Truths about Bosnia and Herzegovina, Conflict or Synergy

Istine o Bosni i Hercegovini, konflikt ili sinergija

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Abstract: *The author discusses the importance of the ECtHR ruling in the case Sejdić and Finci in terms of necessary constitutional amendments that will establish Bosnia and Herzegovina as a normal European democratic country, which is independent and capable of integration in the EU. According to the author, BH is facing an inter-personal conflict of interests of constituent peoples which are harming them and the development of the state they reside in. He agrees the greater prominence of the constitutional system of BH should be given civic on the account of the national principle, however, this should not mean neglecting the concern for the equality of the constituent peoples and entities. Since the last war ended, these peoples have been living next to each other far too separately, and several times still against each other. In BH, various truths of the constituent peoples, "the others" and the international community are fronting. So far they have mostly been in conflict with one another rather than cooperating in synergy. The international community is undeniably accredited for terminating war-oriented hatred and maintaining permanent peace in BH. However, the "imposed" Dayton constitutional system has become the reason for inhibiting the development of BH. For that reason, the international community should transform its influence in such manner that it still stays the peace guarantor, but at the same time not jeopardize the BH independence to such an extent that it continues to represent the insurmountable obstacle to enter the EU. Strengthening the position and influence of "the others", i.e. those who are not the members of the constituent peoples, and considering their truths about BH, may bring fresh solutions in current problems and in searching for the new constitutional solutions. Therefore, the realization of the ECtHR ruling in the case Sejdić and Finci represents a small, yet constructive step in the right direction.*

Keywords: *Bosnia and Herzegovina, constitutional amendments, constituent peoples, minorities, the electoral system, Dayton Agreement, the Venice Commission, the High Representative of the international community, the European Union, ECHR, ECtHR, Sejdić and Finci, discrimination.*

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Sažetak: *Autor u radu razmatra značaj presude Evropskog suda za ljudska prava iz slučaja Sejdić – Finci u pogledu neophodnih ustavnih amandmana koji bi doprinijeli izgradnji Bosne i Hercegovine kao normalne evropske demokratske države, dovoljno nezavisne i sposobne za integraciju u Evropsku uniju. Prema mišljenju autora, BiH se suočava sa međuljudskim sukobom interesa konstitutivnih naroda koji nanosi štetu i njima i razvoju njihove države. On se slaže da bi najveći značaj ustavnog sistema Bosne i Hercegovine trebao biti davanje prednosti građanskom u odnosu na nacionalni princip, međutim, to ne bi trebalo značiti zanemarivanje brige konstitutivnih naroda i entiteta za jednakošću. Otkako je posljednji rat završio, ovi narodi su živjeli jedni pored drugih previše odvojeno, i mnogo puta jedni protiv drugih. U BiH se sukobljavaju različita poimanja konstitutivnih naroda, „ostalih", te međunarodne zajednice. Do sada su najčešće bili u konfliktu jedni s drugima, nego li su zajednički sarađivali. Međunarodna zajednica je neosporno zadužena za prekid ratno orjentisane mržnje i održavanje trajnog mira u BiH. Međutim, „nametnuti" Daytonski ustavni sistem je postao razlog za kočenje razvoja BiH. Iz tog razloga, međunarodna zajednica bi trebala promijeniti svoj uticaj u BiH na takav način da i dalje ostane garant mira, ali da u isto vrijeme ne ugrozi nezavisnost BiH do te mjere da nastavi biti nepremostiva prepreka za njeno članstvo u EU. Jačanje pozicije i uticaja „ostalih" tj. onih koji nisu pripadnici konstitutivnih naroda, i uzimajući u obzir njihova poimanja o BiH, može dovesti do svježih rješenja trenutnih problema i do iznalaženja novih ustavnih rješenja. Stoga, provođenje odluke Evropskog suda za ljudska prava u slučaju Sejdić – Finci predstavlja mali, ali konstruktivan korak u pravome smijeru.*

Ključne riječi: *Bosna i Hercegovina, ustavni amandmani, konstitutivni narodi, manjine, izborni sistem, Daytonski sporazum, Venecijanska komisija, Visoki predstavnik međunarodne zajednice, Evropska unija, Evropski sud za ljudska prava, Sejdić – Finci, diskriminacija.*

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1. Truths about Bosnia and Herzegovina, Conflict or Synergy – Conclusions

I evaluate that successful execution of the ECtHR ruling in the case Sejdić and Finci v. Bosnia and Herzegovina (BH) is, at best, only the first, smaller step in the right direction.[1] Therefore, I consider this high-profile case as a starting point for discussion on addressing various truths about BH, and as an opportunity to start making them merge in a common synergetic flow, without which the country's stagnation will continue along with a reinforced atmosphere of no prospect, helplessness and apathy of the people. Discussing the "small step", I do not think of it as unimportant, after all the first steps are usually the hardest and may trigger positive "tectonic movements". With this in mind, I am referring to movements that would enable replacing the current imposed constitutional system with another system that is comparable with those of democratic and sovereign European countries. With "the right direction" I am suggesting a determination for BH to become a normal European country to the extent that it could genuinely count on becoming a member to the European Union (EU). Promises about joining the EU have been around for years, however, they are not realistic without a thorough constitutional reform. Today, BH is neither independent nor sovereign and what is more, it does not guarantee autonomous internal powers for normal functioning of state institutions. Particularly striking is the fact that those countries, which triggered the war against BH[2] at the beginning of the 1990s, are much more successful in their way to European integration than BH.

In the EU there are countries that did not ratify the Protocol No. 12 to the ECHR which was the foundation for the conviction of BH in the case Sejdić and Finci. In this matter, BH was convicted (also) because only the members of three constituent peoples may run for the Presidency of BH, excluding the members of minorities. Information on ratification of the Protocol No. 12 proves that the minority status in BH cannot be the most imperative obstacle that is preventing BH from entering the pre-phase of joining the EU which leads to the accession process to the EU. There are several countries in the EU that cannot be convicted in the same way as BH because they have not ratified the Protocol No. 12. Among ten founding members of the Council of Europe, only two countries ratified this

[1] Amicus Curie Brief, the Venice Commission, No. 483/2008.

[2] More on that: Ciril Ribičič, Geneza jedne zablude, Zagreb, Sarajevo, Idrija, Jesenski in Turk, 2001, pp. 23, 24, where I describe negotiations between Slobodan Milošević and Dr. Franjo Tudjman on dividing BH.

protocol – Luxembourg and the Netherlands![3] Since 2010, when Slovenia ratified the Protocol No. 12, none of the ratifications has happened. In the EU there are some countries, which generally have inappropriate attitudes towards national and other minorities, however, no one is arguing against their membership in the EU. Therefore, the reason for BH not being able to become a full member of the EU lies somewhere else. No European democratic country that wants to enter the EU does not practice a system, which allows a High Representative of an international community to force them with adopting legislative acts, even those of the constitutional nature as well as relieving the highest positions of their duties, or a system that has one-third of foreign constitutional judges.

