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Bosnia: Overview of Issues Ten Years After Dayton

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Summary

On November 21-22, 2005, the United States will host a meeting with Bosnia's collective leadership to commemorate the 10th anniversary of the Dayton accords, an agreement brokered under U.S. leadership that ended the 1992-1995 conflict in Bosnia-Herzegovina. Since early 2005, the Bush Administration has given renewed emphasis to "unfinished business" in the western Balkan region, such as the unresolved status of Kosovo, a U.N.-run province of Serbia. The United States also seeks to bolster Bosnia's further development as a unified, democratic, and stable state on the path toward Euro-Atlantic integration, including major constitutional reforms. This report provides an overview of prominent current issues concerning Bosnia and will be updated after the 10th anniversary meeting in Washington. For further background information, see CRS Report RL32392, *Bosnia and Herzegovina: Issues for U.S. Policy*, by Steven Woehrel.

Introduction and U.S. Policy

The Dayton peace agreement,¹ reached in November 1995 with U.S. leadership, ended a brutal three and one-half year ethnic and territorial conflict in Bosnia-Herzegovina that erupted after the dissolution of the state of Yugoslavia. The Dayton agreement outlined a common state of Bosnia and Herzegovina comprised of two entities, the Bosniak (Muslim)-Croat Federation and the Republika Srpska (RS), under the authority of an international administration and a NATO-led peacekeeping presence. Central Bosnian governmental institutions include a three-member Presidency, Prime Minister and Council of Ministers, and bicameral state Parliament. Under Dayton, central governing powers were kept weak, with many governing functions remaining at the Federation and RS entity level, which have their own governments and parliaments. Below the entity level are cantons and municipalities in the Federation and municipalities only in the RS. At the international level, the Dayton-mandated Office of the High Representative (OHR) oversees international activities in Bosnia and has authority to

¹ Full text of the Dayton accords can be found at [<http://www.oscebih.org>]. The constitution is in Annex 4. The accords were signed in Paris on December 14, 1995.

impose decisions and remove officials. As the security situation improved, NATO gradually reduced its presence in Bosnia and turned over peacekeeping duties to the European Union (EU) in December 2004.

Most observers agree that Dayton was a great achievement in that it ended the war and laid the foundation for consolidating peace. However, many observers also believe that the Dayton agreement, as a document derived from compromises and reflecting wartime circumstances, cannot by itself insure Bosnia's future as a functioning democratic state.² In particular, Bosnia's Dayton-mandated state structures have presented challenges to its efforts to integrate into the European Union and NATO. At the November 21-22, 2005, meeting in Washington, the Bush Administration will seek to highlight further tasks and hurdles for the Bosnian leadership to undertake and overcome. However, achieving consensus among Bosnia's political leaders may prove difficult on many of these issues, especially those involving vested political interests. Bosnia will face critical national elections in October 2006.

Since early 2005, the Bush Administration has given renewed emphasis to addressing "unfinished business" in the western Balkan region in conjunction with European Union efforts. A major thrust of U.S. policy concerns addressing the unresolved status of Kosovo, a U.N.-run province of Serbia that seeks independence. The United States also seeks to bolster Bosnia's further development as a unified, democratic, and stable state on the path toward Euro-Atlantic integration. The Administration supports Bosnia's Euro-Atlantic aspirations but believes that Bosnia must first consolidate its state structures and erase the ethnic and political divisions that Dayton accommodated.

State Consolidation

As noted above, the Bush Administration and the EU seek to promote further constitutional reform to improve the governing effectiveness of Bosnia's political institutions and overcome some of the dysfunctional aspects of the post-Dayton legacy. Among other things, a stronger Bosnian state could contribute to greater self-sufficiency in Bosnia's peaceful and democratic development, an improved ability to address pressing political and economic concerns including combating organized criminal and international terrorist activity, and improved prospects for Euro-Atlantic integration. In March 2005, the Council of Europe's Venice Commission concluded that Bosnia's current constitutional arrangements were neither efficient nor rational, and that state-level institutions needed to become far more effective for Bosnia to move closer to EU integration.³

In particular, U.S. Administration officials have identified priority changes to Bosnia's state-level governing institutions to include: creating a single Presidency instead of the current tri-partite Presidency; strengthening the Prime Minister's office; and strengthening the Bosnian Parliament. U.S. officials claim that such reforms will represent a logical evolution of the Dayton agreement and an extension of several recent

² Lord Paddy Ashdown, the highest international civilian authority in Bosnia, called Dayton "a superb agreement to end a war, but a very bad agreement to make a state." "Farewell, Sarajevo," *The Guardian* (U.K.), November 2, 2005.

