

Transparency International Report

THE INTERNATIONAL COMMUNITY IS NOT IMMUNE TO THE CORRUPTION PLAGUE EITHER

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Executive Summary

The work of the international representatives in Bosnia and Herzegovina has gradually surrendered to the lethargy of that country and penetrated the grey area of work, due to a continuing lack of the rule of law. At the same time, the methods and goals of their activities are sometimes non-transparent and there are no higher instances to which they are accountable. This assisted the formation of a vicious circle in which the local authorities ever more often condemn the representatives of the international community for the problems that bother the country, running therefore away from their own responsibility and blurring the real picture. Meanwhile, the international factor justifies its failures and inadequacies by pointing their finger at the corrupt practices of the local officials. The recent issues that are being brought up by the foreign as well as some regional media, indicate the possible involvement of certain international officers and security forces in the most obscure illegal activities – the cases that were stifled in BiH as soon as they would reach the surface.

The purpose of this analysis is not to determine the responsible individuals, but to point at the necessity of transparent behaviour and help curbing corruption with all the key players in the development of BiH so that the country can finally begin its vital sustainable growth journey. This goal, however, presumes an unlimited engagement not only of the domestic agencies but also of the international representatives in BiH who must be integrated into an independent system of monitoring and reporting of their activities.

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BiH as a semi-protectorate

Not infrequently would it be concluded that Bosnia and Herzegovina (BiH) is a unique case in the world. The assumption is certainly true when it comes to the division of power and the system of decision-making. There is no country that is formally not a protectorate in which an external factor has such a broad authority, i.e. the local officials are not in a position to create their development policies by themselves. One does not have to waste time analysing the causes of such relations: even six years following the end of the conflict, the state of internal stability still does not permit the local authorities to lead this country down the transition path in harmony and with a healthy vision. For that matter, the international presence is both required and desirable. Numerous studies have demonstrated even more numerous advantages and the positive aspects of such an order in the country. Nevertheless, the times change priorities and so the focus of a number of international institutions shifted towards their exit strategy and with it to the so called 'ownership' issue, i.e. how to enable the national governments to perform the same functions in a sustainable and professional manner and in the best interest of all the key players both home and abroad. Although the full-scale transfer of roles will certainly not materialise in the near future, ever more evidence exists for a gradual maturing of the national politicians and they are now, for the first time, in a position to question the accountability of the international community in BiH. This does not only speak of the 'growing-up' of the BiH politicians, but also of the newly discovered 'comfortability' of some international subjects

whereby they engage in the practices which could be considered a criminal offence at their national courts. The present duality of power in fact creates a significant vacuum in which neither side develops a sufficient sense of accountability, the responsibility is being shifted away, and the system solutions appear further away than ever. Each side may blame the other for failures which understandably adds to the lack of transparency and the only framework that is being established is the one in which corruption will prosper.

It is interesting to note that the majority of reports primarily focus on the criminal practices of the local players. A recent Diagnostic study of corruption that was prepared by the World Bank in accordance with their standardised methodology, upon request of the BiH Ministry of foreign trade and economic relations, speaks of the widespread corruption and its modalities and its institutionalisation and in no word does it permit the same in the international circles, or the possibility these have knowingly tolerated it. The very fact that the Study had to await its publishing for almost a year, might indicate that it was not in someone's interest to publish the results during the general elections period or while the ruling post-election coalitions were being built. A high degree of awareness about corruption in BiH which this study reports (almost 100 percent of all respondents see BiH as a corrupt environment), coincided with another, regional public opinion survey which ranks the non-governmental sector that symbolises the international community (IC) in that study which did not feature as a separate category, as being more corrupt than in any other country of the South-East Europe. A grave mistake would be to focus only on the IC as that would offer an alibi to the local authorities for corruption in their ranks, but also the IC must bear some responsibility for allowing its spread. Even if 90 percent of responsibility theoretically were to rest with the local players, the remaining 10 percent must be accounted for. The danger that the emphasised focus on the IC may play into the hands of the domestic mafia elements may be a valid point, but also an excuse for not paying any attention to the distrust that the IC has caused, in order to allow for more room for its manoeuvres. Just as the local governments mature, so does the IC undergo an ever-greater diversification in which the national and individual interests begin to replace collective and organisational ones. It is therefore required that besides all the strives to combat corruption within BiH, the transparency of the supreme arbiter in the country is also questioned, for which no independent checks and balances mechanisms exist – the international community.

