

Bosnia and Herzegovina: The 'Dayton' constitutional order under threat?

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Executive Summary

The people of Bosnia and Herzegovina (BiH) head to the polls on 7th October 2018 for what is shaping up to be the most significant election since the conclusion of the Bosnian War (1992-1995). The importance of this vote has as much to do with domestic political tensions as it does with the growing clout of foreign authoritarian regimes, especially Russia but also Turkey and others, and the waning influence of both the European Union (EU) and United States (US) in the country's affairs.

Each of the three main nationalist blocs in the country – the Party of Democratic Action (SDA), the Croatian Democratic Union (HDZ BiH), and the Alliance of Independent Social Democrats (SNSD) – have taken overt steps to sabotage the democratic integrity of the polls. But it is the alliance between the Croat and Serb nationalist blocs (the HDZ and SNSD, respectively), an association buttressed by the governments in Zagreb and Belgrade, that has emerged as the clearest threat to the Dayton constitutional order since it was established.

Given rising tensions in the country, and the volatile international context, the UK, as well its partners in the EU and the US, should prepare themselves for the possibility that extraordinary circumstances will manifest themselves in BiH this Autumn.

Note:

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Introduction

Preparations for the polls have dominated the concerns of BiH's leading nationalist blocs since the last round of municipal elections in October 2016. Those elections – marred by incidents of violence, fraud, and an unconstitutional (but politically expedient) referendum in the country's Serb-led *Republika Srpska* (RS) entity – were seen by local elites as a trial run for 2018. Their conclusion was that, owing to the international community's growing disinterest, BiH's electoral regime is ripe for manipulation. Such manipulation is also increasingly necessary as each of these parties struggles to respond to seething public anger at their collective mismanagement of the country's affairs.

Accordingly, Milorad Dodik, the leader of the SNSD and the president of RS entity, has recruited the services of Russian-trained paramilitaries in an apparent effort to intimidate his opposition in the RS entity. He has also undertaken a dramatic policy of police militarization and rearmament, in direct violation of numerous provisions within the Dayton Peace Agreement. His efforts are geared explicitly at ensuring the survival of his government after more than a decade in power, a period during which the entity's economy has declined dramatically, his regime has increasingly been linked to a growing number of corruption scandals, and popular dissatisfaction with his administration has climbed steadily. For Dodik and the SNSD, maintaining power more and more clearly requires dismantling BiH's already weak democratic and institutional norms.

Dragan Čović, meanwhile, head of the HDZ BiH and Croat member of the country's tripartite state presidency, has spent the better part of the last two years attempting to convince the international community to support his party's attempt to amend the BiH's election laws. The HDZ is primarily concerned with ensuring that constitutionally guaranteed representation for the country's ethnic Croat community be sourced exclusively from areas that are dominated by the HDZ (primarily the western Herzegovina region), as opposed to urban centres like Sarajevo and Tuzla, where members of the Croat community tend to either be part of multi-ethnic parties like the Social Democratic Party (SDP) or other HDZ-opposed nationalist parties.

For its part, the Bosniak nationalist SDA is, arguably, in the midst of its worst crisis since the party's founding in 1990. The last year or so has seen four distinct splinter factions emerge, defections which have unravelled the party's governing coalition in the state parliament, as well as its rule in the Sarajevo canton, the country's largest metropolitan area. The party's leader, and Bosniak member of the state presidency, Bakir Izetbegović has responded by appointing his wife, Sebiha Izetbegović, as the party's next head, as well as the SDA's presumed candidate for presidency in the October polls. In other words, faced with criticism that the party had become a vehicle for the exclusive enrichment of his family and its proxies, Bakir Izetbegović has moved decisively towards full patrimonialism.

