

A REPORT OF THE CSIS
EUROPE PROGRAM

A New Transatlantic Approach for the Western Balkans

TIME FOR A CHANGE IN SERBIA, KOSOVA, AND
BOSNIA-HERCEGOVINA

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INTRODUCTION

For the past decade, accession to the European Union (EU) has become both the journey and the final destination for peace and democracy in the Western Balkans. EU political and economic engagement in the region has had a profound and positive influence, from encouraging the rule of law, human rights, and economic reform, to establishing a regional dialogue. The United States has also been a key player in building a stable future in the Western Balkans. Combined, the EU and the United States have provided close to \$2.2 billion in assistance to Bosnia and Hercegovina, Serbia and Kosova since 2009;¹ most of the investment has focused on developing a civil society and an accountable government.

Despite these significant investments, past transatlantic policy approaches are no longer able to overcome the growing list of regional challenges that threaten to stall if not roll back progress toward European integration. Although the EU bureaucratically continues to support the integration of the Western Balkans, European political leaders offer no new enlargement narrative as they find themselves overwhelmed by a political and institutional dilemma fueled by the European sovereign debt and banking crises and by the bureaucratic consolidation following ratification of the Lisbon Treaty.

There is little intellectual enthusiasm, vision, or political appetite for Western Balkan accession; as a result, EU enlargement rhetoric rings increasingly hollow in the region. It is not surprising that many Western Balkan politicians openly question the sincerity of the EU's commitment to the accession process. In Washington, U.S. policy toward the Western Balkans has not progressed over the last decade as regional policy making continues its long descent down the State Department bureaucratic ladder. Although strategic drift and distractions mount on both sides of the Atlantic, the politics and potential instabilities in the Western Balkans do not patiently or idly wait until the West rediscovers the region. Bosnia-Hercegovina's politically paralyzed government structures, coupled with Serbia and Kosova's increasingly contentious relationship, marked with episodes of violence, erode confidence that the Western Balkans can overcome their legacy of internecine conflict.

It is time for urgent and necessary changes in both the current political and economic dynamics within the region, and in the transatlantic approach to the region. Simply put, transatlantic policy toward the Western Balkans is stuck in the policies of the 1990s approach and needs to respond to today and tomorrow's regional and global economic, security, and political dynamics. Policy makers must understand that the guidance of the EU and the United States to achieve the

1. For Europe: http://ec.europa.eu/enlargement/potential-candidates/index_en.htm. For the United States: http://www.usaid.gov/policy/budget/cbj2011/2011_CBJ_Annex.pdf.

promise of EU membership is no longer sufficient in and of themselves as policy tools. It is time for the EU and the United States to devise an updated long-term road map for reform and eventual EU accession to take place in the region, while tossing away an outdated policy playbook.

This road map should include a combination of powerful incentives for Balkan political leaders who are responsible for implementing key reforms and strong disincentives when they prevent regional cooperation and stymie reform. If EU membership appears to be unattainable, its accession standards inconsistent, or U.S. leadership absent, more and more Balkan politicians will exchange pro-EU platforms for some variation of nationalism and nativism, as we have seen with Republika Srpska's (RS's) prime minister, Milorad Dodik. It is imperative that transatlantic policy toward the Western Balkans is refocused and reenergized if it is to effectively guide the region toward a stable future in the transatlantic community – a policy goal which is within reach.

Based on extensive interviews and discussions with policy makers and analysts in Sarajevo, Banja Luka, Belgrade, Prishtina, Brussels, and Washington, this CSIS Policy Report offers recommendations to American and European policy makers for a new transatlantic paradigm for two of the most significant challenges in the Western Balkans, Bosnia-Herzegovina as well as Serbia and Kosovo. While it reflects on current and at times opposing U.S. and EU assistance strategies toward development and democratic reform, the report recommends a new, twenty-first century, transatlantic policy playbook for the Western Balkans infused with a realistic and long-term vision for the region.



EXECUTIVE SUMMARY

SERBIA AND KOSOVA

As demonstrated by the recent escalation of violence in northern Kosova, the antagonistic and divisive relationship between Serbia and Kosova continues to create regional instability in the Western Balkans. The first part of this report provides an analysis of the obstacles to normalizing relations between Serbia and Kosova and to promoting good governance in both countries. It also offers innovative options for the creation of a new transatlantic approach for promoting interstate cooperation.

This report also assesses the successes and shortcomings of the EU-sponsored bilateral dialogue between Belgrade and Prishtina, where, for example, the recent agreements on technical issues led directly to clashes along the border with Serbia. The political motivations, hidden agendas, and perceptions of the Serbian and Kosovar governments in engaging in these talks are explored in detail, as are the strengths and vulnerabilities of both countries in the negotiation process. The differing EU and U.S. objectives for, and expectations of, the bilateral dialogue are also examined, as well as the effectiveness of the international community's attempts to resolve the counterproductive statehood dispute between Serbia and Kosova.

Key recommendations are offered to both Washington and Brussels; the aim is to advance the dialogue process and to foster greater regional stability. These include the following:

- Shift the focus of the Belgrade-Prishtina dialogue from purely “technical issues” to a broader and more far-reaching agenda to achieve more concrete political results. Include northern Kosova and Serbia-Kosova border demarcations as subjects in the talks, focusing on restoring and ensuring Kosova's territorial integrity.
- Pursue a concerted campaign to expand Kosova's international recognition, beginning with the five remaining EU member states.
- Transition from Kosova's international supervision to the country's development. Instead of managing problems and sustaining dependency relations, focus on fostering regional economic development, political competition, and democratic transparency. Develop cross-border civil society networks by involving nongovernmental organizations (NGOs), attracting businesses, and developing a middle class.
- End the European Union Rule of Law Mission (EULEX) supervisory mission and transition to a robust and senior EU special representative (EUSR) with strong engagement and interaction with the U.S. Embassy in Prishtina.
- Include Kosova in EU visa liberalization and offer Kosova an EU Stabilization and Association Agreement (SAA) and a roadmap to candidacy status. This would incentivize conditions for domestic reform and provide the EU with greater influence in Kosova.

The recommendations for bridging Kosova and Serbia's differences will form the foundation of a new and reenergized transatlantic strategy for the Western Balkans that will result in greater economic integration and enhance economic and democratic reforms in the region.

1

SERBIA AND KOSOVA OPENING ROADS TO PARTNERSHIP

Summary

The escalation of violence in northern Kosova in September 2011, prompted by local Serb opposition to Kosovar control of disputed border crossings, has raised security concerns and signaled significant urgency to resolve the status of the Serb-dominated northern municipalities. The most persistent obstacle to regional security and interstate cooperation in the Western Balkans is the antagonistic and divisive relationship between Serbia and Kosova. Both countries pursue diametrically opposed positions related to the latter's status and statehood: Prishtina seeks to leverage its relationship with Washington and the EU to gain more extensive international recognition and to enter key multinational institutions, while Belgrade seeks to freeze Kosova's statehood and prevent its inclusion in all multinational organizations. The EU and American policies toward the region fall prey to this internecine struggle between the two countries.

Prolonged diplomatic engagement and international focus by the United States and the EU has produced little progress to date despite recent, albeit tentative, steps in addressing customs-related issues. These have rapidly dissolved into conflict requiring North Atlantic Treaty Organization (NATO) and international intervention. The exclusive political focus of both states has been to either gain or preclude international recognition and integration, while critical economic and institutional reforms and state capacity building in Kosova have received little focus or attention. Nevertheless, these reforms are vital to Kosova's success. International engagement is geared toward crisis management rather than toward the foundational goals of regional development and integration and Euro-Atlantic assimilation.

The transatlantic policy status quo toward both countries cannot be sustained since it is ultimately detrimental to stated policy objectives. This is a critical moment to provide a candid and concise analysis of the problems faced by Serbia and Kosova, and to offer some innovative options for Washington and Brussels to help avoid drift and stagnation that will precipitate new insecurities and regional conflicts in the months and years ahead. Based on extensive interviews and discussions with policymakers and analysts in Belgrade, Prishtina, Brussels, and Washington, this CSIS report seeks to offer some fresh thinking in resolving the counter-productive standoff between Serbia and Kosova.

Serbia-Kosova Dialogue in Perspective

The launch of a dialogue between the governments of Serbia and Kosova, mandated by the United Nations General Assembly in September 2010, sponsored by the EU, and supported by the United States, was designed to break the counterproductive cycle between the two countries and to develop points of self-interested cooperation. Talks began in March 2011 and, after five rounds of

negotiations, the EU brokered a breakthrough deal on July 4, 2011 between Serbia and Kosova. This deal included agreements in three fields: issuance of certified copies of civil registry records to Kosova using EULEX in Kosova as an intermediary, Serbian acceptance of Kosovar identification cards to facilitate freedom of movement, and mutual acceptance of university degrees.¹ According to EU facilitator Robert Cooper, the agreements “bring both parties closer to the European Union, they improve cooperation and they improve the lives of ordinary people.”² Although the deal did not address or affect the status of Kosova, it was hailed by Kosovar negotiator Edita Tahiri as “a first step towards Serbia’s recognition of Kosova independence.”³

All parties engaged in these talks have differing agendas, motivations, and perceptions about the talks themselves. EU officials perceive the talks as a demonstration that conflicts can be managed effectively through European mediation and that practical problems between Serbia and Kosova can be resolved with EU assistance. U.S. officials generally share this perspective but they would like to see the dialogue become an immediate catalyst for Kosova’s recognition by all European capitals (five EU member states do not recognize Kosova) as an independent state.⁴

Serbia’s leaders view the talks as a means for satisfying conditions in gaining EU candidate status and opening accession negotiations. While the EU Commission has recently recommended that Serbia gain EU candidate status, formal accession talks cannot commence until Belgrade improves its relations with Prishtina. This said, the Serbian government also seeks to use the dialogue as a way to prevent or delay further recognition of Kosova. The government in Prishtina is much less sanguine about the goals and outcomes of the discussions with Belgrade. There is a fear that there is a political “cost” to scheduling these talks which may formalize the status quo ante and a belief that the Kosovars were pressured into accepting the dialogue without the prospect of any tangible future rewards.

And there are costs as well. Serbian unwillingness to recognize Kosova customs stamps prompted the Kosovar government to introduce a ban on imports of all Serbian goods to reciprocate the Serbian embargo on Kosova goods in place since the 2008 declaration of independence.⁵ On July 26, 2011, Kosova special police forces seized control of two border crossings in an attempt to exert sovereignty in the Serb-dominated north of the country after EULEX failed to enforce the Kosovar embargo. According to Kosova prime minister Hashim Thaçi, this action was required to restore law and order in that part of the country. The action raised tensions in the region as police encountered resistance from local Serbs who torched border posts, set up road blockades, and injured several officers. Kosova’s “unilateral action” was criticized by the EU and the United States for being carried out without consultation with the international community.⁶

While the border dispute did not escalate beyond the border area, the violence lasted for several days and required the increased presence of NATO troops to take control of the border

1. “Kosova, Serbia Reach Breakthrough Deal,” *Balkan Insight*, July 4, 2011, <http://www.balkaninsight.com/en/article/Kosova-serbia-reach-breakthrough-deal>.

