



АКЦИОНАРСКО ДРУШТВО ЗА ИНФОРМАТИВНУ, ИЗДАВАЧКУ И ГРАФИЧКУ ДЈЕЛАТНОСТ  
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## Za Metju Periša

1. Na loklanim izborima u Republici Srpskoj stranka Milorada Dodika odnijela je ubjedljivu pobjedu u opštinama. S tim u vezi, kakvu budućnost mislite da će Republika Srpska imati?

Milorad Dodik has, for some time, been the most powerful politician in Bosnia and Herzegovina, from any group. This is because Bosnian Serb politics is far less split than Bosniac politics. SDS remains relatively weak, and Bosniac interests are divided between three political parties. Dodik has therefore been successful in pushing Serb interests at the state level, while Bosniac politicians have been caught off guard, engaged in their own internecine battles. For the most part, Bosnian Serbs speak with one political voice. This makes it harder for others, whether Bosniac, Croat or OHR, to play a game of "divide and conquer".

The dominance of one political party within the RS has both desirable and undesirable consequences. On the one hand, Dodik is a political moderate, and by Bosnian standards his government is professional. Members of the international community have come to criticise SNSD for being "nationalist", but such comments belie even recent history. In the late 1990s Dodik was feted as the darling of the international community, the acceptable face of Bosnian Serb politics after the wartime reputation of SDS and the post-war police state. Dodik has publicly committed himself to maintaining Bosnia and Herzegovina as a single state, in the face of overwhelming support by Bosnian Serb citizens for independence of Republika Srpska. For him to do that and yet maintain the strong political support he has is a remarkable feat.

The disadvantage of SNSD's political hegemony in the RS is that it does nothing to foster a much-needed culture of political compromise and negotiation. Bosnia has no history of democracy. Democracy relies upon a distribution of political power between multiple nodes - between the legislature, executive and judiciary; between police and the courts; between central and local government. In communist society, all power came down from the top. The transition from communist political society to a European democracy is always slow and painful. Total dominance by any political party may not help this transition, because it is closer to the old political model than the new. But that is a challenge virtually every eastern European country has faced in the last fifteen years.

2. Kako biste ocijenili napredak BiH i njenih entiteta pojedinačno od kako niste šef pravnog odjeljenja OHR-a?

By international standards, Bosnia's progress is painfully slow. I am talking about economic progress. My view is that, for post-war Bosnia, this is the only proper measure of progress. People talk about "political progress", but that is misguided in my opinion. I don't much care what Bosnia's political system looks like, if people have jobs, security, they can eat well, they have access to reasonable education and healthcare, and their lives are tolerably comfortable. In Bosnia, there are too many people who do not have these things, because the country is not nearly as wealthy as it should be.

I think the international community is in part responsible for these failings. The focus of the international community's work in post-war Bosnia, since about 2000, has been on political reform to build up the central state. That has obscured more important aims. The Dayton Constitution is horrid for all sorts of reasons, but reforming it does not put food on people's plates. Because the different national groups' visions for the future of the country are so contested, placing emphasis on reforming the state has aggravated politicians' inability to reach agreement, and has focused Bosnian citizens on differences between one-another rather than their common interests - becoming wealthier, and offering a better life for their children.

There is so much the international community could have done to promote economic development in post-war Bosnia, but has not. It could have pushed the Central European Free Trade Agreement more, to promote trade between Bosnia and its neighbours that would create wealth. It could have made it easier to set up businesses, to buy land, to build, to get permits, to bank and borrow money. It could have done something about the huge social security tax burdens on employing people, that drive employees into the black market. It could have done so much more to promote foreign investment, including focusing on civil, commercial and administrative law. It could have made business taxes more transparent. The government still has far too strong a role in people's lives in Bosnia. Because standards of government are so low, and corruption is such a prevalent problem, people with money don't want to invest here. And so there is not the high economic growth rate we see elsewhere in Eastern Europe.

Of course government structure is relevant to economic growth. At the end of the war, the RS had less economic potential than the Federation. Fewer of Bosnia's cities are in the RS, and international donors shunned the RS because of what happened during the war. But that has changed, and now the RS has one significant advantage over the Federation: its government is more unitary. In the Federation, the division of powers between the cantons and the Entities makes for an unnecessarily complex government structure that means there are two sets of officials to ingratiate oneself with, not one. This is why it is easier to do business in the RS.

