

Interview with Ambassador Brian Aggeler Head of the OSCE Mission to Bosnia and Herzegovina

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1. How would you assess the situation in BiH - has this country reached a satisfactory level of democracy, what are the successes and what urgently needs to be arranged?

Bosnia and Herzegovina is a wonderful country with great potential, but the situation in the country remains complex and challenging.

Over the years – and especially of late – we have witnessed inconsistent reform processes, marked by some progressive actions on one side, and, on the other, setbacks fuelled by regressive policies and divisive rhetoric, including by certain political leaders.

Positive developments include efforts to advance with the adoption of certain key pieces of legislation, as well as EU candidacy status. The Mission would especially like to note progress at the local level, where leaders and citizens often collaborate across ethnic and entity lines for the collective benefit of their communities. Instances of positive practices in locations such as Bosanski Petrovac and the Majeвица region underscore local commitment to advancing shared interests in a truly transformative manner.

But this must be understood in the wider context of the deterioration of the protection of fundamental rights, notably the freedoms of expression and media. This includes the re-criminalization of defamation in the RS as well as the proposed legislation affecting non-governmental organizations, namely, the so-called *foreign agents law*. Threats against journalists, especially by public officials, represent another attack on the foundations of BiH's democratic system and its commitment to basic human rights.

Urgent attention is required to strengthen the rule of law and ensure an independent judiciary. This includes the adoption of key preventive measures, such as the State-level Anti-corruption Strategy and the Law on the Prevention of Conflict of Interest, and ensuring improvements to the judicial response to corruption.

Finally, but of great importance to the lives of individual and communities, the political system remains characterized by deep ethnic and political divisions, hindering effective governance and undermining social cohesion.

2. Bosnia and Herzegovina had a deadline of five years from the signing of the Dayton Peace Agreement to replace three foreign judges with domestic ones, and it has not done so to this day, and it has not passed a law on the Constitutional Court of Bosnia and Herzegovina. How do you comment on that?

The Constitution of BiH, which is Annex 4 of the Dayton Peace Agreement, stipulates that for appointments made more than five years after the initial appointment of judges to the Constitutional Court, the BiH Parliamentary Assembly may, by law, establish an alternative

method of selection of the three judges selected by the President of the European Court of Human Rights. It should be noted that amendments to the Constitution itself require a decision of ‘two-thirds majority of those present and voting in the BiH Parliament House of Representatives’.

The fact that this issue has been driven solely by political motives, rather than a commitment to upholding judicial independence and strengthening the rule of law, serves as a clear indicator of persistent political challenges and state-capture within the country. This underscores the ongoing necessity for further substantive judicial reforms, in line with international standards, notwithstanding the efforts made so far.

3. The Office of the High Representative still operates in Bosnia and Herzegovina, and currently Christian Schmidt, who is not recognized by the Republika Srpska because he was not confirmed by the Security Council. Instead of legitimately elected officials, he imposes laws that cause disputes in Bosnia and Herzegovina. Should the Office of the OHR be closed, should Schmidt leave Bosnia and Herzegovina, and if he continues to impose laws, where can this lead?

The Office of the High Representative (OHR) is an international institution tasked with overseeing the implementation of the civilian aspects of the Dayton Peace Agreement, which itself established the role and mandate of the High Representative.

The ongoing reality that certain processes and issues necessitate intervention by the OHR is a clear indication that BiH politicians have not fulfilled their responsibilities to work in the best interest of citizens and enact necessary reforms to propel the country forward.

Let me be clear – we can all agree that it would be better if the HR did not need to impose solutions. The clear alternative is for elected politicians to do their jobs. If these politicians wish to reduce interventionism by the international community, they must act responsibly and provide sustainable, consensus-based solutions aimed at improving the lives of everyone in of BiH.

4. In your opinion, how is the judicial system in Bosnia and Herzegovina - war crimes cases have not yet been solved, even the biggest ones, and organized crime and corruption are eating away at society in Bosnia and Herzegovina?

To restore trust in the BiH legal system, political leaders at all levels must implement meaningful and substantial reforms. This includes modifying and adopting appropriate policies, enhancing legal and institutional frameworks, and establishing accountability, integrity, and transparency as the foundation of the judiciary system in BiH, as judicial officials – and the judiciary as a whole – play a crucial role in upholding the rule of law and safeguarding the rights of all individuals in BiH. Judicial office holders must possess the capability and the willingness to skilfully address complex crimes such as war crimes, organized crime, and corruption, thereby narrowing the gap of impunity and restoring public trust in the judiciary.

