

Dayton Peace Accords – A Turning Point in the Historical Sustainability of Bosnia and Herzegovina

Mirko Pejanović¹

ABSTRACT

The article examines the social-historical context of the beginning of the war and aggression against Bosnia and Herzegovina in April 1992 that led to unprecedented sufferings of civilians, ethnic cleansing and genocide in Srebrenica. The peace treaty was signed on 21 November 1995 in Dayton. Over the past 25 years, Bosnia and Herzegovina implemented a number of reforms that allowed for development of the state on its way towards its integration into the EU and NATO. Within this reform process the most complex part is the constitutional reform. It will provide the framework for elimination of the limitations of the Dayton Constitution, which have rendered Bosnia and Herzegovina unfunctional as a state. This demands a new strategy of the international community and the European Union for the implementation of the Dayton peace agreement. Five priorities of such strategy are presented and commented in the concluding part.

KEYWORDS: Dayton peace agreement, Dayton Constitution, limitations, reform process, war-time presidency, the EU Special Representative

POVZETEK

Članek preučuje družbeni in zgodovinski kontekst začetka vojne in agresije na Bosno in Hercegovino aprila 1992, ki je privedla do izjemnih trpljenj civilistov, etničnega čiščenja in genocida v Srebrenici. Mirovni sporazum je bil podpisan 21. novembra 1995 v Daytonu. V minulih 25-ih letih je Bosna in Hercegovina izvedla številne reforme, ki so omogočile razvoj države na poti k njenemu vključevanju v EU in NATO. V tem reformnem procesu je najbolj zapletena ustavna reforma. Zagotovila bo okvir za odpravo omejitev Daytonске ustave, zaradi katerih je Bosna in Hercegovina kot država postala nefunkcionalna. To zahteva novo strategijo mednarodne skupnosti in Evropske unije za izvajanje Daytonskega mirovnega sporazuma. V zaključnem delu članka je predstavljenih in komentiranih pet prioritet te strategije.

KLJUČNE BESEDE: Daytonski mirovni sporazum, Daytonска ustava, omejitve, proces reform, vojno predsedstvo, posebni predstavnik EU

1 ABOUT THE AUTHOR: Acad. Mirko Pejanović, PhD, Full member of the Academy of Sciences and Arts of Bosnia and Herzegovina, Professor Emeritus, University of Sarajevo and member of the Presidency of BiH during the war. Email: pejanovicm@hotmail.com.

INTRODUCTION

This article examines the social-historical context of the beginning of the war and aggression against Bosnia and Herzegovina (BiH) in April 1992. The 1992-1995 war in BiH led to unprecedented sufferings of civilians, ethnic cleansing and genocide in Srebrenica. After the Bosniak-Croat military conflict was stopped and the Federation of BiH established, the United States launched an initiative aimed at achieving a peaceful solution to the war in BiH. US President Bill Clinton appointed Richard Holbrooke as the US Special Envoy for the peace talks for BiH. The peace talks among belligerent parties culminated on 21 November 1995 with the signing of the Dayton peace accords, which stopped the war. Over the past 25 years, BiH implemented a number of reforms that allowed for development of the state and its European integration and the NATO alliance. The future achievement of membership of BiH in the European Union and the NATO alliance defines the trajectory for BiH that leads to implementation of the Dayton peace agreement, because there can be no stable peace in BiH without its integration into Euro-Atlantic institutions. Implementation of reforms in BiH within the framework of the process of integration into the European Union will allow for implementation of the most complex reform, the constitutional one. The constitutional reform will provide the framework for elimination of the limitations of the Dayton Constitution which have rendered BiH unfunctional as a state. At the end, the paper offers a conclusion that advocates a new strategy of the international community and the European Union for the implementation of the Dayton peace agreement.

The war in Bosnia and Herzegovina (BiH) begun in April 1992 with the siege of Sarajevo as its capital. The siege of Sarajevo lasted 1,472 days, until the signing of the Dayton peace agreement in December 1995. The siege and shelling of Sarajevo was carried out by the forces of the former Yugoslav People's Army, which were commanded from Belgrade, and this is why the war has the character of an international conflict and aggression against the sovereign and internationally recognized state of BiH. In May 1992, the forces of the former Yugoslav Peoples' Army that remained in BiH were renamed into Army of the Republic of the Serb People. The Assembly of the Serb People in BiH appointed General Ratko Mladić as the Commander of the Army. As the Army of the Republic of the Serb People had taken over the personnel, as well as significant quantities of materiel and weapons from

the Yugoslav People's Army in BiH, by September 1992 it managed to establish control on over 70% of the territory of the Republic of BiH.

Slobodan Milošević, then President of the Republic of Serbia, maintained control over the former Yugoslav People's Army, and thus also over the Army of the Republic of the Serb People. Milošević's regime simultaneously controlled the Serb Democratic Party (SDS) of BiH, which was headed by Radovan Karadžić.² Radovan Karadžić's SDS and Milošević's regime did not recognize the achieved historical development of the statehood of the Republic of BiH, as one of the six republics of the Socialist Federal Republic of Yugoslavia which had equal rights as the other Yugoslav republics. Milošević's regime had a plan to create a Great Serbia that would include territories of BiH and Croatia. Specifically, it initially institutionally modeled the plan through the name of the Federal Republic of Yugoslavia.

In 1991, just like the Republic of Croatia, the Republic of Slovenia and the Republic of Macedonia, the Republic of BiH also conducted a referendum, on the basis of the decision of its Assembly, which subsequently led to the dissolution of the Yugoslav federation. Citizens of BiH expressed their support to a sovereign and independent national legal status, by participating at the referendum that took place on 29 February and 1 March 1992, at which the turnout was 64 % of the electoral register. Moreover, 99% of the citizens that turned-out at the referendum voted in favor of an independent and sovereign national legal status of BiH.

