conclusions

As the end of the summer approaches, the political debate in BiH is reopened with the usual tensions. In the last ten days two manoeuvres, one from Dodik and one from Silajdžić, have been source of renewed preoccupation and disappointment for the International Community. The leader of SBiH—who this time could count also on the important support of Sulejman Tihic⁸⁷—has opposed the new framework concepts for the police reform, which had been launched informally by the HR/EUSR only a few days ago. The counter-reaction from Lajčák has been emblematic. The Slovak diplomat has declared: “I am deeply disappointed ... By rejecting the draft proposal on police reform before all the major political leaders have even received it, [Silajdžić and Tihic] have demonstrated a disdain for their colleagues and the political process”.⁸⁸ As far as the relations with Banja Luka are concerned, the situation is not less preoccupying. Through the *Radio Televizija*

⁸⁶ Doris Pack (MEP), 9th EP-BiH Inter-parliamentary Meeting, Brussels (June 28, 2007). On the same line, the vice-president of the EP Delegation for SEE, declared in that occasion: “it is true that the Americans are the ones who made peace happen. However, we cannot accept anymore an abstract concept of constitution to be imposed. We want a process and I hope that people understand that Washington is not the right address to make this happen”. Hannes Swoboda (MEP), 9th EP-BiH Inter-parliamentary Meeting, Brussels (June 28, 2007). Both these interventions make clear that while at EU level it is easy to find positions against excessive American intrusiveness in the Bosnian constitutional reform process, it is equally difficult to propose clear strategies and launch political initiatives. This has been so evident to the eyes of the Bosnian MPs invited to Brussels that one of them has openly stated: “Bosnia cannot survive as a state based on two separated entities and three people. Dayton is an unfair and unpractical constitution. I could even accept another external imposition if it is fair. It would not be good if the US breaks the constitutional deadlock. We would be pleased if the EU takes over more responsibilities in the constitution reform process. I speak as a citizen prior to launching this proposal as a Bosnian MP. It is a long and difficult process, but the EU has to allow us to make it”. Ivo Miro Jović (Bosnian MP, member of the HDZ, first vice-president of the Joint Committee for European Integration of the Bosnian Parliament), 9th EP-BiH Inter-parliamentary Meeting, Brussels (June 28, 2007).

⁸⁷ One of the founders of the Party of Democratic Action (SDA), Sulejman Tihic served from October 2002 until end 2006 as Bosniak representative in the tripartite presidency of the country.

⁸⁸ EUSR/OHR, "Leaders Should Think About the Whole of BiH," August 30, 2007. Online, available at http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=40403 [last accessed August 30, 2007].

Republike Srpske, Dodik continues to oppose *a priori* and categorically any institutional development, claiming that the will to make changes is mostly pushed by Bosniak interests that target the integrity and the existence of RS. Also in this case, the reply from the HR/EUSR has been firm and characterized by profound disappointment: “[Dodik’s] statements questioning the sovereignty and territorial integrity of BiH are *detrimental* to the country’s ongoing efforts to continue reforms and integrate into Euro-Atlantic institutions”.⁸⁹ As these frictions unfortunately reveal, the statebuilding of BiH, hinged since four years around the EU prospect of membership, has reached a point of dangerous stalemate. Clearly, the EU continues to be the only possible “magnetic centre” for the long term normalization of BiH. Moreover, the prospect of membership remains a powerful tool of indirect stabilization, that has registered successes, and that has been put at work for the whole Western Balkans. However, it seems that the promise of prosperity in a peaceful Europe alone does not stimulate a fluid and constructive internal debate on how to put in place institutional ameliorations. The EU-dream has bridled the most critical centripetal forces of the Bosnian political environment, but it has not healed all the wounds and sources of friction. Does BiH need again more active policies? It is difficult to say, but surely, a more comprehensive strategy, specific for reconciliation, could be attempted.