Ten years ago, the Venice Commission quite nobly and not very diplomatically answered the question whether the status and jurisdiction of the High Representative of an international community is in conflict with the European democratic traditions. The Venice Commission, however, had to admit that forcing regulations by the High Representative, which the representative organs of BH were not able to adopt, is exactly what is responsible for the advancement that BH made after the Dayton Agreement. Although, the Commission emphasized that the Representative's jurisdiction and activity are not compliant with the European democratic standards, which provide that laws are adopted by the authority that was elected by the people. Fairly similar goes for the jurisdiction of the High Representative in the field of relieving them of their duties. It was quite common to replace the elected officials due to non-compliance with international obligations, namely the essence of Dayton Agreement, or due to corruption which led to prohibiting these officials to run for the same function. This is, however, completely unacceptable for independent and democratic countries as it represents a severe interference in democracy of a system and in the voting right of those who were elected and those who voted. In addition, the affected do not have a right to legal remedies which could not withstand a serious ruling before the constitutional courts of the European countries or before the European Court of Human Rights (ECtHR). The right to efficient legal remedies is practically included in every European constitution and it provides the Article 13 of the European Convention for Protection of Human Rights and Fundamental Freedoms (ECHR). The Venice Commission suggested immediate institutionalization of an independent panel of

[3] The Protocol No. 12, which regulates the general prohibition of discrimination, has been ratified by 18 countries so far, however, since 2010, when Slovenia ratified it, until now there has not been another signature or ratification anymore. The Protocol has been ratified by all of the former republics of the former Yugoslav Federation, but not by many leading Members States of the EU.

legal experts which would temporarily substitute the absence of investing legal means until the matter is solved, i.e. until they get the right to judicial protection.[4] Regarding the preceding solutions of amending the status of the High Representative of an international community, the Venice Commission advocated the Macedonian experiences, which would substitute the High Representative of an international community with the representative of the EU, who would mostly function as a mediator.

In order to avoid any misunderstanding: The High Representative of an international community has adopted many necessary legal acts as well as other measures, without which BH would today be more ineffective and its functioning would be even more irrational and expensive. An objective observer should admit that the international community played a key role in BH in regards to ending the war and maintaining peace as well as encouraging changes that would rationalize and strengthen efficiency of political and economic system. Despite of that, the status and the role of the international community representatives must fundamentally change in order for BH to be considered as a country, which is returning to a path of independence and sovereignty. A country that is led by the elected representatives of the people, constituent peoples as well as minorities, and not by someone from the outside.

The million dollar question remains: how can BH be placed on a map as a normal democratic European country in a way that would eliminate BH's subordination to the international community, without creating new hostilities and attacks but activating such amendments of the constitutional system that would ensure stability, efficient functioning and development of BH. Let me repeat the words of Dr. Trnka: "The presence of the international community, which has been gradually decreasing since Dayton Agreement, may be missed only when a self-sufficient constitutional system will be established, which will provide valid answers to obstructions and other blocks. During the transitional period and the accession process of BH to Euro-Atlantic integrations, it would be wiser for the international community to be present in BH through a special representative of the EU and not through the High Representative of the international community."[5] Today, the

[4] More on that: Ciril Ribičič, Mišljenja Venecianske komisije i preporuke za promjene ustava, zbornik radova, Pravni fakultet Univerziteta u Tuzli, Tuzla, 2014, (in print).

[5] Kasim Trnka, Daytonski ustavni poredak protiv tradicionalnih vrijednosti bosansko-hercegovačkog društva i države, in: Ustavno pravni razvoj BiH (1910-2010), zbornik radova, Pravni fakultet Univerziteta u Tuzli, Tuzla, 2011, p. 247.

blockages may be overcome more successfully on the basis of the unfounded reference to the vital interests of the constituent peoples than on the basis of vital interests of the entities.

None of the peoples in BH represent majority, however, the three peoples of Bosniacs, Serbs and Croats do not have the status of minorities either. In the former Yugoslav system, these three peoples together had such status like any other individual nation had in other republics, where a certain nation was a majority and had a republic named after them: the Slovene nation in Slovenia, the Croatian nation in Croatia, the Serbian nation in Serbia, the Macedonian nation in Macedonia,[6] the Montenegrin nation in Montenegro and Bosniacs, Serbs and Croats together in BH. Those peoples who were constituent, each in their own republic, had a right to self-determination, which also included the right to secession. The three above-mentioned peoples were generally considered as constituent, yet, none of them could realize activities that other constituent people from any other republic of the former Yugoslav Federation could. This position was also taken by the Badinter Commission, which among other things decided that the former borders between the republics may only be changed with a common and free international agreement; otherwise the former "inter-republic" borders adopt characteristics of borders that are protected by international law.

During and after the last war in BH, the situation of the constituent peoples changed by deepening differences and contradictions between them. Today these peoples in BH are in different positions. The Serbs live strictly separated from the others, they have an absolute supremacy in their entity the "Republika Srpska", in which the other two constituent peoples are in a severe subordinate positions; only the international community may partly limit this entity. The Bosniacs have the majority and political supremacy in the other entity, the Federation of BH; however, they are in noticeable minority in the Republika Srpska. The Croats are in visible minority in the Federation of BH,[7] let alone in the Republika Srpska. Owing to their

[6] In this text I do not use the name "the former Yugoslav republic of Macedonia". Firstly, because Slovenia, Croatia, Serbia and Montenegro are also former Yugoslav republics, and secondly, because in Slovenia (and often elsewhere, for example the Slovenes in Italy) even the minorities may use their names and symbols which they pick by themselves, among which also those kinds that are used by their homelands. (Cf. decision by the Constitutional Court of Slovenia, in the case No. U-I-296/94, adopted on 28th January, 1999).

[7] Addressing that the position of the Croats in the Federation of BH is getting worse is also connected to the candidacy and election of the Croatian member in the Presidency of BH with the Bosniac votes and legal interpretation, according to which the third of Croatian representatives is prescribed in the

dissimilar positions, there are different prevailing point-of-views of the constituent peoples' representatives on BH as well as its establishment, past and future. Professor Dr. Ibrahimagić stresses that there should be a possibility made for Croats and Bosniacs to return to the Republika Srpska and for the Serbs to return to the Federation of BH in order to restore the multi-ethnic structure in BH that was distorted by the war.[8]

We could say there are extremely diverse possible truths in BH. These are mostly various stories of BH experienced and displayed by the Bosniacs, the Serbs and the Croats as well as their homelands. There is also the story of the "third", i.e. those people who do not belong to any of the constituent peoples. Perhaps they have originated from mixed marriages or perhaps they feel loyalty from different reasons to BH and not to any of the constituent peoples. Additionally, we may talk about the story about BH portrayed by the representatives of the international community and international institution.

