

EUFOR

In Urgent Need of a Plan B



The EU's foreign ministers last week reaffirmed their support for EUFOR/Operation Althea in Bosnia and Herzegovina, overcoming reluctance on the part of a number of EU members - France and Germany in particular - to extend the executive aspects of the mission

On November 11, the UN Security Council is scheduled to vote on extending EUFOR's executive mandate, under Chapter 7 of the UN Charter, allowing it to use force to ensure international peace and security. The disposition of Russia, a veto wielding member of the permanent five members of the UNSC ("P-5"), is in question. This policy brief reviews the continuing need for EUFOR's executive mandate in BiH and assesses concerns as to Moscow's position prior to next month's vote. It then considers the West's potential fallback options.

EUFOR in 2014

EUFOR's current troop strength in BiH is approximately 700. It was even lower until Great Britain deployed a reconnaissance squadron of approximately 100 soldiers in July 2014, following civil unrest which began in Tuzla on February 5 and soon led to demonstrations, some violent, throughout BiH, predominantly in the Federation. London had earlier committed a reserve company in the UK for rapid reinforcement of EUFOR in the event of need. The new unit, deployed to provide EUFOR (and the EU) greater situational awareness, soon became visible in its patrols, garnering some negative press and questions as to whether they were to intimidate civic demonstrations. Yet even with the additional British contingent, EUFOR as currently configured cannot effectively fulfill its mandate, enumerated in Annex 1 of the Dayton Peace Accords, to ensure a "safe and secure environment" and deter resumption of hostilities. It is this executive mandate, originally undertaken by NATO in the first the Implementation Force (IFOR), and then the Stabilization Force (SFOR), before this mission was assumed by the EU with EUFOR/Operation Althea in December 2004. The mandate is annually renewed in the UN Security Council under Chapter 7 of the UN Charter. The "original

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sin" which makes the mission vulnerable to potential veto in the UNSC derives from the Clinton administration's declared intent to end the mission within a year's time. The international High Representative's mandate (in Annex 10 of the Dayton Agreement) requires no such renewal.

Yet despite the inability of EUFOR to effectively deter potential politically driven security challenges - or react to unforeseen threats - the executive mandate does allow for rapid reinforcement to respond to challenges or events. Without it, the EU, US and other Western actors would have to either seek another UN Security Council resolution to intervene, be invited to do so by the BiH Presidency, or decide to intervene without either such endorsement. The popular protests, and in some cases riots, which took place in February 2014 remained non-ethnic and were directed at the authorities in general. However, political actors from all quarters immediately attempted to deflect the anger away from themselves or harness the dynamism of the street; this included describing the protests as a Bosniak challenge to the Republika Srpska (Milorad Dodik) or as being directed against Croats (Dragan Covic), as well as attempts by tycoon (and then-Minister of Security) Fahrudin Radonic to gain political leverage. The potential for further social unrest, driven by economic privation and popular frustration with the political elites - a sentiment undiminished by the October 12 general elections - remains potent. Justified popular anger could spark further unrest and lead political leaders to take active measures to attempt to foment interethnic conflict or other divisive acts to protect themselves. Losing the legal platform to defend the peace would dramatically weaken the West's ability to prevent violent instability on the EU and NATO's frontier.

As DPC and others have observed, the correlation of forces in BiH differs significantly from that of the 1992-1995 war. In that war, the Republika Srpska began with massive advantages in terms of preparation, integration with the then-Federal Republic of Yugoslavia, and heavy weapons. The ill-prepared Republic of BiH had only one advantage: manpower. There is now a unified Armed Forces of BiH of about 10,000 troops, with nine ethnically-based infantry battalions. This would likely collapse into its component parts if subject to significant pressure, such as an eruption of inter-ethnic hostilities.

RS Position on EUFOR Changes

The Bosniak manpower advantage is greater in a relative sense now; unlike 1992, the population is armed equally (and heavily) throughout BiH. RS population density is particularly thin in the east, between Zvornik and Trebinje. Were there a re-eruption of hostilities, the odds are not in favor of the RS holding the ground presently under its control if subjected to attack from within the Federation. This quick overview highlights the somewhat paradoxical RS position toward the two international executive mandates deriving from Dayton. While the Dodik government has consistently called for OHR's departure for virtually its entire time in office, Banja Luka had not agitated for the end of EUFOR's executive mandate. International and domestic interlocutors note that senior RS figures, including Serb member of the BiH Presidency Nebojsa Radmanovic, acknowledged that maintaining a Chapter 7-empowered EUFOR was in the RS's interest.

