

# **Democratization Policy Council**

A Global Initiative for Accountability in Democracy Promotion  
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Policy Brief

**“Are we there yet?”**

**International impatience vs. a long-term strategy for a viable Bosnia**

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## Executive Summary

The international community's collective approach toward Bosnia and Herzegovina has failed to gain any traction, as it remains based on false assumptions. The governments comprising the Peace Implementation Council's Steering Board (PIC) have not been able to summon the will to confront the actual challenges Bosnia poses, preferring to operate from the off-the-shelf EU integration playbook. As a result, 2009 saw a further deterioration in the overall political situation. American political credibility in Bosnia was dented by the failed "Butmir process" last October, during and after which the US ceded direction of its policy to the EU. The Obama administration is struggling to devote sufficient attention to Bosnia's worsening situation and continues to eschew the most plausible tool to deal with a fragmented EU – a presidential special envoy. The collective international posture lurches between frenetic diplomatic activity in search of a short-term deliverable and passivity. This *modus operandi* has allowed Bosnian political actors with unfulfilled agendas, most prominently Republika Srpska Premier Milorad Dodik, to operate without constraint, even calling the survival of the state into question.

Policies among PIC members differ, but most are in a passive role, absent any clear leadership. Russia has acted as an enabler for Dodik. Germany has twin pillars of its current Bosnia policy: reducing the international commitment in Bosnia, and fixation on policy coordination with Russia. Turkey, meanwhile, has ramped up its diplomatic engagement since Butmir, with an emphasis on the relationships between Bosnia, Serbia, and Croatia. It is the only member of the PIC that has engaged consistently, and can point to some results. Meanwhile, the Dayton Agreement's enforcement instruments, the Office of the High Representative and EUFOR, have been allowed to wither due to lack of political will to employ them. The current policy therefore contains a contradiction: the Dayton Annex 4 Constitution is expected to remain for the foreseeable future, but its enforcement mechanisms might disappear in less than a year.

As the October general elections approach, the spectrum of possibilities, from improvement to further worsening of the situation, is wider than at any point since Dayton was signed. While Dodik seeks to portray himself as electorally invincible, there is evidence to suggest that he has peaked and could face a voter backlash. The Croat political spectrum is divided, while the current rules-free atmosphere has allowed flirtation with the RS to support a "third entity". The Bosniak political spectrum is more fragmented than ever, with the emergence of new populist political party led by media tycoon Fahrudin Radončić.

One of the two tools of choice for Bosnian politicians, patronage, may be constrained by the economic crisis. But the other, fear, is more salient than ever, as the absence of a long-term international strategy has allowed uncertainty about the future to take hold. Recent incidents in Široki Brijeg, Sarajevo, and Tuzla all point to the potential for both planned and spontaneous outbursts of violence. The international default setting remains to talk down any such possibility. Bosnia is suffering a deterrence failure.

## Policy Recommendations

Little forward movement on the 5+2 objectives and criteria or on constitutional reform is likely between now and the formation of a new government after the elections. However, in the coming months, Western governments can help create the conditions for progress in 2011 and beyond. This will require some policy reversals on both sides of the Atlantic. But these would create a context in which the difficult and broad societal compromises necessary to achieve a self-sustaining democratic Bosnia can be forged.

### *Before October*

- There should be no Dayton *a la carte*, contrary to what many Bosnian politicians have concluded from the current international posture. So long as the Dayton constitution remains the law of the land, its enforcement mechanisms OHR and EUFOR must remain executive and operational – and PIC and EU members must summon the requisite will to use them as needed. Such a policy change would have two

effects. It would mean that politicians vested in the current dysfunctional system cannot simply pin their hopes on obstruction of reform during an artificially defined period of waning international oversight. The policy shift would also convince citizens that they need not fear state dissolution or an imposed solution detrimental to their interests.

- The EU's insistence that Bosnia's forward movement toward EU membership be dependent on the closure of OHR is unfounded and counterproductive. Instead, the EU should state that its relationship with Bosnia will be founded solely on its ability to meet EU conditions and live up to its agreements with the Union.
- The EU's pre-election communications strategy should shift from its vacuous "the EU is good for you – trust us" meta-message. Instead, it should illustrate to common citizens in understandable ways the costs and lost opportunities that have accrued from their politicians' unwillingness to avail themselves of the opportunities provided by the SAA and enlargement process. This sort of voter information effort would provide a real public service and build the Union's credibility with Bosnians.

Were these policies adopted (and believed), Bosnian voters would be far more likely to make an informed vote, less subject to the fear that has gained potency in the past four years.

### *After Elections*

- Constitutional reform cannot be reduced to mere technical alterations to the Dayton Annex IV Constitution. Dayton's dysfunction stems from its lack of popular legitimacy and from vesting power in political elites who profit from maintaining incentives to ethnic division. For Bosnia to propel itself into the Euro-Atlantic mainstream, nothing less than a system with the support of a substantial majority of each self-defined group will do. Given Dayton's ethnocratic political elites' incentive to maintain their political life-support system, any viable constitutional reform effort will require a creative, far broader, more labor-intensive, and time-consuming approach to involve Bosnia's citizens in devising a solution. The international community, the US, EU and Turkey in particular, should commit themselves to such an approach.

## I. Introduction

While 2009 proved to be a year in which many post-Dayton taboos were broken without consequence, 2010 – with general elections in early October – seems sure to outpace it. The failure of the high-profile “Butmir process,” launched in October 2009 by the EU’s Swedish Presidency and the United States, accelerated the pace of degeneration. This was further accelerated by the subsequent unwillingness to extend international judges and prosecutors in the Court of Bosnia and Herzegovina’s organized crime and corruption chamber, reinforcing the perception on the part of Bosnian political figures that there was no longer political will to enforce the Dayton rules. Republika Srpska Prime Minister Milorad Dodik has availed himself of this international irresolution by advocating a referendum on the acts and legitimacy of the High Representative, and mooted the dissolution of the state as a solution.<sup>1</sup>

### *How We Got Here – False Assumptions*

After a string of achievements in the state-building project (which was most intense from 2000-2005), the countries comprising the Peace Implementation Council (PIC) and the European Union were convinced that their efforts had achieved durable results that would be embraced by Bosnia’s political leaders and become organic and durable. Forward movement toward EU and NATO membership was widely seen to be assured, it was just a question of how long it would take. Therefore, transition from “the push of Dayton to the pull of Brussels” as the oft-repeated phrase went, could safely be reflected in the nature and structures of international engagement. There would be no more need for the international High Representative with his executive Bonn Powers<sup>2</sup> or a UN Chapter VII-mandated EUFOR to ensure a safe and secure environment.

The EU’s enlargement approach, which had just successfully brought in a large wave of new members from Central and Eastern Europe, was assumed to hold sufficient incentives to facilitate the completion of Bosnia’s evolution into a mainstream European democracy, without need for international safeguards. A few relatively minor changes to the constitutional order would suffice to facilitate sufficient state functionality to allow this self-propulsion toward the EU and NATO.

While these assumptions began to be proved wrong over the course of 2006, they have remained the basis for EU and PIC policy in Bosnia. The international community is following an obsolete flight plan on bureaucratic autopilot. The long-mooted closure of the OHR and transition to a “reinforced EUSR” has been delayed for three years by the deterioration of the situation in Bosnia and pegged to the completion of the “5+2” set of objectives and conditions.<sup>3</sup> These are unlikely to be completed in 2010. The exact nature of the follow-on EU presence, never defined, is now further complicated following the adoption of the EU’s Lisbon Treaty. Yet this lack of clarity on the destination has not reduced the desire of a number of EU and PIC members to accelerate the transition process. For many EU members and the EU institutions, transition is not a means to an end, but an end in itself.