At some point, before the last Balkan war, there was an impression that a new people, a new nation was forming in BH and it would gradually take over the role of the only constituent people and nation, respectively. Especially in Sarajevo, where the majority of people spoke the same language and the peculiarities of the Bosniac, Serbian and Croatian language as well as the minorities' language that helped shape one common language, lost their priority. During my meetings with the members of different peoples and minorities, I could assume, mostly on the basis of their names, what nationality they belonged to. Today, however, is fairly different: associations among people are mostly within an individual nation, interactions between the peoples are weakened, the peoples and minorities live separately next to each other, past one another and frequently against each other.

The situation may be best illustrated in the case of the most important marginal matter in the world and in the Balkans which is football. For example, the BH national football team predominantly consists of Bosniac players who are almost

House of Peoples, which may propose candidates, and also if the candidate is proposed by five out of seventeen Croatian deputies. (Ivica Lučić, Ustavni inženjering u BiH i njegove posljedice, in: Ustavi i demokratija, strani utjecaji i domaći odgovori, HAZU, Zagreb, 2012, pp. 316, 317) Similar amateur calculus mistake was made in Slovenia by the administrative Court. cf. Ciril Ribičič, Konstruktiven odpoklic župana, Pravna praksa No. 23/2014.

[8] Omer Ibrahimagić, Kontroverze savremenog ustavnog uredjenja BiH i njegove primjene u praksi, in: Ustavno pravni razvoj BiH, p. 253.

exclusively supported by the Bosniac fans and probably by the "others" as well, while the Croats, who live in BH, play and support the Croatian national team. The same applies for the Serbs who live in BH. Even at the European or the World Cup, the Serbs and the Croats (who live in BH) would not support BH national team, even if their first choice is not present at the championship anymore, which means that they do not support the country in which they live and have its citizenship. Even the President of the Republika Srpska, Dodik, stated that he would only cheer for the BH national team if they played against Turkey. Dodik is an official who often "threatens" that, in case Dayton Agreement changes, the Republika Srpska will "go its own way."

The international community, the highest organs of the European Union, the Council of Europe, the UN representatives, the USA and the most important European countries cannot, by any means, find a way to persuade the political parties and authorities in BH to finally execute the ruling of the ECtHR in the case of Sejdić and Finci.[9] BH is undoubtedly bound by this ruling; after all, the 47 countries that have ratified the ECHR are committed to execute the rulings of ECtHR in those cases, in which they acted as a defendant party. In this matter, UEFA (Union of European Football Association) turned out to be much more sufficient. By threatening to expel the BH national team and football clubs from the international competitions, UEFA achieved changing the statute of the BH Football Association in a few months. This meant that the three BH Football Association presidents were substituted by one. Therefore, this was an "amendment of a system" that rigorously reflects the construction of the BH Presidency and the UEFA decision reflects the ruling of the ECtHR in the case Sejdić and Finci.

The capability to motivate and threaten with sanctions (which have financial consequences) is within international football community evidently much greater than within its political structures. The foremost reason for this is that BH is no longer a priority interest for the international community since the importance is largely given to other world crisis focal points, except when political situations in BH become intensified. After the war had ended, the international community tried to help BH with financial support and by encouraging foreign investments to accelerate re-constructions and to boost the economic growth. Such activities would today be more than useful and needed or else BH is facing hopelessness and no prospects that

[9] Ruling in the case Sejdić and Finci v. BH, complaint No. 27996/06 and 34836/06, adopted on 22nd December, 2009.

made, otherwise "fabled" patient Bosniacs, protest a few months ago. Additionally, the stability of BH and its improved development are also important in terms of straining and armed conflicts in Muslim countries and between them.

In current situations, the truth about BH portrayed by "the others", i.e. those who are not solely associated with the language, culture and religion of any of the constituent peoples, could potentially be quite important for solving existing problems in BH. This, however, does not imply that belonging to a certain minority or denying nationality is a progressive and prosperous matter. Nevertheless, it implies that "the others" could potentially play a linking role between the entire residents of BH, regardless of their nationality. The truth of "the others" is perhaps the closest to the one perceived and promoted by the international community, therefore, it is no coincidence that the representatives of minorities and the international community also cooperated very well in the case Sejdić and Finci, which took place before the Venice Commission and the ECtHR, much like a pre-written film screenplay.

The Venice Commission meticulously anticipated and routed the ruling of the ECtHR in the case Sejdić and Finci in its afore-mentioned Amicus Curie Brief No. 483/2008. It credibly pointed out deviations in the constitutional system and case-law in BH from the ECHR and emphasized the needed compliance of electing the President of BH and the House of Peoples by prohibiting discrimination in Article 14 of the ECHR and the general prohibition of discrimination in Protocol No. 12 in the ECHR. From the viewpoints of the Venice Commission and the ruling of the ECtHR in the case Sejdić and Finci stems an evaluation that even though the role and status of the constituent peoples have a special meaning in BH, amendments might be and should be adopted which will consistently respect the minority rights recognized in the Convention and not only the rights of the constituent peoples. The Venice Commission considers the ruling in the case Sejdić and Finci as a small step in the right direction. In a dissenting opinion the Venice Commission considered different methods to overcome the incompliance of the current system and case-law with the conventional provisions about the right to vote and indiscrimination.

Part of the international community, the American one in particular, wonders why there is not the phenomenon of "melting pot" in BH, similar to the one in the USA, in which the American nation was born from extremely heterogeneous crowd of diverse national traditions, which were brought to America

by the European and other settlers. In BH today, any vigorous reinforcement of such activities would represent to the majority of people the feeling of endangerment and new conflicts. It could not, however, be expected that "the others" would be the core that holds the positive message about loyalty to BH and emphasizes common interests of everyone as citizens of BH and push aside the special interests and contradictions, which are frequently and destructively brought into functioning of BH by the representatives of the constituent peoples and entities. The proposals of individual European countries are likewise useless since they propose that BH should follow patterns of normal western European countries as a universal remedy for solving situations in BH. Moreover, such "transferring" of patterns from elsewhere is doomed to fail in advance since the Bosnian-Herzegovinian society is not "normal", it cannot be compared to other European societies neither by its establishment and development nor its internal structure based on national and religious peculiarities and contradictions.

Throughout the existence of the Yugoslav Federation, the same role of "the others" was also given to those who defined themselves Yugoslavs, as members of a newly-established Yugoslav nation. The majority of them were precisely in BH, in a republic which was known for the fact that it may only survive in the frames of the Yugoslav Federation. This attempt failed due to being exploited by the supporters of unitary and hegemonic tendencies in the federal institutions of Yugoslavia. At the beginning of the 1970s, it was decided that the accumulated contradictions would be solved and common interests would be built on the basis of consideration and association of special interests of all nations, and not on the basis of their negations. At that time the theory of the decay of nations in socialism was abandoned and the strengthening of the position of peoples and republics started. It was a decision that was never confirmed as acceptable by an important part of the Serbian nation and their leading centres of the Serbian Academy of Science and Arts (SANU)[10], of the political structures and also within the influential Belgrade constitutional law school. Even today, the Serbian and Slovene constitutional law views clash on the topic of what caused the split of the federation,[11] either excessive autonomy of the republics

[10] Cf. Kriza jugoslovenske federacije i Memorandum SANU, in: Ustavno pravni razvoj BiH, p. 443. Memorandum SANU, which is most commonly attributed to Dobrica Ćosić, evaluated that the confederation came from federation which means victory of the republic etatisms and egoisms as well as it turned Yugoslavia in a darkroom for the Serbian nation and Serbia which is divided in three parts (The same, pp. 444, 445).