But in May 2014, this policy shifted. In the RS's voluntary report to the UN Security Council, traditionally delivered as a riposte to the international High Representative's

semi-annual reports, the entity for the first time called for an end to EUFOR's executive capacity as well.

Details Unknown

The entire relevant passage of the report reads as follows:

V. The Security Council should end the application of Chapter VII, which has no factual or legal basis.

96. After more than 18 years of peace in BiH, there is no justification for the Security Council to continue invoking Chapter VII of the UN Charter. Article 39 of the UN Charter allows the Security Council take certain measures "to maintain or restore international peace and security" if it has determined "the existence of any threat to the peace, breach of the peace, or act of aggression." There is simply no factual evidence that the situation in BiH meets any of these bases for invoking Chapter VII. Indeed, the most recent two Security Council resolutions on BiH acknowledged that "the security environment has remained calm and stable." This is not a new development. As Security Council Resolution 2019 (2011) noted, "the overall security situation in Bosnia and Herzegovina has been calm and stable for several years."

97. It is past time for the Security Council to recognize the international consensus that the situation in BiH does not threaten international peace and security and cease acting under Chapter VII of the UN Charter."

The Republika Srpska's shift in position has never been explained in detail; it is unclear, for example, whether it resulted from an internal threat assessment. Whatever the rationale, the shift went largely unnoticed, even within the EU and EUFOR. But it did follow in the wake of the Ukraine crisis and Russia's seizure of Crimea in March 2014. DPC has previously reported that, according to Western diplomatic sources, RS President Milorad Dodik approached Serbian Prime Minister Aleksandar Vucic requesting support for active moves toward secession, citing Crimea as a precedent. According to these sources, Dodik claimed to have already secured Russian support. Vucic reportedly brushed Dodik off. Dodik subsequently denied such an exchange took place, - while Vucic remained noticeably silent.

Might the RS shift in position be a function of a tightened relationship with Russia? Might the impetus for Banja Luka's new policy on EUFOR have originated in Moscow?

There certainly has been an intensification of the Moscow-Banja Luka relationship over the course of 2014. The deepening Ukraine crisis saw the RS block BiH's association with EU

sanctions against Russia and Dodik citing Crimea's independence referendum as a precedent for the RS. In September 2014, Dodik and RS Prime Minister Zeljka Cvijanovic traveled to Moscow and had a brief audience with Russian President Vladimir Putin. After months of speculation about securing a Russian loan (and spurning the IMF, which ultimately did not occur), a commercial loan from a Russian bank was secured, reportedly in the amount of €8 million. The terms for the loan remain opaque. Finally, there is the question of the actual purpose behind the arrival of approximately 100 Cossacks in the weeks prior to the BiH general elections. Rumors ran rife after it became public that the Cossacks had been brought to Banja Luka from the RS



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border with Serbia by the RS Interior Ministry and it was noted that one of them, Nikolai Djokanov, had been actively involved in the Crimea operation. The RS Government presented them as part of a dance troupe, though videos showing an amateurish impromptu outdoor performance cast doubt on this explanation. Various theories emerged: that they could be muscle for post-election unrest, or alternatively be prepared to whisk Dodik from the country to protect him from angry citizens; that they were somehow associated with Putin's visit to Belgrade on October 16; or that they were merely there to demonstrate Russian backing for Dodik.

Reading the Tea Leaves: What Are Russia's Intentions?