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<sup>1</sup> See Toby Vogel, “EU and US hope to break deadlock in Bosnia,” *European Voice*, April 1, 2010 - <http://www.europeanvoice.com/article/imported/eu-and-us-hope-to-break-deadlock-in-bosnia-67568.aspx>, see also <http://www.sarajevo-x.com/bih/politika/clanak/100326083>

<sup>2</sup> The Peace Implementation Council, meeting at the ministerial level in Bonn in December 1997, agreed that the High Representative had executive authority to ensure compliance with the Dayton Agreement. The “Bonn Powers” were then increasingly employed to remove officials and impose laws and amendments, particularly from 2000-2005. See Bart M.J. Szewczyk, “The EU in Bosnia and Herzegovina: powers, decisions and legitimacy”, ISS Occasional Paper 83, March 2010, <http://www.iss.europa.eu/uploads/media/OccasionalPaper83.pdf>

<sup>3</sup> These included selected elements of OHR’s Mission Implementation Plan in the areas of state and defense property, rule of law, fiscal sustainability, and Brčko District, as well as the signature of a Stabilization and Association Agreement with the EU and an assessment by the PIC that the situation is sufficiently stable. They are listed at [http://www.ohr.int/pic/default.asp?content\\_id=41352](http://www.ohr.int/pic/default.asp?content_id=41352) – see DPC’s Post-PIC Assessment February 27, 2008 at <http://democratizationpolicy.org>

## II. 2009: Intensified International Activity, Negligible Results

Two events in early 2009 brought the burgeoning crisis in Bosnia to the attention of a wider international audience and showed that the EU's approach was not working.

In January, High Representative Miroslav Lajčák departed to assume the post of Slovak Foreign Minister. Lajčák took flight after it became clear that the "5+2" objectives and conditions adopted by the PIC in February 2008 (and chosen to allow completion by year's end)<sup>4</sup> were nowhere near completion, and after the failure of the Stabilization and Association Agreement (SAA) to generate the progress its proponents had claimed it would.

In May, US Vice President Joseph Biden visited Bosnia as the first stop on a Balkan tour. He chastised Bosnia's politicians for their irresponsibility and spelled out certain baseline state competences, including the legal supremacy of the state and its "authority to negotiate with the EU and other states and implement its obligations."<sup>5</sup> Many, including the authors, took Biden's visit as a hopeful sign that the US would act as a catalyst with the EU members and institutions to develop a coherent strategy for Bosnia.<sup>6</sup>

It was not to be. The US government failed to follow up with a clear effort to realize the potential of Biden's message, and pushback from both within the EU and the Republika Srpska filled the void.<sup>7</sup> The West continued to struggle in the face of continued backsliding on reforms and provocation from the RS, ultimately moving in desperation to Butmir.

### *The Butmir Debacle and its Aftermath*

In October, Swedish Foreign Minister Carl Bildt, on behalf of the EU Presidency, and US Deputy Secretary of State James Steinberg came to Sarajevo to chair a meeting of Bosnia's political party leaders, in the hope of reaching a deal to end the impasse. The effort included the EU institutions in a leading role, but not the member states or the EU Special Representative in Bosnia. The aim was to achieve a deal in one session at the Butmir NATO/EUFOR base adjoining Sarajevo Airport. However, even before Steinberg and Bildt arrived, this plan was jettisoned in favor of a "process." The package initially included a set of minor constitutional reforms (derived from the failed "April package" of 2006<sup>8</sup>) and measures to allow the international community to claim completion of the "5+2" criteria and closure of the OHR.

OHR closure – "transition" – was clearly Bildt's primary goal. The US State Department had been working quietly prior to Butmir to arrange some package of constitutional reforms before the end of 2009. The Butmir process was from the outset a marriage of competing imperatives, with the US focused on a minimal package of constitutional changes and meeting 5+2 criteria, and the EU Presidency and institutions aimed at the bare minimum to be able to transition – and it showed. Bildt gained the upper hand. But despite flailing international efforts to water down the package to a sufficient degree that Dodik might be willing to sign on, the effort failed. He repudiated the very concept of internationally convened constitutional discussions, but attended the second

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<sup>4</sup> DPC conversations with PIC diplomats, 2008

<sup>5</sup> [http://sarajevo.usembassy.gov/speech\\_20090519.html](http://sarajevo.usembassy.gov/speech_20090519.html)

<sup>6</sup> Kurt Bassuener, "Biden's visit to Bosnia and Herzegovina shows America is back – Now is the time to follow up by building a common transatlantic strategy," *Dnevni Avaz*, May 23, 2009. English original available at <http://www.democratizationpolicy.org>

<sup>7</sup> Ian Traynor, "The US is talking tough on the Balkans, and the Europeans don't like it," *The Guardian*, May 21, 2009 <http://www.guardian.co.uk/world/2009/may/21/bosnia-and-herzegovina-eu>

<sup>8</sup> On the April package see <http://birn.eu.com/en/67/10/2141/>

meeting at Butmir on October 20-21 regardless, at which he mooted the “peaceful dissolution” of the state.<sup>9</sup> In so doing, he showed he had taken the measure of an international community desperate for a “deliverable,” and continued to manipulate it into further lowering the bar while giving nothing away. At the PIC meeting a month later in Sarajevo, he claimed that Bildt had told him that *any* constitutional change, however minor, would suffice.<sup>10</sup> Throughout the process, the EU and PIC ordered High Representative Inzko to avoid provocative actions – essentially not to act as High Representative.<sup>11</sup> So long as the EU and US believed there was a shadow of hope it might deliver any results, this remained the policy.

### ***Not Acting, but Reacting: the West Fumbles as Challenges Increase***

Without clarity of goals or the means by which to achieve them, and an overarching fixation on transition away from international responsibility, the EU and US cowered in a reactive posture through three challenges during 2009. Yet ultimately in each case, the Bonn Powers had to be employed.

The first came in May with conclusions adopted by the RS National Assembly.<sup>12</sup> These claimed to uphold Dayton (while questioning the competencies of the state) but actually challenged the Dayton order, the authority of the High Representative to interpret and enforce it, and rulings of the BiH Constitutional Court. Some PIC members – Turkey and Japan – backed annulment from the outset.<sup>13</sup> But most others wanted to find a less confrontational way to deal with the issue. It took a month to assemble a majority in the PIC for the High Representative to annul the conclusions on June 20th, with Russia dissenting.<sup>14</sup>

In mid-September, High Representative Inzko and Principal Deputy High Representative Raffi Gregorian, in his role as Brčko Supervisor, made decisions to prevent the collapse of the state electrical transmission utility, Elektroprenos, and to ensure Brčko District’s electrical power supply.<sup>15</sup> Unity of the transmission utility was a requirement for Bosnia’s SAA. Supervisor Gregorian’s decision included a clause noting that should the state-level firm cease to exist, then the transmission network in the District would belong to the District – a subtle deterrent against any attempt of the RS to break away. RS Prime Minister Dodik quickly repudiated the decisions, having already stated he would accept no more impositions.

