



Development of Events in Bosnia and Herzegovina Following the 11th September 2001

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Although it is very popular to believe that we live in an age of terrorism caused by civilizations that do not belong to the Western culture circle, the history has proved quite opposite. Terrorism is not only a sickness of the 21st century: it actually does not recognize any time and geographic frames, and what is most important, it has roots in both religious and secular impulses. Still depending on international support to survive as a state, and overburdened with internal economic and political problems, the issue of terrorism ambushed Bosnia and Herzegovina, which was unready to deal with it. After 9/11 BiH was accused to indirectly support terrorism. This paper will present why these accusing voices were so strong as well as why they were not justified. With regards to the respect of human rights when addressing terrorism issues, BiH is an excellent example of what should not be done.

I. Introduction

Terrorism is a burning political question that determines international political relations in the world. In the events that followed 11th September, Bosnia and Herzegovina was accused internally and externally as a country which directly and indirectly supports terrorism. Such allegations could have caused consequences fatale for the future of this country in which the international community still has a leading role in the political processes. This paper will not be focusing on theoretical roots and causes of terrorism, but will give a brief overview of a definition of terrorism and its basic elements.

The primary aim of this paper is to present the singularities of Bosnia and Herzegovina with regards to international terrorism. Some of these singularities are inheritance from the war, whilst others are consequences of the weak governance. As such a chronology of events significant to these singularities will be presented in the paper. The paper will also explain the position of the government of Bosnia and Herzegovina after the 11th September's events.

The paper demonstrates, based on the examples from Bosnia and Herzegovina, that combating terrorism without proper state institutions and legislations leads to violations of the basic human rights.

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II. Terrorism as Phenomenon

Although it is very popular to believe that we live in an age of terrorism caused by civilizations that do not belong to the Western culture circle, the history has proved quite opposite. Terrorism is not only a sickness of the 21st century; it actually does not recognize any time and geographic frames, and what is most important, it has roots in both religious and secular impulses.

Terrorism, as an expression, was used for the first time in post revolutionary France during the period 1872 to 1794, as "*government by intimidation as directed and carried out by the party in power.*"² In other words, it was a system or rule of terror in which so many people were killed in a short period.

During the 19th century, terrorism became linked to non-governmental groups. Narodnaya Volya in Russia (1878-81) used terrorism as the strategy of political assassination against the Tsarist regime³ and Tsar Alexander II himself, who was killed by this group in 1881. This form of terrorism, as the way of political fight against government, can be found in the ideology of today's terrorist groups.

Throughout the 20th century, terrorism has been used by different social and political organizations and groups. Their motives and aims have been different, and therefore terrorism can not be discussed in general terms today. On the other hand, it is difficult to discuss the modern terrorism, since its ideological background has been the same for the last hundred years. Therefore, one can talk only about modern methods and means of terrorism.⁴ Prof. Nijaz Durakovic also says that terrorism, as a tactic, may be successful in causing immediate brainwashes effects, but terrorism, as strategy, can not cause essential political changes.⁵

Terrorist organizations profiled themselves into the following groups during the 20th century:⁶

- *Nationalist terrorists* seek to form a separate state for their own national group, often by drawing attention to a fight for "*national liberation*" that they think the world has ignored. This sort of terrorism has been among the most successful at winning international sympathy and concessions. Experts explain that nationalist terror groups tended to calibrate their use of violence, using enough to rivet the world attention, but not so much that they alienate supporters abroad or members of their base community. Nationalist terrorism can be difficult to define, since many groups accused of the practice insist that they are not terrorists, but freedom fighters.
- *Left-wing terrorists* are out to destroy capitalism and replace it with a communist or socialist regime. Because they see most civilians as suffering from capitalist exploitation, left-wing terrorists sometimes have limited their use of violence to avoid hurting the victims they say they want to save. Left-wing terrorists sometimes focus instead on such tactics as kidnapping tycoons or bombing monuments.
- *Right-wing terrorists* are among the least organized terrorists, often associated with Neo-Nazi street rioting in Western Europe, especially in the early 1980s. These groups, often dominated by skinheads, seek to do away with liberal democratic governments and create fascist states in their place. Neo-Fascist terrorists frequently attack immigrants and refugees from the developing world and they are both racist and Anti-Semitic.

² Gearty, C., *The Future of Terrorism: Predictions*, Weidenfeld & Nicolson, 1997, at p. 5.

³ Guelke, A., *The Age of Terrorism and the International Political System*, Tauris Publishers, London, New York, 1995, at p. 3.

⁴ Duraković, N., *Savremeni Terorizam (Od Anarhizma Do Terorizma)*, Znakovi vremena br.15, Institut "Ibn Sina", 2002. Available online at: <http://www.ibn-sina.net/znakoviVremena/?ID=13&tekstID=172> (All websites used in this essay were last checked in January 2007).

⁵ Duraković, N., *Savremeni Terorizam (Od Anarhizma Do Terorizma)*.

⁶ Guelke, A., *The Age of Terrorism and the International Political System*, at p. 52.



- *Religious terrorists* seek to use violence to further, what they see as divinely commanded purposes, often targeting broad categories of enemies, in an attempt to bring about sweeping changes. Religious terrorists come from many major faiths, as well as from small cults. Although, some authors argue that religious terrorists are concerned not with rallying on a constituency of fellow nationalists or ideologues, but with pursuing their own vision of the divine will, they lack one of the major constraints that historically have limited the scope of the terror attacks. Today in the era of “*war on terror*”, this statement was not certain any more, since the event of 11th September has changed the world’s priority, and in the minds of an ordinary people, terrorism is very often associated with Islam.

A. *Defining Terrorism*

Terrorism is not easy to define due to the complicity of the term. There are different approaches to the definition of terrorism, even inside of the national security system of one country. For example, the US Department of Defense defines the terrorism as “*the calculated use of unlawful violence to inculcate fear, intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.*”⁷ The US State Department considers that “*remediate, politically motivated violence perpetrated against non-combatant targets by sub national groups or clandestine agents, usually intended to influence an audience*”⁸, whilst the FBI says about the same as “*the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objective*”.⁹

From the scientific point of view, A. P. Schmid defined terrorism as “*an anxiety-inspiring method of repeated violent action, employed by (semi-) clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby - in contrast to assassination - the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat- and violence-based communication processes between terrorist (organization), (imperiled) victims, and main targets are used to manipulate the main target (audience(s)), turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought*”.¹⁰ This definition was taken from the site of the United Nations Office on Drugs and Crime as an academics consensus on the issue of the definition of terrorism, but it is not an official UN definition. On the other hand, terrorism should be defined by an international agreement acceptable for all subjects of international relations, since in that way international co-ordination against terrorist would be stronger and have a legal base,

⁷ United States Department of Defense Office of Joint Chiefs of Staff, *Department of Defense Dictionary of Military and Associated Terms*, United States Department of Defense, Washington, 9 November 2006, at p. 544. Available online at: http://www.dtic.mil/doctrine/jel/new_pubs/jp1_02.pdf.