2. Ibid.

3. Ibid.

4. Five EU countries have yet to recognize Kosova’s independence: Spain, Slovakia, Romania, the Republic of Cyprus, and Greece.

5. “Kosova Police Seize Northern Border Points,” *Balkan Insight*, July 26, 2011, <http://www.balkaninsight.com/en/article/kosova-police-seize-northern-border-points>.

6. Ibid.

crossings.⁷ EU high representative Catherine Ashton condemned the violence and urged Belgrade and Prishtina to defuse tensions and restore calm and security, reiterating that differences should be resolved through the EU-led bilateral dialogue.⁸

Serbian deputy prime minister Bozidar Djelic accused Kosova of trying to thwart Serbia's EU efforts by raising tensions in the region, arguing that it was linked to the arrest of alleged war criminal Goran Hadžić and designed to provoke Belgrade.⁹ Kosova prime minister Hashim Thaçi defended his actions by emphasizing that Kosova needs to control all of its territory; an agreement resolving the conflict was finally brokered by NATO, not by the EU, on August 8, 2011. This agreement granted KFOR troops control of the border points until September.¹⁰ The removal of barricades by Serbs in most northern Kosova municipalities, occurred in the days following the agreement.

This incident highlights both the tenuousness and the failures of the EU-sponsored Serbia-Kosova dialogue process. Serbian president Boris Tadić warned that such unilateral actions by Kosova have the potential to derail the progress of the dialogue between Belgrade and Prishtina.¹¹ German and UK foreign ministers Guido Westerwelle and William Hague, respectively, jointly issued a warning that Serbia and Kosova's path toward EU membership will be jeopardized unless the two governments find a diplomatic solution to their differences that respects the borders of Kosova.¹² On a visit to Belgrade in August 2011, German chancellor Angela Merkel reiterated the precondition that Serbia must resume dialogue and normalize relations with Kosova if it "wants to achieve candidate status."¹³

On September 2, a compromise was reached on the customs stamps dispute, whereby Serbia agreed to accept stamps marked "Kosova Customs," and Kosova abandoned labels featuring flags, state symbols, or the word republic.¹⁴ The agreement resulted in the lifting of the mutual trade embargo and was regarded as a status-neutral solution. The sixth round of negotiations also resulted in an agreement to return cadastre, or property records, to Kosova.¹⁵

Border tensions flared again between local Serbs in northern Kosova and KFOR forces following the recognition of Kosova customs stamps: on September 16, Serb gangs tried to prevent two border checkpoints from being dismantled; they also tried to prevent the deployment of

7. "Border Dispute with Kosova: Serbian Attackers Shoot at NATO Soldiers," *Spiegel*, July 28, 2011, <http://www.spiegel.de/international/europe/0,1518,777117,00.html>.

8. "Statement by the High Representative Catherine Ashton on the Situation in Kosova," Council of the European Union, July 28, 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/124065.pdf.

9. "Upcoming Days Important for Serbia's EU Integration," *Balkan Insight*, August 3, 2011, <http://www.balkaninsight.com/en/article/upcoming-days-important-for-serbia-s-eu-integration>.

10. "Kosova Northern Border Crisis Resolved," *Balkan Insight*, August 8, 2011, <http://www.balkaninsight.com/en/article/Kosova-kfor-reached-agreement-over-the-disputed-north>.

11. "Serbia's Tadić Pledges 'No War' over North Kosova," *Balkan Insight*, July 27, 2011, <http://www.balkaninsight.com/en/article/serbia-strongly-condemns-Kosova-s-border-crossings-take-over>.

12. "Kosova and Serbia under EU Spotlight," *Balkan Insight*, August 9, 2011, <http://www.balkaninsight.com/en/article/serbia-and-Kosova-will-miss-historic-opportunity>.

13. "Germany's Angela Merkel Ties Serbian EU Hopes to Kosova," BBC, September 23, 2011, <http://www.bbc.co.uk/news/world-europe-14631297>.

14. "EU Facilitated Dialogue between Serbia and Kosova: Agreement on Customs Stamps and Cadastre," Europa, http://www.eu-un.europa.eu/articles/en/article_11338_en.htm.

15. *Ibid.*

Kosova customs officials. The Kosova authorities, however, only have a “technical role” to play in this regard as the border and customs controls at the two crossings were taken over by EULEX, and KFOR remained responsible for guarding the crossings and providing security in the border region.¹⁶

While the Kosova government saw the customs agreement as an opportunity to take over control of the northern Kosova borders, the Serbian government rejected the deployment of Kosovar customs officials as part of that agreement. Following another violent incident on September 27 in the border region, Serbia’s negotiating team postponed the seventh round of dialogue with Prishtina scheduled for September 28, leaving outstanding deals in the fields of telecommunications, energy, and regional cooperation unresolved.¹⁷

Serbia’s Political Calculations

The Serbian authorities are adamant that direct negotiations with Prishtina do not signal that it is prepared to recognize Kosova as an equal partner or as a fully fledged state. Instead, Belgrade’s agenda for the talks involves a number of practical issues supported by the EU, including accounting for people missing following the 1999 war; responding to traffic and telecommunications questions, including easier border crossings; connecting air and ground transport and energy networks; and legalizing documents for Serbs living in Kosova.

Soon after the UN decision to mandate the bilateral dialogue, Belgrade named its own negotiating team and clarified the topics of interest for Serbia. The government of President Tadić appointed the political director (third-ranking official) of the Foreign Ministry, Borko Stefanovic, as head of its delegation. Belgrade’s team does not include senior government officials, as no member holds the position of minister or state secretary, in order to minimize the appearance of legitimizing interstate dialogue with a state that Serbia does not recognize.

The Tadić administration places a high priority on the talks with Kosova as they were a precondition for Serbia’s EU candidacy status; the EU still requires Belgrade to settle its outstanding disputes with Kosova prior to accession. The EU enlargement commissioner, Štefan Füle, recommended on October 12, 2011, that Serbia be granted candidate status. He stated: “On the basis of the progress achieved in reforms, co-operation with the International Court Tribunal for ex-Yugoslavia, and regional reconciliation, I recommend granting Serbia Candidate Status, on the understanding that Serbia re-engages in the dialogue with Kosova and is moving swiftly to the implementation in good faith of agreements reached to date.”¹⁸ However, the EU did not set a date to begin formal accession talks, stipulating that the negotiations be opened as soon as Serbia achieves further progress in normalizing relations with Kosova.

The EU has laid out two additional conditions for Serbia prior to accession. These include the implementation of domestic reforms, including judicial and party financing reform, as well as

16. “Kosova Deploys Customs Officials to Disputed Border Crossings with Serbia,” Radio Free Europe, October 5, 2011, http://www.rferl.org/content/Kosova_deploys_customs_officials_to_disputed_border_crossings/24330516.html.

17. “Belgrade-Prishtina Talks Postponed in Brussels,” *Balkan Insight*, September 28, 2011, <http://www.balkaninsight.com/en/article/belgrade-prishtina-talks-cancelled>.

18. Štefan Füle, “Address to the Committee on Foreign Affairs (AFET) of the European Parliament,” Europa, October 12, 2011, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/652>.

full cooperation with the Hague war crimes tribunal. Following the apprehension of indicted war criminals Ratko Mladic and Goran Hadžić in May and July 2011, Serbia, according to EU leaders, has come one step closer to “realizing its European perspective.”¹⁹

Belgrade views EU candidacy status as an important achievement that can attract voters in the upcoming parliamentary elections by May 2012 at a time when economic conditions have worsened and growing public frustration with the government has been evident in large-scale street demonstrations organized by Serbia’s nationalist opposition.

An inherent obstacle facing the bilateral dialogue between Belgrade and Prishtina is Serbia’s efforts to halt any further recognition of Kosova, as 85 nations have already recognized its independence from Serbia. By making the recognition seem contingent on the long-term outcome of the bilateral dialogue, Belgrade studiously avoids giving ground to Prishtina during the talks and in their opinion, Kosova’s final status is not being resolved. At a minimum, Serbia does not want to alter the status quo in favor of Prishtina by signing any binding bilateral accords with a government it does not recognize. This creates immediate problems in forging agreements, even on practical issues, unless the EU finds creative ways to promote status-neutral solutions.

A third Serbian government goal in the bilateral talks is to ease domestic nationalist pressures that Belgrade is not doing enough to support its Serbian brothers in northern Kosova. Following the northern Kosova border dispute in July 2011, Serbian opposition leader Tomislav Nikolic blamed the government for doing “nothing” for the Serbs living in Kosova.²⁰ Although Kosova does not figure as a hot political issue within Serbia on a daily basis, it is and will be used by nationalists against the governing coalition in the forthcoming election campaign.

Indeed, a pro-EU center-right nationalist party, the Serbian Progressive Party (SNS) leads in polls with 41 percent support, ahead of the ruling Democratic Party (DS) (24 percent), and the ultranationalist party Serbian Radical Party (SRS), but this rise in popularity has as much to do with discontent over rising prices, unemployment, and poverty in the aftermath of the global economic recession than the importance of Kosova.²¹

The person within the government who is delegated with the responsibility to attract the nationalist vote is Serbian foreign minister Vuk Jeremic, who devotes his energies to campaigning against Kosova’s international recognition. By continually reinforcing the public message that the dialogue with Prishtina is conducted under a UN mandate and that Serbia only engages in negotiations in pursuit of its national interests, Jeremic periodically injects into the process initiatives in order to bring Kosova’s statehood into question. He has launched an International Court of Justice (ICJ) process to obtain a ruling on Kosova’s declaration of independence, mobilized the Yugoslavia Non-Aligned Movement (NAM) against separatism, canvassed the UN General Assembly in support of Serbia’s territorial integrity, appealed to Russia to back Serbia’s diplomatic maneuvers, and focused on the Council of Europe’s investigations of Kosova prime minister Thaçi, discussed in the next section, in an effort to delegitimize the government in Prishtina.

19. “Joint Statement by President Van Rompuy, President Barroso and High Representative Ashton on the Arrest of Goran Hadžić,” Council of the European Union, July 20, 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/123971.pdf.

20. “Nikolic: Serbia Has Done ‘Nothing’ for Kosova Serbs,” *Balkan Insight*, August 5, 2011, <http://www.balkaninsight.com/en/article/sns-leader-state-has-done-nothing-for-Kosova-serbs>.

21. “New Poll Gives Opposition Parties Lead,” *B92*, April 6, 2011, http://www.b92.net/eng/news/politics-article.php?yyyy=2011&mm=04&dd=06&nav_id=73645.