### 3. Kada bi po Vama mogla da se zatvori kancelarija OHR-a i transformiše u specijalnu kancelariju EU?

I am on record as saying that OHR should close as soon as possible. The reason is that the organisation has become part of Bosnia's problems, not part of its future.

The Dayton Peace Accords were a partition plan. They envisaged the division of the country into mono-ethnic regions in the aftermath of the Bosnian war. It was the only deal that could be done at the time. Later, political pressures, moral concerns, and international lobbying made the international community push for a more unified state. The period immediately after the war was a very difficult time in Bosnia, and the international peacekeepers were having difficulty holding the country together. They could not get the domestic politicians to cooperate over anything. And so the authoritarian temptation crept in. We forget that the first High Representative, Carl Bildt, had no governmental or coercive powers at all. He was just a mediator. It was his successor's frustration at the lack of progress in the country that gave rise to the "Bonn powers". The international community gave its own representative powers that were never anticipated in the Dayton Peace Accords.

The Bonn powers gave successive High Representatives the authority to push through reforms. SNSD has been a major beneficiary of much of this, as OHR took measures against its political rivals, SDS. But these powers were unchecked, and the High Representatives never knew when to stop. Each became increasingly authoritarian in his use of his powers. High Representatives' decision became quick fixes, to bypass the far more difficult task of finding consensus between politicians with very different views of the country's future. Legislation was imposed. Institutions were established by threats. The BiH Parliament came to approve the High Representative's agenda without thinking, no matter what it was. The High Representative became a mini-Tito, a dictator to whom all could defer. The system sustained the communist philosophy in Bosnian politics.

This was dangerous, because it was unsustainable. If reluctant politicians were forced to support a High Representative project lest they be dismissed, you could be sure that once the project was underway, those same politicians would do everything they could to subvert the project from behind the scenes. When the High Representative finally leaves, many of these reforms will collapse, because they have no domestic support. Moreover, international imposition damages the process of incubating democracy in a post-war society. Democracy works only if people with different agendas can reach compromises. Democratic political institutions, in which power is shared between many people, are supposed to facilitate those compromises. But where there is always a dictator to take final decisions, the difficult job of learning to compromise never takes place. OHR has choked off mature democratic development. The High Representative, always in a hurry to push his agenda before his mandate expires, has routinely bypassed the slow and painful process of trying to reach democratic agreement. This reaction has become so commonplace that there are serious questions about the ability of state institutions to survive when OHR leaves.

But OHR has become enfeebled. There are no longer any troops in Bosnia, and not nearly as much foreign aid money as there once was. The High Representative no longer wields financial or military power. He has become a mere verbal authority, making moral pronouncements that domestic politicians take or leave as they please. Far from the days when he would dismiss forty people with the stroke of the pen, now the only people he feels he can go after is war criminals from the past. Sooner or later, lawyers will pore over all the things the High Representatives did, and will find they were illegal and contravened some of the most basic standards of international law. Some of the High Representative's decisions have been truly outrageous in their disregard

for civil liberties and basic fairness. International courts and tribunals will increasingly come to strike down and disapprove decisions issued by the High Representative. In time, I am sure domestic courts will do the same. The international community cannot build a system so bereft of legality and expect it to last.

Interestingly, I think Miroslav Lajcak understands all this. He is an astute man who knows well the Balkan mentality. His problem is how to shut his own office down, without appearing to preside over a disaster. He knows that many state reforms pushed by successive High Representatives will unravel in the months following OHR's withdrawal. Then the international community will be looking for someone to blame. He is from a small country. The talking heads in Brussels and Washington will turn on him. It will be said his withdrawal was "premature". The problem with an organisation like OHR is, once you start it up, it becomes very difficult to close it down. So I have some sympathy for this gentleman. He is in an impossible situation.

#### 4. Koje su po Vama za BiH prednosti i mane ulaska u UE s obzirom na nivo razvoja naše zemlje?

The first point I want to make about the EU is that it is not an altruistic organisation desperately concerned about Bosnians' welfare. Bosnia is not very important to people in Brussels. The EU's principal concern is that the country does not go back to war, with an expensive westward influx of refugees as happened in the 1992-95 war. But beyond that, EU interests in the Balkans are not very strong.

So we cannot expect the EU to embrace Bosnia no matter what. Bosnians have to sell themselves to the EU, rather than expect it to come to their rescue. Bosnian politicians should not just wait for Brussels officials to visit, listen politely in conferences and take them out for meals. They should be going to Brussels, explaining to the EU the benefits of having Bosnia within their folds: a cheap labour market, agricultural exports at a time of global food shortage, and a new market for European investors.

