

COUNTRY REPORT

SOVEREIGN:

The Revival of Sovereignty in Central and Eastern Europe and the European Union

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The project is co-financed by the governments of Czechia, Hungary, Poland and Slovakia through Visegrad Grants from the International Visegrad Fund. The mission of the fund is to advance ideas for sustainable regional cooperation in Central Europe.



COUNTRY STUDY:

BALKANS

INTRODUCTION

Few concepts in political and social science are as elusive as the one of 'sovereignty'. Indiscriminately used in legal, political, social and even financial realms. Tweaked in political discourse and misunderstood by the public, 'sovereignty' has become a kind of a rhetorical panacea for crises and problems that can be externalized. The related rhetoric on the 'loss of sovereignty' has ultimately weakened multilateralism at the global scale, and has fed into the growing trend of nationalism and right-wing populism worldwide. Why has this been the case?

Sovereignty is intrinsically related to the notion of the state – both as a political and territorial unit – and to that of the nation – as a collective of individuals associated with the state as a political-territorial unit. James Mayall outlined four conditions for a state to be acknowledged in a system based on the principle of sovereignty: mutual recognition, the monopoly of jurisdiction, the rendition of territory into political activities, and the non-interference of other states into internal political affairs.¹ Having both the administrative monopoly of power, and a territorial stretch over which this direct rule would be exercised, the state has been featured in academic literature as a 'bordered power-container', and related to the notion of sovereignty. In this vein, Allen Buchanan proposed the definition of the sovereign state as an institutional unit, which exercises the ultimate legitimate authority in the territory populated by its members.² This essentially constitutes the internal dimension of the state's sovereignty. International recognition constitutes the external dimension of sovereignty in relation to a wider community of states. What is frequently overlooked is that neither of these two dimensions of sovereignty is fixed and absolute; rather, they are continuously

¹ James Mayall, *Nationalism and International Society* (Cambridge: Cambridge University Press, 1990), p. 5

² Allen Buchanan, 'What's So Special About Nations?' in *Rethinking Nationalism*, ed. by Couture and Nielsen (New York: Routledge, 1999), pp. 283-311

mediated, negotiated, and transformed either because of domestic political and societal dynamics, or because of broader regional or global integration processes.

In the context of Eastern Europe and the Western Balkans, the fall of communism induced the legal and political re-evaluation of the concept of internal sovereignty due to the downfall of the multinational and composite states (e.g., USSR, Yugoslavia) and the rise of national movements. For the national movements that underpinned the creation of new post-communist states, sovereignty expressed the idea “that there is a final and absolute legitimate authority in the political community”.³ It reflected both the internal effectiveness of the state in articulating the national movement and its international recognition. As a result, the notion of sovereignty underpinned nationalisms, which upheld a “rhetoric about indivisibility, sovereignty or an aspiration to sovereignty, political legitimacy, common descent or common culture, and special relations to a certain territory”.⁴

As an important outcome of these dynamics, post-communist national movements have relativised the territorial concept of the state in terms of questioning the sovereign authority in the respective territory. This ambiguity of the understanding of internal sovereignty can be illustrated by the existence of de facto self-governing territories, which aspire to full independence and/or international recognition; states that do not have full control over their entire territory; and internationally administered territories. The Western Balkan states – Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia – represent a microcosm of contestations, transformations, and variations of the notion of sovereignty.

With the exception of Albania, where the conception of domestic legitimate rule over people and territory has not been challenged, the other five countries – successors to the socialist Yugoslavia – have experienced different contestations of sovereign rule at different points of time since the 1990s. Above all, following armed conflicts in the former Yugoslav lands, Bosnia and Herzegovina and Kosovo have been constituted as states through international involvement. The constitution of Bosnia and Herzegovina is an annex to a peace agreement, which points to a peculiar nature of the state’s

³ F.H. Hinsley, *Sovereignty* (Cambridge: CUP, 1986), p. 11

⁴ Moore, Margaret. *The Ethics of Nationalism* (Oxford: Oxford University Press, 2001), p. 17.

sovereignty, which is limited from the onset as it is not fully vested in the state's citizens. In the case of Kosovo, the issue is not the constitutional contestation of sovereignty, but rather a territorial one (at the domestic level) and the lack of international recognition (and the international level). Constitutional sovereignty of North Macedonia is also contested through different demands of the neighbouring states in the context of European Union (EU) accession, while Serbia still considers Kosovo a part of its territory, but rejects (the majority of) the population as the source of its sovereignty. In Montenegro, state sovereignty went through several iterations between 1990 and 2006, as the country transitioned through various forms of state arrangements before independence.

The following sections examine these variations of (contested) sovereignty in the Western Balkans. In particular, the focus is on how the different conceptions of sovereignty have been vested in the national constitutional and legal frameworks, how they are articulated in political discourses, how they have been renegotiated because of domestic political processes, regional, European and international integration.

SOVEREIGNTY IN STATE DOCTRINE AND POLITICAL DISCOURSE

The notion of sovereignty has a special place in the post-conflict and post-partition states of the former Yugoslavia, due to the region's turbulent history and an uneasy process of crafting independence after the fall of communism. Throughout the 1990s and the first half of the 2000s, the notion of sovereignty had dominated the political discourse as the rising nationalist movements sought independent states for their 'people'.⁵ As a result, sovereignty became central to the contexts of identity politics, independence, and to territorial disputes.

