

An interview for Globus (the most important Croatian political weekly)

The strongest political voice of Croat intellectuals in Bosnia and Herzegovina - “Bosniak unitarists have staged a coup against the country and the Dayton Agreement”

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A renowned sociologist from the Institute for social and political research (IDPI) in Mostar, and one of the authors of the highly noted Election law of BiH reform proposal, in a big interview with Globus, two months before the general elections in BiH, presents the gloomy picture of the political reality in a country in which not even the Constitutional court ruling is respected, and one of the Constituent peoples – the Croats – are being denied even the basic constitutional rights.

Ivan Vukoja is a sociologist who has been researching key phenomena and processes within the Bosnian-Herzegovinian society and state for almost two decades. He is one of the founders of the journal for political culture and social issues “Status” which is published in Mostar. He has been editor in chief of this journal, which for years has been renowned as the most authoritative journal in Bosnia and Herzegovina and wider on issues in complex, multinational, (post)conflict and

transitional societies and states. The journal especially explores the principles and models of harmonization and stabilization of such societies.

Contributors to Status proudly point out that the discussion about the concepts and principles of consociational democracy has been introduced into public, academic and media discourse in Bosnia and Herzegovina through Status.

Four years ago, together with a group of associates from Status, Mr. Vukoja founded in Mostar the Institute for social and political research (IDPI). In addition to a multitude of analyses and academic texts published on Institute's website, IDPI has also published a study in 2016 titled "Bosnia and Herzegovina – FEDERALISM, EQUALITY, SUSTAINABILITY (A study of BiH redesign to secure institutional equality of constituent peoples)." Mr. Vukoja was one of the authors and editors of this study.

A few months ago, IDPI has published an Election law of BiH reform proposal. IDPI claims that their proposal implements both the Constitutional court of BiH ruling in the "Ljubic case" and the rulings of the European Court of Human Rights (ECHR) in "Sejdic-Finci," "Zornic" and "Pilav" cases. There is a prevailing opinion in the expert and political community in BiH that without the implementation of the "Ljubic ruling," or in other words, without the election law reform that this ruling requires, it will not be possible to implement the results of the general elections in BiH which will be held of October 7, 2018. This could lead to the biggest crisis and blockade of the institutional and political system since signing of the Dayton Peace Agreement.

About all of this, but also about what is the essence of BiH without which it is not possible to understand its history or its current events, nor is it possible to design its future, I spoke with Professor Ivan Vukoja these days in Međugorje.

What were your motives for founding journal Status and what was the objective of this journal?

Maybe it will sound a bit weird or presumptuous, but my motive was state-building. One of the most accurate definitions of BiH is in the title of the book by Mirjana Kasapovic "Bosnia and Herzegovina – divided society and a fragile state." My primary motive for starting journal Status and for my social activism in general is to contribute to the process in which BiH should become integrated society and prosperous state.

The question I was interested in at the start of 2000s was who and how builds the state and forms the society. Therefore, together with associates, I founded the journal which was envisioned as a framework within which the society and the state would be examined and designed, going from the highest theoretical and conceptual register all the way to the specific models and arrangements of integrating Bosnian-Herzegovinian society and planning and building BiH as a state.

How did this process go and are you satisfied with the results?

As an editor, I quickly realized that most authors in Status can be placed into two groups: those who think about the society and the state from the perspective of conceptualized reality, and those who come from the perspective of ideologized reality. The best example to understand the difference

between these two perspectives is their relation towards the fact that Bosniaks, Serbs and Croats according to the Constitution of BiH have constituent peoples status. Those who conceptualize reality would start from this fact and attempt to introduce in academic and public discourse theories and concepts which deal with issues of complex, multinational, (post)conflict and transitional societies and states, or in other words, principles and models of harmonization and stabilization of such societies.

In contrast to them, those who ideologize reality would not start from societal realities and facts, but rather from theories and ideologies which are in accordance of their utopian vision of Bosnia (often without Herzegovina) as a civil “Arcadia,” and which deemed that national and civil, collective and individual, are mutually exclusive, rather than complementing each other.