In December, the international community stumbled into its last crisis of the year, when the long-avoided question of whether to extend international judges and prosecutors in the State Court’s chambers for war crimes and organized crime could no longer be postponed. The Bosnian senior staff of the court had made clear to the international community that they needed another 3-year- mandate to complete the ownership process and to prevent the collapse of the state judiciary. But Dodik, under investigation by the Court’s organized crime and corruption chamber, opposed any extensions. A near consensus had emerged in the PIC for an across-the-board extension prior to the launch of Butmir.<sup>16</sup> Despite having been a strong advocate of full extension prior to Butmir, the US flip-flopped on its position in the vain hope of reviving the Butmir process. It justified its

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<sup>9</sup> Interviews with Butmir talks attendees, October 2009. See [http://www.b92.net/info/komentari.php?nav\\_id=387594](http://www.b92.net/info/komentari.php?nav_id=387594)

<sup>10</sup> Interviews with PIC attendees, Sarajevo, November 2009.

<sup>11</sup> Interviews with international community personnel in Sarajevo, October and November 2009.

<sup>12</sup> “Conclusions with Regard to the Summary on Effects of Transfer of Constitutional Competencies from the Republika Srpska to the Institutions of Bosnia and Herzegovina,” RS National Assembly, May 14, 2009.

<sup>13</sup> DPC discussions with PIC SBA attendees, June 2009

<sup>14</sup> [http://www.ohr.int/decisions/statemattersdec/default.asp?content\\_id=43633](http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=43633)

<sup>15</sup> See High Representative decisions at [http://www.ohr.int/decisions/statemattersdec/default.asp?content\\_id=43961](http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=43961),

[http://www.ohr.int/decisions/statemattersdec/default.asp?content\\_id=43963](http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=43963),

[http://www.ohr.int/decisions/statemattersdec/default.asp?content\\_id=43973](http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=43973)

Brčko Supervisor’s decision at [http://www.ohr.int/ohr-offices/brcko/bc-so/default.asp?content\\_id=43983](http://www.ohr.int/ohr-offices/brcko/bc-so/default.asp?content_id=43983)

<sup>16</sup> DPC discussions with PIC and EU member state diplomats, Fall 2009.

decision in the name of ownership.<sup>17</sup> This left only Canada and Turkey openly advocating full extension, though many other PIC members, including Britain, the Netherlands, Spain and Japan were quietly in favor. The US position was the game-changer, leading to a decision to only extend the war crimes, and not the organized crime, personnel for three years in their executive roles. Only Russia's ambassador was openly "happy" about the decision not to extend the organized crime personnel in executive roles.<sup>18</sup> Dodik immediately rejected the extension of the war crimes personnel and stated that he would call a referendum on it.<sup>19</sup>

Thus closed an *annus horribilis* for the international community in Bosnia. The EU – its institutions and most of its members – displayed open frustration with the rigors of dealing with Bosnia's reality, preferring to fall back on its off-the-shelf enlargement playbook and its concomitant reduction of political responsibility. The US, long perceived as the strongest single policy actor, had ceded its initiative to an EU agenda to which it didn't fully subscribe, but to which it was now tied. The perception among Bosnians deepened that all the rules that attended the Dayton Agreement were in abeyance, and that there were no more barriers to agendas unfulfilled in war.

### ***Visa Liberalization – Model Success Story or Anomaly?***

Visa-free travel by Bosnian citizens to the EU is the only area of sustainable reform in which the international community achieved progress during 2009. Offered to the Western Balkan countries by the EU in 2008 in return for implementing a set of a few dozen reform conditions (the "roadmap")<sup>20</sup> Bosnia had fallen far behind when Serbia, Montenegro and Macedonia were approved for a visa-free regime in May 2009. Intense diplomatic pressure on Bosnia's ruling ethnic parties helped to de-block the roadmap reforms, and by September, Bosnia had caught up with its neighbors.<sup>21</sup>

Brussels and many European governments have since offered this isolated success story as proof that EU integration provides sufficient incentives for the country's progress.<sup>22</sup> But in light of Bosnia's overall rapid deterioration, this effort appears to reflect European fidelity to current policy more than any attempt at honest reckoning with broader policy outcomes. Bosnian politicians did in the end give in on the roadmap reform package not because they finally discovered the EU carrots to be attractive, but because they could free themselves from increasing pressure without having to pay a substantial price. Granting their citizens free travel to Europe did not endanger their power, as would the far wider collection of reform conditions for EU integration in the Stabilization and Association Agreement and the Partnership Document.

The announcement on May 27 that the EU would lift visa requirements for Bosnian citizens following a series of approval procedures<sup>23</sup> is welcome and will be appreciated across the board in the country. When Bosniak political elites criticized the EU's May 2009 decision not to recommend visa liberalization for Bosnia and

<sup>17</sup> OHR/PIC Steering Board press conference, December 14, 2009, attended by DPC. Decision at

[http://www.ohr.int/decisions/judicialrdec/default.asp?content\\_id=44291](http://www.ohr.int/decisions/judicialrdec/default.asp?content_id=44291)

<sup>18</sup> Ibid.

<sup>19</sup> Ibid, <http://www.svevijesti.ba/content/view/51989/254/>

<sup>20</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/717&format=HTML&aged=0&language=EN&guiLanguage=en>

<sup>21</sup> See the European Stability Initiative's October 2009 report „Bosnian Visa Breakthrough. May 2009 – September 2009“, [http://www.esiweb.org/pdf/schengen\\_white\\_list\\_bosnian Visa\\_breakthrough.pdf](http://www.esiweb.org/pdf/schengen_white_list_bosnian Visa_breakthrough.pdf)

<sup>22</sup> The earliest promoters of this view were the European Stability Initiative (see [http://www.esiweb.org/index.php?lang=en&id=67&newsletter\\_ID=42](http://www.esiweb.org/index.php?lang=en&id=67&newsletter_ID=42)). That view has now become conventional wisdom among EU officials, diplomats, and others, as numerous interviews suggest.

<sup>23</sup> See <http://www.ansamed.info/en/top/ME11.XAM18443.html>; <http://www.euronews.net/2010/05/27/bosnians-a-step-closer-to-visa-free-eu-travel/>



turned the debate into an ethnic victimization discourse, claiming that the EU rejected the Bosniaks because of their Islamic faith,<sup>24</sup> the EU countered that visa liberalization was an exclusively technical matter. Yet developments in 2009 illustrated that such decision-making processes inside the Union are never totally technical.<sup>25</sup> This became even more clear in spring 2010, when Brussels had to admit that Bosnian citizens would have to wait until December, a much longer period from fulfilling major conditions to get visa-free access to the EU than in Serbia's case, despite an earlier joint commitment by the Commission and the European Parliament for a fast-track procedure. Even the most outspoken supporters of the EU's visa liberalization approach were compelled to warn the Union of exposing itself in the Western Balkans region as an organization that does not stick to its own conditions and applies double standards.<sup>26</sup>

### III. Enter 2010 - International Relations and Local Developments

#### *The EU post-Bildt and post-Lisbon*

The selection of Catherine Ashton as EU foreign policy chief and Herman Van Rompuy as President of the European Council indicated that the EU's larger members wanted to maintain control over policymaking. Ashton's main advantage regarding Bosnia was that she was not involved in her predecessor's policies and could develop her own approach. She showed early indications of wanting to develop a stronger policy, and has devoted considerable attention to Bosnia since taking office. Yet she remains surrounded by personnel who have long been vested in the EU's approach toward Bosnia, including Butmir. Furthermore, her policies have reportedly been informed by close consultations with EU member states' foreign ministers who have worked on the ground in the region, Sweden's Carl Bildt and Slovakia's Miroslav Lajčák.<sup>27</sup>