The late 1980s in the republics of the former Yugoslavia were marked by growing nationalism, which was related to the constitutional setup of the multinational socialist federation. The federal state was constituted by six republics, of which each bar Bosnia and Herzegovina had its 'titular nation' [*narod*], and Serbia also had two autonomous

⁵ See: Brzezinski, Zbigniew. "Post-communist nationalism." *Foreign Affairs* 68 (1988): 1; Dimitrijevic, Vojin. "The Construction of States: Nationalism and the Definition of Nation-States in Post-Communist European Countries." In *Dissolution, Continuation and Succession in Eastern Europe*. (Brill Nijhoff, 1998), pp. 147-170; Bunce, Valerie. "The national idea: imperial legacies and post-communist pathways in Eastern Europe." *East European Politics and Societies* 19, no. 3 (2005): 406-442.

provinces as a part of its territory.⁶ The notion of the ‘titular nation’ – an ethnic community that formed the majority of population in a given republic (Slovenians in Slovenia, Croats in Croatia, Montenegrins in Montenegro, Serbs in Serbia, and Macedonians in Macedonia; since 1974 ‘Muslims’ were recognised as a nation but without a designated republic) – implied that the constituent republics of Yugoslavia were nation states of the respective constituent people.⁷ That is, for the subnational constitutions the bearers of sovereignty were the ‘working people and nations’ [*radni ljudi i narod*] of the respective republic. The federal constitution of Yugoslavia, however, was ambiguous as to the locus of its sovereignty. Article 3 of the 1974 Constitution of the Socialist Federal Republic of Yugoslavia stipulated that the sovereignty of the federal state was derived from the sovereignty of its constituent republics, which in turn was derived from the “sovereignty of nations and self-management of the working class and all working people, and the self-governing democratic community of all the working people, and citizens, and equal nations and nationalities”.⁸ The complex structure of ‘ownership’ of the socialist federation, and of its constituent republics resulted in the tight coupling between identity politics and independence projects since the 1990s, both in political discourse and in practice. The frictions between identity politics and these independence projects, which had sovereignty at its core, were strongest in Bosnia and Herzegovina – the only former Yugoslav republic without a titular nation. The struggle over sovereignty ultimately led to war in this former republic.

Beyond the role that the notion of sovereignty played in the context of identity politics, it became the nexus of the subsequent independence projects, which played out on a continuum from the early 1990s, when Croatia and Slovenia declared their independence, to 2008, when Kosovo proclaimed its independent statehood. In 1991,

⁶ Lampe, John R. "The failure of the Yugoslav national idea." *Studies in East European Thought* (1994): 69–89; Hayden, Robert M. "Imagined communities and real victims: self-determination and ethnic cleansing in Yugoslavia." *American Ethnologist* 23, no. 4 (1996): 783–801.

⁷ Hayden, pp. 783–801

⁸ Unlike the term ‘*narod*’ (nations), which designated the titular communities, the notion of ‘nationalities’ (nationalities) referred to minority communities in the former Yugoslavia. These included, among others, Albanians, Albanians, Bulgarians, Czechs, Hungarians, Romanians, Roma, Slovaks, Turks, Ukrainians, and Vlachs. *Ustav Socijalističke Federativne Republike Jugoslavije (SFRJ)*, Službeni list SFRJ, br. 9/1974 [Constitution of Socialist Federal Republic of Yugoslavia (SFRY), Official Gazette of SFRY, no. 9/1974].

amidst tensions in the socialist Yugoslavia following the Slovenian and Croatian independence referendums, the then European Community set up an international Arbitration Commission led by the French Judge Robert Badinter to deliberate on the legal matters related to the dissolution of Yugoslavia ('the Badinter Commission'). Between 1991 and 1993, the Badinter Commission delivered 15 opinions related to issues such as the dissolution of the socialist Yugoslavia, the right to self-determination, border issues, and the different republics. In its Opinion No. 2, ruling on the question of whether the 'Serbian population in Croatia and Bosnia and Herzegovina, as one of the constituent peoples of Yugoslavia, have the right to self-determination?', the Commission extended the principle of *uti possidetis* (the sovereign right to territory) to the former Yugoslavia. This meant that the Serbian population in Bosnia and Herzegovina had the right to self-determination insofar as these rights entailed recognition and rights as minorities and ethnic groups rather than territorial claims. In relation to this, in Opinion No. 3, the Badinter Commission also established the principle of *uti possidetis iuris* regarding the borders of the respective republics, which became "frontiers protected by international law", which could not be altered 'except by agreement freely arrived at'.⁹ The Badinter Opinions touched upon the core drivers of the war in Bosnia and Herzegovina – the tension between self-determination of ethnic groups in the republics based on the sovereignty of the people in the federation, and territorial sovereignty of the individual republics.