Reconstructing the normative understanding of sovereignty and post-conflict stability at the basis of the current EU interferences in the Bosnian political context has indeed shown that political reconciliation is only indirectly and marginally on the agenda for BiH. The rhetoric of many statements, declarations, and other types of official documents might indicate otherwise; nevertheless, the modalities of the EU-driven statebuilding and the admissions from EU official leave no ground for doubts. In the eyes of policy-makers in Brussels, BiH can be saved if it is anchored through the SAP to the EU integration process. The SAA—with all its mechanism, negotiations, and deadlines—is perceived as something that could create a positive “reaction chain”. Once the process is launched, Bosnians should really face the unsustainable balances of their institutional structure and they should “spontaneously” reform, readapt, and

⁸⁹ EUSR/OHR, "Attempts to Undermine Bosnia and Herzegovina Will Not Be Tolerated," August 22s, 2007. Online, available at http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=40362 [last accessed August 30, 2007]. Emphasis added.

rationalize their state. It is a widely spread opinion in Brussels that the SAA should be adequately demanding to force Bosnian elites to make reforms. It is too early to say whether so much confidence in technically-driven changes is risky or not; nonetheless, we can easily suppose that there will not be any cascade of positive institutional change unless new diplomatic energies are invested and more purely political manoeuvres are implemented.

Having made some normative considerations and very broad policy prescriptions, we might now come up again with the most relevant theoretical proposals made in this paper. First of all, the terms of a “paradox in the paradox” of sovereignty and statebuilding have been identified and reconstructed. The EU-driven statebuilding of BiH would be indeed a more complex project if compared to “ordinary” UN-lead missions for the institutional stabilization of failing/failed states. In today’s BiH, the constraints over self-governance are not made in view of a full restoration of sovereignty; rather, Brussels is preparing (sometimes literally babying) BiH in view of Euro-Atlantic integration and with the latent conviction that by dissolving pieces of the Bosnian sovereignty in a supranational construction, even the most profound fracture lines will disappear. In simple terms, the externally driven reorganization of the state is “tuned” directly towards a supranational ambition, hence, towards a dilution of sovereignty. Having unfolded this particular trajectory of the Bosnian statebuilding experience, light has been shed on the idea of sovereignty as responsibility. The question addressed in this essay can be synthesized as follows: is this relatively new normative principle, with all its corollaries and potential implications, genuinely influencing the EU attitude as a statebuilder? More simply, does the EU implement an R2P *forma mentis*? The reluctance to interfere into the Bosnian domestic debate for constitutional reform—even with some forms of mediation—reveals that Brussels follows its very peculiar ethics when it comes to statebuilding. The vision of sovereignty as responsibility does not seem the predominant normative element informing strategies and policies elaborated by the EU for BiH. Instead, the EU refusal to take over more direct responsibilities to solve the constitutional impasse has allowed emphasizing a very peculiar “hands-up statebuilding”. Even though Brussels has undertaken all major field responsibilities, thus keeping its feet firmly on the Bosnian ground, it nevertheless “raises its hands up” when it comes to intervene in highly sensitive political issues.

List of abbreviations

BiH	Bosnia and Herzegovina
COWEB	Group for the Western Balkans (European Council)
CFSP	Common Foreign and Security Policy
CSCE	Conference for Security and Cooperation in Europe
DPA	Dayton Peace Accords (signed in Paris, December 14, 1995)
EC	European Commission
EP	European Parliament
ESDP	European Security and Defense Policy
EU	European Union
EUFOR	European Force (Mission Althea)
EUPM	European Union Police Mission
EUSR	Special Representative of the EU to BiH
HDZ	Croat Democratic Union
ICISS	International Commission on Intervention and State Sovereignty
ICG	International Crisis Group
IFOR	Peace Implementation Force (NATO)
FBiH	Federation of Bosnia and Herzegovina
MEP	Member of the European Parliament
OHR	Office of the High Representative
OSCE	Organization for Security and Cooperation in Europe
PDP	Party of Democratic Progress
RS	Republika Srpska
R2P	Responsibility to Protect
SAA	Stabilization and Association Agreement
SAP	Stabilization and Association Process
SBiH	Party for Bosnia and Herzegovina
SDA	Party of Democratic Action
SEE	South-East Europe
SFOR	Peace Stabilisation Force (NATO)
SNSD	Alliance of Independent Social Democrats
UNSC	United Nations Security Council