⁸ Office of the Coordinator for Counterterrorism, *Patterns Of Global Terrorism 2002*, US Department of State Publication, Washington, April 2003, at p. 13. Available online at: <http://www.state.gov/documents/organization/20177.pdf>. This document further state: “*For purposes of this definition, the term “non-combatant” is interpreted to include, in addition to civilians, military personnel who at the time of the incident are unarmed and/or not on duty.*”

⁹ Counterterrorism Threat Assessment and Warning Unit, National Security Division, Federal Bureau of Investigation, *Terrorism in the United States 1999: 30 Years of Terrorism – A Special Retrospective Edition*, United States Department of Justice, Washington, 1999, at p. 1. Available online at: <http://www.fbi.gov/publications/terror/terror99.pdf>

¹⁰ Schmid, A. P., *Definitions of Terrorism*, United Nations Office on Drugs and Crime. Available online at: http://www.unodc.org/unodc/terrorism_definitions.html.

and another reason would be to avoid politization of the term.¹¹ If we see some of the documents of the UN' bodies,¹² it could be concluded that all UN's country members would support such an effort. Contrary to this, we witness that this biggest international organization has never succeeded to achieve such a convention. Reason for the lack of terrorism's definition is probably due to the different fundamental national interests of all subjects of the world politics, because interest is a category of politics that reflects the realization of state's objective needs.¹³ As Lange and Fituni say, international security is a category reflecting the state of international relations, which ensures the fundamental national interests of all subjects of world politics.¹⁴ If international security and national security are compared, it is then visible that the national security is a *policy*, while international security is a *state of affairs*.¹⁵ The answer to the question which state of international security a country prefers, depends on how it understands its own national interests. The basic fact about international relations (international relation that includes international security policies) is that the sovereign states create policies in their own interests, wherein the foreign policy interest is the expression of the state's general and particular needs that stem from its socio-political nature and also from its place and role in the system of international relations.¹⁶

Dimitrijevic considers that there is no accepted agreement about the meaning of the term "terrorism", since it has been changed throughout the history, and it has been used by deferent groups for different motives. Terrorism can be used by both the terrorists and the terrorized, and is often abused by the *status quo* actor, usually a state, which finds the motivations of the "terrorist" to be against its interests.¹⁷

The attitude towards terrorism is emotional, and it depends on the internal personal experience, ideology, political believes, ethics and prejudices. Therefore, there is an intention of distinguishing of "the good" and "the evil" terrorists. Since these remarks had disappeared, terrorism became an abusive term. Dimitrijevic also thinks that, effort to establish what actually terrorism implies is a base for any other further research.¹⁸ Instead of doing this, efforts are made based on the existing regulations, which are a result of momentary needs, concrete motives, practical considerations and political compromise.

While individuals can disagree over whether particular actions constitute terrorism, there are certain elements of the concept that are fundamental to constitute a terrorism act. Dimitrijevic considers the following elements have to be included in every definition of terrorism:

- Political nature of terrorism¹⁹ assumes political aim as a consequence of terrorist attack. Such political dimension of terrorism differentiates it from other criminal forms, thus the terrorist is

¹¹ Lugert, Alfred C., *Preventing and Combating Terrorism in Bosnia and Herzegovina*, National Defence Academy and Bureau for Security Policy, in co-operation with the PfP Consortium of Defence Academies and Security Studies Institutes, December 2002, at p. 9. Available online at: http://www.bmlv.gv.at/pdf_pool/publikationen/luge01.pdf.

¹² United Nations General Assembly, *World Community Must Speak with One Voice in Fight against Terrorism* (Press Release-GA/L/3209 of the Fifty-seventh General Assembly), 2 October 2002. Available online at: <http://www.un.org/News/Press/docs/2002/GAL3209.doc.htm>.

¹³ United Nations General Assembly, *World Community Must Speak with One Voice in Fight against Terrorism* (Press Release-GA/L/3209 of the Fifty-seventh General Assembly).

¹⁴ Lange, Klaus and Leonid L. Fituni, *Integrating Regional and Global Security Cooperation*, Academy for Politics and Current Affairs, Studies and Comments 3, Munich, 2002, at p. 67. Available online at: <http://www.hss.de/downloads/studies3.PDF>.

¹⁵ Lange, Klaus and Leonid L. Fituni, *Integrating Regional and Global Security Cooperation*.

¹⁶ Lange, Klaus and Leonid L. Fituni, *Integrating Regional and Global Security Cooperation*.

¹⁷ Cronin, Audrey Kurth, *The Historical and Political Conceptualization of the Concept of Terrorism*, SSRC Workshop on Terrorism, 14-15 November 2002, at p 3. Available online at: <http://www.ssrc.org/programs/gsc/publications/kurthcronin.doc>.

¹⁸ Dimitrijević, V., *Terorizam*, Samizdat B92, Beograd, 2000, at p. 98.

¹⁹ Dimitrijević, V., *Terorizam*, at p. 103.



not a criminal in the traditional sense. A terrorist believes in what he is doing, and he is confident that his act will send a strong message to the political structure that is in power. In his/her opinion/mind, a structure of his victims is irrelevant; he/she is only concerned with specific outcomes that he/she achieved.

- Use of violence is the second element of the terrorist act, which means that terrorism has to always use violence as key remedies of expression of itself.²⁰ Terrorism's violence is not in purpose of achieving the political aim, which means it is not a purpose for itself, nor its main aim is to destroy some object.²¹
- The creation of fear, and as consequence, the production of crisis is the third element of terrorism, and thus terrorism is *intended* to be a matter of perception. It is a terrorist's immediate goal in their quest for the recognition of their injustice, cause or grievance. The subjects of intimidation are not the victims of a terrorist act, but a very wide group of people that may identify themselves with the victims.²² Also, one can say that the second aim is to create nervousness of the relevant state institutions, and present them as incompetent to prevent the terrorist act and provide security to its citizens.
- The fourth characteristic of terrorism is its abnormality. According to Dimitrijevic, a terrorist act is a form of political violence, which is a deviation from generally accepted rules. Terrorism is illegal; it is not usual and not allowed. But what if something is allowed in one country, and in another it is not allowed? On the other hand, there are circumstances in every legislation, which legitimize forbidden acts under specific conditions. There is also a dilemma about a need to determine a difference between terrorism and a guerilla war. Dimitrijevic emphasizes that a moral judgment of terrorism must be reduced to the old statement, that a high minded goal must not be achieved by using dishonorable means.

III. Bosnia and Herzegovina as a Failing State

For the purpose of this paper, a failing state is defined "*as one in which the government does not have effective control of its territory, is not perceived as legitimate by a significant portion of its population, does not provide domestic security or basic public services to its citizens, and lacks a monopoly on the use of force*".²³

Since 2004, Foreign Policy and the Fund for Peace have started composing a Failed States Index in which nations are ranked based on the following twelve determining factors: mounting demographic pressures; massive movement of refugees and internally displaced peoples; legacy of vengeance-seeking group grievance; chronic and sustained human flight; uneven economic development along group lines; sharp and/or severe economic decline; criminalisation and delegitimation of the state; progressive deterioration of public services; widespread violation of human rights; security apparatus as "State within a State"; rise of factionalised elites; and intervention of other states or external factors²⁴.