The constitutional fact that three constituent peoples live in Bosnia and Herzegovina and that in accordance with this constituent status they have certain rights did not fit in their ideologized reality. Therefore, they mostly relativized and ignored these constitutional facts and societal realities. Either intentionally or not, academics who ideologized reality created “civil narrative” which was used as a legitimation framework and socially desirable mask of (greater)Bosniak nationalism and unitarism.

In the meantime, that majority nationalism and unitarism policy has been so exposed and has been throwing such a tantrum that it mostly does not even bother to camouflage itself with faux universalist civil mask. Rather, it more often acts from open nationalistic and chauvinistic positions. Therefore, a part of original academics who ideologize reality has consciously retired from the public, and other part has simply had their public and social use “expired” as the argumentative registry of unitarist and nationalist politics has been degrading further and further every day.

When we were setting up this interview you told me that you would like to explain the essence of BiH, that which is *differentia specifica* of Bosnia and Herzegovina as a society and state. BiH is a highly complex state and I have to admit that it is sometimes very hard to understand what is happening in BiH even to me, as well as what are the causes of this state and in which direction will political processes in BiH go...

The essence, the basic principle of BiH as a society and as a state is the principle of the constituency of three people: Bosniaks (who were known as Muslims before), Serbs and Croats. This “three-constituency” is not only the basic principle of BiH, but also a measurable and verifiable historic, cultural, constitutional, legal, political and demographic fact.

During the whole modern history of BiH there were always three clearly defined identity-based communities which made up a vast majority of the population of the country and which had some form or degree of religious, cultural and political autonomy. In the Ottoman period this was done through the “millet” system. During Austro-Hungarian period this was done through confessional key when electing the members of the Parliament, and through the principle of rotation and parity when it comes to the high offices and functions.

The most well-known and the most precise definition of the “three-constituency” was in the decision of the ZAVNOBiH (State Anti-fascist Council for the National Liberation of Bosnia and Herzegovina) from 1943 which states that BiH “is neither Serb, nor Croat nor Muslim, but Serb and Muslim and Croat.” In Socialist Republic of BiH, which was a part of the Socialist Federative

Republic of Yugoslavia, all important functions were harmonized with the principle of national key. The principles of federalism and consociation were the prerequisite for the international recognition of BiH and the foundation of the Lisbon Agreement, as well as an integral part of all proposed peace agreements – Vance-Owen, Owen-Stoltenberg, Contact Group plan, as well as the Washington and the Dayton Agreement. This historic overview is necessary in order to show that the principles on which the Dayton Peace Agreement was made and built on were not made or invented in Dayton, but rather these principles have their deep historical, social, constitutional, legal and political foundations.



If I have understood it correctly, you claim that the Dayton structure of BiH is not a form of constitutional discontinuity of BiH, but rather, a form of historic and political continuity?

Yes, but with one important novelty. The principle of territorial constituency became for the first time a part of BiH's Constitution and the constitutional structure of the state in Dayton. The shortest definition of Dayton BiH is "a country made up of two entities and three constituent peoples," as well as Others, which include national minorities and people who do not wish to declare their nationality. Therefore, there was a dilemma what is more important in BiH – entities or constituent peoples. The Constitutional court of BiH with their ruling U-5/98 has confirmed that the principle of constituency of all three peoples is the essence, or in other words, the basic and overarching principle of the Constitution of BiH, and by that also of the Dayton Peace Agreement. All other constitutional principles, and all legal norms through which this principle is operationalized and institutionalized should be harmonized with this overarching principle.

Only after we understand this essence, we can understand BiH and explain key social and political processes and agendas of different political activities.

What are key social and political processes and what ideologies and politics stand in their background?

The first thing that we need to understand is that in BiH the traditional political division on left and right is not applicable. The basic criteria of political positioning in BiH is the relation towards the constitutional principle of the constituency of the peoples.