Spain, the current holder of the EU's rotating Presidency has sent mixed signals over what it aims to accomplish regarding Bosnia, reflecting what seems to be indecision on whether to attempt to accomplish something tangible or try to avoid exposure in an area perceived as having dim likelihood of success. The visit by Spanish Foreign Minister Miguel Angel Moratinos to Sarajevo on April 6-7 seemed to embody this indecision. Prior to his arrival, it was expected that he and Steinberg would ask party leaders to, *inter alia*, agree to address the constitutional reform issue following elections. When it became clear this was unlikely, the idea was abandoned. A meeting of Bosnian party leaders in Madrid in late April, never confirmed, was also scrubbed.<sup>28</sup> An EU foreign ministers' meeting scheduled for early June in Sarajevo, along with regional counterparts, has been a focus of the Spanish EU Presidency and the Italian government. The meeting does not appear to be aimed at achieving any concrete agreement or result; no diplomats or EU interlocutors have evinced any optimism at the outcome.<sup>29</sup>

<sup>24</sup> Bosniak elites pointed out that aside from Bosnian Croats (who almost all have Croatian passports and have been able to travel freely to the EU for years) and Serbs who potentially all can get documents in Serbia could travel freely from December 2009 on, while only Bosniaks would have to stay out of Europe. A long-term regional problem, the double citizenship of Bosnian Croats in BiH and Croatia, a heritage of the Tadjman regime's wartime aggression on Bosnia aimed at undermining Bosnia's sovereignty, had so far completely been circumvented by Brussels in pre-accession negotiations both with Croatia and Bosnia came again to the fore. <http://www.oslobodjenje.ba/index.php?id=1657>

<sup>25</sup> The decision to grant Serbia conditional approval in May on the basis of having fulfilled a majority of the roadmap conditions, especially the dissemination of biometrical passports, for example, was a purely political decision. Macedonia was the country in the region that met the conditions most completely.

<sup>26</sup> See ESI's open letter to the European Commission "Urgency, complacency and a broken promise", <http://www.esiweb.org/index.php?lang=en&id=435>

<sup>27</sup> DPC interviews in Brussels, March 2010.

<sup>28</sup> <http://www.sarajevo-x.com/bih/politika/clanak/100407002>

<sup>29</sup> DPC discussions with international diplomats and officials, Sarajevo, Berlin, Brussels, May 2010. See also <http://waz.euobserver.com/887/30098>.

Despair of being able to transition away from OHR in the foreseeable future is palpable, as completion of the 5+2 objectives and conditions is not likely anytime soon. In some instances, there has even been backsliding.<sup>30</sup> As a result, there is a growing desire on the part of many PIC members to simply declare victory on 5+2 following elections, close OHR and move to a reinforced EU presence in Bosnia.<sup>31</sup> A number of others, including the UK, US, and Turkey, oppose this view. Britain's position, already hardline in comparison with the main EU members, is likely to be even stronger with the new Conservative-Liberal Democrat coalition that emerged from the May 6 election.<sup>32</sup>

Yet the nature and role of the reinforced EU presence (formerly known as "reinforced EUSR") remains unclear, and has been complicated by the adoption of the Lisbon Treaty. The Lisbon treaty does not address the institutional design of EUSRs, creating the additional challenge to find a way to make the envisioned reinforced EUSR fit into the EU's new foreign policy institutions.<sup>33</sup>

### ***The US's Transatlantic Travails***

Having invested the personal attention of Deputy Secretary of State James Steinberg in the Butmir process, the US could not afford to publicly abandon it, despite its clear failure. But in his most recent visit to Sarajevo, Steinberg was considerably more modest. The US took pains to dissociate itself from Spanish attempts to attain some rudimentary deal, even if only a commitment to deal with constitutional reform following elections.<sup>34</sup> Having aligned itself so visibly with the EU's policies toward Bosnia, the US may now be trying to differentiate itself. This was evident at the February 2010 PIC, where in contrast to the previous meeting, the US pressed (with only partial success) to take a more resolute stand in the PIC communiqué.

While there is growing frustration with playing by lowest-common-denominator EU rules, the US has not developed alternatives to EU policy on Bosnia. Steinberg's level of engagement is considerable. But despite his rank, he cannot do what a special envoy on Bosnia could do – devote the time to assemble a coalition of EU members of sufficient weight to change the EU's policy approach.

### ***Russia, Germany, Turkey and the PIC***

Russia and Germany have come to play an ever greater role in the West's struggles with Bosnia. While neither have a pronounced geopolitical interest in the country, their policies have been increasingly detrimental.

For the last few years, Russia has seized the opportunity created by the West's disunity and lack of will on Bosnia. It has openly supported Dodik's regime in the RS. In 2009, Moscow supported Dodik's actions undermining the Bosnian state as well as his challenge to the authority of the High Representative, as with its apparent support of Banja Luka's announcement of a referendum on the OHR.<sup>35</sup> In December, when the PIC

<sup>30</sup> The official approach toward the five objectives, and even the first of the two conditions, the signature of the SAA, has been to treat them as completed even as the acts that allowed that determination are undone. Elektroprenos was an SAA condition, for example, but the EC's view last fall was that it remained "done" when the RS refused to fulfill its obligations.

<sup>31</sup> DPC interviews with international officials and diplomats, Sarajevo, February-April 2010.

[http://www.europesworld.org/NewEnglish/Home\\_old/Article/tabid/191/ArticleType/articleview/ArticleID/21633/Default.aspx](http://www.europesworld.org/NewEnglish/Home_old/Article/tabid/191/ArticleType/articleview/ArticleID/21633/Default.aspx)

<sup>32</sup> A number of personalities in both parties have deep experience in Bosnia.

<sup>33</sup> <http://www.europeanvoice.com/CWS/Index.aspx?PageID=212&articleID=66221>,

<http://www.europeanvoice.com/article/imported/merger-of-afghanistan-office-delayed-by-ferrero-waldner/65937.aspx>

<sup>34</sup> Interview with US Ambassador Charles English in *Oslobodjenje*, April 5, 2010.

<sup>35</sup> <http://www.sarajevo-x.com/bih/politika/clanak/100109075>

decided on the mandate of international judges and prosecutors, it further discredited the US and EU members' already humiliating decision by playing both sides of the argument – first being part of a “unanimous” decision, and then accepting Dodik’s criticisms of that same decision.<sup>36</sup> This policy is neither based on any imagined pan-Slavic brotherhood nor can it be explained as a means of protecting Russia’s investments in the Serb entity. By playing the spoiler and compounding the West’s self-inflicted troubles, Russia is expanding its international relevance without really having to invest anything. That this game comes at a high cost can be seen in the recent departure from Moscow’s lack of policy attention to Bosnia, a feature throughout most of the post-Dayton period. In 2009, the Foreign Ministry dispatched its Western Balkans envoy and former Russian representative in the international community’s Troika for the Kosovo status negotiations Aleksander Botsan-Kharchenko, to Sarajevo.

Germany, still in search of a foreign and security policy, presents a different case. While it has recently retreated from being the EU’s traditional “motor” and turned Eurosceptic “by default,”<sup>37</sup> there seems to be no clear strategic national policy in sight, either. This recent development reflects on its policy towards the Western Balkans, especially towards Bosnia. For a decade following its participation in the NATO-led war against Serbia over Kosovo, German Balkan policy fixated on Serbia and carefully avoided to take a lead inside the EU on Bosnia. Since the Bosnian crisis forced its way back onto the EU’s agenda in 2009, Germany has tried to square the circle. With a lack of vision or will to deal with Bosnia, Germany’s policy has fallen back on fragments of its Cold-War foreign policy traditions. These include a deeply ingrained unwillingness to be confrontational and a variant of its *Ostpolitik* approach towards Moscow: the need to include Russia at any price.

