

## Bosnia's Logjam

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>> More than a year after the EU reinforced its institutional presence in Bosnia, progress on the EU reform agenda has been limited and disappointing. A brief period of reform initiated by a new coalition government in early 2012 was undermined when the coalition collapsed and government restructuring ensued. The country has remained in a state of political stagnation. Such institutional paralysis has raised concern among international officials about Bosnia's ability to survive the withdrawal of the international presence.

Some diplomats have blamed Bosnia's unique institutional construct and recent political dynamics. However, the international strategy in Bosnia is plagued by significant shortcomings. Differences between the EU and the US have hampered the emergence of a concerted international plan to effectively promote Bosnia's reform agenda.

The joint visit by EU High Representative for Foreign Affairs Catherine Ashton and outgoing US Secretary of State Hillary Clinton in October 2012 marked a significant diplomatic offensive intended to demonstrate EU-US joint support for the Euro-Atlantic agenda. While this initiative temporarily focused local attention on the reform process, more than high-level public diplomacy will be required to produce tangible and sustainable results. The international presence in Bosnia must be restructured prior to the 2014 election cycle to ensure better coordination and empower the reform process with adequate human, political and economic resources. The EU and the US have been increasingly absorbed by instability in the Middle East and difficult transitions in the Arab world, but the stakes for Bosnia could not be higher.

### HIGHLIGHTS

- A year after the overhaul of the EU institutional presence on the ground, Bosnia's progress towards European integration remains stalemated.
- The establishment of a High Level Dialogue between the EU and Bosnian authorities to clarify requirements for EU integration has so far failed to overcome political obstructions.
- The EU and the US need to upgrade their level of cooperation and commit to a joint approach prior to the 2014 election cycle.

**»»»»» A STRENGTHENED EU PRESENCE**

Following the adoption of the Lisbon Treaty, the EU engaged in a major institutional overhaul in Bosnia both to strengthen its leadership role in the country and to provide momentum for a rather stagnant reform process. The new strategy involved a strengthened, unified institutional presence on the ground; a more effective and coordinated use of the EU's political and economic incentives; and active support for an accelerated transition process intended to transfer international executive powers to local authorities. As part of this initiative, in September 2011 the post of EU Special Representative was separated from the position of High Representative (the international envoy in charge of implementing the civilian aspects of the Dayton Peace Agreements), and 'double-hatted' as head of the EU delegation. While the initiative was presented as a major political upgrade following years of in-house discussion, the result was largely the creation of a new institutional structure in the field.

Momentum built three months after the creation of the new EU office. A much-awaited agreement on a coalition government was finally reached in December 2011 following strong external 'arm-twisting'; and two important laws for EU integration were passed in parliament in early 2012, the census law and the law on state aid agency. These early successes, however, proved transitory. The collapse of the coalition government after only three months engulfed Bosnia in a serious political and institutional crisis.

Neither the EU nor the US managed to convince local parties to come together under a new government coalition. Frustrated with the institutional and political impasse, and in an attempt to keep the reform process moving forward, the EU sponsored the 'High Level Dialogue on the Accession Process' in June with representatives of both Bosnian institutions and major political parties. The Dialogue was conceived as an opportunity for EU officials to clarify key requirements for EU integration, discuss prospective timelines and build momentum for the reform process.

The initial meeting was deemed a success and resulted in the adoption of a road map to enable Bosnia to implement the Stabilization and Association Agreement signed in 2008 and to present a credible EU membership application by the end of the year. Yet despite the high stakes, the parties failed to comply with the initial benchmarks. These included constitutional changes to address the 2009 ruling of the European Court of Human Rights, which declared constitutional provisions concerning the election of the presidency and the House of Peoples to be in violation of the European Charter on Human Rights; and the establishment of new coordination mechanisms in relation to EU matters.

Failure to deliver on these critical reforms has significant implications for the Balkans. As of today, Bosnia is the only country in the region that has failed to make any progress towards EU integration. Serbia and Montenegro gained candidate status and initiated accession talks in February and June respectively; Albania and Macedonia have also been given the 'green light' by the Commission to gain candidate status and initiate accession talks. Bosnia's aspirations of achieving candidate status were undermined in October when the annual Commission report found only 'limited' progress on certain critical reforms. Even Kosovo, where the volatile situation in the north poses enormous challenges for the EU accession process, has taken tangible steps forward. Continuing delays to critical reforms necessary for EU integration are likely to have significant implications in 2013.