The politics and agendas which accept and respect the constitutional norm of the “three-constituency” are those based on federalism and consociationalism. The politics which deny and do not respect the principle of the constituency of the peoples are a part of unitarist politics. The other criteria, which is a derivation of the principle of the constituency of the peoples, is the relation towards the multinational character of BiH as a state. Federalism and consociationalism (consensual democracy) accept and operationalize the multinational character of BiH as a state, while unitarism and separatism deny it.

A more moderate form of unitarism as a negation of multinational character of BiH can be called regionalism, while confederalism is a more moderate form of separatism. Both unitarism and separatism can only think of and build the state as a mono-national state.

Therefore, all political actors and all politics in BiH can be precisely located within the following political spectrum: unitarism – regionalism – consociationalism – federalism – confederalism – separatism.

How would you then within that spectrum position main political parties in today’s BiH?

Before we can talk about specific political parties, it is necessary to first talk about national policies. Given that BiH is a multinational state with three constituent peoples or nations, it is logical that in BiH we have three separate national policies.

Bosniak national policy prefers to act on the spectrum from unitarism through regionalism to the consociationalism. The Croat national policy acts on the spectrum between consociationalism and federalism, while the Serb national policy acts from federalism, through confederalism all the way to separatism.

In BiH we also have politics which only declaratively do not declare themselves as national, but rather as civil, left-liberal or social-democratic, but really they are national and nationalistic politics which employ the most rigid forms of unitarism. The conglomerate of unitarist politics is the most complex and the most important political phenomenon in BiH.

Before you start to explain unitarism in BiH, can you please provide me with more details on the main features of the three national policies?

When we take into consideration the concrete circumstances in which the three national policies operate, and when we look at all of that from a structuralist perspective, we can come to the conclusion that all three policies are, in fact, very logical and predictable.

The Croat national policy advocates solutions based on consociationalism and federalism, because Croats make up only 15.4% of BiH population and they do not inhabit a compact, but rather a discontinued and dispersed territory. Croats in BiH today simply do not have societal or political

resources for leading unitarist or secessionist policies, nor would they be able to achieve their main national interests in BiH through these policies.

The Serb national policy advocates federalist and confederalist principles and it does not even rule out separatism, as their original interest was not an independent BiH, but rather keeping BiH, or at least the part of it in which the Serbs make up a majority of population, in Yugoslavia. These goals were not accomplished, but the Serbs did get their own entity within Dayton BiH. Therefore, entity (con)federalism is the main agenda of their national policy, which react to any unitarist and centralist pressure by threatening with entity separatism.

Even though it is both logical and predictable, Bosniak national policy is more complex and it is a bit harder to understand it. In addition to the fact that they are constituent peoples in BiH, Bosnian-Herzegovinian Serbs and Croats also have a right and a possibility to be citizens of the Republic of Serbia and of the Republic of Croatia.

Unlike Croats and Serbs, the only citizenship which Bosniaks can get by default is Bosnian-Herzegovinian citizenship. Therefore, Bosniak national policy is deeper connected to BiH in their identity, but also emotionally, existentially and politically, in relation to two other national policies. Bosniak national policy considers Bosniaks as the core people in BiH and it has a tendency to see BiH as their own national state. Furthermore, Bosniaks considers themselves to be the biggest war victim from 1990s and expect some sort of political satisfaction in the post-war period. All of this, in combination with the fact that Bosniaks made 50.1% of the population at the last census and that they deem that demographic and migration trends go in their favor, it is logical and predictable that nationalistic and unitarist agenda is an important dimension of the Bosniak national policy. Still, what is the hardest, but also the most important, to understand is the nature and purpose of the relation between this national policy and the conglomeration of the unitaristic policies. The conglomeration of unitarist principles, agendas and policies are the one that gives the main tone to the political life in BiH and it determines its main course.

