



USIPEACE BRIEFING

A NEW AGENDA FOR BOSNIA AND HERZEGOVINA

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INTRODUCTION

This paper was written in response to three papers USIP has published recently on Bosnia and Herzegovina, which were discussed at a public forum at USIP on June 25, 2009. These papers each had a different analytical perspective on what is happening in Bosnia and what needs to be done there to prevent a return to violence. These papers and the forum were intended to generate a debate on options that might be pursued by the U.S. government (USG), Europe and Bosnians. This fourth paper is one further entry into that debate.

SUMMARY

USIP has circulated several papers analyzing the situation in Bosnia and Herzegovina. Collectively, they offer diverse but insightful portraits of developments in Bosnia.

This short note takes a different approach. I focus on what can be done, not on causes or description. Because there is attention or money for only a few things to be done in Bosnia, we should pick our initiatives carefully.

I propose a strategy of two parts:

- Within Bosnia, strip political parties of their power base.
- In the region, accelerate the EU accession process.

Right now, the international community presses big initiatives. It is hard for internationals to launch these initiatives and, on symbolic, powerful issues, easy for Bosnians to mobilize their political bases. I propose that we instead authorize EU bureaucracies to pick many, many little fights: force Bosnian politicians to fight over avian health inspections or the many hundreds of other regulations that go with a European perspective. This brings to bear internationals' advantage in numbers and on issues important to daily life.

If done properly, the agenda is light but explosive. Ten years ago a version of it split apart wartime nationalist parties, gave voters the option of voting for a European future, and laid the groundwork for Bosnia's only non-nationalist government.

To have any chance of adoption, this agenda will have to support the existing focus of the Contact Group on the "5+2" requirements for EU candidacy. I suggest a way to do this below.

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IN BOSNIA

Each Bosnian political party succeeds or fails only as it controls and distributes public services, employment, police, media and proceeds from privatization to its core constituency.

The three wartime political parties (HDZ, SDA, and SDS) openly pursued this agenda, which was essentially to replicate the role that Tito's party played in Yugoslavia. They filled in the Dayton Agreement accordingly. Post-war challengers have succeeded more (Serbian Prime Minister Milorad Dodik's SNSD) or less (Haris Silajdzic's SBiH, the new HDZ) or failed (the multinational coalition) to the extent that they have replicated that role for their constituency.

Because the Dayton agreement defines each constituency in ethnic or national terms, the result is a self-reinforcing cycle: politicians reward their voters for approving ethnic appeals, and voters naturally seek more rewards by approving the politicians who make those appeals.

As long as this cycle continues, no policy prescription can make the popular parties less nationalistic, or the less nationalistic parties more popular. We can, however, take aim at the rewards that politicians can distribute.

Fortunately, some practical, powerful steps can be taken to undercut parties' appeal:

-- Endorse clear central government competence over all matters to do with EU accession.

This is consistent with the Dayton Constitution and would direct political activity to the central authorities, not the entities. A constitutional amendment to clarify this point would be welcome but should not itself become the focal point of a protracted political battle.

-- Reduce patronage opportunities for ruling parties through:

- Reduction of the percentage of gross domestic product spent on public sector;
- Increased transparency concerning public revenues and fixed assets (property);
- Transparent, trust-fund run privatizations of remaining state of the environment (SOEs) and property; and
- Merit-based civil service.

These steps are consistent with the *acquis communautaire*. They, or comparable steps, have been part of other EU candidacies. I would welcome creative suggestions of how

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other parts of the *acquis* could be used to remove jobs from patronage or otherwise undermine political party control of the state.

The EU and the U.S. should agree that these requirements fall within the mandate of the new EU special representative (EUSR) and will be addressed as priorities by that office, even before the accession process. It is an urgent priority to get that office up and in charge of the international agenda soon. One step in this regard, suggested by Dan Serwer, vice president of USIP's Center for Post-Conflict Peace and Stability Operations, is that EU states and the U.S. assign a large percentage, maybe all, of their bilateral embassy staff in Bosnia to the EUSR.

The commission will have to acknowledge that its processes are explosively political, not merely bureaucratic, and should be put in a sequence that will have the greatest political effect. This acknowledgement may be kept private, however, and so should not create political ripples.

- Place the prime minister in charge of cabinet, with the ability to hire and fire ministers.

The Dayton Constitution establishes a single chair of the government. Multiethnic swapping schemes are post-Dayton compromises. Voters should know that there is one person responsible.

- Reduce the collective presidency to a ceremonial role (German, not French model).

The tri-partite presidency is an exercise in Yugo-nostalgia. Its members remain among Bosnia's most important leaders and the populist appeals in what are Bosnia's only direct, country-wide elections widen divides in the country. The international community can start treating presidents as figureheads and deal only with the government on matters of policy.

- Ensure removal of presidents from political parties.

