



# Drawing boundaries in the Western Balkans: A people's perspective



## Country Report Bosnia and Herzegovina

Sarajevo 2012





Centar za  
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## ACRONYMS

BiH	Bosnia and Herzegovina
EC	European Commission
EU	European Union
HDZ	Croatian Democratic Party
HDZ 1990	Croatian Democratic Party 1990
SDP	Social Democratic Party

## **People's peacemaking perspectives**

This research is part of People's Peacemaking Perspectives project, a joint initiative implemented by Conciliation Resources and Saferworld and financed under the European Commission's Instrument for Stability. The project provides European Union institutions with analysis and recommendations based on the opinions and experiences of local people in a range of countries and regions affected by fragility and violent conflict.

The borders of some countries in the Western Balkans remain disputed and unresolved, posing a threat to regional peace and stability and creating an obstacle to European Intergration. This report focuses on five areas in the region where border/boundary demarcation has been problematic, with a view to informing European Union engagement.

Currently, border demarcation processes in the region take place at the national political level and do not take into account the views of local populations living in border areas. This report investigates what communities living in these areas think of the approach of local, national and international actors in managing these disputes and recommends how the authorities can act on these findings.

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## **Case Study: Municipality Neum/Municipality Slivno**

### **Executive summary**

This report describes the results of field research undertaken by Centre for Security Studies in May 2011 in local communities in Bosnia and Herzegovina (BiH) and in Croatia, combining group discussions and key informant interviews in two local municipalities with further interviews being conducted Sarajevo. The purpose of the research was to identify possible triggers of conflict in relation to border demarcation at the local level in order to identify how territorial disputes affect local population living near the border. The findings of the research centre on issues of a prevalent lack of knowledge amongst the local governance and administrative structures in relation to the main issues of border disputes, lack of awareness amongst the local population and general dissatisfaction that these issues have not been settled yet. On a positive note, people generally did not display resentment per say towards the bordering municipality on this issue, with the majority of participants agreeing that this is a highly politicized issue. The report is concluded with a set of recommendations that are official views of the BiH authorities, international community and views expressed by the citizens interviewed during the course of the project.



## Introduction

Unresolved territorial disputes and border demarcation issues have been identified as one of the underlying obstacles to an effective implementation of the international communities efforts in the Balkans to foster stabilisation and peace-building. The EC progress reports have, over the years, pinpointed and highlighted the need for these issues to be resolved, as imperative for relationships between the states involved on the one hand, and for the regional stability on the other. In effect, unresolved territorial disputes can hamper the process of integration and inevitably have repercussions for the wider regional stability. However, the European Commission has no jurisdiction when it comes to defining borders, as these are bilateral problems and they must be solved between interested parties. This is especially true in the Western Balkans, a region that emerged from devastating wars which left many problems unsolved and many unfinished jobs that must be dealt with.

The 2010 EC Progress Reports for Bosnia and Herzegovina<sup>1</sup> and Croatia<sup>2</sup> respectively have noted that, despite an overall progress identified in this area, and good bilateral relations between these two countries, no progress has been made on the side of Croatia on the ratification of the 2005 Agreement on demarcation of the land and river borders. In the case of BiH, legislation implementing the Law on Border Control<sup>3</sup> has been adopted, with the exception of the by-law on demarcation of the borderline. Overall, border demarcation has advanced, but it still presents an issue of concern.

This case study adopts a different angle in order to present problems and obstacles arising from unresolved border demarcation issues between Croatia and BiH. Some of the more current analyses of territorial issues between Croatia and BiH focus on the regional, national and political levels. The aim of this research is to present the views and perceptions from the local perspective of the population living near the border demarcation regions, taking into account any possible drivers of conflict within these communities, and the effect this unresolved issue has had on their lives.

