

Testimony  
of  
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Hearing on  
**“Fulfilling the Promise of Peace: Human Rights, Peace and Reconciliation in Northern  
Ireland and Bosnia”**

House Committee on Foreign Affairs  
Subcommittee on International Organizations, Human Rights and Oversight  
Thursday, September 16, 2010

Thank you, Mr. Chairman, for this opportunity to offer my personal views on the peace process in Bosnia and Herzegovina, nearly 15 years after the Dayton agreements brought an end to a brutal war without fixing the underlying causes.

I would like to focus my remarks on just a few things the United States Government should do at this late stage. The sad fact is that America today faces more serious challenges to its own peace and security than it did in the 1990s. We need to be realistic about what Washington can contribute when it faces so many other daunting priorities.

There are only two problems that I think demand our main attention today:

1. Adapting Bosnia's constitution so that the country can hope one day to enter the European Union.
2. Helping Bosnians to overcome the divisions in their educational system that risk laying the foundation for war in the next generation.

This is not an exhaustive list of all that ails Bosnia today. It is a short list of top priorities for U.S. diplomacy and assistance. Let me elaborate briefly on both.

### **The Dayton constitution needs a few reforms right away, and more later on**

Bosnia's constitution, written at the Dayton peace talks, created an unwieldy governing structure favoring ethnic nationalists—those Bosnians who prioritize their Serb, Croat or Bosniak identity and fought the 1992-95 wars on that basis. The result has been continuation in peacetime of war by other means, with ethnically defined politicians dividing the spoils.

We can hope that the October 3 elections will bring to power a social democratic party that transcends ethnic divisions, but it will need ethno-nationalist parties to form a parliamentary majority. Given its current constitution, there is no escape for Bosnia from ethnic nationalism.

There have been two serious attempts to fix this problem. One was led by my colleague Don Hays at USIP in 2005/6, with strong State Department support. It culminated in the "April package" that failed to pass in the Bosnian parliament by two votes. The second, led by Deputy Secretary Jim Steinberg and Swedish Foreign Minister Karl Bildt, failed to gain the necessary support from across the political spectrum at Butmir earlier this year.

These experiences have taught us that a comprehensive, one-shot effort to reform the Bosnian constitution will not work, much as I wish it would. Most of what Bosnia needs to become an EU member will have to be decided in the course of lengthy accession negotiations. There are only two things that should be done at the very beginning of that process.

The first is to meet the requirements of the European Court of Human Rights, which has ruled against discriminatory provisions requiring specific ethnicities as qualifications for government office. All Bosnian political parties I have talked with agree that the constitution needs to be amended to satisfy the court's decision.

The second is to empower the Sarajevo government with the authority and responsibility required to negotiate EU membership. A strong “EU clause,” as this provision is known, would facilitate Bosnia’s accession negotiations and force interethnic cooperation. A weak EU clause, or none at all, will make EU membership a false promise.

There are many other things that need to be changed in the Bosnian constitution. One is the provision for “entity voting,” which enables Republika Srpska, the Serb-dominated half of Bosnia, to block legislation. It has done many times. Entity voting should be eliminated for any legislation that the EU determines is required for EU accession. Such a provision should be included in a strong EU clause.

Beyond eliminating discrimination and adopting a strong EU clause right away, the need for legislative and constitutional adaptation should be fulfilled as the negotiations make their way through the *acquis communautaire*, which determines what an EU member has to do.

During this process, the EU and the U.S. should sponsor, through nongovernmental organizations, a wide-ranging discussion among Bosnian citizens of the need for constitutional and legislative reform. That would provide the grassroots support required to get Bosnian politicians to sign on to provisions that otherwise they are likely to find distasteful.

### **The education system needs to eliminate separate but equal**

My second priority for the U.S. in Bosnia is overcoming divisions in the educational system. What many Bosnian children are taught today encourages ethnic tension and strife. This is unacceptable. Segregated classrooms and teaching history, religion, language and culture in ways that induce future conflict should not be allowed, as we know from our own history.

Bosnia has rich traditions of coexistence, exemplified in the remarkable reintegration that occurred under U.S. supervision in Brcko. As demonstrated in Charles Ingrao’s landmark book *Confronting the Yugoslav Controversies*, prepared with support from the U.S. Institute of Peace, the National Endowment for Democracy and the Balkan Trust, it is possible to develop common narratives, or at least parallel narratives that lay the foundation for better understanding.

How do we get at this problem? Education has been a focus of the OSCE mission in Bosnia since 2002. But progress has stalled since 2006, due to the general political climate. We need a renewed OSCE effort to make Bosnia’s schools appropriate for children of all groups. We should aim to end “separate but equal” and de-ethnicize curricula throughout Bosnia. Such an effort will require strong U.S. support.

### **The international community needs to fix itself**

Before I conclude, let me focus on the international structures in Bosnia, which need to be reconstituted. The High Representative (Hi Rep), who is responsible for interpreting and implementing the Dayton agreements, has been endowed since 1997 with strong “Bonn” powers to legislate and to fire government officials. He has done so to good effect many times.

But in the past couple of years, Republika Srpska Prime Minister Dodik has withdrawn his consent to Hi Rep decisions and is challenging their legal basis and legitimacy. The Hi Rep is hesitant to use powers that may prove less than effective. If peace is to continue, the international community must retain the authority to block moves by Bosnian politicians of any ethnicity that would fatally undermine the Dayton agreements and return Bosnia to war.

Dodik has publicly flirted with the idea of a referendum on the Hi Rep's powers, and even a referendum on independence for Republika Srpska. As presently constituted, I doubt the international community's ability and willingness to block these referenda, which might well lead to renewed warfare. It is therefore important that the Bonn Powers be preserved, until the established objectives and conditions for their abolition have been met.

The Hi Rep is already double-hatted also as the EU Special Representative, but the EU role is clearly secondary. This is no longer viable. The Hi Rep has all the responsibility, while the EUSR has all the authority, since that is the role that in theory controls the many benefits and sanctions the EU can put into play. The Europeans have been discussing the creation of a super-EUSR, one with the authority to impose travel bans and asset freezes as well as to control EU assistance, while retaining the Hi Rep as a secondary role.

So long as the Europeans agree to preserve the Hi Rep as a secondary role, as well as the Bonn powers until the agreed objectives and conditions are met, I think Washington should support a seriously empowered EUSR, one who speaks authoritatively for all 27 EU members and is prepared to use the full weight of Europe's influence. This would allow the Europeans to reduce their bilateral embassy presence, which speaks with many voices, dramatically.

Washington should also reconfigure its own presence in Bosnia, reducing the size of its overweight embassy—one with nine political officers—and transferring one-third of the staff to support the EUSR, including a senior American deputy. Such joint U.S./EU arrangements have become more the rule than the exception, to good effect, over the last 15 years.

## **Conclusion**

The good news, Mr. Chairman, is this: what is going wrong in Bosnia and Herzegovina can be fixed with determination and common purpose by the EU and the U.S. But we need to bestir ourselves and get the job done before it is too late. Focus on a small but critical package of constitutional reform and on fixing the education system should not be too much to ask. Nor is preservation of an international presence capable of averting war. We owe that much to the people of Bosnia, who deserve better than they are getting at present.

*The views presented here are those of the author, not of USIP, which does not take positions on policy issues.*