³ Text of the report can be found at [<http://www.venice.coe.int>].

landmark reforms. In addition, U.S. experts have been working with Bosnian politicians on a new draft constitution that would transform many of the Dayton political structures.⁴

The recent milestone political and economic reforms reached by Bosnia's state and entity institutions, often with extensive input from and pressure by the international community, have given impetus to the U.S. and EU reform initiative. After numerous delays, the Bosnian entities recently agreed on EU-driven police reforms that will give legislative and budgetary authority to central Bosnian institutions, although aspects of implementation will stretch out five years. Earlier in the year, the Bosnian parties agreed to defense and security reforms that will eventually merge the formerly rival forces into an army controlled by the central government.⁵ Earlier agreements on intelligence and information services, state prosecution offices and justice ministry, and border and customs services, among others, have steadily expanded central state competencies and institutions.

In spite of these agreements, the broad effort to institute constitutional reforms has remained controversial. Some observers have called for the High Representative to use his authority to push through whatever measures are necessary to consolidate reforms. However, international officials have resisted going so far as to abolish the entity structure or ban specific political parties such as the Serbian Democratic Party (SDS), the party most resistant to state-building efforts (but still popular). In any case, the High Representative's powers are expected to be curtailed in the near term (see below). Some Bosnian Serb representatives have opposed changes that would eliminate the entity structure, which they say is enshrined in the Dayton accords. Their concerns about the viability of the RS contributed to their extended opposition to overhauling and unifying the police. In addition, some ethnic Croat parties have promoted the idea of a third Croat entity.

The timing and duration of further change is also an open question, especially with the next elections scheduled for early October 2006. Moreover, some observers believe that major constitutional changes should not be imposed from the outside, but should come about through domestic political processes and in a gradual, incremental fashion.⁶

Euro-Atlantic Integration

Along with the other western Balkan states, Bosnia and Herzegovina seeks eventual full membership in the European Union and NATO. Both institutions have committed to the region's full integration, once various conditions have been met. In recent years, however, Bosnia has found itself more isolated from international organizations than most of its neighboring states.

⁴ "Revealed: U.S. plans for Bosnian constitution," *The Guardian*, November 10, 2005. See also [<http://www.daytonproject.org>].

⁵ See "Defense Reform Fact Sheet," NATO Headquarters Sarajevo, July 21, 2005, available at [<http://www.afsouth.nato.int>].

⁶ For example, see "The Balkans in Europe's Future," Report of the International Commission on the Balkans, April 2005. Report available at [<http://www.balkan-commission.org>].

European Union. At its June 2003 Thessaloniki summit, the EU committed to integrate all of the countries of the western Balkans and created new instruments to foster closer ties to the EU, including the Stabilization and Association Agreement (SAA), the first step toward eventual EU accession. The European Commission concluded a Feasibility Study for the SAA in late 2003 and outlined 16 priority tasks for Bosnia to achieve prior to opening SAA negotiations, mainly dealing with the capacity of state institutions. Delays in implementing reforms and limited RS cooperation on war crimes issues (see below) held up further progress.

In the past year, the EU has especially emphasized the need for Bosnia to implement reforms in the defense and security sector, including reforms regarding the police and public broadcasting. Transferring controls over the police from the entity level to the central government proved to be the most difficult obstacle to overcome, as RS leaders remained opposed to the loss of this vital institution and support structure. The RS Parliament repeatedly rejected EU proposals to unify and reorganize police structures across entity lines. Finally in early October, the EU and RS came to a compromise agreement that adhered to EU principles on state-level control over the police, but postponed decisions on a number of related disputed items. With these hurdles largely cleared, the EU approved the start of SAA negotiations, which are likely to open in December 2005. The RS position shift may partly be attributed to concerns that Bosnia could “miss the boat” on EU integration, especially as neighboring states are making progress on this front, and as it appears that EU enthusiasm for further enlargement could be waning.

