

2 May 2011

Dear Ambassador,

Bosnia faces its worst crisis since war ended in 1995. The legitimacy of state institutions is under attack by all sides; violence is probably not imminent, but if this process continues, it is a real prospect in the near future.

While the situation is increasingly troubling, to the point that Crisis Group is worried that Serbs and Croats will pull out of the country's institutions, we believe that the international community should be careful to avoid hasty decisions that could deepen the crisis and push parties to take maximalist positions. Rather, both internationals and domestic political elites in Bosnia need to engage in a strategic rethink of the country's future.

Seven months after last fall's general elections, Bosnia still does not have a government at the state level, and there is little prospect for one being formed soon. The government of the larger of its two entities, the Federation, was formed illegally on 17 March and is being disputed by the two largest ethnic Croat parties. Croats have now created their own, parallel Croat National Assembly. Republika Srpska has called a provocative referendum to obtain the views of citizens on laws imposed by the High Representative, Bosnia's international governor, and on the state-level judiciary. While this does not purport to have legal effect, it could provide popular support for a Serb walkout of Bosnian institutions. Indeed, if current trends continue, it is all too easy to imagine Bosniak parties overseeing a failed and bankrupt state whose institutions Serbs and Croats have abandoned.

All involved share blame for the current crisis, including the international community. The 27 March decision by the High Representative to suspend the ruling by the Central Election Commission that annulled formation of the Federation government, and the consequent interference with the right to appeal that ruling, have undermined state bodies and the rule of law. It would be further detrimental if this decision were to be compounded by an attempt to annul the Republika Srpska's decision to hold a referendum or to impose sanctions on that entity's president, Milorad Dodik – not least because the attempts would likely be met with defiance and make a referendum campaign even more destabilising. The European Union's own inability to strengthen its delegation in Bosnia and to equip a new head with adequate authority and powers to vigorously and constructively direct international policy has contributed to the general deterioration.

With the Dayton consensus fraying and credible concerns arising for Bosnia's integrity and peace, this is not the time to micro-manage the growing crisis through technical measures. A high-level conference – beyond the executive Steering Board of the Peace Implementation Council (PIC) – is required to set international policy on a firm foundation. The international community must set its goals in Bosnia, calibrate them to a realistic appraisal of its diminished powers and, above all, extricate itself from its counter-productive entrapment in local politics.

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The Foreign Affairs Council should call for such a conference, to take place in May and well before the planned mid-June referendum. At this conference:

- ❑ All international stakeholders should reaffirm their commitment to the Dayton Peace Agreement, the constitutions of Bosnia and its two entities, and Bosnia's territorial integrity.
- ❑ The international participants should declare that an entity that attempts to secede from the state will receive no diplomatic recognition or assistance.
- ❑ The PIC should commit to removing the High Representative from local politics and scaling down the activities of that official's office; to give concrete form to this commitment and contribute thereby to rebuilding the High Representative's credibility as a neutral arbitrator and peace guarantor, it should relocate him and his office outside Bosnia, perhaps in Vienna or Geneva.
- ❑ The PIC should also decide that the High Representative's "Bonn powers", which have allowed him to act in an unlimited executive and legislative capacity, will henceforth only be used in event of an emergency directly threatening the peace.
- ❑ The European Union should appoint a reinforced, single representative.
- ❑ The High Representative should lift his suspension of the Central Election Commission ruling with respect to the formation of the Federation's House of Peoples and the election of the Federation presidency.

The Foreign Affairs Council, and ultimately the international conference should also call on all Bosnian leaders to show their commitment to Dayton and the constitutional order by taking the following steps without delay:

- ❑ The Republika Srpska National Assembly should retract its decision to hold a referendum. If the referendum goes ahead nevertheless, President Milorad Dodik should publicly rule out any unilateral acts challenging the Bosnian state court (the Court of Bosnia and Herzegovina), such as withdrawing Serb representatives or rejecting its jurisdiction, which would be tantamount to an entity declaration of independence and plunge Bosnia into civil conflict.
- ❑ SDP leader Zlatko Lagumdžija should allow the Federation parliament to elect the entity president and then name a government that complies with the entity's Constitution.
- ❑ HDZ leaders should instruct their delegates to participate in the Federation government formation session and to cooperate with government institutions. The Croat National Assembly should be limited to a coordinating role, while a Federation parliamentary commission works on reform of the entity.

The United Nations Security Council, in its meeting on 9 May, could also be invited to call for the same course of action.

In the event that one or another of the Bosnian sides remains intransigent and refuses the recommended action, the international community should in the first instance refrain from attempting to impose specific penalties on it but instead make clear that it will have to live with the reactions of the other two domestic parties. However, the steps outlined above by the international and Bosnian stakeholders, taken as a whole, would address the immediate crisis by giving each of the Bosnian sides something that it could consider enough of a victory to justify pulling back from the brink.

This would be essential progress but insufficient in itself. Bosnia's leaders must also look beyond the immediate situation and seek more fundamental agreement on how Bosniak, Croat

and Serb interests can best be served in a united country in which tensions between decentralisation and establishment of a functional state are no longer at the forefront.

The Dayton architecture that ended the war and gave Bosnia fifteen years of peaceful development is failing under the strain of domestic attacks from all sides, as well as international errors. Each of Bosnia's communities, and the High Representative, believe they are defending "Dayton" against attack, but they come into conflict because each has its own definition of the Agreement and its implications. Arriving at a consensus on Dayton is a task that belongs only to the Bosnians – who are the ones who will have to honour it – but Bosnia's friends can and should help create a context for a renewal of the Dayton compact on foundations that will eventually take the country into the European Union.

Crisis Group intends to contribute to thinking on all these matters in a briefing to be published shortly, and in subsequent reporting. I have taken the liberty to address you on the eve of your discussion on Bosnia, however, because the matter is so urgent: unless present trends are soon reversed, the international community could shortly find itself forced to face much more radical questions about Bosnia's fate.

Sincerely,

A handwritten signature in black ink, appearing to read 'Louise Arbour', with a long horizontal stroke extending to the right.

LOUISE ARBOUR
President & CEO

Cc. Herman Van Rompuy, President of the European Council
José Manuel Barroso, President of the European Commission
Baroness Catherine Ashton, High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission
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