

“Fulfilling the promise of the Dayton Accords”

Hearing before the Subcommittee on Europe, Eurasia and Emerging Threats

Foreign Affairs Committee, US House of Representatives

“The Dayton Legacy and the Future of Bosnia and the Western Balkans”

Statement from the Institute for Social and Political Research

April 18, 2018

Dear Chairman Rohrabacher and Ranking Member Meeks,

On behalf of the Institute for Social and Political Research (IDPI), I would like to express our gratitude to the House Foreign Affairs Subcommittee on Europe, Eurasia and Emerging Threats for holding such an important hearing to address the looming political crisis in Bosnia and Herzegovina.

IDPI is a non-partisan and independent think tank with a mission to advance and develop expertise in the field of state organization and governance. We have developed principles and a full proposal for electoral reform that we believe will help avoid a political crisis in BiH.

At the time of writing, this is the only proposal that is available to the public and attempts to resolve the electoral reform issue comprehensively in a compromise manner that should be acceptable to all stakeholders. In light of this, we would be grateful if you could include our proposal into the Hearing Record so that the committee might consider it.

The proposal is attached to this letter. Additional supporting material for this proposal can be found at www.en.idpi.ba.

Please let us know if you need any additional information. We look forward to the hearing, and for considering our request.

Sincerely,

Ivan Pepic
Head of Election Reform Experts Group
Institute for Social and Political Research

Basic Principles, Models and Proposals for BiH Election Law Reform

IDPI (Institute for Social and Political Research) has developed basic principles to guide the electoral reform process in Bosnia & Herzegovina (BiH). These principles were formulated in line with the requirements of the Dayton Accords and the rulings of the Constitutional Court. We welcome our international friends of Bosnia & Herzegovina, especially the United States, to encourage all parties to reach a solution in line with these basic principles before the 8 May 2018 deadline. The May deadline represents the latest date that the central election commission of BiH can successfully organize a free, fair and legitimate national election in October. IDPI has also developed specific electoral reform models, should the relevant parties need additional substantive ideas once there is political will to actually complete the reform process.

1. The Presidency

Model P 1 would resolve, at the Presidency level, both the **Ljubić case** of the Bosnia and Herzegovina (BiH) Constitutional Court (U-23/14) and the **Sejdić-Finci** and **Zornić** rulings of the European Court of Human Rights (ECHR) by **only changing the election law and without any amendments to the Dayton constitution.**

Model P 2 would resolve, at the Presidency level, both the **Ljubić case** of the Bosnia and Herzegovina (BiH) Constitutional Court (U-23/14) for the Presidency and the **Sejdić-Finci**, **Zornić**, and **Pilav** rulings of the European Court of Human Rights (ECHR) with **changes to the election law and minimal amendments to the Dayton constitution.**

2. The House of Peoples

Model DN 1 would resolve, at the House of Peoples of the Federation of BiH and the House of Peoples of BiH level, the **Ljubić case** of the Bosnia and Herzegovina (BiH) Constitutional Court (U-23/14) and would **allow the 2018 general election results to be fully implemented by only changing the election law and without amendments to the Dayton constitution or the Federation of BiH (FBiH) constitution.**

Model DN 2 would resolve, at the House of Peoples of the Federation of BiH and the House of Peoples of BiH level, both the **Ljubić case** of the Bosnia and Herzegovina (BiH) Constitutional Court (U-23/14) and the **Sejdić-Finci** and **Zornić** rulings of the European Court of Human Rights (ECHR) with **changes to the election law and minimal amendments the Dayton constitution and the Federation of BiH (FBiH) constitution.**

Proposal A (P 1 + DN 1) – fully resolves the Ljubić case at all levels and the Sejdić-Finci and Zornić rulings at the Presidency level (but not at the House of Peoples of BiH level). It requires changes to the election law only, without any amendments to the Dayton constitution.

Proposal B (P 2 + DN 2) – fully resolves the Ljubić case and the Sejdić-Finci, Zornić and Pilav rulings at all levels. It requires changes to the election law and minimal amendments to the Dayton constitution and the Federation of BiH (FBiH) constitution.

The primary goal of these proposals is to **allow the conduct of legal and legitimate October 2018 national elections.** In other words, the goal of these proposals is to ensure that the elections will be held according to the BiH Constitution and that the election results will be fully implemented at all levels of government. If election law is not amended according to the Constitutional Court of BiH ruling U-23/14 (Ljubić), then the national elections can be held, but their **results will not be fully implemented** because it will not be possible to form **the House of Peoples of the FBiH**, and therefore, also it will not be possible to form **the House of Peoples of BiH.** Without the House of Peoples of the FBiH, it will not be possible to elect the **President of the FBiH and two vice-**

presidents, it will not be possible to **form the government of the FBiH**, and the **Parliament of FBiH** will not be able to function without the upper house. Moreover, without the House of Peoples of BiH, neither **House of Representatives of BiH**, nor the **Presidency of BiH** nor the **Council of Ministers of BiH** will not be able to fully function. In this case, **the only level of government which will have full electoral legality and legitimacy and fully function will be Republika Srpska** (National Assembly and Council of Peoples of Republika Srpska, the President of RS and the Government of RS) **and cantons inside the FBiH** (assemblies and governments of all ten cantons).

Such situation would be very risky and dangerous, both politically and in terms of security. It would also result in **institutional and legal vacuum** which could result in complete destruction of the Dayton structure and threaten not only the functionality and political stability, but also the very existence of BiH as an independent and united country.

Therefore, we believe that it is necessary to do all legal and legitimate measures in order to **align the election law with the Constitutional Court of BiH ruling in Ljubić case (U-23/14) and by doing so ensure that October 2018 national election results can be fully implemented. That is a minimal requirement** that every proposal of the election law reform has to fulfill. Other than fulfilling the above-mentioned requirement, it is necessary to **reform election law in order to implement as many ECHR rulings as possible**. Therefore, IDPI proposals of the election law reform is divided into two parts, or more specifically, two proposals – Proposal A and Proposal B.

IDPI Proposal A (P 1 + DN 1) – fully resolves the Ljubić case at all levels and the Sejdić-Finci and Zornić rulings at the Presidency level (but not at the House of Peoples of BiH level). It requires changes to the election law only, without any amendments to the Dayton constitution.

IDPI Proposal B (P 2 + DN 2) – fully resolves the Ljubić case and the Sejdić-Finci, Zornić and Pilav rulings at all levels. It requires changes to the election law and minimal amendments to the Dayton constitution and the Federation of BiH (FBiH) constitution.

Given that the Central Election Committee has to call for the national elections by 8 May 2018 the latest, it is necessary to reform the election law according to the Constitutional Court of BiH ruling in Ljubić case (U-23/14) by this date.

Therefore, IDPI developed two proposals. **Proposal A** does not resolve all the issues but it allows for the full implementation of the national election results and partially resolves ECHR rulings, and is doing so without any constitutional amendments, but rather just election law amendments. Therefore, it would be easier and faster to implement that proposal given the fast-approaching deadline. **Proposal B** resolves all the issues of Ljubić ruling of the Constitutional Court of BiH and all the issues of Sejdić-Finci, Zornić and Pilav rulings of the ECHR, but it requires amendments to both the election law and the constitution. Therefore, it is much harder and slower to implement in given the fast-approaching deadline.