The separation of presidents from partisan politics eventually should make these less important as drivers of party discipline, and their elections less as popular referenda on nationalist appeals. A sharp reduction in the trappings of the office and budget may hasten this process.

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-- Comply with EU human rights law.

The Dayton Constitution gives primacy to European human rights law, and the Constitution itself must conform to that law. This has two implications:

- The Dayton rules for electing the three person presidency will be invalidated. Those rules were justified exceptions to European law as it existed in 1995. Both the law and the situation have changed. My understanding is that a case is now pending in the European Court of Human Rights. It should be decided soon. If it is decided correctly it will force a revision of the presidency rules.
- The Dayton Constitution's equation of ethnic identity and territorial voting rules are of questionable legality under European Human Rights law.

This agenda, which is only illustrative, could be adopted and enforced largely by the EU (the European Commission and key member states) and the United States, without reliance on the multilateral structures of the Contact Group, UN Security Council, or Peace Implementation Council.

My focus diverges from current discussion about Bosnia in several respects:

- Constitutional reform is not necessary. It can certainly improve Bosnia's governance structures and so should not be discouraged. As long as it is negotiated with leaders who benefit from the current system, however, it will not be enough.
- The so-called Prud 3 or other processes of negotiating political change with Bosnia's current political leaders is destined to fail. They will not change the basic structure that benefits them.
- The "5+2" may remain as requirements for the closure of the Office of the High Representative (OHR) and the start of formal EU candidacy. They accomplish the wrong thing, however, because they will not as now conceived reduce the power of Bosnia's current leaders. (In fact, they may increase it; control over Yugoslav state properties, for example, can provide money and influence over economic development.) While we wait, and wait, for the 5+2 to be agreed, my proposal is that accession chapters open in fact under the auspices of the EUSR and whatever remains of the OHR.

THE REGIONAL CONTEXT

The main goal of Balkans policy since 1999 has been to cement the region in Europe. Despite concerns over EU enlargement fatigue, the European perspective of the region seems strong. This process can and should move forward without regard for Bosnia, which may have to take a back seat.

The focal point of international attention should be to reinforce and accelerate the EU accession process in Croatia, Serbia and Macedonia.

This means intensive effort on the Slovenian-Croatian border issue; Macedonia's name; and Serbia's compliance with orders of the international tribunal in The Hague.

It is right that the EU leads publicly. In reality, given strong U.S. influence in the region, America's active engagement, especially with Croatia and Greece, will be critical to moving forward on these issues. These are where I would put American effort to work, at the political director level and above.

The EU perspectives of Montenegro, Kosovo, and Albania should also be encouraged. Governmental capacity should be the main, even sole, issue in all places.

CONCLUSION: CAN THIS WORK?

Yes, but only over time. Bosnia's political leaders will continue to obstruct anything that undercuts their power. Occasionally, Western leaders will have to intervene at the political level.

Two strong currents will start to pull against Bosnia's leaders almost immediately, however. First, as Bosnia's neighbors and, over time, many of its citizens, would move more rapidly toward the EU, Bosnia's politicians will appear to be as anachronistic as they in fact are.

Second, and more importantly, Bosnia's political leaders will be weakened as they try to fight, and while they lose power the issues they fight over – cars, government jobs, spending money for presidents – will be less and less defensible.

Moreover, the agenda I propose can be relentless, with the pace set and maintained at a working level between the EU and the U.S. Political directors will not have to intervene each time, and the broader range of countries from the Contact Group and Peace Implementation

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Council (PIC) may not be involved much, if at all. The eroding power of a bureaucratic grind can be left to work.

A light version of this agenda was tried in 1999-2000. The international community focused on political party control of the economy's commanding height¹ and took aim at the control that parties drew from their influence over media, employment, public security agencies, and other instruments of power. The resulting splits among wartime parties created a context in which Bosnians elected their only non-nationalist government.

¹ The reference is to a report by the European Stability Initiative. See "Taking On the Commanding Heights. Integration of Network Industries As A Tool Of Peace Building. A Proposal For The Peace Implementation Council" (3 May 2000), found at http://www.esiweb.org/index.php?lang=en&id=156&document_ID=9 (accessed 28 July 2009).

ABOUT THE AUTHOR

This *USIPeace Briefing* was written by Jim O'Brien, a principal of the Albright Stonebridge Group, a global advisory firm. He was presidential envoy for the Balkans and a lawyer involved in American Balkan policy in the 1990s. The views expressed here are not necessarily those of USIP, which does not advocate specific policies.

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The Center for Post-Conflict Peace and Stability Operations aims to transform societies emerging from conflict by promoting stability, democracy, economic development, and social reconstruction. The Center also conducts research, identifies best practices, develops new tools for post-conflict peace and stability operations, and supports related training and education efforts. Daniel Serwer is vice president of the center.

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