**STALEMATE ON THE GROUND**

Domestic political elites and the institutional arrangement in place in Bosnia bear much responsibility for the failing record of reform in the country. Even though there has been no violent conflict since 1995, the bi-products of war remain, including complicated institutional structures and unresolved ethnic questions. These conditions have served to undermine the viability of the Bosnian state and the effectiveness of various

external state-building initiatives. International efforts at changing the constitution in order to build sustainable state structures have failed repeatedly due to opposing views on the future institutional framework of the state.

While local complications are to blame for much of the delay, the current High Level Dialogue and the EU's institutional overhaul have proved insufficient to counterbalance the dynamics of obstructionism. The degree of uncertainty built into the process of EU integration has been problematic, particularly in terms of the vagueness of political criteria and the imprecise operationalization of key benchmarks

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for EU accession. The implementation of the coordination mechanisms as laid out in the first meeting of the High Level Dialogue, for example, is intended to promote common positions on EU matters in a timely fashion. Yet little specification on how these mechanisms are supposed to work has generated confusion

and is likely to cause disagreements among the various groups involved, since the division of competences between the state and the entities remains a highly charged political issue in Bosnia. The EU will need to engage further to flesh out the details.

The inclusion of tight and often unrealistic deadlines prior to local elections, such as the adoption of constitutional changes prior to local vote in October 2012, has also undermined the political momentum and provided local parties with an opportunity to advance their own agendas without risk of political consequences. Historically, tight deadlines in the midst of electoral cycles in Bosnia have contributed to an escalation in nationalist rhetoric and resulted in a loss of international credibility. While the EU strategy is

designed to expedite the accession process, the EU must learn from past mistakes and balance expedience against local obstructionism.

The lack of democratic accountability has also negatively impacted the reform agenda. The process of EU accession has been criticized for lacking transparency, for being mediated by the political elite, and for the limited involvement of civil society. Both the creation of the High Level Dialogue and the adoption of key EU legislation without significant social engagement have served to reinforce these perceptions. While this 'top down' approach is informed by the complex political structure and intransigent leadership (often resulting in external involvement designed to facilitate compromise); it tends to undermine the legitimacy of the process in an environment in which public disinformation, nationalist rhetoric, buck passing, and finger pointing are endemic.

In consequence, while the newly structured EU presence was designed to motivate political parties and stimulate the drawn-out reform process, the results have been disappointing thus far. As EU Enlargement Commissioner Stefan Füle stated in an article alongside the publication of the Commission's annual progress report, the alternative to Bosnia not following in its neighbours' footsteps is increasingly 'worrying'. Further EU engagement is required to move the reform agenda forward.

### **DIVIDED INTERNATIONAL LEADERSHIP**

Both the EU and the US have agreed upon the end goal of the state-building process, namely supporting the emergence of a self-sustaining Bosnian state within the EU accession framework. But strong differences remain over the tactical and strategic approach on a daily basis. Efforts at reconciling and coordinating their respective agendas have been welcome in the past, reaching a peak with the Butmir process aimed at addressing constitutional changes at the state level in Bosnia. Following the EU institutional overhaul in 2011



»»»»» and against the backdrop of the Butmir failure, however, the EU and the US have pursued separate agendas and different courses of action. The US is now mostly focused on pushing NATO membership and has engaged in new institutional initiatives such as the reform of the constitution of the Muslim-Croat Federation.

Public support from the EU and the US for each other's agendas remains prevalent, but the presence of multiple voices has historically worked against the reform process in Bosnia. Furthermore, disagreements persist under the surface. Spurred by the slow progress of the EU-led step-by-step state-building process and apprehensive about the level of instability in Bosnia, the US has continued to support the preservation of the Office of the High Representative (OHR). Meanwhile, European countries have favoured its rapid dissolution and the devolution of political competencies to local institutions. While the US has agreed to a diminished OHR role, divisions over the future of this institution continue to undermine the reform process. This feeds the local perception that international actors are divided and uncoordinated, a view used by local actors to further delay the process.

The institutional crisis in May temporarily muted European opposition to the OHR, but the debate is likely to re-emerge following the formation of a new coalition government in November 2012. In contrast, the US is unlikely to endorse any structural change in the absence of substantial progress towards reform, including the activation of NATO's Membership Action Plan. As the 2014 election cycle draws near, the level of nationalist rhetoric will also make it increasingly difficult to transition authority.