On the basis of the results of the referendum, the European Union and many other countries around the world decided to support the international recognition of the Republic of BiH. In such a way, following the dissolution of the Yugoslav federation, by the will of its citizens expressed at the referendum, the Republic of BiH joined the family of free and sovereign states in Europe and the world.

After the international recognition of BiH on 6 April 1992, Milošević's regime launched an aggression against the sovereign state of the Republic of BiH. In the first year of the war, the Army of the Republic of

² In 2019, the International Criminal Tribunal for Former Yugoslavia (ICTY) in The Hague sentenced Radovan Karadžić and Ratko Mladić to life-long imprisonment for the war crimes committed and the crime of genocide in Srebrenica. Radovan Karadžić came to Sarajevo from Šavnik, Montenegro to pursue medical studies. He was elected the President of the Serb Democratic Party in July 1990. From the very beginning of his political engagement in his public appearances he advocated ethnic division, establishment of Serb autonomous areas and negation of the achieved historical level of statehood of BiH.

the Serb People created from the former Yugoslav People's Army conducted ethnic cleansing of Bosniaks and Croats from the "envisaged" territory of Republika Srpska. The war goal of the Serb Democratic Party and its leader Radovan Karadžić was an ethnically pure Republika Srpska. Around one million civilians were exiled from several regions in BiH, such as East Bosnia, Bosnian Krajina, Posavina, and East Herzegovina. Several thousands of civilians were killed in the implementation of the ethnic cleaning agenda. In the city of Prijedor in Bosnian Krajina alone there were a number of concentration camps for the Bosniaks and Croats, where more than 3,000 civilians were killed. The ethnic cleansing continued all until the end of the war, when in July 1995 in the town of Srebrenica the war crime of genocide was committed against 8,600 Bosniaks.

The war in BiH caused enormous consequences with respect to the sufferings of the civilian population, the genocide in Srebrenica and the ethnic cleansing of the population and the destruction and devastation of economy and infrastructure.

THE ROLE OF THE WARTIME PRESIDENCY IN THE ACHIEVEMENT OF A PEACEFUL SOLUTION

The Presidency of the Republic of BiH was a collective head of state. It was elected at the first multiparty elections in November 1990. The Presidency comprised of seven members: two members of the Bosniak people, two members of the Serb people, two members of the Croat people, and one member from the so called "Others" group.³

Following the declaration of the results of the referendum of citizens in late March 1992 and the international recognition of BiH, members of the Presidency from the Serb People, Biljana Plavšić and Nikola Koljević, resigned from their positions.⁴

Once the vacant positions of members from the Serb people in the Presidency of the Republic of BiH were manned in early June 1992, the Presidency gained full legitimacy to organize the defense of the inter-

3 Alija Izetbegović and Fikret Abdić were from the Bosniak people, Stjepan Kljuić and Franjo Boras from the Croat people, Nikola Koljević and Biljana Plavšić from the Serb people. The seventh member of the Presidency from the "Others" group was Ejup Ganić.

4 According to the Law on Election of Members of the Presidency of the Republic of BiH, members of the Presidency who resign shall be replaced by "the next from the list for election of members of the Presidency from the Serb people who had won the largest number of votes at the 1990 elections". In this case, pursuant to the described legal basis, Dr. Nenad Kecmanović and Dr. Mirko Pejanović became members of the Presidency of the Republic of BiH in June 1992.

nationally recognized state of BiH and engage in negotiations with the international community aimed at achieving peace in BiH.

As it had full unity of all members with respect to the defense of integrity and multi-ethnic character of BiH, pursuant to the Constitution of the Republic of BiH, in May and June 1992 the Presidency adopted two documents of strategic importance. One document was the “Platform for the Work of the Presidency in Wartime Conditions”, which defined the political and constitutional principles of the state for which the civic and patriotic forces of BiH will fight. The Presidency adopted the stance according to which BiH will constitutionally and politically develop as a state of its citizens and equal peoples, Serb, Croat and Bosniak, together with others. This reaffirmed the character of the state defined by the National Anti-Fascist Council of the People’s Liberation of BiH (ZAVNOBiH) and linked it to the content of the referendum question. On the other side, with respect to the internal-political organization, the document laid the foundation according to which the internal territorial organization of BiH would be based on the European model of organization of local and regional self-governance. Specifically, it was envisaged to be founded on the principles of the European Charter on Local Self-Governance. After World War II, BiH developed a system of 109 municipalities as local governance and self-governance units. These local self-governance units had a high level of autonomy in management of the development of their respective local communities. There is a significant tradition of development of democratic authorities in local communities in BiH, which has to be promoted.

The Platform for the Work of the Republic of BiH Presidency in Wartime Conditions envisaged that BiH is to have a bicameral parliament consisting of the House of Citizens and House of Peoples. The House of Peoples incorporated institutional mechanisms for the protection of ethnic equality of the peoples and development of their respective cultural and ethnic identity.

The other decision of the Presidency of the Republic of BiH of strategic importance was related to the establishment of the Army of the Republic of BiH as the armed forces for defense. The Platform specified that the Army of the Republic of BiH will be an armed force of all the citizens and members of all the peoples who, as patriots, are willing to defend the integrity and international legal identity of the

country. Over the three and a half years of war the Army of the Republic of BiH became a respectable defense power with more than 200,000 members.

The 1st Corps of the Army of the Republic of BiH managed to defend the city of Sarajevo during the three-and-a-half-years long siege. The 5th Corps defended the city of Bihać, which was also under siege. This city would have shared the faith of Srebrenica, had the 5th Corps not been there to defend it. The 3rd Corps defended the free territory in Central Bosnia and was based in Zenica. The 4th Corps defended Mostar. The 2nd Corps defended Tuzla. After its operations in Travnik, the 7th Corps liberated the Vlašić area and merged with the forces of the Army of the Republic of BiH in West Bosnia.