If in this, pre-election phase it is not possible to adopt the more-encompassing **Proposal B** due to the fact that it requires higher number of changes and wider political and party consensus, IDPI recommends to first implement **Proposal A** in order to ensure full implementation of election results. After elections, IDPI recommends that the newly elected officials, which would have full legitimacy, could then start a wider reform process in the atmosphere of compromise and in stable political environment and implement **Proposal B** which fully resolves all three ECHR rulings.

Background

On December 1, 2016, the Constitutional Court of BiH ruled that the BiH election law discriminated against BiH constituent peoples. The ruling (U-23/14) also confirmed that delegates to the House of Peoples of the Federation of BiH (upper of two chambers of the F BiH legislature) are representatives of the Constituent Peoples rather than representatives of the cantons.

This Constitutional Court ruling required the Parliamentary Assembly of Bosnia and Herzegovina to amend the election law to ensure that delegates to the House of the Peoples of both the country and the Federation of Bosnia and Herzegovina, as well as the members of the Presidency, are truly legitimate representatives of the Constituent Peoples. The Court gave the country's parliament six months to change the election law. The only proposal put forward into the parliamentary procedure during the given six-month period was proposed by the by the Croat delegates and blocked and eventually rejected by the Bosniak delegates in the House of Representatives.

The Constitutional Court of BiH ruled on July 6, 2017 (U 3/17) that because the Parliamentary Assembly of BiH had failed to amend the electoral law within the six-month deadline imposed by the Court, the provisions of *Chapter 20 – Transitional and Final Provisions of Article 20.16A (2), items a-j of the Election Law of Bosnia and Herzegovina* and a part of *Subchapter B, Article 10.12 (2)* were rendered ineffective as of July 7, 2017. This means that there is no longer any legal mechanism to elect delegates to the House of Peoples of the F BiH, or the country-level House of Peoples of BiH. If the election law is not amended before the 8 May 2018 deadline (the latest date when the election has to be called by the central election commission), the results following the national elections in October would be invalid and could not be fully implemented. As a result, the legislatures of both BiH and the F BiH will be unable to legally function, and the country will consequently be left without a legislature and executive at multiple levels and unable to pass necessary laws and budgets.

This would lead to complete paralysis of the governance and political system in BiH, with no government or legislature in place to enact a solution.

IDPI is determined to resolve this issue before it is too late. We want to reform the election law and put BiH back on track toward integration with the EU and NATO, and on the path for economic development. Furthermore, we should take advantage of this electoral reform process to solve the Sejdić-Finci, Zornić and Pilav rulings of the ECHR, which would bring BiH closer to the EU.

Basic Principles

The specifics of the electoral reform should be worked out among the relevant political parties but, based on the requirements of the Constitution and the rulings of the Constitutional Court and European Court of Human Rights, any solution should adhere to the following basic principles:

- 1) Uphold the Constitution and the principles of equality and constituent status of all Constituent Peoples, the principles which the Constitutional Court of BiH declared “overarching principles” of the whole BiH Constitution, on July 1, 2000 in Decision **U 5/98-III**, and therefore the whole Dayton Agreement in general.
- 2) Implement the Constitutional Court Rulings **U-23/14** and **U-3/17**, which found that the election law is discriminatory against the rights of the Constituent Peoples to elect their legitimate representatives and that the law must be amended.
- 3) Uphold the Constituent Peoples' status and rights. Constituent Peoples' rights should be consistent with the Constitutional Court ruling from 2000 (**U-5/98**) on the status of Constituent Peoples and interpreted according to the Constitutional Court rulings **U-23/14** and **U-3/17**, which confirm that political representatives of Constituent Peoples are primarily representatives of the electoral will of the Constituent Peoples, rather than

necessarily members of said Peoples. In principle, this means, that Croat representatives would not necessarily need to be ethnically Croat in order to represent Croats but that they should have received a majority of Croat votes in BiH elections (with the same principle applying for Bosniaks and Serbs).

- 4) Implement the Sejdić-Finci ruling of the European Court of Human Rights from 2009, which would allow members of national minorities and all other citizens to participate in all elections and be elected to the country's Presidency and other high-level political posts.
- 5) Support the uniformity of electoral law rules across the whole of BiH, uphold the equality of Constituent Peoples, and encourage direct and proportional representation to best represent the electoral will of people in BiH.
- 6) Ensure that any reforms bring BiH further towards EU integration by addressing reforms necessary for EU membership.
- 7) Fulfill the Brussels Agreement of 2013, signed by all major political parties, requiring that all Constituent Peoples can elect their legitimate representatives at all levels, preventing one Constituent People from electing representatives of other Constituent Peoples.
- 8) Retain all current geographic electoral units, including cantonal or entity borders, so that the electoral issue can be resolved with the least amount of complexity.

In addition to these basic principles, we have developed specific electoral reform models should the relevant parties need additional substantive ideas once there is political will to complete the reform process prior to 8 May 2018 deadline.

We are determined to help resolve the constitutional crisis with our electoral law proposal which:

- upholds the Dayton Constitution,
- protects the Constituent Peoples' equality,
- fulfills the Constitutional Court Ljubić ruling,
- resolves the Sejdić-Finci, Zornić and Pilav issues, and
- opens the EU/NATO path for BiH.

This approach is based upon guaranteeing equality, uniformity, and direct representation principles across BiH, and prevents one Constituent People from electing representatives of another Constituent People.

We are ready to discuss any modifications of the proposal, or any alternative proposals, provided they are framed in a way that respects our principles.

Main characteristic of the IDPI's models for BiH election law reform

The current election law of BiH interprets Article V of the BiH Constitution "*The Presidency of Bosnia and Herzegovina shall consist of three Members: one Bosniak and one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republika Srpska*" in a way that "one Bosniak Member, one Croat Member and one Serb Member" are **members** of constituent peoples rather than their **representatives**. Following that interpretation, Articles 8.1, 8.2 and 4.19 of the election law were created.

We believe that the interpretation of the constitutional principles and certain articles of BiH constitution, which were the basis for creating Articles 4.19, 8.1 and 8.2 of the election law of BiH, is insufficiently harmonized with the principles of the Dayton Agreement and the Constitution of BiH, as well as the rulings of the Constitutional Court of BiH U 5/98 ("Decision on the constituent status of the peoples") and U-23/14 ("Ljubić case").

IDPI's expert team interprets Article V of BiH's constitution in a way that "one Bosniak," "one Croat," and "one Serb" are **primarily** Bosniak, Croat and Serb **representatives** in the three Member Presidency, but **not** necessary **members** (ethnically or nationally) of said peoples. That means that it is **not necessary** for a candidate for "one Bosniak Member of the Presidency" to **declare himself personally** as a Bosniak, but rather, a legitimate candidate for "one Bosniak Member of the Presidency of BiH" can be **any citizen of BiH** with a right to vote, regardless whether they declare themselves as a Bosniak, a Croat, a Serb, a Roma, a Jew, or any other member from the Others group (national minorities and citizens who do not self-identify as a member of any ethnic group or nation). This interpretation is not only valid for the Members of BiH Presidency, but also for representatives in other governmental bodies whose purpose is collective representation of constituent peoples (the House of Peoples of BiH, the House of Peoples of FBiH, the Council of Peoples of Republika Srpska).

By utilizing this interpretation of certain constitutional principles and norms (and without any constitutional amendments), every citizen of BiH with a right to vote would be allowed to run for the function of a member of BiH Presidency, or in other words, for "one Bosniak," "one Croat," and "one Serb" member of the three Members Presidency of BiH. In practice, this means that Mr. Dervo **Sejdić** could become a Bosniak Member of the Presidency (or any other), Mr. Jakob **Finci** could become a Croat Member of the Presidency (or any other), and Ms. Azra **Zornić** (or any other) could become a Serb member of the Presidency next election.