Serbian government officials have indicated that the partition of Kosova is their ultimate objective, given that regaining control over the entire country is no longer feasible. Some Serbian analysts believe that the talks may become a smoke screen so that southern Kosova can be surrendered in order to obtain its northern districts for Serbia. In this scenario, Belgrade would be unwilling to accept the prospect of surrendering the Albanian majority districts in southern Serbia as part of a potential territorial exchange with Prishtina. However, Belgrade would not recognize Kosova as an independent state but encourage the absorption of a truncated Kosova by Albania and of northern Kosova by Serbia. Serbian officials are hoping for a future grand bargain with Tirana over the heads of Kosovar leaders that will forge a “historic agreement” between Serbs and Albanians (Belgrade president Tadić’s own words in a statement to the media on March 18, 2011) or, more precisely, between Belgrade and Tirana. Not surprisingly, his proposal has been extensively criticized in both Kosova and Albania.

Perhaps to soften international criticism, President Tadić has stated that he was prepared to meet with Kosova prime minister Thaçi despite allegations that the latter was involved in war crimes during the NATO-Serbia conflict. In December 2010, Dick Marty, a member of the Council of Europe (CoE) Parliamentary Assembly, issued a report that was adopted by the CoE, alleging the killing of prisoners and the removal and illicit trafficking of human organs by members of the Kosova Liberation Army (KLA), in which Thaçi held a senior position.²² Despite these allegations, Tadić has stated that he would meet Thaçi or any other legitimate representative of the Albanians in Kosova, but without recognizing the legitimacy of the government in Prishtina. No such high-level meeting has occurred thus far.

Kosova’s Calculations and Vulnerabilities

In February 2011 and following his reelection, Kosova prime minister Thaçi declared that he was ready to begin talks with Belgrade after convening a more broad-based cabinet that included a Serbian deputy, Slobodan Petrovic, the first ethnic Serb to be appointed deputy prime minister. Out of the 16 cabinet ministers in the government, three are ethnic Serbs.²³

Kosova has been adamant on three questions pertaining to its dialogue with Serbia: that it cannot call into question Kosova’s final status; that the borders of Kosova are inviolable; and that Serbia must have no say in the internal territorial organization of Kosova. In an optimistic scenario, Prishtina calculates that the talks could begin a process that will normalize relations with Serbia as an impetus for both Serbia and Kosova’s eventual EU integration. Kosova’s final goal, however unlikely, is for the dialogue to conclude with the reciprocal recognition of Kosova and Serbia, the mutual acceptance of territorial integrity, and the accession of both countries into the EU.

EU mediator and senior adviser in the office of Baroness Catherine Ashton, Robert Cooper, asserts that the main goal of the talks is to remove obstacles that have a detrimental impact on the lives of the population in Kosova, to improve cross-border cooperation, and to make progress toward EU integration. However, EU policies and underlying motivations are questioned by Kosova officials. Prishtina fears that the European Commission is more likely to accommodate Serbian

22. “Council Adopts Dick Marty’s Kosova Report,” *SwissInfo*, January 25, 2011, http://www.swissinfo.ch/eng/politics/Council_adopts_Dick_Martys_Kosova_report.html?cid=29328740.

23. Matthew Brunwasser, “Kosova’s Serbs Pressed to End Autonomy Push,” *New York Times*, September 29, 2011, http://www.nytimes.com/2011/09/26/world/europe/26iht-Kosova26.html?_r=1&pagewanted=2.

positions during the dialogue because Brussels views Serbia's European integration as essential to the EU's policy success in the Western Balkans. Although the EU has used its pending decision on Serbia's candidacy status as leverage to pressure Serbia to normalize relations with Kosovo and defuse border tensions through diplomatic channels, the Commission's recent recommendation to grant Serbia EU candidate status confirms what Kosovo officials fear: the EU has become "status neutral" vis-à-vis Kosovo in an effort to bring Serbia closer to the EU, keep the United States at a distance, and not push the remaining five EU members to recognize Kosovo.

To counter these fears and perceptions, one of Prishtina's principal objectives for the dialogue is to prevent Belgrade from setting the agenda of the dialogue. For example, Prishtina was successful in thwarting Serbian attempts to include the issue of the northern Kosovo border crossings in the seventh round of negotiations, calling these issues "non-negotiable" internal matters and prompting the Serbs to postpone the negotiation talks.²⁴ The EU did not give in to Serbia's ultimatum, maintaining that the situation in northern Kosovo is not part of the dialogue and that only technical issues would be on the agenda, suggesting that the dialogue would be resumed when the Serbian side was ready to reengage.²⁵

There is no uniformity of views within Kosovo about the dialogue. The political opposition in Kosovo has openly called into question the legitimacy of the reelected Thaçi government and of the credibility of its dialogue with Serbia. Opposition parties also urged the government not to start talks with Belgrade without the approval of the Kosovo Assembly, insisting that parliament should adopt a resolution which would determine the topics of the dialogue. This request was disregarded by the government as pressures mounted from the EU to launch the talks. The opposition believes that Belgrade and Prishtina should only enter into the dialogue as two distinct and mutually recognizing states and that both parties should benefit from the talks. They also assert that the present dialogue favors Belgrade and sees no benefits if new international recognition is not forthcoming. The opposition believes that Kosovo needs to take more control of the dialogue as well as to receive extra sweeteners, such as visa liberalization with the EU.

The Thaçi government formed a team for the dialogue with Serbia headed by Deputy Prime Minister Edita Tahiri. Prishtina's agenda includes exchanging civil documentation such as the civil register and the cadastre pertaining to Kosovo but held by Belgrade; removing obstacles to cooperation in the Central European Free Trade Area (CEFTA) and other regional initiatives where Belgrade has blocked Prishtina's participation; ensuring freedom of movement through the recognition of passports, customs stamps, license plates, and driving licenses; the recognition of school diplomas by both states; developing telecommunications and energy links through harmonization and liberalization according to EU principles; and the return of looted property.

The recent breakthrough deals between Prishtina and Belgrade in several of the aforementioned fields, as well as any future agreements on remaining issues, will continue to be jeopardized by the ongoing border dispute in northern Kosovo. The Kosovo government's attempt to enforce the embargo on Serbian goods and establish control over northern Kosovo borders was a sign of Prishtina's dissatisfaction with the pace of the EU-led dialogue process. It also reflected Kosovo's suspicion of Serbia's willingness to genuinely engage in the negotiations and follow through on its commitments. In concert with EU pressure, Prishtina's policy paved the way for a diplomatic

24. *Ibid.*

25. "EU Facilitated Dialogue: Serb Delegation Not Ready to Continue the Talks Today," Europa, September 28, 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/124775.pdf.

solution to some outstanding border issues such as the free movement of goods and recognition of Kosovar custom stamps. Nonetheless, Kosova's actions in July and the deployment of Kosovar customs officials in September fell short of gaining full control of border checkpoints, which are currently managed by EULEX while KFOR provides security. Furthermore, Kosova's actions may have temporarily succeeded in complicating Serbia's EU candidacy bid, but did not prevent it from receiving the Commission's recommendation to be granted candidate status. It is unclear when Kosova and Serbia will return to the negotiating table to find solutions on several outstanding technical issues, but the opening of Serbia's EU accession talks is contingent upon resumption of the dialogue and normalization of relations between the two countries.

International Involvement: Process and Substance

Soon after the passage of the UN General Assembly resolution 64/298, "Request for an Advisory Opinion of the International Court of Justice on Whether the Unilateral Declaration of Independence of Kosova Is in Accordance with International Law" in September 2010, significant pressure was exerted by the EU on Prishtina to engage in the dialogue with Belgrade, particularly from the office of Baroness Ashton, the EU's high representative for foreign affairs and security policy, and specifically from her senior adviser, EU facilitator Cooper. Politicians and analysts in Prishtina viewed the talks with pronounced suspicion fearing that it could result in possible territorial concessions to Belgrade. As a result, Kosovar officials asserted that the question of northern Kosova would not figure on the agenda as it constituted an internal political issue.

The nonparticipation of Serbs from the Mitrovica region in Kosova's general elections and their boycott of Kosova's institutions, pose the greatest challenge for Prishtina as it reinforces partition as a viable policy option. Almost entirely outside of Kosova's legal system, northern Kosova has become, and will remain, its main source of instability with far-reaching implications for security, regional integration, and economic development. Although Prishtina may accept extensive decentralization vis-à-vis its northern province, it will not countenance any form of autonomy that could turn Kosova into another Bosnia-Herzegovina with two entities that paralyze the central government. The increased level of instability of northern Kosova was highlighted by the aftermath of Prishtina's move to seize control of the border crossings in this region, which triggered violent conflicts, prompted international condemnations, and resulted in NATO supervision of the border.

In some respects, Prishtina and Belgrade are holding each other hostage: without Belgrade's agreement Prishtina cannot join international organizations, and without Prishtina's consent Belgrade cannot progress fully on its path toward EU membership. The goal of the bilateral negotiations under EU auspices was to help both sides escape this hostage situation. The EU expected some concrete progress from the talks by November so that its progress report on the status of Serbia's EU pre-accession status issued by the close of 2011 would prove favorable. Despite recommending granting Serbia candidate status, the EU views the current border dispute—ironically a by-product of the bilateral dialogue—as an obstacle that needs to be overcome if accession negotiations with Serbia are to be opened.

The EU understands that the current political situation in Belgrade provides a window of opportunity. Clearly, a concrete offer of an EU prospect for Serbia can mitigate an election victory by nationalistic forces in the next Serbian general election. However, not all EU members support the continued enlargement of the EU. Serbian officials worry that certain EU members, who want to

slow down the EU enlargement process, may use Prishtina's unilateral moves as an excuse for postponement of the talks on Serbia's EU accession.²⁶ The German ambassador to Kosova, Hans-Dieter Steinbach, warned that "sometime during the EU integration process the issue of Kosova's recognition will come up" and Serbia would need to recognize Kosova and the integrity of its borders.²⁷

To what extent are Belgrade and Prishtina the owners of the negotiating process? If the EU's influence is centered on Belgrade due to its EU ambitions, then America's influence is felt primarily in Prishtina, which sees the United States as a security guarantor, along with NATO, of state independence. Washington has stated that it would play "a supportive role" in the talks and is content that the EU convenes the parties, sets the agenda, and takes the lead role in the dialogue. For its part, the U.S. government will continue to press Prishtina to participate, but it has asserted that the talks should not tackle the question of Kosova's status, border changes, or territorial integrity. During the July border dispute, a U.S. State Department spokesperson noted that "free movement of goods between Serbia and Kosova should be addressed within the European Union-facilitated dialogue" and reiterated U.S. confidence in EU management of the negotiations.²⁸ The U.S. administration may have also calculated that if they assumed a more prominent role in the dialogue, it would push Serbia into requesting that Russia also join the dialogue. Kosova is not viewed as a positive item to add to the U.S.-Russian "reset" agenda.

Some analysts and officials privately state that without stronger U.S. involvement in the Serbia-Kosova dialogue coupled with the continued lack of recognition by five EU member states, there is the potential for the EU to veer from "status neutral" to "status negative" regarding Kosova's statehood. There is also fear that partition of Kosova could ultimately be seen as a viable option in Brussels in its overt desire to satisfy Belgrade, thereby intensifying Albanian nationalism and bringing forth destructive regional conflicts.

