

THE FUTURE OF BiH: TO BE CONTINUED...

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Nine years after the war the future of Bosnia and Herzegovina is still vague. Despite the enormous international assistance, BiH remains an international protectorate with no strong indication that it has succeeded in developing the capacity of a viable self-sustaining state.

In the immediate post-war period, the international community and the political elite in BiH had to face two major challenges: 1) to bring peace and stabilization; 2) to create the sustainable foundation for the establishment of a modern democratic state. Significant progress has been made in implementing the first task i.e. democratic elections have been held, a lot of new laws have been adopted, interethnic dialogue has been reestablished, BiH has entered the process of regional cooperation. However, neither the international community, nor the local political actors have been successful enough in implementing the second part of their mission. Dealing with the accumulative effect of two negative trends - transition and war, the process of state-building has lagged behind the initial expectations. Though some progress have been achieved in rebuilding democratic society and market economy, BiH is still far away from being a coherent and well functioning state. Little progress has been made in changing the consciousness and the vision of people and in completely overcoming the total separation and segregation from the war period.

INSTITUTIONAL INFRASTRUCTURE

The background of the present institutional infrastructure of BiH is marked by a paradox – the Constitution of the state is an integral part of a peace agreement - Annex 4 of General Framework Agreement for Peace in Bosnia and Herzegovina signed in Paris in 1995.

The existing system of state organization, stipulated by the Constitution, is too complex and clumsy. It includes four layers of government i.e. state level, two asymmetric entities (the Federation of Bosnia and Herzegovina and Republika Srpska) plus the District of Brcko, which is under the exclusive sovereignty of the State of BiH, as well as ten cantons (integral part of the Federation) and municipalities. The complexity of BiH's structure does not provide for effective performance of the state. State level institutions can hardly work as far as they do not have clear functions or obvious domestic constituency¹. Initially designed as a too decentralized state, BiH's legislative framework does not provide clear mechanisms for a proper coordination and correlation of the activities of the different levels of governance. Each of these levels of governance tries to define its own role, goals and responsibilities and find the necessary resources for their implementation. All of them have their heavy bureaucratic and administrative structures and their budgets, which additionally hampers the normal functioning of the state.

The complexity of BiH's governance structure is, however, not the only explanation for the present ineffective functioning of BiH. Another reason for the political weakness of the state is the delay of the real institutional building process, which has practically started in 2001. The international actors, lacking a quite clear vision on how to establish multiethnic self-sustaining state and diluting their responsibility, wasted too much time and resources for achieving any viable political framework without paying enough attention to rule of law and the process of proper institution building. It was in the last 2-3 years, when significant but still not enough transfer of jurisdiction from entity to state level was achieved.

Good performance of BiH is additionally impeded by a frequently quoted constitutional text introducing the phrase "vital interests". Both State and Entity constitutions provide blocking mechanisms protecting the "vital interests" of BiH's constituent peoples as part of the system of checks and balances. The lack of precise definition of this phrase frequently hampers legislative process. And the principle of the quota representation of the three communities within institutional structures provides for a low level of efficiency and professionalism of the public administration.

PARTICIPANTS IN THE BOSNIAN EQUATION

- THE "INTERNATIONAL COMMUNITY" – THE FINAL INSTANCE

In order to guarantee peace and stability in BiH the international community chose to establish a quasi-protectorate system in the country where the international mission was given extensive powers. That was an appropriate decision for the immediate post-war period when the effects of war, ethnic cleansing and interethnic violence had to be overcome. It contributed to achieving improvements in areas such as security, rule of

¹ Knaus Gerald and Marcus Cox *Bosnia and Herzegovina: Europeanisation by Decree?* in "Chaillot Papers" No. 70, Institute for Security Studies, Paris, October 2004, p. 57.

law, judicial reform, currency stability, return of refugees and constitutional equality of the three ethnic groups.

The international mission, however, did not succeed in timely passing from the basic peace implementation and stabilization tasks to the phase of development and institution-building. Huge amount of money were poured into the country in the last nine years but many of these funds, were not properly allocated. Instead of creating favorable conditions for the development of an effective independently functioning state, the prolonged international direct involvement in state governance weakens BiH statehood.

