

THE DEFECTION-PUNISHMENT CYCLE: THE CURIOUS CASE OF MILORAD DODIK AND THE INSTITUTIONS OF BOSNIA AND HERZEGOVINA

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THE ISSUE

Successful power-sharing depends on political actors' willingness to play by the rules of the game. Yet, many political elites find reward in 'strategic defection,' whereby they consciously subvert institutional constraints. In these instances, the potential gains outweigh the risks of punishment. This dynamic is illustrated in Bosnia and Herzegovina by the actions of the Dodik administration in Republika Srpska.

The Background

Milorad Dodik, now-former leader of the Republika Srpska (RS), one of Bosnia and Herzegovina's (BiH) two entities, and the Office of the High Representative (OHR) have been engaged in a game of brinkmanship. In 2021, in response to legislation imposed by the High Representative (HR), Dodik declared that RS' representatives would withdraw from chosen state-level institutions and competencies. The relationship continued to deteriorate throughout 2022 and 2023, with the RS leadership refusing to implement the decisions of the HR and the rulings of the state-level Constitutional Court, simultaneously strengthening RS-based parallel institutions and repeatedly threatening formal secession. This represented an intensification of Dodik's long-standing rhetoric concerning the RS's institutional disengagement from central state institutions and an acceleration of the establishment of parallel structures outside the Dayton framework. Eventually, the situation reached a tipping point. In 2023, Christian Schmidt, the High Representative, amended the Bosnian Criminal Code, making non-compliance with the OHR's decisions a criminal offense, allowing for the termination of a political mandate based on a court judgment. As Schmidt said at the time: "They will bear the consequences for their actions — all options are on the table. You know the range of Bonn Powers I can use, and all options are on the table. I hope that political actors will come to their senses." The intention was for this to become a domestic enforcement tool, meant to constrain political actors' attempts to abuse the institutional framework of the state. In February 2025, Dodik was found guilty under the new law, sentenced to one year in prison and banned from holding public office for six years for failing to comply with the HR's rulings. By August, he had been removed from office. New elections were held in November.

Challenging the Rules of the Game?

This so-called 'Dodik crisis' showcases problems with the practical implementation of consociational institutions designed as the primary mechanism for conflict management in BiH. In deeply divided, post-conflict places institutions are expected to transform violent conflict into structured political competition and reshape the behavior of political elite towards accommodation. They do not always do so. Instead, they are more likely to be prone to chronic decision-making gridlock, the escalation of policy debates into crises over recognition, and the relentless reduction of political issues to ethno-national identity markers

When do political elites uphold the rules of the game and when do they violate them? And what are the consequences, if any, for rule-breaking? The performance of power-sharing depends on dynamic interactions between the structural constraints, the agency of political actors, as well as the system's capacity to punish actors' abuse or misuse of the institutional rules. Rule-breaking—or defection—is a complex and risky strategy that requires consideration of three factors: the rewards of compliance (e.g. perks associated with holding office), the gains of defection (e.g. rents derived from resource control) and punishment defined as the cost imposed if caught (e.g. loss of office). The likelihood of defection increases when the perceived gains outweigh the rewards of compliance and when the expected punishment is negligible. Elites defect to monopolize the system because other systemic elements fail to impose meaningful costs. This logic can be applied to the case of Bosnia and Herzegovina, as illustrated by the crisis triggered by Dodik.

KEY FINDINGS

In Bosnia and Herzegovina, political actors routinely defy and subvert institutional rules rather than comply with them. While they are sometimes rule-followers, they are also rule-benders and rule-breakers. This has resulted in a systematic pattern of manipulation, whereby elites exploit and distort institutions to serve their own interests. This enables the 'ethno-political power-entrepreneurs,' all major political actors in BiH, to capture state institutions and resources, establishing a patronage system designed to serve their exclusive interests. Indeed, institutional subversion is frequently framed as a 'defense' of ethno-national interests. The capture and abuse of the autonomy institution, as in the case of Serb pro-autonomy efforts, provides a perfect illustration of this phenomenon. This includes challenging of HRs' decisions, boycotting of federal institutions, and contestation of the federal division of powers. This culminated in Dodik's refusal to accept his sentence for signing laws that suspended in the RS rulings by the Constitutional Court and decisions by the HR. Not only did he openly defy the Court's decision, but he also rejected the authority of the state prosecution and declined to appear for questioning. Consequently, the state police attempted to enforce it, but the RS police impeded the arrest, exposing the state's institutions limited enforcement capacity.

Dodik capitalized on the confrontation, compelling the RS authorities to adopt legislation effectively banning state-level institutions from operating in the RS. For months, the combined measures taken by the judiciary (court verdicts and arrest warrant) and the international community (sanctions, use of the Bonn powers, suspension of budgetary allocations to Dodik's party) created what appeared to be a closed loop of escalation, yet it failed to reverse the defection dynamic. Only once the system's punishments and expected rewards accumulated by mid-2025, was the state able to remove him from office through judicial and electoral mechanisms. He first appeared at a court hearing and later complied when the CIK (Centralna izborna komisija Bosne i Hercegovine - Central Election Commission of Bosnia and Herzegovina) dismissed him from his position as RS President. Nevertheless, it appears to be more of a strategic retreat. Not only were U.S. sanctions against him lifted shortly afterwards, but he also managed to preserve his political capital: he continues to lead the SNSD—the dominant Serb party in BiH—and retains a significant degree of influence, even if he is no longer president.