While the **Ljubić** ruling was explicitly about the House of Peoples of the FBiH and the House of Peoples of BiH, the ruling was also very clear in **Article 47** that the same principles should be applied to all the levels of government which are meant for representation of the three constituent peoples, including the Presidency of BiH. This is the reason why we believe that the Presidency too has to be fixed in a package, not only because of the ECHR rulings, but also because of the Constitutional Court of BiH ruling.

*In addition, the Constitutional Court recalls that according to the general principle of democracy, the right to participate in democratic decision making is exercised through legitimate political representation, which has to be based on the democratic choice by those represented and whose interests are represented. In this regard, **the connection between those who are represented and their political representatives at all administrative-political levels is actually the one that gives the legitimacy to community representatives.** Therefore, only the legitimacy of representation creates a basis for actual participation and decision-making.*

Benefits of IDPI Proposals

In sum, IDPI believes that these proposals achieve the following benefits:

1. Both **Proposal A** and **Proposal B** allow for the **October 2018 national elections** to be held and **fully implemented**. This prevents a total blockade of the constitutional, legal and political system in BiH, which would result in unforeseeable political and security consequences, which will inevitably happen if the election law of BiH is not reformed according to the U-23/14 (Ljubić) ruling of the Constitutional Court of BiH by 8 May 2018.
2. Both Proposal A and Proposal B require **no ethnic or national identification** of either **voters** or **candidates** in the whole process. Anybody – no matter their ethnicity or nationality – can vote in every election.
3. Both Proposal A and Proposal B allow that **every citizen, no matter their ethnic or national identification**, has a right and possibility to become a candidate for all levels of government and participate in election process for all levels of government during national elections.
4. Both Proposal A and Proposal B respect constituent status and equality of all constituent peoples, as well as the right of Others (national minorities and other citizens) to become candidate and participate in election for all levels of government during national elections.

5. Both Proposal A and Proposal B ensure that members of one constituent peoples cannot **decisively** influence election of representatives of two other constituent peoples or the election of representatives of Others.
6. Both Proposal A and Proposal B ensure that all specific demos, which are part of the national election, are guaranteed the fulfillment of **the principle of legitimate representation**, as well as **the principle of the equal value of the vote**.
7. Both Proposal A and Proposal B **does not move nor create any new internal borders**, either temporary or permanently. This ensures that the election law reforms needed for the full implementation of the national elections does not create any reason for the change of the two-entity structure or change in the current administrative and territorial borders within the entities.
8. **Proposal A**, at the entity level, abolishes any form of the electoral discrimination on the administrative and territorial basis, for both the members of the constituent peoples and members of Others. **Proposal B**, at the country level, abolishes any form of electoral discrimination on the administrative and territorial basis, for both the members of the constituent peoples and members of Others. In practice, this means that a Croat in Sarajevo or Gorazde has the same vote value and ability to elect and be elected as a Croat voter in Mostar or Široki Brijeg. The same is true for Bosniaks, Serbs and Others all across Bosnia and Herzegovina.
9. Both Proposal A and Proposal B promote electoral system with more equality, transparency, and uniformity, **based of mathematical formulas** rather than on national identification of voters or candidates or creating new electoral borders.
10. Both Proposal A and Proposal B stimulate **further democratization, diversity of political thought, and pluralism among political options** within the three constituent peoples. This is especially important for the Croats, who have the least developed political party pluralism, which lead to the pronounced domination of only one political party and one political option.
11. Reaching a political agreement, either for Proposal A or Proposal B, could **relax the ethnic tensions** in the country and allow for election of legitimate representatives of constituent peoples and the Others in October. These representatives could then, with legitimacy gained in the democratic, free and fair elections, build on the election law reform success and **find compromise for other much needed reforms** in BiH, primarily **economic and judicial reforms**.
12. **The reform of the election law**, either through Proposal A or Proposal B, would be the biggest internal political success since the Dayton, which could bring back the faith of BiH's citizens in a democratic and functional country which works on agreements and consensus rather than the current common practice of political bickering exclusiveness and stalling.
13. Due to the complexity, asymmetry and the lack of transparency of the current election law it is hard to establish the system of responsibility of elected officials to those who elected them. Through the implementation of Proposal A or Proposal B, **it would be completely clear who elects who, and who has responsibility to whom**, or in other words, the voters of each specific demos would finally be able to assess whether those who they elected fulfilled their expectations or not, and based on that, either reward or punish them during the next election.
14. **The reform of the election law**, either through Proposal A or Proposal B, would create **exceptionally favorable constitutional, legal and political prerequisites** for BiH's further continuation along the **EU and NATO path**.

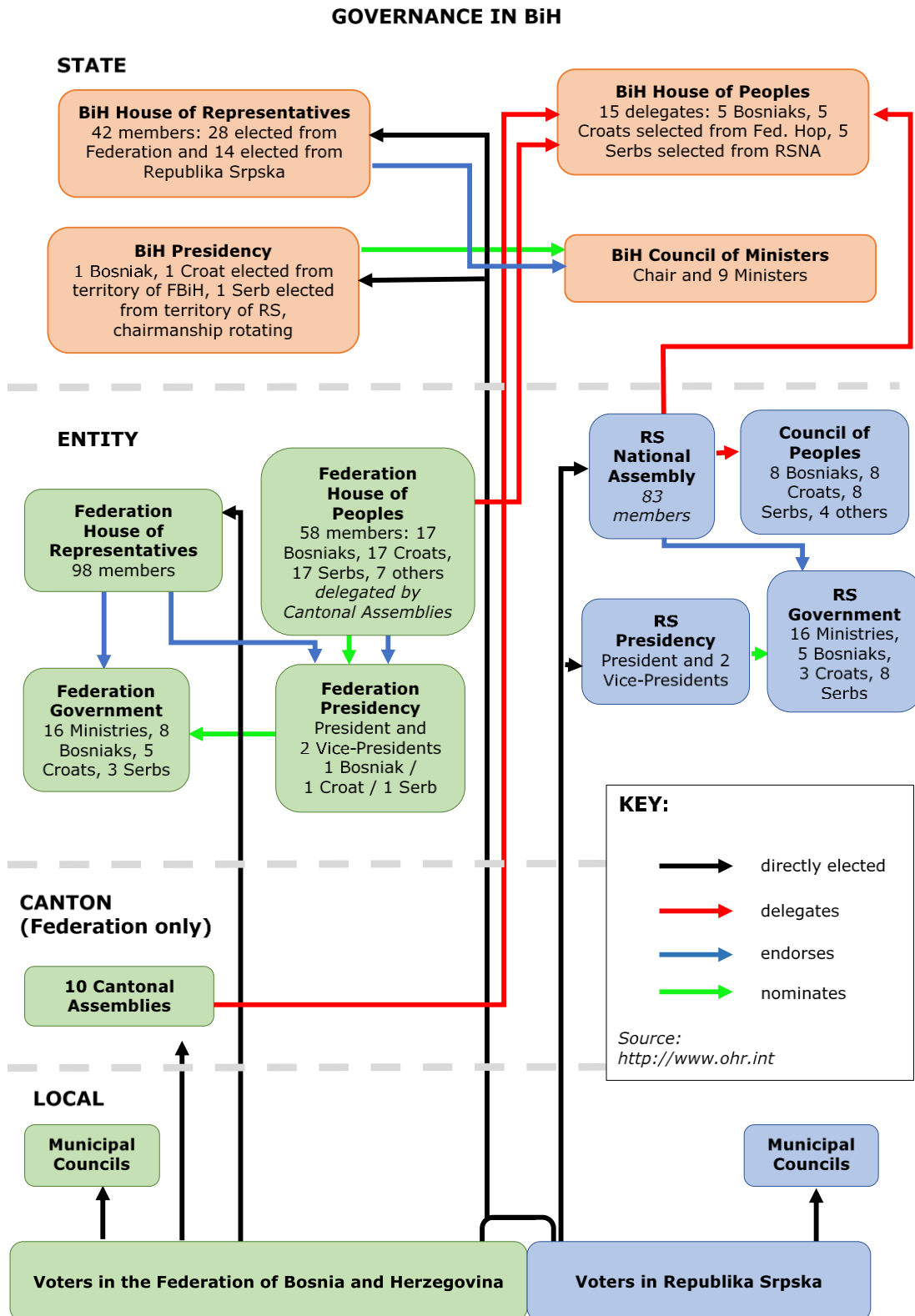
Map

The following maps shows cantons in the Federation of Bosnia and Herzegovina:



Chart

The following chart shows the current governance system in Bosnia and Herzegovina:



1. Models for Reforming the Election of the Presidency of Bosnia and Herzegovina

Model P 1 – Model which requires no constitutional changes

The Presidency of BiH would still consist of three Members.

The Presidency of BiH is made up of **three Members**: Bosniak member of the Presidency, Croat member of the Presidency and Serb member of the Presidency. Each member of the Presidency is elected by **three separate specific demos**, or in other words, three separate “specific peoples from which the democratic and legitimate power comes from” and which give the legitimacy to the elected Member of the Presidency:

“**Specific demos**” for the election of the **Bosniak Member of the Presidency** consists of:

- **All citizens of FBiH** which freely and independently declared themselves as **Bosniak** on the census (70.40% of all citizens in FBiH)
- A part of the Others and Serbs in FBiH which decided to vote for the Bosniak Member of the Presidency (between 0% and 7.16% of all citizens in FBiH)
- All Bosniaks in District Brčko (DB) and a part of Others in DB which decided to vote for the Bosniak Member of the Presidency

“**Specific demos**” for the election of the **Croat Member of the Presidency** consists of:

- **All citizens of FBiH** which freely and independently declared themselves as **Croat** on the census (22.44% of all citizens in FBiH)
- A part of the Others and Serbs in FBiH which decided to vote for the Croat Member of the Presidency (between 0% and 7.16% of all citizens in FBiH)
- All Croats in District Brčko (DB) and a part of Others in DB which decided to vote for the Croat Member of the Presidency

“**Specific demos**” for the election of the **Serb Member of the Presidency** consists of:

- **All citizens of RS** which freely and independently declared themselves as **Serb** on the census (81.51% of all citizens in RS)
- All Bosniaks, Croats and Others in Republika Srpska (RS) (18.49% of all citizens in RS)
- All Serbs in District Brčko (DB) and a part of Others in DB which decided to vote for the Serb Member of the Presidency

If an elected Bosniak member of the Presidency have, in their received votes structure, more than 50% of votes from the members of the Bosniak Constituent People, then he is a legitimate representative of the majority Bosniak political will, as well as the political will of Serbs and Others who voted for him. He represents all Bosniaks and all Serbs and Others in the FBiH who voted for him.

If an elected Croat member of the Presidency has in theirs received votes structure more than 50% of votes from the members of the Croat Constituent People, then he is a legitimate representative of the majority Croat political will, as well as the political will of Serbs and Others who voted for him. He represents all Croats and all Serbs and Others in the FBiH who voted for him.

If an elected Serb member of the Presidency has in their received votes structure more than 50% of votes from the members of the Serb Constituent People, then he is a legitimate representative of the majority Serb political will, as

well as the political will of Bosniaks, Croats and Others who voted for him. He represents all Serbs and all Bosniaks, Croats and Others in Republika Srpska who voted for him.

In accordance with the Constitutional Court of BiH ruling **U-23/14 (Ljubić)**, the whole process is orchestrated with the **respect to the principle of legitimate representation of the Constituent Peoples and Others** and with **respect of the principle of equal value of the votes** within each specific demos which is taking part in the election of the three Members of the Presidency.

In accordance with the ECHR rulings **Sejdić-Finci** and **Zornić**, the whole process allows the Others (everyone who does not identifies as a member of one of the three constituent peoples) to elect and be elected to the Presidency, based on the principle that Members of the Presidency are **primarily representatives** of Bosniaks, Croats and Serbs, but not necessary their members. That means that the Croat Member of the Presidency can be any citizen of BiH regardless of their national identity (the same being true for Bosniak and Serb Member), including Mr. **Finci**, Mr. **Sejdić** or Ms. **Zornić**, because all of them get their legitimacy from the specific demos which elects them. In order to implement the above-mentioned rulings for the Presidency of BiH through model **P 1** the election law would have to be changed, but there would be no changes to the Dayton constitution.

The current stipulation of the election law which requires the candidates to sign a **statement on their ethnicity** and belonging to a constituent people **will be abolished**. That stipulation of the election law does not exist either in the BiH Constitution nor in the FBiH Constitution. It violates the personal identity of the candidates and limits the possibility to become a candidate for certain offices for citizens who are not members of one of the three constituent peoples, as the ECHR ruled in **Sejdić-Finci** and **Zornić** cases.

The statement on belonging to one of the constituent peoples will be replaced with a statement on **representing the majority electoral and political will** of appropriate constituent peoples, which can now be represented also by citizens who do not belong to that constituent peoples. The new statement is introduced in order to make Article 5.2. (d) of the BiH Constitution still enforceable, as it requires that there has to be a link between a specific member of the Presidency and that club in the House of Peoples of BiH in order to declare a Presidency Decision to be destructive of a vital interest of the Entity.

By doing so, the fact remains that “One Bosniak,” “One Croat,” and “One Serb” are elected because “one Bosniak” should be considered as a person who **represents the majority political and electoral will** of Bosniaks as constituent peoples, rather than simply a person who **declared themselves as a member of the Bosniak people**. The same principle is valid for Croats and Serbs, or in other words, for “one Croat member” and “one Serb member.”

The Serb Member of the Presidency is still elected based on the current system (simple majority in RS), while Bosniak and Croat Members of the Presidency are elected based on the electoral points system in FBiH with all ten cantons and Brčko District as electoral units.

The residents of **Brčko District** can decide whether they want to vote in FBiH (and elect Bosniak or Croat Members of the Presidency), or they want to vote in Republika Srpska, where their vote would simply be added to the total tally of votes in Republika Srpska in the election of the Serb Member of the Presidency.

Each of the electoral units would have electoral points value equal to the number of members of one of the Constituent Peoples living in that electoral unit divided by the total number of members of that Constituent Peoples in the Federation of Bosnia and Herzegovina and District Brčko, according to the most recent census data, for both the Croat and the Bosniak Members of the Presidency.

The **proportional representation** of Bosniaks and Croats is guaranteed no matter where they live in FBiH (one Croat voter in Goražde or Sarajevo has the **exact same weight** as one Croat voter in Mostar, Livno or Široki Brijeg

– same is true for Bosniak voters) based on the percentage of Croats or Bosniaks living in each of the electoral units out of the total population of Croats or Bosniaks in the FBiH. This means that Croats in Bosniak majority areas (and vice versa) have equal vote as Croats in Croat majority areas, and that they too can become a Member of the Presidency (or a delegate in the House of Peoples), which was not the case with proposals put forward by the SDA and HDZ.