## Current Political Context in BiH

The dissolution of Yugoslavia, the eruption of the war in Bosnia and the signing of the Dayton Peace Accords are the three chronologically important interlinking issues

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<sup>1</sup> European Commission Progress Report on Bosnia and Herzegovina 2010, accessed in September 2011, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/ba\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/ba_rapport_2010_en.pdf)

<sup>2</sup> European Commission Progress Report on Croatia, accessed in September 2011, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/hr\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/hr_rapport_2010_en.pdf)

<sup>3</sup> Law on State Border Service Bosnia and Herzegovina, accessed in September 2011, <http://www.granpol.gov.ba/propisi/zakoni/?cid=29,1,1>

in the recent BiH history. The Dayton Agreement created a loose state in which the two entities retained most governing competencies, and important state decisions required consensus of the three major ethnic groups; many posts were assigned by ethnic quotas. This system soon encountered obstruction from representatives of the ethnic political parties; as an emergency measure, the international community endowed the High Representative with broad powers to keep the state running, making them reliant on regular interventions by High Representatives.

International and local political analysts have branded the last couple of years in BiH history as being the most fragile and destabilised since the end of war in 1995, and far from being on the track of Euro-Atlantic integration. Since the General Elections in 2010, the state government has still not been established and Council of Ministers is currently working under a technical mandate. At the level of the Federation of BiH, the government has been established, but its credibility is currently under question. The legislative branch is still not formed either. State institutions are under attack by all sides; violence is probably not imminent but is a possibility which should not be overlooked if this continues. The international community in BiH made several attempts and interventions to aid the process of government formation, but have managed only to alienate the Croatian political parties by providing the some kind of legitimacy for the establishment of the federal government. The HDZ and HDZ 1990 (both parties with a Croatian majority) were openly against all efforts to form the government without their participation, and as a protest, embarked on a decision to revive an informal all-Croatian Assembly. The two HDZs and the biggest winners of the October 2010 elections, the Social Democratic Party (SDP), all rejected reasonable internationally-brokered coalition proposals. The unstable political situation in BiH was further hampered by the decision of the National Assembly of Republika Srpska to issue a call for a referendum. Both of the initiatives have been withdrawn, by several further interventions of the international community, but have managed to aggravate ethnic, social, political and economic tensions already prevalent in BiH.

### **Demarcation Context in BiH**

The dissolution of Yugoslavia opened the way for border agreements between the successor states, the first being the *Treaty on the State Border between the Republic of Croatia and Bosnia and Herzegovina*<sup>4</sup>. The agreement was prepared by the joint boundary commission and was signed by the both of the former presidents of Croatia and BiH, respectively on 30 July 1999 in Sarajevo, during the meeting of the Pact of Stability for South-eastern Europe.

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<sup>4</sup> Treaty on the State Border between the Republic of Croatia and Bosnia and Herzegovina, accessed on September 2011, <http://faolex.fao.org/docs/pdf/bi-32335.pdf>

Under the auspices of the Inter-State Diplomatic Commission for Identification, Demarcation and Management of the State-Border, two expert state working groups were formed and mandated to examine and underline any possible deviations each of the countries might have in terms of borders. There seemed to be agreement on most of the borders covered by this Treaty. However, certain issues did arise, one being the maritime boundary which should divide a small portion of the sea in front of the BiH exit to the coast around the town of Neum. The Treaty does refer to this issue, stating:

*...the State Border on the sea extends along median line between the land of the Republic of Croatia and of Bosnia and Herzegovina, in accordance with the 1982 UN Convention on the Law of the Sea<sup>5</sup>....*

The fact remains that both of the state working groups have previously ratified the topographic maps, but there has still not been a ratification of the Treaty from the Croatian side. Moreover, an official answer from the BiH government is the opinion that there should not have been any sort of disagreement over the two islets in question, as both Mali and Veliki Skoj belong to BiH. Finally, in accordance with the UN Convention on the Law of the Sea, a ratification of the maritime border needs to take place first, prior to solving any other outstanding issues.