The political games that surround BiH from its coming into existence which materialise in the secret dinners, urgent midnight phone calls etc. actually classify the IC representatives as the 'fog hunters' whose least concern is to be accountable to the people because of whom they are supposedly in the country. A similar mystification encircles their local counterparts, many of whom face a diminishing popularity as soon as there is a popular belief they are involved in such 'conspiracy' activities. The key issue again is the lack of transparency, or at least the perception of its lack – no such lesson has been grasped and the problems still persist. A majority of the crucial long-term decisions for BiH have been adopted beyond its frontiers (from Dayton onwards) and that mostly without any wider consultations and discussions with the elected representatives. To say this was inevitable because long after the conflict, the leaders in the country were the nationalist parties that have taken BiH to arms, is a valid justification but it has also created a rather unfortunate precedent and a practice that remains in place even now that supposedly more democratic forces have come to rule. As things stand now, both the local leaders and the IC consider democracy only in theory, because the transparency of their work remains an enigma for the public.

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Politically correct leaders

The front page of the Banja Luka based "Glas Srpski" of 09 July 2001 publishes a text titled "Politics ahead of honesty" which elaborates on a large scale customs and fiscal mismanagement which have cost the Republika Srpska citizens up to some 100 million KM in total that have been documented precisely a year prior to the Glas Srpski publishing of the papers. These display the awareness of all the highest-ranked IC representatives at the time of the problem. It was clearly not someone's interest to have this brought up in public, paying absolutely no concern about the wider consequences to the RS taxpayers and the Budget beneficiaries. Although the said article wonders in its last sentence why this was so, the thesis is a believable one: the IC divides the local politicians between the 'politically correct' and the 'incorrect' ones. According to this line of argument, the mischief of politically correct politicians can be glossed over in the service of some 'higher goals', which then become a matter of political blackmail. Therefore releasing such documented evidence is in a direct relation to the 'obedience' of a politician and that not towards his/her electorate but towards the IC. This will influence their future political survival, because the 'disobedient' can immediately be removed, banned or replaced. The Dodik case – the absolute favourite of the IC in the election race may serve as an appropriate illustration of such claims. Only when it became apparent that his election campaign brought about insufficient results for the formation of the executive power, all those that had up to that moment spent hours on end talking and negotiating certain deals that fall within the grey areas of their CVs with the former head of RS administration, suddenly started washing off their

hands. At the time the Glas Srpski published document was being composed in July 2000 outlining the fiscal fraud and illegal transfers, as a high ranked OHR representative in Sarajevo states, only two or three ambassadors accredited in BiH supported Dodik's replacement at the so called task force meetings, closed to the eyes of the BiH politicians. Many others appeared to have simply believed in the power of political games. Regardless of their price. Roughly in parallel with this, the survey which the expert team of the World Bank was conducting on the ground that will later transform into the Diagnostic study of corruption, was coming to an end. None of that data will see the light of the day in 2000, because this was the preferred way for some, while corruption becomes a political tool of the IC.

On the other hand, the IC representatives are not so keen to have the situation 'stirred' too much during their stay in the country. With the ever shorter durations of their BiH mandates (that now often range between a half and one year) that increasingly look like consulting contracts, also in respect of the daily fees, the IC representatives have fewer time to focus on BiH and its problems and devote more attention to themselves. Within such a short time span, an international employee spends a considerable amount of his office hours learning the basic data on the country, its peoples, very complex structures, individual and street names, orientation in the given space and civilisation time etc. Then they spend the second part of their mandate getting into the core of the problem, which s/he will be facing and by the time s/he starts delivering certain solutions, their mandate is coming to an end. A significant lack of institutional memory that was the pride of the post-Dayton IC is a serious problem nowadays in BiH, particularly when taking into account the extent of powers the IC is entrusted with. Finally, the exceptionally high revenues of these individuals brings the public opinion to the conclusion that they came to BiH to enrich their CVs with a very challenging activity and location while extending their personal wealth.

