# Nezavisne novine: Intervju sa prvim zamjenikom visokog predstavnika Bruceom G. Bertonom

*(Napomena: Ovaj sadržaj je dostupan na engleskom i srpskom jeziku.)*

*By: Dejan Šajinović*

**Nezavisne novine: A lot of emotions have been stirred by the decision about the RS Day. I am always in favour of the rule of law, but it is difficult to uphold the decision of the Constitutional Court which touches on the essence of what many people in RS consider to be part of their identity. How to overcome this situation in an acceptable way?**

**Bruce G. Berton:** Emotions have been running high, and I can understand this. I am also aware of all the media statements and comments that were made about the decision of the Constitutional Court which has not yet been published.

It is now time to calm down. When we see the decision we can begin discussing it and look for solutions.

Until then I want to talk about the facts, and they are simple. The number one fact is: the Constitutional Court of BiH is an integral part of the BiH Constitution – Annex 4 of the Dayton Agreement that guarantees peace in this country

and, as such, is essential to its implementation. Fact number two: the Constitution explicitly states that the decisions of the Constitutional Court are final and binding. Nothing is going to change this basic legal requirement which is a fundamental norm of every functioning democracy.

As always, the best possible way – in fact, the only way – to overcome this or any other issue is to use democratic procedures in accordance with the constitutional framework of this country to find solutions and to move forward. And this should be done, whenever possible, through constructive dialogue and compromise.

**Nezavisne novine: In any legal system decisions are made in the name of people. What happens if the issue is considered against the very same people those institutions are supposed to represent?**

**Bruce G. Berton:** I would argue that decisions are taken in accordance with the Constitution and to maintain Rule of Law. Not everyone will be satisfied with every decision, and that is not unique to Bosnia and Herzegovina. My own country is a case in point. We also have court decisions that many have been opposed to, but we accept those decisions as the law of the land and we move forward. That is what rule of law is all about.

So as has happened in many any other countries including this one, one might not be pleased with a decision of the Constitutional Court, or in the case of my country, the Supreme Court. But that in no way changes the fact that court decisions must be respected.

**Nezavisne novine: Would it have been easier if those decisions have not been made by foreign judges who overruled the domestic ones?**

**Bruce G. Berton:** The presence of international judges in the Constitutional Court of BiH is explicitly provided for in the

Constitution of BiH. They are selected by the President of the European Court of Human Rights following consultations with the BiH Presidency. This stands as a strong guarantee of their professionalism and impartiality. The international judges did not overrule anyone and there is no reason to blame them for decisions we have not even seen yet.

I want to say this very clearly: the international judges have done their job in an impartial way in what is a very challenging environment. The reason the environment is so challenging is simple: your political class has come to believe that it is normal and acceptable to launch one political attack after another against the judiciary and against individual rulings. This speaks more about them than the institutions and the decisions they attack.

Another thing we need to bear in mind: the law is the same for everyone. It does not change according to the nationality of the judge who applies it. If you were to go through the decisions that the Court has taken over the years you will find that there have been decisions that political representatives of different groups or constituent peoples did not like. But as I said before, that's what Rule of Law is all about. People are at times not going to like the decisions, but the Rule of Law must still be respected.

**Nezavisne novine: Do you not agree that such actions are making the Serb people even more distrustful towards institutions at BiH level?**

**Bruce G. Berton:** I think it is counterproductive to always look at issues through the ethnic prism. Rule of Law cannot work in this way; it must always have primacy and must remain free from political interference. This is in the interests of all law abiding citizens.

Since I assumed the duty of Principal Deputy High Representative in September, I have heard one thing over and

over from people I meet: they want peace, justice, jobs, pensions – a better future. They want government institutions that do their jobs efficiently and effectively and that serve them rather than serving more narrow interests. And as far as I can see, this has nothing to do with whether you are Serb or Croat or Bosniak.

**Nezavisne novine: Why is it not possible to leave aside sensitive issues and try to focus on more down-to-earth questions which concern everyday life of normal citizens? Who needs the endless confrontation over this extremely sensitive issue?**

**Bruce G. Berton:** I am quite sure that thousands of ordinary people of this country are asking the same questions right now. Of course it is possible to choose to work on behalf of ordinary citizens and to solve their pressing needs. It's simple. You make that conscious decision and you just do it.

We absolutely need politicians to focus on issues such as reducing unemployment, creating a better environment for investments and improving the living standards for people of this country, regardless of whether they live in the Republika Srpska, the Federation of BiH or the Brčko District.

The only reasonable answer I can give is that it is much easier to divert focus onto issues that can be easily politicised to score cheap points, rather than to tackle tough economic issues. Economic improvement and recovery is a long-term task, one that requires tough decisions and hard work. Politicians who opt for the easy way to stay in power will eventually face a disaster. Numerous examples exist around the globe to prove this, and BiH is not an exception.

I am sure that voters, when they cast their ballots, expect those they voted for to deliver results that will provide a better future for them and their children. They do not expect or want more futile political games that lead nowhere.

I hope the leadership here will listen to the people, and will put citizens' interests first. Of course, some will try and divert attention away from the real challenges facing ordinary people. But that approach can't work indefinitely. Eventually the people will say enough is enough, enough of the artificially created atmosphere of fear and tension. We want results. We want a decent future for our children.

**Nezavisne novine: Some are already trying to get the High Representative to intervene and use the Bonn Powers. What should he do in this situation?**

**Bruce G. Berton:** In the few months that I have been PDHR, I have come to realize that the High Representative's executive powers are the most talked about part of his mandate. The PIC SB has reiterated its support for the High Representative in ensuring full respect for the Dayton Peace Agreement in and carrying out his mandate under Annex 10 and relevant UN Security Council resolutions, which remains unchanged.