At the international level, under the Trump administration, the U.S. has continued to be a largely spectral entity in the country's politics, despite its principal role in the Bosnian War's conclusion and the drafting of the Dayton Peace Agreement. The EU, while having guided the wobbly Sarajevo governments towards submitting a formal application for membership in early 2016, remains largely directionless. Beyond continuously pledging that the BiH's future is within the EU, Brussels remains incapable of addressing the growing number of concrete political and security threats in the country. This lack of substantive engagement – and capacity to confront the worst of the bad faith actors – will only accelerate in the event of a definitive British exit from the EU.

Local elites, across ethnic and political lines, are fully cognizant of this pronounced Western retreat from both BiH and the region. They are, in turn, actively looking for new international benefactors to shore up their respective regimes. Chief among these actors is Russia, which has dramatically expanded its political and security cooperation efforts with the Dodik government but also the HDZ BiH. They are trailed by the Erdogan government in Ankara whose long-standing ties with the SDA and the Izetbegović family in particular reached their apex this year with a massive AKP rally in Sarajevo. While Turkey can be seen to be midwifing the SDA's overt transformation into a patrimonial cult of personality, centred on the Izetbegović family, it is Russia that presents the most direct security threat in BiH through its linkages with the increasingly militant SNSD and HDZ blocs.

Local and International Changes since 2014

While many aspects of this assessment of BiH's internal dynamics may sound virtually identical to similar accounts in previous years, it is important to stress that a fundamental shift has taken place in the country since 2014. In February of 2014, BiH was rocked by violent anti-government demonstrations, the most volatile display of public anger in the country in decades. The riots resulted in the sacking of numerous government buildings, including the state presidency, as well as the torching of several party offices (namely the SDA and HDZ seats in Mostar). While the respective nationalist blocs were able to reconstitute their support during general elections in October of that year, the February riots nevertheless introduced the spectre of social insurrection into the calculus of Bosnian politics in a previously unknown fashion.

The EU responded to the events in February 2014 with a renewed push to open the country's path towards membership, initiating the (British-German conceived) Reform Agenda which focused on addressing underlying socio-economic inequalities and inefficiencies in BiH's economy while downgrading the significance of politically sensitive issues like constitutional and electoral reform. The Reform Agenda eventually led to BiH's formal application for EU candidate status in 2016, as well as the adoption of several key reform initiatives (e.g. an excise tax on gas) although many of these have proven unpopular in BiH itself.

While some observers hailed the Reform Agenda as evidence of a renewed EU approach in BiH, local elites interpreted it largely as a climb down by Brussels; in the face of mounting public anger, the EU was willing to help local elites avoid issues that would actually imperil their governments (i.e. constitutional reforms in line with European democratic standards) in exchange for some minor socio-economic reforms aimed at securing social peace. This cynical assessment was buttressed over the next three years by a succession of international crises: the Russian occupation of eastern Ukraine, the Brexit referendum in the UK, and the election of Donald Trump in the U.S.

Bosnian elites interpreted each of these events as mounting proof of the twilight of the West. That is, the EU and the U.S. were no longer committed to either the liberal-democratic world order they had built after 1945, nor were they capable or interested in confronting rogue regimes which actively challenged this order, even in Europe. Moreover, Western publics were increasingly swayed by nativist sentiments, making the likelihood of BiH's entry into the EU – with its majority Muslim population and association in the Western public imagination with war and genocide – a fool's errand. As a result, the objective of Bosnian elites since then has been to extract as much tribute from the EU, in particular, as possible while simultaneously pivoting to new international benefactors: Russia, Turkey, China, and the Gulf monarchies. Importantly, each of these "new" international actors in BiH can be characterized as an authoritarian regime, highlighting the Bosnian elite's likewise blatantly anti-democratic turn.

The Russian Dimension

The clearest indication of the growing influence of these foreign authoritarian regimes in BiH is Russia's assertive intervention into the country's domestic politics since 2014. Moscow's invasion of Ukraine was implicitly and explicitly supported by the governments in the RS and Serbia proper, while hundreds of Serb militants have travelled to the occupied Donbass to assist the Russian war effort in the region. For its part, the government of Milorad Dodik has sought to aggressively curry favour with the Kremlin especially as its secessionist and obstructionist policies in BiH have led to Banja Luka's marginalization by the U.S. and, to a significantly lesser extent, the EU.