According to the latest Failed States Index 2006, Bosnia and Herzegovina was ranked as the 35th country on the list, out of 145th ranked countries. There is no European country that was ranked worse on the list, and the situation in Bosnia and Herzegovina was described as "warning". The Failed States Index 2006, in case of Bosnia and Herzegovina, shows that out of the twelve abovementioned

²⁰ Masleša, R, *Teorije I Sistemi Sigurnosti*, Magistrat, Sarajevo, 2001, at p. 680.

²¹ Dimitrijević, V, *Terorizam*, at p. 109.

²² Dimitrijević, V, *Terorizam*, at p. 111.

²³ Foreign Policy, May/June 2006, Issue 154, at p. 52.

²⁴ Fund for Peace and Foreign Policy, *Failed State Index*. Available online at: <http://www.fundforpeace.org/programs/fsi/fsindex.php>.



determining factors, it is particularly vulnerable to five of them which are: massive movement of refugees and internally displaced peoples; legacy of vengeance-seeking group grievance; criminalization and de-legitimization of the state; rise of factionalised elites and intervention of other states or external factors.

Furthermore, the USAID Fragile States Strategy claims that a fragile state is the product of ineffective and illegitimate governance.²⁵ The strategy defines the ineffectiveness, as a capability of country to work with society to assure the provision of order, and public goods and services. Illegitimacy is referred to as the perception of important segments of society that the government is exercising state power in ways that are reasonably fair and in the interests of the nation as a whole.²⁶ The four most affected areas of government ineffectiveness and illegitimacy are: security, political, economic and social domains.

With regards to the security domains, the Strategy claims that military and police services of failed states are not able to secure borders and limit the crime effectively, and that these two services are not provided reasonably and equitably. Political institutions do not adequately ensure response to citizen needs, and political processes, norms, and leaders that are not acceptable to the citizenry. Economic and financial institutions of failed states do not support economic growth, and there is no effective adaptation to economic change. In relation to the social domain, there is no tolerance of diverse customs, cultures as well as beliefs, and basic services do not meet demand of the citizenry.

Thus, due to the weak internal governance, the failed states present a danger to the well-being of their populations, as well as to the international stability. They are deeply conflicted territories, and can become safe havens for terrorist organizations, potential trade centers for drugs and arms, and breeding grounds for dangerous diseases. They do not control their borders, which can raise the instability that may affect neighboring countries. Failed states cannot provide security for their citizens or deliver essential public goods, which has for an affect economic instability, poorness, high rate of unemployment etc.

Bosnia and Herzegovina might be a perfectly good example of the trueness of the aforementioned facts, since I would argue that the main problem of Bosnia and Herzegovina when facing terrorism after 9/11, was a lack of capable and adequate institutions to deal with it. By taking as an example the war in Bosnia and Herzegovina, it is also a good example of how one type of extremism attracts the opposite extremism. Namely, Bosnia and Herzegovina has been mentioned frequently as a potential base for terrorist activities, and therefore a possible link to international terrorism, was based on the presence of people from North Africa and the Middle East which initially came as volunteer fighters to Bosnia and Herzegovina during the course of war, to fight alongside the Bosniaks, as well as due to the support which Bosniaks received from Islamic countries during the war.

I must say that I support the thesis that the presence of Islamic volunteers and appearance of some sort of radical Islam in Bosnia and Herzegovina is a consequence, rather than the cause of the war.²⁷ This thesis requires a broader explanation.

The War in Bosnia and Herzegovina has been very often justified as a religious one, in which Croats (Catholics) and Serbs (Orthodox Christians) defended the Western Countries from violent, penetrating Islam. The truth is that this was simply a political war for the territory and the destruction of Bosnia and Herzegovina, whilst the religion, as a tool, was used as a justification for the ethnic cleansing and mass murdering conducted immediately at the beginning of the war, in April 1992.

²⁵ USAID, *Fragile States Strategy*, US Agency for International Development, January 2005. Available online at:

http://www.usaid.gov/policy/2005_fragile_states_strategy.pdf, at p. 11.

²⁶ USAID, *Fragile States Strategy*.

²⁷ USAID, *Fragile States Strategy*.



The war started because the Republic of Bosnia and Herzegovina held a referendum for its independence in March 1992, where 67% of citizens of Bosnia and Herzegovina voted positively. The leading Bosnian Serb Party called Serbs Democratic Party was strongly against the independence of the country, and they boycotted the voting. They wanted the country to remain a part of Yugoslavia, from which Slovenia and Croatia had already been separated since 1991. After the declaration of its independency, Bosnia was recognized as an independent state by the European Community on 6 April 1992.²⁸ Following this event, it was recognized also by the UN, and admitted as a member, by the General Assembly at its meeting on the 22 May 1992.²⁹ In the meantime, Serbs established a state called Srpska Republic of Bosnia and Herzegovina, by declaring its independency and staying within Yugoslavia.³⁰ With the support of the Yugoslav People Army, the newly crated Serb Republic military controlled 70% of the Bosnian territory, only a couple of months, following the beginning of the war. What was really going on the ground was the reflection of the speech of Radovan Karadzic (War President of Republika Srpska and today's leading War Crime fugitive) given on 15 October 1991 at the BiH Parliament Assembly meeting, addressing himself to those who favored independency of the Republic Bosnia and Herzegovina. *"You want to take Bosnia and Herzegovina down to the same highway of hell and suffering that Slovenia and Croatia are traveling. Do thing that will lead Bosnia to hell and do nothing that may led the Muslim people to their annihilation because the Muslim cannot defend themselves if there is war. How will you prevent everyone from being killed in Bosnia."*³¹

From the perspective of the Bosniaks tragedy, 64.767 persons of this nationality were killed during the 3.5 years of war in Bosnia and Herzegovina.³² Even 17.790 civilians and 11.721 soldiers were killed during 1992, which is 44% of the total Bosniaks casualties. Furthermore, analyzes of the Research and Documentation Center, shows that a significant number of Bosniaks were killed during the first months of the war (April, May and June). During the same year, Bosniaks were imprisoned in concentration camps,³³ and Bosniaks's women were systematically raped.³⁴ As a result of ethnic cleansing, around 1.800.000 persons were displaced within Bosnia, and 100.000 persons (mostly Bosniaks) were forced to leave the country.³⁵ All these figures date from August 1992 and represent the results of planned ethnic cleansing. Bosniaks were pressed in a couple of enclaves, which were not physically linked.

Just before the war started in Bosnia and Herzegovina, the European Community emphasized that the Yugoslav crisis was in the EC domain, and it should have been solved with initiatives of EC represen-

²⁸ Domin, Thierry, *History of Bosnia and Heregovina from the Origins to 1992*, European Union Force in Bosnia and Herzegovina. Available online at: <http://www.euforbih.org/bih/chapter6.htm>.

²⁹ United Nations, *List of Member States of the United Nations*. Available online at: <http://www.un.org/Overview/unmember.html>.

³⁰ International Tribunal for the Former Yugoslavia (ICTY), *Indictment against Radovan Karadzic*, ICTY. Available online at: <http://www.un.org/icty/karadzic&mladic/trialc/rev-ii960716-e.pdf>.