Thus, with Russia effectively representing the RS at PIC meetings, and with Germany regularly insisting on unanimity in decision-making,<sup>38</sup> the two countries carry a substantial share of responsibility for the international community’s collective unwillingness to act.

Rather than using its potential to catalyze a serious EU policy, in recent months Germany has moved from the fence to the forefront of the softline camp. It has been creative in its efforts to declare progress, sought to abandon insistence on fulfillment of the 5+2 objectives and conditions, and in April undertook a rearguard effort to prevent Bosnia from getting a Membership Action Plan at the NATO summit in Tallinn, after Secretary Clinton shifted the American position.<sup>39</sup>

Norway, Canada, Japan, and Turkey have been pursuing their own policies on Bosnia, for example with Norway and Turkey (along with fellow NATO members Slovenia and Croatia) pushing for Bosnia’s Membership Action Plan. Turkey’s role is especially significant. But as these countries are outside the EU, the key EU players have found ways to sideline their views.

Turkey has found itself in a paradoxical situation at the last few PIC Steering Board meetings. A non-EU member facing stiff resistance in its aspirations to join the Union by the leaders of two large founding members, Germany and France, it has emerged as the most outspoken among the small minority group of PIC

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<sup>36</sup> PIC Steering Board press conference, *December 14, 2009*, <http://www.sarajevo-x.com/bih/politika/clanak/091218067>.

<sup>37</sup> See Quentin Peel, “Germany: A shifting Weltanschauung“, *Financial Times*, April 7 2010

<sup>38</sup> A practice that did not exist before 2006 and is not envisaged in the Dayton Peace Accord.

<sup>39</sup> DPC interviews with European diplomats officials and diplomats, Brussels, Berlin, Sarajevo January-May 2010.

Following the US shift in favour of Bosnia’s getting MAP at Tallinn, Germany and the Netherlands were reportedly the strongest opponents. Observers attributed this to the lack of willingness in the current political and economic environment for any forward movement for enlargement of the EU or NATO.

member countries that insist that the international community maintain its conditionality.<sup>40</sup> While active before, Turkey's own regional policy initiatives accelerated after its exclusion from the "Butmir process." These high-level efforts have concentrated on improving deteriorating bilateral relations in the region, particularly between Bosnia and Serbia. Two trilateral efforts, including Turkey and Bosnia in both, and alternatively Serbia and Croatia, have been initiated, and are being regularized. Turkey has become the only international player that has been able to produce limited, but still remarkable results during the last few months.<sup>41</sup> These efforts have been viewed in the major EU capitals and in Washington with half-hidden suspicion.<sup>42</sup> They may have added to the frictions between Washington and Ankara surrounding the ill-coordinated international activities on Iran's nuclear program that resulted in the current crisis in US-Turkish relations.<sup>43</sup> Yet Turkey stands alone among PIC members in terms of having consistent and sustained – as opposed to episodic – policy engagement on Bosnia.

### ***OHR: Twisting in the Wind***

The unwillingness of most PIC members to allow the High Representative to perform his designated role, coupled with his own unwillingness to demand support or resign, has devastated OHR's – and EUSR's – institutional credibility. The downward slide did not begin with High Representative Valentin Inzko, to be sure; it began three years before he returned to Bosnia. But during his tenure the situation has reached new depths.

The most egregious was the launching of the Butmir process without a clear role for the High Representative. Inzko was invited to attend Butmir, but as an observer rather than a participant – and only in his role as EUSR. That the EU had previously designated the EUSR as its focal point for constitutional reform efforts only compounded the humiliation. This gratuitous sidelining of the international community's lead actor on the ground not only damaged his ability to perform his role, it reduced the collective international influence in Bosnia. Given that the desired outcome of the process for the EU Presidency and institutions was the closure of OHR, this was surely by design. This is the only part of Carl Bildt's Butmir effort that could be deemed successful.

But there have been other humiliations as well. While Inzko and OHR have suffered a stunning lack of PIC support, some wounds have been self-inflicted. In a public discussion in Sarajevo on February 23,<sup>44</sup> Inzko bizarrely agreed to introduce Dodik and remain on stage – not as a debate participant, but as a spectator. Over the course of the discussion with the public, Dodik took numerous opportunities to belittle Inzko and decry his actions as illegal. He also questioned whether Bosnian Serb forces were responsible for the wartime Markale massacre in Sarajevo, calling for an international investigation of an incident that has already generated criminal convictions at the International Criminal Tribunal for the former Yugoslavia.<sup>45</sup> He also justified his

<sup>40</sup> DPC interviews with international diplomats, November 2009-May 2010.

<sup>41</sup> Like solving the Bosnian-Serbian dispute over the accreditation of the ambassador to Belgrade, or most recently, the trilateral meeting of the presidents of Turkey, Serbia and Bosnia that resulted in the so-called Istanbul declaration. See Barcin Yinanc, "Excluded by US and EU, Turkey undertakes own mediation in Bosnia", *Hürriyet Daily News*, January 15, 2010, <http://www.hurriyetdailynews.com/n.php?n=excluded-by-us-and-eu-turkey-undertakes-its-onw-mediation-in-bosnia-2010-01-15> ; <http://www.hurriyetdailynews.com/n.php?n=bosnia-back-on-world-agenda-with-turkish-mediation-2010-05-23>

<sup>42</sup> M. Martens, "Die Türkei kehrt in Bosnien auf historisch vertrautes Gelände zurück", *Frankfurter Allgemeine Zeitung*, May 5, 2010. DPC interviews with international diplomats, April-May 2010.

<sup>43</sup> DPC interviews with international diplomats, April 2009-May 2010; <http://www.ft.com/cms/s/0/f9f1a54e-6458-11df-8cba-00144feab49a.html>

<sup>44</sup> Held by the Center for Cultural Dialogue at the UNITIC business center.

<sup>45</sup> See "OHR slams Dodik statements," September 16, 2009, *B-92*, [http://www.b92.net/eng/news/region-article.php?yyyy=2009&mm=09&dd=16&nav\\_id=61796](http://www.b92.net/eng/news/region-article.php?yyyy=2009&mm=09&dd=16&nav_id=61796)

embrace of convicted war criminal Biljana Plavšić. When asked questions about what he would do if a proposed RS referendum on the Dayton Accords went forward, Inzko dodged them.

### ***BiH: Secession, Third Entity and Tycoonistan***

Prior the 2006 general elections, the EU and the US promoted Milorad Dodik as a Serb social democratic alternative who would join with his counterparts in the Federation to democratize the country. This was always an illusion, but a seductive one that many (including one of the authors) accepted well into the 2006 campaign. Even as he amped up his mix of social and ethnic nationalist populism and began to tout the word “referendum” in his campaign, this was perceived as election rhetoric that would be abandoned in office. Yet rather than toning down his rhetoric, Dodik has continued to push it ever further, creating the most serious political crisis in the post-war period and even threatening the integrity of the Bosnian state. Dodik has long since become the most powerful political figure in the country and the major counterpart of the international community. While the international community helped engineer his rise to power on false perceptions of his moderation, it has since shifted to perceiving him as a popular tribune whose nationalism rationally reflects that of his entity. Yet Dodik’s success has not been based on extraordinary political skill. Rather, he has benefited from the international community’s weakness, and particularly its failure to enforce the Dayton rules. The Serb political elite has far greater leverage in Dayton Bosnia’s politics than do its counterparts in the Bosniak and Croat communities because it controls an ethno-territorial unit of its own. Thus Dodik’s narrow majority in the RS Assembly has made him the most powerful political actor in Bosnia.

