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Let's trade Ratko Mladic for Republika Srpska

By Marko Attila Hoare, 28th February 2009

EXECUTIVE SUMMARY

- 1. Bosnia is heading toward renewed conflict and crisis, owing to the paralysis of its central institutions and the secessionist drive of the Bosnian Serb entity.**
- 2. Through its failure to respect the terms of the Dayton Accords, the Republika Srpska has forfeited the right to exist in the form mandated by Dayton, and the international community can legitimately respond to its undermining of Dayton by reintegrating it with the rest of Bosnia.**
- 3. As a *quid pro quo*, Serbia should be allowed to join the EU without first arresting Ratko Mladic, provided it cease its efforts at destabilising,**

dismembering and punishing Kosovo, and agree to pursue its claim to this territory by purely diplomatic and legal means.

Bosnia-Herzegovina, the weakest spot in the European order in the Balkans, **may be closer** to renewed violent conflict than at any time since the war ended there in 1995. Milorad Dodik, prime minister of Bosnia's Serb entity, the 'Republika Srpska' (RS), openly expresses his opposition to Bosnia's continued existence, while working methodically to undermine it from within, paving the way for the Serb entity's eventual secession. His radical stance appears to be catalysed by his desire to avoid investigation for fraud, corruption and misuse of finances by Bosnia's central bodies. After Bosnia's State Investigation and Protection Agency sent a report to the state prosecutor's office detailing allegations against Dodik, the latter **responded** that 'Even the little faith I had in the state of Bosnia and Herzegovina is now lost due to this farce with the criminal charges against me' and 'They have made this country pointless.' Bosnia's Muslims, or Bosniaks, are meanwhile preparing to resist the secession of the Serb entity through force of arms. Serbia's President Boris Tadic, torn between pro-European and nationalist impulses, has **aligned himself** with Dodik, claiming he is the victim of a 'daily witch-hunt'. The Bosnian central state has virtually ceased to function. Already last autumn, the former High Representative of Bosnia, Lord (Paddy) Ashdown, and the architect of the Dayton Peace Accords, Richard Holbrooke, **wrote** in an article in *The Guardian* that Bosnia 'is in real danger of collapse'. Yet the situation has only become worse since that article was penned, and shows every sign of deteriorating further.

It is, therefore, clear to anyone who cares to look that the constitutional order established in Bosnia by Dayton, based as it is upon two semi-independent entities (the RS and the Muslim-Croat Bosnian Federation) has ceased to function and has become a danger to regional peace and stability. The question is not whether this order needs to be replaced, but what it should be replaced with. The question ultimately boils down to whether Bosnia should be recentralised and reintegrated, so that the central institutions can function

properly again, or whether Bosnia should be allowed effectively to disappear altogether.

Some argue that the RS should be allowed to secede and become an independent state, as Kosovo has been allowed to secede from Serbia and Montenegro was allowed to secede from the State Union of Serbia and Montenegro. Yet this is a false parallel that demonstrates a fundamental misunderstanding of the constitutional nature of Bosnia on the part of those that draw it. Contemporary Bosnia is not a federation of entities that came together formally on the basis of their own individual sovereign wills, as was the old Yugoslav federation. After World War II, Montenegro, Serbia and the other Yugoslav republics came together voluntarily to form a federal union of sovereign members, while Kosovo joined the People's Republic of Serbia formally on the basis of a decision of its own assembly. By contrast, the RS was created as part of the overall peace settlement at Dayton that also created the two-entity Bosnia in place of the old Bosnian republic, and that was based on certain mutually agreed terms and conditions. The trade-off was that, on the one hand, the RS would be recognised as one of Bosnia's two entities in extremely generous borders encompassing 49% of Bosnia's territory, despite the fact that Serbs had comprised only slightly over half of the pre-war population of this territory, and only 31% of the pre-war population of Bosnia as a whole. And on the other hand, the RS would recognise that it formed an integral part of a unified Bosnian state.

Secession of the RS from Bosnia would constitute a violation of the terms of the Dayton Accord, therefore nullifying any obligation on the part of the other Bosnian parties and the international community to recognise its existence. Such an act of illegal secession would inevitably result in a Bosniak military response; the Western alliance would then effectively be faced with the unenviable choice between colluding in the illegal secession or colluding in its military crushing by the Bosniaks, with all the bloodshed that would involve. A successful dismembering of Bosnia would further encourage Serb efforts at dismembering Kosovo, resurrecting Serbian expansionism and encouraging similar impulses on the parts of other Balkan peoples, such as the secession of the Albanian minority in Macedonia, with

potentially catastrophic consequences for the region.