You have once defined unitarism in BiH as a political construction with Bosniak foundation, Bosnian upgrade and civil façade. Now you mention a conglomeration of unitarist principles, agendas and policies – what is all of that really about?

In a situation when Bosniak unitarist policy does not try to legitimize with anything outside of its own national interests, it, as such, has a very narrow political space to maneuver. It also has a hard time finding allies and supporters and it creates strong resistance and reactions. Such unitarism is easily recognized and it is qualified as a greater nationalistic agenda and chauvinism. This is the reason why Bosniak unitarism find a natural and logical strategic partnership with Bosnian nationalism of so-called and self-proclaimed civil, supranational and “pro-Bosnian” forces.

Given that in BiH according to the last census there is only 1% of citizens which did not declare their nationality, but rather they connect their national identity solely with the category of a citizen of BiH, it is obvious that some authentic, purely civil, supranational option which does not connect itself with any of the national policies would amount to an insignificant political force. What gives it political power and social weight is the fact that it can be used as a useful upgrade and a societal and political camouflage to the nationalism of the peoples which makes up the plurality of population

and considers themselves to be the core people, as well as to its greater-nationalistic and unitarist policies.

Still, that partnership would be easy to unmask and denounce. Especially given that a very similar example of such partnership we had an opportunity to see and experience in the relationship between Serb and Yugoslavian nationalism in the former Yugoslavia. However, once we add the civil façade to the Bosniak foundation and the Bosnian upgrade, the things become much more perfidious! The unitarist conglomerate sucks in those who ideologize societal and political reality. Their principles, concepts and models are being used as conglomerate's own narrative which legitimizes it, as well as a faced/camouflage of Bosniak greater-nationalism and its satellite – Bosnian nationalism.

The primary purpose of that camouflage is to gain sympathy and support from what we colloquially call international community. Without that sympathy and support, the conglomerate of unitarist policies does not have resources nor power to achieve their goals. For success of the Bosniak-Bosnian unitarism the sympathy and support of the international community is crucial, or in other words, the support of media and non-governmental organizations which that international community supports and finances. That sympathy and support Bosniak-Bosnian unitarism gained because it skillfully wrapped itself in the cloth which was made by those who ideologize social and political reality, which was defended and reproduced in public by many media organizations and NGO activists.

In that unitarist project active role had those who ideologize the reality, as well as their sympathizers from Croatia, Serbia and the region, partially because of their own ideological and political beliefs, and partially because of their own analytical superficiality and because of following the fad.

Are you saying that the international community in BiH has politically supported and indirectly financed what we call “conglomerate of unitarist policies?” If you think that this was wrong, what was, according to you, the international community could and had to do in BiH?

Yes, the international community did, to a great extent, actively support and (un)directly finance creators and executors of the unitarist agenda which in its deepest essence is a complete negation of principles and models of consociationalism and federalism which are built into the Dayton Agreement and into the Constitution of BiH. It is a bizarre, but easily provable, fact that those who represented the creators of the Dayton Agreement were very active in relativization and negation of the basic principles of that agreement. Moreover, those whose primary job was supposed to be protecting the spirit and the word of Dayton and the Constitution of BiH as its annex were changing the word of that agreement in a way which is contrary to its spirit.

What they should have done is just simply protect and implement what is agreed in Dayton and signed by all the parties. It is as simple as that. In that case, in accordance with the Dayton and the Constitution of BiH, they would have to protect the principle of the constituency and mutual equality of the constituent peoples and by doing so establish a balance of political power. Such approach would actually result in a much more integrated society and it would have stabilized the state.

Why is Dayton BiH not functional? Is the cause of this very complex Dayton constitutional and legal structure, so-called “Dayton straightjacket,” as some calls it, or is the cause something else? If those who have created and are supposed to guard Dayton do not support what was written in it, what is the solution then? Is Dayton all used up?