If there is any constraint on Dodik’s freedom of action, it now comes increasingly from his own pronouncements. Prompted in large part by the ongoing investigation into alleged corrupt contracting practices by the RS government, Dodik has attacked the Court of BiH’s special chamber for organized crime and corruption as part of a broader effort to unravel state institutions. His confrontational rhetoric has put him in a position where he politically cannot make even minor concessions on the 5+2 objectives and criteria offered to him by international officials who share his goals of closing OHR and withdrawing EUFOR.

Below the surface, his power base in the RS appears to have substantially eroded. RS perceptions of economic strength relative to the Federation have dissipated during the world economic crisis, and his populist agenda has begun to turn counterproductive.<sup>46</sup> The defeat of his SNSD amid record turnout in a by-election in the small eastern Herzegovina municipality of Bileća in January 2010 hinted at the popular limits of Dodik’s political style.<sup>47</sup> Despite this apparent growing vulnerability, the EU and the US have continued to base their Bosnia policy on an appeasement approach towards Dodik. This has become a self-fulfilling prophecy. Appeasement strengthens Dodik’s position, because it feeds the image of his strength while demonstrating collective international political weakness. But the perception of Dodik as a long-term dominant reality in the RS allows the EU to continue to pursue its current policy, as the US still effectively just follows along.

Croat and Bosniak political elites have also exploited the growing international weakness. On the Bosnian Croat side of the political party spectrum, talk of a third entity for Croats has re-entered public debate. While the Bosnian Croat parties are further away from “national unity” than ever, they are demonstratively more open to cutting deals with Banja Luka that serve their party interests while damaging the interests of the Bosnian state (and their own supposed constituents), as shown in the deal between HDZ BiH President Dragan Čović

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<sup>46</sup> In February he proposed to rename Eastern Sarajevo, the RS counterpart of the Bosnian capital, into “Eastern Town” to prevent usurpation of its Serb inhabitants through its Federation counterpart. That provoked a major outcry among local Serb politicians who assert the Serbs’ “right” to Sarajevo - one of the founding myths of the RS and a keystone of the Serb war narrative.

<sup>47</sup> [http://www.europeanforum.net/news/815/dodik\\_s\\_snsd\\_loses\\_local\\_poll\\_in\\_bosnia](http://www.europeanforum.net/news/815/dodik_s_snsd_loses_local_poll_in_bosnia)



and Dodik.<sup>48</sup> At the same time, they continue to struggle with the structural wartime problem of speaking in the name of Bosnia's Croats while in fact representing narrow Western Herzegovinian political interests. This has brought back dangerous wartime rhetoric about achieving an integrated ethnic territory for dispersed majority-Croat areas, reminiscent of the Vance-Owen peace negotiations of 1993-94.<sup>49</sup>

On the Bosniak side of the political spectrum, the entrance of Fahrudin Radončić into politics has brought a new radicalization unseen since the war, another worrying sign of the deepening political crisis in the country. Radončić, the most powerful Bosniak tycoon and owner of the largest circulation Sarajevo daily, *Dnevni Avaz*, decided to curtail his traditional alliance with the Bosniak political elite that formed the basis of his remarkable career over the last decade and a half. In 2009 he formed his own party, the Union for a Better Future, on a populist economic and nationalist Bosniak agenda. He has turned his newspaper into a promotional tool for his party and has undertaken attacks against non-Bosniak public figures of Sarajevo (but oddly, less so against leading non-Bosniak political figures such as Dodik and Čović). With his economic influence he has even succeeded in dividing civic-democratic oriented intellectuals in Sarajevo.<sup>50</sup>

### ***The Regional Dimension: Serbia and Croatia***

The rising crisis in the country brought Bosnia's neighbors back into the game in a more prominent role in 2009, especially Serbia. It was the West that reached out for Belgrade's help. US Vice-President Joe Biden at the Belgrade-stop of his Western Balkan tour in May demanded that Serbian President Boris Tadić use Belgrade's influence in the RS to moderate Dodik, playing on the idea of Serbia as a regional stabilizing force. It has not produced the desired effect. The relationship between Bosnia and Serbia, already at the lowest level in years in early 2009, has since further deteriorated. Belgrade appears to be playing a kind of double game. While Tadić and the Serbian government were repeatedly declaring their full respect for Bosnia's sovereignty, they were directly meddling in internal Bosnian affairs, blocking the accreditation of Bosnia's (Bosniak) ambassador to Belgrade with the aim of having a Serb nominated.<sup>51</sup> While Tadić was declaring that he sees Serbia as a guarantor of Dayton Bosnia, when asked whether Dodik's announcement of a referendum on the OHR openly violated the state's Dayton foundations, Tadić said that this was an internal Bosnian matter.

Despite the performance of Serbia's current government, the democratic reform process in the country remains too fragile to make the unequivocal break with its recent nationalistic past that would allow it to act as a regional stabilizing factor and to moderate Dodik. That the US and EU have beseeched Serbia for assistance has less to do with faith in Serbia's ability than it's the West's own lack of will to confront Dodik in their roles as peace implementers in Bosnia.

Instead of successfully subcontracting, the West has further complicated political relations in the region. The arrest of former Bosnian presidency member Ejup Ganić in London on a Serbian warrant has complicated Serbia's own difficult reform process and endangered the already fragile stability of the Bosnian state.<sup>52</sup> It took substantial EU and US pressure on Belgrade to de-escalate the Ganić issue and additional Turkish engagement

<sup>48</sup> <http://www.sarajevo-x.com/bih/politika/clanak/100518044>

<sup>49</sup> <http://www.sarajevo-x.com/bih/politika/izbori2010/clanak/100516045>

<sup>50</sup> Ivana Howard, "Asleep at the wheel," *Transitions Online*, February 25, 2010 – available at <http://www.reliefweb.int/rw/rwb.nsf/db900SID/ASHU-82ZSY6?OpenDocument&RSS20=02-P>

<sup>51</sup> Based on the rotation principle of nominating ambassadors by the 3-member Bosnian state presidency.

<sup>52</sup> See Roy Gutman, "Bosnian ex-official could face Serbian trial in 1992 killings," *McClatchy Newspapers*, April 13, 2010. <http://www.mcclatchydc.com/2010/04/13/92099/bosnian-ex-official-could-face.html>  
[http://www.dnevnik.ba/index.php?option=com\\_content&view=article&id=5682%3Akuzmanovi-srpski-predstavnici-se-zasad-nee-povui-iz-bh-institucija&Itemid=646](http://www.dnevnik.ba/index.php?option=com_content&view=article&id=5682%3Akuzmanovi-srpski-predstavnici-se-zasad-nee-povui-iz-bh-institucija&Itemid=646)

to solve the accreditation conflict.<sup>53</sup> Belgrade seems chastened by these recent experiences, agreeing to improve its relationship with Bosnian state authorities, while asking the West to be left out of intra-Bosnian travails.<sup>54</sup>