During the standoff, Dodik's primary strategy was defection within an escalation spiral. He used the situation to advance his secessionist narrative and consolidate his ethno-nationalist base.



Milorad Dodik, Former President of Republika Srpska

For him, the rewards from complying with the rules of the game were limited, while the gains from defection were high. By portraying himself as the defender of the Serb ethnos, he strengthened his control of RS institutions. This situation is indicative of the long-standing objectives of the Serb leadership in BiH, which has persistently sought to diminish the authority of the federal government and perpetuate a political discourse centered on autonomy. It also exposed the fragility of Bosnia's institutional structure and the erosion of the international community's capacity to uphold rule-based governance.

Neither Dodik nor the High Representative was willing to escalate the crisis to the point of unpredictable confrontation, which could have risked renewed violence. The state police withdrew rather than risk a direct confrontation with RS security forces, while Dodik accepted the ruling once he had exhausted the appeals process. Both sides have found themselves in equilibrium characterized by controlled instability, wary of escalating too far, and motivated to avoid a full confrontation. As a result, Dodik managed to control the situation and benefit from it for as long as he could. The driving factor contributing to this institutional subversion has been a critical accountability deficit, which created a situation in which the actors' benefits outweighed the punitive capacity embedded in the system. Political actors in BiH engage in such behaviors because their perceived political gains outweigh the potential costs. The system's capacity to deter such behavior by increasing punishment remains limited for three key reasons: the Constitutional Court has been systematically undermined and politicized, civil society is fragmented, constrained, and weakened by public distrust and civic apathy, and, finally, the OHR has become a source of a legitimacy crisis. Thirty years on from the Dayton Agreement, the central state structure remains a source of deep contestation.

POLICY LESSONS

- Institutional engineering as a peace-building mechanism has its limitations, necessitating cautious implementation coordinated with actor-oriented capacity-building measures.
- The extent of institutional subversion and actor defiance is contingent upon a cost-benefit calculation: the actor's predefined gains versus the system's capacity for punishment.

The shortcomings of liberal peacebuilding demonstrate that promoting a rule-of-law framework without an elite buy-in may unintentionally drive negative outcomes, such as the creation of subverted institutions. This calls into question a fundamental assumption underpinning consociationalism: namely, that elites will conform to a structure of accommodative incentives because they are expected to fill the gap created by low social capital and trust, functioning even more effectively than in homogeneous societies.

This logic is founded on optimistic premises: elites are more moderate than their followers and despite their profound distrust, they will cooperate to avoid a more unfavorable outcome. The Bosnian case invites a reconsideration of this logic, where elites are prone to pushing institutional practice into dysfunction and stalemate if and when it serves their interests. Consequently, institutional performance is deeply contextual. As part of peace- and state-building efforts, it cannot produce results that fundamentally contradict the attitudes, orientations, and goals of key actors involved. These actor-specific factors must be integrated into the institutional design process itself, rather than relying on the hope that elites will conform to idealistic expectations.



*Christian Schmidt,
High Representative for Bosnia and Herzegovina*

In order to reduce instances of defiance, it is necessary to strengthen institutional enforcement by increasing the likelihood of punishment or reducing the gains of subversion. The most probable strategy is international enforcement. Today, it is difficult to imagine a power-sharing settlement without external actors acting as its guarantors, not only to facilitate the signing of agreements but also to guarantee their implementation. They “reward norm-conforming behavior and punish norm-violating behavior,” thereby incentivizing local actors to adhere to the rules to avoid punishment. Their role is not as direct decision-makers, but as actors with the ability to compel locals to abide by the rules. Yet, the OHRs’ inconsistent behavior and the practice of imposing unaccountable decisions in BiH highlight their role as unchecked decision-makers and the growing elusiveness of effective international enforcement.

At the local level, one of the institutions with punitive capacity is the Constitutional Court, which can function as a focal point to coordinate a solution and avert constitutional collapse. However, its autonomy and impartiality is susceptible to considerable dangers in post-conflict context with a weak rule of law. The Bosnian case demonstrates that even the highest courts are not immune to ethnic divisions, placing them at the heart of ethnic politics rather than beyond it. Eventually, one could argue for bottom-up popular control of elites by society. Yet, in contexts where democratization coincides with conflict management and state-building, frequently resulting in democracies marred by clientelism and patronage, mass-level potential is constrained. While bottom-up protests do occur (e.g., Bosnia in 2014), they rarely effect lasting change or, as in North Macedonia in 2016, they require substantial international support. Nonetheless, if BiH is to curb the subversive behavior of political actors, the strengthening of civil society, particularly bottom-up citizen engagement, is the only way forward. Leaving nationalism and polarization aside, this requires citizens’ pro-state attitudes, so the first step must be to improve the governability of the state, an area in which EU accession could prove beneficial.

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FEATURED RESEARCH: THIS BRIEF DRAWS ON KEY FINDINGS OF THE BOOK, “*CONSOCIATIONALISM AND ITS UNINTENDED CONSEQUENCES IN BOSNIA AND HERZEGOVINA, KOSOVO, AND NORTH MACEDONIA. APPETITE FOR DESTRUCTION?*” TO BE PUBLISHED BY ROUTLEDGE IN 2026.