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Open Letter to Secretary of State Blinken

Aida Ibričević

August 19, 2022

The Honorable Antony J. Blinken
Secretary of State
US Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary of State Blinken,

First and foremost, we are grateful for the pivotal role of the United States in ending the war and bloodshed in our country and brokering the Dayton Peace Agreement, which has kept peace in Bosnia and Herzegovina to date. Now, twenty-seven years after the signing of the Dayton Peace Agreement, that hard-won peace is threatened. Ironically, the very structures of the Dayton Peace Agreement have become an obstacle to Bosnia's political survival. The mantra repeated by numerous international officials that Bosnia is composed of two entities and three constituent peoples has led us to the current existential crisis.

Due to the lack of international intervention, especially since 2006, Dayton's structures have devolved into divisive ethnonationalist rhetoric and threats of secession that are destabilizing Bosnia and the region. Bosnian Serb member of the Presidency Milorad Dodik has threatened secession and consistently speaks of Bosnia as a failed State. He wields hate speech against Bosniaks and denies the Srebrenica genocide with impunity. Bosnian Croat party leader Dragan Čović, for his part, has threatened to boycott the election and form a third entity. Both separatist leaders have exploited the concept of "constituent peoples" so as to create further divisions and hatred. These separatist agendas have found their strongest support from the Russian Federation, whose Embassy in Sarajevo insisted in April 2021 that Bosnia fundamentally consists of two entities rather than a unified State.

So, it is clear that the time has come for a fundamental revisioning of Bosnia and Herzegovina's Constitution so that our country may fulfill the conditions to join NATO and the European Union. Once again, Secretary Blinken, we look to the United States for leadership, guidance, and assistance. We need support from the U.S. to help Bosnia transition from a system that gives priority to constituent peoples and ethnic

divisions, to a nation of citizens with equal rights and dignity.

The first step in this process should be the genuine implementation of the five judgements of the European Court of Human Rights (ECtHR): Sejdić-Finci, Zornić, Pilav, Šlaku, and Pudarić and the retirement of BiH's ethnic-based election model in favor of a model where the individual citizen of BiH is front and center of the electoral process with the guiding principle of "one citizen, one vote". A person's ethno-national identity should not be the sole determinant of governance processes. Implementation of these ECtHR judgements is crucial for Bosnia's future.

Indeed, it was the expectation of the ECtHR judgements that the contested "constituent peoples" category and all ethnic-based discrimination be removed from the Bosnian Constitution. In Paragraph 43 of the ECtHR judgement in Zornić vs. Bosnia Herzegovina (Application 3681/06), the EU Court asks for both equality of all Bosnia's citizens and the elimination of the "constituent people" as an outdated concept rooted only in the ceasefire signed in to stop genocide and ethnic cleansing:

> *The nature of the conflict was such that the approval of the "constituent peoples" was necessary to ensure peace (ibid.). However, now, more than eighteen years after the end of the tragic conflict, there could no longer be any reason for the maintenance of the contested constitutional provisions. The Court expects that democratic arrangements will be made without further delay.*

The phrase "constituent peoples" is part of the Dayton Peace Agreement (DPA), but the way in which this term evolved does not conform to the spirit of the DPA. Further, Citizens and Others are also clearly noted in the Constitution, foreshadowing the reform and evolution that the Court references in the statement above.

Without a fundamental restructuring of the Dayton-rendered Constitution, change will not be possible for Bosnia. Hence, we, the resident as well as non-resident citizens of Bosnia and Herzegovina, together with our allies, dear friends and several NGOs from abroad, propose two ways the U.S. Government should constructively engage.

First, we encourage the U.S. to initiate and support a process of creating a completely new social contract for the 21st century in Bosnia. Instead of a complicated and extremely costly governance system involving the State government, two entities and 10 Cantons, governance would be transferred to Bosnia's municipalities, resulting in a more locally based democratic model that is citizen-centered. The State of Bosnia would ensure the equitable provision of essential public services, including health care and education.

Second, we appeal to the U.S. to encourage the Office of the High Representative to use Bonn powers to implement constitutional and electoral reform across the entire territory of Bosnia and Herzegovina in accordance with all judgements of the ECtHR including the judgement in the Zornić v. BiH Application. This would mean that any and all citizens would be eligible to stand for election for any office in their municipality, and would, in turn, be eligible to stand for election to represent their

municipality in the national parliament. Finally, according to the terms of Bosnia's restructured democracy, all citizens would elect one President from among a field of candidates.