The very existence of OHR, the extensive powers of the High Representative and his/her role of *de facto* sovereign of the country undermine local political processes hindering the development of self-governance capacity that is one of the major democracy characteristics. Though trying to gradually transfer powers to the local political actors, the High Representative, who is presently also the European Union's Special Representative, still remains the highest instance in the country². He/she cooperates with local political actors but still remains the main agenda setter, which additionally distorts internal political process and provides for problem with responsibility among BiH political elite and apathy among the population. Local politicians feel restricted in their activities and therefore, less responsible for state's functioning. Most of reform endeavors undertaken in the last 4 years were not result of a real political will but of the international pressure and under international guidance. Consequently, the already established legislative and institutional infrastructure is not always filled with essence and does not function in a proper way.

Finally, the argument that the use of strong international authority is necessary for securing peace process and for opposing and changing the prevailing nationalistic policies is not so reasonable anymore. If a strong international presence and power is still needed for maintaining dialogue and securing peace, then it seems that little progress was achieved in the last 9 years.

On the economic side, the international mission failed to lay the foundation for a sustainable economic development of BiH. The economic situation remains unsatisfactory with a low level of postwar recovery, dire economic and social environment, and lack of any positive life perspectives. There is no fully functioning single economic space, the unemployment rate is about 45% and the process of privatization is going too slowly against the background of different models of privatization within the two entities. A very few people seems to control the wealth of the country. The potential of the gray economy is increasing and organized crime groups strongly linked with the pre-war criminal networks, are gaining strength. At the same time, huge inflows have provided direct subsidies to government budgets, thus allowing "public expenditures to expand dramatically, without being constrained by the bleak

² The unaccountability of the OHR is criticized by the Council of Europe, the European organization that BiH has been able to join. For more details, see Parliamentary Assembly of the Council of Europe, Resolution 1384, June 26, 2004

economic conditions”³. As a result, nowadays, when the international assistance is decreasing, the government does not demonstrate a capacity to deal with the growing economic and social crisis, which strengthens yugonostalgic feelings among the population.

EU perspective

It is a common belief that the peace process enters from the phase of stabilization to that of development and association with the European structures. Though the majority of the citizens see BiH’s integration to the EU as a quite distant perspective, many experts see the EU integration as the so needed unifying factor and consider the prospect of EU membership as the best incentive for the reform process in Bosnia and Herzegovina. As far as the EU integration is one of the few issues on which the three communities could reach a consensus, the pressure coming from Brussels could accelerate reforms and foster significant changes.

Bosnian government has already clearly declared that its ultimate goal is to put Bosnia and Herzegovina irreversibly on the road to statehood in the European Union⁴. Country’s authorities assure the international community that they would make whatever efforts necessary to fulfill the common goal of full political stability and economic sustainability as one of the requirements for EU membership. Negotiating on a Stabilization and Association Agreement with the EU, the government is currently working on meeting the EU requirements in 16 priority areas identified by the European Commission⁵. Reportingly, just 9 of these priorities have been fulfilled.

The European Union, on its part, perceives BiH as a “key challenge for the Union”⁶ and defines as its long term objective the establishment of a stable, viable, peaceful and multiethnic Bosnia and Herzegovina, cooperating peacefully with its neighbours and irreversibly on track towards EU membership. The successful performance of BiH is seen as an immediate interest of the Union as far as it could be regarded as a test case for EU ability to formulate comprehensive and coherent approach to different issues.

Presently, BiH is one of the issues on which a consensus among EU members does exist. The *European Union Police Mission* (EUPM) is, for example, the first civilian crisis management operation under the European Security and Defense Policy. It adds an important component to other European programs, such as institution building, working towards achievement of the Union’s overall policy in the region.

³ Knaus Gerald and Marcus Cox *Bosnia and Herzegovina: Europeanisation by Decree?* in “Chaillot Papers” No. 70, Institute for Security Studies, Paris, October 2004, p. 60.

⁴ <http://www.un.org/News/Press/docs/2004/sc8019.doc.htm>

⁵ *Report form the Commission to the Council on the preparedness of Bosnia and Herzegovina to negotiate a Stabilization and Association Agreement with the European Union*, Commission of the European Communities, COM (2003) 692, Brussels, 18.11.2003.

⁶ See *European Security Strategy - Bosnia and Herzegovina / Comprehensive Policy*, Adopted by the European Council, 17/18 June 2004 (<http://www.eusrbih.org/policy-docs/?cid=1,1,1>)

Through the European Union Police Mission (EUPM), the European Union is closely involved in ensuring security in the country. EUPM aims at establishing sustainable policing arrangements under BiH ownership in accordance with best European and international practise.

EU active involvement in BiH is demonstrated through the implementation of the *EU Monitoring Mission (EUMM)*, as well. The Mission, which headquarter is in Sarajevo, aims at contributing (by information gathering and analysis) to the effective formulation of the European Union policy not only towards BiH but also towards the rest of the Western Balkans. The particular focus of the EUMM is to monitor political and security developments as well as border monitoring, inter-ethnic issues and refugee returns.

