**Bosnia Herzegovina after the referendum in the Republika srpska**

Bosnia and Herzegovina has recently returned to the attention of political analysts and commentators for the referendum held in September in the Republika Srpska, one of the two territorial entities in which is divided the country after the 1995 Dayton peace accord that ended the conflict. The majority of comments and analyses asserted a dangerous increase of instability and a serious nationalist spin in the country, often described on the brink of a new conflict. The severity of the situation would be related to the fact that a secession of the Bosnian Serb entity would occur with Moscow’s support and would fit into the broader conflict between Russia and the West that is currently taking place with proxy elements in Syria and Ukraine. The Balkan geopolitical scenario will extend the area of crisis between US, Europe and Russia.

But is the situation in the Balkans really so worrying? What significance should we attribute to the new referendum promoted by Republika Srpska president Dodik and overwhelming voted by the Bosnian Serbs? What other problems can endanger the stability in the most fragile and dangerous country in the Western Balkans? Has Moscow a real interest and intention of blowing on the ashes of the frozen Balkan conflicts? In order to provide some answers to these questions, it is necessary to break down the problem into its basic components, old and new.

**The referendum on the State holiday in the Republika Srpska**

The dreaded Bosnian Serb referendum, that shakes the Dayton balances and Europe, had a rather trivial question printed on the election card. Voters have been asked to confirm the date of the Republika Srpska national holiday for the day of January 9, the day of Julian calendar (26 December according to the Gregorian one) in which the feast of St. Stephen is celebrated, a Christian martyr and patron saint of the Serbian nation, strongly connected with the Serbian national identity and nationalism. For the Serbs of Bosnia the day of St. Stephen is not only the national patron saint, but it overlaps also with the day of the proclamation of the Republika Srpska (RS) in 1992 and, since then, it is celebrated as the Feast of the Republic of Serbia in the Serbian entity of the country. But how is it possible that twenty years after the Day of St. Stephen is celebrated on January 9th as Republic Day in the RS, the institutions of the country are polarised over a referendum on the legitimacy of such holiday?

It should first be explained that the referendum of September 2016 doesn’t come out of the blue, but it is the further stage of a dispute that has lasted for over 10 years on State symbols and national identities of the two entities of Bosnia Herzegovina, used and politicized by the most nationalist segments of Serbs and Bosniaks. The last referendum crisis in Bosnia Herzegovina is also part of a long trail of plebiscite with a strong nationalist character announced by the RS authorities and then cancelled at the last moment, that have become a consolidated way to make ethno-politics and build international relations at entity level in Bosnia and Herzegovina. Not long before the State Holiday Referendum took place, two other attempts to introduce plebiscite against Dayton Treaty in the Republika Srpska occurred. A referendum intended to challenge the authority of Dayton’s State Court of Bosnia Herzegovina on the Serbian entity, scheduled for November 15 2015, was subsequently frozen after international pressure, but it could be revived at any time. Only few months earlier, President Dodik party voted a resolution resuming the old project for a referendum on the full secession of RS from Sarajevo, scheduling it for 2018.

The Referendum on RS State Holidays, therefore, should be framed in between these two attempts: to abolish the Dayton constitutional order and to promote a full secession from Bosnia Herzegovina.
It is in this context of severe instability that the dispute on state symbols of the Serbian constitutional entity of Bosnia Herzegovina must be framed. This umpteenth institutional crisis - which brings to mind the one between Greece and Macedonia on the name of the country - it is part of the in fight between the post-Dayton Bosnian institutions that has affected the country for the last 20 years. The conflict over the Republika Srpska State symbols (hymn, coat of arms, flag, national day) formally erupted in 2004 when the then president of BiH, the deceased Sulejman Tihic - successor of Alija Izetbegovic - filed an application (U-4/04) to the Constitutional Court of Bosnia against two laws of Republika Srpska introduced at the time when the Republika Srpska still had neither an international nor a constitutional subjectivity: the law that defines the anthem, flag and coat of arms and the one that fixes the national holiday for the day January 9th. The Constitutional Court (which in Bosnia is a sui generis structure, created by the Dayton Peace Accords with a share of international judges) gave its verdict in 2006 against the law in force in the Serbian entity. The RS authorities tried to delay the application of the sentence and finally, conformed its laws on coat of arms and anthem to the constitutional rulings. Nevertheless, in 2007, RS promulgated a new law that sets again the entity national holiday with the Orthodox religious holiday of S. Stephen, and indirectly with the anniversary of the proclamation of the Republika Srpska in 1992.