The border treaty was criticized by the Dubrovnik county assembly in relation to the borderline at the peninsula of Klek back in 1999/2000. The peninsula forms part of BiH narrow exit to the Adriatic Coast. The very tip of the peninsula has historically been part of the Rep of Dubrovnik, and should consequently be allocated to them. Additionally, the two islets (Mali and Veliki Skoj), that were part of the Croatian cadastral, are in accordance with the Treaty, now a part of BiH as the maritime border is drawn as the median line between the Pelješac peninsula (Croatia) and the Klek peninsula (BiH).



1. Map of Mali and Veliki Skoj. The yellow boundaries are state boundaries of Bosnia and Herzegovina<sup>6</sup>.

<sup>5</sup> Ibid

<sup>6</sup> All maps are intended for illustrative purposes only. CSS takes no position on whether this representation is legally or politically valid.

At the time when the Treaty was being signed, in 1999, the County of Dubrovnik published a book *Hrvatska granica na Kleku*<sup>7</sup> (Croatian border at Klek), written by a group of historians which included detailed arguments on the development of the borderline in relation to the disputed point. In effect, this book can be viewed as a sign of a protest, which was noted by the Croatian government. As an answer to this, the Croatian government announced that anyone who is in possession of evidence which had not been considered during the negotiations should deliver it to the Commission.

In short, the maritime delimitation between Croatia and BiH is a peculiar one, as the territorial sea of BiH is encircled by the internal waters of Croatia, making this situation quite unique. BiH government has found that Croatia is violating the UN Convention, by singlehandedly applying a straight-forward line of separation (drawn between the island of Vodenjak-Hvar to the Cape Proizd-Korcula) as it was during the time of Yugoslavia. In this act, Croatia has constituted its territorial sovereignty and its internal waters and has closed of the sea area of BiH. In March 2007, the Croatian government contested the two islets belonging to BiH.



2. Map of the line of separation constituted by Croatia.

### Key peace and conflict dynamics

The focus of the research was on presenting people's perceptions as it is precisely these perceptions which in turn determine people's behaviour and expectations. The research team visited two local communities, one in Croatia and one in BiH, and held four (4) focus group discussions. At the same time, the research team conducted several key informant interviews with the representatives of the local policing structures, shop and retail owners and local media representatives. Interviews were also conducted by representatives of the local municipal administrations. However, due to low staff capacity and engagements of the Town Mayors, the research team conducted these interviews over the phone. On the national level, the team also consulted with the representatives of the international

<sup>7</sup> Taken from an article titled The Border Agreement between Croatia and Bosnia and Herzegovina: The first but not the last, Mladen Klemencic, accessed in September 2011, [http://www.dur.ac.uk/resources/ibru/publications/full/bsb7-4\\_klemencic.pdf](http://www.dur.ac.uk/resources/ibru/publications/full/bsb7-4_klemencic.pdf)

community in BiH, representatives of the central government and foreign Embassies. The findings of the research are presented below, under the categories of key conflict issues as identified by the participants.

### **The most important issue emerging from the analysis**

The discussions and interviews, and the resulting assessment, highlighted some of the underlying factors that have surfaced as significant in terms of border demarcation issues between Bosnia and Herzegovina and Croatia. The political environment, and the role it plays, has been illustrated as a cause of concern to those interviewed, as in the political realm, rare are the cases where the potential solutions for disputes reflect the opinions of the local population. Collectively, the participants drew attention to some of the general common factors which have an impact on their lives and their sense of security, pointing to the lagging economy. Something else which came up amongst the discussion are the flaws in the current systems of governance covering the territories assessed. What has to be noted in effect is that any external assessment should be attentive to how issues that have emerged from the analysis affect the overall environment, and to what level these trends and perceptions can exasperate existing tensions.