Croatia, too, has been drawn back into more intensive dealings with Bosnia, both by the unfolding political crisis across its border and by international demand. Yet the reactions of its officials illustrate a significant difference with Serbia. Croatia's newly elected president, Ivo Josipović, paid one of his first foreign trips to Bosnia in April. His speech in the Bosnian Parliament and his visit of the site of an infamous massacre of Bosniaks in central Bosnia, Ahmići, as well as Križanovićevo Selo, where numerous Croat civilians were killed,<sup>55</sup> marked the most pronounced distancing of any Croatian official from Croatia's wartime role in Bosnia to date. The subsequent public dispute between him and Prime Minister Jadranka Kosor, who criticized the president's symbolic gestures, demonstrated that there is a substantial struggle going on among the political elites in Croatia about cutting the remaining ties with former president Franjo Tuđman's expansionist policy towards Bosnia.<sup>56</sup> That heritage consists mainly of the dual citizenship of the Bosnian Croats and the right to vote a number of "diaspora" MPs in Croatia's Sabor (parliament) that has secured the ruling HDZ's narrow edge over the opposition, as it has most of the years since this provision's introduction in 1995.<sup>57</sup> It remains one of the key external factors undermining Bosnia's sovereignty and deterring Bosnian Croats from playing a more active role in developing the Bosnian society and state. The prospect of completing accession talk with the EU prompted Croatia's government and opposition to negotiate a constitutional amendment that will allow for a referendum on EU membership. An agreement reached on May 22 contains a compromise to dramatically reduce the number of diaspora MPs in the Sabor from 12 to 3.<sup>58</sup> This seems to represent a historical break with the recent past that is designed both to end Zagreb's direct interference with Bosnian (Croats') affairs and the Bosnian Croat political elites' playing on having a reserve homeland.<sup>59</sup>

### ***Popular Fears and Potential for Violence***

While the EU and the US have had to acknowledge the continuing deterioration of the political situation in the country since 2009, they repeatedly characterize the security situation as stable.<sup>60</sup> Meanwhile, the EU has twice extended EUFOR's mission for an additional year under a Chapter VII mandate from the UN Security Council to ensure international peace and security. The current mandate extends to November. However, this mandate has not dissuaded a number of member states to unilaterally withdraw their contingents, with a number of others intending to do so after the elections. These countries argue that EUFOR's military mission as defined in Annex 1A of the Dayton Agreement has been completed, that there is no security threat, and that the force is being maintained for political and psychological reasons. For most EU members, "transition" would mean

<sup>53</sup> See "Bosnia, Serbia Agree to Work on Improving Troubled Relations," *Balkan Insight*, April 26, 2010

<http://www.balkaninsight.com/en/main/news/27603/>

<sup>54</sup> Serbia's Deputy PM Božidar Đelić during a recent tour through European capitals said: "Don't demand something we can not take on us like controlling one side in Bosnia"

<sup>55</sup> Sabina Arslanagić, "Josipović Gesture Boosts Hope of Reconciliation," *Balkan Insight*, April 15, 2010.

<http://www.balkaninsight.com/en/main/news/27379/>

<sup>56</sup> <http://www.sarajevo-x.com/svijet/regija/clanak/100418003>

<sup>57</sup> <http://www.boell.hr/web/index-279.html>

<sup>58</sup> <http://www.vecernji.hr/vijesti/dogovorili-se-milanovic-kosor-dijaspori-fiksno-tri-zastupnika-clanak-144401>

<sup>59</sup> <http://www.hercegbosna.org/kolumne/politika/posljedice-dogovora-kosor-milanovic-1133.html>;

[http://www.poskok.info/index.php?option=com\\_content&view=article&id=22076:ljubi-nas-qprosvjetljujeq-qsporazum-milanovi-kosor-nije-usmjeren-protiv-hrvata-van-hrvatskeq&catid=89:bh-lonac&Itemid=401](http://www.poskok.info/index.php?option=com_content&view=article&id=22076:ljubi-nas-qprosvjetljujeq-qsporazum-milanovi-kosor-nije-usmjeren-protiv-hrvata-van-hrvatskeq&catid=89:bh-lonac&Itemid=401)

<sup>60</sup> [www.eda.europa.eu/WebUtils/downloadfile.aspx?fileid=800](http://www.eda.europa.eu/WebUtils/downloadfile.aspx?fileid=800); <http://www.sarajevo-x.com/bih/politika/clanak/091106017/>; <http://www.sarajevo-x.com/svijet/clanak/091120110>;

see also recent testimony of Philip Gordon, US Assistant Secretary of State for Southeastern Europe, and Alexander Vershbow, Assistant Secretary of Defense for International Security Affairs, Senate Foreign Relations Committee Subcommittee on Europe, April 14, 2010 <http://foreign.senate.gov/hearings/hearing/20100414/>

movement toward a far smaller non-executive training mission.<sup>61</sup> Most Western governments appear to believe that the lack of organized ethnic violence since Dayton means what has not happened cannot happen: that the deteriorating political relations and rising ethnic tensions in the country will stop short of spilling over into ethnic violence. But the reason may be that up until recently, the international deterrent was sufficient to forestall such an eventuality. That deterrent has been denuded and may soon be withdrawn altogether. Even those countries evincing greater caution as to the elimination of a Chapter VII mandate (thereby obviating the need for new Security Council resolutions to militarily intervene in extremis) moot the idea of this capability being based solely “over the horizon,” out of theater.<sup>62</sup>

As confrontational political dynamics have slipped out of control of ethnic political elites, a return to collective violence in the election year 2010 simply cannot be excluded. There need not be a political decision to pull the trigger. A violent clash that occurred in early October 2009 in the Western Herzegovinian Croat stronghold of Široki Brijeg between local Croat inhabitants and Bosniak supporters of a Sarajevo soccer club left one person dead. While this incident did not escalate beyond the municipality, it provides an example of the type of spark that could set off wider problems. Although international assistance has resulted in substantial professionalization of Bosnian security forces, the poor performance of the police in this incident is worrisome. The police still cannot be fully relied upon to handle such disturbances, and it is unclear that police would refrain from taking sides in incidents of ethnic violence.<sup>63</sup> Rising socio-economic tensions and anger over the fall-out from the global economic crisis are contributing to an explosive mixture. The current environment is creating growing fear and insecurity among Bosnian citizens. Given that it was fear, not ethnic hatred that constituted the popular basis for the conflicts of the 1990s, this is worrisome indeed.

On May 3, Dodik’s government organized a commemoration of the so-called Dobrovoljačka ulica incident<sup>64</sup> by Serb victims of the Bosnian war in the city center of Sarajevo. It was the latest in a series of provocative acts to promote the RS version of the war narrative. Despite widespread fear of violence, the event passed without clashes. It did, however, prompt a travel warning to US citizens by the American embassy in Sarajevo.<sup>65</sup> This warning, following a violent assault on the Federation Government’s offices in downtown Sarajevo (and adjacent to the US Embassy) contradicted the official view that violence was unlikely. Its potential is now clearly recognized, but not yet acknowledged in international policy. To the contrary, the EU and US have not only been unsuccessful in arresting the current crisis, but are actually contributing to a dangerous rules-free political environment.

#### IV. What now?

Since the international community began paying renewed attention to Bosnia at senior levels, its approach has lurched between attempts to gain a quick deliverable that can be displayed as a totem of success (the so-called “Prud process,” the “Butmir process,” and most recently the furtive soundings for a “Madrid Declaration”) and passivity.

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<sup>61</sup> <http://www.consilium.europa.eu/showPage.aspx?id=745&lang=EN>

<sup>62</sup> DPC discussions with EU member state diplomats, April and May 2010.

<sup>63</sup> DPC interview with Bosnia-based international security officials, January 2010.

