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Written statement* submitted by Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2022]

* Issued as received, in the language of submission only.



Bosnia and Herzegovina: Ethnic Partition at the Expense of Minorities Should Not be Allowed

The current political situation and security crisis in Bosnia and Herzegovina (B&H) are giving cause for concern. The Dayton Peace Agreement that ended the 1992-1995 war at the cost of the country's de facto partitioning into two separate entities, Republika Srpska (RS) and the Federation of Bosnia and Herzegovina (FB&H), has not resolved the basic causes of conflict.

In October 2021 the coalition government in RS formulated a plan to create an autonomous Serb entity within the boundaries of Bosnia and Herzegovina established by the Dayton Agreement. The plan identified possible first steps towards a unilateral, illegal and unconstitutional transfer of state competencies in areas including public finance, judicial institutions, defence and security. It called for a forceful response to any state institutions seeking to preserve existing constitutional arrangements. Implementation would lead to the collapse of the country's constitutional and institutional architecture. Some steps have already been taken and the ruling coalition in RS has made clear its intention to proceed with the plan's implementation.

On 10 December 2021 the RS National Assembly passed four resolutions relating to the transfer of competencies and adopted a "Declaration on Constitutional Principles". The decisions meant the entity's de facto and de jure withdrawal from state-level arrangements governing judicial institutions, defense, security and indirect taxation. The National Assembly also approved new laws providing for the creation of RS's own army and security service and its supreme judicial and prosecutorial organs, along with 130 other laws and regulations covering various areas of government activity. Republika Srpska intends to repeal all] state-level laws and regulations and replace them with special measures applicable only to RS, even though neither the State Constitution nor the Constitution of RS, nor any specific legislation, allow for entity-level legislation or decision-making on matters already provided for by the Constitution or in national law.

In October 2021 the RS Official Gazette published the draft text of an unconstitutional law on non-application in RS of the law against genocide denial imposed in July 2021 by the former High Representative of the International Community in Bosnia and Herzegovina, Valentin Inzko. Convicted criminals continue to be celebrated in Republika Srpska and during the past twelve months at least 40 criminal charges have been brought (as of July 2022) but not one individual has been convicted. Serb politicians are paralysing and sabotaging the operation of Bosnia and Herzegovina; they are preventing all progress towards EU accession and the possibility of a lasting regional peace.

On 28 December 2021 the Official Gazette published another unconstitutional law, the RS Pharmaceuticals and Medical Devices Agency Law. As the European Commission pointed out in its recent written communication to the RS authorities, this could lead to the complete collapse of the country's pharmaceuticals sector and the health care system.

Nationalist efforts to reinforce ethnic divisions rather than strengthen democratic processes have the support of Serbia's President, Aleksandar Vučić and other government figures. Vučić's "Greater Serbia" aspirations could easily lead to war, and Serbia has been raising tensions in Montenegro and Kosovo as well. The lessons of the terrible wars in the Balkans have not been learned. The supporters of separation are also able to count on support from other countries – the Russian Federation, China, and EU States such as Hungary where nationalism, xenophobia and Islamophobia are on open display.

The nationalist Croat Democratic Union (HDZ) party in Bosnia and Herzegovina and like-minded nationalist politicians next door in Croatia have long been calling for electoral reforms in the FB&H that would benefit the HDZ. Croatian President Zoran Milanović and Prime Minister Andrej Plenković and Croatian Members of the European Parliament are among the politicians who have been lobbying for changes to Bosnia and Herzegovina's Elections Law. Many Bosnians regard this as dangerous meddling in the affairs of a neighbouring state, mindful of the wartime efforts by the governments of Croatia and Serbia to dismantle Bosnia and Herzegovina and divide it up between themselves. Croat Nationalists in Bosnia and Herzegovina want to achieve a monopoly of power in the southern part of the

Federation; they would like to exclude members of other ethnic groups and dissident voices from access to political power. While anxious to legitimise his party's aspirations, Dragan Čović, the President of HDZ, celebrates the so-called "Herzeg-Bosna" in whose name so many crimes against humanity were committed against the non-Croat population during the Bosnian war.

A storm of outrage and protests stopped the present High Representative for Bosnia and Herzegovina, Christian Schmidt, from altering the Federation's Constitution and amending the franchise. He wanted to introduce a minimum "three per cent" threshold for candidates at the elections due on 2 October 2022. This would have meant that representatives of one of the three "constituent groups" (Bosniaks, Serbs and Croats) could only stand for election to the Federation's upper chamber, the House of Peoples, in cantons where the group accounted for more than three per cent of the population. The result of this would have been to increase the number of delegates elected from Federation cantons where Croats are in the majority, reinforcing HDZ's control in those areas and ensuring that all the Croat representatives were HDZ supporters. Although High Representative Schmidt is now proposing to implement only uncontroversial proposals aimed at increasing voting transparency and preventing electoral manipulation, the fear remains that he may still use his "Bonn Powers" to amend the law to HDZ's advantage. This would cause a political crisis that could pose a serious threat to the peace.

The threat of a return to war and the fear of death, destruction and suffering would provoke a large-scale exodus towards the rest of Europe - and the certain end of the European Idea. Bosnia and Herzegovina is a specific cultural entity that has been in existence for more than 100 years and where people of different ethnic backgrounds and religious traditions have lived together for centuries. Neither the Peace Agreement nor the Constitution provide for a right of secession. It would set a disastrous precedent if an "entity" whose political and military leaders had been found guilty of committing crimes of genocide and other serious war crimes were to be granted its autonomy, and the creation of a third entity (one with a Croat majority) would mean a capitulation to ethnonationalist pretensions and confirm the ethnic partitioning of the country.

Society for Threatened Peoples therefore calls upon the United Nations Human Rights Council:

- with the United Nations, Peace Implementation Council (PIC) Member States and the EU, to insist on the multinational nature of Bosnia and Herzegovina and oppose any further division along ethnic lines
- with all PIC Members (and Participants) and EU Member States, to resist any compromise with Croatia and Croat supporters of extremist policies in Bosnia and Herzegovina, Dragan Čović above all, in order to prevent them joining up with Milorad Dodik to destroy Bosnia and Herzegovina. EU and European Commission assistance to Croatia should be withheld as long as senior figures in the Croatian government continue to support ethnonationalism and the creation of a third entity in Bosnia and Herzegovina.
- with the High Commissioner for Human Rights and other PIC Members, to call on the Croatian government to refrain from nationalistic instrumentalisation of Bosnia and Herzegovina's Croat population. An EU Member State should not be undermining the peace in Bosnia and Herzegovina and the region as a whole by promoting ethnonationalism.
- in its dealings at all levels with EU Member States and the UN Security Council, to make it clear that if the Serbian government is not prepared to alter its stance towards Bosnia and Herzegovina, including its position on the war crimes and genocide perpetrated during the Balkan wars of the 1990s, EU accession talks should be suspended and the government warned against interfering in the internal affairs of a neighbouring country,
- to urge the EU to use targeted sanctions against politicians who obstruct the proper functioning of the state and jeopardise the peace, including measures such as the

ending of EU financial support, EU travel bans and the freezing of overseas bank accounts.

- with UN Member states, to give unreserved support to efforts by High Representative Christian Schmidt finally to implement the ECHR's rulings in the Sejdić/Finci and Zorić cases so as to enable members of every ethnic community, including minorities, to stand for election to the State Presidency and other senior positions. This will require reform of the electoral franchise in order to guarantee the principle of equal voting rights.
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