US reservations primarily relate to Bosnia's inability to function as a self-sustaining state and the EU's inability to use the accession toolbox more effectively to transform Bosnia from a post-conflict country to a candidate for EU membership. Divisions are also related to conflicting assessments concerning the sources of conflict in Bosnia and the available policy options. The EU believes that

economic and social stabilization on the road to EU integration will help make ethnic divides less pronounced in Bosnia's politics over time. The US, on the contrary, takes the view that without external engagement, Bosnia will disintegrate and collapse. While supportive of the EU reform agenda, the priority for the US is not EU accession, but rather Bosnia's sustainability.

NATO membership could offer important security guarantees against Bosnia's disintegration, but compliance with the criteria to activate the Membership Action Plan (MAP) – the requisite first step – has proved challenging. Following strong external pressure in early 2012, local authorities signed a landmark agreement on March 9. This outlined a set of principles for the registration of state and defence property – a critical condition for MAP activation. The agreement, however, has not yet been implemented and the parties' positions are growing further apart. Serb negotiators, for example, have called for the start of new negotiations and Serb leader Milorad Dodik has recently advocated the elimination of the Bosnian army. Lack of progress in this area will delay discussions on the transfer of executive powers to local authorities and will bring further instability.

### **A REVAMPED INTERNATIONAL STRATEGY**

Against a backdrop of political instability and institutional uncertainty, both the EU and the US need to delineate concrete steps to strengthen collaborative efforts and stay committed to a joint international approach. A carefully coordinated strategic plan aimed at actively engaging Bosnian authorities in the Euro-Atlantic reform agenda is required; and both the EU and the US need to employ all political, economic and institutional resources to drive meaningful reform. The EU should maintain a leadership role in this context, but active American engagement remains critical. Russia and Turkey's participation in outlining a strategic plan and defining key priorities would also benefit the process.

International partners need to weave new initiatives, including the US-sponsored reform of the constitution of the Muslim-Croat Federation, into a broader strategic approach. Proposed constitutional changes affecting statehood issues and the distribution of power between different levels of authority will be unlikely to succeed amid progressive international disengagement, divided efforts and the lack of a joint strategic vision. Furthermore, special attention must be paid to the feasibility of new initiatives, particularly those centred on group identity and power distribution. Given the record of failure with respect to various internationally-led constitutional reforms at the state level, the potential for renewed intra-ethnic infighting, increased nationalist rhetoric and further instability remains high.

On the domestic front, the EU needs to engage more actively with Bosnian authorities, with the assistance of and in coordination with the US and other international and regional actors. The High Level Dialogue offers a potential framework for such engagement, but further human and economic resources are required. Here, the EU-mediated dialogue aimed at promoting cooperation between Serbia and Kosovo may offer important lessons in terms of resources and tactics. Further engagement with civil society and the broader public is also essential so that limited information is not misused by politicians in order to further delay the reform process. Calls to alleviate existing conditions to gain candidate status for EU integration – including Bosnia's compliance with the ruling by the European Court on Human Rights – should not be considered seriously given that shifting standards in the past have diminished EU credibility.

In addition, both the EU and the US need to agree on a plan aimed at restructuring and streamlining the international presence on the ground. While questions remain concerning the future of the OHR, the office remains in political purgatory, lacking direction and a clear mandate. Should a major crisis emerge in Bosnia, it is unclear whether the OHR would be able to respond in a timely manner and with adequate resources. Continued

US support for a weakened OHR represents a default strategy that is unlikely to bring about the necessary changes to promote the Euro-Atlantic reform agenda.

Given the OHR's loss of credibility and effective capability to fully engage in the reform process, a timeline for progressively dismantling the office should be defined. In parallel, credible guarantees should be delineated, including giving the international community the ability to intervene in cases of extraordinary necessity, such as unilateral initiatives designed to undermine Bosnia's territorial integrity and/or institutional framework. Maintaining a peacekeeping force on the ground during a transitory period, which would conclude once Bosnia were on a secure path towards EU and NATO membership, would also be a stabilising factor.

Two years of institutional impasse have yielded a potentially insurmountable workload for Bosnian authorities that will need to be addressed in 2013, prior to the presidential and legislative elections in 2014. Time is tight. All parties in the government coalition must take advantage of EU and US resources while the political appetite for continued engagement in Bosnia remains.

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