The question of sovereignty as regards the existing territorial disputes in the Western Balkans still dominates in state doctrine and representative statements. This is particularly the case in the two most contested post-Yugoslav countries – Bosnia and Herzegovina and Kosovo. In the case of Bosnia and Herzegovina, where the Serb-dominated Republika Srpska entity continuously seeks secession under its nationalist leadership, territorial sovereignty and integrity of the country are often invoked in the political discourse. The representatives of the international community, above all the Office of the High Representative (OHR), have continuously emphasized the territorial integrity of Bosnia and Herzegovina and its sovereignty as a country. In a statement in 2012, the then OHR representative Valentin Inzko noted that "the Constitution of BiH

⁹ Badinter Arbitration Committee, "Opinions on Questions Arising from the Dissolution of Yugoslavia," *European Journal of International Law* 3, no. 1 (1992), pp. 178–85.

does not leave any room for the ‘sovereignty’ of the different entities”.¹⁰ Yet in the wake of the new geopolitical realities, the former leader of the Bosnian Serbs – Milorad Dodik – who was sanctioned by the United States until October 2025, has sought support for his secessionist agenda from the second Trump administration.¹¹ At the same time, both analysts and the international community concur that the territorial integrity of Bosnia and Herzegovina is key to the country’s eventual integration into the European Union.¹² In the case of Kosovo, which declared independence from Serbia in 2008 after being administered by the United Nation Mission in Kosovo since 1999, the core of the contestation is in the fact that Serbia refuses to recognise Kosovo’s independence. The Preamble to the 2006 Constitution of Serbia, in fact, notes that “the Province of Kosovo and Metohija is an integral part of the territory of Serbia, and it is in a position of substantive autonomy within the sovereign state of Serbia”,¹³ without reference to the people inhabiting that territory and their role in constituting the political sovereignty of the state.

As a result of the multiple tensions around the notion of sovereignty in the post-Yugoslav space, the word is commonly invoked in political discourse related to the questions of state independence, international recognition, or territorial disputes. The transfer of sovereignty in the context of membership in international or intergovernmental institutions is not salient in the public space or political discourse, except in the case of North Macedonia, which will be discussed in section 4 below. The main reason for the absence of any discussion of pooling sovereignty is the already contested nature of the newly established states, and the people’s understanding of sovereignty as a matter of territory rather than governance.

SOVEREIGNTY IN LEGAL AND CONSTITUTIONAL DISCOURSES

¹⁰ Office of the High Representative. “Inzko: Republika Srpska je entitet u suverenoj državi Bosni i Hercegovini.” Statement by Valentin Inzko, July 27, 2012. <https://www.ohr.int/inzko-republika-srpska-je-entitet-u-suverenoj-drzavi-bosni-i-hercegovini-2/?print=pdf>

¹¹ Djurovic, Jovana. “Letter from Washington: Buying Friends and Finding Common Foes.” *Balkan Insight*, February 26, 2026. <https://balkaninsight.com/2026/02/26/letter-from-washington-buying-friends-and-finding-common-foes/>

¹² “Suverenitet BiH u sjeni novog američkog pragmatizma.” *Deutsche Welle*, February 16, 2026. <https://www.dw.com/bs/suverenitet-bih-u-sjeni-novog-ameri%C4%8Dkog-pragmatizma/a-75979710>

¹³ *Ustav Republike Srbije*, Službeni list Republike Srbije br. 98/2006 [*Constitution of the Republic of Serbia, Official Gazette of the Republic of Serbia*, no. 98/2006].

The constitutional and legal frameworks in the Western Balkans operate with three partly overlapping conceptions of sovereignty: constitutive sovereignty, articulating who gives rise to the authority of the state; territorial sovereignty, linked to the physical territory where authority of the state can be exercised; and governing sovereignty, which delineates how and over whom can the authority of the state be exercised. In most of the countries in the region, even at the constitutional level, at least one of these dimensions is contested.

ALBANIA

One notable exception to these contestations is Albania. The Constitution of Albania provides for a general framework of sovereignty applied to the country. The Preamble to the Constitution stipulates that the ‘people of Albania’ establish the state “with determination to build a state of law, social and democratic, to guarantee the fundamental human rights and freedoms”.¹⁴ The sovereignty of the state as derived from the ‘people’ is subsequently echoed in article 2 of the Constitution, which also highlights that the exercise of sovereignty may take place through representative or direct democracy. The same article foresees sovereignty transfer in the domain of “collective security, on the basis of a law approved by a majority of all the members of the Assembly”, a clause introduced to enable the country to join the North Atlantic Treaty Organisation (NATO).¹⁵ As a country that is among the most advanced in the process of EU accession, Albania will likely need to amend this constitutional provision, to enable sovereignty transfer in view of EU membership.