In the years following the dissolution of the Union of Serbia - Montenegro (2006), and especially following the unilateral declaration of independence of Kosovo (2008), the leader of the main Bosnian Serb party, Mr. Dodik, has followed a strategy of stop-and-go toward secession from Bosnia Herzegovina, with the net result of getting closer to the red line of a point of no return. In 2011, after many postponed announcements, the RS Government planned the first referendum on secession from Sarajevo, which, however, was finally frozen due to a strong diplomatic pressure from the European Union.

The calm was not supposed to last for long. Two years after the aborted referendum, another Bosniak member of the Bosnian Presidency - this time Bakir Izetbegovic, son of Alija, founder of the Bosnia and Herzegovina – brought again the matter of the State Holiday of RS before the Constitutional Court (U-3/13) accusing the Serbian entity of failing to adhere to the provision of the Constitutional Court, which had ruled for the unconstitutionality of the Serbian national holiday. The Court appeared to be in difficulty, because the issue surpassed the strict legal dimension of the problem, becoming a new confrontation of opposite nationalism, a dangerous situation in the country overheated domestic political climate. An opinion was required an opinion to the Venice Commission of the Council of Europe, the main international organization for the defence of human rights, which issued its report in October 2013. Supported by that opinion, the Constitutional Court of BiH gave its verdict of unconstitutionality on the National Holiday of the Republika Srpska for the 9th January.

This is the political framework that brought the President of the Republika Srpska Dodik to call for a new referendum that has been declared unconstitutional by the Office of the High Representative and whose object is to give popular support to a decision that has been already declared unconstitutional by the Constitutional Court already in 2006. The goal of Dodik, was not just to try to give a new basis of legitimacy for the date of the Republic National Holiday, but mostly, to create a conflict between two different forms of sovereignty, that are both present in the Dayton complex architecture: the sovereignty that derives from the ethnic legitimacy and the one derived by the institutions created by the international community, mostly represented by the Constitutional court.

Despite the participation in the referendum was relatively low, a little over 50%, almost all of the voters choose to vote "yes" to maintain the RS National Holiday for 9th January. With the victory - that was at the same time obvious and unnecessary from a legal point of view – the president of Republika Srpska was able to strengthen its internal positions on pure ethnical-political grounds, as
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it was demonstrated by the results of local elections on 2 October. In addition to this, he re-launched its international standing, as demonstrated by the support continuously received by Putin, who received him in Moscow a week before the vote. Peculiar was the position of Belgrade that maintained a neutral stance without openly supporting the referendum, a position needed to balance its leverage on Banja Luka with disappointing neither the European Union nor Moscow. It may be a first sign of a future potential political rift between Serbia and Republika Srpska. Another consideration on this referendum should address the role of the international community who lost an important occasion of crisis management and reduction of conflictuality, since a significant part of the pro Dayton international community confirmed its non neutral stance in the institutional quarrel, raising the tone of the internal debate (for example the Peace Implementation Council and the High Representative for Bosnia OHR, the Austrian Inzko, denounced the anti-Dayton character of the referendum arguing that it was a threat to peace and stability in the country and the region. If this may be true, the difficult situation of the country (what in the Venice Commission opinion is called the special nature of the Bosnian situation) and the broader complex regional geopolitical momentum, should have probably pushed for a more cautious and balanced approach, working under the surface to reduce the tone of the debate without contributing to the opposite rhetoric of opposite and divisive nationalisms. The Bosnian constitution, for example, from the point of view of its efficiency it is probably the most complex and dysfunctional of the world, but it has got, undoubtedly, several conciliation mechanisms needed to promote a negotiated settlement of institutional disputes, without arriving to the paradoxes of declaring unconstitutional the patron saint of the second nationality of the country.

