

# **B&H BISHOPS' PROPOSAL WITH REGARD TO SOCIAL AND JURIDICAL REGULATIONS OF BOSNIA AND HERZEGOVINA**

## **Bosnia and Herzegovina a cause of instability and a threat to peace, or, a future EU member**

With the Dayton Accord signed in 1995, divided the internationally recognised state of Bosnia and Herzegovina, which emerged with the disintegration of the former Socialist Federative Republic of Yugoslavia, into two entities: the Federation of Bosnia and Herzegovina and the Republika Srpska. That unjust division of the country de facto legalised the rule of the stronger and not the law of justice, hence resulting in a non-functional and unsustainable social order in the state. Even though the generally accepted opinion in the country itself and amongst international community representatives involved in resolving the future of that country is that the Dayton Accord stopped the war in the country but that it did not bring just and lasting peace to its three constitute nations: Bosnians, Serbs and Croats nevertheless, many international and even local politicians interpreted it as an «untouchable fact». As such over the past ten years since the Dayton Accord, no serious discussion was conducted with regard to vital constitutional amendments that would bring desired lasting peace to the country and render it appropriate to enter into processes of European integration as a civilised, democratic, pluralistic (multiethnic, multicultural, multi-religious) state with a high standard of human rights and freedom.

The current political order of this multinational state with its dual standards manifested in the existence of three different Constitutions – two for two entities and one for the entire country that are nevertheless un-coordinated have resulted in the disfunctioning of Bosnia and Herzegovina and prevents desired and vital democratic development. According to any serious analysis, instead of progress and integration, ten years after the signing of the Dayton Accord society in Bosnia and Herzegovina is facing an even deeper socio-political crisis than at the time of its signing.

### **Situation of the Croatian people**

Embracing such an unjust order by which the three constitutive peoples in B&H: Bosnians, Serbs and Croats – are placed into two political entities and unequally at that, most damage was caused to the Croatian people whose representatives were always the first to sign all that was asked of them by the representatives of the international community in an effort to end the tragedy in B&H. Even though they are the smallest in number and were most often the victims of the war (USIA) – 67% were displaced, only 13% have returned so far, they are the victims of the Dayton Accord because as a constitutive nation they have do not even enjoy the rights of a minority. Croats, as the most ancient people inhabiting B&H, ask only that they be considered equal in their rights and responsibilities with the other two nations in that country. The provisions of the Dayton Accord abolished formerly agreed to protective mechanisms in the Washington Accord which enabled the Bosnians in the FB&H and Serbs in the RS entity to adopt laws with a simple majority without taking into account the attitudes or position of the Croats. Government and Parliament sessions are convened and decisions adopted without and against the Croatian government delegates.

For years after the war the constitutiveness of a nation was interpreted so that only the Serbs in RS and only the Bosnians and Croats in FB&H were considered as constitutive nations. This was the situation until a ruling by the Constitutional Court in 2000 that determined that all three nations were equally constitutive in each part of Bosnia and Herzegovina. However, this decision is not implemented in practise with regard to many important segments. For example, in B&H three members are elected to the State presidency representing the supreme executive government in the country. A Serb representatives to the Presidency is elected from RS while Croats

and Bosnians elect their representatives in the FB&H. This means that Croats or Bosnians that live in RS or a Serb who lives in FB&H, do not have the right to be candidates for a member to the country's Presidency. This is in direct violation of European convention on human rights that defines the right of every person to vote and be elected to government bodies.

Using the excuse that this situation should be changed and the injustices rectified, UN High Representatives, Wolfgang Petritsch in 2002 attempted to realise the decision adopted by the Constitutional Court about the constitutiveness of all three nations and to proclaim (impose) constitutional amendments in FB&H giving politicians in RS a chance to accept these cosmetic amendments to the Constitution of RS. The constitutional amendments implemented fundamentally deteriorated the legal position of Croats in all of B&H as one of the constitutive nations of that country. With the Dayton Accord, Croats in FB&H were at least in principle, equal because they were equally represented in the highest government body in the country like the Bosnians. Petritsch's constitutional amendments introduced a key according to which for example, the Government of RS consisted of 9 Serbs, 5 Bosnians and 3 Croats. Therefore that entity remains "in the hands" of the Serbs who can democratically outvote The Croats and Bosnians put together. Here, the situation of the Croats did not change with regard to the provisions set out in Dayton. Nevertheless, their position is entirely changed in the Federation B&H because the Government of FB&H consists of 9 Bosnians, 5 Croats and 3 Serbs which means that the FB&H is "in the hands" of the Bosnians. What this means in practise can be seen with the adoption of any law, even those of vital interest to the Croatian people. After any law (education, media, police...) is adopted with a majority vote in the House of Representatives of the Federation of B&H it does not come into force until it is confirmed by the House of Nations of B&H where national delegates have the right of veto based on vital national interest. However, this too only seemingly resolves the issue, because after calling upon vital national interest whether there is any basis to proclaim something of national vital interest to any particular nation is not decided by the House of Nations but a Commission founded within the Constitutional Court of FB&H. Members of the Constitutional Court are appointed so that the majority nations have more members. In RS there are not two Houses of Parliament as is the case in FB&H or in B&H instead in addition to the Assembly of RS the Council of Nations was founded which has far less power than the House of Nations in B&H or the FB&H. From this, it is evident that the governments and parliaments of both entities adopt decisions without the Croats or in fact against them.