[11] During the period of the "trust crisis" between the republics and provinces, I advocated the forming of the asymmetric federation (I was the mentor of Mitja Žagar, who delineated this topic in his

or trying to recentralize and unitarize the country. Nonetheless, undeniably the worse consequences of the war conflicts because of the tendencies for recentralization and independence were mainly felt by the residents of BH, especially the Bosniacs.

Today, the status of the constituent peoples in the system and practice does not enable normal, let alone efficient functioning of the country. Instead of having fundamental guarantees in the system to respect equal status of all three peoples (and "the others") regarding crucial issues of their status, existence, conservation and development of each of them, the system and practice of interpersonal relations functions in a way that it disables, destabilize the country and it deactivates its efficient functioning. Stops and blockades, to which this kind of system leads, have extra severe consequences in the time of economic crisis. Equality should contribute to mutual trust, but instead it deepens contradictions, strengthens distrust and it questions every measure even if it is far from being vital for existence and equality of a certain nation or entity in BH.

Comparable activities went on in the former Yugoslav federation when a solution was introduced according to which delegations of republics and provinces in the Chamber of the Republics and Provinces of the Federal Assembly consensually decided on important economic and financial matters. However, the difference is imperative: at the former federal level the blockade, which happened on the basis of veto called by one of the republics, was solved at the political level where the key role was played by the monopolistic party, League of Communists of Yugoslavia. Thus, disagreements were overcome outside of the Parliament in the political "backstage" with the help of the party forums that made decisions according to the principles of democratic centralism, in other words, by outvoting them. Today BH is functioning in the multi-party system, in which the political parties are divided according to nationality, much like the members of these three constituent peoples and "the others".

The solution, however, does not lie in restricting democratic achievements, but in limiting and narrowing veto on the basis of vital interests of the constituent peoples and vital interests of the entities. The veto should be limited on the key and

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doctorate dissertation that he defended at the Faculty of Law in Ljubljana). In this respect, I considered that some republics, for example Slovenia, Macedonia and Montenegro, could be in a confederation position, other republics, which are historically and mutually connected to each other differently, could be in a position of the federal Member States of a common country.

vital questions regarding equality and symbiosis of the peoples and entities. What good is "the peoples equality" if it is implemented in a way that prevents functioning and successful development of a mutual country and jeopardizes the future of them all. The goal of communication between the representatives of the equal peoples is not to block political decision-making in the country, but to function effectively in the country which is a special interest of each of them and a mutual interest of them all. In this respect, a proposition by the Venice Commission ought to be mentioned, which conveys that the "vital national interest", which is a foundation for veto and is called by the representatives of the constituent peoples as well as the vital interests of the entities, should be defined more precisely. These interests should be limited to key national interests, especially in the fields of language, education and culture.

In accordance with the Venice Commission, BH is supposedly based largely on the civic principle and no longer on the principle of ethnic affiliation and representation. I assert that it is justified to demand strengthening of the civic principle on the account of the national one and it is also necessary to intervene within the position of the constituent peoples as it was implemented so far. Accordingly, at this point a warning is appropriate on how far this "movements" should reach. I disagree with the approaches that perceive the special status of the constituent peoples as a transient solution, i.e. a thing that is justified only at times of awakened dangers of rebuilding hatred. The equal status of the constituent peoples is not something that was fictionally created by the authors of the preamble added to the Dayton constitution to reach peace or the Constitutional Court of BH more easily,[12] but it has a long-term positive constitutional and legal tradition in BH. Therefore, the general attacks on the institutions, which "rest" on the representation of the constituent peoples, are not the right way, instead they raise suspicion, which is already too prevailing because of the war still being close to the present-day. Therefore, from the long-term perspective, it would be prosperous for BH to establish more effective federal constitutional model, founded on the civic principle and on the special status and equality of the constituent peoples and entities.

A country like B&H should be observed from the point-of-view of interests of every constituent people or from the perspective of the position of "the others",

[12] The Constitutional Court determined that the peoples in BH have the constituent position throughout the entire territory of BH and for that reason it is unconstitutional to justify the Republika Srpska as a state of exclusively the Serbian nation and the Federation of BH only as a community of Bosniac and Croatian nation. More on that: Ciril Ribičič, Interpretativna moć preambula ustava, Pravna misao, No. 3-4/2004, p. 13.

dominance of the principle "one person, one vote" is not acceptable. Additionally, it is not acceptable that such important questions, for instance constitutional amendments, be decided on the basis of this principle in the parliament or in the general referendum. In the last period of the Yugoslav federation's functioning, this kind of attempts of forcing recentralization with outvoting by Milošević had severely accelerated breaking-up the country.[13]

Despite that, in the former federation, at least from the 1970s onwards, there was not a similar problem that the ECtHR ruling, in the case Sejdić and Finci, has determined about the status of "the others" in BH. The Chamber of Peoples became a semi-chamber in the 1960s and thus lost its rank[14], because they tried to "tame" the centrifugal forces by emphasizing the role of self-governance, delegate system, communal system and the principle of democratic centralism in the leading political party on the account of the equal position of the republics. Discontent in the republics and provinces, which were afraid of losing their hard-earned independence or autonomy, brought to strengthening the republics, demanding the complete ensuring of equality as well as parity representation and communication. Even some confederate elements were introduced, the more important level of centralization was mostly preserved in the field of defence and international relations.[15] However, this decision did not lead to the anew implementation of the Chamber of Peoples of the Federal Assembly, which stagnated as a semi-chamber for a while, but it led to the establishment of the Chamber of the Republics and

[13] The Serbian leadership of that time, in accordance with the principle "one person, one vote", tried to perform constitutional amendments in the direction of centralisation with the help of all-Yugoslav referendum, while on the other hand, by unilateral moves, for instance printing money and political prohibition of purchasing products of Slovene economy, they were convincing the Slovene people to find the way to European integrations independently. In a similar way, Milošević tried to push out of BH, or at least narrow completely, the space taken by the Bosniacs in order to undisturbedly discuss division of BH with Tudjman. Cf. also Ivan Kristan, Federalizem v ustavnem sistemu nove Jugoslavije, Prispevki za zgodovino delavskega gibanja, Ljubljana, 1982.

[14] It was about regulating the Chamber of Peoples as a very weak "semi-chamber" which was not capable to provide the protection of equality and special rights of the peoples and republics, respectively. This solution is also proposed by some as an amendment of the Chamber of Peoples in BH. Cf. Zlatan Begić, Medjunarodni demokratski standardi u izbornom sistemu BiH, in: Ustavno pravni razvoj BiH, p. 417.