### **Summary of the issue and the risks it poses**

The issue of unsettled border demarcation between BiH and Croatia over the settlements of the islets of Mali and Veliki Skolj is something which has been topical for over a decade. The reasons why Croatia needs this territory and the reasons why BiH needs it are the same – economic, political and strategic. The Croatian Government plans to build a bridge from Peljesac peninsula to the mainland and connect its territories and BiH needs free access to open sea, international waters. In order to achieve those goals, both countries need those tiny islands and it is unlikely that either of the countries will easily give them up. Although there was a halt in activities of the Inter-State Commission, in 2010, there seemed to be a few signs of life, illustrated by meetings held in July. However, as the EC Progress Report 2010 from Croatia states, there has been no progress on ratification of the Treaty, the Peljesac bridge project and the Agreement on use of the Port of Ploče. Nonetheless, BiH and Croatia have good bilateral relations, as exemplified in the past, with successful implementation of a number of bilateral agreements. Finally, and most significantly, the ratification of the existing Treaty would remove significant obstacles for BiH in terms of EU integration process, where the issue of border demarcation with neighbouring states is an important segment of EU.

## Explanation of underlying causes

Most of the participants of the focus groups in BiH and Croatia were largely aware of these issues, seemingly most collated from the media reports from both sides. Collectively, there was common understanding of the issue, but the comprehension of the problems it poses proved to be very different. This also proved true when it came down to the question to whom do the two islets belong to.

The focus group discussions held in Neum, BiH largely reveal that the population is split in opinion when it comes down to the question of the islets belonging to either BiH or Croatia. It should be noted however, that although the participants of the focus groups had differing opinions, they wanted to make sure that this does issue does not represent any sort of conflicting tensions amongst them. Also, this issue does not carry enough leverage to affect their overall security situation.

Therefore, there seemed to be a rift in the opinions of this population, where on the one hand, one side of the participants were of the opinion that Mali and Veliki Skolj do belong to Croatia, while the other thought that the islets should belong to Bosnia and Herzegovina. These differences were also observed amongst the surveyed population. One of the main reasons for this is that, in their belief, the family from Neum, who had paid taxes of ownership to the Municipality of Neum, should have the sole right of ownership, as well as the Municipality of Neum, and BiH as a state.

They paid their taxes, like outstanding citizens, and they should not be denied their rights now.

Focus Group Neum, BiH

Half of these participants were young, affluent and employed people from Neum, supported also by several of the key informants interviewed, such as NGO, media and police representatives. The other segment of participants, who were of the opinion that Croatia should have the right of ownership are those who thought that the only reason BiH is „fishing“ for these two islets are the plans for BiH to build and develop a port opening on the other side of the Klek peninsula. In their view, BiH is not very ecologically aware, and this port would only endanger the environment of the surrounding area, with little attention being given to the industry of tourism and possible adverse effects this might have.

If BiH gets the ownership, and builds a port, we would be ecologically ruined.

Focus group, Neum

On the other hand, if the Treaty is ratified by both countries, with an annex which specifically forbids this port being built, then they see no reason why the two islets should not belong to BiH.

Overall, what became evident through the interviews and the focus group discussions is that is formally just a difference in opinion amongst the

This process takes place only between Zagreb and Sarajevo, as if it does not concern us, the people living in this area.

Focus Group, Neum

population in Neum, and it does not represent any sort of tensions amongst them. Another thing which became harshly evident is that only a few of the participants were well informed, while the other lacked a certain degree of awareness on these issues. It was collectively agreed in both of the focus groups that the local Municipality should be the main source of information on this. In turn, as a media representative present stated, the flow of the information would increase and would reach out to a greater number of population in Neum. At present, the people of Neum only have „hear-say“and a small number of media articles (written in Zagreb and Sarajevo, as the capitals of both countries involved) to base their opinion on. And so, a large number of participants were only aware of the existence of the Intra-State Commission and that is not very active. The media and the NGO representative present seemed to have the most information on these issues, while all of the other focus group participants and those interviewed agreed that the state border demarcation is an extremely politicized issue.

According to some of the participants, the issue of ownership of the two islets should be solved by the two governments. On the other hand, a large number of participants were of the opinion that, although this is a politicised issue, certain efforts should be implemented in trying to involve the local community in solving this issue, as „it is right in on their (participants) doorstep“.

