



**BOSNIA AND HERZEGOVINA**  
**THE PRESIDENCY**

December 14, 2008

H.E. Mr. Neven Jurica  
President of the Security Council  
United Nations  
New York

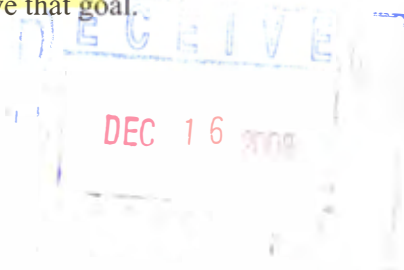
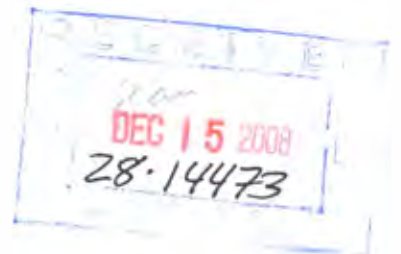
Dear Mr. President,

On December 5, 2008, the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, Mr. Miroslav Lajčák, addressed the United Nations Security Council on the situation in Bosnia and Herzegovina. The purpose of this letter is to clarify issues that the High Representative raised in his address. Absent such clarification, the High Representative's address would leave the members of the Security Council with an incomplete and misleading portrayal of the situation in Bosnia and Herzegovina.

The High Representative blamed the current political impasse in Bosnia and Herzegovina on the "negative and nationalist rhetoric from all quarters." The current political situation in Bosnia and Herzegovina, however, is not caused by rhetoric and internal quarrels. Rather, it is mainly the result of the partial and selective implementation of the Dayton Peace Agreement due to the obstructions by the Republika Srpska authorities.

The High Representative specified a number of concrete obstructions and serious challenges to the institutions, competencies, and laws of Bosnia and Herzegovina by the Republika Srpska authorities. The High Representative failed, however, to mention any measures that his office is mandated to take to curtail those obstructions and challenges. As a matter of fact, the High Representative has taken no such measures for over a year now.

Instead, the strategy of some in the international community has focused on ending the mandate of the Office of the High Representative. While the Peace Implementation Council initially identified specific goals and conditions that must be met before any such move can be undertaken, the transition itself has now become the goal. The stated benchmarks are, in turn, consistently lowered in order to serve that goal.



The mandate of the High Representative is to oversee the implementation, not the violations, of the Dayton Agreement. Unfortunately, the reality is that we are not only experiencing systematic violations of the Dayton Agreement, but also a pressure to effectively renegotiate a number of Dayton's core elements simply because the Republika Srpska authorities are refusing to implement them.

Attempts to draw attention to these violations and obstructions have not been met with support by the Office of the High Representative. Instead, they have been characterized as unhelpful at best and intransigent at worst. This strategy of equalizing "the sides" has only served to encourage obstructions coming from Republika Srpska while the proposed or supported solutions repeatedly fall far short of Dayton's principles.

Pointedly, in his address to the Security Council, the High Representative characterized my speech to the United Nations General Assembly and my letter to the heads of state of the European Union and NATO countries as "negative rhetoric" and a "private political agenda." It is evident, however, that the speech and the letter, both of which I have enclosed, either quote the views of relevant international institutions or draw attention to the specific and persistent violations of the Dayton Agreement. I strongly believe that the truth must be told even if it is inconvenient or unpleasant to hear.

For the past thirteen years, I have fought, together with other democratic political forces in Bosnia and Herzegovina, against attempts to turn the Dayton Agreement into a *de facto* implementation of Milosevic's project. I have been doing this through all relevant institutions and in various capacities, including as the President of a political party and a democratically elected member of the State Presidency. To describe my efforts as a private political agenda is, therefore, nonsense without a precedent.

The High Representative continued this policy of least resistance by lending unqualified support to a recent agreement by three party leaders on the issue of State property. This agreement aims to transfer most of such property to the entities under the "territorial principle." Article I of the Constitution of Bosnia and Herzegovina and the Agreement on Succession between the states of the former Yugoslavia, however, make clear that this property already belongs to Bosnia and Herzegovina, a fact recently confirmed in a landmark ruling by the State Court of Bosnia and Herzegovina.