In a joint operation several corps of the Army of the Republic of BiH conducted a campaign in August, September and October which led to the liberation of several municipalities in Bosnian Krajina: Bosanko Krupa, Bosanski Petrovac, Ključ and Sanski Most.⁵

The troops of the Army of the Republic of BiH were about to enter Prijedor and on their way to Banja Luka. At the time, the preparations for the Dayton peace agreement were well underway and all the military operations of the Army of the Republic of BiH were to be suspended. This was done to the dissatisfaction of members of the 5th Corps of the RBiH Army, headed by General Atif Dudaković.

In the summer and autumn of 1995, the Presidency of the Republic of BiH focused its political and statehood activities on the preparation of a peace agreement that would stop the war in BiH. In their internal work and the decision making process in the Presidency, the members had a consensus on several crucial aspects of the issue whether to continue to wage the war or, establish peace, under specific conditions. The members of the Presidency of the Republic of BiH⁶ were also united in the stance that an attempt should be made to find a peaceful political solution to the war with the assistance and support of the international community. The Presidency was fully willing and responsible to stop the war and the sufferings of civilians, so that the refugees

5 The liberation campaign by the Army of the Republic of Bosnia and Herzegovina in the autumn of 1995 was augmented by air strikes conducted by the NATO Alliance in August and September 1995 against the positions of the Army of the Republic of the Serb People.

6 In 1995, the Presidency of the Republic of Bosnia and Herzegovina comprised: Alija Izetbegović, Chair, and Nijaz Duraković, Ejup Ganić, Ivo Komšić, Stjepan Kljujić, Tanja Ljujić-Mijatović and Mirko Pejanović as members.

could begin to return to their pre-war places of residence. At the same time, the Presidency took a flexible approach with respect to possible solutions for internal territorial organization. However, the severe consequences of the war, and particularly of ethnic cleansing, could not be removed over a short period of time.

The Presidency of the Republic of BiH believed that the key prerequisite for establishment of peace was the preservation of the territorial integrity of BiH within its internationally recognized borders and its international legal identity. Key conditions of the Presidency of the Republic of BiH for peace included return of refugees to their prewar homes and bringing war criminals to justice. A special condition on which the Presidency of the Republic of BiH insisted was the preservation of institutions of the state of BiH. Specifically, the Presidency insisted that, as far as the constitutional political organization of the state is concerned, the peaceful solution for BiH should include provisions on central state institutions that provide for the existence of the state. These central institutions included: the national parliament, Council of Ministers, the Presidency of the state (head of the state), the Constitutional Court and the Central Bank.

One of the agreements developed in the first phase of the preparations for the Dayton peace agreement did not envisage central institutions. This was the Agreement⁷ signed on 8 September 1995 in Geneva by the Foreign Affairs Ministers of the Federal Republic of Yugoslavia, the Republic of Croatia and the Republic of BiH. When it comes to the institutions of the state of BiH, this agreement envisaged only the Council of Ministers. Richard Holbrooke, the agreement brokered in Geneva on 8 September 1995 said that “although is limited, it takes us in the direction of peace, but the most difficult work is yet to come. The two entities still need to define their internal boundary lines within BiH, in line with the 51-49 principle.”⁸

Unsatisfied with the possible unfavorable outcome of the future peace agreement with respect to guarantees for the treatment of main insti-

7 Then foreign affairs ministers Milutinović Milan, Granić Mato and Muhamed Šaćirbej signed on behalf of the Federal Republic of Yugoslavia, Republic of Croatia and Republic of BiH respectively, and in the presence of representatives of the Contact Group members, the European Union and Richard Holbrooke, Special Envoy of the US President, the Geneva Agreement which established the principles for preparation of a comprehensive peace agreement. These principles were related to the establishment of the two entities and the Council of Ministers, and did not include any reference of other central institutions of the state of Bosnia and Herzegovina. See Bilić, Tudman, p. 447.

8 Holbrooke, pp.143-145.

tutions of the state of BiH (the Parliament, the Presidency, the Constitutional Court and the Central Bank), members of the Presidency deemed necessary to undertake new initiatives towards officials of the US administration. In that respect, in the second half of September 1995, four members of the Presidency Tanja Ljujić-Mijatović, Mirko Pejanović, Ivo Komšić and Stjepan Kljujić, traveled to Washington. Their visit to Washington was organized with the framework of the visit by a wider delegation of the two councils: the Croat People's Council (HNV) and the Serb Civic Council (SGV).⁹ In Washington, the delegation of the two councils met with Anthony Lake, then National Security Advisor to US President Bill Clinton, Bob Dole, a Republican leader and the Republican Majority Leader in the US Senate, as well as Joseph Biden, then US Senator. The talks were headed by members of the Presidency Ivo Komšić, Mirko Pejanović, Tanja Ljujić-Mijatović and Stjepan Kljujić. The main topic of the talks was how to ensure in the preparations of the Dayton peace agreement, specifically the Constitution of BiH as an integral part of the Dayton agreement, that it included provisions on central institutions of the state - the Presidency, the Parliament, the Council of Ministers, the Constitutional Court and the Central Bank. The talks took place in an atmosphere of understanding for the future of the state of BiH. Members of the Presidency presented in a radical form their request that, in the continuation of preparations for the Dayton peace agreement, the constitutional and legal status of institutions of the state were ensured by the Constitution, and they are granted the status and competencies in the same way in which they are granted in all democratic countries in the world. The stance of the BiH delegation was that without central institutions there can be no integrity of the state. They warned the interlocutors Anthony Lake, Bob Dole and Joseph Biden that the possible consequences for BiH should be presented at a press conference if the status of central institutions of the state of BiH is not resolved. The BiH delegation spoke openly and asked whether the United States would be a democratic and successful state without the Congress, the US President, the Constitutional Court and the Central Bank. At the end of the talks, the BiH delegation were given assurances that the US Administration would initiate a discussion and understanding among the Contact Group