[15] These confederate elements were decision making on economic questions in the Chamber of the Republics and Provinces, a parity composition of both Chambers, the way of functioning of the collective leader of the country, the Presidency of SFRY, the equality of the republics' constitutions to the Federal Constitution, etc. More on that: Ciril Ribičič in Zdravko Tomac, Federalizam po mjeri budućnosti, predgovor Milan Kučan, Globus, Zagreb 1989.

Provinces that is composed of their delegations. This is similar as if BH would be organized as a federative country of three entities that would guarantee the rights of "the others", among which would be the right to run for the membership of the second parliamentary chamber. In the republic delegations there were mostly the representatives of the constituent, majority people after whom the individual republic carried its name. At the principle level, they were not considered as "one-nation" representatives, but as the representative of the people of the republic, therefore, of all the residents in the republic. In this respect, Slovenia attributed a special role to autochthonous national communities, the Italians and the Hungarians,[16] which it even mentioned regarding to the self-determination of the Slovene nation. In addition, the Federal Constitution and the constitutions of all the republics provided same rights to all of its residents, regardless which republic citizenship they had.

The afore-mentioned principled stance was a part of Slovenia even throughout the time of independence[17] as it promised, during the preparations to perform the plebiscite, not to degrade the position of the minorities or those people who came to Slovenia from other parts of the Federation. On top of that, it promised that everyone who had permanent residency in Slovenia during the plebiscite will acquire Slovene citizenship without any further conditions. For the majority of these people Slovenia kept its promise,[18] unfortunately there were also demands to call a referendum for deprivation of such citizenships which was prevented by the Constitutional Court. Additionally, the "silent" erasure of the permanent residency happened to those who did not acquire Slovene citizenship, for which the Constitutional Court determined, only after several years, that it did not have the basis for that in the Constitution and statutes. The erasure of permanent

[16] Section I of the Basic principles of the Constitution of the Republic of Slovenia, adopted on 28th February, 1974, the National Gazette of the SRS No. 6/1974.

[17] The constitutional and legal theory defines the right to self-determination as pre-constitutional and above-constitutional right that would not need to be regulated in the normative part of the Constitution since the formation of an independent country took place and the adoption of its constitution on its basis. More in that: Kristan, Ribičič, Grad, Kaučič, Državna ureditev Slovenije, National Gazette RS, Ljubljana, 1994, p. 16.

[18] N. Kogovšek Šalamon argues that on the basis of Article 40 of the Citizenship of the Republic of Slovenia Act, 170 996 individuals acquired Slovenian citizenship – almost twice as much as expected. 2417 applications were denied and many others, for various reasons, did not apply for the citizenship. Those who did acquire the citizenship were from Bosnia and Herzegovina (46%), Croatia (34%), Serbia (13%), Macedonia (3%) and Montenegro (3%) respectively. 30% of them were born in Slovenia. See: N. Kogovšek Šalamon, *Pravni vidiki izbrisa iz registra stalnega prebivalstva*, pp. 77-82.

residency to those people who did not acquire Slovene citizenship was a shameful and cowardly act. Worse than the erasure alone, were the consequences of hesitation by the Slovene authorities whether to admit and start repairing the calamitous wrongs, which affected the Erased and their families, after they were "converted" from the equal residents and citizens to unwanted aliens. Only the pilot ruling of the Grand Chamber of the ECtHR in the case Kurić v. Slovenia provided the realization of the Constitutional Court's decision and also set the basis for fair compensations to the Erased for violating their rights recognized in the Convention.

Diverse truths about BH reflect also in discussions on constitutional amendments. At the principle level, it is by no means possible to deny that it is high time for the "imposed" constitution, whose authentic text is in English (and not in the degradingly named "local" languages), is replaced by a new one, which will not be forced by the international community, but it will be democratically adopted by the elected representatives of the people, the constituent peoples and minorities. It is clear that the current constitution is not at a level that can be expected from other European countries' constitutions and that it is becoming obsolete and harmful. However, it is evident that the rule about "temporary solutions becoming permanent" has once again been demonstrated. Amongst the Bosniacs, the Serbs, the Croats and others, there is not even a slightest indication on how and into what direction the constitution should be amended. The Bosniacs support the reinforcement of the civic principle on the account of the system, in which the key role have the constituent peoples and the elimination, or at least a fading of the entities' position; the Serbs will continue to disable every attempt of limiting their entity, the Republika Srpska[19]; the Croats see their solution in strengthening their position[20] by forming their entity that will have parity representation and equal role of the authority at the level of the common country.

[19] Their representatives, for instance Milorad Dodik, loudly stress that the republika Srpska will stay in the frame of Bosnia and Herzegovina only until the implementation of the Dayton constitutional system, otherwise it is going its own way. Dr. Zlatan Delić warns that the Republika Srpska imposed as a quasi-state that "climbed over" BH. (Nedopustivo identificiranje nacionalnog, etničnogi religijskog identiteta kao politička prepreka izgradnji novog ustava BiH, in: Ustavno pravni razvoj BiH, p. 381), while Dobrica Ćosić considers it as the greatest addition to the Serbian nation on the basis of the wars at the ending of the previous century (Nermin Tursić, Suverenitet BiH u postdejtonskom periodu, kontroverze tumačenja, in: Ustavno pravni razvoj BiH, pp. 477, 478).

[20] Ivica Lučić warns that the High Representatives of the international community on one hand very critically evaluated the Dayton system, and on the other hand, they dismissed those officials who acted against the Dayton. According to him, the Croatian people had already been "deconstitutionised" – lost

What can the Constitutional Court of BH do in the current situations? For the court instances of the highest rank, like constitutional and European courts, it is typical that their creative role in developmental interpretation of law stands out exactly when there are no conditions to renovate regulations. This may be illustrated with the cases of "brave decisions" adopted by the Court of Justice the EU , with which the supranational position of the EU strengthened during the time when the Member States did not want to support the propositions for transferring new jurisdictions onto EU institutions. Similar goes for many rulings by the ECtHR with which it maintained the existence and functioning of the ECHR in changed circumstances that the ECHR, by changing protocols, could not follow in any way. Finally, the same tendencies may be recognized in several decisions of some of the most distinguished European constitutional courts (German, Polish, Slovene, and lately also Portuguese), which on behalf of the protection of human rights and freedoms, do not consider to creatively and developmentally interpret the constitution, but also reach for the functions of the positive legislator, particularly when the parliament hesitates to respect the constitution. Namely, I am convinced that it may every so often be harmful for the protection of the constitutionality to conservatively persist reading the constitution letter by letter, however, such developmental interpretation and positive activism by the constitutional judges may be beneficial since they keep the spirit of the constitution alive in changed circumstances and spread its influence on the protection and development of human rights and freedoms. I wonder whether the creative and developmental interpretation of the Dayton constitution would be this relieving.