While Russia's economic ties with the RS government still pale in comparison to the EU's overall contributions to BiH's economy, political and security ties have increased dramatically and these are, in the Bosnian political context, far more important. Still, some back channel money flows can also be observed, although these are difficult to measure; Russia's repayment of a Soviet-era debt to BiH in 2017 was largely intended as a cash injection to Dodik's government and Russian "investments" in the RS' nascent energy industry may likewise be thinly veiled money laundering operations.

While the Balkans are not a priority for Russian foreign policy – as least as compared to Ukraine or Syria – Moscow is determined to prevent further NATO expansion in the region. In this regard, BiH is of special importance as it is the strategic center of the Western Balkans; virtually every major conflict in the region since the 19th century has therefore revolved around control of BiH. Moreover, the country's central location within the region means that its internal fragmentation and instability is a liability for each of its neighbours, even though they are also the primary architects of this factionalism. As such, to "lose" BiH to NATO is in the Kremlin's view to lose the region as a whole.

Russia's primary means of preventing BiH's accession to NATO is the Milorad Dodik government. But its growing ties with the SNSD's long-time partner, the HDZ BiH and its leader Dragan Čović, cannot be discounted. While Dodik is explicit in his anti-NATO stance, and argues that his government's opposition to NATO therefore means that BiH as a whole is blocked from entry into the alliance, Čović and the HDZ BiH nominally support BiH's NATO path. In practice though, Čović and his party have undermined every credible effort at streamlining security and policing structures in BiH – including a near shooting incident between HDZ-controlled police units in the Herzegovina-Neretva Canton (HNK) and officers from the capital attempting to escort a convoy of migrants in May of this year – and most every other constitutional reform effort, often while explicitly harmonizing their efforts with the government in Banja Luka.

After the ICTY ruling in the so-called "Herceg-Bosna Six" case earlier this year, for instance, in which six commanders of the former Zagreb-backed Herceg-Bosna para-state were convicted of crimes against humanity during the Bosnian War, Čović threatened to block Sarajevo's EU and NATO accession paths. This took place amid increasingly extremist brinkmanship by the HDZ BiH, with the backing of the HDZ government in Zagreb, concerning their demands for changes to BiH's elections law, aimed at virtually disenfranchising thousands of Croats in Bosnia proper, while inflating the percentage of seats that would be allocated in the state parliament from the party's western Herzegovina heartland. Both Dodik and Russia's ambassador to BiH repeatedly came out in favour of the HDZ BiH's position in this dispute, even as informed observers have continued to dismiss the party's claims as largely spurious or, at least, profoundly disingenuous (especially in light of the party's continued obstruction of a series of rulings by the European Court of Human Rights which likewise concern BiH's electoral framework).

Moscow's deepening links with the HDZ BiH can also be traced in Russia's growing clout in Croatia itself and with the ruling HDZ bloc there (which, incidentally, is the HDZ BiH's primary foreign patron). Russia has emerged as the primary creditor of the failing Agrokor consortium, once the largest private employer in the region, whose collapse threatens the whole of Croatia's economy. The state-owned firm Rosneft, one of Russia's largest oil companies, has also expressed interest in purchasing INA, Croatia's erstwhile national gas and oil company. These economic ties have also been cemented through deepening political links; Croatia's President, Kolinda Grabar-Kitarović, has met repeatedly with Vladimir Putin over the last year, including a three-day stay in Sochi in October 2017. Still, it is the Dodik government which is clearly Russia's primary proxy in BiH and the region as whole, even more so than the Vučić government in Belgrade. While Serbia is host to a Russian "humanitarian center" in Niš, widely understood to actually be a military installation, the local paramilitaries trained and equipped there (a group styling itself as Српска част or "Serb(ian) Honour") have so far only been deployed to the RS. The group's leader though has also professed his zeal to intervene on behalf of the Serb community in northern Kosovo.