Is it really possible secession of Republika Srpska from Bosnia and Herzegovina?
If there may have been a poor conflict prevention on behalf of the international community in the Bosnian case in the last few years, the issue of a possible secession of Bosnia mostly driven by Serbian Bosnian nationalism (to be distinguished from Serbia nationalism) remains one of the most relevant security concern in the region, probably more relevant than the frozen conflict in Kosovo. It is anyway the author’s opinion that the possibility of a secession of the RS from BiH, a concrete outcome existing at least since 2008, it remains extremely low even in the light of the new tensions of 2016. While acknowledging the existence of a strong desire of important segments of the Serb population of the country to abandon the common state formed after the war resulting on an intense pressure to break the architecture of Dayton, we believe that none of the possible paths toward secession is realistically feasible and everyone would ultimately worsen the geopolitical position of the Bosnian Serbs and probably of Serbia itself. The relevance of the theme, however, obliges us to a review of the main possible scenarios of an eventual secession of Republika Srpska from Bosnia Herzegovina. Before having a closer look to the main possible secession scenarios it should be remembered that a revisionist approach toward the Dayton structure is not only a peculiarity of the Serbian nationalism but is somehow shared by the two other main nationalities, Bosniaks and Croats. If the revisionist posture of the RS Serbs goes toward severing the few limitation in the entity statehood from the central government and the international governance, the Bosniak nationalists revisionism aims at cancelling the entities’ autonomy, establishing a majority rule democracy without veto powers for the minority nationalities. This trend may become stronger after the results of the last Bosnian census registered that the Muslim population rose to 50% of total. Since a possible drive toward secession of Republika Srpska is the most advanced and the most powerful attempt to cancel the Dayton settlement, it is worth investigating how such a scenario – that we still don’t foresee has an incumbent one – may anyway take place, and which paths could it follow.
Among the several models available, such as the one of Catalonia, Scotland, Northern Cyprus or Crimea the Kosovo case appears to be the most likely model for an eventual secession of the Republika Srpska from Bosnia Herzegovina.

Would a Kosovo model scenario fit for RS?
This is basically a scenario of a unilateral declaration of secession, followed by a boycott of the common institutions and the creation of an autonomous State that will attempt to gain international recognition, but it will fail to reach a similar level of state recognition and it will achieve a situation similar to that of the Turkish Republic of Northern Cyprus. It is no secret that president Dodik has accentuated its pro secession line after the declaration of independence of Kosovo, and particularly after the ruling of the International Court of Justice in 2010 on the legality of the unilateral declaration of independence of Pristina and its compatibility with international law. The ruling, while avoiding going into the direct issue of secession, has nevertheless reaffirmed an important principle, namely the fact that international law places no absolute prohibition of secession, even when it happens unilaterally. The Court delivered a message that was somehow welcome to the ears of Serbian Bosnian nationalists: it is always possible, even in the case of a non-consensual secession from a State, to achieve a fully recognised statehood, as it happened in the case of the secession of Bangladesh from Pakistan and, moreover, secession is not illegal per se. The problem for the Serbs remains that the result of what you become after the secession, even if it is not illegal, it is not guaranteed. You may become Bangladesh or you may remain trapped in a situation like Transnistria. Bangladesh has become a state fully sovereign which earned a seat at the United Nations - a unique case for a non-consensual secession - only after it has been recognized by Pakistan, and thus after the State from which it has departed accepted the new solution. In fact - we could say fortunately, from the point of view of international security and stability - international law remains a highly conservative system. Linking the independence of Republika Srpska to the case of Kosovo, however, is a dangerous path for the Bosnian Serbs. Kosovo style secession can be of some sense for the Republika Srpska from a purely legal point of view, but not that much from a political point of view. A path similar the one of Pristina will bring the dilemma to Belgrade that recognising the secession of Banja Luka from Sarajevo equals to a recognition of the secession of Pristina from Belgrade. Ironically, this could possibly be the real strategy of the Serbs that, I certain point in the future, they will outting such a comparison: "given the fact that sooner or later we will be forced to recognize an independent Kosovo in order to advance our EU admission, we will do it if it will result in a parallel possibility of recognizing the independence of the Bosnian Serbs as a separate statehood".

The present international environment doesn't seem conducive of such a geopolitical barter, nor Serbia appears to be in the position of dictating these conditions to the international community. Nor it is foreseeable a diplomatic conference in which the regional powers will decide to redraw the borders of the region on order to solve the pending and unresolved issues. A scenario of a unilateral secession of Republika Srpska would see very few states in the region willing to recognize a second Serbian state in the Balkans. There are strong doubts that Belgrade is prepared to do it, since the creation of a second Serb statehood in the region may become a challenge to the legitimacy of the Serbian Republic. Finally, our assessment is that even Moscow, which many believe can inspire such secession, considers unhelpful to its regional and global geopolitical interest such a move. It wouldn’t be wise for Moscow to put its international weight for a secession that, at best, could achieve less than a dozen international recognitions. It is therefore more likely that what the search of a Kosovo scenario, will instead lead to a Transnistria or Abkhazia scenario. In such a case, the Republika Srpska will shift from a present situation where it enjoys almost total autonomy, within an internationally recognized and EU candidate State, to the
status of “ghost state”, hardly recognized internationally and with one or more frozen conflict opened with neighbouring states. It would be hard to understand why the present leadership of the Bosnia Serb, at the climax of its power and internal consensus, should decide to throw her and the country into such a geopolitical abyss.