The High Judicial and Prosecutorial Council of BiH bears the responsibility of preserving and reinforcing judicial independence while ensuring the full accountability of judicial office holders. This includes the appointment of judges and prosecutors based on merit and professionalism. The existing system for establishing disciplinary responsibility of judicial office holders, ensuring a more consistent punitive policy, must be improved. The HJPC BiH

should continue its efforts to improve judicial appointment practices and guarantee the accountability and integrity of judicial office holders.

Regrettably, corruption remains a significant impediment to progress in BiH. Effectively eliminating corruption necessitates unwavering commitment from all stakeholders, with success hinging on the determination, integrity, and dedication of those entrusted with combating corruption for the benefit of the entire populace.

5. When it comes to the elections in BH, what do you think are the biggest shortcomings?

As we approach the 2024 elections and beyond, for the sake of its democratic development, Bosnia and Herzegovina needs an inclusive, comprehensive, and transparent review of electoral legislation, primarily to improve election integrity and safeguard the democratic rights of its citizens.

To achieve this, BiH election legislation should be comprehensively revised, with full respect for domestic and international court decisions, and by implementing the recommendations made by ODIHR, the Venice Commission, and GRECO (the Group of States Against Corruption).

It is disappointing that, after years of negotiations and many rounds of discussions, BiH politicians have failed to deliver much-needed amendments to the BiH Election Law. According to last year's Mission [survey on citizen perceptions of elections in BiH](#), 60 percent of respondents emphasize the importance of amending the Election Law. The citizens of BiH actively seek these essential changes, yet political leaders have neglected their responsibility to engage in electoral reform. Past attempts at reaching a political consensus on necessary amendments have been unsuccessful, primarily due to the failure of key political actors to agree on the implementation of decisions from the European Court of Human Rights and the Constitutional Court of BiH.

Additionally, the issue of political party financing has been a persistent concern that we have highlighted over the years. The improper influence exerted through campaign financing poses a significant threat to the fairness and transparency of the election process. Finally, all forms of electoral fraud must be addressed efficiently and effectively.

6. The rights of Serbs in FBiH are totally respected, there are numerous examples of non-respect of basic human rights from Mostar, where the Cyrillic was expelled, Canton 10, where Serb families are without electricity, water, roads, Tuzla Canton, where numerous murders of returning soldiers are recorded, and up to Sarajevo Canton which is almost devoid of Serbs and nothing seems to be done to encourage their return, and the building of the Seminary of the Serbian Orthodox Church in the center of the city has never been returned. How do you comment on that?

Everyone, everywhere in Bosnia and Herzegovina must enjoy safety and security; they must have equal opportunities and be able to enjoy all the rights and freedoms prescribed by the international standards and enshrined in the Constitution of BiH. If everyone does not feel safe, accepted and a part of the community in which they live, all other efforts are in vain. This

applies to every ethnic, socio-economic or religious group, every gender, and every individual, regardless of their origin or background.

However, rather than addressing the real issues facing BiH, I am concerned that some prominent politicians do not take these issues of fundamental rights and freedoms seriously – instead, they use divisive rhetoric to increase divisions. Many only react when incidents impact members of their own community, and these responses are often exploited to separate society further and increase tensions, creating greater instability and re-exposing citizens to potential harm. This often means engaging in disputes for personal political gain, using divisive and inflammatory rhetoric, without considering how it affects individuals and communities on the ground, especially returnees or those who are otherwise marginalised.

Political and other public figures must be aware of the negative consequences of the climate they create. Divisive rhetoric by some officials in BiH sometimes contributes, as we see, to an increase in the number of incidents, threatening to unravel inter-ethnic relations in the country. It is for this reason that the Mission has cautioned against any and all acts that carry the potential to incite conflict and lead to the destabilization of peace and security.

Regarding the restitution of religious communities' property, the Mission monitors this issue, but, per its mandate, cannot intervene in individual cases. We recognize the need for a systemic approach to restitution and support and welcome solutions that contribute to the creation of an atmosphere of non-discrimination and the rule of law.

I cannot overstate this - we take the violations of basic human rights and fundamental freedoms very seriously, and all the issues you have indicated are high on my agenda when I talk to politicians, communities and individuals across BiH. As our OSCE Chair in Office puts it, it is all about the people.