Recent revelations of this group's activities in eastern BiH were followed by credible reports of significant arms procurements by the Dodik government ahead of the 2018 elections. Specifically, the Banja Luka government is understood to have purchased, at least, 2,500 automatic rifles from Serbia in 2018, and a total of over 4,000 such rifles over the last two years, including a number of Russian-manufactured anti-aircraft Igla 1-V missiles. These procurements likely make the RS police the most heavily-armed police unit in the country, virtually on par with the country's armed forces (which have seen a dramatic decline in personnel in just last few months). In the event of an actual confrontation between RS and state security forces – as nearly happened in late 2015, when the Banja Luka government monetarily pulled out of joint policing structures – it is an open question as to whether the latter would prevail without international support.

Still further Russian linkages with the Dodik government can be observed in the recent presence of the Night Wolves, the so-called "patriotic biker gang" on the payroll of the Russian government who have also aided Russian-backed separatists in eastern Ukraine, and who 'toured' the RS and Serbia in March. A group of Cossacks – presented in the media as a "dance troop" – also visited the RS in late 2014; members of this troop also founded a "New Cossack army" in neighbouring Montenegro in 2016, on the eve of the country's accession to NATO, and in the midst of a Russian-backed coup attempt against the government in Podgorica. In April of this year, Valentina Matviyenko, speaker of the Russian Federation Council, and one of Putin's closest associates, visited both Sarajevo and Banja Luka, while Sergey Lavrov, Russia's foreign secretary, is expected to visit the country in July. Both of these visits follow the presence of South Ossetian officials at the RS' government's controversial January 9th commemorations this year, which mark the entity's founding in 1992, and with whom the entity authorities subsequently signed formal cooperation agreements.

Anticipating Election Results & Their Consequences

Forecasting the results of the October elections is a task in which it is necessary to distinguish between purely electoral and more broadly political consequences. As concerns the former, a significant degree of irregularities should be expected, in particular in the RS, where the Dodik government will invest the entirety of its capacities to survive – by any means – the October polls. As relations with the RS opposition have become a zero-sum confrontation – at times verging on physical altercations – Mr Dodik, in particular, knows that to lose power is almost certainly to invite jail time, not unlike Nikola Gruevski, the likewise proto-authoritarian former Prime Minister of Macedonia. And given that his coalition was forced to explicitly engage in parliamentary vote buying after the last general elections in order to preserve their majority in the entity assembly, while losing their seat on the state presidency and being ousted from government at the state-level, the SNSD is certainly not above using extra-institutional means to ensure victory. Given their militarization of the RS police, and ties to Russian-backed militants, the possibility of violence to sabotage the polls by the SNSD cannot be dismissed.

Ongoing attempts by BiH's civic and left political parties to form a joint list, in conjunction with ongoing fragmentation of the SDA and HDZ BiH's support, may result in electoral breakthroughs for the anti-nationalist coalition forces in the Federation entity. But given the institutional guarantees embedded within the Dayton constitutional order which inherently privilege nationalist parties, the ability of this coalition to actually govern, at either the state or entity level, may be limited in practice. In principle though, any movement towards dislodging the SDA, HDZ BiH, SNSD triumvirate from BiH's politics, which they have dominated for the better part of three decades, should be welcomed by the international community.

But given rising tensions in the country, and the volatile international context, the UK, as well its partners in the EU and the U.S., should prepare themselves for the possibility of extraordinary circumstances in BiH in October. A concerted response will be required in the event of even low-level violence (on par, for instance, with what occurred in Macedonia between 2015 and 2017) in any part of the country but especially in the RS, where attacks on opposition figures or even attempts at *de facto* secession are possible if the Dodik government believes it is on verge of losing power. Policy-makers in British, the EU and the US should thus prepare both financial sanctions and may even have to consider rapid troop deployments if they wish to maintain the security and territorial integrity of BiH during this turbulent time.