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Monopoly over truth

In parallel with that, there are numerous side activities that can additionally contribute to the already significant income. BiH of the last several years has become the Mecca for the human trafficking on the road to the West, as well as for smuggling of narcotics, arms and other illegal goods and services. The Washington Post of 29 May 2001 on its front page reports about racketeering of brothels, trade of prostitutes, receiving of favours etc. yet this time not as BiH domestic activities but as a troublesome behaviour of some IC representatives in this country. The text talks about the existence of bribes, trade of documents, inadequate selection of staff for BiH etc. A story of six IPTF officers is particularly interesting as they represent the international security forces tasked with professionalisation of the local police, who have been dismissed and removed from BiH, having been found guilty of racketeering of brothels and mistreatment of prostitutes (with no payment for services). The text came out not long after an entire IPFT spokespeople hierarchy had denied identical claims of the local media, calling them unprofessional and deceitful. The same spokespersons now probably owe an apology to the managers of the brothels in BiH because of their own false statements. The Zagreb-based "Vecernji list" only several days after the Washington Post article was published, draws the public attention to a follow-up story in which it publishes allegations against certain UN co-ordinators in Mostar, who appear to be involved in the smuggling of asylum seekers from the poorer Asian countries. The only barrier that has not yet been overcome is the one which disables the inland media to write reports of this kind, as a result of the direct or indirect supervision of their work by the IC representatives in charge of the media democratisation and training. The monopoly over truth will for the time being remains outside of the BiH borders.

In the meantime, all the TV and radio stations in BiH show cartoons or recorded messages titled "This and That versus corruption" in which the two key characters - This and That complain to one another about the lack of money which will cause them to miss yet another summer break and all this would not have happened if only their politicians were less corrupt. The election jingle of the strongest election group in BiH, the OSCE called to "Outvote corruption!" In the frame of all said above, either such expensive campaigns were required to justify high quantities of money spent in vain, or the individuals that come to BiH for up to a year, never grew to realise that the people of BiH is not totally blind. This promotional campaign was a rather humiliating and frustrating public move of the IC in BiH that as its chief result had the spread of discontent among the local citizens, which fired unintended against the initiators of the said activities.

The truth remains the monopoly of the foreign media. Washington Post yet again describes in much greater details the saga about which the public obviously knew only as much as one wanted them to know. The storming into the Hercegovacka Bank in Mostar and the related activities of the international institutions as well as its price, were time and time over selectively served to the BiH public. However, the latest media developments hand in hand with the activities of the investigative journalists from the direct BiH surroundings, may lead to a conclusion that the crucial resources are grouping which may then quiz the issue of transparency of engagement of the IC. The

latest report of the International Crisis Group on Bosnia and Herzegovina, which critically examines the promotion of a sustainable economic growth, makes several concerns over inconsistent behaviour of some parts of the IC. As with many other reports listed in this paper, the ICG recognises the danger when “a multiplicity of international agencies with overlapping mandates creates confusion by giving Bosnia’s governments sometimes-conflicting advice and then abjuring responsibility for the consequences. The rapid turnover of international consultants and the lack of transparency and accountability damage the quality and continuity of reform.” The ICG brands the international community’s approach to economic reforms reactive, lacking transparency and sometimes inadequate or even counterproductive.

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Transparency is not sacred

Such IC encourages BiH to adopt and strictly apply e.g. a law on prevention of the conflict of interest, on public procurement procedures etc. that are otherwise a close expertise of many chapters of Transparency International globally. If at the time of writing of this report one checks EuropeAid, the website of the European Commission, the largest donor in BiH, where tenders are being announced for the EC-funded projects in the country, it is clear that eight of them are older than a year for which no implementing agent for procurement of goods or services has been announced. Their total value just for the service contracts (no procurement of goods estimates) amounts to Euro 3,700,000. The other group of tenders that have been closed more than half a year ago, 18 of them in the total value of Euro 10 million only for the service sector (needless to say, the procurement of goods has manifold higher values) also do not state the selected bids. In our interview with as many as four European consultancies which have participated at some of these tenders, it appears that the selection of the implementing business is even less transparent and often subject to fixing of the tenders, the quotas – the formula for selection of companies being the origin of the business and not the quality of their bids. Such claims have been additionally verified in several embassies of the European countries in Sarajevo, which are engaged in a tough battle to secure business for their respective domestic businesses. The terms of reference are sometimes unclear, particularly if the quotas have decided in advance who is likely to be the winner for implementation and the ToR then appear as a quick mode of spending funds destined for BiH in a way that they never leave the donor country.