The number of electoral points of each electoral unit will be updated after each population census so that the changes in the percentages of each constituent peoples in each of the electoral units is reflected by the number of electoral points in that electoral unit.

The Others, as well as the Serbs in FBiH, can choose which candidate they want to vote in the election regardless of which one of the eleven electoral units they live, as well as run as a candidate for either Member of the Presidency.

The following table shows electoral points in each of the eleven electoral units:

	Electoral points for election of the Bosniak Member of the Presidency	Electoral points for election of the Croat Member of the Presidency
Una-Sana	15.40	0.98
Posavina	0.52	6.52
Tuzla	24.56	4.58
Zenica-Doboj	18.74	8.51
Bosnian-Podrinje	1.40	0.00
Central Bosnia	9.18	18.95
Herzegovina-Neretva	5.76	22.96
West-Herzegovina	0.04	18.19
Sarajevo	21.69	3.40
Canton 10	0.50	12.54
District Brčko	2.21	3.35
Total	100	100

Table 1 – electoral points by electoral units (ten cantons and District Brčko) for election of the Bosniak Member of the Presidency and the Croat Member of the Presidency according to the **Model P 1**.

The total of all electoral points for each Member of the Presidency is **100**.

A Bosniak candidate is elected if he or she wins the most electoral points out of all candidates running for the Bosniak Member of the Presidency (same being true for Croat candidates), using the following formula:

$$\sum \text{Electoral unit's electoral points} * (\text{votes for Bosniak candidate A (or B or C) in that unit} / \text{total number of votes for all Bosniak candidates in that unit})$$

Calculation example for electoral votes:

For example, if there are three Bosniak and two Croat candidates in the Sarajevo canton and each of them won the corresponding number of votes in that unit (and for the sake of simplicity of this example, we shall ignore other electoral units):

Bosniak candidate A	10,000
Bosniak candidate B	20,000
Bosniak candidate C	30,000
Croat candidate A	5,000
Croat candidate B	55,000

Then each candidate won the corresponding number of electoral points:

Bosniak candidate A	$[21.69 * (10,000/60,000)] = 3.61$
Bosniak candidate B	$[21.69 * (20,000/60,000)] = 7.23$
Bosniak candidate C	$[21.69 * (30,000/60,000)] = \mathbf{10.85}$
Croat candidate A	$[3.40 * (5,000/15,000)] = 1.13$
Croat candidate B	$[3.40 * (10,000/15,000)] = \mathbf{2.27}$

The same calculation would be performed for all eleven electoral units and the election points would be added up and tallied for each Candidate. Bosniak (same being true for Croat) Member of the Presidency would become the candidate which has the most electoral points once all points from all electoral units are added up.

Model P 2 - Model which requires constitutional changes

The Presidency of BiH would still consist of three Members.

The Presidency of BiH is made up of **three Members**: a Bosniak member of the Presidency, a Croat member of the Presidency and a Serb member of the Presidency. Each member of the Presidency is elected by **three separate specific demos**, or in other words, three separate “specific peoples from which the democratic and legitimate power comes from” and which give the legitimacy to the elected Member of the Presidency:

“Specific demos” for the election of the **Bosniak Member of the Presidency** is made up of:

- **Bosniak demos** – all citizens of BiH who freely and independently declared themselves as Bosniak on the census (all Bosniaks from FBiH, RS and DB)
- **Others demos** – a part of the Others demos from FBiH, RS and DB who decided to vote for the Bosniak Member of the Presidency

“Specific demos” for the election of the **Croat Member of the Presidency** is made up of:

- **Croat demos** – all citizens of BiH which freely and independently declared themselves as Croat on the census (all Croats from FBiH, RS and DB)
- **Others demos** – a part of the Others demos from FBiH, RS and DB which decided to vote for the Croat Member of the Presidency

“Specific demos” for the election of the **Serb Member of the Presidency** is made up of:

- **Serb demos** – all citizens of BiH which freely and independently declared themselves as Serb on the census (all Serbs from FBiH, RS and DB)
- **Others demos** – a part of the Others demos from FBiH, RS and DB which decided to vote for the Serb Member of the Presidency

If the elected Bosniak member of the Presidency has, in its received votes structure, more than 50% of votes from the members of the Bosniak Constituent People, then he is a legitimate representative of the majority Bosniak political will, as well as the political will of Others who voted for him. He or she represents all Bosniaks, and all Others in BiH who voted for him.

If the elected Croat member of the Presidency has in its received votes structure more than 50% of votes from the members of the Croat Constituent People, then he is a legitimate representative of the majority Croat political will, as well as the political will of Serbs and Others who voted for him. He or she represents all Croats, and all Others in BiH who voted for him.

If the elected Serb member of the Presidency has in its received votes structure more than 50% of votes from the members of the Serb Constituent People, then he is a legitimate representative of the majority Serb political will, as well as the political will of Bosniaks, Croats and Others who voted for him. He or she represents all Serbs, and all Others in BiH who voted for him.

In accordance with the Constitutional Court of BiH ruling **U-23/14 (Ljubić)**, the whole process is conducted with the **respect of the principle of legitimate representation of the Constituent Peoples and Others** and with **respect of the principle of equal value of the votes** within each specific demos which is taking part in the election of the three Members of the Presidency.

In accordance with the ECHR rulings **Sejdić-Finci** and **Zornić**, the whole process allows the Others (everyone who do not identify as a member of one of the three constituent peoples) to elect and be elected to the Presidency, based on the principle that Members of the Presidency are **primarily representatives** of Bosniaks, Croats and Serbs, but not necessary their members. That means that Croat Member of the Presidency can be any citizen of BiH (the same being true for Bosniak and Serb Member), including Mr. **Finci**, Mr. **Sejdić** or Ms. **Zornić**, because they all get their legitimacy from the specific demos which elects them.

In accordance with the ECHR ruling **Pilav**, Bosniaks (as well as Croats) in Republika Srpska could become Bosniak (or Croat) Member of the Presidency and vote for Bosniak (or Croat) member of the Presidency, the same being true for Serbs in the FBiH which could become Serb Member of the Presidency. In order to implement the above-mentioned ruling for the Presidency of BiH through model **P 2** both the election law and the Dayton constitution would have to be changed.

The current stipulation of the election law, which requires the candidates to sign a **statement on their ethnicity** and belonging to a constituent people, **will be abolished**. That stipulation of the election law does not exist either in the BiH Constitution nor in the FBiH Constitution. It violates the personal identity of the candidates and limits the possibility to become a candidate for certain offices for citizens who are not members of one of the three constituent peoples, as the ECHR ruled in **Sejdić-Finci** and **Zornić** cases.

The statement on belonging to one of the constituent peoples will be replaced with a statement on **representing the majority electoral and political will** of appropriate constituent peoples, which can now be represented also by citizens who do not belong to that constituent peoples. The new statement is introduced in order to make Article 5.2. (d) of the BiH Constitution still enforceable, as it requires that there has to be a link between a specific member of the Presidency and that club in the House of Peoples of BiH in order to declare a Presidency Decision to be destructive of a vital interest of the Entity.

In doing so, the fact that “One Bosniak,” “One Croat,” and “One Serb” are elected is not changed, because “one Bosniak” should be considered as a person which **represents the majority political and electoral will** of Bosniaks as constituent peoples, rather than simply a person who **declared themselves as a member of the Bosniak people**. The same principle is valid for Croats and Serbs, or in other words, for “one Croat member” and “one Serb member.”