By supporting a "compromise" solely borne out of the obstructions by the Republika Srpska authorities over the use of the State property, the High Representative has endorsed a solution that suspends legal obligations and effectively transforms Bosnia and Herzegovina into a State union of its two entities. Moreover, such a solution serves as a cover for illegal activities related to the disposition of State property since April 6, 1992, which is contrary to the declared goal of eradicating corruption and criminal activity.

In my speech to the United Nations General Assembly, I underlined the fact that the international community admitted it had made tragic mistakes with respect to Bosnia and Herzegovina. The effects of these mistakes continue to be acknowledged, both through the Judgment of the International Court of Justice on genocide in Bosnia and Herzegovina and through the trial of Radovan Karadzic for multiple counts of genocide across Bosnia and Herzegovina and against both Bosniaks and Croats.


Mistakes can be made, but they must not be repeated. Trivializing the real causes of the current situation in Bosnia and Herzegovina represents another such mistake. Indeed, the High Representative failed to mention, in his address, the International Court of Justice judgment despite the fact that this is the first and only judgment on genocide in history.

In conclusion, I would like you to know that I am an optimist and that I sincerely believe that the international community will find the requisite political will to fully implement the Dayton Peace Agreement and apply the principles and norms of international law in Bosnia and Herzegovina. Whenever such political will was demonstrated in the past, as with respect to the defense reform and other reforms, those principles prevailed. In fact, we are about to embark on a comprehensive constitutional reform, and we expect that the international community will not remain on the sidelines, but that it will take an active role in ensuring that the new constitution reflects the values of a modern, multicultural democracy.

In the meantime, we hope that we will be assisted in resisting attempts to transform an old multicultural society into a medieval ethnocracy based on the results of genocide, ethnic cleansing, crimes against humanity and war crimes that occurred at the turn of the 21<sup>st</sup> century. This can be accomplished by fulfilling the requirements of the Annex 7 of the Dayton Agreement which mandates the return of all refugees, upholding all human rights provisions contained in Dayton, and by focusing special attention on education and media in order to enable the citizens of Bosnia and Herzegovina to enjoy the privileges of a fully democratic state and society.

I shall be grateful if you would bring this letter to the attention of the members of the Security Council.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Haris Silajdzic', with a stylized, cursive script.

Haris Silajdzic  
Member of the Presidency

CC: H.E. Mr. Ban Ki-moon, United Nations Secretary-General

H.E. Mr. Miguel d'Escoto Brockmann, United Nations General Assembly President



**BOSNIA AND HERZEGOVINA**  
**THE PRESIDENCY**

November 16, 2008

Your Excellency,

I write to draw your attention to the continued activities in Bosnia and Herzegovina, which have recently grown in frequency and intensity, to undermine the Dayton Peace Agreement and to effectively renegotiate some of its core principles.

Thirteen years after the Dayton Peace Agreement, we are witnessing the final stages of an attempt to transform Bosnia and Herzegovina into a weak union of its two entities. While the plan that Milosevic and his followers concocted for Bosnia and Herzegovina has not changed, it appears that the international community's willingness to accept it has changed. If that is indeed the case, this tactic is certain to further undermine the stability of Bosnia and Herzegovina and encourage nationalistic forces in the neighbourhood that have been the cause of the cataclysm in the former Yugoslavia in the first place.

The lack of implementation of Dayton's provisions, coupled by orchestrated obstructions, has solidified ethnic divisions, both physical and psychological. It has preserved and strengthened ethnically clean territories that were initially created through gross violations of peremptory norms of international law, including genocide that was confirmed as such by the International Court of Justice in a first such ruling in history. Paradoxically, this is happening to a country that has for centuries served as a model of multiculturalism, but it seems that this model is obsolete at the beginning of the 21<sup>st</sup> century, of the global melting pot. Any attempt to correct this course is dubbed by some representatives of the international community in Bosnia and Herzegovina as "backward looking". It follows that the forward looking would be given full legitimacy to Milosevic's and Karadzic's project in Bosnia and Herzegovina, which is, at best, the apartheid. We already do have segregated schools, which I consider to be a disgrace for us in Bosnia and for the international community as well. Bosnia and Herzegovina appears to be on the outside of the changes sweeping the world of which the change in the United States of America is the best example. To be sure there are positive results too but the current strategy is not conducive to creating an integrated society able to interact with democratic societies in Europe and elsewhere.