EU membership is a proven method of creating fast economic growth. If Bosnian citizens aspire to greater standards of living, they should aspire to EU membership. But the EU is a confederation of stable democracies, with strong and independent legal institutions. Bosnia is not stable, is not very democratic and has very weak legal institutions. The EU will never admit Bosnia until it improves on these issues.

Therefore citizens of Bosnia need to do what citizens of all democracies do. They need to tell their politicians that making the improvements necessary for EU membership are a priority for them. They will vote only for politicians who push the necessary improvements. Currently, many Bosnian politicians talk about the attractions of EU membership, but they don't really want it. EU membership means foreign investors, and competition from abroad against domestic businesses with whom politicians are closely linked. It upsets the status quo. But it is good for the people of Bosnia: it means new jobs created with foreign money for Bosnian people.

So far EU policies towards Bosnia have followed whatever OHR has recommended. OHR said the EU must make police reform a condition of signing a Stabilisation and Association Agreement (the first step to EU membership), and that was what the EU did. Bosnia's politicians need to go to Brussels with agendas of their own. They need to shape the country's agenda with the outside world, rather than being the victims of initiatives imposed by OHR. Bosnia needs to move from being a subject of the international community to an actor within it.

5. Tvrđili ste da Bošnjaci BiH smatraju isključivo svojom zemljom i da se tiho naoružavaju kako bi spriječili secesiju Srba i Hrvata. Imate li informacije dokle su stigli s tim naoružavanjem?

Kako bi se to moglo odraziti na ustavne promjene u BiH s obzirom na to da Srbi žele da očuvaju Republiku Srpsku, Bošnjaci su za ukidanje entiteta, a Hrvati se zalažu za svoj vlastiti entitet?

I am worried about the future of Bosnia and Herzegovina. I think some sort of renewed conflict is a serious possibility. The Dayton agreements meant that nobody won the war. The Serbs did not get their separate country, the Croats did not get to join Croatia, and the Bosniacs did not get their unified state. The Serbs achieved broad autonomy, but independence of the RS remains an unrealistic goal, principally for reasons of territory. Republika Srpska has few cities, little infrastructure (for example motorways) and its territory is too stretched out to be realistic as an independent country. The Bosniacs achieved the promise of a central government in the Dayton Constitution, but that promise was unenforceable in the absence of any desire for cooperation by Croats and Serbs. Hence the need for OHR to become a tyrant, to force cooperation on people to create state institutions. The struggle continued, even after the war ended, and it was fought through the renewed medium of international community intervention in the country.

Now the international community has been defanged. The High Representative is virtually powerless, foreign powers have lost interest, and OHR's final withdrawal is only a matter of time. This creates dangers, because the government structures OHR has sustained will collapse without domestic support. All sides are looking to new backers. Naturally, for historical reasons, Serbs are looking to Russia. Equally naturally, Bosniacs are looking to wealthy Muslim states in the Middle East.

The current governmental structure, with a central state always ready to fall apart, is not stable. Without stability, the danger is that people revert to simplistic agendas. Those agendas are diametrically opposed: the Serbs want the RS to go independent; the Bosniacs want the RS to disappear. People need to understand that neither of these things are going to happen without bloodshed. Serbs need to understand that the RS cannot go independent because its territory is militarily indefensible, and the Bosniacs would fight to keep Brčko. The RS would be split in two and the western RS would be blockaded into submission. Bosniacs also need to understand that Serbs and Croats have few current incentives for cooperating with them in a central government. A degree of collapse of state institutions is inevitable when OHR closes, because the coercive incentives to cooperate will disappear.

In the longer term, closer ties between the Federation and the RS will occur only if both sides have a reason to cooperate. In theory, there are lots of reasons to cooperate. Geographical, transport, language and cultural connections all make it natural to integrate the economies of the Federation and the RS. Outside investors want common laws and courts, common government structures, common tax systems, and easy transport around Bosnia and Herzegovina, including between both Entities. If all sides want to prosper, they will need to cooperate in these ways. Voters should insist on it. But right now, the economy is so miserable that nobody has the vision to pursue these advantages. So discussions of cooperation revolve not around the economic benefits of working together, but about pursuing conflicting national aspirations.