EU management of the most recent border dispute and the Serbia-Kosova conflict in general has come under criticism. Britain's minister for Europe, David Lidington, was critical of EU foreign policy chief Ashton for not appointing a permanent EU special representative in Kosova, which "sends the wrong message to Prishtina when it needs encouragement."²⁹ The mandate of the current EU special representative Fernando Gentilini, was supposed to end in July, but was extended until September due to the escalating conflicts.³⁰ Some observers blame the current standoff on the EU, arguing that it made a "historical mistake" for not having integrated "all of Yugoslavia's successor states in one fell swoop after the wars of succession" and that these countries "will remain Europe's Achilles' heel" until they all become members of the EU.³¹

26. "Upcoming Days Important for Serbia's EU Integration."

27. "Serbs Will Be Asked to Recognize Kosova," *Balkan Insight*, July 18, 2011, <http://www.balkaninsight.com/en/article/serbia-will-be-asked-to-recognize-Kosova>.

28. "State Department on Events in Northern Kosova," U.S. Department of State's Bureau of International Information Programs, July 26, 2011, <http://iipdigital.usembassy.gov/st/english/texttrans/2011/07/20110726191930su0.8481954.html#ixzz1UYV5cYwt>.

29. "UK Slates Delays over New EU Kosova Chief," *Balkan Insight*, August 2, 2011, <http://www.balkaninsight.com/en/article/delays-to-Kosova-s-eu-chief-sends-wrong-signals>.

30. *Ibid.*

31. Olaf Ihlau, "Europe's Achilles' Heel: Historical EU Error to Blame for Kosova Strife," *Spiegel*, July 29, 2011, <http://www.spiegel.de/international/europe/0,1518,777305,00.html>.

Policy Recommendations for Washington and Brussels

The following recommendations are offered to both Washington and Brussels in order to ensure greater acceptance of the dialogue process by Serbia and Kosova and achieve a common transatlantic vision for, and approach to, the Western Balkans.

- **Grant the Belgrade-Prishtina dialogue greater and broader focus:** There is a sense in both Belgrade and Prishtina that the talks are given insufficient attention by the most senior levels of government in Brussels and that the dialogue focuses on purely “technical issues”; this may unnecessarily mire the talks by reducing enthusiasm and momentum. The recent border dispute reveals the incendiary nature of even the most technical of issues between the parties. The dispute also reveals Kosova’s growing impatience with the process and its desire to tackle more pressing questions such as the free movement of goods or border issues in order to shore up its sovereignty. The EU and the United States should propose a more far-reaching agenda in the bilateral dialogue to achieve more concrete political results. Belgrade is unlikely to withdraw from the dialogue as it seeks EU support for its membership bid; more concrete political results will also encourage Prishtina to remain engaged.
- **Include northern Kosova as a subject in the talks:** The Belgrade-Prishtina talks can become a mechanism and a catalyst for gradually involving northern Kosova in the country’s institutions and integrating the northern municipalities. This will give Prishtina a self-interested stake in maintaining the dialogue and reduce complaints that only Belgrade will benefit from the process. The talks can promote the establishment of the rule of law in the region and convene legitimate local elections. Additionally, the local administration in northern Kosova and various social services, including health and education, should be integrated within the new state. Both the United States and the EU must focus on restoring Kosova’s territorial integrity as a divided Kosova will remain a source of dispute between Belgrade and Prishtina and a fulcrum of instability for years to come.
- **Develop Serbia-Kosova border demarcations:** NATO’s mandate includes controlling Kosova’s borders, but the demarcation of the frontier with Serbia is a political issue that can be pursued in the bilateral talks. The lack of negotiations on this issue is likely to continue to provoke incidents such as the July and September border disputes in northern Kosova. Neither KFOR nor the Serbian military are authorized to demarcate borders, while NATO estimates that there is extensive trafficking of smuggled goods through the northern portion of the border. The Kosova police have started to assume responsibility for border protection from KFOR along the frontier with Albania and Macedonia, but KFOR continues to monitor the police. KFOR took responsibility for the northern Kosova borders as well until September as part of the agreement that resolved the July border conflict. Although EULEX and Kosova customs officials took control of the border crossings in mid-September, KFOR is still providing security in the frontier zone. There is some urgency in dealing with border delineations as integrated border management and security are conditions that Kosova has to meet in order to be included in the process of EU visa liberalization.
- **Organize cross-border civil society networks:** As a long-term parallel track of the negotiation process, the development of civil society networks will outlast any government in either Belgrade or Prishtina. This would require the involvement of NGOs working in various domains,

from human rights to environmental protection. Furthermore, there needs to be a focus on attracting businesses and developing a middle class throughout Kosova, including its northern municipalities. Serbs will then obtain a stake in developing commerce with the Albanian majority; this will also moderate the impulses of local nationalism. A program that will grant business loans in the region will help promote such a process.

- **Pursue a concerted campaign to expand Kosova's international recognitions, beginning with the last remaining EU member states:** This approach must concentrate in particular on the five EU non-recognizers (Greece, Spain, Romania, Slovakia, and Cyprus). Otherwise, these states could block some of the outcomes of the Serb-Kosovar dialogue or disable the EU from speaking with a single voice and supporting the decisions of the chief mediator. A more unified EU will also send a strong signal to Russia, and the UN could encourage other countries to recognize Kosova.
- **Include Kosova in EU visa liberalization:** With all of the other Western Balkan countries having been granted visa liberalization to enter the EU, the exclusion of Kosova is creating a black hole in the middle of the region by raising public frustration and encouraging criminal operators to circumvent EU rulings.
- **Transition from Kosova's supervision to the country's development:** Statehood and independence cannot be seen as a formality without substance. Paradoxically, it is EU supervision and the U.S. patron-like relationship with Prishtina that may be holding back the country from achieving its potential. Supervision creates dependency relations, places the focus on managing problems rather than on fostering development, limits political competition and democratic transparency as the government feels more accountable to outside powers than its own citizens, and undermines domestic responsibility for policy implementation. It also buttresses charges by local nationalists that the United States is establishing puppet governments and colonies in the region and that the EU does not see Kosova as a candidate for future integration, but as a second-class citizen. The United States must not be seen as the protectorate power in a patron-client relationship with Prishtina as this will undermine indigenous democratic development and gradually raise resentment against Washington.
- **Establish a direct relationship between Kosova and Brussels:** Plans should be made to end the EULEX supervisory mission, which both government and opposition leaders consider ineffective in fulfilling its mandate to help establish the rule of law and good governance throughout the country. Instead, there needs to be a transition to a relationship between Prishtina and Brussels with specific agreements, conditions, roadmaps, and focused EU assistance, as has been the case in all other post-Communist states in Central and Eastern Europe. It is time to transition from the EULEX Kosova Mission to a robust and senior EUSR with strong engagement and interaction with the U.S. Embassy in Prishtina.
- **Offer Kosova an EU SAA and a roadmap to candidacy status:** The EU needs to strengthen its role in Kosova and the United States needs to better balance its relationship with Prishtina and strengthen its relationship with Belgrade. Ultimately, without a concrete prospect for EU accession for each country in the West Balkans, however long the process takes (and it is recognized that accession will take a very long time), the region is more likely to witness a series of internal and interstate conflicts that may not replicate the war in the 1990s, but will seriously debilitate democratic progress, state-building, and economic development. It will also preoccupy the EU, the United States, and NATO in costly and time-consuming conflict prevention and crisis-

management missions for the next decade. Kosova in particular needs an EU entry strategy starting with preparations for an SAA that would be on track toward candidacy status. This would incentivize conditions for domestic reform and provide the EU with greater influence in Kosova.

If there aren't more resolute and clearly delineated goals by key international players, the prospects for instability will accelerate in Kosova in the midst of creeping economic distress and social turmoil. Moreover, the opportunities for external actors to negatively influence domestic developments will also increase, whether these are neighboring nationalists or non-regional powers. Serbia's EU candidacy without commensurate progress by Kosova could also create new obstacles for Prishtina by emboldening Belgrade to be more obstructive in future negotiations. For the first time in its history, the entire Balkan peninsula has the opportunity to coexist under one security and economic umbrella. Unfortunately, the policies of European and American leaders are currently inadequate to the task of fulfilling such a unique historic vision. A new impetus is needed to drive policy toward achievable objectives.



EXECUTIVE SUMMARY

BOSNIA-HERCEGOVINA

The yearlong political gridlock over the formation of a new state government in Bosnia- Hercegovina illustrates the risk of policy stagnation and potential regional instability in the Western Balkans. The second part of this report provides a detailed analysis of the challenges facing the stalled 16-year state-building project, underscores the structural flaws of the Dayton Peace Accords to developing durable governing structures, and offers some innovative recommendations to form the basis of a fresh transatlantic approach for moving beyond the protracted stalemate and refocusing on reforms.

This report assesses the factors precluding the building of an integral and effective state in Bosnia-Hercegovina, including the disputes between the three major ethno-national groups, and explores points of transatlantic contention, with a special focus on international assistance and integration, the evolving role of the Office of the High Representative (OHR), and paths for political and economic development. Based on this analysis, the report outlines the best and worst case scenarios for the future of Bosnia based on a variety of policy decisions.

The following recommendations are offered to both Washington and Brussels; the aim is to advance the construction of a more efficient and integrated state of Bosnia-Hercegovina:

- Develop new peace accords that strengthen the state and redefine the international presence in Bosnia-Hercegovina, specifically the OHR. The agreement should limit the applicability of entity vetoes that prevent reform and block state institutions.
- Negotiate a new international structure in which the EU is in charge of state and regional political and economic development and the United States is responsible for security sector reform and NATO-led efforts. Ensure that international aid is performance-based by rewarding centralized projects and initiatives and sanctioning moves toward partition.
- Promote the economic benefits of greater European integration through an outreach program with the Bosnian public, mass media, and NGOs. Well-informed citizens can exert pressure on their leaders to implement reforms in support of integration.
- Proactively deter and prevent conflict by placing a small EU monitoring mission in the Brcko district, a vital choke point between the two entities.
- Promote regional dialogue, specifically a new trilateral dialogue with Serbia and Croatia, which offers consultation and mutual support for the development of a single, functional Bosnian state.

These recommendations for a more effective and integrated state-building project in Bosnia-Hercegovina can form the foundation of a fresh, efficient, coordinated, and long-term transatlantic approach toward greater integration with the transatlantic community.

2

BOSNIA-HERCEGOVINA'S ALTERNATIVE-FUTURES

Summary

The 16-year state-building project in Bosnia-Herzegovina has stalled and the country has entered an era of increasing uncertainty and will face continuing threats to its stability and territorial integrity. The presumption by leaders of both the European Union and the United States that the continuous reduction of international supervision and the magnetic attraction of EU integration would convince Bosnia's political leaders to pursue the rigorous reforms necessary for EU accession has proven to be illusory. If anything, the opposite has been the case. Bosnia has stymied, then regressed, as a functioning state and is increasingly driven by disputes between leaders of the three major ethno-national groups. The stability and survival of the state is now called into question. It is time to move Bosnia-Herzegovina up the foreign policy priority list for both the EU and the United States and to develop a clear transatlantic action plan and synchronized message for Bosnia; if not, the country faces years of drift and division that could culminate in destructive new conflicts that would impact negatively on the wider Balkan region.