⁹ The two councils were established in February and March 1994 at the time of conclusion of the Washington Agreement, which stopped the Bosniak-Croat conflict and established the Federation of Bosnia and Herzegovina. Both the Croat People's Council (HNV) and the Serb Civic Council (SGV) were founded on the programs that advocated integrity of Bosnia and Herzegovina and equality of its citizens and peoples. Professor Ivo Komšić was the President of the Croat People's Council, and Professor Mirko Pejanović was the President of the Serb Civic Council. The delegation of the Croat People's Council and the Serb Civic Council also included a group of prominent intellectuals and public figures who were activists of the two Councils: Ivan Lovrenović, Marko Vešović, Žarko Bulić, Mičo Rakić and Jovan Divjak. They also had a number of meetings in institutions of the US Administration.

members, so that the text of the Dayton peace agreement, specifically its part on the constitution, incorporated provisions on central institutions of the state of BiH: the Parliament, the Council of Ministers, the BiH Presidency, the Constitutional Court and the Central Bank.

The visit by members of the Presidency to Washington and the meetings were followed by an initiative related to the New York meeting of foreign affairs ministers of the Federal Republic of Yugoslavia, Republic of Croatia and Republic of BiH with members of the Contact Group¹⁰, which was organized on 29 September 1995. At the meeting, a proposal was tabled to have the Dayton peace agreement ensure the constitutional legal status of the central institutions of the state of BiH, which became an amendment to the Geneva Agreement of 8 September 1995. Richard Holbrooke noted the following about the outcome of the New York meeting: “We could have finally demonstrated to the sceptics that we are building a central government. We agreed on a tripartite Presidency, Parliament and the Constitutional Court and other important attributes of a government.”¹¹In such a way the four members of the Presidency in agreement with the rest of the members, launched an initiative to talk to officials of the US Administration and advocated for finding a solution for central institutions of the state within the framework of the Dayton peace agreement,¹² and a definition in the Dayton constitution for the tripartite BiH Presidency, the Parliament, the Council of Ministers, the Central Bank and the Constitutional Court. Hence, this is how the state of BiH preserved its integrity and international legal identity. Furthermore, this also created the conditions for internal integration BiH in the post war period.

INTERNATIONAL FRAMEWORK OF THE DAYTON PEACE AGREEMENT

The negotiations on a comprehensive peace in BiH developed new dynamics in 1995 and the US took a lead role in the negotiations and establishment of a peaceful solution. Bill Clinton, then US President, appointed Richard Holbrooke as his special envoy for the peace talks on BiH. The basis for brokering a peaceful solution was defined by the plan of the Contact Group.¹³In 1994 the leading global powers within

10 See Bilić, Tudman, p.450.

11 See Holbrooke, p.188.

12 See Pejanović, 1999, pp.237-242.

13 The Contact Group was established in the summer of 1994 and included the leading global powers: the USA, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, France and the Federal Republic of Germany. The Contact Group adopted the principles agreed for BiH in Geneva on 9 September 1995.

the Contact Group developed a political consensus to stop the war, before the US took the initiative for the negotiations aimed to the same direction. This was followed by the activities that gradually led to the modeling of the Dayton peace agreement in November 1995 in Dayton, US.

The power of the US diplomatic and military pressure forced Slobodan Milošević's regime to seek compromises in the peace talks. The assistance of the Orthodox Church and Patriarch Pavle Milošević influenced the decision to have Radovan Karadžić eliminated from the negotiations. It was decided that in the negotiations in Dayton Slobodan Milošević would represent Serbia and the Republic of the Serb People.¹⁴ This was done because Radovan Karadžić, as the leader of Serbs in BiH, rejected any peaceful solution. He negated the possibility of the state of BiH existing as an integral state with an international legal status.

Additional pressure was put on the leadership of Serbs in BiH by the NATO air strikes on the military targets of Bosnian Serbs in August and September 1995.

Once the conditions were achieved for participation of all belligerent parties in the negotiations process, the peace negotiations were organized in Dayton, US in November 1995.

With numerous dramatic twists during the negotiations, a breakthrough was achieved on 21 November 1995. BiH and the international public were informed that a peace agreement had been achieved. The peace agreement was named after the town of Dayton in which it was initialed. The agreement was signed by three presidents: Alija Izetbegović on behalf of BiH, Franjo Tuđman on behalf of Croatia and Slobodan Milošević on behalf of Serbia. The signing, also known as the General Framework for Peace in BiH, was witness by Felipe González, President of the European Commission, Jacques Chirac, President of the Republic of France, Helmut Kohl, Chancellor of the Federal Republic of Germany, Viktor Chernomyrdin, Prime Minister of the Russian Federation, John Major, UK Prime Minister, and Bill Clinton, US President. Together with the leading global powers and the European

¹⁴ At the meeting with Richard Holbrooke on 30 August 1995 in Belgrade, Slobodan Milošević pulled out a piece of paper from his pocket, showed it to the Patriarch and said "This paper appoints the members of the joint delegation of Yugoslavia and Republika Srpska for all future peace talks. I will head the joint delegation. The Patriarch of the Serb Orthodox Church approved this document." See Holbrooke, p.108.

Union, the United States ensured international support to the implementation of the Dayton peace agreement. Specifically, the implementation of the Dayton peace agreement was ensured by international peace military and civilian forces.

In the quoted statements by statesmen the Dayton peace agreement was qualified as a historic agreement. The agreement extinguished a dangerous war hotspot, which constituted a threat to peace not just in BiH but also in the region and the world.

From a catalogue of statements by statesmen on the significance of the Dayton peace agreement for establishment of peace in BiH, we shall single out the statements by Bill Clinton, US President, Helmut Kohl, German Chancellor, John Major, UK Prime Minister and Alija Izetbegović, President of the Presidency of the Republic of BiH.