The requirement of the Constitution of BiH that Bosniak and Croat members of the Presidency are elected from the territory of FBiH and that the Serb member of the Presidency is elected from the territory of Republika Srpska is abolished, as now **all three members are elected from the whole territory of BiH**. The Constitution of BiH shall define the members of the Presidency as representatives of the majority electoral will of their constituent peoples and electoral will of Others who voted for them.

This model is similar to the model P 1, except that the new system would also be applied to Republika Srpska. That means that the three Members of the Presidency would be elected on the whole territory of BiH through **twelve electoral units**: ten cantons in the FBiH, Republika Srpska and District Brčko.

Each of the electoral units shall have an electoral points value equal to the number of members of one of the Constituent Peoples living in that electoral unit, divided by the total number of members of that Constituent Peoples in Bosnia and Herzegovina, according to the most recent census data, for all three members of the Presidency.

The **proportional representation** of Bosniaks, Croats and Serbs is guaranteed no matter where they live in BiH (one Croat voter in Gorazde, Banja Luka, Brčko or Sarajevo has the **exact same weight** as one Croat voter in Mostar, Livno, Grude or Široki Brijeg – same is true for Bosniak and Serb voters) based on the percentage of Bosniaks, Croats and Serbs living in each of the electoral units out of the total population of Bosniaks, Croats and

Serbs in BiH. This means that Croats in Bosniak or Serb majority areas (and vice versa) have an equal vote to Croats in Croat majority areas, and that they too can become a Member of the Presidency (or a delegate in the House of Peoples), which was not the case with proposals put forward by the SDA and HDZ.

The number of electoral points of each electoral unit will be updated after each population census so that the changes in the percentages of each constituent peoples in each of the electoral units is reflected on the number of electoral points in that electoral unit.

The Others can choose which candidate they want to vote for in the election regardless which one of the twelve electoral units they live in, as well as run as a candidate for any Member of the Presidency.

The following table shows electoral points in each of the twelve electoral units:

	Electoral points for election of the Bosniak Member of the Presidency	Electoral points for election of the Croat Member of the Presidency	Electoral points for election of the Serb Member of the Presidency
Una-Sana	13.90	0.93	0.78
Posavina	0.47	6.17	0.08
Tuzla	22.17	4.33	0.65
Zenica-Doboj	16.92	8.04	0.51
Bosnian-Podrinje	1.26	0.00	0.08
Central Bosnia	8.19	17.92	0.28
Herzegovina-Neretva	5.20	21.71	0.59
West-Herzegovina	0.04	17.20	0.01
Sarajevo	19.59	3.22	1.22
Canton 10	0.45	11.86	1.00
Republika Srpska	9.71	5.44	92.14
District Brčko	2.00	3.17	2.66
Total	100	100	100

Table 2 – electoral points by electoral units (ten cantons, Republika Srpska and District Brčko) for election of the Bosniak Member of the Presidency, the Croat Member of the Presidency, and the Serb Member of the Presidency according to the **Model P 2**.

The total of all electoral points for each Member of the Presidency is **100**.

A Bosniak candidate is elected if he or she wins the most electoral points out of all candidates running for the Bosniak Member of the Presidency (same being true for Croat and Serb candidates), using the following formula:

$$\sum \text{Electoral unit's electoral points} * (\text{votes for Bosniak candidate A (or B or C) in that unit} / \text{total number of votes for all Bosniak candidates in that unit})$$

The same calculation would be performed for all twelve electoral units and the election points would be added up and tallied for each Candidate. The Bosniak (same being true for Croat and Serb) Member of the Presidency would become the candidate which has the most electoral points once all points from all electoral units are added up.

2. Models for Reforming the Election of the House of Peoples of BiH and the House of Peoples of FBiH

Model DN 1 – Model which requires no constitutional changes

The House of Peoples of BiH would still consist of three clubs. There is no change to the election process of delegates to the House of Peoples of BiH.

The House of Peoples of the Federation of BiH consists of **four clubs**: the club of delegates of the Bosniak people, the club of delegates of the Croat people, the club of delegates of the Serb people, and the club of the Others delegates. Therefore, in the election of the delegates to the House of Peoples of the FBiH, we have **four separate specific demos**, or in other words, four “specific peoples from which the democratic and legitimate power comes from” and which give legitimacy to the elected delegates to the House of Peoples:

- Members of the Bosniak people in FBiH as a **specific demos** for election of the delegates to the Bosniak club in the House of Peoples of the FBiH
- Members of the Croat people in FBiH as a **specific demos** for election of the delegates to the Croat club in the House of Peoples of the FBiH
- Members of the Serb people in FBiH as a **specific demos** for election of the delegates to the Serb club in the House of Peoples of the FBiH
- Members of the Others in FBiH as a **specific demos** for election of the delegates to the Others club in the House of Peoples of the FBiH

The election of delegates to each club in the House of Peoples of the FBiH would, like thus far, still be done indirectly by delegates of cantonal assemblies. There are still 58 delegates elected to the House of Peoples of the FBiH (17 Bosniak, 17 Croat, 17 Serb and 7 Others).

In accordance with the Constitutional Court of BiH ruling **U-23/14 (Ljubić)** the whole process (both direct and indirect part) is achieved in **respect of the principle of legitimate representation of the Constituent Peoples and Others** and in **respect of the principle of equal value of the votes** within each specific demos which is taking part in the election of the four clubs in the House of Peoples of the FBiH. This allows for full implementation of the the Constitutional Court of BiH ruling **U-23/14 (Ljubić)**. In order to implement the above-mentioned ruling through model **DN 1**, the election law would have to be changed, but there would be no changes to the Dayton constitution.

The election of delegates to each club in the House of Peoples of the FBiH would, like thus far, still be achieved indirectly by delegates of cantonal assemblies, but according to the model **DN 1** each canton would get a coefficient, or in other words, a specific value of electoral points.

The **proportional representation** of Bosniaks, Croats, Serbs and Others is guaranteed no matter where they live in FBiH (one Croat voter in Goražde or Sarajevo has the **exact same weight** as one Croat voter in Mostar, Livno or Široki Brijeg – same is true for Bosniak, Serb and Others voters) based on the percentage of Bosniaks, Croats, Serbs and Others living in each of the electoral units out of the total population of Bosniaks, Croats, Serbs and Others in FBiH. This means that Croats in Bosniak or Serb majority areas (and vice versa) have an equal vote to Croats in Croat majority areas, and they too can become a delegate in the House of Peoples of the FBiH, which was not the case with proposals put forward by the SDA and HDZ.

Each of the ten cantons of FBiH is an electoral unit which shall have **four electoral points coefficients** (Bosniak, Croat, Serb and Others) whose value is equal to the number of members of one of the Constituent Peoples living in

that canton or the number of Others, divided by the total number of members of that Constituent Peoples in the FBiH or the total number of Others, according to the most recent census.

The coefficient of the electoral points from each canton in Table 3 will be divided by the number of Bosniak, Croat, Serb and Others delegates in that canton (respectively). For example, Bosniak coefficient of electoral points for Canton Sarajevo will be divided with the number of Bosniak delegates in the Sarajevo cantonal assembly, so that each Bosniak delegate in the canton Sarajevo assembly has equal number of electoral points.