Bosnia's Challenged Statehood

Dayton's Shortcomings

Signed under international supervision in November 1995, the Dayton Accords were instrumental in terminating armed conflict and constructing an administrative structure that would give the three national communities a stake in remaining in a single country through a protective veto over decision making. The accords were never designed to build an integral and effective state in which the central government in Sarajevo possessed decisive authority. Rather, they created a complex administrative structure in which priority was given to ethnic balancing with accompanied layers of governmental bureaucracy. This contributed to inefficiency and budgetary burdens. The accords have obstructed effective decision making and guaranteed that ethno-national interests have largely predominated over civil-state interests. According to former U.S. diplomat William Stuebner, the Dayton agreement "legitimized and enshrined ethnic politics, something that violated our most sacred principles and something that we in the United States would never accept in our own system."¹

Lacking the ability to develop an alternative construct, the principles and spirit of Dayton were maintained and managed by the authority and intervention of major international institutions mandated to oversee the Dayton process through the Peace Implementation Council (PIC)

1. "West's Indifference Could Condemn Bosnia Anew," Reuters, August 14, 2011, <http://www.reuters.com/article/2011/08/11/us-bosnia-stuebner-idUSTRE77A1KD20110811>.

Steering Board, whose members include Canada, France, Germany, Italy, Japan, Russia, the United Kingdom, the United States, the rotating Presidency of the Council of the European Union, the European Commission, and the Organization of the Islamic Conference (OIC), represented by Turkey. The international community's primary instrument for instituting reforms and maintaining the unity of the state has been through the OHR.

When the OHR has used its international weight to push through reforms, Bosnia was able to point to some consolidation of its statehood; when the OHR led from behind and urged dialogue and compromise between ethno-national leaders, Bosnia achieved little progress. For over a decade, the international community has failed to answer this conundrum: is it preferable to impose an effective state that can make progress toward EU and NATO membership, or is it more empowering and democratic to permit local leaders to obstruct the process and pursue essentially separate ethno-national agendas?

A prominent OHR role has provoked charges of international interference, dependency, and antidemocratic means. A minimal OHR role has emboldened Bosnian leaders to conclude that certain rules in pursuit of statehood will not apply. As the debate has raged, Bosnia has fallen further behind in the reform process. Key policy makers in the United States and the EU have exacerbated this dynamic by not aligning their policies and messages on the best approach. Former U.S. deputy assistant secretary for European and Eurasian affairs Thomas Countryman lamented that, despite the desire to "concentrate on political development on a path towards the EU," the United States and the international community "still need to protect the basic principles of Dayton."² In contrast, European leaders, such as Gerald Knaus of the European Stability Initiative, have argued that the OHR should have been closed in 2004 and replaced with a clear roadmap and concrete goals to reform the country and attain EU-accession. Knaus claims that the EU was serious and offered a demanding and concrete road map.³ How serious and implementable such a road map has become, is a subject of internal debate in Sarajevo.

Integralism and Division

Bosnia's major nationalist parties, such as the Party for Democratic Action, the Serbian Democratic Party (SDP), and the Croatian Democratic Union (HDZ), prioritize preserving their interests over supporting an integral country that can eventually join the EU. This is exemplified by the ongoing obstruction over the formation of a new state government following the October 2010 general elections. Although the state-level parliament and a caretaker government continue to function to a limited extent, the key Serbian and Croatian national parties block the choice of prime minister by the election winners, the multiethnic SDP. The HDZ objects that its candidate has not been selected, although a non-HDZ Croat, Slavo Kukic, had been nominated as prime minister by the SDP. Negotiations between the current ruling coalition and the opposition parties to break the yearlong political gridlock may result in the appointment of former federation president Borjana Kristo, proposed by the two major Croat parties.⁴

2. "US Diplomat: Bosnia Lagging Behind in Balkans," *Balkan Insight*, August 9, 2011, <http://www.balkaninsight.com/en/article/us-diplomat-bosnia-lagging-behind-in-balkans>.

3. Matthew Brunwasser, "Bosnia Flounders as Powers Argue," *New York Times*, June 27, 2011, <http://www.nytimes.com/2011/06/28/world/europe/28iht-bosnia28.html?pagewanted=all>.

4. "Bosnia Edges Closer to State Government Deal," *Balkan Insight*, July 28, 2011, <http://www.balkaninsight.com/en/article/bosnian-leaders-closer-to-agreement>.

President Milorad Dodik in the RS entity has been the most resistant in forming a central government. Dodik claims that because the state is not a functioning entity, the RS needs to develop its sovereignty. He has opposed the state government on the grounds that it abrogates powers that belong to the national entities; he also believes that the state government engages in a policy of centralization and Bosniak Muslim domination. Dodik is reclaiming as much autonomy for the RS as possible and asserts that, when it is finally formed, the state government should only deal with foreign and security policy matters. President Dodik has politically benefited from provoking confrontation with Sarajevo and courting direct talks with the EU. This was the case in May 2011 when EU high representative Ashton appealed directly to Dodik to suspend a planned RS referendum on the State Court. The visit of Ashton to Banja Luka raised Dodik's stature as a senior statesman and leader of an aspiring state. He has continued to dangle the specter of referenda on such issues as OHR legitimacy, state property, and judicial reform, and, potentially, on RS's separation. He remains patient and opportunistic, tests international resolve, backs down from controversial measures when there is a firm international response, but pushes ahead when the reaction is tepid.

Entity Blocking

The government of the Federation of Bosnia-Herzegovina (the joint Bosnian Muslim and Croat entity) was constituted in March 2011, but has not yet been recognized as legitimate by the RS National Assembly or by the major Croatian parties, the HDZ and the HDZ 1990. The latter two object to the fact that they were not included in the Federation government, although other Bosnian Croats are represented in the administration. HDZ and HDZ 1990, who claimed almost 80 percent of the Croatian vote, have asserted their political monopoly by claiming that only the two foremost national parties can nominate genuine Croat representatives and have demanded that all five ministries be assigned to Croatian delegates. Non-HDZ Bosnian Croat politicians, elected partly by non-Croats, are not considered by the nationalists as authentic ethnic representatives. By contrast, the civic-focused SDP argues that any lawfully elected Croat, regardless of who voted for them, can represent Bosnian Croats. Some Croat leaders in the HDZ as well as in the RS government have voiced support for the creation of a third entity, a Croatian majority unit, to be carved out of the Federation, although not the RS. Such a scenario would result in the establishment of a Bosniak Muslim entity and enable the RS and a potential Herceg-Bosnia entity to more effectively obstruct the state government in Sarajevo. The RS leadership is very supportive of such restructuring and is increasingly coordinating its approach with the HDZ to defend the politics of ethnic blocks and nationally based economic interest groups.

Although the RS is also supposed to be a multiethnic entity where no major governmental decisions can be taken without representatives from all three nations agreeing, in practice the Serbian parties remain dominant and the RS president makes all essential decisions without consultation with Bosniak or Croat representatives. Indeed, there is evidence that the RS is evolving into a one-party quasi state. In stark contrast, decision making in the Federation requires the consent of representatives of all three national groups.

Due to the increasingly political complexity and ethnic party fracturing, attempts at constitutional reform have been obstructed. For instance, the April 2006 package of constitutional reform proposed by international mediators was ultimately rejected by a coalition of Bosniak and Croat deputies based on fears that they would cement territorial and institutional divisions in Bosnia along ethnic lines while also allowing the RS entity to control the fate of Bosnia and its central

institutions.⁵ A renewed U.S. and EU effort (led by Sweden's foreign minister and the U.S. deputy secretary of state) for constitutional reform in October 2009, known as the Butmir Process, also failed to bring results despite the unified effort by the United States and the EU. Underlying political divisions within the country, coupled with an unrealistic, high-profile effort, difficult time constraints and a "take it or leave it approach," doomed the chances of the Butmir Process succeeding in an environment filled with nationalist rhetoric and faltering international credibility.⁶ Entity leaders continue to block the formation of the central government twelve months after the October 2010 elections.

Points of Transatlantic Contention

OHR or No OHR? That Is the Question

A central issue in Bosnian politics and transatlantic discussions is the debate regarding the role of the Office of the High Representative (OHR). On one side are those favoring international pressure and strong-armed tactics on local leaders via the OHR, while on the other are those who believe that nothing durable will be achieved unless local leaders buy into the process without international interference.

There are justifiable reasons for concern regarding the evolving role of the OHR. Since 2002, the high representative has also served as the EU Special Representative (EUSR) to Bosnia. All of the high representatives have been from EU countries, while their principal deputies have been Americans. NATO forces were replaced in December 2004 by a much smaller and weaker EU contingent. Additionally, the OHR was emasculated after 2006 and the Bonn Powers were largely discarded as a result of Bosnian political pressures and the growing sentiment that these powers were undemocratic, dictatorial, and that they undermine EU credibility in the region.⁷ The high representative for BiH Schwarz-Schilling (2006–2007) decided to avoid using the sweeping powers which his predecessors, especially Paddy Ashdown, relied on to push through legislation and sack hundreds of elected officials. The frequent use of these powers was often criticized by local and international officials. However, recent high representatives Miroslav Lajčák (2007–2009) and Valentin Inzko (since 2009) have resumed greater use of the Bonn Powers in replacing police officials and repealing laws.

There are growing fears that if the OHR was replaced completely by an EU delegation (perceived as a much weaker presence), the EU would remove the American presence altogether. Within Bosnia, the OHR is seen by Bosniaks as a critical safeguard of the survival of their entity and of a unified Bosnia; it also guarantees a continued U.S. presence in Bosnia. Those who favor a strong OHR and an American presence in Bosnia fear that the disappearance of the OHR would encourage Bosnia's political and territorial dismemberment. Bosnian politicians are aware of the fact that U.S. presence in the region is declining and its leverage has decreased, while the EU is

5. "The Complexities and the Necessities behind Constitutional Reform in Bosnia and Hercegovina: Position Paper," Bosniak American Advisory Council for Bosnia and Hercegovina, Washington, D.C., October 25, 2006.

6. Sofia Sebastian, "Breaking the Impasse: Constitutional Reform in Bosnia," FRIDE: A European Think Tank for Global Action, Policy Brief, no. 69, March 2001.

7. Bart Szcwcyk, "The EU in Bosnia and Hercegovina: Powers, Decisions and Legitimacy," European Union Institute for Security Studies, Occasional Paper 83, March 2010, <http://www.iss.europa.eu/uploads/media/OccasionalPaper83.pdf>.

synonymous for slow motion, leaderless bureaucracy, and member-state policy divisions without U.S. leadership and engagement, thus emboldening those seeking greater decentralization or outright separation.