In his statement Bill Clinton emphasized: “The plan shall preserve BiH as a single country, within its internationally recognized borders. BiH shall consist of two parts- the Federation of BiH and Republika Srpska. The Sarajevo capital shall become unified. There will be a central government that will include the national parliament, the Presidency and the Constitutional Court, and will have the jurisdiction for the foreign policy, monetary policy, citizenship, immigration and other important functions. The status of citizens shall remain a competence of the central government. There is also the obligation of free democratic elections under international supervision. All people will be allowed to return to their homes. People will be allowed to travel all over BiH. Human rights shall be monitored by an independent commission and international civil police. The indicted war criminals shall be removed from political life.”¹⁵

Bill Clinton went on and added that Presidents of BiH, Serbia and Croatia had made a brave historic choice. Majority of citizens of BiH, as well as citizens of Serbia and Croatia, want their children and grandchildren to have a normal life. In his statement US President Bill Clinton indicated that when it comes to the implementation of the Dayton peace agreement NATO troops would be deployed to BiH. In such a way in the first years of implementation of the Dayton peace agreement, NATO troops will be the main guarantor of establishment of peace in BiH.

¹⁵ See Statement by Bill Clinton after the brokering of the peace agreement, *Ostobodenje*, 23. 11. 1995, p.3

German Chancellor Helmut Kohl stated after the brokering of the peace agreement in Dayton that the peace agreement for BiH “was a decisive step towards restoration of peace in the whole of former Yugoslavia.”¹⁶In his address, Kohl thanked US President Bill Clinton for his engagement in achieving the peace agreement.

British Prime Minister John Major underlined in his statement on the occasion of the achieved peace agreement in Dayton: “We warmly welcome the today’s agreement. It took courage on all sides to overcome many difficult issues.”¹⁷Major added that the people of Bosnia can hope for a peaceful future.

Alija Izetbegović, President of the Presidency of the Republic of BiH, who was exposed to many pressures during the negotiations, emphasized in his statement “Today is a historic day for Bosnia and for the rest of the world. For Bosnia, because the war, we hope, will be replaced by peace. The documents that we have just signed guarantee the sovereignty and integrity of Bosnia-Herzegovina and development of an open society based on tolerance and freedom. This we consider as the main and greatest result of the just-completed negotiations. We are thoroughly committed to honor and fulfill the obligations stemming from them. We plead the world to support and assist us in this task. This is not a just peace, but it is more just than a continuation of the war.”¹⁸

MAIN DETERMINANTS AND CONTENT OF THE DAYTON PEACE AGREEMENT

The content of the Dayton peace agreement includes the military aspects, the Constitution of BiH, a part on human rights and the return of refugees and displaced persons to their prewar places of residence. The Dayton peace agreement also includes a part on the role and authorities of the international community and the European Union with respect to the implementation of the Dayton peace agreement. In that respect, the Dayton peace agreement provided for establishment of military and civilian forces for its implementation. By decision of the United Nations Security Council, the peace-enforcement military forces were defined as forces under the control of the NATO alliance,

16 See Statement by Helmut Kohl, German Chancellor on the Dayton peace agreement, 23.11. 1995, p.3

17 See Statement by John Major, British Prime Minister after the brokering of the Dayton agreement, *Oslobodjenje*, 23. 11. 1995, p.4

18 See Alija Izetbegović, Statement after the brokering of the peace agreement, *Oslobodjenje*, 23.11. 1995, p.5

which also included military forces of a large number of non-NATO countries. The forces were given the mandate to stop all military activities on the ground, separate the forces on the ground, and establish peace and freedom of movement of the civilian population. In the first years after the war the Implementation Force (IFOR) peace enforcement troops on the ground totaled 60,000 members.

The civilian element of the international community for implementation of the Dayton peace agreement was the institution of the Office of the High Representative of the international community (OHR). As the supreme authority for interpretation of the Dayton peace agreement, the High Representative had the authority to initiate and direct activities of institutions of the international community with respect to implementation of the Dayton peace agreement. As part of his duties, the High Representative reports to the UN Security Council on the implementation of the Dayton peace agreement.

Establishment of democratic processes in the postwar development of BiH, economic recovery and return of refugees would be hardly feasible without the role of the High Representative. Many reforms in the postwar development of BiH were implemented with his mediation and he exercised his Bonn powers to promulgate a number of laws.¹⁹ The laws on border police, expansion of the Council of Ministers, establishment of a single military force, return of property to citizens of BiH, constitutional equality of peoples on the whole territory of BiH and the indirect taxation authority have a special place in the development of institutions of BiH.

A special characteristic of the Dayton peace agreement is that the international community had established institutions and defined their competencies with respect to the implementation of the agreement.

In addition to the High Representative of the international community, the Dayton agreement also provided for establishment of the Peace Implementation Council. The Board of Directors of the Peace Implementation Council regularly considered the reports of the High Representative of the international community on implementation of the Dayton peace agreement.

¹⁹ In the period from 1997 to 2009, on the basis of the Bonn powers, the High Representative of the international community imposed 145 laws that provided for main reforms in the process of integration of BiH into the European Union. See Pejanović, 2015, p.236.

The historical importance of the Dayton peace agreement is reflected in the fact that it stopped the war and the sufferings of civilians in BiH. The agreement allowed for development of the state of BiH and its institution in peacetime. Had the Dayton agreement not been achieved, the mass sufferings of the civilian population would have continued. There was a threat of annihilation of the Bosniak people. In the city of Sarajevo alone during the 1,425 days of its siege, 12,000 of its citizens were killed in shellings, of which 1,600 children. The establishment of peace in BiH was also an opportunity for strengthening peace in South East Europe. The geopolitical framework for establishment of peace was provided by the United States as the leading global power at the end of XX and beginning of XXI century.