The problem with the EU involvement in BiH pertains to its credibility as a security guarantor. The majority of the population is still skeptical on the EU capacity to play the leading role in maintaining BiH's peace and stability. Therefore, undertaking a follow-on mission to SFOR (EUFOR), the EU will have to opportunity, on the one hand side, to prove as a reliable international factor and, on the other hand side, to strengthen its coherence and coordination, especially in ESDP aspect.

- *LOCAL POLITICAL ACTORS*

Political scene in BiH is divided in a weird way with nationalistic parties and movements being the strongest domestic political actors. There are no federal parties, no real political offer as far as ethnicity remains the main dominant factor. Political parties are not divided along left-right ideology lines and non-nationalistic ones are still too weak. The situation in the Republika Srpska where the opposition (Alliance of Independent Social Democrats – SNSD) is gaining strength could be pointed out as the only one small exception.

Fear and pain, which are still not overcome, underlie the strong support for the nationalistic parties. Nationalistic rhetoric still has a solid ground as far as people are still too frustrated. The strong position of the nationalists is further enhanced by the readiness of the international community for doing business with them.

The domestic political process is marked by one more phenomenon. The support for one of the nationalistic parties, which were the major wartime actors, is dependent on the popularity of the other two ones, representing the other two ethnic communities. The stronger the nationalistic rhetoric in Republika Srpska is, for example, the bigger is the support for nationalists in the Federation. So, it turns out that the three nationalistic parties have a common interest of supporting the position of their major political opponents as a means for mobilizing their own constituency. Hence, there is no political will among the most influential political parties for significantly changing the status quo.

In this context, it is not a surprise that political parties in BiH are not policy driven. They are focused primarily at preserving the benevolence of the international community and its representatives in BiH rather than at meeting public expectations and demands and gaining the support of local people. Consequently, the population, seeing the international mission as the ultimate power in the country, does not exert enough pressure on the local political actors. Growing political apathy has been demonstrated at the last local elections, when just 40 % of the population went to vote, which is the lowest turnout in BiH.

The majority of the population both within the Federation and in Republika Srpska openly declares its dissatisfaction with the present structure and way of functioning of the state. Most of the people share the view that the extensive powers of the international mission undermine the motivation and the capacity of the institutions to generate and implement effective policy as far as they are aware that final decisions are approved or taken by international actors.

Neither, there is a political, intellectual and cultural consensus among the population in BiH on the country's future. The three communities have different approaches to the situation in and the future prospects of BiH. Bosniacs are in favor of a more centralized state of BiH, while the majority of the Serbs and Croats identify themselves much more with Serbia and Croatia, respectively, than with BiH. Most of the Croats apply for or has already obtained Croatian passports or just move to Croatia. Serbs are divided in their position on this issue. The moderate part of them is against greater state regulation and stands for greater autonomy of Republika Srpska within BiH state organism. Seeing the role of the Office of the High Representative as "a tool of some lobbies in Sarajevo", the overall majority of the nationalists are prone to regard the independence or the integration of RS to Serbia as their ultimate goal, although acknowledging that official Belgrade is not in favor of similar developments. It is obvious that these too different approaches could be only reconciled in an atmosphere of open dialogue and debate, which till now has not been the case.

Representatives of the three communities identify different priorities and different prerequisites for the good performance of the state. While Serbs primarily point out the unconscionable interference of the OHR in the domestic political process as the main impediment for the effective and democratic functioning of the institutions, Croats and Bosniacs consider RS's irredentism and the issue of the war criminals as a priority element of the BiH agenda. They regard the RS's cooperation with the ICTY as an exclusive prerequisite for the future integration and consolidation of the state. There is strong dissatisfaction among them that though a lot of indicted war criminals were excluded from political life and brought to the International Criminal Tribunal for the Former Yugoslavia, many war crimes suspects are still present in BiH police, army, and politics. Moreover, in the last 8 years no one of the war criminals was captured in Republika Srpska, neither the two most wanted indictees Ratko Mladic and Radovan Karadzic. Reportedly, the latter is still pushing the buttons of the political processes in Republika Srpska.

However, Banja Luka is not the only one to blame for this failure. The international community should also demonstrate stronger political will and cohesion in its activities on this issue as far as it is difficult to believe that the international mission in BiH with its extensive powers and military presence in the country could not locate and capture the two most wanted indictees.