On the other hand, those who discount an international mediating role by outside powers, specifically Bosnian Croats, contend that once the OHR has been removed, Bosnia will move more smoothly toward a confederal arrangement or a final territorial division. RS president Dodik appears to want it both ways: he seeks to leverage the EU to neutralize the OHR and the U.S. presence in BiH. Yet he also needs the OHR as an enemy so that he can claim he is defending Serbian interests against unwarranted international interference. His evident preference would be for a weak and temporary OHR before he makes a final decision on separation.

Outside powers are equally conflicted about the role of the OHR. After the September 11 attacks and Washington's preoccupation with military operations in Iraq and Afghanistan, there was a prevailing assumption that the United States would gradually withdraw from Bosnia and leave the country to EU supervision en route to integration. According to former Pentagon official William Stuebner, "the United States doesn't care anymore, the whole attitude is that it's a European problem and Europeans should handle it."⁸ Although the United States has remained engaged in Bosnia, its activities have waxed and waned over the last several years, primarily due to individuals with historical involvement with the Dayton Accords. Washington seeks to preserve the OHR and allow for greater political intervention in cases where the principles of Dayton are undermined by Bosnia's leaders.

Several EU countries, such as France and Spain, would like to see the OHR closed. The EU is drafting plans for the European External Action Service (EEAS) to take over the OHR's mandate. Other countries, namely the United States, the United Kingdom, and Turkey, are concerned that Bosnian leaders are not ready to govern on their own and fear that a premature closure would compromise security in the region.⁹ Implicit in this decision is the fact that without the OHR, the United States cannot legally operate in Bosnia. Baroness Ashton announced in July 2010 plans for the EU to "take over the leading international role in Bosnia" by taking the mandate and functions of the OHR into the new EEAS, but she has failed to follow through on those commitments so far.¹⁰

The Russian government is widely perceived to be supportive of RS president Dodik and is encouraging Banja Luka to undermine the authority of the OHR and to promote an American withdrawal. Moscow seeks to expand its influence throughout the Balkans by utilizing (some may argue manipulating) economic contracts, energy dependence, and political corruption, as well as by blocking Western initiatives. There have been some policy successes in the RS, particularly when encouraging the prospect of secession. Russia seeks to maintain Bosnia as a frozen conflict or paralyzed state that will create headaches both for Washington and Brussels and use it as leverage in its broader diplomatic rivalry with the West.

Turkey has become more active economically and diplomatically in the Western Balkans in general, and more specifically in Bosnia. Turkey is aligned with the United States against the EU in

8. "West's Indifference Could Condemn Bosnia Anew"

9. Kenneth Morrison, "Bosnia's Challenging Year Ahead," *Guardian*, February 14, 2010, <http://www.guardian.co.uk/commentisfree/2010/feb/14/bosnia-election-doubts-functional>.

10. "Baroness Ashton Moves to Take Control of Bosnia," *Telegraph*, July 27, 2010, <http://www.telegraph.co.uk/news/worldnews/europe/bosnia/7912675/Baroness-Ashton-moves-to-take-control-of-Bosnia.html>.

arguing that it is not yet time for the OHR to be closed. An unnamed Turkish diplomat has stated: “We are not categorically against the closure of the OHR, but we still have to wait for conditions to mature.”¹¹ Turkey did not block the 2007 decision to close the OHR, but did note its reservations to closure by arguing that the decision had to be based on the conditions in the country as well as in the region. Turkey recognizes that the OHR must be closed to advance Bosnia’s EU ascension process, which will provide a fast track to normalization of the country. However, it believes the risks are too high at this stage. “The EUSR will have less authority than the OHR,” argued the Turkish diplomat, while expressing concerns that this would be a disastrous situation should violence erupt once again in the region.¹² As a fellow member of the PIC, Turkey has aligned itself closely with the United States on this point.

Single State or RS Separation

RS president Dodik has pushed for increased autonomy and sovereignty for the Serbian entity. Officially, he claims that he does not seek RS’s secession but simply seeks to return to RS many of the governing prerogatives seized by Sarajevo in recent years. Dodik’s vision is a confederation between two or three substate entities with a weak central government. He has also indicated that Montenegro’s referendum on independence in May 2006 may serve as a template for the RS. Although Dodik began as an antinationalist, he has adopted a more ethnocentric approach in support of RS separation. Some analysts believe that Dodik sees himself as the unifier of Serbian lands and has ambitions to preside over a joint state with Serbia rather than for the RS to be simply absorbed by Belgrade, which would make him a much reduced political player.

In justifying its opposition to state institutions, Banja Luka complains that the state government in Sarajevo is mismanaged, inflated, wasteful, and riddled with corruption. RS leaders also assert that over 90 percent of their population favor separation and statehood. Bosniak leaders charge that the RS has become more autocratic and centralized, and that Bosniaks and Croats are excluded from decision making. RS appears to work more effectively as a state than the Bosnian-Croat Federation as it has a more streamlined structure without cantonal administrations where the major Serbian party predominates.

Some Croatian activists, angered by HDZ and HDZ 1990 exclusion from the federal government, have focused on creating a regional inter-cantonal structure in the Federation, styled as the Croatian National Assembly (CNA), consisting of 20 percent of Bosnian territory and based in Mostar. The CNA seeks to coordinate municipal and cantonal administrations in which Croats form majorities, which some of its leaders have demanded for the formation of a third Bosnian entity. Their moves are openly supported by Banja Luka.

Ethnic or Civic Politics

Ethno-nationalist politics has dominated Bosnian governance since the end of the 1992-95 war and has stymied the development of state citizenship, programmatic pluralism, individual rights, and a competitive democracy. They are treated as equivalent to ethnic collectivities by interna-

11. Barcin Yinac, “Turkey, US Take on EU for Bosnia,” *Hurriyet Daily News*, December 2009, <http://www.hurriyet.com.tr/english/domestic/12009542.asp>.

12. *Ibid.*

tional actors, and are primarily based on patronage and clientelist networks. Their leadership is adamant that civic politics cannot be applied in Bosnia: only a system of inter-group balance.

In October 2010, for the first time in 15 years, a civic-based party, the SDP, won the national elections. This indicated a growing constituency for a non-ethnic vote, undermining the ethnic party stranglehold on political institutions. RS and HDZ leaders suspect that the civic project is primarily a cover for pursuing centralization, promoting Bosniak domination, and ensuring the minoritization of the Serb and Croat populations. Some analysts contend that the SDP's focus on civic identity is provoking Serb and Croat nationalist leaders to push for separation. Paradoxically, the more successful the civic project becomes, the more it contradicts the principles of Dayton, particularly the legitimacy of ethnic balancing and entity blocking, and it can precipitate national conflicts.

No real pan-Bosnian identity has yet emerged since the war and no practical unification projects, such as infrastructure construction, educational reform, or common youth movements, have been pursued that would help bind the three nations together in a single state. Bosnian state identity remains shallow and artificial. The younger generation has no tradition of multiethnic Yugoslavism and little knowledge of, or interaction with, other ethno-national groups. Serbs from Banja Luka are more likely to visit Belgrade or Zagreb than Sarajevo. The educational systems are separated and there is no common life between the two entities. This leaves young people susceptible to indoctrination and political manipulation.

While rhetorically supportive of multiethnicity, the EU has been critical of the multiethnic SDP since the October 2010 elections, claiming that it could destabilize the inter-ethnic or internationalist political arrangements and prove to be troublesome for EU monitoring. The EU wants to maintain the status quo and uphold relative political stability in Bosnia, even if this disables progress on the reforms necessary to enter the EU (or perhaps politically, this is a desirable outcome).

Following repeated and failed attempts by the United States and the EU to resolve the ethnic and political stalemate, Turkey attempted to directly broker an agreement on its own in January and April 2011.¹³ It has held separate meetings with Bosnian leaders without EU or U.S. officials present to assist the formation of a new government. Turkish foreign minister Ahmet Davutoglu has told local politicians that his country is ready to help the various communities overcome the differences that are preventing them from forming a government following the elections.¹⁴ He has also proposed Ankara's willingness to pursue, together with key European and American partners, efforts aimed at a constitutional amendment and the formation of a new Bosnian government.¹⁵ However, the country's involvement has been criticized as "neo-Ottomanism" by the RS as Dodik benefits politically from a weak central government.

13. Athina Tesfa-Yohannes, "The Stability of Bosnia-Herzegovina and Turkey's Role," BILGESAM, July 14, 2011, http://www.bilgesam.org/en/index.php?option=com_content&view=article&id=368:the-stability-of-bosnia-Herzegovina-and-turkeys-role&catid=95:analizler-balkanlar&Itemid=140.

14. Anes Alic, "As Predicted, Turkey Steps in to Help Bosnia Form New Govt, While Spreads Disinformation on 'Flag Row,'" ISA Intel, January 31, 2011, <http://www.isaintel.com/2011/01/31/as-predicted-turkey-steps-in-to-help-bosnia-form-new-govt-while-spreads-disinformation-on-%E2%80%98flag-row%E2%80%99/>.

15. "Top Turkish Diplomat Visits Sarajevo," *Cumhuriyet*, January 29, 2011, <http://en.cumhuriyet.com/?hn=212370>.

Secularism or Islamism

Radical Islamist influence in Bosnia is not a mainstream phenomenon as the overwhelming majority of Bosniak Muslims belong to the moderate Hanafi branch of Sunni Islam. The notion of an Islamic Bosniak state does not attract many young people; it is estimated that less than 10 percent of the Bosniak population favor partition and the creation of a Muslim Bosniak republic. The growth of Islamist influence or Muslim nationalism is more likely if the country starts to splinter or if prolonged political stagnation occurs. Islamists influence would likely be a response to Serbian and Croatian separatism, thus intensifying the struggle within the Islamic community over the future of a smaller Bosniak state.

RS leaders claim that Wahhabism is growing among Bosniaks and endangers Serbian national interests. Used as a propaganda ploy (as Salafism or Wahhabism, the more conservative branches of Islam, are a minority belief in Bosnia), the major external Muslim influences emanate from Turkey and other moderate Islamic states. Although Turkey has increased its economic and cultural involvement, it does not exert a decisive role in Bosnian politics despite Ankara's aspirations to project greater influence in the Balkans. Nonetheless, Turkey's influence in the region balances and modulates Salafi influences among Muslim populations in the region.

Reform or Stagnation

Economic conditions have been stagnant in Bosnia for several years. After a 3 percent drop in the gross domestic product (GDP) in 2009, Bosnia is only now starting to grow at a feeble rate of 2.2 percent, while unemployment remains at a staggering 43 percent.¹⁶ Bosnia's budget bears a heavy burden from the conflict and an enormous state sector inherited from Dayton. Although the five administrative levels (city, municipal, cantonal, entity, and state) and the Brcko district government provide thousands of civil service jobs, they also inhibit state investment in productive businesses. There are plans to trim the state sector and lower the budget deficit from 2.5 to 1.4 percent of the GDP, but this will depend on an entity agreement which has been elusive so far.¹⁷ Although several cantons are financially unsustainable, the HDZ claims minoritization if their budgets are curtailed; or if the cantons are merged, eliminated, or if the Federation government is strengthened at the expense of the cantons, as some politicians in Sarajevo have proposed.