During the peace building process in BiH over the past 25 years, new institutions of the state were established. The Council of Ministers was expanded from three to nine ministries. A single military force was established, as well as the indirect taxation authority, the BiH Prosecutor's Office and the Court of BiH. BiH also got its State Border Service and the national security service.

The Dayton peace agreement was a result of a compromise among negotiating parties. The compromises were influenced by the two neighboring countries (Serbia and Croatia), as well as the Contact Group countries, the European Union and the United States. The US officials had dominant leverage in putting pressures with the aim of achieving a peaceful solution. The biggest pressure to accept compromise solutions was directed at Alija Izetbegović, President of the Republic of BiH. In fact, the pressure to make compromises was primarily directed at the legal and legitimate authorities of the Republic of BiH, which had persistently fought for sovereignty, international legal identity, integrity and the multiethnic character of BiH.

LIMITATIONS OF THE DAYTON CONSTITUTION

Because of the compromises made with respect to its provisions, the Dayton constitution, as Annex IV of the Dayton peace agreement, has a number of limitations that prevent the state of BiH from being a functional democratic state. Despite the efforts of the international community, over the past 25 years the political partisan decision making process regarding the social development of BiH has been marked by constant political disputes and conflicts. The limitations are explained below.

All social and political interests of citizens in the social decision making process in parliamentary bodies of the entity and state are expressed, predominantly, on ethnic basis. This also contributed to the strengthening of powers of ethnic parties. Ethnic parties win majority support of citizens at parliamentary elections. Out of eight parliamentary elections in the post-Dayton period, the ethnic parties, specifically, the Party of Democratic Action (SDA), the Croat Democratic Union BiH (HDZ BiH) and the Serb Democratic Party (SDS), which after the parliamentary elections in 2006 was replaced by Milorad Dodik's Alliance of Independent Social Democrats (SNSD), won at six.²⁰ The will of citizens expressed at the elections cannot be brought into question even if it is ethnically-based. Problems in development and stability of parliamentary democracy emerge when after the election the winning ethnic parties get the right to establish a government of the parliamentary majority. According to the results of the elections, for example in 2014 and 2018, the government consisted of the Party of Democratic Action, the Croat Democratic Union and the Alliance of Independent Social Democrats. However, due to their conflicting programs and political concepts of development of BiH as a state, these parties do not have the historic power to adopt a coalition agreement with clearly defined political goals of social reforms, social-economic, political and cultural development of the BiH society and state. Instead of a coalition agreement, the winning ethnic parties apply a model of partnership to exercise executive government. The model uses an inter-party agreement with respect to just one issue: distribution of sectors in the government, ministries, state owned companies and public institutions. Due to the absence of a stable government formed on the basis of a coalition agreement, the Parliament of BiH loses its power with respect to adoption of laws and gets usurped by the leaderships of the three ethnic parties. The Parliamentary Assembly of BiH adopts a very small number of laws, between 10 and 20 a year. In such a way the parliamentary democracy is distorted and transformed into partocracy. At the same time, parliaments of other states that are in the process of integration into the European Union adopt several hundreds of laws a year. Globally looking, the state of BiH is managed by three ethnic parties, which are in political confrontation and constant political conflicts. That is why there is no successful social and economic development or

20 In 1998, Milorad Dodik, President of the Alliance of Independent Social Democrats, was elected Prime Minister of the Republika Srpska Government, as the leader of the opposition that at the time fought against Karadžić's policy of extreme nationalism. However, since 2006, Milorad Dodik has changed his policy and became an ethno-nationalist who negates the survivability of the state of Bosnia and Herzegovina. Over the past 15 years Milorad Dodik has continuously advocated the policy of secession of Republika Srpska from Bosnia and Herzegovina and in such a way impeded the implementation of the Dayton peace agreement and the integration of Bosnia and Herzegovina into the EU and the NATO Alliance.

employment for the youth. Citizens find solution in economic emigration and pursuing employment in European Union countries. As a result, in the past five years that is in the period from 2015 to 2020 around 200,000 BiH citizens had emigrated from BiH. The reason for their emigration is not just the economic existence, but also the increasing social and political instability and the general insecurity.²¹

Despite the above, in the public opinion polls, 75% of citizens of BiH stated that they support BiH's membership in the European Union.

The second limitation of the Dayton constitution of BiH is related to the internal political territorial organization of BiH. BiH is organized in two entities, the Federation of BiH and Republika Srpska, and the Brčko District. The entity of the Federation of BiH has multiethnic composition. The population of the Federation of BiH includes 70.4 % Bosniaks, 22.44 % Croats and 2.55% Serbs. Republika Srpska, as the other entity is almost a mono-ethnic entity. Its population is 81.51 % Serbs, 13.99 % Bosniaks and 2.31 % Croats. In a country that had multi-ethnic population on its entire territory for centuries, due to the consequences of war in the form of ethnic cleansing and ethnic grouping of the population, two ethnically-based entities were, unnaturally, established. The Dayton constitution gave the entities a wide range of competencies in comparison to the institutions of the state of BiH, which have insufficient competencies.

In addition to the above, there is also the entity-based voting and the aspect of entity-based approval in the process of adoption of laws in the Parliamentary Assembly of BiH. This results in frequent blockades in the decision making process in the BiH Parliamentary Assembly. In general, the territorial-political organization of BiH of two ethnic-based entities, not only limits the possibility for optimal functioning and development of the state of BiH, but also impedes internal integration of the state and its integration into the EU.

DAYTON PEACE AGREEMENT AND THE POLITICAL FUTURE OF THE STATE OF BIH

After three and a half years of war, suffering of people, devastation of economic and cultural assets, the Dayton peace agreement brought

21 The conclusions of the Study of Emigrations- Bosnia and Herzegovina stipulate: "The perception of political instability, the poor economic situation in the country and the institutional inefficiency are the factors that predominantly contribute to the high trend of emigration from the country." See Čičić, p.118.

peace to BiH and its citizens. The joy of the citizens in the days after the announcement of the Dayton peace agreement was visible both in the cities and the rural areas in BiH.