For the constitutional court to take such a role it is particularly important what its independent position is like, its high professional reputation and general recognition of its legitimacy. In my opinion, legitimacy of its decisions would be stimulated by changing the voting method, which would provide that the decisions on the merit are adopted by two-thirds majority vote, hence by six votes out of nine. When there was a proposition at hand that the decision made by the constitutional court is adopted only if at least one of the judges from each of the constituent peoples vote for it, the Venice Commission, at the time when I was not their member yet, listed a number of convincing objections against such amendment.[21] My proposition is different; however, it does consider that the Constitutional Court

its position as constituent people in the Federation of BH with the decisions of the High Representative of the international community and with the decisions made by the courts (The same. p. 311 and seq.)

[21] The Venice Commission, in its Opinion No. 344/2008, adopted on 22nd October, 2005, referred to principled and practical reasons, for which it does not advise the proposed amendments.

of BH is composed of three judges, who are appointed, according to foreign experts, by the president of the ECtHR. This makes the questioning of decision legitimacy of the Constitutional Court of BH be ruled differently than in every other European country. Perhaps, a warning as well, which proved to be of relevance when shaping the starting point for amending the Constitution of the Federation of BH: due to the difficulties encountered in the operation of the executive authority bodies, we should not be resorting to the excessive strengthening of the representative bodies on the account of the principle of separation of powers and independence of the Government.

Ensuring the stronger influence of "the others", i.e. those residents that do not belong to any of the constituent peoples, is not in a special interest of any of the constituent peoples. The differences may be that the Bosniacs support the changes to some extent; the Croats are unenthusiastic, whereas the Serbs quite often openly contradict them. Regarding the question on how to realize the ruling in the case Sejdić and Finci, a warning raises that along the three constituent peoples and two entities, there should not be the existence of the subject, which would additionally contribute to disable an efficient functioning of BH. For adopting decisions in the Presidency of BH, it would be even worse to keep things the way they are and add the fourth member to represent "the others" and the vital interests of those residents that do not belong to any of the constituent peoples. Considering this, it is worthy to mention the convincing point-of-view by the Venice Commission, saying that in the event when the introduction of an individual president is not realistic (who may continuously originate from the constituent peoples and from "the others"), all major executive jurisdictions should be transferred from the Presidency of BH to the Government. This warning should already be considered in the realization of the ruling in the case Sejdić and Finci, not only in the frames of contemplation on global constitutional reform.

In 2009, professor Dr. Kasim Trnka[22] advocated for the three most urgent amendments that would represent an introduction to more comprehensive constitutional reform: (1) eliminating those solutions that are not compliant with the ECHR, (2) constitutionalisation of already executed reforms and (3) amendments in jurisdictions of state authorities that are obligatory due to coming

[22] Kasim Trnka, Specifičnosti ustavnog uredjenja Bosne i Hercegovine, Revus, No. 11/2009, ed. C. Ribičič, p. 45. In the same issue, an article is published by Dženeta Miraščić and Zlatan Begič, Pravna priroda bosanskohercegovačkog pluralnog društva i najznačajnije specifičnosti njegovog savremenog ustavnog uredjenja, p. 73.

close to Euro-Atlantic integrations. These amendments seemed fairly restricted at that time and not ambitious enough. Today, five years later, it can be observed that they were too optimistic according to political and other conflicts, which rule BH. If this continues, the predictions and desires about coming close to European integrations[23] will become increasingly utopian and will lose strength in stimulating the necessary constitutional amendments.

Regarding its constitutionality, BH has rich historical traditions and quite uncertain future. The experts of the constitutional and legal development talk about more than a hundred years old development of BH which supposedly already started with the adoption of the "vilajeta bosanskog" Constitutional law in 1867 and with the adoption of the Constitution of BH on 17th February in 1910 when the territorial integrity of BH was recognized by the Austro-Hungarian monarchy with the "zemaljski statut", titled "constitution for BH" [24] by professor Imamović.[25]

The Venice Commission already warned in 2005 that the founding problem of the system and functioning of BH is linked to the fact that this country, unlike other European countries, is not independent, its constitutional system is not a reflection of the people, the constituent peoples and "the others", therefore the members of minority groups. It is a system that was forced to this country so it would stop military attacks, which took 200.000 casualties, and keep peace permanently. If any war, than the war in BH in the 1990s is an example that those, who started this war from the outside, were aware of the long-term consequences before the outbreak of hatred (hundred thousands of dead, ten times more wounded and forced to migrate (ethnical cleansing), not even mentioning the emotional scars that the war aftermath leaves on the transnational relations and the possibility of constructive cooperation between peoples who were at war due to hegemonic tendencies of their homelands).[26] Undoubtedly, the historical credit goes to the

[23] The Venice Commission already warned in 2005 that the EU would not negotiate with two entities on BH entering the EU, for which it advocated the state jurisdiction strengthening on the account of the entities.

[24] Cf. Mustafa Imamović, Historija Bošnjaka, Preporod, Bošnjačka zajednica kulture, Sarajevo, 1997, p. 433 and seq.

[25] More on that: Bećir Macić, Ustav BH iz 1910 i aktuelne ustavne rasprave, in: Ustavno pravni razvoj, p. 107 and seq.

[26] After the war, data came out on conscious undermining of BH sovereignty in order to conquer a part of the territory and divided it, respectively. In this respect, a transcript between the Croatian party HDZ and HDZ BH delegation is very convincing, in which the Croats from Sarajevo warn about the catastrophic consequences of the attacks bound to happen due to tendencies for affiliating Herzeg-

Dayton Agreement and the constitution written in it as well as to those who successfully implemented it in order to restore peace, without which it would not be able to renew the functioning of BH. One of the fundamental questions regarding the role of international community in today's BH is whether it can autonomously ensure permanent peace and cooperation between the peoples as well as successful functioning of the country which will not require repeating peacekeeping missions from the outside?

Is there a sufficient level of mutual trust so there is no danger for another wave of new conflicts and attacks? In my opinion, sudden retreat of the international community from BH could potentially lead back to restoring hatred and attacks, which would not only be political but it could also once more lead to attempts to conquer territories by military force and with the help of the extremists from the outside. Without active functioning of the international community's representatives, even today it is still impossible to form contemporary constitutional and legal solutions as a foundation for successful functioning of a democratic country, and there are even less possibilities to ensure the kind of level needed to adopt new constitution. From up close, on the invitation by an experts group, and partly also from within,[27] I have observed the work of the experts group for the constitutional amendments in the Federation of BH where the role of the international community, in this case the Embassy of the USA, was exemplary as well as constructive and most certainly it was much more diplomatic than we have been used to over the past years, unfortunately also in Slovenia. Their role, namely, was focused on the financial and other support to try and search for better

Bosnia to Croatia as well as they advocate the preservation of BH sovereignty and that together with the Bosniacs defend its independence and integrity. They warned about standing up to all-Serbian tendencies that wish for the Bosniacs to be pushed out of BH as well as they want Slovenians leaving the Yugoslav federation. They stumbled upon two answers by Dr. Tudjman and his followers. The first was that in public they can still talk about supporting the united BH, however, secretly they should continue with the preparation for secession, which will allow for the unification of the Croatian people in its maximum possible extent in the Republic of Croatia. The second answer was that the independent BH cannot sustain, but if it could, it would make ties with Serbia rather than Croatia. More or less, it was also very clearly said that, in the event of the Bosniacs actually do stand up to the mutual offer of the Serbs and the Croats about a miniature state around Sarajevo, which would be a "buffer zone" between Serbia and Croatia, there would be a military attack on them. Cf. Zapisnik sa sastanka predsjednika Republike Hrvatske dr. Franje Tudjmana s delegacijom HDZ BH, in: Ciril Ribičič, Geneza jedne zablude, Ustavnopravna analiza nastanka in delovanja Hrvaške skupnosti Herceg-Bosne, Jesenski i Turk, Zagreb, Sarajevo, Idrija, 2001, p. 113 and seq.