MONTENEGRO

Montenegro is the second least constitutionally contested country at the level of sovereignty. Article 1 of the country’s Constitution stipulates that Montenegro is “an independent and sovereign state”. In the subsequent article, the bearer of sovereignty is defined as the “citizen possessing the citizenship of Montenegro”.¹⁶ This derivation of sovereignty is particular, because not all those residing in Montenegro possess the

¹⁴ Kushtetuta e Republikës së Shqipërisë, *Fletorja Zyrtare* nr. 76/2016 [Constitution of the Republic of Albania, Official Gazette of the Republic of Albania, no. 76/2016]. The 2016 amendments to the Constitution were published in the *Fletorja Zyrtare* Official Gazette (Amending Law no. 76/2016, dated July 22, 2016)

¹⁵ Constitution of Albania, article 2

¹⁶ Ustav Crne Gore, *Službeni list Crne Gore* br. 1/07 i 38/13 [*Constitution of Montenegro*, Official Gazette of Montenegro, no. 1/07 and 38/13].

country's citizenship.¹⁷ The restrictive citizenship regime has been caused by the need to maintain internal ethnic and electoral balances, in view of the country's quest for independent statehood between 1998 and 2006. The country's political landscape is marred by political divisions between ethnic Montenegrins and Serbs, and the fact that the independence of Montenegro in 2006 was achieved by slightly over 2,000 votes.¹⁸ Furthermore, article 2 of the Constitution of Montenegro also stipulates that state authority "cannot be established or recognised, if it does not derive from the free expression of the citizens' will in democratic elections, conducted in line with law".¹⁹ This clause has historical roots related to the controversial 1918 Podgorica Assembly, when a contested government opted to join Serbia in a common state of the South Slavs.²⁰ Hence the clause has been devised as a mechanism protective of the imposition of the foreign rule over Montenegro.

While the Constitution stipulates that the territory of the country is unified and inalienable,²¹ the territorial dispute with Croatia over the Prevlaka peninsula near Dubrovnik remains open. During the wars of Yugoslav disintegration, the Montenegrin soldiers took part in the aggression of the army of the Federal Republic of Yugoslavia on the Croatian coastal town of Dubrovnik in 1991. More than a decade following the cessation of armed conflict, in December 2002, the Federal Republic of Yugoslavia (consisting of Serbia and Montenegro) and Croatia signed an Interim Regime along the Southern Border between the Two States, establishing a temporary cross-border regime on the Prevlaka peninsula.²² This agreement was inherited by Montenegro following its independence in 2006. While the land border remains the administrative border that had existed between Croatia and Montenegro in Yugoslavia (in line with the *uti possidetis* principle explained in Section 2), the sea border remains a matter of contestation since there were no sea borders in the former Yugoslavia. This territorial contestation is under international arbitration, and – as will be explored in the

¹⁷ Džankić, Jelena. *Citizenship in Bosnia and Herzegovina, Macedonia and Montenegro: Effects of Statehood and Identity Challenges*. London: Routledge, 2015.

¹⁸ Džankić, *Citizenship in Bosnia and Herzegovina, Macedonia and Montenegro*.

¹⁹ Constitution of Montenegro, article 2

²⁰ Pavlović, Srdja. "The Podgorica assembly in 1918: notes on the Yugoslav historiography (1919–1970) about the unification of Montenegro and Serbia." *Canadian Slavonic Papers* 41, no. 2 (1999): 157–176.

²¹ Constitution of Montenegro, article 3

²² Dimitrijević, Duško. "Boundary disputes between the successor states of the SFR Yugoslavia in the Adriatic Sea." *American Yearbook of International Law* 3 (2024): 766–937.

subsequent section, is likely to play out in Montenegro's aspiration to join the European Union.

NORTH MACEDONIA

As per the Preamble to the country's Constitution, North Macedonia derives its sovereignty from legal continuity with the Republic of Macedonia in Socialist Yugoslavia. The country is "established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romanies and other nationalities".²³ In Article 1 of the Constitution, the country is defined as a "sovereign, independent, democratic and social state", whose sovereignty is "indivisible, inalienable and nontransferable".²⁴ Similar to the case of Albania, the clause on the transfer of sovereignty is likely to need adjustment in the context of the country's aspiration to join the EU. Sovereignty also "derives from the citizens and belongs to the citizens",²⁵ as is the case in other countries in the region. Even so, there have been two important external contestations of the country's sovereignty: by Greece and by Bulgaria.

The dispute with Greece originated shortly after the Yugoslav breakup, when the newly established country adopted the name "The Republic of Macedonia" in 1991, raising objections by Greece over the appropriation of the Hellenic cultural heritage and potential territorial claims over the norther Greek region of Macedonia.²⁶ While the country was admitted to the United Nations in 1993 under the name of the "Former Yugoslav Republic of Macedonia" (FYROM), Greece blocked its attempts to join the NATO and its progress in EU accession. The dispute was resolved by the 2018 Prespa Agreement, changing the constitutional name of the country to North Macedonia, and eventually leading to NATO membership in 2020. Even so, the name change – negotiated by the social democrats in power at the time – had given rise to objections

²³ Устав на Република Северна Македонија, *Службен весник на Република Македонија* бр. 52/91 [Constitution of the Republic of North Macedonia, Official Gazette of the Republic of Macedonia, no. 52/1991], as amended in 2018.

²⁴ Constitution of the Republic of North Macedonia, article 1

²⁵ Constitution of the Republic of North Macedonia, article 2

²⁶ Hagemann, Christian. "Goodbye FYROM, Welcome North Macedonia." *Südosteuropa Mitteilungen* 01 (2019): 6-19.

by the domestic nationalist party VMRO-DPMNE who labelled it as “disastrous”.²⁷ As the agreement was seen as a limitation for the country to define the parameters of its constitutional sovereignty (i.e., determine its name), the social democratic party was ousted by the nationalist VMRO-DPMNE in the subsequent parliamentary and presidential elections.