In the wake of the Ukraine crisis, Putin and Russian officials have adopted an increasingly bellicose tone toward the West. Russia has also been amplifying efforts on the periphery of the EU and NATO with the aim of preventing further enlargement. Putin's high-profile appearance, at the invitation of Serbia, at a parade to commemorate the 70th anniversary of the Red Army's liberation of Belgrade on October 16, and his statements made there, underscore this attitude. As DPC co-founder Toby Vogel recently noted, this was part of a Russian attempt to reconstitute what it consid-

ers its rightful sphere of influence in Orthodox Europe, underpinned by gas supplies. Russia, he suggested, was seeking to re-play a non-violent version of the Ukraine crisis in Serbia; in both places, it had attempted to drive a wedge between the country and the EU. The Ukraine crisis has had a direct impact in BiH as well. In the negotiations over the May 2014 Peace Implementation Council Steering Board communique, Russia played its usual role of trying to water down the language. However, on this occasion, this extended beyond its usual boundaries to objecting to language on BiH's territorial integrity and sovereignty. In the past, Russia has placed footnotes in the text to object to specific sentences or paragraphs. Unable to move a West that was newly unified in the face of this challenge, Russia walked out of the negotiating process and dissociated itself from the communique in its entirety. Numerous Western diplomats in Sarajevo see this as a potential indicator of Moscow's disposition for the November 11 vote on EUFOR's mandate.

There have been subsequent indicators of Russia's intent. On September 13, just prior to Dodik's and Cvijanovic's visit to Moscow, Russian Foreign Minister Sergei Lavrov stated that "the EU supreme representative (sic) plays a harmful role as he possesses dictatorial powers, which should have been abolished a long time ago. If the EU supported Bosnia-Herzegovina's election as a non-permanent member of the U.N. Security Council, it would be absurd to leave it under protectorate." The argument given was that the EU's support for BiH's non-permanent seat on the UN Security Council demonstrated that the EU thought that BiH was stable enough to take on the task of ensuring international peace and security, and therefore should not require a peacekeeping force. In a statement published on September 29 in Dnevni Avaz, Lavrov attacked the prospects of NATO's membership expanding to Montenegro, BiH and Macedonia as "mistaken politics and provocation by the North Atlantic military alliance."

Recently arrived Russian Ambassador to BiH Petr Ivantsov took a more emollient tone in an interview published in Oslobođenje on October 24. While the interviewer unfortunately did not ask directly about Moscow's intentions for the upcoming UNSC vote on mandate extension, he noted that "it's not a secret that the position of my country is that the Office of the High Representative must be closed." Yet he noted Russian support for implementation of the Sejdic-Finci judgment of European Court of Human Rights and noted that the experience of Slovenia being in the EU did not impede close relations between Moscow and Ljubljana.

jana, "something similar to *Moscow's relations with+ Serbia." Within the diplomatic community in BiH, there is considerable speculation as to Russian intent. But the bottom line is that nobody really knows - perhaps not even Russia's own diplomats.

Veto Scenario: What Is to Be Done?

In the event that Russia casts its veto in the UN Security Council, what are the options to retain the legal ability to deter acts of deliberate violence and react to unforeseen contingencies? EUFOR was initiated in December 2004 after Berlin-plus arrangements were made with NATO. The UNSC resolution authorizing that the EU take over NATO's responsibility noted that the NATO Headquarters in Sarajevo also retained the same Chapter 7 mandate. Legal analysis has been undertaken by NATO on the EUFOR extension issue. There has been discussion of NATO HQ being the platform for a fallback option to retain a deterrent force. Yet at the time of writing, there has been no political-level discussion of contingency options among NATO member states. It is evident that there is at the time of writing no political preparedness in the EU or NATO for a Russian veto in the Security Council. It appears that the policy is to see what Russia decides to do on November 11 and then weigh options. As one interviewee put it, "where is the flurry of planning?" Numerous legal questions would arise in the event of a veto, as all the facets of the international military presence in BiH are predicated on the UNSC mandate, including status of forces, immunity, etc.

One certain method to maintain the ability to maintain a "safe and secure environment," an obligation undertaken with Dayton, is to secure a bilateral agreement with the BiH Government. The relevant body would be the BiH Presidency. Given the RS Government's policy shift in May 2014, the membership of the Presidency will matter. The Bosnian Serb Presidency member-elect is Mladen Ivanic, who is not invested in his adversary Dodik's new policy. While agreement is not a certainty, it at least seems more plausible than if Dodik's candidate, Zeljka Cvijanovic, had taken on the role. However, in any case, the HDZ BiH leader Dragan Covic, an avowed ally of Dodik, will be on the Presidency, creating another potential hurdle. The inaugural calendar also matters. Once the final election results are announced on November 11, the new membership of the Presidency can be inaugurated. But it need not occur until November 26.