The Dayton Accord gave certain powers to cantons in the Federation of B&H according to which Croats can to some extent practise and consume their constitutiveness and realise equality in some segments of life. Now, with the imposed constitutional amendments the Parliament of the FB&H where the Bosnian political elite has gained gradual domination, regulations are adopted that are continually diminishing these powers. In this way, the status of the Croatian nation is indirectly but vitally threatened in the Federation B&H (not to mention the situation in Republika Srpska). As such, the proposal by the Venetian Commission to abolish cantons and strengthen the powers of the entities is completely incomprehensible. That would mean direct support to the division of B&H into Serb and Bosnian entities – a country where Croats, whose existence was brought into question and who are biologically threatened in that country are meant to disappear. Perhaps not knowingly and indeliberately, members of this and other commissions tracing the unjust Dayton Accord and its even more unjust implementation are definitely abolishing the multi-ethnic prefix of B&H creating new reasons for national tension in the Balkans.

Apart from the country and entity level, inequality of the Croatian people compared to the other two nations is evident in the city of Mostar, which is the only regional, economical and political centre where Croats could have political (relative) domination that the Bosnians enjoy in Sarajevo, Tuzla and Zenica or the Serbs in Banja Luka, Doboj or Bijeljina. However, this is not the case. Contrary to these cities and any other cities or municipality in B&H, why are limits on representation of constitutive nations imposed only in Mostar?

## **Is B&H to be a democratic and multi-national country?**

Bosnia and Herzegovina is the test where the principle of a multi-national state is to be defended and survive or in fact fail. Many displaced persons from Bosnia and Herzegovina who are compelled to live in other countries have shown that they are able of living in well-ordered democratic countries. This is the opinion of the majority of the population that currently lives in the country and is willing and capable of living together and building this country into a multi-national, multicultural and multi-confessional country. The citizens and nations of B&H have the right to a just legal framework and unambiguous support in realising equality for all three nations and to guarantee all personal human and civil rights and liberties.

It is certain that the constitutional-legislative position of the Croatian people, and with that the other two nations in B&H, be more justly ordered of a higher quality in a united, whole and decentralised state without the present division of entities. A powerful decentralised Bosnia and Herzegovina should head in two directions: towards municipal and regional governments. Government at the municipal level must be placed proportionally on the principle of “one man – one vote” which would ensure government of a civil society. The government at the regional or federal level would be limited in such a way to determine the minimum representation for each of the three constitutive nations in legislative and executive government.

Municipalities already exist as an administrative level and they could continue to function in their current form whereas this is not the case with regions. Instead of retaining the current clumsy and unjust disproportion with two entities and ten cantons, it is necessary to transform to regional government order in one of these. One of the possible models could be: Bosnia and Herzegovina regulated into 4 cantons (i.e. regions, provinces, districts, federal units ...): Sarajevo, Banja Luka, Mostar, Tuzla where the boundaries would follow the current criteria of economic, traffic-communication, natural, historical, geographic and (above all) national divisions. With a few corrections, it would be possible to take the division of regions as for instance the OSCE Mission in B&H used. It would be vital to determine that in each of the four cantons (regions, federal units etc.) each constitutive nation must have at least 30% share in the legislative and executive government so that members of one nation cannot outvote members of the other two nations.

## **Conclusion**

Citizens and nations of B&H were often in history the victims of totalitarian regimes and various dominations. Today's population in that country bears the trauma of communism that ended in a violent and senseless war. When we began to hope for peace and democracy, we became victims again of an unjust peace. The decade following the Dayton Accord has more than evidently shown that the current political administrative order of B&H does not allow, but in fact, prevents just and democratic development of the country. This is a huge challenge and invitation to everyone to do what is vital to take that vital and courageous step so that the unjust war that was stopped ten years ago can finally be crowned and to correct this obvious unjust peace.

If the international community does not wish for B&H to remain a permanent source of instability and threat to peace in these regions in the future but to develop as a civilised, democratic, pluralistic (multi-ethnic, multicultural, multi-religious country) with a high standard of human rights and freedom then it must clearly say so and above all, take the step so that B&H can head down that path and be capable of desired and necessary European integration. A vital path for that is to withdraw the current solution of dividing the country into two entities and the non-functional political order of B&H that included changes to the Constitution of B&H as a precondition for the expected and necessary commencement to negotiations of accessing the European Union. A great deal of effort and finances have been invested by the international community but their effects have been minute due to the current political order in the country. It is evident that this can no longer continue in this way and we are convinced that it can be and must be better and more meaningful – for the common good, as long as there is political will.

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