In this environment, there will be no constitutional reform. Everybody knows it. The aim of constitutional reform is to centralise government, for the Entities to cooperate over more. But the Entities have no reason to cooperate right now. Their agendas are not economic; they are political and nationalist. Constitutional reform will follow economic development. Economic growth is what everyone should be focusing on. Consider the United States. Initially it was a very loose confederation of states. But by the twentieth century, economic imperatives – principally the desire for common and non-discriminatory laws, to allow people to travel around, do business and make money all over the country – created a desire for stronger central government institutions. The US constitution evolved naturally, in response to economic pressures. That is how I see the most realistic prospect for constitutional change in Bosnia.

6. Kakav je sada vaš stav o centralizaciji BiH, s obzirom na to da je većina institucija na državnom nivou imala probleme u funkcionisanju, a uglavnom su se odnosili na lošu saradnju između predstavnika konstitutivnih naroda?

Anyone who pretends state institutions work well is deluding themselves. We all know they are catastrophically ineffective. The only ones that have a semblance of functionality are those dominated by foreigners. But that is hardly healthy and it certainly isn't democracy.

The reason there is no cooperation at the state level is because the RS is keen to claw back its autonomy, that was progressively eroded by a series of assertive High Representatives. There is nothing anyone can do to stop that. A degree of reversal is inevitable.

Centralising government powers should have nothing to do with EU admission. Many EU member states are highly decentralised - look at Germany, with power devolved to a series of local *länder*. Switzerland, where I live, has one of the most decentralised governments in the world, but is one of the most successful and developed countries in the world, with some of the best political and legal institutions you can find anywhere in Europe. Belgium appears on the verge of splitting in two. Nobody suggests they will be thrown out of the EU. In fact the EU is the solution to Belgium's problems. Even if the country divides, both principal national groups in the country will continue to prosper, because they work in a common political and legal framework in which devolution of power is no barrier to commerce and industry.

## 7. Ima li Republika Srpska pravo da lobira za svoje interese u svijetu?

Any political group or unit can lobby for anybody for anything they want. But they have to do so in knowledge of the diplomatic consequences. It may upset their neighbours. The Federation is the RS's neighbour, and its politicians have very different goals. If the RS wants to lobby Russia, it can't complain if politicians in Sarajevo lobby Saudi Arabia. Sometimes a sense of mutual restraint makes for more stable politics.

I think it is a good idea that the RS has an office in Brussels. There is an ignorance within EU institutions about the complexities of Bosnian politics. There is never anything wrong with hearing new or different opinions. It might cause more people in Brussels to take greater notice of the problems the country faces.

## 8. Postoji li još opasnost da BiH postane druga Čečenija, kako ste ranije najavljivali, zbog ulaganja Rusije u Republiku Srpsku a Irana i Saudijske Arabije u Federaciju BiH? Kakva je po Vama situacija danas?

Chechnya is a place in which competing Russian and Middle Eastern interests fuelled political extremism and ultimately warfare. The consequences were disastrous. But there is an alternative to each Entity allying with competing forms of extremism. The European Union has something to offer all Bosnian citizens, no matter which national group they are from: the prospect of a brighter economic future. I think people, and their politicians, should look to that future. Russian and Middle Eastern interests in Bosnia and Herzegovina are competitions for destructive influence, repetitions of harmful historical cycles. They do not offer the promise of a European future. The Bosnian people would do well to avoid these chimeras.

### **Biografija**

Dr. Matthew Parish is an international public lawyer, specialising in international disputes and law and economic development. From 2005 to 2007 he was the Head of the Legal Department in the Office of the High Representative in Brcko, and the Chief Legal Adviser to the Brcko Supervisor. Brcko revealed all the problems of post-war Bosnia in miniature: three groups of people, struggling for influence in a society with weak legal institutions and no tradition of democratic cooperation. Just as Bosnia's volatile mixture of people has been held together only by the powers of the High Representative, so Brcko's own volatile mix of people has been held together only by the Supervisor. It remains an open question what will become of Brcko once the Supervisor leaves.

Prior to his time with OHR, Dr. Parish worked as legal counsel to the World Bank in Washington, DC and practised law with leading international law firms in London, England and Cairo, Egypt. His doctoral thesis was supervised by a leading U.S. Judge and he formerly worked for a senior Judge at the European Court of Justice in Luxembourg.

Matthew has written a number of articles about law and economic development, and political and legal problems facing post-war Bosnia. His book on the international community's role in Bosnia, entitled "A Free City in the Balkans: Reconstructing a Divided Society in Bosnia", is published in January 2009.