One major factor encouraging partition has been the ongoing division of state property, including land and utilities, and the legalization of its ownership by the two entities. To close the OHR, the PIC requires that there be a determination of a state property law that is accepted by the RS, the Federation of BiH, and Brcko. However, this goal has been complicated by a September 2010 Law on State Property passed by the RS, which will secure and protect all forms of property within its territory. The law includes a provision that allows an entity government to use state property without compensation and gives some property to municipalities. Serb and Bosniak parliament members have opposing opinions on this matter, with the Serbs supporting this law and Bosniaks arguing that it is in violation of the BiH Constitution and the Dayton Peace Accords. The PIC has called the law a unilateral act that "undermines the long-standing attempts to divide the

16. Bosnia and Hercegovina Economy Profile 2011, *Index Mundi*, http://www.indexmundi.com/bosnia_and_Hercegovina/economy_profile.html.

17. "Bosnia Region Boosts Budget, Deficit Unchanged," Thomson Reuters, June 29, 2011, <http://www.forexyard.com/en/news/Bosnia-region-boosts-budget-deficit-unchanged-2011-06-28T125934Z-INTERVIEW>.

state property so as to enable all levels of government to function.”¹⁸ Subsequently, High Representative Valerie Inzko decided to suspend the law’s implementation until its legality is reviewed by the Bosnian constitutional court. Upon suspending the law in January 2011, he stated that the action was taken to “ensure that the situation on the ground will not be complicated” by implementation of the law until its legality is reviewed by Bosnia’s constitutional court.¹⁹

Bosnia’s state structures are largely dependent on outside funds. The extended absence of a state government creates problems in releasing EU funds and tranches of International Monetary Funds (IMF) loans, while also curtailing prospects for foreign investment. Both the United States and the EU have provided extensive aid to the country in recent years. In 2011, Bosnia is projected to receive €108.1 million (\$160.5 million) in EU aid under the Instrument for Pre-Accession Assistance (IPA). This aid under IPA is expected to increase to €110.2 million (\$165 million) in 2012.²⁰ In comparison, the U.S. Agency for International Development (USAID) has spent nearly \$1.5 billion in BiH since 1994. In FY2010 Bosnia received \$42.84 million in U.S. aid. USAID is projected to maintain this level for FY2011 and the Obama administration’s FY2012 foreign aid request includes \$50.25 million in aid to Bosnia.²¹

Some observers believe that financial restraints in the RS will convince President Dodik to allow for the creation of a state government in order to fill growing gaps in the RS budget from EU and IMF sources. However, Dodik has also been courting alternative funding from Russia, Serbia, and China, as well as attracting foreign investors. While it is too soon to determine whether these sources of income can reach or surpass aid previously supplied by the EU or IMF, some of the deals already struck have been impressive. Among the recent privatization deals, the state telecommunications company in neighboring Serbia has agreed to buy a majority stake in the RS telecom for €646 million, and the Russian oil company OAO Zarubezhneft bought stakes in the entity’s oil refinery, a lubricant producer, and a fuel retailer for €121.2 million.²²

United States and NATO Assistance

As just discussed, the U.S. government, primarily through USAID, has been actively involved in efforts to reform Bosnia. The agency is promoting a three-pronged approach which focuses on promoting economic growth, peace and security, and democratization.²³

The agency seeks to improve economic growth in the country by increasing competitiveness in Bosnia’s high-growth sectors—such as wood processing, tourism, and agriculture—while also pushing for economic reforms that strengthen financial institutions and reduce barriers for businesses. To advance these economic aims, funds have been allocated to a number of projects,

18. Ljiljana Smiljanic, “RS Lawmakers Adopt Controversial State Property Law,” *SETIMES*, September 16, 2010, http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2010/09/16/feature-01.

19. “Bosnia: Row over Controversial Property Law Continues,” *Balkan Insight*, January 11, 2011, <http://www.balkaninsight.com/en/article/bosnia-row-over-controversial-property-law-continues>.

20. Steven Woehrel, “Bosnia: Current Issues and U.S. Policy,” Congressional Research Service, June 2011, <http://www.fas.org/sgp/crs/row/R40479.pdf>.

21. *Ibid.*

22. Beth Kampschorr, “Bosnian Territory Opens Doors for Business,” *Wall Street Journal*, May 15, 2007, http://online.wsj.com/article/SB117918783695002652.html?mod=googlenews_wsj.

23. “Bosnia-Herzegovina,” USAID Program Overview, <http://www.usaid.gov/ba/ourwork/programarea.htm>.

including \$21 million to increase competitiveness of the wood-processing, tourism, and light manufacturing industries; \$14 million to assist agricultural associations; and \$8.1 million in assistance to the financial services sector to improve private sector growth.²⁴

To promote democratization, USAID has focused on improving the rule of law, local governance, and civil society. Efforts include a \$30 million allocation of funds toward a “Governance Accountability Project” which helps local governments enhance their management systems and improve customer service. Additionally, there have been projects dedicated to strengthening civic engagement in constitutional reform and anti-corruption efforts as well as projects to reform the judiciary.

To improve peace and security in Bosnia, USAID has focused on promoting tolerance and respect for diversity. Specifically, \$855,000 has been allocated to combat human trafficking by providing prevention education in secondary schools and to assist with reintegration of victims of trafficking.²⁵

NATO has also been actively engaged in Bosnia in a variety of arenas. These include defense and security sector reform, cooperative security, and civil emergency planning, as well as in science and environment.²⁶ These areas of engagement facilitate NATO’s goals of strengthening cooperation with European structures, while improving democratic, institutional, and judicial reform in the country.

Defense and security sector reform plays a central role in NATO’s engagement with Bosnia. NATO seeks to establish affordable and sustainable defense structures in the country, and since 2005 has taken a leading role in the Defense Reform Commission. This builds upon the work by NATO from 2003 to 2005 through the Stabilization Force (SFOR), designed to build a unified command and control structure and develop joint doctrine and standards for training and equipment. The goal is to assist in the development of fully professional armed forces that are interoperable with NATO units. Achieving these high standards from a volunteer force requires intense restructuring and reorganization of the armed forces in Bosnia.²⁷ The creation of a joint military structure has been aimed at diminishing ethno-politics and strengthening the concept of common statehood.

There have also been efforts at security cooperation between NATO and Bosnia, including the latter’s contribution of officers to the NATO-led International Security Assistance Force (ISAF) in Afghanistan since 2009. Bosnia has signed and ratified the PfP Status of Forces Agreement (SOFA) with NATO, which facilitates future military-to-military cooperation. Additionally, the Alliance has worked with Bosnia to improve intelligence sharing pertaining to terrorism, and Sarajevo has made training facilities in Manjaca, Butmir, and Travic available for use by the Alliance.²⁸ At its April 2010 foreign ministerial meeting, NATO ministers granted BiH a conditional agreement to proceed with NATO’s Membership Action Plan to spur further military and political reform at the central level. The only remaining issue to be resolved is that all immovable defense properties be registered as state property under the control of the country’s Defense Ministry.²⁹

24. Ibid.

25. Ibid.

26. “NATO’s Relations with Bosnia and Hercegovina,” North Atlantic Treaty Organization, http://www.nato.int/cps/en/natolive/topics_49127.htm.

27. Ibid.

28. Ibid.

29. Ibid.

Beyond military efforts, NATO has also engaged the country by assisting in the development of national civil emergency and disaster-management programs to develop the legal framework for coping with civil emergencies. NATO has also increased scientific cooperation with Bosnia through awarding Science for Peace and Security Program (SPS) grants. These grants have funded projects focused on the environment and security, including seismic risk hazard reduction studies and the legal aspects of countering terrorism.³⁰

Serbia and Croatia's Positions

Serbian president Tadić is walking a tightrope between satisfying EU demands that he recognize Bosnia-Herzegovina's sovereignty and integrity and Serbian nationalist pressures that he support RS president Dodik. On the one hand, the EU has substantial leverage over Belgrade at this moment as it weighs offering Serbia EU candidate status by the end of 2011. On the other hand, Dodik's huge popularity in Serbia indicates that Tadić cannot be seen to oppose him in the months preceding Serbia's general elections, scheduled for the spring of 2012. Hence, a joint intergovernmental session between Banja Luka and Belgrade was held in March 2011 and statements are regularly made questioning Bosnia's integrity and longevity. President Tadić only paid his second official trip to Sarajevo in July 2011, although he frequently visits Banja Luka. Although Tadić has affirmed Bosnia's sovereignty and independence, Serbia's deputy prime minister Ivica Dacic has publicly asserted that the RS and northern Kosova should be joined to Serbia. This has given ammunition to Bosniaks who charge that the Greater Serbia project has not been abandoned by Belgrade. Indeed, some Serbian politicians view the RS as compensation for the loss of Kosova. President Tadić has publicly supported Dodik on various occasions and has not openly criticized his periodic proposals for partition.

The Croatian government is generally supportive of the HDZ in an effort to protect Bosnian Croat interests and Zagreb has been dismayed by the HDZ's exclusion from the Federation government. Considering the fact that Croatia's EU membership is close to realization, Brussels could have additional leverage with Zagreb, and by extension with the HDZ and HDZ 1990 parties in the Bosnian Federation. On the other hand, Croatia has sought a close relationship with all of Bosnia-Herzegovina and does not appear to have a parallel agenda, while Belgrade has pursued a special relationship only with the RS.

International Integration or Isolation

The prospect of EU accession alone does not appear to be sufficiently magnetic to stimulate reform of the state. With over 80 percent of the public supporting EU accession, the process of entry has been obstructed by political and structural factors inside Bosnia, many formed by the Dayton Accords themselves. This fuels increased public frustration and greater susceptibility to ethno-nationalist appeals. In terms of its EU prospects, Bosnia-Herzegovina is crippled by being a disunited and unreformed state. Its bid for accession will continue to be slowed down by its clientelistic economy, collectivistic mentality, and a paternalistic state structure. There is also growing concern among some EU countries, echoing arguments against Turkish accession, that the EU should not be enlarged to include quasi-Muslim or Muslim states. France in particular has cited "security

30. Ibid.

risks” in its opposition to EU visa liberalization with Bosnia in 2010, while some argued that French obstruction was based on populist anti-Muslim bias.³¹

EU accession policy toward Bosnia is caught in a vicious circle: the OHR (or a strong EUHR or EU delegation) is needed to push through EU conditions for eventual accession, but the EU does not want to use strong-handed tactics or internationally impose solutions. So, how does Bosnia progress? Or is EU policy simply a reflection of its current political and economic malaise with no vision to either deepen or widen the EU? Neither do the Dayton Accords meet the criteria for EU accession, nor is it politically feasible for the OHR to remain open should the EU consider Bosnia as a credible candidate for membership in the future. Moreover, the EU has lost a good deal of credibility as it has moved slowly in strengthening its delegation in Sarajevo. The EU moved to appoint Peter Sørensen, a Danish national, as head of the delegation and EU special representative for Bosnia only at the end of May 2011.