It appears that the status quo created by genocide, crimes against humanity and war crimes has acquired a degree of sanctity in Bosnia and Herzegovina and that genocide and ethnic cleansing are being rewarded. Excessive pragmatism coupled with political



expediency displayed in Bosnia and Herzegovina threatens to distort beyond recognition the basic values and standards codified in the UN Charter and various conventions.

Considering the fact that progress that Bosnia and Herzegovina has made over the years was largely the result of decisions imposed by the Office of the High Representative, it is inexplicable that some in the international community are not only ready to bless OHR's exit from Bosnia and Herzegovina, but are ready to do so after creating conditions that further erode some of Dayton's core principles.

The two issues that have precipitated this letter are the status of state property and the population census. The first issue concerns the attempt to legalise disposition of the state property that has occurred since 1992, contrary to the Constitution of Bosnia and Herzegovina and the Agreement on Succession Issues of the former Yugoslavia. The attempt also includes the so-called territorial principle, which is, *nota bene*, used only in cases of state dissolution as in the case of Serbia and Montenegro. This exemplifies the decision from 1998 to carry out the entity-based privatization of the public property that has had a devastating affect on our economic potential, which is a mistake we must not repeat in the case of state property.

The second issue concerns the attempt to legalise genocide and ethnic cleansing in Bosnia and Herzegovina by allowing the census with ethno-cultural data to proceed before the return of refugees is completed, as mandated by Annex 7 of the Dayton Peace Agreement. All this is occurring despite the ruling of the International Court of Justice on genocide in Bosnia as well as various UN resolutions, including Resolution 56/83 which mandates that no state shall recognise the situation created by a breach of peremptory norms of international law, nor render aid or assistance in maintaining that situation.

I must regretfully add that any opposition to such a course is immediately qualified as intransigence. While in other countries denial of genocide is punishable by law, any mention of genocide that occurred 13 years ago in Bosnia is met with disdain regardless of the fact that Karadzic is on trial at the ICTY, whose outcome we are awaiting, charged with multiple genocides across Bosnia. Resolutions of institutions such as EU Parliament and the Council of Europe, which clearly state that provisions of the Constitution of Bosnia and Herzegovina must be changed, are qualified as non-binding. It should also be noted that for more than a decade now attempts have been made, through concrete actions, to fully implement the Dayton Peace Agreement but obstructions stood in the way and the results have been mixed at best.

Unless the international community reassesses its current tactics with respect to Bosnia and Herzegovina, the country will soon enter the most precarious phase of its existence since the end of the war. Acquiescing to the demands of the Republika Srpska entity (one of the two entities in Bosnia and Herzegovina) would not help reverse this process. After the OHR withdrawal and the weakening of the state, all blockade mechanisms will remain. The Republika Srpska entity will be emboldened by gains that not even Milosevic could obtain, and will continue to block Bosnia and Herzegovina in exercising its responsibilities especially after the reduction of such responsibilities. The end result will be further stagnation of the state, and a Bosnia and Herzegovina that is unable to speak with a single voice or operate as a single state.

Excellency,

An overall majority of citizens of Bosnia and Herzegovina strongly support Bosnia and Herzegovina's membership in the European Union. In order to make progress in achieving that goal I am not asking you for the imposition of all solutions for Bosnia and Herzegovina, but I am asking you not to impose those values and standards that are clearly not European and certainly not Bosnian.

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Haris Silajdzic', with a stylized, cursive script.