³¹ International Tribunal for the Former Yugoslavia, *Indictment against Radovan Karadzic*.

³² Data presented is kindly provided by the Research and Documentation Center for the purposes of writing this paper. More information about the Center can be found on: <http://www.idc.org.ba>. According to data collected by the Research and Documentation Center, the tragedy of Bosnia and Herzegovina resulted in the following figures: 97.890 people were killed in Bosnia and Herzegovina. Out of this number, 64.767 were Bosniaks (66.16%), Croats 7.673 (7.84%), and Serbs 24.960 (25.50 %). Out of 64.767 killed Bosniaks, 33.729 (52%) were civilians, and 31.038 (48%) soldiers. Out of 7.673 killed Croats, 2.055 (26%) were civilians, and 5.618 (74%) soldiers. Out of 24.960 killed Serbs, 4.004 (16%) were civilians, and 20.956 (84%) soldiers.

³³ International Tribunal for the Former Yugoslavia, *Judgment in the Case Tadic*, ICTY, July 2002. Available online at: <http://www.un.org/icty/tadic/appeal/decision-e/020730.htm>.

³⁴ International Tribunal for the Former Yugoslavia, *Judgment in the Case Dragoljub Kunarac*, ICTY, June 2002. Available online at: <http://www.un.org/icty/kunarac/appeal/judgement/index.htm>.

³⁵ Presented data are taken over from Durakovic, Nijaz, *Prokletstvo Muslimana*, Sarajevo, Oslobodjenje, 1993, at p. 292.



tatives.³⁶ For this purpose, the EC established a Conference on Yugoslavia, which did not stop the war. Furthermore, UN forces (UNPROFOR) deployed in Bosnia and Herzegovina were mandated to deliver humanitarian aid to various destinations in Bosnia.³⁷ However, from the very outset of this peace-keeping operation UNPROFOR faced major obstacles in the implementation of its mandate. Firstly, the UN troops were not heavily armed and their number was so low that it made them little more than exposed targets. They could not achieve their goals because that would mean getting involved in armed clashes with the warring factions. And enforcing peace was not part of their mandate. More importantly, fighting against any of the three major factions could be immediately considered as taking sides which was contradictory to the philosophy of their peace-keeping missions. Later, in July 1995, UNPROFOR faced a total failure of its mandate during the Srebrenica's genocide, when around 8.000 Bosniaks were killed in this protected UN's zone.³⁸

As the war situation was deteriorating, the cohesion of Bosnian's Muslims, fuelled by the nature of the war launched by Serb forces,³⁹ was tighter, and more stimulated by the Bosniaks' national political parties. The Bosnian government, placed in Sarajevo, had to call Islamic countries for help and to ask for their financial assistance for the procurement of weapons for the defense. It was a help for the physical survival of Bosniaks. Saudi Arabia, Iran and other Islamic Countries responded to the call, by providing financial assistance for Bosnian Muslims⁴⁰ to procure weapons for defense.

The Islamic volunteer fighters started coming in bigger numbers in 1993,⁴¹ after a year of the war in which Bosnian Muslims were exposed to the brutal ethnic cleansing and war crimes conducted throughout the country. 1993 was also a year in which the conflict between Croats and Bosnian Muslims was at the highest level. Although, all accesses to the Bosnian army territory were under the control of either Serbian or Croatian military forces, Islamic volunteers succeeded to come to the territory controlled by the Bosnian army. Why they were permitted to do it, could be found in crimes committed during 1992, due to which Bosniaks had a reputation in the Western Media, of being the principal war victims. In order to change this picture, and to show the war as being the religious one between Muslims and Christians, Mujahedins from Islamic countries were missing. *A clash of civilizations* was necessary to create an excuse of the further destruction of the state. Also, the radicalization of Bosnian Muslims and the further radicalization of the war situation were necessary to achieve the abovementioned political aim.

It is believed that 3.000 Islamic fighters passed through Bosnia during the war to fight alongside Bosniaks.⁴² They were organized in a battalion called El Mudzahid established in August of 1993 which

³⁶ Some documents indicate that the UN waited for the EC's solution even after the outbreak of war in Bosnia (i.e. April 1992. United Nations Secretary-General, *UNSC Resolution 749*, Secretary General, at p.11. Available online at: <http://daccessdds.un.org/doc/UNDOC/GEN/N92/202/18/PDF/N9220218.pdf?OpenElement>.

³⁷ United Nations Security Council, *Resolutions No. 758 from 8th June 1992, No. 761 from 29th June 1992, No. 770 from 13 August 1992 and No. 776 from 14 September 1992*, UNSC, 1992. Available online at: <http://www.un.org/documents/sc/res/1992/scres92.htm>.

³⁸ Former UN Secretary General Kofi Annan said that the United Nations says it failed to help save thousands of Bosnian Muslims from a Serb mass murder in 1995 because of errors, misjudgment and "an inability to recognize the scope of the evil confronting us". Annan, Kofi, *UN Admits Bosnia Blunders*, United Nations, December, 1999. Available online at: <http://www.cbsnews.com/stories/1999/11/16/world/main70520.shtml>.

³⁹ International Crisis Group Report, *The Bin Laden and the Balkans: The Politics of Anti-Terrorism*, International Crisis Group Report, Europe Report N°119, 2001, at p. 10. Available online at: http://www.crisisgroup.org/library/documents/report_archive/A400481_09112001.pdf.

⁴⁰ International Crisis Group Report, *The Bin Laden and the Balkans: The Politics of Anti-Terrorism*.

⁴¹ It can be concluded from the testimony of Peter Galbraith, the US Ambassador in Croatia at the time, given before the House International Relations Committee of the US Congress on 30 May 1996. Galbraith, Peter, *Testimony*, House International Relations Committee, May 2006. Available online at: http://www.fas.org/irp/congress/1996_hr/eur50031.htm.

⁴² International Crisis Group Report, *The Bin Laden and the Balkans: The Politics of Anti-Terrorism*.



was under the jurisdiction of the Third Corp of the army of Bosnia and Herzegovina, stationed in Central Bosnia⁴³.

The El Mudzahid battalion was disbanded in 1996, under the U.S. pressure,⁴⁴ and members of the unit were requested to leave Bosnia and Herzegovina in accordance with Article 3 of the Agreement on the Military Aspects of the Peace Settlement that is a part of the Dayton Peace Agreement.⁴⁵ In the coming years, a number of them left Bosnia and Herzegovina, but some of them stayed since they became Bosnian citizens in the meantime, by obtaining local documents in two ways: the first, illegal one, was to bribe local officials to get a passport, and the second, legal, one was to get married to a Bosnian woman. Both groups, now naturalized citizens settled in villages situated in the Central Bosnia, forming small societies, closed for external guests.

Foreign intelligence services presented in Bosnia and Herzegovina warned the public and international community that a number of naturalized Bosnian citizens of North Africa and Middle East origin, maintained tight connection with Al Qaeda and Osama Bin Laden personally.⁴⁶ Three persons having BiH's passports appeared on the list of individuals belonging to, or associated with, the Taliban.⁴⁷ Also a number of Islamic Charitable Organizations opened during or immediately after the war, were suspected for the financing terrorist activities worldwide.