As you know, the international community over the years has changed its approach, to be less interventionist in order to give domestic leaders an opportunity to show that they are capable of moving the country forward. That does not mean, however, that we will sit idly by and watch important steps that have improved the everyday life of citizens be rolled back.

That being said, I must refrain from any speculation as to when or if the High Representative's executive powers will be used.

**Nezavisne novine: What is the best approach of the international community towards BiH? Should it be more involved, less involved? What is the right course of action?**

**Bruce G. Berton:** The International Community is here to help and we believe the country clearly still needs assistance. The commitment of the international community remains solid

and significant, and I believe this should continue, but the elected leadership also needs to help move this country forward.

BiH has a clear path ahead, with the EU's Reform Agenda leading the way. Reforms, and then some more reforms, are long overdue. If BiH wishes to join the EU, it will have to change the way things are done, including the way politics are conducted. For that to happen, BiH leaders will need to focus more on issues that matter, while leaving empty political squabbles behind.  I think the EU has been quite clear that it wants to see concrete reforms and results. We need the authorities in BiH to deliver those results.

I am encouraged that the BiH Presidency remains strongly committed to making further progress in implementing the Reform Agenda. Authorities and institutions at all levels should maintain this positive momentum in carrying out the required reforms – including the socio-economic, rule of law, judiciary and public administration reforms.

**Nezavisne novine: How far are we in implementing the Dayton Accords? Did we implement it or are there still elements that need to be addressed?**

**Bruce G. Berton:** The High Representative gave a detailed account on the overall implementation of the Dayton Peace Agreement in his report to UN Security Council in November. A lot has been done, but quite a lot still remains to be done. The Peace Agreement is not an a la carte menu where you can take what you like and ignore what you don't like. That simply won't work.

If you are referring to the 5+2 agenda, the implementation of which is necessary for closing of the OHR, I must say that it is still as valid as when it was set out by the PIC SB back in 2008.

What is needed is for local leaders to demonstrate the

political will and prove to their citizens and BiH's international partners that they are fully committed to respecting the Peace Agreement. This includes their obligation to fulfill the 5+2 objectives and conditions for OHR's closure.

**Nezavisne novine: Will there be referendum in Republika Srpska about the decisions of the High Representative?**

**Bruce G. Berton:** The position of the OHR is clear: In his recent Special Report to the UN Security Council, the HR, in his capacity as the final authority regarding the interpretation of the GFAP, determined the Republika Srpska to be in clear breach of the GFAP, in particular of Annexes 4 and 10. The PIC SB unequivocally declared that the announced referendum in the Republika Srpska would represent a fundamental violation of the GFAP, and challenge the cohesion, sovereignty and territorial integrity of BiH.

Matters of state judicial institutions fall within the constitutional responsibilities of the state and do not fall under the entity's constitutional responsibilities, while the status and powers of the High Representative are matters arising under the GFAP and international law, and therefore do not fall within the purview of the entities.

Whether the RS authorities will proceed with this clear violation of the Dayton Agreement remains to be seen. You will have to ask them. My clear advice to them, which I take this opportunity to repeat, is to put the referendum aside and to fully respect and work within the framework of the Peace Agreement.

**Nezavisne novine: What about the referendum on RS Day? Would that kind of a referendum be in violation of the Dayton Peace Accords?**

**Bruce G. Berton:** To my knowledge such a referendum has not been called. What I can say is that whether it is this issue

or any other issue, the political class in this country needs to take actions that increase the possibility of reaching productive compromise rather than limit it. What is the point of taking a position that does not allow for compromise? Is that the approach that is going to work in Bosnia and Herzegovina? I think we all know the answer to that.

To address your specific point, I don't think it is useful to speculate on a referendum until we see what the question is likely to be. If there are further decisions about a referendum then the HR will of course assess them in line with his mandate under the Peace Agreement and Resolutions of the United Nations Security Council, just as he did with the referendum decision that was adopted in July.

**Nezavisne novine: Would it be acceptable for RS citizens to express their view, if the question is not whether they oppose the Court decision, but instead if the question is what they think about January 9 as the RS Day?**

**Bruce G. Berton:** I have a far better proposal. Let us wait for the decision to be published, read it and through political dialogue, find an acceptable way to implement it. And while we are waiting, let's focus our efforts on delivering concrete results to tackle the pressing problems facing so many citizens in this country. I have little doubt that citizens would prefer to see politicians expending their energy on creating jobs, fighting corruption and improving services.

**Nezavisne novine: How do you view the latest developments regarding the SIPA operation in the Novi Grad Police Station?**

**Bruce G. Berton:** According to the information available, SIPA indeed informed the RS Ministry of Interior in advance about a planned operation in the area, requesting technical assistance from the ministry, which was duly provided. As far as we understand, there were no incidents whatsoever during the operation and the individuals in question were apprehended.

Therefore, it is quite difficult to understand why the RS authorities reacted in the manner we all observed. That question still remains unanswered.

One thing is clear: State level law enforcement and judicial authorities have jurisdiction to operate fully throughout Bosnia and Herzegovina and this jurisdiction should be fully and unconditionally respected. The entities have a constitutional obligation to comply with the decisions of the institutions of Bosnia and Herzegovina.

I want to be very clear on this point that the independence of the state judiciary and operational independence of the state level law enforcement agencies should not be called into question.