[27] Ciril Ribičič, Mišljenja Venecianske komisije i preporuke za promjene ustava, zbornik radova, Pravni fakultet Univerziteta u Tuzli, Tuzla, 2014, (in print).

constitutional solutions at the level of the Federation of BH, without dictating the experts group that formed, what should the content of the final result of their work look like.

The ruling of the ECtHR in the case Sejdić and Finci addressed the professional and general public in BH about the meaning of the protection of human rights and freedoms and within this context also the consideration of the minimal standards that ECHR sets as a commitment for all the Members States of the Council of Europe. This is the question that within the context of contemplating on new constitutional system should not be disregarded. My assessment is that the best introduction to a deepened debate on human rights and freedoms would be if the new constitution exemplified the German Constitution and the Charter of Fundamental Rights of the EU at the very beginning of the normative work and analysed the meaning of human dignity (mentioned in the preamble) and emphasized it a restriction provided by the constitution, which should not be crossed by any authoritative body. In those countries, where such an approach is not implemented in the constitution, for instance in Slovenia, only with the help of the Constitutional Court the principle of human dignity raises to the constitutional goal, meaning and a boundary of a democratic country.

Strengthening the functions of the state level of BH and in this respect also the strengthening of the executive jurisdictions of the Government is likewise important from another perspective. BH does not have enough opportunities to implement the holders of common interests, the interests that consider every special and vital interest, but at the same time build on the necessity of their relations and overcoming differences. Much like the football team cannot be successful if it does not include its best players regardless of their nationality, the Government likewise cannot be at the level of extremely demanding measures if it does not include its best politicians, regardless of the entity they come from and regardless of whether they belong to any of the constituent peoples or "the others". Those who have lived in the Federal regulated countries understand what I am talking about. Despite that, let me mention a comparison which includes functioning of international organizations and their bodies. At first glance, it is evident that the most successful officials of the influential European countries do not see their political careers continue as the bodies of the EU or the Council of Europe. This is even more obvious at the global level. How come it is not probable that none of the current Presidents of the USA, Russia, France or the chancellor of Germany at the end of their mandates do not see a logical advancement of their political careers as the UN Secretary General, or as the

President of the European Commission, or as the Secretary General of the Council of Europe?

The position of the electoral system is also connected to the question of the position of the constituent peoples and "the others". When referring to it as the representative chamber, it should be regulated according to the rules that apply for the general political representation, therefore the lower chamber in the parliamentary federative regulated countries. Current system, among other things, opens the question on respecting equal voting right, considering that the parity representation of the constituent peoples is provided (two-third from the Federation of BH and one-third from the Republika Srpska).[28] Dr. Zlatan Begić advocates the introduction of the German combined electoral system, in which each voter has two votes and with that the power of partytocracy is limited and the personalisation of the elections is strengthened.[29] Among other things, the advantage of this system is that the personalisation, unlike the majority system, is achieved in a way that it does not lead to the polarization of the political space into two blocks.[30]

In my opinion, for BH the most appropriate electoral system would be the Irish one (single transferable vote) that has more or less same effects as the German combined system, and on top of that, it also gives large importance to the second, third, fourth… selection of the voters. This would contribute to the success of those candidates who would also be acceptable by the members of other peoples,[31] not just to those people to which the voter and the candidate belong to. In this way, it would contribute to the structure that would be more appropriate from the perspective of communication and overcoming the special interests of the nations.

In BH, the reputation and influence of the official at the state level should be strengthened in different ways in comparison to the position in the entities and cantons. This may be achieved by raising the awareness that without the constitutional reform, strengthening the jurisdictions of the national authorities,

[28] More on that: Zlatan Begić, Medjunarodni demokratski standardi u izbornom sistemu BiH, in: Ustavno pravni razvoj BiH, pp. 404-408.
[29] The same, p. 417.
[30] More on that: Ciril Ribičič, Primerjava prednosti in slabosti volilnih sistemov, Zbornik znanstvenih razprav, Pravna fakulteta Univerze v Ljubljani, Ljubljana, 2013, p. 57 and seq.
[31] Mirjana Kasapović, Izborni leksikon, Politička kultura, Zagreb, 2003, pp. 20, 21. The author stresses that in this kind of electoral system, the least unpopular candidates are elected.

amendments of the electoral system and the successful cooperation between the representatives of the constituent peoples and others, there will not be an effective development of BH, its entities and local communities. Even the successful realization of the ruling in the case Sejdić and Finci in this field cannot change much. Despite that, it cannot be denied that the most successful people, at the BH state level, could be exactly those who belong to "the others" since they have always been underestimated and unequal at all levels to the extent that they are motivated for more responsible functioning at the state level.

2. References

- Brewer-Carias, Allan R. (ed.), *Constitutional Courts as Positive Legislators – A Comparative Law Study*, Cambridge University Press, 2011.
- Zlatan Begić, Medjunarodni demokratski standardi u izbornom sistemu BiH, in: Ustavno pravni razvoj BiH (1910-2010), zbornik radova, Pravni fakultet Univerziteta u Tuzli, Tuzla, 2011, pp. 401 and seq.
- Zlatan Delić, Nedopustivo identificiranje nacionalnog, etničnog i religijskog identiteta kao politička prepreka izgradnji novog ustava BiH, in: Ustavno pravni razvoj BiH, p. 381 and seq.
- European Court of Human Rights: Ruling in the case Sejdić and Finci v. BH, complaint No. 27996/06 and 34836/06, adopted on 22nd December, 2009.
- Franc Grad, Igor Kaučič, Ciril Ribičič, Ivan Kristan, *Državna ureditev Slovenije*, ČZ Official Gazette RS, Ljubljana 1999.
- Hassemer, Winfried, Constitutional Democracy, *Pravnik*, No. 4-5/2003, Vol. 58, p. 214.
- Omer Ibrahimagić, Kontroverze savremenog ustavnog uredjenja BiH i njegove primjene u praksi, in: Ustavno pravni razvoj BiH, p. 249 and seq.
- Mustafa Imamović, Historija Bošnjaka, Preporod, Bošnjačka zajednica kulture, Sarajevo, 1997.
- Mirjana Kasapović, Izborni leksikon, Politička kultura, Zagreb, 2003.
- Kaučič, Igor (ed.), *Significance of Constitutionality and Constitutional Democracy - Twenty Years of the Constitution of the Republic of Slovenia*, Pravna fakulteta Univerze v Ljubljani & Ustavno sodišče Republike Slovenije, Ljubljana, 2012.
- Neža Kogovšek Šalamon, Izbris in (ne)ustavna demokracija, Predgovor Ciril Ribičič, GV Založba, Ljubljana, 2012.
- Neža Kogovšek Šalamon, *Pravni vidiki izbrisa iz registra stalnega prebivalstva,* Doctoral thesis, Pravna fakulteta Univerze v Ljubljani, Ljubljana, 2011.