NATO. Along with Serbia-Montenegro, Bosnia is the only former Yugoslav state that has not yet joined NATO’s Partnership for Peace (PFP) program. As noted above, Bosnia’s government agreed to sweeping defense reforms in 2004 and 2005 to unify the armed forces structure and command and to create a professional military. With these achievements on transforming the armed forces, the only remaining hurdle to Bosnia’s PFP aspirations is the RS’ still incomplete cooperation with The Hague war crimes tribunal, especially with regard to arresting fugitive war crimes suspects. A small, residual NATO presence in Sarajevo has provided the Bosnian government with advice and assistance on defense reform issues, and is also engaged in efforts to capture and detain remaining war criminals.

ICTY Cooperation⁷

Full cooperation with the International Criminal Tribunal for the former Yugoslavia has been a major precondition for closer association with the EU and NATO. With regard to Bosnia, the Office of the Prosecutor at ICTY has indicated that cooperation with the Bosnian Federation has been fully satisfactory over the past few years, while cooperation with the RS has not. Until January 2005, RS authorities had not arrested a single indicted war crimes suspect. Several suspects have since been turned over to The Hague, especially by Serbia; however, Serbia’s and the RS’ levels of cooperation with ICTY have been judged to be insufficient, primarily because of their inability or unwillingness to locate and arrest former Bosnian Serb leaders Radovan Karadzic and General Ratko

⁷ For further information, see CRS Report RS22097, *Balkan Cooperation on War Crimes Issues: 2005 Update*, by Julie Kim.

Mladic, both of whom are thought to be located (at least intermittently) in Serbia and Montenegro or in the RS.⁸ While this status did not hold up the start of SAA talks with the EU for both Serbia and Bosnia, EU officials have made clear that much further progress in the talks cannot be expected while the top war crimes suspects remain fugitives. Similarly, the United States has insisted on their capture before either state can join NATO's PFP program.

International Role

The international community has played a dominant role in Bosnian affairs since 1995. Ten years on, the international security presence has been radically reduced, although still considered essential. The extensive political authority of the Office of the High Representative has become increasingly controversial and that office is expected soon to undergo significant changes.

Office of the High Representative. Successive High Representatives have frequently exercised considerable executive power, under the so-called "Bonn powers" authority, to break through political stalemates, push difficult reforms forward, and even remove obstructionist leaders.⁹ The current High Representative, Lord Paddy Ashdown, has freely wielded his powers during his tenure, making binding decisions and taking action against or removing officials thought to support Radovan Karadzic. While an effective mechanism, the High Representative's office has come under increasing criticism for allegedly stymieing the political development of Bosnia's leaders. Ashdown is set to complete his term as High Representative at the end of 2005, and a successor has not yet been named. As Ashdown serves simultaneously as the EU's Special Representative in Bosnia, some experts speculate that the EU could take over for the institution of the High Representative. Some have called for the entire office to be phased out after the October 2006 elections, and as Bosnia's central governing institutions are developed and strengthened. Should Bosnia continue to make progress toward eventual EU integration, some observers (including Lord Ashdown) believe that the EU accession process, with its comprehensive and stringent political, economic, and legal requirements, will provide its own impetus for sustainable reforms.

EUFOR/NATO Headquarters. At the end of 2004, NATO concluded its SFOR mission in Bosnia and turned over peacekeeping duties to a European Union military force, EUFOR, to ensure continued compliance with Dayton and contribute to a secure environment in Bosnia. EUFOR has a strength of about 7,000 troops. NATO maintains a small headquarters presence in Sarajevo that provides assistance to the Bosnian government and undertakes counter-terrorism and intelligence operations and missions

⁸ See Address of ICTY President Theodor Meron to the U.N. General Assembly, October 11, 2005.

⁹ At its December 1997 conference in Bonn, the Peace Implementation Council (PIC), the international oversight body for the OHR, extended the High Representative's mandate to include imposing laws and removing officials.

to detain indicted war criminals. The NATO presence includes a small contingent of U.S. forces.¹⁰

The EU also took over the U.N. police monitoring and advisory mission in 2003. The EU Police Mission in Bosnia comprises about 500 international police officers. Its mandate is set to expire in early 2006.

¹⁰ For more information, see CRS Report RS21774, *Bosnia and the European Union Military Force (EUFOR): Post-NATO Peacekeeping*, by Julie Kim.