The arrival and deployment of peace-enforcement military troops in BiH was swift and successful. Military operations and conflicts became history. The citizens, particularly in Sarajevo and some other cities had waited for a long time to have peaceful nights and peaceful days - days and nights without shelling.

As the Dayton peace agreement was achieved under the leadership of the US Administration and was signed in the presence of representatives of the United States and the Contact Group members, the Agreement got the strength of an international geopolitical framework for establishment and building of peace in BiH.²² Namely, peace building and development of institutions of the state of BiH was given international basis and support.

After the signing of the Dayton peace agreement came the post-Dayton period. In the past 25 years several social-historic processes simultaneously took place in BiH. The main process was the establishment and strengthening of peace. Despite numerous difficulties related to the socioeconomic position of citizens, there were no major conflicts on social basis that would endanger peace because the wartime sufferings of the citizens of BiH had strengthened their will for peace and their multiethnic tolerance.

The second important sociohistorical process is the post-socialist transition of the BiH society. The transition leads to structural changes which include development of market economy, political democracy and protection of human rights in accordance with European and international standards.

The third sociohistorical process is the democratic consolidation that includes strengthening of democratic parliamentary bodies and development of state institutions.

The fourth process is related to the initiated historic path of integra-

²² The international geopolitical framework was achieved on the basis of the consensus of leading global powers within the Contact Group: US, Russian Federation, UK, France and Federal Republic of Germany. The European Union also joined the consensus.

tion of BiH into the European Union and the NATO Alliance. With the engagement and support of representatives of the international community, BiH implemented several reforms that led to the signing of the Stabilization and Accession Agreement with the European Union in 2008. In its parliamentary bodies, at the state and entity level, BiH developed a consensus on the strategic interest related to the integration in the European Union and the NATO Alliance. Within the scope of the historic process of integration of BiH into the European Union and the NATO Alliance, BiH will adopt the *acquis communautaire* and incorporate it in its laws. In such a way, in the process of integration into the EU, BiH will develop institutions and capacities of a rule-of-law country. After all, a state becomes stable when the rule of law is ensured in all the aspects of its existence.

Incorporation of the European standards stemming from the *acquis communautaire* in the laws of BiH will also lay the foundations for new reforms. One of the necessary reforms will be the constitutional reform. Within the constitutional reform it will be necessary to modify specific provisions of the Dayton constitution and particularly those related to the strengthening of capacities and competencies of central institutions of the state of BiH - the Parliamentary Assembly, the Council of Ministers and the Presidency of the State of BiH. Broadening the democratic capacity of the BiH Parliamentary Assembly, expansion of the Council of Ministers with new ministries, as well as replacement of a tripartite BiH Presidency with one president elected in the BiH Parliament will need to be done within the phase of negotiations on open chapters for membership in the EU.

Modifications of the internal territorial organization will be feasible once BiH becomes a member of the European Union and creates new assumptions for an interparty consensus, through strengthening of the power of civic multiethnic parties. It will be necessary to have the institutions of the European Union (European Commission, EU Council and European Parliament) support such a consensus, because pursuant to the Dayton peace agreement the EU has a Special Representative in BiH, who has a role in peace building and providing assistance in implementation of reforms within the process of integration into the European Union.

The constitutional reforms affect also the geopolitical aspects of survivability and development of the state of BiH. That is why the assis-

tance of the international community and the European Union will be necessary if the state BiH is to implement a constitutional reform. As long as BiH has not been invited to become a full-fledged member of the European Union, the engagement of the international community, including the use of Bonn powers, will be necessary. Abandonment of the use of Bonn powers since 2009 had led to strengthening of social powers that are against the survival of the state of BiH and its integration into the European Union and the NATO Alliance. Peace in BiH cannot be strengthened without the membership of BiH in the European Union and the NATO Alliance.

The political future of the state of BiH has its historical trajectory primarily within the process of integration into the European Union and the NATO Alliance. With the integration into the European Union and the NATO Alliance, all ethno-national policies that bring into question the survivability of the state BiH will be discarded. BiH has the natural and human resources, geographically is on European soil and its cultural characteristics are identical to those of countries that are European Union members. On that basis, it is entitled to an opportunity to develop as a rule-of-law state with all the prerequisites for its survivability, stability and self-sustainability. Therefore, the historical outcome of implementation of the Dayton peace agreement should be the full-fledged membership of BiH in the European Union and the NATO Alliance.

After 25 years of implementation of the Dayton peace agreement, the question of all questions is related to the necessity to accelerate the integration of the state of BiH into Euro-Atlantic institutions. Due to the geopolitical changes in Europe and the world, and the requirement to strengthen peace, it is necessary that the institutions of the European Union, and particularly the European Commission and the European Parliament, extend bigger political, economic and technical support to the acceleration of the integration of BiH into the European Union, so that BiH could fulfill the requirements for membership by 2030. In demonstration of such assistance, the Special Representative of the European Union in BiH needs to create a single agenda for implementation of reforms and a new framework for establishment of a broad coalition of parliamentary parties for a European rule-of-law state of BiH. In this context, after 25 years it is necessary to change the strategy of action of the international community and the European Union in BiH.

CONCLUSION

The research study was made on the occasion of the 25th anniversary of the signing of the Dayton peace agreement.

Over the past two and a half decades multiple problems have been identified in the implementation of the Dayton peace agreement. The process of development of the BiH society has generated some visible achievements that could lead to a stable development of the state. However, at the same time, some halts in development of the society and state are also notable. These halts have led to the deepening of the crisis in economic development, particularly since 2015, when several dozen thousands of young people left BiH and went to European countries in pursuit of economic prosperity. The researches conducted so far indicate that in the past seven years more than 200,000 people of young and middle age have left.