As I already said, the conglomerate of the unitarist principles, agendas and policies give the main tone to the political life in BiH and it determines its main direction. Therefore, that conglomerate of policies is the most responsible for the current state in which BiH is. Given that unitarist goals and interests are not compatible with and are directly opposed to the basic Dayton principles, then we have to search for main causes of why BiH is not functional and why it is so unstable, rather than in the complicated constitutional and legal structure. The conglomerate of the unitarist principles, agendas and policies actually never gave a chance for the Dayton to truly flourish and start functioning in its full form. Therefore, I think that not only is Dayton not used up, but that the solution to the current and chronic crises in BiH has to be found in the return to the original Dayton and its overarching principle of the constituency and mutual equality of three constituent peoples!

Let’s focus on the concrete acute problems with which BiH is faced. The Constitutional court of BiH has ruled that election law of BiH must be reformed in the “Ljubić ruling.” What is the essence of that ruling and what will happen if it is not implemented?

The merits of the ruling is that the House of Peoples of the Parliament of the Federation of BiH is not a house of cantons, but rather, as the name indicates, a House of Peoples. Given that it is comprised of four clubs: Bosniak, Serb, Croats and Others club, it is necessary that all delegates of every club have electoral legitimacy of that specific demos which they represent and whose interests they protect. In other words, it is necessary that the principle of legitimate representation of the constituent peoples and the Others is fulfilled. Furthermore, the ruling also demands the respect for the principle of equality and proportionality of electoral vote so that every vote within each of the four specific demos (Bosniaks, Serbs, Croats and Others) is worth equally, no matter which canton the voter is living and voting in. If there is no election law reform in accordance with the “Ljubić ruling,” then the general elections will be held, but it will not be possible to fully implement election results. It will not be possible to form the Federation’s House of Peoples, and therefore, also BiH’s House of Peoples. Without the Federation’s House of Peoples, it will not be possible to elect the President of FBiH, the government of FBiH, while the Parliament of FBiH will not be able to function without the upper house. Furthermore, without the BiH’s House of Peoples, the Parliamentary Assembly of BiH will be unable to function, and therefore, the Presidency of BiH as well as the Council of Ministers will be unable to function in their full capacity. In this scenario, the only levels of government which will have full electoral legality and legitimacy and will function in full capacity will be Republika Srpska, or to be more precise the National Assembly and the Council of Peoples of RS, the President of RS and the Government of RS, as well as cantons within FBiH, or to be more precise, cantonal assemblies and cantonal governments.



As we have already mentioned in this interview, IDPI has made its own Election law of BiH reform proposal. How does your proposal implements the “Ljubić ruling” and how is it different from other proposals?

It is different because other proposals do not actually implement “Ljubić ruling,” other than the proposal of the Croatian National Assembly of BiH. The proposal of HNS-BiH implements “Ljubić ruling” at the level of legitimate representation, but it did not offer a good enough solution for the implementation of the principle of equal value of the vote and it did not secure that every voter has a possibility to be elected in the House of Peoples.

The IDPI proposal fully implement “Ljubić ruling” in a way that it fulfils the criteria and principles of legitimate representation of constituent peoples and the Others, as well as the principle of the same value of the electoral vote and the principle that every voter has an opportunity to be elected to the House of Peoples of the Parliament of the FBiH. In addition, our proposal also implements the rulings of the European Court of Human Rights in Sejdić-Finci, Zornić and Pilav cases.

Can you explain, in shortest possible terms, what is contentious with the “Ljubić ruling” and why its implementation causes so much controversy and opposition?

To the creators and executors of the unitarist agenda the fact that the full implementation of the “Ljubić ruling” removes the option for one constituent people to elect political representatives of other constituent peoples and Others is contentious. The current election law, which has been challenged by the Constitutional court of BiH, for example, allows the voters which on the last census self-identified as Bosniaks to elect 14 out of 17 delegates to the Bosniak club in the House of

Peoples of the FBiH, 12 out of 17 delegates to the Serb club, 6 out of 17 delegates to the Croat club and 5 out of 7 delegates to the Others club.