By contrast, North Macedonia’s dispute with the neighbouring Bulgaria is of a recent vintage, even though it has roots in Bulgaria’s contestation of the country’s cultural and linguistic heritage.²⁸ In 2022, the government of Bulgaria blocked the EU accession negotiations of North Macedonia, conditioning progress in the country’s EU membership bid with the recognition of ethnic Bulgarians as a constitutional minority in North Macedonia. The government of Bulgaria justified this claim by highlighting the Bulgarian citizenship acquisitions based on ancestry from North Macedonia.²⁹ Since the Bulgarian EU accession in 2007, over 120,000 citizens of North Macedonia used the facilitated naturalisation mechanism in Bulgaria, whereby a simple declaration of ethno-cultural belonging and a residential address would suffice for the recognition of Bulgarian, and thus EU, citizenship.³⁰ This contestation of who ‘constitutes’ the state as a sovereign in North Macedonia is ongoing, and presents a major hurdle in the country’s aspiration to join the European Union.

BOSNIA AND HERZEGOVINA

The constitutional dimension of sovereignty in Bosnia and Herzegovina is contested at a number of levels. Above all, the country’s highest legal act has been adopted as an annex to the 1995 Dayton Peace Agreement, which brought an end to the hostilities in the country. As such, the Constitution of Bosnia and Herzegovina – originally envisaged as a temporary arrangement – has as its key objective the preservation of “sovereignty, territorial integrity, and political independence of Bosnia and

²⁷ “Macedonia’s president rejects new name deal”, *Deutsche Welle*, 13 June 2018. <https://www.dw.com/en/macedonian-president-ivanov-says-he-wont-sign-disastrous-name-deal-with-greece/a-44212040>

²⁸ Mahon, Milena. “The Macedonian Question in Bulgaria.” *Nations and Nationalism* 4, no. 3 (1998): 389–407.

²⁹ Smilov, Daniel, and Elena Jileva. “The politics of Bulgarian citizenship: National identity, democracy and other uses.” In *Citizenship policies in the New Europe*, pp. 211–246. Routledge, 2025.

³⁰ “My Europe: Bulgaria vs. North Macedonia”, *Deutsche Welle*, 10 January 2022, <https://www.dw.com/en/my-europe-bulgaria-vs-north-macedonia-is-there-a-way-forward/a-60356569>

Herzegovina".³¹ This formulation is repeated on several occasions throughout the Constitution. It was introduced as a safeguard clause against potential secessionism, or interference in the country's affairs by the kin states of Bosnian Croats and Serbs.

In contrast to all other Constitutions in the Western Balkan region, that of Bosnia and Herzegovina does not indicate where the sovereignty of the country is rooted, and who exercises the legitimate authority of the state. The Preamble to the Constitution merely states that the "Bosniaks, Croats and Serbs as the constituent peoples (together with others), and citizens of Bosnia and Herzegovina establish the Constitution of Bosnia and Herzegovina". The reason for the vagueness in defining the source of sovereign authority are twofold. First, the complex nature of power-sharing, which combines ethnic and territorial distribution of the state's powers, gives precedence to constitutive peoples over the authority of the state. This is best seen in the inability to implement the 2009 *Sejdić and Finci vs. Bosnia and Herzegovina* ruling of the European Court of Human Rights, which ruled that the Constitution of Bosnia and Herzegovina discriminates against non-constituent peoples (i.e., minorities) in view of their rights to vote and be elected in the House of Peoples and the country's Presidency.³² Since 2009, this ruling has been the key condition of the European Union for Bosnia and Herzegovina to move along in the EU accession process. Notwithstanding, the constitutional reform thus needed has not yet been implemented as it would require changing the power balances among constituent and non-constituent peoples, which requires consensus of the former (Bosniaks, Croats and Serbs). Furthermore, the sovereign powers of Bosnia and Herzegovina are somewhat delimited through international administration, as the Office of the High Representative oversees the implementation of the Dayton Peace Agreement, and the functioning of institutions in the country.³³ The powers of the OHR in Bosnia and Herzegovina have become a focus of the public debate, especially with the recent changes introduced by the OHR Representative Christian Schmidt in the context of electoral law of Bosnia and Herzegovina, criminal law of the country, and the suspension of laws adopted by the

³¹ Constitution of Bosnia and Herzegovina, Annex 4 to the General Framework Agreement for Peace in Bosnia and Herzegovina, Dec. 14, 1995, 35 I.L.M. 13, Preamble

³² Milanovic, Marko. "Sejdić & Finci v. Bosnia and Herzegovina." *American Journal of International Law* 104, no. 4 (2010): 636-641.

³³ Chandler, David. "From Dayton to Europe." *International Peacekeeping* 12, no. 3 (2005): 336-349.

People's Assembly of the Republika Srpska that were "anti-Dayton".³⁴ These powers interact with the complex nature of constitutional scope of sovereignty in Bosnia and Herzegovina.