Far better, then, to ensure that the RS does not secede. Those complaining that the Serbs are supposedly being discriminated against by the international community, so far as national self-determination is concerned, should politely be reminded that the Bosnian Serbs are not being accorded any fewer rights in this respect than the Bosnian Croats, or than the Albanians in Macedonia - indeed, they have been accorded a higher degree of autonomy than either. Furthermore, the right to national self-determination also belongs to the non-Serb inhabitants of the territory of the RS who were expelled during the war; like Bosnia as a whole, the RS belongs to all its peoples, not just the Serbs or any other single ethnic group.

Indeed, the recognition of the RS in 1995 was made contingent upon its acceptance of additional terms, including that it permit the return of Muslim and Croat refugees to its territory and cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). These terms have not been fulfilled: the RS, whose territory was nearly half Muslim and Croat in 1992, is today still almost entirely ethnically purely Serb, while its record of collaboration with the ICTY is the worst of any state or entity in the region. Ratko Mladic, the architect of the genocidal Srebrenica massacre and one of the two most high-profile Bosnian Serb war-crimes indictees, has still not been delivered to The Hague, while the other, former RS president Radovan Karadzic, was arrested in Belgrade only last year, having previously enjoyed years of fugitive existence in the RS and Serbia, undisturbed by their authorities. Not only has the RS no right to secede, but by violating the terms of the Dayton Accords, it has forfeited the right to exist in the form mandated by Dayton. In the name of both justice and regional stability, we have every reason to scale back the autonomy of the RS and reintegrate it with the rest of the country, so that the Bosnian central institutions are able to function. Bosnia is heading toward either partition or reintegration; since it cannot be partitioned without catastrophe, it must be reintegrated. The RS may continue to exist at the administrative and ceremonial level, as a district of Bosnia with its own flag and other symbols, but real sovereignty over the whole of Bosnia must reside in Sarajevo if the state is to function.

The reintegration of Bosnia can serve to kill two birds with one stone; it can solve the Bosnian problem, and solve the Serbian problem as well. Leaving aside the question of Kosovo, the problem with Serbia is that it is not being allowed to join the EU given its failure to arrest Mladic. Yet what the EU views as punishment, the anti-European nationalists in Serbia view as reward: as Sonja Biserko, head of Serbia's Helsinki Committee, has [argued](#), punishing Serbia over Mladic by keeping it out of the EU is counterproductive, as it further weakens the already weak pro-European element in Serbian politics. Biserko therefore favours Serbia's unconditional entry into the EU. Yet the Bosniaks would rightly see an end to European pressure on Serbia over Mladic as grossly unfair; they would be entirely justified in responding to such a European betrayal of the terms of the Dayton Accords with more radical measures.

Allowing Serbia to join the EU without arresting Mladic would be a reasonable *quid pro quo* for the reintegration of the RS into Bosnia, solving both the Serbian and Bosnian problems, bolstering the pro-European element in Serbia while compensating the Bosniaks and Bosnian citizens as a whole for the failure to arrest Mladic. The warrant for Mladic's arrest can remain outstanding, should he ever resurface.

This would leave the unresolved dispute over Kosovo as the principal remaining source of instability in the former Yugoslavia. It is unrealistic to expect Serbia to recognise Kosovo as a condition for EU membership. But the EU could impose more reasonable conditions: firstly, an end to Serbia's destabilisation of and embargo against Kosovo, and to its promotion of parallel structures among the Serb minority there; secondly, a formal undertaking not to veto Kosovo's eventual membership of the EU; and thirdly, an undertaking to respect the autonomy, unity and indivisibility of Kosovo, something that Belgrade already formally adheres to. This would leave only an unresolved dispute between Belgrade and the majority of EU states over whether the self-governing, unified Kosovo heading toward EU membership is or is not an independent state (and entities do not have to be independent to join or leave the EU - witness Greenland, which seceded from the European Economic Community in 1985 despite the fact that it was an

autonomous part of Denmark, which remained in the EEC).

European leaders may balk at attempting any such ‘radical’ solution. Yet if they do, they may find themselves faced with a much worse crisis in the near future, one that will really require drastic measures to rectify.

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