The creators and executors of the unitarist agenda do not want to give up certain unconstitutional privileges which allow Bosniak voters to have a full control of the House of Peoples through the control package – 37 out of 58 delegates with at least a control of one third of delegates in each of the four clubs. The side which has such control packages can independently elect the President and two Vice-Presidents of the FBiH, as well as all 16 ministers and the prime minister of the Government of the FBiH. Therefore, Bosniak voters in FBiH through their elected political representatives have an option to elect the President and two Vice-Presidents of the FBiH and to form the Government of the FBiH without a single vote from voters who at the last census self-identified as Croats, Serbs or Others. It is important to note that such possibility did not exist within the framework of the original Dayton Agreement, but it was imposed later by the OHR, Office of the High Representative.

How do you comment on the attempt of five political parties from Sarajevo (SDA, SBB, SDF, DF and NS) to pass the Law on election units and the number of mandates in the Parliament of the FBiH and implement the “Ljubić ruling” in that way?

The Constitutional court of BiH ruled that the Election law of BiH is not in accordance with the Constitution of BiH and it ordered the Parliamentary Assembly of BiH that within six months harmonize the Election law of BiH with the Constitution of BiH. After that deadline passed, five above-mentioned parties want to resolve this problem at the entity level, in entity parliament. By putting the entity above the state, and the entity parliament above the state (BiH) parliament, as well as a law on the entity level above a law on the state level, this all-Bosniak coalition of five parties has both legally and virtually performed an entity coup against the state, it threatened the constitutional order in BiH and it violated the Constitution of BiH and the Dayton Agreement. They had a support of certain circles in the international community in BiH, the majority of the Sarajevo media and parts of the Sarajevo academic and NGO scene in this action. All of them together make up a conglomerate of the unitarist principles, agendas and policies that we discussed in the first part of this interview.

What is with the election of the Members of the Presidency of BiH, does the “Ljubić ruling” also refers to the Presidency? Is there a possibility that Željko Komšić becomes again the Croat Member of the Presidency of BiH?

“Ljubić ruling” does not explicitly refers to the Presidency of BiH, but in it the court explicitly states that the principle of legitimate representation of constituent peoples applies to “all administrative-political levels.” Given that the three-member Presidency of BiH represents three constituent peoples, IDPI proposal also contains new models of election of members of the Presidency of BiH in accordance with the “Ljubić ruling.” Those models prevent Željko Komšić or any other candidate to be elected as the Croat member of the Presidency by the voters which on the last census did not self-identified as Croats. The current, challenged Election law allows Željko Komšić to be elected as the Croat member of the Presidency of BiH even if all Croat voters which take part in the general elections in October vote for Dragan Čović or any other third candidate.

How do you see the outcome of the current situation? Will the elections be held and implemented, or will there be a complete blockade of the political and institutional system in BiH?

It is hard to say, because in BiH, sometimes, all options appear to be possible, both the best ones and the worst one. I think that the main political parties, especially those on the Bosniak political scenes, will wait for the results of the direct elections – elections for the Presidency of BiH, election for the lower houses in BiH and the FBiH, as well as the election for the cantonal assemblies – so that they can enter new negotiations on the implementation of indirect elections with new political capital. The indirect elections are elections for the House of Peoples of BiH and the House of Peoples of the FBiH, as well as, consequently, for the executive branch in the FBiH. If that happens, the biggest issue I can foresee is the possibility that Bosniak voters elect Željko Komšić for the third time as the Croat member of the Presidency of BiH! If this does not happen, I believe that all sides will gather enough wisdom and bravery to implement election results in accordance with the principles of legitimate representation of constituent peoples and Others after the elections, as stipulated in the “Ljubić ruling.” I also hope that the European Court of Human Rights rulings in Sejdić-Finci, Zornić and Pilav cases will be implemented as soon as possible in order to unblock and encourage Euro-Atlantic path of BiH.

Still, as I already said, in BiH all options are possible, including the worst ones.