Serbia

The case of Serbia is an interesting variation of the notion of sovereignty among the Western Balkan states. It shows a remarkable asymmetry between legal and social reality of the country. The text of its Constitution derives and vests the sovereignty in citizens, who have the capacity to rule by means of "referendum, popular initiative and through freely elected representatives".³⁵ Similar to the Constitution of Montenegro, the one of Serbia highlights that no "state organ, political organisation, group or individual cannot take the sovereignty of the country, nor establish authority contrary to the free will of the citizens".³⁶ Such a constitutional clause would, in principle, indicate a safeguard of the rule of law in the country. However, international observers of democracy and the rule of law, such as V-Dem and Freedom House, have shown that Serbia has consistently been on a trajectory of democratic backsliding since 2014, and that the rule of law in the country has important shortcomings.³⁷ Under the ruling Serbian Progressive Party, led by President Aleksandar Vučić, Serbia has frequently been defined by international analysts and scholars as a state that has been captured economically, politically, and socially.³⁸

Furthermore, the Constitution of Serbia, as noted above, makes reference to the sovereign territory of the country as inclusive of 'Kosovo and Metohija', including in the oath of the President of Serbia, which includes the phrase 'I swear that I will devote all my efforts to the preservation of sovereignty and integral territory of the Republic of Serbia, including Kosovo and Metohija as its integral part'.³⁹ This implies that in the constitutional reality of Serbia, Kosovo is an integral part of the country. Even so,

³⁴ "BiH: Kristijan Šmit presekao", *Deutsche Welle*, 1 July 2023. <https://www.dw.com/sr/bih-kristijan-%C5%A1mit-presekao/a-66090367>

³⁵ Constitution of Serbia, article 2

³⁶ Constitution of Serbia, article 2

³⁷ Castaldo, Antonino. "Back to competitive authoritarianism? Democratic backsliding in Vučić's Serbia." *Europe-Asia Studies* 72, no. 10 (2020): 1617-1638.

³⁸ Keil, Soeren. "The business of state capture and the rise of authoritarianism in Kosovo, Macedonia, Montenegro and Serbia." *Southeastern Europe* 42, no. 1 (2018): 59-82.

³⁹ Constitution of Serbia, article 114

beyond the text of the constitution, the authority of Serbia over Kosovo is very limited. Between 1999 and the declaration of independence in February 2008, Kosovo had been administered by the United Nations Mission in Kosovo (UNMIK). Following the declaration of independence, Kosovo has effectively been functioning as an independent state, despite the lack of international recognition, and the existence of liminal spaces in its territory and governance.⁴⁰ As noted above, these tensions highlight the discrepancy between constitutional and social realities of sovereignty in Serbia.

Kosovo

At the level of international recognition of sovereignty, Kosovo is the most contested Western Balkan state. Nearly half of the United Nations members have not yet recognised its independent statehood, including five EU members (Cyprus, Greece, Romania, Slovakia, and Spain). As a result of the contestations of statehood, similar to the case of Serbia, the constitutional and social realities of Kosovo are somewhat asymmetric.

Above all, in its 2008 Constitution, Kosovo is defined as an “independent, sovereign, democratic, unique and indivisible state”.⁴¹ The emphasis on Kosovo’s sovereignty and territorial integrity is further noted in article 2 of the Constitution, which notes that “The sovereignty and territorial integrity of the Republic of Kosovo is intact, inalienable, indivisible and protected by all means provided in this Constitution and the law”.⁴² This definition is in tension with Serbia’s claims over Kosovo’s territory, and especially in the region of Northern Kosovo, with the dominant Serb population.

Despite the contestations of sovereignty at the international and domestic levels, the Constitution of Kosovo, unlike those of the other Western Balkan states provides for the ‘Delegation of Sovereignty’.⁴³ It stipulates that “The Republic of Kosovo may on the basis of ratified international agreements delegate state powers for specific matters to international organizations”, further specifying ratification procedures for joining

⁴⁰ Krasniqi, Gëzim. "Contested states as liminal spaces of citizenship: Comparing Kosovo and the Turkish Republic of Northern Cyprus." *Ethnopolitics* 18, no. 3 (2019): 298–314.

⁴¹ Kushtetuta e Republikës së Kosovës, Gazeta Zyrtare e Republikës së Kosovës [Constitution of the Republic of Kosovo, Official Gazette of the Republic of Kosovo, 15 June 2008], article 1

⁴² Constitution of the Republic of Kosovo, article 2

⁴³ Constitution of the Republic of Kosovo, article 20

organisations whose rules would supersede the laws of Kosovo.⁴⁴ The existence of this clause is forward-looking as it would enable the country to join international/intergovernmental organisations in the future.

DOMESTIC GUARDIANS OF SOVEREIGNTY

Given the complex nature of sovereignty in the Western Balkan states, and the numerous contestations of sovereignty – be they at the level of territory, governance, constitution, or international recognition – several institutional actors are involved in guaranteeing the exercise of the state’s legitimate authority in the region’s countries. These include the national parliaments, the executive, and the constitutional courts. In the case of Bosnia and Herzegovina, furthermore, the OHR has the role of the guardian of the country’s sovereignty.