B. Bosnia and Herzegovina as a Failing State in Lights of Events of 11th September

In lights of events of 11th September, it could be stated that the situation in Bosnia and Herzegovina was even worse at that time. According to data from 2001, complicated government structures were consuming around 50% of the country's GDP. Despite the high costs of the public sector, BiH's global ranking was in the bottom 20% of countries in terms of "government effectiveness", and the lowest of the 15 Eastern European countries. A lack of transparency, corruption and poor access to decision-making processes stand as major hindrances to meeting a range of human rights obligations. The poor management of public expenditures resulted in chronic under-funding of the sectors vital for poverty reduction and human development, especially frontline education and health provision. The unemployment rate was in 2001, and still is, around 40%.⁴⁸

In terms of security and prevention of terrorism, Bosnia and Herzegovina was probably the only country in Europe without its state intelligence service; however it had three intelligence services divided on the basis of ethnicity. There was no police agency to combat terrorism, or any other type of crime at the state level, but there were 13 police administrations divided on the basis of the complicated administrative structure of Bosnia and Herzegovina. Any institution at the state level (Parliament, Council of Ministers) could not control or affect the work the aforementioned agencies.

⁴³ International Crisis Group Report, *The Bin Laden and the Balkans: The Politics of Anti-Terrorism*.

⁴⁴ International Crisis Group Report, *The Bin Laden and the Balkans: The Politics of Anti-Terrorism*.

⁴⁵ Office of the High Representative and EU Special Representative, *Agreement on the Military Aspects of the Peace Settlement*, Office of the High Representative and EU Special Representative, December, 1995. Available online at: http://www.ohr.int/dpa/default.asp?content_id=368.

⁴⁶ Woehrel, *Islamic Terrorism and the Balkans*, CRS Report for Congress RL33012, 2005, at p. 5. Available online at: <http://www.fas.org/sgp/crs/terror/RL33012.pdf>.

⁴⁷ The 1267 Committee of the Security Council of the United Nations oversees the implementation by states of the sanctions imposed by the Security Council on individuals and entities belonging or related to the Taliban, Osama Bin Laden and the Al-Qaida organization and maintains a list of individuals and entities for this purpose. Available online at: <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

⁴⁸ Data obtained from the Agency for Statistics of Bosnia and Herzegovina as well as from the Central Bank of Bosnia and Herzegovina.



There was not a law at the state level that prohibited criminal activities, although there were entities' Criminal Codes. Although there was the Law on the State Court which foresees the existence of the State Court of Bosnia and Herzegovina⁴⁹ in practice, this court was not established yet. The similar situation was with the State Border Service also established by the High Representative's Decision in January 2000.⁵⁰

The judicial system in BiH after the war was divided between judicial systems of the two entities of Bosnia and Herzegovina, and it was characterized as inefficient, underpaid and corruptive, with unnecessary large number of courts, where judges and prosecutors have frequently been appointed based on political affiliations whilst their qualifications and previous work experience were questionable. Criminal and political type of pressures on judges, as well as, facts like judge's ethnic, political and personal contacts were often the important determinants of the justice. The BiH legal environment was also divided between the entities, and a lack of inter-entity cooperation resulted in difficulties in enforcing judicial decisions from one entity to the other. This was further supported with poor cooperation between courts and law enforcement agencies situated within one entity.

Therefore, Bosnia and Herzegovina was a unique country in regard to combating terrorism, since as a sovereign and internationally recognized state, it was an international subject of international relations, and as such, it had the responsibility to maintain and contribute to international peace and order, but due to the lack of basic state remedies, it was unable to do it.

In addition to the abovementioned facts, which can be summarized as lack of institutions and inadequate legislations, Bosnia and Herzegovina has a geographic position that makes it a bridge between the East and West. Also, a huge amount of weapons left after the war, and easy access to it, represents a big security threat to the security of Bosnia itself, and surrounding countries.

Reasons why Bosnia and Herzegovina failed in many of these areas of governing, partially relies in its constitution that is not a result of logic and legal principles that would secure and improve a life of ordinary citizens of Bosnia and Herzegovina.

The Dayton Peace Agreement,⁵¹ signed in Paris on 14 December 1995⁵² stopped the war (1992 to 1995), but at the same time it was the result of a political compromise of two totally opposite political ideas. The first one was the decentralization of the state as much as international mediators of the peace agreement could allow, and the second one was the preservation of Bosnia and Herzegovina as a country within its international recognized boundaries. The result is a heavily dysfunctional state, split into two entities; the Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS).⁵³ The FBiH has its constitution and government, but this entity is consisted by ten cantons having their constitutions and governments. RS is a centralized and coherent entity with its constitution and the government. Both governments of the FBiH and RS are operated independently. However, the Dayton

⁴⁹ This Law was enacted by the Decision of the High Representative on 12 November 2000. Available online at: http://www.ohr.int/decisions/judicialrdec/default.asp?content_id=5228.

⁵⁰ Office of the High Representative and EU Special Representative, *Decision Imposing the Law on State Border Service*, Office of the High Representative and EU Special Representative, January 2000. Available online at: http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=358.

⁵¹ The Dayton Peace Agreement was called after the name of the USA city in which peace negotiations were held.

⁵² Office of the High Representative and EU Special Representative, *The General Framework Agreement for Peace in Bosnia and Herzegovina*, Office of the High Representative and EU Special Representative, December 1995. Available online at: http://www.ohr.int/dpa/default.asp?content_id=380.

⁵³ It should be noted that the Federation of Bosnia and Herzegovina was mostly populated by Croats and Bosnians, and Republika Srpska was mostly populated with Serbs.



Peace Agreement also created a very weak central government mainly responsible for foreign relationships and internal coordination between entities.⁵⁴ All other state's attributes such as defense, security, control of state borders etc. were given to the entities governments.⁵⁵ After Dayton, Bosnia and Herzegovina became a sovereign country without territory and its entities were territories without sovereignty.

In accordance with Article 5 of Annex 10 (Agreement on Civilian Implementation), the Office of the High Representative⁵⁶ was established to oversee the civilian implementation of the agreement on behalf of the international community. The existence of this international institution should be considered as another symptom of the failing state, and remark of the Bosnia's limited sovereignty. Namely, the originally defined role of the High Representative can be summarized as to monitor the implementation of the Peace Agreement, maintain close contact with the parties, coordinate activities with regards to the Peace Agreement and the strongest one was to facilitate, and to judge, if necessary, the resolution of any difficulties arising in connection with civilian implementation. These authorities did not give some significant results in the civilian implementation of the Peace Accord for the first two years after it was signed.⁵⁷

Taking into consideration, the political obstruction of parties in Bosnia and Herzegovina as well as the High Representative's incapability to affect the political processes, at the Peace Implementation Conference held in Bonn in 1997, he was given new authorities to implement the Agreement. According to these authorities (called Bonn Powers), the High Representative was now in a position to conduct measures with regards to actions against persons holding public office or who are found by the High Representative to be violating the legal commitments made under the Peace Accord, or the terms for its implementation. Also, the High Representative has authorized to issue measures to take effect when parties were unable to reach the agreement. Bonn Powers of the High Representative are still effective, although there are nine years have passed since they were issued. Even though strongly criticized in the meantime by the domestic and foreign intellectuals,⁵⁸ they have become the fundamental tool in

⁵⁴ It sounds unbelievable, but there are 180 ministers and 13 prime-ministers in Bosnia and Herzegovina.