In terms of this issue having any effects on the relationship between the two bordering Municipalities, there seemed to be a common understanding that this issue does not have any negative impact on their relationship. Overall, this relationship is not developed per say, but participants from both of the Municipalities still regularly visit the other municipality for a number of reasons and retain individual friendly relations. One evident tension was a certain amount of rivalry amongst the two Municipalities over tourists.

In terms of the assessments from the focus groups held in Klek, Municipality of Slivno in Croatia, their views are not in great opposition to the perceptions presented above. One of the reasons for this is the fact that both the Municipality of Neum and Municipality of Klek are inhabited largely by the same ethnic group.

Much the same as the population of Neum, the participants from Klek also stated that they do not have any tensions per say in regards to this dispute. The only difference observed is that a nearly all of the participants were of the view that Mali and Veliki Skolj should belong to Croatia, and not to BiH. They disregarded the fact that it was Municipality of Neum who paid taxes for these two islets before the dissolution of Yugoslavia, believing that the licence and the paperwork proving this are probably falsified. Furthermore, they seemed to largely be in agreement with the fact that both Croatia and BiH should follow the Austro-Hungarian borderline division, and determine to whom the island belong to.

The younger population of Klek seemed slightly more attuned in to the dispute, largely based on biased media reports. Several comments were made that Croatians should

Why should we give up what is ours?

Focus group, Klek

stand-up for what is theirs, and that the book which was written by the County of Dubrovnik makes the best case for argument that Mali and Veliki Skolj belong to them.

As it was the situation in Neum, all of the participants agreed that their local municipality is not doing enough on informing them of what progress is being made on this. Moreover, relationship between the Municipality of Slivno and the local population seems to be extremely weak, and the governance aspect was one of the other problems which were mentioned as prevalent in the community. Much the same as in Neum, the local population expressed a desire to be included in the process a lot more, granting them with the opportunity to become more active and contribute with their knowledge and opinions.

Although, as a politicized issue, one of the ways to resolve this is to bring about a political decision. However, as this issue only comes up at certain „tailored“ times before the elections in either of the countries, in the view of most of participants, it will be necessary to involve the local community in some way or another.

Overall, all four focus groups revealed a lot of similarities in opinions amongst the population in two bordering Municipalities. The younger population in both Municipalities seemed a lot more eager to bring about the solution to this problem, perceiving it more as an obstacle to improving the levels of services provided to tourists, rather than anything else. Moreover, there is a significant lack of knowledge or awareness on this issue, apart from a few biased media articles they have read over the years. Most information is collected on a „hear-say“ basis. Any possible conflict-triggers were not observed, although there was a prevalent difference in opinion amongst the participants. As stated already, one the reasons for this is the mono-ethnic composition of both Municipalities.

### **Roles of key actors in this issue**

In an interview with the President of the BiH National Commission for demarcation of borders, Mr. Željko Obradović<sup>8</sup> emphasised that a lot has been accomplished between Croatia and BiH; in fact 99% of the issues has been solved, with only 1% remaining as a dispute, on the borders around Neum. In 2010, after nearly five years since the last meeting, a meeting of the Inter-State Commission was held, indicating that there is a need for finding a common solution to this problem.

There are several ways on how to solve this issue of border demarcation. All of the relevant documents were sent to the CoM BiH and to the government of Croatia respectively, and both of the government should have forwarded these documents to the Parliaments. The simplest way would be to ratify the existing

<sup>8</sup> Interview held with Mr. Željko Obradović, August 2011, Sarajevo, Bosnia and Herzegovina



Treaty and conform to the existing borders, and Croatia would halt the objections posed to the borders near Neum.

Another method would be to ratify the 99% of the borders that are not being disputed while continuing the resolution of the disputed part of the border. That modality was applied in some Scandinavian countries, according to Mr. Obradovic, as in Bulgaria and Romania too. He further emphasised that this is not just a question of defining the border line. Defining that border line will solve all the open border issues, without forgetting that BiH and Croatia signed an agreement on border traffic, which basically regulated the life in that zone. In some areas, borders didn't practically exist before, and now, and now according to Mr. Obradovic, there are a few interstate crossings in a small area. Life in that area must be simplified and normalized.