- Ivan Kristan, Federalizem v ustavnem sistemu nove Jugoslavije, Prispevki za zgodovino delavskega gibanja, Ljubljana, 1982.
- Kristan, Ribičič, Grad, Kaučič, Državna ureditev Slovenije, National Gazette RS, Ljubljana, 1994.
- Ivica Lučić, Ustavni inženjering u BiH i njegove posljedice, in: Ustavi i demokratija, strani utjecaji i domaći odgovori, HAZU, Zagreb, 2012, pp. 316 and seq.
- Bećir Macić, Ustav BiH iz 1910 i aktuelne ustavne rasprave, in: Ustavno pravni razvoj BiH, p. 107 and seq.
- Dženeta Miraščić i Zlatan Begić, Pravna priroda bosanskohercegovačkog pluralnog društva i najznačajnije specifičnosti njegovog savremenog ustavnog uredjenja, Revus, No. 11/2009, ed. C. Ribičič, p. 73.
- Ciril Ribičič, Geneza jedne zablude, Ustavnopravna analiza nastanka i djelovanja Hrvatske zajednice Herceg-Bosne, Jesenski i Turk, Zagreb, Sarajevo, Idrija, 2001.
- Ciril Ribičič, Interpretativna moć preambula ustava, Pravna misao, No. 3-4/2004, p. 13 and seq.
- Ciril Ribičič, Mišljenja Venecianske komisije i preporuke za promjene ustava, zbornik radova, Pravni fakultet Univerziteta u Tuzli, Tuzla, 2014, (in print).
- Ciril Ribičič, Bosa Nenadić, Tanasije Marinković, Multi-level system of Human Rights Protection in Europe: A View from Central and Eastern Europe, in: L.R. Basta Fleiner, T. Marinković (eds.), *Key Developments in Constitutionalism and Constitutional Law,* Eleven, Utreht 2014.
- Ciril Ribičič, Primerjava prednosti in slabosti volilnih sistemov, Zbornik znanstvenih razprav, Pravna fakulteta Univerze v Ljubljani, Ljubljana, 2013, p. 57 and seq.
- Ciril Ribičič, *Ustavnopravni vidiki osamosvajanja Slovenije*, Official Gazette RS, Ljubljana 1992.
- Kasim Trnka, Daytonski ustavni poredak protiv tradicionalnih vrijednosti bosansko-hercegovačkog društva i države, in: Ustavno pravni razvoj BiH, p. 247 and seq.
- Kasim Trnka, Specifičnosti ustavnog uredjenja Bosne i Hercegovine, Revus, No. 11/2009, ed. C. Ribičič, p. 45 and seq.
- Kasim Trnka, Ustavno pravo, Univerzitetska knjiga, Sarajevo, 2000.
- Nermin Tursić, Suverenitet BiH u postdejtonskom periodu, kontroverze tumačenja, in: Ustavno pravni razvoj BiH, p. 475 and seq.
- Venice Commission, Opinion and studies on Bosnia and Herzegovina:

- No. 736/2013 - Amicus Curiae on the compatibility with the non-discrimination Principle of the section of the Republic Day of Republika Srpska,
- No. 723/2013 - Opinion on the Draft Law on the Courts of Bosnia and Herzegovina,
- No. 712/2013 - High Judicial and Prosecutorial Council of Bosnia and Herzegovina,
- No. 691/2012 - Practice of blanket Resignation of Ministers in the Federation of Bosnia and Herzegovina,
- No. 675/2012 - Amicus curiae brief on the compatibility with the human rights standards of certain articles of the law on primary education of the Sarajevo Canton of the Federation of Bosnia and Herzegovina,
- No. 649/2011 - Opinion on the draft law on internal affairs of the Federation of Bosnia and Herzegovina and on the draft law on internal affairs of the Canton of Sarajevo,
- No. 648/2011 - Opinion on Legal Certainty and the Independence of the Judiciary in Bosnia and Herzegovina,
- No. 642/2011 - Amicus Curiae Brief for the Constitutional Court of Bosnia and Herzegovina on the law of the Republika Srpska on the status of state property located on the territory of the Republika Srpska and under the disposal ban,
- No. 594/2010 - Amicus Curiae Brief for the Constitutional Court of Bosnia and Herzegovina on certain provisions of the electoral law of Bosnia and Herzegovina, of the Constitution of the Federation of Bosnia and Herzegovina and of the statute of the City of Mostar,
- No. 574/2010 - Joint Opinion on the Act on Public Assembly of the Sarajevo Canton, Bosnia and Herzegovina,
- No. 560/2009 - Opinion on the Draft Law on the Prevention of Conflict of Interest in the Institutions of Bosnia and Herzegovina,
- No. 483/2008 - Amicus Curiae Brief in the cases of Sejdić and Finci, Bosnia and Herzegovina,
- No. 476/2008 - Opinion on the Draft Amendments to the Constitution of Republika Srpska,
- No. 466/2008 - Opinion on the Law on conflict of interest in Governmental Institutions of Bosnia and Herzegovina,
- No. 461/2007 - Opinion on the Law on the Financing of Political Parties of Bosnia and Herzegovina,
- No. 460/2007 - Joint opinion on amendments to the Election Law of Bosnia and Herzegovina,

– No. 375/2006 - Opinion on the Draft Amendments to the Constitution of Bosnia and Herzegovina,
– No. 374/2006 - Opinion on Different Proposals for the Election of the Presidency of Bosnia and Herzegovina,
– No. 372/2006 - Draft Law on Amendments to the Election Law of Bosnia and Herzegovina,
– No. 344/2005 - Opinion on proposed voting rules for the Constitutional Court of Bosnia and Herzegovina,
– No. 337/2005 - Amicus Curiae Opinion (Proceedings before the European Court of Human Rights) on the nature of proceedings before the Human Rights Chamber and the Constitutional Court of Bosnia and Herzegovina.
– Mitja Žagar, Some Newer Trends in the Protection and (Special) Rights of Ethnic Minorities: the European Context, in: *Slovenia & European Standards for the Protection of National Minorities*, INV, Ljubljana 2002.