⁵⁵ According to Article 3 of Annex 4 of the Dayton Peace Agreement, responsibilities of Bosnia and Herzegovina are as follows: foreign policy, foreign trade policy, customs policy, monetary policy, finances of the institutions and for the international obligations of Bosnia and Herzegovina, immigration, refugee, and asylum policy and regulation, international and inter-entity criminal law enforcement, including relations with Interpol, establishment and operation of common and international communications facilities, regulation of inter-Entity transportation and air traffic control

⁵⁶ More information about the Office of the High Representative is available online at: <http://www.ohr.int>.

⁵⁷ The Peace Implementation Council, at its conference held in Bonn on 10 December 1997, expressed concerns that Bosnia and Herzegovina still did not have a basic attributes of a state, such as common passport and flag, even two years after the Peace Agreement was signed. It also expressed serious concerns regarding human rights, particularly human rights of refugees and displaced persons since there were property and housing legislation in effect which blocked their return to their pre-war homes. Bosnia and Herzegovina had also failed to finance its common institutions or service its external debt on time, implement common policies on foreign trade, apply a common customs tariff, issue common bank notes, etc.

⁵⁸ In the article "*Travails of the European Raj*" written by Gerald Knaus and Felix Martin from the European Stability Initiative, Lord Paddy Ashdown (The High Representative at the time) was criticized for ruling Bosnia like a "Maharaja". The authors were comparing Ashdown's role in Bosnia and Herzegovina with a role of British Empire ruling in India during 19th Century. According to the authors "*if progress toward democratization and the rule of law is to be restored in Bosnia, the OHR's customary practice will have to change.*" Analysts from ESI consider that Bonn powers have become counterproductive, and that it prevents democratic development of the country. Knaus, Gerald and Felix Martin, *Travails of the European Raj*, in: *Journal of Democracy* (Volume 14, Number 3), June 2003. Available online at: <http://www.journalofdemocracy.org/articles/KnausandMartin.pdf>.



building of Bosnia and Herzegovina to take prerogatives of a state⁵⁹ in the absence of domestic political will to do it.

C. 11th September Experience

The reactions in Bosnia and Herzegovina among Bosnian's political elite after 11th September were ranging from panic to smug satisfaction.⁶⁰ Panic of Bosniaks political elite was the reaction on the statement of the President Bush "You're either with us or against us in the fight against terror"⁶¹. The weak central government of Bosnia and Herzegovina, without institutional and legislative remedies to fight any type of crime, with presence of people from Islamic countries that obtained Bosnian's documents in a suspicious way, avalanches of news-articles pointing out Bosnia and Herzegovina directly and indirectly as a country linked to the attack on the Twin Towers, was not in position to respond appropriately. In addition to the aforementioned facts, the special relation between the USA and Bosnia and Herzegovina should be considered. The US government ended the war, and probably saved Bosnian Muslims from the potential future like Kurds and Palestinian people have. After the war, the US government together with the European Union has been the main partner and sponsor of the institutional and economic building of Bosnia and Herzegovina. The US has the leading role among the powerful international community presented in Bosnia and Herzegovina. Due to the Bonn Powers,⁶² the International Community led by the High Representative has been in position to decide about all political events and processes in the country. Thus, it could be concluded that a change in the US policy towards Bosnia and Herzegovina would actually mean an insecure future.

In Republika Srpska, reactions were quite different. While politicians in these entities emphasized that Republika Srpska was a terrorism free zone and therefore the danger did not threat from it,⁶³ newspapers took the opportunity to remind readers about terrorism in another Bosnia's entity, and its links with Al Quaida⁶⁴.

The reaction of the Council of Ministers was in accordance to the limited capabilities, which it had at the time. It created special working groups to address terrorism in term of legislative measures, which

⁵⁹ All High Representatives decisions derived from Bonn Powers could be classified as follows:

Decisions relating to State Symbols and State-Level Matters and Constitutional Issues – Number of decisions relating to this filed is 90.

Decisions in the Economic Field - Number of decisions relating to this filed is 79.

Decisions in the Field of Judicial Reform - Number of decisions relating to this filed is 147.

Decisions relating to the Federation, Mostar and Herzegovina-Neretva Canton- Number of decisions relating to this filed is 65.

Removals and Suspensions from Office - Number of decisions relating to this filed is 148.

Media Restructuring Decisions by the HR - Number of decisions relating to this filed is 18.

Decisions in the field of Property Laws, Return of Displaced Persons and Refugees and Reconciliation - Number of decisions relating to this filed is 98.

Decisions relating to individuals indicted for war crimes in the former Yugoslavia - Number of decisions relating to this filed is 104.

Classification for the period 1997 -1995 was taken from the OHR web site. Available online at:

<http://www.ohr.int/decisions/archive.asp>.

⁶⁰ Lugert, Alfred C., *Preventing and Combating Terrorism in Bosnia and Herzegovina*, National Defence Academy and Bureau for Security Policy, Consortium of Defence Academies and Security Studies Institutes, December 2002, at p. 40. Available online at: http://www.bmlv.gv.at/pdf_pool/publikationen/luge01.pdf.

⁶¹ CNN, *You are either with us or against us*, CNN, November 2006. Available online at: <http://archives.cnn.com/2001/US/11/06/gen.attack.on.terror>.

⁶² See page 19.

⁶³ International Crisis Group Report, *The Bin Laden And The Balkans: The Politics Of Anti-Terrorism*.

⁶⁴ International Crisis Group Report, *The Bin Laden And The Balkans: The Politics Of Anti-Terrorism*.



would eventually enable the revision of personal documentation in Bosnia and Herzegovina. The second effort was to investigate and detain eighteen persons because of a possible connection with, or involvement in terrorist action, out of whom eight were deported to their counties of origin. Also charitable organizations such as Al Haramain Islamic Foundation, the Benevolence International, the Foundation, the Human Appeal International, the International Islamic Relief, the Organization Igasa and the High Saudi Committee for Help to Bosnia and Herzegovina were controlled and eventually closed.⁶⁵

D. The Algerian Group

The above mentioned measures of the Council of Ministers had a full public support but the events which occurred later in January 2002, started to split the public opinion. Furthermore, a number of international and domestic organizations, working on human rights issues, raised their voices regarding these events. Since it is a typical example of what a government should not do in fighting terrorism, it is necessary to describe these events in more detail.