Which modalities are your Croatian colleagues offering and are RH more interested in international arbitration?

Finally, according to Mr. Obradovic, there is interest in Croatia for solving the border issue with BiH, especially after a few successful interviews between Zagreb and Ljubljana. In terms of the owners of Mali and Veliki Skoj paying their taxes to the Neum Municipality, the Badinter Arbitration Committee gave the base for resolving the border lines between ex Yugoslavian republics. The Committee stated that the territorial jurisdiction must be recognized; meaning the territory where people pay taxes, get their ID, and most importantly, where they are referred to regarding cadastre. Specifically, regarding Mali and Veliki Skoj, they are kept in the cadastre of Neum municipality, and the owners pay their taxes to the Neum Municipalities.

The interview with the representative of the EU Twinning Project<sup>9</sup> and the Austrian Embassy efforts in the overall implementation of the Integrated Border Management systems was aware of the problems identified with the border demarcation between BiH and Croatia. The European Commission has allocated substantial funds to support the IBM infrastructure, in particular for construction of adequate and functional border crossing points in Bosnia and Herzegovina, in total amount of €34 million, under OBNOVA and CARDS programmes, since 2001. The EC has also allocated funding to support the blocking of illegal border crossings in BiH. As part of this assistance, a total of 67 illegal crossings, passable for vehicles, along the green border of Bosnia and Herzegovina towards Croatia have been physically blocked on the BiH territory side. This assistance was completed in 2008. However, as stated by him, this is a political issue and as such was not included in the activities of the IBM implementation

The EC plans further support for the IBM Sector in BiH, through twinning assistance, to support the BiH Institutions involved in IBM, and to design and adopt more efficient and effective practices in order to create a border management system compliant with EU standards and in line with the "Guidelines for Integrated Border Management in the Western Balkans". Project duration is 24 months.

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<sup>9</sup> Interview with a representative of the EU Twinning Project, August 2011

In his view, BiH still has a number of unresolved border demarcation issues with the neighbouring countries. The State Commission for Borders of BiH, responsible for identification and demarcation of the border line, was established following adoption of the relevant Decision by the BiH CoM in June 2008.

An interview with the representative of the Croatian Embassy<sup>10</sup> in Sarajevo confirmed that the meetings between the Inter-State Commission have come to a halt, mainly due to political obstacles. However, bad previous experiences that Croatia had with Slovenia have indicated that the border disputes need to be resolved as soon as possible, and there is a provisional agreement to include certain annexes in the 1999 Treaty on Borders, in particular for the case of Mali and Veliki Skolj. Overall, this entire issue falls under the remits of the two states in questions and the Inter-State Commission. There are a number of bilateral agreements between Croatia and BiH which do point to a very good cooperation of these two states, and this issue of border demarcations should be solved. During the last two years, the Croatian Embassy has had no objections or comments on borders between Croatia and BiH. This is a very positive track record worth mentioning.

### **Recommendations to resolve the issue**

The recommendations below have been divided to represent the different sectors of population and organisations that have been involved in this assessment. Firstly, as the focus was mainly on collecting people's perspectives, and in doing so, several recommendations were already presented during the assessment of the focus groups discussions.

- Involving the local community more in decision-making; by providing them with more information on this issue, and strengthening the links between the local administration and local population;
- Secondly, the official attitudes from the international community are in effect recommendations to:
- Either include annexes to the 1999 Treaty dealing with Mali and Veliki Skolj and ratify the agreement in both of the Parliaments, or;
  - Revive the work of the Inter-State Commission to meet more frequently; de-politicize the issue and strictly solve this issue within the realm of the two countries, without involving the international community.
- Thirdly, the official recommendations from the BiH government are as follows:
- Ratify the 1999 Treaty without additional annexes or the amendments to the Treaty. Following the ratification, both signatories could, with a conclusion or executive statement, confirm their readiness for the eventual correction of the border in specific points.

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<sup>10</sup> Interview with a representative of the Croatian Embassy, Sarajevo, August 2011



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