In all the Western Balkan states, national parliaments guard the respective states’ sovereignty by representing people and by exercising their core functions of lawmaking and oversight.⁴⁵ The role of the national parliaments is to ensure that the governance of the respective states reflect the will of the people. This principle is at work in countries in the region where parliaments are de facto substantively uncontested. In cases such as Bosnia and Herzegovina, for instance, the composition of the national parliament itself is challenged, as the upper chamber (the House of Peoples) precludes the selection of non-constituent ‘Other’ peoples. In the case of Serbia, where the constitution emphasizes the territorial belonging of ‘Kosovo and Metohija’ to the state, the reality of the legislature’s composition does not. Beyond the asymmetries created by the contested nature of sovereignty in the region, national parliaments safeguard sovereignty of the respective countries through their oversight function over the executive, by protecting the state’s economic independence through control of public finances, and by ratifying international treaties and agreements to ensure the protection of national interest in bilateral and multilateral relations.

Furthermore, the executive branch can act as the guardians of sovereignty in the Western Balkans by means of their power to enforce the laws, guard national security

⁴⁴ Constitution of the Republic of Kosovo, article 20

⁴⁵ Tunyan, Bagrat, and Klaus H. Goetz. "Parliaments and evidence-based lawmaking in the Western Balkans." *SIGMA Papers* (2024).

and conduct foreign relations.⁴⁶ The executive provides credibility and stability to the state, which are key for exercising sovereignty and preserving the constitutional authority within the state. In contexts where the executive is linked to other contested institutions, such as national parliaments, or where constitutional and social realities are asymmetric, this role reflects such contestations and asymmetries. For instance, the Serbian executive, despite the country's claims that the territory of Kosovo is integral to that of Serbia, has no authority over Kosovo.⁴⁷ The executive also oversees national defence, security and military across the Western Balkan countries, which safeguards the people and the state's territory against external threats and internal turmoil. Finally, the executive – through the foreign service – represents the states in international affairs. It negotiates treaties and conducts diplomatic relations, ensuring that the state's interests are adequately upheld in the international context. In the Western Balkan context, the diplomatic service has also become an important conduit of sovereignty, especially where international support has been needed to secure the state's recognition, as in the cases of Montenegro and Kosovo after their respective declarations of independence.

In addition to national parliaments and the executive, constitutional courts, in principle, have an important role in guarding sovereignty in the Western Balkans. They should ensure that all legislation and actions of the respective governments are in line with the constitution, uphold the rule of law, and guarantee that the laws and executive action do not violate sovereignty from within. In February 2025, the Constitutional Court of Bosnia and Herzegovina has 'temporarily suspended' the laws of the Republika Srpska entity, which challenge the authority of the federal state.⁴⁸ Equally, the constitutional courts have the authority to scrutinize international obligations as to determine their compatibility with the national constitutional framework, which protects the state from outside challenges of sovereignty. In practice, however, constitutional courts in the Western Balkans frequently fall prey to political deadlocks,

⁴⁶ Tunyan, Bagrat, and Klaus H. Goetz. "Parliaments and evidence-based lawmaking in the Western Balkans." *SIGMA Papers* (2024).

⁴⁷ See: Bieber, Florian. "The Serbia-Kosovo agreements: an EU success story?." *Review of Central and East European Law* 40, no. 3-4 (2015): 285-319; Dietrich, Frank. "The status of Kosovo-reflections on the legitimacy of secession." *Ethics & Global Politics* 3, no. 2 (2010): 123-142.

⁴⁸ "Bosnia's top court suspends separatist laws adopted by Bosnian Serbs", *Al Jazeera Balkans*, 7 March 2025, <https://www.aljazeera.com/news/2025/3/7/bosnias-top-court-suspends-serb-statelets-separatist-laws>

which results in blockages. For instance, the selection of judges of the constitutional court in Montenegro has blocked the functioning of the constitutional court on multiple occasions since 2024.⁴⁹ This shows the limits of not only the constitutional court, but also the national parliament, which selects the justices, to exercise its function as the guardian of sovereignty.

Finally, in the case of the Western Balkan region, the special case of the OHR in Bosnia and Herzegovina is worth highlighting. As mentioned above, the internationally mandated OHR has the role of overseeing the implementation of the Dayton Peace Agreement and ensuring that the state's institutions are functioning. The OHR has the so-called "Bonn Powers", which means that it can impose laws, annul acts that undermine the state, and remove officials who threaten peace, stability, or sovereignty of Bosnia and Herzegovina. It has the ultimate authority in interpreting the peace framework, which gives it the power to intervene when the domestic institutions are unable or unwilling to uphold the constitutional structure, territorial integrity, or core state competencies.⁵⁰ For instance, in 2022, the High Representative of the OHR in Bosnia has suspended the property law of the Republika Srpska "seen as an attempt by Republika Srpska to transfer state property from Bosnia to the Serb entity" and an attempt to push for secession.⁵¹

SOVEREIGNTY IN THE REGIONAL AND EUROPEAN CONTEXT

In the Western Balkans, there is scarcely any consideration of or public debate on the notions of 'European sovereignty' or the EU's strategic autonomy. Rather, as the process of EU accession has been ongoing since the early 2000s, most sovereignty debates are national, or idiosyncratic to the Western Balkan region. There are three reasons for this - (1) the fact that most contestations of sovereignty are among the countries in the region; (2) the uneasy experience with the EU's conditionality for some