	Electoral points for election of the Bosniak delegates to the House of Peoples of the FBiH	Electoral points for election of the Croat delegates to the House of Peoples of the FBiH	Electoral points for election of the Serb delegates to the House of Peoples of the FBiH	Electoral points for election of the Others delegates to the House of Peoples of the FBiH
Una-Sana	15.75	1.02	14.95	14.45
Posavina	0.53	6.75	1.47	0.57
Tuzla	25.11	4.74	12.48	22.31
Zenica-Doboj	19.17	8.80	9.80	16.04
Bosnian-Podrinje	1.43	0.00	1.56	0.53
Central Bosnia	9.39	19.61	5.38	6.56
Herzegovina-Neretva	5.89	23.76	11.37	3.83
West-Herzegovina	0.05	18.82	0.18	0.16
Sarajevo	22.18	3.52	23.52	35.16
Canton 10	0.51	12.98	19.28	0.37
Total	100	100	100	100

Table 3 – coefficients of the electoral points for election of the delegates to the House of Peoples of the FBiH assigned to each canton according to the **Model DN 1**.

Example: Bosniak coefficient of electoral points in Sarajevo canton is **22.18**. In Sarajevo canton there is **10** elected Bosniak delegates. Each Bosniak delegate gets **2.218 electoral points** for the election of the delegates to the Bosniak club in the House of Peoples of the FBiH. The same principle is also true for Croat, Serb and Others delegates in all ten cantons.

At least **5.88 electoral points** is necessary to elect one of the seventeen delegates in the case of constituent peoples, and at least **14.28 electoral points** is necessary to elect one of the seven delegates in the case of Others.

For example, all elected Bosniak cantonal delegates **vote together** for the list of candidates for the Bosniak club in the House of Peoples of the FBiH. The Central Electoral Commission, before the delegate vote takes place, assigns

all the delegates a number of electoral points based on the coefficient of the canton that they were elected in and how many Bosniaks were elected in that canton (the same is true for Croats, Serbs and Others). All four “super-caucuses” made up of cantonal delegates (Bosniak, Croat, Serb and Others, respectively) vote using electoral points assigned and decide which 17 delegates (or 7 in the case of Others) will be elected in the four clubs in the House of Peoples of the FBiH.

Model DN 1 requires the deletion of the clause of the electoral law which stipulates **secret ballot of the delegates**. This should not be an issue given that cantonal delegates are elected officials and political, rather than private citizens acting as voters which are still protected and whose secret ballot is still guaranteed.

Model DN 1 – Three variants

Variant 1 – All delegates of each constituent peoples or Others from all cantonal assemblies vote for all delegates of that constituent peoples or Others to the House of Peoples of the FBiH, regardless what cantonal assembly those delegates were elected in (for example, all Bosniaks cantonal delegates vote for Bosniak delegates to the House of Peoples of the FBiH, regardless, whether they were elected in Sarajevo canton or Canton 10).

For the whole Federation of BiH, the number of people from each of the constituent peoples and from the Others is divided, for each of the four groups, by numbers 1,2,3,4, and so on as long as it is needed for distribution. The numbers which are calculated by this division process represent quotient of each constituent peoples and the Others. All quotients of each constituent peoples and the Others are ranked, for each of the four groups, by size so that the biggest quotient of each constituent peoples or Others is at the first place on the list. The other delegate seats are then given to the constituent peoples or Others, one by one, from the biggest to the smallest quotient on the list.

While the constitution of FBiH stipulates that at least one Bosniak, one Croat and one Serb delegate shall be elected from each of the cantons which have at least one such delegate in their cantonal assembly, **election law** is at the **country** (BiH) level, while that stipulation is at the **entity** constitution level (FBiH). Therefore, the election law is of higher rank . Furthermore, the Constitutional Court of BiH has disputed parts of the electoral law because they were not in agreement with BiH constitution, rather than FBiH constitution.

D'Hondt method (dividing with 1, 2, 3, 4, 5...) will be introduced rather than the Sainte-Lague method (dividing with 1, 3, 5, 7, 9 ...) given that Sainte-Lague further favors minorities which are already favored within certain peoples (which has a real political effect in the Croat club) because in order to confirm the government of FBiH, in addition to the simple majority of the House of Peoples of the FBiH delegates, it is needed only a **third, rather than half** of delegates from each of the four clubs. If that threshold is returned to half rather than a third, like it used to be, then Sainte-Lague method can be used.

Variant 2 – All delegates of each constituent peoples or Others from all cantonal assemblies vote for all delegates of that constituent peoples or Others to the House of Peoples of the FBiH, regardless which cantonal assembly those delegates were elected, **with a requirement that at least one delegate** from that constituent peoples is elected in each canton in which that constituent peoples has a coefficient of representation of at least 5.88 or more, while that coefficient for the Others is 14.28.

Each cantonal assembly will have a coefficient of representation of constituent peoples and the Others equal to the number of that constituent peoples or others which live in that canton divided by the total number of that constituent peoples or Others in FBiH according to the most recent census data. The coefficients will be updated after each census.

	Bosniak delegates	Croat delegates	Serb delegates	Others delegates
Una-Sana	3		3	1
Posavina		1		
Tuzla	4	1	2	2
Zenica-Doboj	3	1	2	1
Bosnian-Podrinje	1			
Central Bosnia	1	4	1	
Herzegovina-Neretva	1	5	2	
West-Herzegovina		3		
Sarajevo	4		4	3
Canton 10		2	3	
Total	17	17	17	7

Table 4 – the number of delegates to the House of Peoples of the FBiH elected from each canton according to the **Model DN 1 - Variant 2**

Variant 3 – All delegates of each constituent peoples or Others from all cantonal assemblies vote for all delegates of that constituent peoples or Others to the House of Peoples of the FBiH, no matter in which cantonal assembly those delegates were elected, **with a requirement that at least one delegate** from that constituent peoples is elected in each canton in which that constituent peoples has a coefficient of representation of at least 5.88 or more, while that coefficient for the Others is 14.28. The other cantons that do not fulfill this threshold are grouped together so that their representatives could elect at least one delegate to the House of Representatives of the FBiH.

	Bosniak delegates	Croat delegates	Serb delegates	Others delegates
Una-Sana	3		2	1
Posavina		1		
Tuzla	4		2	2
Zenica-Doboj	3	1	2	1
Bosnian-Podrinje				
Central Bosnia	1	3		

Herzegovina-Neretva	1	4	2	
West-Herzegovina		3		
Sarajevo	4		4	2
Canton 10		3	3	
Total	16	15	15	6

Table 5 – the number of delegates to the House of Peoples of the FBiH elected from each canton according to the **Model DN 1 - Variant 3**

	Bosniak delegates	Croat delegates	Serb delegates	Others delegates
Posavina, Bosnian-Podrinje, West-Herzegovina, Canton 10	1			
Una-Sana, Sarajevo		1		
Tuzla, Bosnian-Podrinje		1		
Posavina, Bosnian-Podrinje			1	
Central Bosnia, West-Herzegovina			1	
Posavina, Bosnian-Podrinje, Central Bosnia, Herzegovina-Neretva, West-Herzegovina, Canton 10				1
Total	1	2	2	1

Table 6 – the number of delegates to the House of Peoples of the FBiH elected from certain grouping of cantons according to the **Model DN 1 - Variant 3**

Model DN 2 – Model which requires constitutional changes

The House of Peoples of the Federation of BiH would still consist of four clubs. The mechanism to elect delegates to the clubs in the House of Peoples of the Federation of BiH stays exactly the same as in Model DN 1.