Another form of crisis, the crisis of political management, is also constantly developing. This form of crisis is conditioned by unfunctional political and legal organization of BiH within which all institutions and all national interests are defined on ethnic basis. In fact, this has provided for the strengthening of the three ethnic parties: SDA, HDZ BiH and SNSD. These parties win the support of their ethnic corps at elections. However, after parliamentary elections, they do not want and do not even attempt to establish a coalition agreement for the exercise of executive government by means of a parliamentary majority. They only establish partnerships for distribution of sectors in the government. As a result, neither the government nor the parliament exercises their constitutional powers and the power remains in the monopoly by ethno-national leaders.

When there is no consensus on a parliamentary majority, there is also no consensus for adoption of laws on reforms that would facilitate integration of BiH into the European Union. On top of it all, when it comes to political developments in BiH, the nationalist rhetoric is on the increase. In fact, Milorad Dodik, the leader of the Alliance of Independent Social Democrats (SNSD), has become the most vocal proponent of nationalist rhetoric. Since 2006 he has been continuously advocating for the secession of Republika Srpska from BiH. Dodik also advocates for the opposition to integration of BiH into the NATO Alliance. As a result, the work of the institutions BiH is blocked and there

is a notable trend of devaluation and degradation of the role and institutions of the state such as the Parliament, the Council of Ministers and the Constitutional Court. All this is done for one goal - negation of the possibility of functioning of the institutions of the state of BiH. This is often also combined with negation of the role of the High Representative of the international community in BiH.

The Dayton peace agreement has its historic outcome in the creation of geopolitical conditions and assumptions for BiH to successfully complete the historic projects of its integration into the European Union and the NATO Alliance. Joseph Biden in his address to the BiH Parliament said: “In the opinion of our Administration, the only right path is for you to join Europe.”²³ If the project of integration of BiH is not accelerated and successfully implemented by 2030, BiH will face even bigger economic poverty. It will become an area of new geopolitical influences of the Russian Federation, Turkey and China. Furthermore, nationalist forces will be further strengthened. The internal integration and the integration into the European Union and the NATO Alliance will be stopped. Such a trend of social developments could be stopped and turned in the direction of acceleration of the integration into the European Union and the NATO Alliance if modeling of a new strategy of the European Union and the international community is initiated.

Such a strategy should have several priorities: A) Synchronization of efforts by the US Administration and institutions of the European Union, particularly the EU Special Representative. His annual work plan would be a reform agenda, that is as a common framework for activities of the Special Representative, the legislative and executive government at the BiH and entity level; B) In light of the geopolitical changes in the world and Europe, ensuring additional political, economic and technical support to BiH in the process of fulfillment of conditions for accession to the European Union and the NATO Alliance. The geo-policy of development of peace in BiH has its framework in the Dayton peace agreement and the project of accelerated integration in to the EU and the NATO Alliance; C) The international community and the European Union can make their new strategy for implementation of the Dayton peace agreement realistic if they continue to use the Bonn powers of the High Representative of the international community,

23 Joseph Biden: *The rhetoric of distrust must stop*, address to the BiH Parliament, 19 May 2009, Radio Free Europe, 19 May 2009.

as well as bring new faces to the Office of the High Representatives in Sarajevo; D) It is necessary to establish a joint expert team for constitutional reforms within the Office of the Special Representative of the European Union and the Office of the High Representative of the international community (OHR). The team would include international and national experts, as well as representatives of nongovernmental organizations in BiH. E) Introduce the practice that the European Parliament adopts the annual report of the Special Representative of the European Union on implementation of reforms in BiH.

REFERENCES

- Čičić, M., ed. et al., 2019. *Study of Emigrations-Bosnia and Herzegovina*. Book 4. Sarajevo: BiH Academy of Science and Arts (ANUBiH), Center for Systemic Researches.
- Holbrooke, R., 1998. *Završiti rat*. Sarajevo: Šahinpašić.
- Bilić, I., Tuđman, M., 2005. *Planovi, sporazumi, izjave o ustavnom ustrojstvu Bosne i Hercegovine 1991 – 1995*. Zagreb.
- Komšić I., 2006. *Preživljena zemlja- tko je kada i gdje dijelio BiH*. Zagreb: Prometej.
- Steiner, C., Ademović, N., 2010. *Constitution of Bosnia and Herzegovina- Commentary*. Sarajevo: Konrad Adenauer Foundation.
- Pejanović M., 1999. *Bosansko pitanje i Srbi u Bosni i Hercegovini*, Sarajevo: Bosanska knjiga.
- Pejanović M., 2005. *Politički razvitak Bosne i Hercegovine u postdejtonskom period*. Sarajevo: Šahinpašić.
- Pejanović M., 2013. *Ogledi o državnosti i političkom razvoju BiH*, 3rd edition. Sarajevo: Šahinpašić.
- Pejanović M., 2015. *Država Bosna i Hercegovina i demokratija*. Sarajevo: University Press.
- BiH Academy of Science and Arts, 2015. *Dayton Peace Agreement and Future of Bosnia and Herzegovina*, Compendium, scientific symposium, Book CLXVI. Sarajevo: BiH Academy of Science and Arts.
- BiH Academy of Science and Arts, 2016. *Geopolitical Changes in the World and Europe and the Position of Bosnia and Herzegovina*, Compendium, Book CLXXII. Sarajevo: BiH Academy of Science and Arts.
- BiH Academy of Science and Arts, 2017. *Demographic and Ethnic Changes in BiH*, Social Sciences Department, Book IX. Sarajevo: BiH Academy of Science and Arts.
- Oslobođenje* daily of 22 November 1995.
- Joseph Biden: The rhetoric of distrust must stop, address to the BiH Parliament, 19 May 2009, Radio Free Europe, 19 May 2009.