⁴⁹ "Ustavni sud Crne Gore pred urušavanjem, tvrdi predsjednik Jakov Milatović", *Radio Free Europe*, 15 September 2025. <http://slobodnaevropa.org/a/ustavni-sud-crna-gora-milatovic/33531047.html>

⁵⁰ "67th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the UN", *Office of the High representative*, 5 June 2025. <https://www.ohr.int/67th-report-of-the-high-representative-for-implementation-of-the-peace-agreement-on-bosnia-and-herzegovina-to-the-secretary-general-of-the-un/>

⁵¹ "Chief UN Envoy In Bosnia Asserts Power In Suspending Serb Entity's Property Law", *Radio Free Europe*, 13 April 2022, <https://www.rferl.org/a/bosnia-schmidt-republika-srpska-property-law/31800888.html>

countries in the region; and (3) the ‘thin’ integration experience with forms of Western Balkan regional cooperation.

First, as has been highlighted throughout this report, all of the contestations of sovereignty take place among the region’s countries, and their immediate neighbours. The sea border between Croatia and Montenegro; the questions related to the Kosovo – Serbia relations; the constitutional issues in North Macedonia; the secessionist agenda of the Bosnian Serbs in Bosnia and Herzegovina – are all examples of the varying degrees and various ways in which sovereignty of the different countries is contested. As a result of the dominant focus on these domestic- and regional – issues, questions related to the internal workings of the EU are not salient in the region. Rather, the EU is understood and presented in the public space as “a way into better life”, rather than an intergovernmental organisation whose members pool sovereignty.⁵² A further factor playing into this distance from the crucial discourses within the EU in the second half of the 2020s is the loss of credibility of the accession process, which for some countries, such as North Macedonia, has been ongoing for over two decades.⁵³

Second, and related to the loss of credibility of the EU accession process, countries in the region have had a somewhat uneasy experience with the conditions that touched upon the issues of sovereignty in view of the prospect for EU accession. Above all, the experience of North Macedonia, a country that has changed its name to resolve the dispute with Greece, only to be blocked by Bulgaria in its EU aspirations, has resulted in a return of a nationalist party in government. With the right-wing nationalist party in power, the focus is more likely to be on the preservation of national sovereignty, rather than on concessions needed in the context of EU accession. In a different vein, the experience of the failed constitutional reform of Bosnia and Herzegovina, despite this being a requirement for EU accession,⁵⁴ shows how internal contestations of sovereignty might hamper or obstruct the country’s aspirations to join the EU. If – as it is the case – the domestic recalibration of power relations is so difficult due to the veto

⁵² Džankić, Jelena. "Perceptions and Misperceptions of EU Conditionality in the Western Balkans: A Case of a "Capability-Expectations Gap"?. In *Integrating the Western Balkans into the EU: Overcoming Mutual Misperceptions*, pp. 199-222. Cham: Springer Nature Switzerland, 2023.

⁵³ Džankić, "Perceptions and Misperceptions of EU Conditionality in the Western Balkans", pp. 199-222.

⁵⁴ Kasapović, Mak, and Faris Kočan. "A blitzkrieg against the Republika Srpska: securitizing constitutional reform in Bosnia and Herzegovina." *Ethnopolitics* 22, no. 5 (2023): 568-588.

powers of the constituent peoples, this may tentatively also be challenging in the context of sovereignty transfer in the context of EU integration.

Third, as a result of the regional contestations and the slow pace of EU accession in the Western Balkans, regional cooperation has been 'thin', despite it being a prerequisite for EU accession.⁵⁵ One of the key initiatives in this domain is the Berlin Process, set up as in 2014 a high-level meeting between the six Western Balkan states, and Austria, Bulgaria, Croatia, France, Germany, Poland, Slovenia, Italy, and the United Kingdom. The core goal of the Berlin Process has been to revive the multilateral ties between the Western Balkan states and their European counterparts, in view of the stalemate in EU accession since 2014. It unfolds through economic cooperation, security collaboration, social cooperation, and green transition. While there have been some joint initiatives in the domain of economic collaboration, the Berlin Process has not become a regional cooperation platform comparable to the Visegrad Group.

As noted throughout the report, the Western Balkan region is a sui generis universe of varieties of sovereignty, and equally the various ways in which it can be contested, be it in the domain of territory, governance, people, or international recognition. Standing in comparison to Central and Eastern European states, which are experiencing the revival of nationalist agendas after two decades of EU membership, the narrative of the 'threat to national sovereignty' through EU membership has never materialized in the region. Domestic and regional challenges to the ways in which the Western Balkan states have been constituted in law – and the social, political and geopolitical realities in which they exist – remain central to the debates on sovereignty in the region.

⁵⁵ Grupe, Claudia, and Siniša Kušić. "Intra-regional cooperation in the Western Balkans: Under which conditions does it foster economic progress?." (2005); Bonomi, Matteo, and Milica Uvalić. "Antithetic perceptions of regional cooperation in the Western Balkans." In *Integrating the Western Balkans into the EU: Overcoming Mutual Misperceptions*, pp. 239–260. Cham: Springer Nature Switzerland, 2023.

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