References

- Ago, Roberto. "Pluralism and the Origins of the International Community." *Italian Yearbook of International Law* (1977)
- Alic, Anes. "Filling Nato's Boots in Bosnia." *ISN Security Watch*, May 27, 2004. Online, available at <http://www.isn.ethz.ch/news/sw/details.cfm?ID=8901> [last accessed July 30, 2007]
- . "Slovak for Bosnia High Representative." *ISN Security Watch*, May 16, 2007. Online, available at <http://www.isn.ethz.ch/news/sw/details.cfm?id=17624> [last accessed July 30, 2007]
- Amato, Giuliano. "A European Success Strategy for the Balkans." *The Wall Street Journal*, 10 February, 2005
- Ayoob, Mohammed. "Humanitarian Intervention and State Sovereignty." *The International Journal of Human Rights* 6, No. 1 (2002): 81-102
- Bastian, Jens. "Humanitarian Intervention: Ethics and Legal Aspects." *Southeast European and Black Sea Studies* 5, No. 1 (2005): 145–50
- Bechev, Dimitar, and Svetlozar Andreev. *Top-Down Vs Bottom-up Aspects of the EU Institution-Building Strategies in the Western Balkans*. Oxford: South East European Studies Programme (SEESP) - Occasional Paper No. 3/05, 2005
- Bellamy, Alex J. "Humanitarian Intervention and the Three Traditions." *Global Society* 17, No. 1 (2003): 4-20
- Bettati, Mario. *Le Droit d'Ingrérence. Mutation de l'Ordre International*. Paris: Éditions Odile Jacob, 1996
- Bickerton, Christopher J. "Explaining Europe's Role in World Affairs: Governance, Sovereignty and the Paradox of 'Fragile Institutionalism'." Paper presented at the Joint Doctoral Seminar in International Relations 2006: European Governance, Global Governance', 2006.
- . "Re-Building States, De-Constructing State-Building." Paper presented at the SAID Workshop, Oxford, 2005.
- Biersteker, Thomas J., and Cynthia Weber, ed. *State Sovereignty as Social Construct*. Cambridge: Cambridge University Press, 1996
- Boli, John. "Sovereignty from a World Polity Perspective." In *Problematic Sovereignty: Contested Rules and Political Possibilities*, edited by Stephen D. Krasner. New York: Columbia University Press, 2001

"Bosnian Leader Says Talks Aimed at Achieving Unity Fail." *International Herald Tribune*, May 24, 2007

Chandler, David. *Empire in Denial. The Politics of State Building*. London: Pluto, 2006

———. "How 'State-Building' Weakens States." *Spiked*, 2005. Online, available at <http://www.spiked-online.com/Articles/0000000CADDDB.htm> [last accessed July 30, 2007]

Charter of the United Nations and Statute of the International Court of Justice. New York: United Nations Department of Public Information, reprint 2005

Chopra, Jarat, and Thomas G. Weiss. "Sovereignty is no Longer Sacrosanct: Codifying Humanitarian Intervention." *Ethics & International Affairs* 6 (1992): 95-118

Conforti, Benedetto. *Diritto Internazionale*. VI ed. Napoli: Editoriale Scientifica, 2002

CSCE. *Document of the Third Meeting of the Conference on the Human Dimension of the CSCE*. Moscow: Conference on the Human Dimension of the CSCE, 1991

Cunliffe, Philip. "Sovereignty and the Politics of Responsibility." In *Politics without Sovereignty: a Critique of Contemporary International Relations*, edited by Christopher J. Bickerton, Philip Cunliffe, and Alexander Gourevitch, 39-57. New York: UCL Press, 2007

Della Sala, Vincent. "Oltre la Trasformazione e l'Adattamento dello Stato." *Rivista Italiana di Scienza Politica*, No. 2 (2006): 207-29

Eichberg, Federico, and Giulio Venneri. *Italy's near Abroad: The Adriatic Sea, the Aegean Sea, the Black Sea and the Danube River. Perception and Perspectives from a Geopolitical Region. A Bosnia-Herzegovina Point of View*. Roma: Centro Militare di Studi Strategici - CeMiSS, 2004

Etzioni, Amitai. "Sovereignty as Responsibility." *Orbis* Winter (2006): 71-85

European Council. "Council Joint Action Amending and Extending the Mandate of the European Union Special Representative in Bosnia and Herzegovina." Brussels: Council Joint Action 2007/87/CFSP of February 7, 2007