- **THIRD COUNTRIES**

Serbia and Croatia remain particularly interested in the developments within BiH and still have some influence on the processes in the country though their impact has changed in a positive way.

Being on its track to the EU integration, Croatia has chosen to apply the constructive disengagement approach in its relations with BiH. Zagreb has declared its desire to have an integral and unified Bosnia and Herzegovina as a neighbor and partner and has discontinued its active relations and support for the Croat community within BiH.

Croatian authorities have declared their support for the reform process in BiH and works on enhancing bilateral political relations and advancing economic cooperation between the two states. Croatia considers BiH an important market and has become one of the largest investors in the country.

Democratically functioning Serbia is perceived as one of the key factors for Bosnian stability. However, the prevailing opinion in BiH, not only within the Bosniac and Croat community but among Serbs as well, is that Serbia is too engaged with its own political and economic problems, with the future of its relations with Montenegro as well as with Kosovo issue for actively involving in BiH political process.

Few of BiH citizens are prone to believe that the decision on the future status of Kosovo could substantially influence the developments in BiH. While some citizens still assume that possible Kosovo independence could have repercussions in destabilizing the Republika Srpska, the majority is skeptical on the realization of this scenario.

CONCLUSION

BiH's ability to function as a modern democratic state depends on three major factors that are also strongly related to the prospects of BiH's promotion to the status of an official EU candidate. The first precondition includes a significant **redefinition of the scope and the role of the international mission** in BiH. The international community should considerably lessen its involvement and refrain from directly intervening in the domestic political process, while staying politically engaged and providing assistance and guidelines for further consolidating BiH statehood. Active international involvement is

necessary for guaranteeing the sustainability and success of the solutions that are to be outlined.

The tendency of gradually decreasing and transforming the role of the OHR should be sustained. As it is proposed by some experts, it could be replaced by an EU Special Envoy on the model of Macedonia and an enlarged EU Commission Delegation⁷. Similar transformation will be in accordance with the EU ambition to play a greater role in BiH and will be complementary to the EUFOR mission. The success of this mission will depend on EU institutional capacity and coherence. It should also be quite clear, however, that though being the most valuable exit strategy for the international community, the EU perspective could not substitute the need of a well-structured international strategy for BiH future.

Significant *changes in the constitutional order of BiH* should also take place. It is obvious that the Dayton Agreement is not a good foundation for building democracy. Nor it provides for the level of self-governance and capacity for autonomous management that is required for EU membership. Preserving the status quo is not a winning option in long-term perspective and bold reforms of the system should be implementing in order to improve the performance of the public authorities and to cover the standards of democratic governance. The clumsy state system of heavy bureaucratic and administrative structure should be restructured.

A new constitution has to be adopted as the supreme law of the state, not as a part of a peace accord. In order to make this change happen, however, political will, new political climate and political platform have to be developed. People should be made feel citizens of BiH rather than members of Bosniac, Croat or Serb community. Their fears should be balanced with the common interest of an effective and functioning state. All political actors – domestic as well as international, should initiate an open and mature debate on the scope of the constitutional reform as far as real advances could only be made through the achievement of a true consensus among all people of Bosnia and Herzegovina.

The *dynamization of the internal political process* is the third precondition for strengthening state's capacity. Local political actors should overcome the existing inertia and passivity and demonstrate their will and ability to assume full responsibility for government. BiH political elite should prove its strong commitment to make the system work and implement the reforms required for country's progress towards European integration. As the issue of BiH European perspective is gradually entering the EU agenda, it should be clearly stated that the country is still far away from the standards necessary for an EU applicant country and a lot has to be done. The need of a new constitutional system should not serve as an excuse for the low level of performance of the government.

⁷ Knaus Gerald and Marcus Cox *Bosnia and Herzegovina: Europeanisation by Decree?* in "Chaillot Papers" No. 70, Institute for Security Studies, Paris, October 2004, p. 67.

One of the prerequisites for the dynamization of the domestic politics remains the full cooperation with ICTY. Bringing indicted war criminals to justice before the international tribunal is regarded not only as one of the major international obligations of BiH but also as vital for Bosnia and Herzegovina's further movement towards reconciliation and creation of a society based on the rule of law and respect for human rights.

Finally, the present political leaders should prove their personal ability to meet EU requirements successfully managing the challenge of providing guarantees to all citizens of BiH.

There is an opinion that interethnic problems on the Balkans are irresolvable in principle and only temporary stabilization is possible. BiH's future could either prove this thesis or definitely overthrow it.

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