In the Bosnian capital Sarajevo, the US and UK Embassy were closed for three days due to credible threat of terrorism attack on 17th October 2001. During these three days, five suspects from Algeria and one Tunisian were arrested. Out of five Algerians, four of them were Bosnian's citizens. One Algerian having a BiH's document was Bensayah Belcacem, during a search of his home the telephone number of a liaison officer of the Al-Qaida leader Bib Laden was found.⁶⁶

The Supreme Court of the Federation of Bosnia and Herzegovina⁶⁷ issued decisions ordering these six to be taken into custody, on suspicion of having attempted to commit a criminal act of international terrorism, on the grounds of the suspicion that they were planning a bomb attack on the US and UK embassies in Sarajevo. At the same time, the Federal Ministry of Interior revoked Bosnian citizenship from four naturalized Algerian, and this decision was explained by the fact that when they applied for a citizenship, they had a hidden intention to violate the constitution and the laws of the Federation BiH. Also, the Algerian government was contacted about the possible deportation of five of their citizens, but it refused to accept them. On 17th January 2002, the Supreme Court decided to release these persons from custody immediately, on the grounds there were no longer circumstances upon which detention can be extended. The same day, the Human Rights Chamber for Bosnia and Herzegovina⁶⁸ issued orders for provisional measures, ordering the Bosnia and Herzegovina and the Federation of Bosnia and Herzegovina to take all necessary steps to prevent the detainees from being taken out of the territory of Bosnia and Herzegovina by the use of force. But instead of taking such measures or being released from custody, the detainees were immediately taken into the custody of the Federation

⁶⁵ It was reported "*the main lack was an existence of proper and legal documentation about their financial activities. Their accounting was not equal to the actual situation determined by inventories. Foreign citizens were hired without working permits, which are issued by state institutions. They mostly had cash without bank accounts and proper documentation. A significant amount of money was transferred through personal bank accounts of their employees, and there was no documentation about the way of spending of that money.*" See Brisard, Jean-Charles, *Terrorism Financing: Roots and Trends of Saudi Terrorism Financing*, Report prepared for the President of the Security Council United Nations, New-York, USA, 2002, at p. 27. Available online at: <http://www.nationalreview.com/document/document-un122002.pdf>.

⁶⁶ Human Rights Chamber For Bosnia and Herzegovina, *Decision On Admissibility And Merits*, 11 October 2002. Available online at: <http://www.hrc.ba/database/decisions/CH02-8679%20BOUDELAA%20et%20al.%20Admissibility%20and%20Merits%20E.pdf>.

⁶⁷ See more about the Supreme Court of the Federation of Bosnia and Herzegovina on: <http://www.vsfbih.ba/index.php>.

⁶⁸ See more about the Human Rights Chamber For Bosnia and Herzegovina. Available online at: <http://www.hrc.ba>.



Police, and on the following day they were handed over to the military forces of the United States of America based in Bosnia and Herzegovina as part of the NATO led Stabilization Force upon a diplomatic note of the US Embassy in Sarajevo. Subsequently, they were transferred to the military detention facility at Guantanamo Bay, Cuba. According to the Human Rights Chamber, the handing-over of these persons could not be interpreted as an extradition, since “*the diplomatic note of 17 January 2002 from the Embassy of the United States cannot be understood to be a valid extradition request of the United States of America*”.⁶⁹ The Human Rights Chamber considered that this diplomatic note was a suggestion and offer to the Government of Bosnia and Herzegovina for arranging of physical custody of the individuals at a time and location that was mutually convenient for both countries.⁷⁰

On 11 October 2002, the Human Rights Chamber of Bosnia-Herzegovina issued its decision on the admissibility and merits of the application brought by the four handed over persons.⁷¹ The Chamber concluded, *inter alia*, that the treatment of the four men by the Bosnian authorities violated several of their rights guaranteed under the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and its Protocols. These include the right to liberty and security of person (Article 5) and the right not to be arbitrarily expelled in the absence of a fair procedure (Article 1 of Protocol 7). The Chamber also ruled that the failure of the Bosnian authorities to seek assurances that the men would not be sentenced to death before handing them over to US forces violated Article 1 of Protocol 6 to the ECHR (concerning the abolition of the death penalty). The Chamber ordered both the State and Federation authorities to undertake a number of measures in light of the violations of these men’s rights. The Chamber ordered the State and Federation authorities to use diplomatic channels in order to protect the basic rights of the applicants, taking all possible steps to establish contacts with the applicants and to provide them with consular support. The authorities were further instructed to take all possible steps to prevent the death penalty from being pronounced against and executed on the applicants, including attempts to seek assurances from the US via diplomatic contacts that the applicants will not be subjected to the death penalty. The Bosnian authorities were also ordered to ensure that each of the men’s rights were protected by retaining and paying for lawyers while they remain in custody, and in case they should stand trial. The authorities were also instructed to pay compensation to the four men; the compensation to be paid to their relatives if the men have not been returned to Bosnia-Herzegovina by November 2003.

In order to meet the requirement from the aforementioned decision, representatives of the Government of Bosnia and Herzegovina paid a visit to Guantanamo in July 2004 and met with the four BiH’s citizens. But judging from the press releases of September 2006, in which the public was informed that the families of the illegally transferred persons brought a suit against Bosnia and Herzegovina to the European Court for Human Rights in Strasbourg⁷² due to BiH government intentionally avoidance to conduct the diplomatic steps to return these persons from Guantanamo, it seems that the BiH government did not do enough to fulfill the requirement from the Human Rights Chamber’s decision.

Thus, Bosnia and Herzegovina as a state, and its entity Federation of Bosnia and Herzegovina, did not just fail to respect the decisions of the Supreme Court of the Federation of Bosnia and Herzegovina and the Human Rights Chamber for Bosnia and Herzegovina, but they committed serious violations of

⁶⁹ See point 164 of the Decision on admissibility and merits (delivered on 4 April 2003) Case No. CH/02/9499 Belkasem Bensayah against BiH and the Federation of BiH. Available online at: <http://www.hrc.ba/database/decisions/CH02-9499%20Bensayah%20Admissibility%20and%20Merits%20E.pdf>.

⁷⁰ Ibid.

⁷¹ Decision on admissibility and merits (delivered on 11 October 2002) Cases No. CH/02/8679, CH/02/8689, CH/02/8690 and CH/02/8691 Had’Boudellaa, Boumediene Lakhdar, Mohamed Nechle and Saber Lahmar against BiH and the Federation of BiH. Available online at: <http://www.hrc.ba/database/decisions/CH02-8679%20BOUDELLAA%20et%20al.%20Admissibility%20and%20Merits%20E.pdf>.

⁷² Dnevni avaz, article. Available online at: <http://www.avaz.ba/absolutenm/anmviewer.asp?a=18220&z=12&isasp=>.



human rights foreseen by the European Convention for Human Rights, which is an integral part of the Dayton Peace Agreement (BiH Constitution).

IV. Closing Remarks

During this brief overview of the term “terrorism”, a variety of forms of this phenomenon has been presented. Through the 20th century, terrorism has been used by different social and political organizations and groups through history. Although, there are plenty of theories about terrorism, terrorism is still not defined at the international level. Dimitrijevic considers there is no accepted agreement about the meaning of the term “terrorism” itself, and he notes that although there is a wide-spread feeling about what terrorism is, there is still no definition of it.

Although, there were temptations to present the war in BiH as a religious one, between Muslims and Christians, Islamic volunteer fighters and the appearance of radical Islam in Bosnia and Herzegovina was a consequence of the war.