European Parliament. "Recommendation to the Council of 15 March 2007 on Bosnia-Herzegovina." Brussels: doc. P6_TA-PROV(2007)0077, 2007

EUSR/OHR. "Attempts to Undermine Bosnia and Herzegovina Will Not Be Tolerated." August 22s, 2007. Online, available at http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=40362 [last accessed August 30, 2007]

- . "Leaders Should Think About the Whole of BiH." August 30, 2007. Online, available at http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=40403 [last accessed August 30, 2007]
- Evans, Gareth. "The Unfinished Responsibility to Protect Agenda: Europe's Role." Paper presented at the EPC/IPPR/Oxfam Policy Dialogue on Europe's Responsibility to Protect: What Role for the EU, Brussels, July 5, 2007. Online, available at <http://www.crisisgroup.org/home/index.cfm?id=4936&l=1> [last accessed July 30, 2007].
- Fukuyama, Francis. *State Building. Governance and World Order in the Twenty-First Century*. 2nd ed. London: Profile Books, 2004
- Gross, Leo. "The Peace of Westphalia 1648-1948." *American Journal of International Law*, No. 42 (1948)
- Hayden, Robert M., and R. Bruce Hitchner. "Constitution Drafting in Bosnia and Herzegovina." Paper presented at the Dayton Project Seminar 323, May 10, 2006. Online, available at <http://www.daytonproject.org/publications> [last accessed July 30, 2007].
- Holzgrefe, J. L., and Robert O. Keohane, ed. *Humanitarian Intervention. Ethical, Legal, and Political Dilemmas*. Cambridge: Cambridge University Press, 2003
- ICISS. *The Responsibility to Protect. Report of the International Commission on Intervention and State Sovereignty*. Ottawa: International Development Research Centre, 2001. Online, available at <http://www.iciss.ca/pdf/Commission-Report.pdf> [last accessed July 30, 2007]
- International Commission on the Balkans. *The Balkans in Europe's Future*. Sofia: Centre for Liberal Strategies, Secretariat, 2005
- International Crisis Group. *Bosnia's Nationalist Governments: Paddy Ashdown and the Paradoxes of State Building*. Sarajevo/Brussels: ICG - Balkans Report N°146, 2003
- Keohane, Robert O. "International Institutions: Two Approaches." *International Studies Quarterly* 32, No. 4 (1988): 379-96
- Krasner, Stephen D. *Sovereignty: Organized Hypocrisy*. Princeton, NJ: Princeton University Press, 1999
- . "Westphalia and All That." In *Ideas and Foreign Policy*, edited by J. Goldstein, and R. Keohane, 235-64. Ithaca, NY: Cornell University Press, 1993
- Lyons, Gene M., and Michael Mastanduno, ed. *Beyond Westphalia? State Sovereignty and International Intervention*. Baltimore: The John Hopkins University Press, 1995

- Malic, Nebojsa. "Bosnia's Straitjacket: Empire Pushes Centralization." May 31, 2007. Online, available at <http://www.antiwar.com> [last accessed July 31, 2007]
- Marko, Joseph. "Post-Conflict Reconstruction through State- and Nation-Building: The Case of Bosnia and Herzegovina." *European Diversity and Autonomy Papers - EDAP*, No. 4 (2005). Online, available at <http://www.eurac.edu/edap> [last accessed July 30, 2007]
- Massari, Maurizio. "Do All Roads Lead to Brussels? Analysis of the Different Trajectories of Croatia, Serbia-Montenegro and Bosnia-Herzegovina." *Cambridge Review of International Affairs* 18 (2005): 2
- Milliken, Jennifer, and Keith Krause. "State Failure, State Collapse, and State Reconstruction: Concept, Lessons and Strategies." *Development and Change* 33, No. 5 (2002): 753-74
- OHR. "5 Common Misconceptions About Police Restructuring." (2007). Online, available at http://www.ohr.int/dwnld/?content_id=34263 [last accessed July 30, 2007]
- . "The EU Accession Process." (2005). Online, available at http://www.ohr.int/dwnld/?content_id=34264 [last accessed July 30, 2007]
- Osiander, Andreas. "Sovereignty, International Relations, and the Westphalian Myth." *International Organization* 55, No. 2 (2001): 251-87
- Philpott, Daniel. *Revolutions in Sovereignty. How Ideas Shaped Modern International Relations*. Princeton: Princeton University Press, 2001
- . "Westphalia, Authority, and International Society." *Political Studies* 47 (1999): 566-89
- Prienda, Antonio. "Davidovic Wins Broad Backing to Lead BiH's SAA Negotiations with EU." *Southeast European Times*, November 17, 2005. Online, available at http://www.setimes.com/cocoon/setimes/xhtml/en_GB/homepage/ [last accessed July 30, 2007]
- Recchia, Stefano. *Beyond International Trustsheep: EU Peacebuilding in Bosnia and Herzegovina*. Paris: EU Institute for Security Studies - Occasional Paper N. 66, 2007. Online, available at <http://www.iss-eu.org/occasion/occ66.pdf> [last accessed July 30, 2007]
- Romano, Sergio. "I Protettorati Europei nei Balcani." *Est-Ovest* 6 (2003): 23-28
- Ronzitti, Natalino. *Introduzione al Diritto Internazionale*. Torino: Giappichelli Editore, 2004
- Schmitt, Carl. *Political Theology*. Cambridge, MA: MIT Press, 1922

