

# Federal institutional design and the COVID 19 crisis management in Bosnia and Herzegovina



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Although the Constitution of Bosnia and Herzegovina does not per se define the country as a federal state, its institutional architecture features characteristics that are common to all federations. Federal institutional design was introduced, or rather, imposed, by the international community in Dayton, USA, in 1995 in order to resolve a four-year civil conflict in Bosnia and Herzegovina (B&H). The B&H Constitution recognises Bosniaks, Croats, and Serbs (along with Others) as constituent peoples. The country is composed of two entities, the Federation of Bosnia and Herzegovina (mostly inhabited by Bosniaks and Croats), and the Republika Srpska (with Serb majority), each of which have their own Presidents, Governments, and Parliaments. The Federation of Bosnia and Herzegovina is further divided into ten cantons, while the Republika Srpska is more centralised. There is also Brcko District, a self-governing administrative unit under the sovereignty of Bosnia and Herzegovina, whose territory is shared by both entities. One of the particularities of the B&H internal structure is a rotating Presidency, composed of three members representing each of the constituent peoples (Bosniaks, Croats, and Serbs), who are *primus inter pares* (first among equals) and are directly elected for a four-year mandate.

The powers of the state institutions are clearly specified, while residual powers remain with the governments of the entities. The B&H institutions have rather limited competences in the health sector, including definition of international strategies, coordination and harmonization of entities' plans, and establishment and supervision of a unified market for

medical devices. The entities and the Brcko District, on the other hand, have extensive powers in the health sector. The Republika Srpska has a centralized system, while in the Federation of B&H healthcare is a shared competence between the entity government and ten cantons. Most of other powers related to COVID-19 crisis management - such as internal restrictions on the movement of people and goods, education, financial stimulus packages, working permits, working hours, public transportation, social welfare, curfews, and economic recovery and development measures - fall under the jurisdiction of the entities. Those that belong to the B&H level include international loan arrangements, border control, repatriation of citizens, use of armed forces, coordination of entities' civil protection units, and harmonization of their plans in the event of natural or other disasters in B&H.

The first COVID-19 infected patient was registered in Banja Luka, an administrative centre of the Republika Srpska, on March 5th. Four days later, the first patient was registered in the Federation of Bosnia and Herzegovina. The COVID-19 crisis has been by and large managed by the entities and





the Brcko District, with the role of the state institutions rather limited. In the Republika Srpska, the pandemic risk manager has been the Emergency Situation HQ chaired by the Republika Srpska Prime Minister. This is an ad hoc committee, which comes together to manage emergencies during times of crisis. In the Federation of B&H the Federal Department of Civilian Protection has managed the response to the COVID outbreak. The Republika Srpska was first to introduce preventive measures: it imposed a ban on all public gatherings, closed universities, schools and kindergartens, and limited business hours in certain cities. The Federation of B&H followed the Republika Srpska example after a few days of delay, which caused strong reactions from Republika Srpska officials who felt this would undermine the effectiveness of their own measures. On March 16th the Republika Srpska declared an emergency situation and the Federation of B&H declared a state of disaster. The first institution at the B&H level to react to the pandemic was the tripartite B&H Presidency, which adopted 18 conclusions regarding the COVID-19 crisis. These included, among other things, orders to the B&H Armed Forces to put all of its resources at the disposal of the government to tackle the crisis, a request to the B&H Council of Ministers to declare a state of a natural or other disaster in the whole territory of B&H, and support for introducing a quarantine at border crossings. The B&H Council of Ministers subsequently declared the state of natural or other disaster in the whole territory of Bosnia and Herzegovina. It also

restricted the entry of people from countries affected by the pandemic, before then deciding to temporarily shut all borders to foreigners with few exceptions, and organised the repatriation of B&H citizens.

However, the virus control measures introduced by the B&H level were not always coordinated and respected by other levels of government. A case in point would be the initiative of the B&H Presidency to introduce quarantine stations near border crossings for people entering B&H, which was initially only implemented by the Republika Srpska. The Federation of B&H actioned this measure following two weeks of delay and only after the B&H Presidency decided to shut border crossings that did not have quarantine stations. Other COVID mitigation measures taken by the entities, such as the introduction of curfews, the closing down of shops (except pharmacies and grocery stores), provision of financial and other assistance to the economy, and the organisation of online courses for pupils and students, were quite similar between the two entities, and were implemented simultaneously. This was not so much a result of the coordination between the entities, but more due to the competitive nature of their relations. At the beginning of April the Republika Srpska declared a state of emergency, allowing it to enact decrees and regulations concerning the pandemic with faster legal force, including those that relate to various business subventions and assistance. The Federation of B&H passed the so called "Corona Law" a

month later to help the economic recovery of affected businesses. There has been no coordination between the entities about their plans to ease the lockdown measures; the Federation of B&H revoked its curfew and quarantine stations a few weeks before the Republika Srpska did, which sparked strong opposition in the Republika Srpska.

The competitive and even conflictual nature of intergovernmental relations in Bosnia and Herzegovina resurfaced over the acquisition of medical equipment and supplies, especially ventilators, and also in relation to international aid. As an illustration, one could highlight the international aid provided to the Republika Srpska by Hungary and the Russian Federation upon the request of the Serb member of the B&H Presidency. The B&H Minister of Foreign Affairs (Bosniak) officially complained to the Minister of Foreign Affairs of these countries, as well to the EU, for not also sending medical aid to the other entity as well (although the Federation of Bosnia and Herzegovina never formally requested any assistance from Russia or Hungary). Internal disputes also blocked the International Monetary Fund emergency loan to help B&H address the COVID crisis, as the Bosniak ministers at the Council of Ministers objected to it, primarily because of the distribution of the money between the Federation of B&H and its ten cantons. The competitive nature of B&H federalism, coupled with the lack of trust and existing animosity between Bosniaks, Croats, and Serbs, creates a space for disputes over powers and responsibilities, as well as conflicts of interest. It goes without saying that intergovernmental cooperation is required for the functioning of any federal state, but in multinational federations such as Bosnia and Herzegovina, achieving harmonious collaboration among the central authorities and the subnational units often represents a challenge in itself, as has been evident in the management of the COVID-19 crisis.