Haris Silajdzic  
Member of the Presidency



Bosnia & Herzegovina

## **BOSNIA AND HERZEGOVINA**

### **STATEMENT**

by

**H.E. Dr. Haris Silajdžić**

Chairman of the Presidency of Bosnia and Herzegovina  
Head of Delegation of Bosnia and Herzegovina  
at 63<sup>rd</sup> Session of the General Assembly, on the occasion of General Debate

New York  
September 23, 2008

DEC 16 2008

Mr. President,

Mr. Secretary-General,

Distinguished Delegates,

Ladies and Gentlemen,

It is an honor to address the sixty-third session of the General Assembly of the United Nations. Allow me to express my gratitude to Mr. Srgjan Kerim who ably presided over this body during the preceding year, and to congratulate Father Miguel d'Escoto Brockman, the new President of the General Assembly.

The first time I stood at this podium was in May 1992, as the Foreign Minister of a newly-independent Bosnia and Herzegovina. At that time, I recounted the unspeakable atrocities that were unfolding in my country. I also warned that, if not stopped, such atrocities would only get worse. In fact, I merely asked that Bosnia and Herzegovina be afforded the right to defend itself, the right guaranteed by the UN Charter.

We know what has happened since. Some in the international community insisted on maintaining the arms embargo imposed by the UN Security Council in 1991, thus adding to the obviously overwhelming military advantage of Milosevic's regime that was bent on destroying Bosnia and its people. They justified this course by claiming that the lifting of the embargo would add oil to the fire. The result, inevitably, was quelling that fire with the blood of the innocent.

According to the ICRC data, 200,000 people were killed, 12,000 of them children, up to 50,000 women were raped, and 2.2 million were forced to flee their homes. This was a veritable genocide and sociocide. The intent of the perpetrators of this genocide was to forever destroy the unique multi-ethnic fabric of Bosnia and Herzegovina through mass slaughter, rapes, torture, abuse, expulsion and plunder. Despite of this, defenders of our country conducted themselves honorably, as demonstrated by the ICTY acquittals of most of Bosnia and Herzegovina's military leadership.

All this culminated in Srebrenica in July, 1995. The International Court of Justice, in its Judgment of February 26, 2007, ruled that

“[T]he Bosnian Serbs devised and implemented a plan to execute as many as possible of the military aged Bosnian Muslim men present in the enclave..., that the acts committed at Srebrenica...were committed with the specific intent to destroy in part the group of the Muslims of Bosnia and Herzegovina as such; and accordingly that these were acts of genocide, committed by members of the [Army of Republika Srpska] in and around Srebrenica from about 13 July 1995.”



Ladies and Gentlemen,

Through its acts and omissions, the United Nations, by its own admission, bears a part of responsibility for the crimes committed at Srebrenica. In fact, the UN Secretary-General's Report on Srebrenica from 2000 unequivocally states:

“Through error, misjudgment and an inability to recognize the scope of the evil confronting us, we failed to do our part to help save the people of Srebrenica from the Serb campaign of mass murder...Srebrenica crystallized a truth understood only too late by the United Nations and the world at large: that Bosnia was as much a moral cause as a military conflict. The tragedy of Srebrenica will haunt our history forever.”

We do not want the United Nations to be haunted. This organization's credibility is too important to the world to carry the burden of this failure. Errors can be committed, but errors must not be repeated. We want the UN to right the wrongs. In fact, international law mandates that this must be done. Namely, the International Law Commission's Articles on State Responsibility, adopted in this Assembly's Resolution 56/83 of 12 December 2001, mandate that: “no State shall recognize as lawful a situation created by a serious breach of a [peremptory norm of general international law],” which clearly includes the crime of genocide and the crimes against humanity, “nor render aid or assistance in maintaining that situation.”

If these principles had been applied, would the institutions identified by the ICJ as perpetrators of genocide still exist? Would vast portions of a country remain ethnically clean? Would over 1 million of refugees and displaced persons remain outside their homes? In short, do these principles allow for the arrest of Karadzic and the simultaneous preservation of the results of his project?