- Schütte, Robert, Johanne Kübler. *The Responsibility to Protect: Concealed Power-Politics or Principled Policy?* Marburg: AG Human Security, a.d. Philipps-Universität Marburg (AG HumSec Occasional Paper 2), 2007
- Slobodanka, Milikic. "Bosnian Statehood Day is Breach of State Sovereignty - Serb Entity President." November 27, 2006. Online, available at <http://www.kfunigraz.ac.at/suedosteuropa/en/> [last accessed July 30, 2007]
- Smelser, Neil J., and Paul D. Baltes, ed. *International Encyclopaedia of Social Behavioural Sciences*. Vol. 22. Amsterdam: Elsevier, 2001
- The Dayton Project. "Amendments to the Constitution of Bosnia and Herzegovina." April 26, 2006. Online, available at <http://www.daytonproject.org/publications/index.php> [last accessed July 30, 2007].
- . "One Last Chance in Bosnia." 2007. Online, available at <http://www.daytonproject.org/publications> [last accessed July 30, 2007]
- UN. "Resolution 60/1 Adopted by the General Assembly: 2005 World Summit Outcome." September 16, 2005
- Venneri, Giulio. "The EU-Driven Statebuilding in Bosnia and Herzegovina: Creating a 'Paradox in the Paradox' of Sovereignty?" Paper presented at the ICCEES Regional European Congress on "Transcending Europe's Borders: The EU and Its Neighbors", Berlin, August 2-4, 2007.
- . *From International to EU-Driven Statebuilding: The Reorganization of Sovereignty in Post-Dayton Bosnia and Herzegovina*. Research Project presented at the Second SIS Graduate Conference, University of Trento, December 13, 2006. Online, available at http://www.ssi.unitn.it/en/dottorato/download/research_proposal_Giulio_Venneri.pdf [last accessed July 30, 2007]
- Villani, Ugo. "Il Deficit Democratico nella Formazione del Diritto Comunitario." *Diritto Comunitario e degli Scambi Internazionali* 31, No. 4 (1992): 599-640
- Wood, Nicholas, and Graham Bowley. "EU Force Set to Take over in Bosnia." *International Herald Tribune*, December 2, 2004
- Woodward, Susan L. "Bosnia after Dayton: Transforming a Compromise into a State." In *After the Peace: Resistance and Reconciliation*, edited by Robert L. Rothstein. London: Rienner, 1999
- . "Compromised Sovereignty to Create Sovereignty." In *Problematic Sovereignty: Contested Rules and Political Possibilities*, edited by Stephen D. Krasner. New York: Columbia University Press, 2001

Zaum, Dominik. "The Paradox of Sovereignty: International Involvement in Civil Service Reform in Bosnia and Herzegovina." *International Peacekeeping* 10, No. 3 (2003): 102-20

———. *The Sovereignty Paradox: The Norms and Politics of International Statebuilding*. Oxford: Oxford University Press, 2007

Zielonka, Jan. *Europe as Empire: The Nature of the Enlarged European Union*. Oxford: Oxford University Press, 2006