Secretary Blinken: what we are proposing would represent a fundamental shift in American foreign policy with respect to reform of the election law in Bosnia and Herzegovina. Thus far, Mr. Palmer's and Mr. Escobar's diplomatic efforts have sought to appease the HDZ, an ethnonationalist political party seeking to insure the election of one of their members to the Presidency –a so-called "legitimate" Bosnian Croat representative. However, such a result would only further entrench ethnic divisions and produce a situation in which two members of the Presidency would be seeking to undermine Bosnia's sovereignty. Thus we urge you to support genuine constitutional and electoral reform that will ensure a sustainable democratic political culture in Bosnia and Herzegovina. With international meddling in Bosnia's internal affairs from Croatia, Serbia and the Russian Federation, and with the exacerbation of social divisions within Bosnia through the rise of hate speech, genocide denial, and the glorification of convicted war criminals, along with threats of secession and third entities, there is no time to lose.

Thank you for your consideration.

Sincerely,

Azra Zornić, citizen of Bosnia and Herzegovina, plaintiff before the European Court of Human Rights,
Jakob Finci, citizen of Bosnia and Herzegovina, plaintiff before the European Court of Human Rights,
Dervo Sejdić, citizen of Bosnia and Herzegovina, plaintiff before the European Court of Human Rights,
Zlatan Begić, Ph.D., applicant before the European Court of Human Rights (application pending), Professor of Constitutional Law, University of Tuzla,
Slaven Kovačević, Ph.D., applicant before the European Court of Human Rights (application pending), Assistant Professor of Political Systems and European Integration, University of Sarajevo,
David Pettigrew, Ph.D., Professor of Philosophy, Southern Connecticut State University, New Haven, CT, Member, Working Group for Bosnia and Herzegovina,
Aida Ibričević, Ph.D., Global Fellow – Peace Research Institute Oslo (PRIO),
Bojan Šošić, ABD, psychologist, member of Presidency of Association of independent intellectuals "Circle 99", Sarajevo,
Kurt Bassuener, Ph.D., Senior Associate, Democratization Policy Council (DPC),
Hazim Bašić, Ph.D., member of Presidency of Association of independent intellectuals "Circle 99", Professor, University of Sarajevo,
Samir Beharić, human rights activist, Research Officer at the Balkan Forum, PhD Candidate at the University of Bamberg,
Azra Berbić, human rights and peace building activist, Project Coordinator Center for Youth KVART Prijedor,
Vildana Bijedić, MSc. Mandala Academy Foundation,Sonja Biserko, President of the Helsinki Committee for Human Rights in Serbia,
Janusz Bugajski, Senior Fellow, Jamestown Foundation, Washington, DC,

Tanya Domi, Assistant Professor of International and Public Affairs, Columbia University,Štefica Galić, Editor-in-Chief Tacno.net web portal,
Carole Hodge, Ph.D., Research Fellow Glasgow University (retired),Marion Kraske, political scientist and analyst,
Adil Kulenović, President of Association of independent intellectuals “Circle 99”, Sarajevo,
Senadin Lavić, Ph.D., Professor, University of Sarajevo,
Satko Mujagić, Survivor, Omarska and Manjača Concentration Camps,
Dr. Emir Ramić, Director of the Institute for Research of Genocide Canada,
Daniel Serwer, Scholar, Middle East Institute; Senior Fellow, Foreign Policy Institute, and Professor, School of Advanced International Studies, Johns Hopkins University,
Munira Subašić, President, Association of Mothers of Srebrenica and Žepa Enclaves,
ReSTART Bosnia and Herzegovina, informal group of citizens of Bosnia and Herzegovina,
Samir Vranović, President, Association of Istina Kalinovik ’92

cc:

The Honorable Jeanne Shaheen, United States Senator
The Honorable Bob Menendez, United States Senator
The Honorable Ben Cardin, United States Senator
The Honorable Chris Murphy, United States Senator
The Honorable Steve Cohen, United States Representative
The Honorable Greg Meeks, United States Representative
The Honorable William Keating, United States Representative
The Honorable Ann Wagner, United States Representative
The Honorable Michael J. Murphy, United States Ambassador to Bosnia and Herzegovina
Karen Donfried, Assistant Secretary of State for European and Eurasian Affairs. US Department of State
Dereck J. Hogan, Principal Deputy Assistant Secretary in the Bureau of European and Eurasian Affairs
Molly Montgomery, Deputy Assistant Secretary in the Bureau of European and Eurasian Affairs, US Department of State
Robert Hand, Senior Policy Adviser at the U.S. Helsinki Commission

For further information contact Azra Zornić, zornicazra@gmail.com, or David Pettigrew, depettigrew@gmail.com. Alternatively, correspondence may be directed to: David Pettigrew, Ph.D., Philosophy Department, Southern Connecticut State University, New Haven, CT, 06515, or to Bojan Šošić, Asocijacija nezavisnih intelektualaca “Krug 99”, Vrazova 1, 71000 Sarajevo, Bosnia and Herzegovina

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