To be fair, Bosnia has not fulfilled the EU Council’s requirements to gain access to pre-accession assistance funds and submit a formal application for membership. First, Sarajevo needs to adopt a state aid law that would control the level of state subsidies to the public and private sectors. Second, it needs to reform the state-level constitution in order to comply with the ruling of the European Court of Human Rights (ECHR) and terminate ethnic discrimination against representatives of minority groups, such as Jews or Roma, who are currently excluded from holding government positions as they are not members of the three state-forming nations. Third, Sarajevo must approve a census law at the state level to provide the legal basis for the first national census since 1990. The leading Bosniak, Serb, and Croat parties are still negotiating a package that would include these three outstanding issues along with the appointment of a prime minister.³²

Unfortunately, Bosnia’s steps toward the accession process, through a formal membership application (which requires answering a comprehensive EU Commission questionnaire and gaining candidate status) have been indefinitely postponed because of delays by the Bosnian leadership in meeting the initial three conditions.

Bosnia’s Alternative Futures

Although it appears as if the Dayton Accords have sustained a dysfunctional status quo in Bosnia-Herzegovina, this is not the case. Bosnia’s political landscape is constantly shifting and will be determined by the political aspirations of local leaders, the reactions of ethnic counterparts, and the stance of international actors. The less action and fewer decisions that are taken to ensure a centralized, multi-entity Bosnia, the more fragmentation and territorial division is likely. It is time for an integrated, joint approach by the EU and the United States to support the former and prevent the latter.

Ultimately though, Bosnia faces two scenarios, where specific steps can be taken in either direction.

31. “France Opposes EU Visa Liberalization Talks,” *Tirana Echo*, October 4, 2010, http://tiranaecho.com/index.php/region/balkans/plugins/content/images/templates/images/index.php?option=com_content&view=article&id=405:france-opposes-eu-visa-liberalisation-talks&catid=82:balkans&Itemid=539.

32. “Bosnia Edges Closer to State Government Deal.”

Best-Case Scenarios

As was the case historically with Central and East European reform, potential NATO membership led the way toward greater reform efforts in tandem with strong support for EU membership. As we have already seen, success in military reform efforts and NATO's continued engagement could discourage separatism, consolidate Bosnian borders, promote civil-military reform, help modernize the armed forces, undermine negative Russian influences, and even give a reformist boost to EU accession aspirations. NATO membership aspirations are supported by leaders in both the RS and the Federation. In an August 2010 poll conducted by the National Democratic Institute (NDI), 63 percent of RS residents were opposed to NATO entry, but the majority in the Federation were supportive.³³

Further progress toward NATO membership must address issues related to settlement over state property questions, including military facilities that are currently claimed by entity governments. A divided military, where only the officer corps is integrated and disputed property issues remain, cannot be a credible NATO candidate. In such an equation, and as a result of economic calculation and international encouragement, RS president Dodik may decide to support the central government in Sarajevo that can pursue a program of reform for NATO entry. If successful, such steps would help build inter-ethnic confidence and hopefully generate momentum for greater reform to meet EU standards. The role of international actors in this scenario would be to monitor, encourage, and assist the reformation process and to prevent their derailment by subsidiary political disputes.

Worst-Case Scenarios

In this alternative, Bosnia-Herzegovina slides toward conflict and potential violence, characterized by prolonged political crises and inept international supervision. The deterrence capabilities of the EU may be insufficient to stymie armed conflicts, as EUFOR has 1,500 troops (with future downsizing likely) on the ground that would be ill-prepared to respond to a significant event. EUFOR's crowd control and counter-riot capabilities are particularly inadequate and a diminished presence could send precisely the wrong signal at a time when tensions are escalating. Even if a new war does not materialize, Bosnia could become increasingly ungovernable if ethnic disputes were to escalate quickly and the state government lost its legitimacy and lacked effective foreign support.

At the same time, demographic changes are working against the RS and the Croatian population. The estimated population of the Federation stands at 2.5 million, the RS at 1.2 million. The proportion of the Bosniak population is estimated at over 50 percent of the total population of 3.8 million as compared to 43 percent before the war. Serbs number under 40 percent of the total, a proportional increase from 34 percent in the last census, but this is largely at the proportional expense of the Croats. The Croatian population has shrunk from 17 percent in 1990 to approximately 10 percent at present, from about 750,000 to 450,000 people, with more expected to leave the country when Croatia enters the EU in 2013. Serb leaders claim that their population would also diminish if they did not have the RS to protect their interests. Indeed, a receding Serbian population could make Banja Luka more desperate to push for outright secession.

33. Jelena Radoman and Bledar Feta, "Comment: Will Serbs Ever Learn to Love NATO?" *Balkan Insight*, November 24, 2010, <http://www.balkaninsight.com/en/article/comment-will-serbs-ever-learn-to-love-nato>.

Potential provocations in the months ahead could lead to violence. These could be political, such as the RS holding a referendum on sovereignty or withdrawing Serbian representatives from state institutions. Or they could be physical, such as an attempt to seize the neutral town of Brcko, to desecrate a mosque, or create checkpoints along the inter-entity boundary line. Conflicts can also erupt between Bosniak and Croat activists in the divided city of Mostar, especially if Croat national parties push for a third entity or greater decentralization of the state or if the Federation government decides to reduce the cantonal administrations.

A local firefight could spark a broader conflagration. Bosniaks may be prepared to fight to keep the country intact as the idea of peaceful separation is widely dismissed as illusory. The breakup of the country would be seen by Bosniaks as a delayed defeat from the 1992–1995 war in which genocide would be legalized and the Greater Serbia and Greater Croatia projects given credence. The main reason why the Bosniaks signed on to Dayton was that it ensured state continuity in the postwar setting.

Some analysts and political leaders estimate that it would not be difficult to mobilize 100,000 Bosniak volunteers to fight against the RS. Sarajevo's strategy would be to sever RS at several jugular points, particularly at the Brcko intersection in northeast Bosnia and across Srebrenica or Gorazde toward the Drina River. This could result in new rounds of ethnic expulsion and altered dividing lines that would favor the Bosniaks as Serbs would be unable to defend their entire entity. Meanwhile, the Federation parliament would likely declare itself the state parliament and abandon the two-entity Dayton model. However, Bosnian Croats may respond by creating their own separate government in the Croatian heartland of western Hercegovina. There is also the prospect that Sarajevo and Zagreb may coordinate a response to attempts at RS secession.

A New Transatlantic Approach: Dynamic (and Radical) Policy Recommendations

The following recommendations are offered to both Washington and Brussels; the aim is to build a more efficient and integrated state of Bosnia-Herzegovina where the aspirations of citizens to join the EU and NATO are ultimately fulfilled:

1. **Dayton 2.0:** Sixteen years after the signing of the Dayton Accords, it is time for policy makers to recognize that a new international agreement is needed to move Bosnia forward. The Dayton Accords now represent a threat to international peace and security in Bosnia, not its resolution. It is time for a new grand political bargain where the EU and the United States agree to build an effective Bosnian state that rewards integrated and civic-minded state decisions and punishes moves toward partition and separatism.
 - a. New peace accords would strengthen the state and renegotiate Bosnia's international presence and specifically the OHR. It is essential that the new accords limit entity vetoes by developing a precise list of conditions under which entity vetoes can be applied vis-à-vis the state government to prevent abuse and to unblock state institutions. For instance, it should specifically apply in the event of war, states of emergency, or other forms of national danger, and not be exploited to obstruct the formation of a government.
 - b. Negotiations should take place in Europe, preferably in Germany. Some analysts have argued that Berlin now represents the "new Brussels" as Germany's economic and policy

weight grows within the EU and particularly on EU policy toward the Western Balkans.³⁴ German chancellor Angela Merkel's recent visit to Belgrade to deliver a direct and public message to Serbian president Tadic is an example of German leadership in relation to the EU's enlargement policy.

2. **A New International Presence:** We recommend that a new international structure be negotiated that is co-led by the EU and the United States. The EU representative would be in charge of state and regional political and economic development, while the U.S. representative would be responsible for the security sector reform and NATO-led efforts. International aid would be performance-based: as the three ethnic entities work together to find common solutions, centralized projects and initiatives will be rewarded. Should policies that support partition or separatism be enacted, international sticks would be utilized, such as corruption investigations, imposing sanctions on entity administration to annul controversial actions, travel bans, and freezing personal bank accounts.
3. **Magnifying EU Integration Message:** The EU accession process needs strategic vision, EU member state leadership, greater policy clarity, momentum, and commitment. The opening of the EU Delegation office in Sarajevo should give some impetus to this process. The delegation needs an effective and extensive program for involving Bosnian citizens in the EU project, enabling them to pressure their leaders to conduct reforms so as to meet EU criteria. This would require an outreach program with the Bosnian public, including the use of mass media and NGO campaigns to inform them about the EU and encourage them to canvass for Bosnia's EU entry and to expand citizens' initiatives to pass necessary reform legislation.
4. **Ensuring Military Deterrence:** The placement of a small EU monitoring mission, of fewer than 200 officials, in the Brcko district, would send a message of vigilance at this vital choke point between the two entities.
5. **Promoting Regional Dialogue:** Bosnia-Herzegovina needs to be involved in a new trilateral dialogue with Serbia and Croatia to supplement the bilateral dialogue between Zagreb and Belgrade. This can be modeled on the Visegrad initiative in Central Europe and include an extensive agenda of consultation and mutual support. Such an approach would minimize missteps and unilateral actions by any side that could precipitate disputes and conflicts. The focus of such a dialogue should be the development of a single functional Bosnian state.

In the absence of effective EU and U.S. leadership and a transatlantic policy refocused on strengthening the increasingly fragmented Bosnian state, Bosnia-Herzegovina will slip back on a path of conflict and violence as laid out in our worst-case scenario. The proposed approach combines powerful incentives for the implementation of key reforms leading to a centralized, more efficient multi-entity state. These are coupled with strong disincentives for measures that prevent regional cooperation, stymie reform, and promote fragmentation or territorial partition. It also restructures ineffective international efforts and refocuses transatlantic assistance strategies toward development and democratic reform, thus setting Bosnia-Herzegovina on a reinvigorated path to greater European integration.

34. Ulrike Guérot, "Germany in Europe: Berlin as Seen from Belgrade," European Council on Foreign Relations, September 22, 2011, http://www.ecfr.eu/blog/entry/germany_in_europe_berlin_as_seen_from_belgrade.

It is time for a cohesive, reenergized transatlantic policy toward Bosnia that is infused with a realistic and long-term vision for the Balkan region. This approach is essential to effectively guide the country toward a future of stability and prosperity within the transatlantic community.



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