We cannot bring back the dead, but we can give dignity and justice to the survivors. What we say today is not aimed at the past, but at the future, and not only for Bosnia and Herzegovina. We owe it not only to the victims and survivors, but to the humanity as a whole. The message to the would-be perpetrators of crimes in the name of a twisted ideology should be crystal clear: do not even think about it, your terror will not pay off.

In Bosnia and Herzegovina, we had the opportunity to make that true by a consistent implementation of the 1995 Dayton Peace Agreement, which ended the aggression, stopped the genocide, and brought peace. These were its major accomplishments, and their value cannot be overemphasized.

Dayton, however, was also intended to reverse the effects of genocide and ethnic cleansing. It had all the necessary elements to do so. Instead, in the words of the Constitutional Court of Bosnia and Herzegovina, its main provisions have been a victim of:

“a systemic, continuing and deliberate practice of the public authorities of Republika Srpska with the goal of preventing the so-called ‘minority’ returns,

either through direct participation in violent incidents or through the abdication of responsibility to protect the people from...violent attacks due solely to their ethnic background.”

Dayton never intended such ethnic apartheid to take root in Bosnia and Herzegovina. It is not the implementation of Dayton, but the violation of its core principles, that led to this result. It would be a grave mistake to recognize this result as lawful and legitimate.

It is the responsibility of this organization to make it right. Just as we should not have been forced to smuggle arms to defend ourselves, we should not be forced to smuggle basic human rights, justice and democracy into Bosnia and Herzegovina.

Without righting this wrong can we genuinely celebrate the 60<sup>th</sup> anniversary of the adoption of the Universal Declaration of Human Rights this December. Moreover, can we celebrate the 60<sup>th</sup> anniversary of the adoption of the Genocide Convention if the first and only judgment of the International Court of Justice on the crime of genocide remains in the archives of that Court?

Ladies and Gentlemen,

Now is the time to right these wrongs. We are about to start work on the new Constitution of Bosnia and Herzegovina, and the outcome of that process will answer many of these questions.

To those who now seek to legitimize the systemic violations of the Dayton Agreement, we all must say: make no mistake, genocide will not be rewarded.

Rewarding genocide could send a dangerous message throughout the world, and would surely undermine the chances for permanent peace and stability in both Bosnia and Herzegovina and the region. Seekers of justice are not the enemies of peace. They are the guardians of peace.

Certainly, there are those in Bosnia and Herzegovina who would not agree with this, but they are surely not the victims of genocide.

Dear Friends,

We have not forgotten the help we received from many of the countries represented here today. A number of your soldiers, diplomats, aid workers and journalists died in Bosnia and Herzegovina while working to end the aggression, bring peace, ease the suffering, or to make sure the rest of the world knew about it. For that we thank them once again, and renew our sympathies to their families. An even greater number of countries have assisted us in rebuilding our society after the aggression, and we extend our heartfelt gratitude for that as well. Bosnia and Herzegovina still needs your help in this regard, and we hope that we can work together in order to ensure permanent peace and stability in my country.

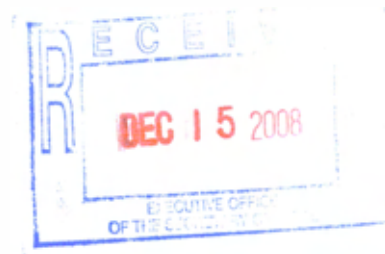


*Stalna Misija Bosne  
i Hercegovine pri UN  
NJUJORK*

*Permanent Mission of Bosnia  
and Herzegovina to the UN  
NEW YORK*

Стална Мисија Босне  
и Херцеговине при  
УН ЊУЈОРК

No: 201-31-1060/08  
New York, December 15, 2008



Excellency,

Please find enclosed the letter from H.E. Dr. Haris Silajdžić, Member of the Presidency of Bosnia and Herzegovina for your kind attention.

Please accept, Excellency, the assurances of my highest consideration.

  
Mirsada Čolaković  
Charge d'Affaires a.i.

**H.E. Mr. Ban Ki-moon**  
**Secretary-General of the United Nations**  
**Office of the Secretary General**  
**United Nations**  
**New York**