Further analysis of the international assistance to BiH displays many other separate problems: from tied aid, market distortion through monetisation of goods projects, high percentage of the very expensive foreign consultants’ participation, in-kind loans etc. A possible conclusion is that various grant means and the ‘soft’ loans that supposedly bear no interests, have cost this country much, particularly when examining the political conditions that frequently burden such aid. What is most important is the fact that in such an unclear framework, the key players may find room for manoeuvres, mismanagement and money laundering. The less transparent and accessible the aid information, the greater the probability that a portion of those funds either never arrived to BiH, or following their receipt, a limited local, foreign or combined group shared them internally. Perhaps this is the answer to an earlier question why was the mafia never exposed and sometimes even assisted. Auditing of the Entity budgets was also financed from the international sources. A post-elections attempt by Prime Minister Ivanic to review the RS 2000 Budget was fiercely confronted by a part of the IC, justified by the need to strengthen the Supreme Audit Institutions of RS. However, the positive global practice of Transparency International advocates that any additional auditing of the public accounts conducted in a transparent and professional manner may only serve as an additional mechanism of checks and balances and cannot be unnecessary.

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Selections and replacements of the international representatives

Besides, those officials with the short-term contracts are often seconded from the government institutions of their respective countries, sent for a training or even as members of the demobilisation programmes for ex-military officers. Such individuals with very little real life practice take senior posts in BiH allocated to certain countries – members of such dinosaurs, through the quota system. In BiH they choose to interpret or write laws with the limited experience they have. As a result of that, perhaps with best intentions, social policy laws are being fostered that may apply in the economies of e.g. Sweden or Austria, but not an impoverished BiH. Imposing fiscal compensations for certain social groups represent no measures that assist the Entity budgets to reach the planned levels. This analysis will not focus on the justification of such steps and policies, yet they pose a hypothetical accountability question: if an international decision-making official due to his/her incompetence or lack of knowledge, with their best or worst intentions, continuously fosters ill solutions – at which elections can the

electorate vote for or against him/her? How does one remove a key individual in charge of police force reforms with personal dossiers containing sexual misconduct, bribery etc? The OSCE offered a spectrum of election models, a new one for every round. Yet what has not been noticed in any of the large 'election sheets' are the names of the people that really do decide on the future of this country instead of their politically more or less correct extensions; in another words – a mechanism to call the IC to account.

Many officials in such institutions are frequently discontent with each other's achievements. The gap is particularly visible between the international financial and political institutions that are guided by a different set of professional interests. There is dissatisfaction even within the IC over their achievements. Privatisation has been halted for too long, inter alia because the two wings at first could not agree on an acceptable model and now the ownership structures' transition and introduction of the market-oriented executive boards fail to represent an appropriate counterpart to the political branch of the IC for the quasi-economic issues (that should not be their scope of work in the first place), i.e. their counterparts will now become numerous individuals and business entities that will control the enterprises. In such environment it will be close to impossible imposing economic solutions, or label them logical and appropriate, i.e. the stick will be lost and no carrot is to be offered. This is why the new or the future owners of the companies subject to privatisation keep seeking a clarification – does the IC now halt privatisation ?

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Rich in diversities

"Global corruption report" which is due to be published by Transparency International in October this year, similarly to the ICG, speaks of the lack of co-ordination, particularly among the OHR and the rest of the Western organisations and countries; of the differences in their approach, operations and more generally their policies towards BiH. Such distinct differences are being pointed as a solid reason why BiH still has no appropriate anti-corruption strategy. The Anti Fraud Department of the OHR is considered too weak and has largely failed in its co-ordination role. This is being echoed in the testimony given to the US House of Representatives in July 2000 of the General Accounting Office that portrays the OHR as "essentially a recitation of existing international efforts and, although the work of the international community is collegial, it is not truly co-ordinated". The price of such arrangements, both for the donor countries as well as BiH is rather obvious. Overlapping jurisdictions, a lack of strategy and co-ordination and scanty monitoring sometimes undermine a liberal market orientation of the international financial institutions, and result in a less favourable solutions imposed by the political wings.

More financial analyses stem from the refusal to pay taxes and social contributions, which has been the practice of the international institutions from their first day onwards, not just for the ex-patriots but for the local employees there. Would that not be avoiding the fair game at the labour market, particularly now that an agreement exists with the Entity Governments on the payment of taxes? A local enterprise faces a less competitive starting position if it were to employ national experts, as it bears a greater fiscal burden. Many of the best-educated and trained people hence end under the roof of the international organisations and the economy continues to weaken. It is not rare that over-qualified individuals perform simple operations only in order to receive greater financial benefits which, in the given conditions, the local subjects cannot offer. In the long run that will have an adverse effect on their prior qualifications which already signifies a structural social damage. All of that in a brain-drained country from which many tragically vanished.