Hope is Not a Plan (Revisited)

The disposition of Russia on the day of the UN Security Council vote on the EUFOR mandate

will ultimately depend on whether President Vladimir Putin decides that he wants to send a message to the West - and particularly the EU - that Russia can create more problems at will on the Union's (and NATO's) frontiers, not just its eastern edge or northern flank. A united Western position in the PIC in May 2014 denied that possibility to Moscow. The veto afforded to Russia as a P-5 member gives Moscow stronger leverage to achieve that end. What ought to be clear is that if Russia does cast its veto, it is all about making mischief in the West's backyard and has little to do with the Republika Srpska's interests. Russia has already signaled that it aims to resist the integration of Western Balkan countries into NATO; given the adversarial relationship developing between the EU and Russia, there is no reason to believe that this might not apply



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to EU enlargement as well. If Moscow vetoes EUFOR's extension, it would carry the Ukrainian conflict beyond that country's borders, with implications in the region and beyond. It would demonstrate a client relationship with the RS. Should the West not resist such a move and be prepared to maintain an executive presence in that event, it could well embolden an electorally weakened Dodik to move toward secession.

For the first time in many years, a senior official from a large EU and NATO member publicly stated that RS secession would not be allowed. British Foreign Secretary Philip Hammond wrote in a comment piece published in several major dailies on October 24: "Don't waste precious time arguing about referendums and separation. That is not going to happen. We have a legal responsibility to protect the territorial integrity of Bosnia and Herzegovina, and we remain as committed to that responsibility as we were when the Dayton Peace Agreement was signed 19 years ago. The redrawing of borders in the Balkans is finished."

Such a statement is welcome and long overdue. DPC in particular has been advocating such a statement from any Western source for years. One hopes it will be echoed in Brussels, Washington, Berlin and other

major capitals. But upholding the legal responsibility that Hammond rightly cites depends on the credibility of the international community's executive instruments in BiH. Without an executive EUFOR - or NATO alternative - such a statement becomes hollow.

While there is evident awareness of the potential for the Security Council vote to go wrong, there is no corresponding sense of urgency to develop solid and coherent contingency plans for that eventuality. The RS authorities should be careful what they wish for. If the executive mandate is curtailed next month, then it implies that Dayton annexes can be declared fulfilled, or closed. Such a position runs counter to Dodik's militant Dayton fundamentalism. There is also the potential legal limbo over the fact that Annex 2 - demarcation of the Inter-Entity Boundary Line - was never completed with the assent of both entities and under supervision of IFOR or its successors, SFOR or EUFOR. Dodik has threatened more than once to unilaterally act in this regard. Without EUFOR, there is nothing to prevent this from escalating into an inter-entity, and inter-ethnic, provocation if pursued. Any ensuing hostilities might well see the RS on the losing side.

If the West wishes to retain its ability to prevent violent destabilization in BiH, or to react to events which could lead in that direction, retaining an executive mandate from the UNSC - or demonstrating the political will to act without one - is essential. This is ultimately a political decision which must be made by the Alliance and the EU. The time to do so is now. Only by demonstrating that the West is united in its commitment to maintain the peace in BiH and the country's territorial integrity can any challenge to either be deterred.

To this end, DPC recommends the following:

- * Clarity by the Quint and Western members of the PIC Steering Board that there is political will to maintain a deterrent force in BiH, whatever Russia's disposition. Additional sanctions could be applied to Moscow if it chooses to escalate out-of-theater.

- * Preparations - political and legal - should proceed forthwith for a Plan B executive mission based on the NATO HQ in Sarajevo. All NATO members must be prepared politically for the potential of a Russian veto, and demonstrate their will to maintain an executive force in BiH without one.

- * Preparations for a bilateral mandate - without an expiration date - must be made with the incoming BiH Presidency. Particular attention must be paid to ensuring the support of Ivanic and Covic. Resistance should be met with pressure.