The House of Peoples of BiH is made up of **three clubs**: the club of delegates of the Bosniak people, the club of delegates of the Croat people and the club of delegates of the Serb people. Therefore, each club in the House of Peoples of BiH is elected by three separate specific demos, or in other words, three separate “specific peoples from which the democratic and legitimate power comes from” and which give the legitimacy to the elected delegates to the House of Peoples:

“Specific demos” for the election of **Bosniak Delegates to the House of Peoples of BiH** consists of:

- **Bosniak demos** – all citizens of BiH who freely and independently declared themselves as Bosniak on the census (all Bosniaks from FBiH, RS and DB)
- **Others demos** – a part of the Others demos from FBiH, RS and DB who decided to vote for the Bosniak Delegates to the House of Peoples of BiH

“Specific demos” for the election of **Croat Delegates to the House of Peoples of BiH** consists of:

- **Croat demos** – all citizens of BiH who freely and independently declared themselves as Croat on the census (all Croats from FBiH, RS and DB)
- **Others demos** – a part of the Others demos from FBiH, RS and DB who decided to vote for the Croat Delegates to the House of Peoples of BiH

“Specific demos” for the election of **Serb Delegates to the House of Peoples of BiH** consists of:

- **Serb demos** – all citizens of BiH who freely and independently declared themselves as Serb on the census (all Serbs from FBiH, RS and DB)
- **Others demos** – a part of the Others demos from FBiH, RS and DB which decided to vote for the Serb Delegates to the House of Peoples of BiH

There will be direct election of the delegates for each of the three clubs in the House of Peoples of BiH. Like thus far, there would still be 15 delegates elected (5 Bosniak delegates, 5 Croat delegates and 5 Serb delegates).

In accordance with the Constitutional Court of BiH ruling **U-23/14 (Ljubić)** the whole process takes place the **respect of the principle of legitimate representation of the Constituent Peoples and Others** and **respect of the principle of equal value of the votes** within each specific demos participating in the election of the three clubs in the House of Peoples of BiH. This allows full implementation of the the Constitutional Court of BiH ruling **U-23/14 (Ljubić)**.

In accordance with the ECHR rulings **Sejdić-Finci** and **Zornić**, the whole process allows the Others (those who do not identify as a member of one of the three constituent peoples) to elect and be elected to the House of Peoples of BiH. This is based on the principle that the delegates to the House of Peoples are, just like the three Members of the Presidency, **primarily representatives** of Bosniaks, Croats and Serbs, but not necessary their members. For example, a Croat delegate to the House of Peoples of BiH can be any citizen of BiH (the same being true for Bosniak and Serb delegates), including Mr. **Finci**, Mr. **Sejdić** or Ms. **Zornić**, because each get their legitimacy from the specific demos which elects them. In order to implement the above-mentioned ruling for the House of Peoples of BiH through model **DN 2** both the election law and the Dayton constitution would have to be changed.

The requirement of the Constitution of BiH that Bosniak and Croat delegates to the House of Peoples of BiH are elected by Bosniak and Croat delegates in the House of Peoples of the FBiH, and that Serb delegates to the House of Peoples of BiH are elected by the National Assembly of Republika Srpska, are abolished and replaced. Now, the delegates to each club of the House of Peoples of BiH are directly elected by that constituent peoples and the members of Others who choose to vote for that constituent peoples list, on **the whole territory of BiH**.

The delegates to the House of Peoples of BiH will be elected directly so that all members of the Bosniak demos and a part of the Others demos, which decided to vote for Bosniak Delegates to the House of Peoples of BiH, elect delegates of the Bosniak club in the House of Peoples of BiH. The voters will vote for a specific party list or independent list which are running for delegate seats in the Bosniak club of the House of Peoples of BiH. The same principle is valid for the Croat and Serb club.

The **proportional representation** of Bosniaks, Croats and Serbs is guaranteed regardless of where they live in BiH (one Croat voter in Gorazde, Banja Luka, Brčko or Sarajevo has the **exact same weight** as one Croat voter in Mostar, Livno, Grude or Široki Brijeg – same is true for Bosniak and Serb voters) and is based on the percentage of Bosniaks, Croats and Serbs living in each of the electoral units out of the total population of Bosniaks, Croats and Serbs in BiH. This means that Croats in Bosniak or Serb majority areas (and vice versa) have equal vote as Croats in Croat majority areas, and that they too can become a delegate in the House of Peoples of BiH, which was not the case with proposals put forward by the SDA and HDZ.

Each of the ten cantons of FBiH, Republika Srpska and District Brčko are electoral units which shall have **three electoral points coefficients** (Bosniak, Croat and Serb) whose value is equal to the number of members of one of the Constituent Peoples living in that electoral unit (cantons, RS and DB) divided by the total number of members of that Constituent Peoples in BiH, according to the most recent census.

At least **20 electoral points** are needed in order to directly elect one delegate (out of five delegates in that club) from a party or an independent list.

Won electoral points for each list for the Bosniak club are calculated by multiplying the Bosniak coefficient from each of the electoral units from table 7, with the ratio of won votes in those electoral units for all the lists running for the Bosniak club.

For example, if we have three lists competing for delegate seats in the **Bosniak club in the House of Peoples of BiH**, Bosniak coefficient of election points in the Una-Sana canton (13.90) will be multiplied with the ratio of won votes for each of the three electoral list (for example, List A received 50% of all votes for the Bosniak club in this canton, List B received 30% and List C received 20%), then we get the sum of won election points for each of the three lists in this electoral unit by doing the following calculation:

List A would win $13.90 * 0.5 = 6.95$ electoral points

List B would win $13.90 * 0.3 = 4.17$ electoral points

List C would win $13.90 * 0.2 = 2.78$ electoral points

The same calculation would be applied for all electoral units for all three clubs, and election points would be added and tallied for each of the lists. The lists would then be ranked based on the number of election points won (starting with the list with highest number of election points). The direct seats would be awarded to all lists which won at least 20 points, giving one seat for each of the 20 points (for example, if a list won 41.23 electoral points, then this list would win two direct seats). Once all direct seats have been awarded, the rest of the seats (out of total five seats for each club) would be awarded through compensatory seats based on the D'Hondt method (the same as in Model DN 1), giving the seat to the list which has most "leftover" electoral points.

For example, if List A won 41 electoral points and two direct seats, List B won 36 electoral points and one direct seat, and List C won 23 electoral points and one direct seat, then the fifth compensatory seat would be awarded to the List B, as it has most “leftover” electoral points (16) in comparison with List C (3) and List A (1).

The following table shows electoral points in each of the twelve electoral units:

	Electoral points for election of the Bosniak delegates to the House of Peoples of BiH	Electoral points for election of the Croat delegates to the House of Peoples of BiH	Electoral points for election of the Serb delegates to the House of Peoples of BiH
Una-Sana	13.90	0.93	0.78
Posavina	0.47	6.17	0.08
Tuzla	22.17	4.33	0.65
Zenica-Doboj	16.92	8.04	0.51
Bosnian-Podrinje	1.26	0.00	0.08
Central Bosnia	8.19	17.92	0.28
Herzegovina-Neretva	5.20	21.71	0.59
West-Herzegovina	0.04	17.20	0.01
Sarajevo	19.59	3.22	1.22
Canton 10	0.45	11.86	1.00
Republika Srpska	9.71	5.44	92.14
District Brčko	2.00	3.17	2.66
Total	100	100	100

Table 7 – electoral points by electoral units (ten cantons, Republika Srpska and District Brčko) for election of the delegates to the Bosniak club, the delegates to the Croat club, and the delegates to the Serb club in the House of Peoples of BiH, according to the **Model DN 2**