It has been presented on the previous pages of this paper, that the problems of Bosnia and Herzegovina in the field of combating terrorism have been evident. The existing institutional and legislative infrastructure was insufficient. Furthermore, the presence of people in a country suspected for having tight relations with the global terrorist network was additionally a complicated situation. Bosnia and Herzegovina was marked as a country that supported terrorists and terrorism itself, and some people wanted to accuse Bosniaks for being involved in terrorism.

On the example of the ex-Chief of the Republika Srpska Police, Dragomir Andan, it would be also interesting to show that Bosnia and Herzegovina has been accused internally as being a terrorist country. On 10 May 2005, he held the press conference at which he announced that according to the intelligence data obtained by the RS Ministry of Interior, the fuses used in the Madrid attacks, had been produced in BiH, whilst 11 persons that took part in these attacks, had been trained in BiH. The next day, he was requested by the European Police Mission to give an explanation for his data, since they did not have similar information.⁷³ He never did it, but in June 2005 after pressure of the international community to say the truth, he sent a letter to the Head of the European Police Mission, publicly stating that he had no intelligence or evidence to support the claims he made on 10 May 2005, in reference to the Madrid terrorist bombing.⁷⁴ Dragomir Andan was appointed by the Government of Republika Srpska in 2004 to the position of the Chief of the Republika Srpska Police, which is the highest ranked police officer in the Ministry of this entity. After he admitted publicly that was not saying the truth, he did not resign. That happened a year later.

Since 11th September 2001, Bosnia and Herzegovina has significantly raised its legal and institutional capabilities to combat criminal activities. The State Court of Bosnia and Herzegovina and the Prosecutor’s Office of Bosnia and Herzegovina were established, and they function in their full capacity. Terrorism and funding terrorism were criminalized by the Criminal Code of Bosnia and Herzegovina. The State Border Service of Bosnia and Herzegovina took control over the entire Bosnian border. As an intelligence service, the Intelligence and Security Agency of Bosnia and Herzegovina was formed from the civilian intelligence institutions formerly operating in the Federation of Bosnia and Herzegovina and Republika Srpska. The Agency is now responsible for gathering, analyzing, and disseminating intelligence in order to protect the security, including the sovereignty, territorial integrity and con-

⁷³ European Police Mission, *Andan Fails to Produce Evidence on Madrid Bombing Statement*, EUPM, June 2005. Available online at: <http://www.eupm.org/Clanci.asp?ID=84&lang=eng>.

⁷⁴ European Police Mission, *EUPM on Andan’s Letter*, EUPM, June 2005. Available online at: <http://www.eupm.org/Clanci.asp?ID=89&lang=eng>

stitutional order of Bosnia and Herzegovina. Also, the State Agency for the Protection and Investigation was established to perform police tasks at the state level especially in regard to: organized crime, terrorism, war crimes, trafficking in persons and other criminal offences against humanity and values protected by international law, as well as serious financial crime. Bosnia and Herzegovina adopted the law on money laundering prevention, which determined measures and responsibilities for detecting, preventing and investigating money laundering and the funding of terrorist activities, and also prescribed measures and responsibilities for international cooperation for the prevention of money laundering and the funding of terrorist activities. In accordance with this Law, the Financial Intelligence Department of the State Investigation and Protection Agency was established for the prevention of money laundering and funding terrorist activities as well as to the promotion of co-operation and exchange of information with authorities of foreign states and international organizations responsible for the prevention of money laundering and funding terrorist activities. The Ministry of Security of Bosnia and Herzegovina, which did not exist at the time of the 11 September's events, was also established to coordinate activities of all abovementioned agencies. Within this Ministry, the Commission for Review of Citizenship is tasked to review 668 citizenships of the naturalized foreign nationals in Bosnia and Herzegovina, investigated 366 cases, out of which, it decided to suspend Bosnian citizenship in 156 cases.⁷⁵ The Commission should complete its job by April 2007. These new agencies/institutions are still very young and their best results are yet to come. Some of them do not work in its fully capacity, either due to the lack of personnel or finance, but if the present situation is compared with the previous times, it can be concluded that Bosnia and Herzegovina is getting infrastructure, able to address the issue of terrorism or any other type of crime.

The second problem is that a number of these agencies were created by the decisions of the Office of the High Representative, due to the absence of the political will for their creation. In a wake of an announcement that this institution will be transformed into the European Union Special Representative Office, which will be working without the famous Bonn Powers,⁷⁶ Bosnian's politicians have to be aware of their responsibility, since there will be no more international community to directly decide about important issues in Bosnia and Herzegovina.

At the same time, internally Bosnia and Herzegovina should not address the issue of terrorism, from the position of the law enforcement agencies only, like it was in the case of the Algerian Group, in which the state did not only violate their human rights, but it failed to respect the decisions of its own court. Terrorism itself violates in the most brutal ways human rights. Although it is against our own feelings of justice, the suspected terrorists should be allowed to enjoy human rights.⁷⁷ The fighting of terrorism has to be carried out within the rule of law; otherwise it will slip up badly over the basic human rights of individuals. If this is confirmed in practice, it makes a difference between states with rule of law and states where law is arbitrary.⁷⁸

The Algerian Group proved that Bosnia and Herzegovina was a weak state, without an established rule of law and an underdeveloped democracy. It further shows the partial modernity of Bosnia and Herzegovina. Therefore, the further democratization of societies, with an active role of its citizens, as well as, establishing the rule of law whose essential parts are protected by human rights, are not the only ways of preventing terrorism in Bosnia and Herzegovina, but also the process of Bosnia and Herzegovina to becoming a "normal" country.



⁷⁵ Dnevni avaz, dated 13 October 2006, at p. 2.

⁷⁶ Office of the High Representative and EU Special Representative, *Towards Ownership: From Peace Implementation to Euro Atlantic Integration*, June 23, 2006. Available online at: http://www.ohr.int/pic/default.asp?content_id=37503.

⁷⁷ Office of the High Representative and EU Special Representative, *Towards Ownership: From Peace Implementation to Euro Atlantic Integration*.

⁷⁸ Office of the High Representative and EU Special Representative, *Towards Ownership: From Peace Implementation to Euro Atlantic Integration*.

Due to its cooperation with the USA, Bosnia and Herzegovina has probably succeeded to move itself away from rumors of supporting terrorism, but it is still considered as a failed state. The Country Report on Terrorism 2005, says about BiH as a weak state with multiple semi-autonomous centers of powers, it could therefore present an attractive environment for those seeking a local place to launch terrorist activities.⁷⁹ The country also should do more on the prevention of corruption, organized crime and money laundering in order to improve its own stability. In order to remove itself from the orange “warning” zone of a failed state, its governing should focus on creating social and economic resources that will improve the life of the ordinary citizens. People living under the poverty line, without basic social rights, do not feel secure in their own lives, and they are more vulnerable to different kinds of abuses.

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⁷⁹ Department of State Publications, *Country Reports on Terrorism 2005*, Office of the Secretary of State US, 2005. Available online at: <http://stockholm.usembassy.gov/terror>.