The IC representatives were uncompromising in their numerous appearances: setting up and revising the judicial and the prosecution mechanisms where they again represent the ultimate integrity arbitrator of a social pillar; the infamous case of the third GSM licence tender for mobile phones that was ultimately a non-transparent process ; with similar problems possibly being replicated in case of the personal identity documents system . In all the stated examples an issue is clearly the irresponsible and ignorant behaviour of several levels of the national governments as well as the role of the international representatives that may bring into doubt integrity of the joint regulating institutions, leaving behind a sour aftertaste of injustice and colonial relations. The cancellation of the GSM tender is also an unwise step but if it is to initiate the introduction of transparent rules and procedures for tenders, sales, procurement and concessions that obviously do not exist at present, then the price was not so high.

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Can the IC provide a model to the local leaders?

The only solution for this unclear situation is in the IC assuming the role it performs in most developing countries and that is of an integrity pillar in the society – a partner in transition, rather than the roof of the integrity temple, the ultimate interpreter, the judge and the prosecutor. Every institution subject to no supreme control, review of its

activities, periodical accountability to those they represent, particularly in the extremely unregulated working relations and an absence of the state of law in BiH, will eventually see their integrity crack down. The challenges are too many, the sanctions are scarce or non-existent, the extra profit is guaranteed and so many individuals may opt for the grey side of the law (particularly if they themselves designed it), bearing little responsibility towards just another country in which they intend to spend a short time. That creates negative precedents, which the local bullies may rush to imitate and they will represent a permanent excuse to one another. The absence or the weakness of the other integrity pillars in the society that remain so strong in the countries of the so-called IC, disables even whistleblowing when a problem arises, so they keep mounting. In that, the best performers are just several individuals: a few may face some bad press in the foreign media and BiH remains at the European bottom. Studies on corruption expose various irregularities and the criminal activities of the local players, partially hiding the truth which is – the circle of crime is rarely national or regional, it is often international, only: quod licet Iovi, non licet bovi.

It would be a mistake to leave the entire responsibility with the governments of BiH. As stated earlier in this text, no matter how responsible for such a situation the IC may be, it has to bear its portion of the blame and with it the responsibility. This country has undergone the worst European disasters since the end of the World War II and some still persist and take on scandalous dimensions in the social sphere. The trade and smuggling of humans, narcotics, arms, and other illicit and excise goods; finally – prostitution, drug addiction... often just the consequences of the futureless situation in BiH. The graveyards are full and the youth nowadays meets and socialises in the queues in front of the foreign embassies. Anyone with some talent will try to demonstrate and utilise it outside of BiH. It is a logical conclusion that if the IC had a leading role in the six post-war years in the development of the country, it must bear some responsibility too. The blame does not rest solely with the local authorities which all had a short life span thus far and no continuity. Meanwhile as far as the responsibility is concerned, many followed Orwell's "all animals are equal, only some are more equal than the others". The International Crisis Group in their latest report suggests as one of the conclusions that the Peace Implementation Council and Steering Board should introduce mechanisms to enhance the transparency and accountability of the international community's work in BiH.

It is time to draw the line and openly agree upon the partnership conditions in order to introduce order and allocate roles but with it accountability as well. There must be a mode for the people of this country to seek these from all the pillars of integrity in the society. Various, yet numerous international institutions should divide and precisely define their responsibilities, avoiding overlaps and particularly avoiding political guidance of the economic development when creating a friendlier environment for business in the country as the only warrant of a sustainable economic growth. With such distribution of duties and an independent review of work, the strives in reconstruction and what is more important – the results will become a lot more transparent.

"No society is free from corruption, and each has to fine-tune its integrity system continuously to keep the menace in check. Now it is coming to be recognised that only those who live in a particular society can truly appreciate its nuances, and only they are in a position to judge both what is possible, and what may or may not be workable. The donors' role should therefore be limited to facilitating internal discussions and assisting in building internal ownership of well-informed reform programmes. Donors should not attempt to dictate these from outside, or to impose conditionalities that are unrealistic or which are not supported by significant internal actors."

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Acronyms:

BiH = Bosnia and Herzegovina

EC = European Commission

FBiH = Federation of Bosnia and Herzegovina

IC = International community

ICG = International Crisis Group

IPTF = International Police Task Force

KM = Convertible Marka (BiH currency)

NDI = National Democratic Institute

NGO = Non Governmental Organisation

OHR = Office of the High Representative

OSCE = Organisation for Security and Co-operation in Europe

PIF = Privatisation Investment Fund

RS = Republika Srpska

RTRS = Radio Television of the Republika Srpska

TI = Transparency International

ToR = Terms of reference

UN = United Nations [Organisation]

UNMIBH = United Nations Mission in Bosnia and Herzegovina