<sup>64</sup> The incident, early in the war, centers around a Yugoslav People’s Army convoy that was traveling supposedly under safe passage through the city. A firefight involving Bosnian irregulars, the early elements of the state army, and the JNA troops ensued, leading to a still-disputed number of casualties. Many in Serbia and the RS assert the incident was a war crime. Alleged command responsibility for the incident is the basis for Belgrade’s extradition request for Ejup Ganić.

<sup>65</sup> <https://www.osac.gov/Reports/report.cfm?contentID=116922>



The term “constitutional reform” has become an empty shell. It pays to remember what the point of the exercise should be – not to change article X or clause Y, but to arrive at a popularly legitimate system with substantially new incentives for political actors that allow Bosnia to function without external intervention. Bosnia would cease to be an anomaly in terms of Euro-Atlantic integration were it a functional state; attaining this, rather than focusing on EU milestones, is the priority. This certainly isn’t in the cards in this election year.

But the EU, US and others can still exert positive influence in Bosnia this year. The current spectrum of possibilities for Bosnia, for good or ill, is at its widest since the Dayton Agreement was signed nearly 15 years ago. If current trends continue, the future looks grim and increasingly dangerous. But the international community has the capability to change the context in which Bosnians will vote in October, the results of which will be among the decisive factors in the determining the country’s future.

### ***Pre-Election Stabilization***

Bosnians have become more uncertain about their futures over the course of the past three to four years, despite high-visibility, but vacuous, EU boosterism for Bosnia’s European path. The reasons for this perception of uncertainty and insecurity stem largely from a lack of clarity in the positions of the international guarantors of the Dayton Agreement, and clear perceptions that previously established limits on radicalization have been lifted. A reassertion of these limits would not itself solve the fundamental problems in the functionality of Dayton Bosnia or its popular legitimacy. But it would make it far more likely that voters will vote out of conviction (including rejection and disgust) about the relative merits of the options on the political menu, rather than out of fear, thereby making progress more feasible.

The international community is suffering a deterrence failure. Mere statements of what is not acceptable will not suffice to re-establish credibility – Bosnians will need to see a demonstration of seriousness and resolve for their perceptions to change.

Since “transition” entered the international lexicon, “constitutional reform” has come to mean minor tweaks rather than wholesale reform of the governing system’s incentives. This has left Bosnians with a clear understanding that the transition will leave the basic Dayton structures in place, but without its enforcement mechanisms. RS Prime Minister Milorad Dodik, whose successful nationalist/populist persona is a direct product of the Dayton incentive system, has eagerly latched onto this concept of Dayton *a la carte*.

This illogical concept must be repudiated. The 5+2 objectives and criteria made sense as a brake to prevent a time-driven effort to close OHR; it never had the internal logic of addressing why the OHR was still required. Flawed as it is, the Dayton order must remain in place until there is sufficient domestic will to fundamentally change it. So too the OHR and EUFOR with their executive authorities should remain and be used as necessary until that point. There should be no artificial expiration date on Dayton.

The largest hurdle to adopting such a position is that doing so would constitute a clear turnaround in policy, abandoning the cult of transition for its own sake and its supporting shibboleth that Bosnia cannot move further toward EU integration until OHR is closed. But its adoption would put the effort to reform Bosnia’s governance in a logical, results-driven framework for the first time.

It would also provide the platform for messages that each self-defined group in Bosnia needs to hear – and believe. Bosniaks require reassurance that the state will not be allowed to be sundered. Serbs must know that while constitutional reform is necessary for Bosnia to join the EU, they as voters will need to consent to any changes of the Dayton order. Croats need reassurance that more than minor changes to the constitutional order will be needed to eliminate the enforcement tools of the current system. And all those who do not identify with these three constituent peoples must understand that their not being full and equal citizens in every respect is

unacceptable – a judgment the European Court of Human Rights rendered in December 2009.<sup>66</sup> Underscoring renewed and open-ended international commitment to stability, a safe and secure environment, and consensual reforms would maximize voters' sense that they have a true choice at the polling booth in October, and increase the likelihood that they vote against the purveyors of fear.

### ***Voter Information***

The European Union in Bosnia is planning a concerted communications strategy in advance of the election in an effort to increase voter turnout, inform voters about the benefits of European integration, and get them to “vote for Europe.”<sup>67</sup> How a communications strategy can succeed without an overall EU political strategy for Bosnia remains to be seen. But even so, it seems that the EU plans to eschew the most compelling messages it could convey to the Bosnian public and electorate: the potential benefits of the steps that can be taken toward the EU in the immediate term and actual costs of not having done so. Citizens have no illusions that EU membership is likely in the near future. But Turkey, which faces the greater hurdle of large EU members being opposed to its entry on principle, has made the case to its citizens that its reforms toward the end of membership are good for them in the here and now, whether Turkey is ultimately admitted or not – and can point to compelling evidence to prove it.<sup>68</sup> Nothing would capture public attention, and build the EU's credibility as an actor in the public interest in Bosnia, more than spelling out in Euros and cents to the average citizen the opportunity cost of not having met EU conditions thus far, and how soon these could be realized with the manifest political will of the next government. Simply connecting the policies with the benefits and costs, sector by sector, chapter by chapter, should not present too much of a burden – the Commission should have the data readily at hand. No parties would emerge unscathed from this litany of ugly truths. Agriculture, where Bosnia remains excluded from the EU market due to its politicians' choices, especially in the RS, would be an obvious place to start.

### ***Post-Election: Strategy Shift Required***

DPC has previously noted that the imperatives of peace implementation and enforcement (OHR's role) often clash with those of EU integration (that of the EUSR),<sup>69</sup> and this remains the case. But “decoupling,” as the concept of separating these roles has become known, means different things to different people. To some countries, decoupling would still amount to the *de facto* elimination of the High Representative and his powers by keeping them under lock and key in Brussels. This would defeat the purpose of the separation – to allow the High Representative to fully exercise his responsibilities as final authority in Bosnia on the Dayton Agreement. With the policy turnaround outlined above of recognizing that Dayton enforcement must remain so long as Dayton remains the law of the land, this role would be pivotal, and therefore must remain *in situ*.

While this would radically change the political calculus of Bosnian political actors, who could no longer bank on international impatience to pursue their radical agendas unchecked, it hardly offers a sustainable solution. Following the elections, a substantially different effort to achieve constitutional reform will be required. The citizens must be engaged to ensure that their newly elected parliamentarians, who will have to vote on the issue, vote in their interest, not just party interests. The EU, US, and other international actors will need to play a role in facilitating this process, which should arrive at a system that a majority of citizens of each self-defined group

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<sup>66</sup> The European Court of Human Rights' judgment in the *Sejdic and Finci* case in December 2009 has now made changing the Bosnian constitution and election law to allow equal opportunity to “others” an obligation.

[http://www.coe.org.rs/eng/news\\_sr\\_eng/?conid=1545](http://www.coe.org.rs/eng/news_sr_eng/?conid=1545)

<sup>67</sup> EU Communications Strategy Paper, Annex II, April 2010 – obtained by DPC.

<sup>68</sup> Turkish Prime Minister Recep Tayyip Erdoğan made this point in his speech at the Bosniak Institute on April 5, 2010, and his host, SDP leader Zlatko Lagumdžija, noted the major expansion in the size of the Turkish economy since his guest's party took the reins of government.

<sup>69</sup> Kurt Bassuener, “It is time for a Plan B for Bosnia,” *European Voice*, October 22, 2009 -

<http://www.europeanvoice.com/article/imported/it-is-time-for-a-plan-b-for-bosnia/66200.aspx>

believes can serve them and protect their interests. This will take time, but it is the only path to a functional and durable result. There is no time to lose, once a government is formed.

***International Realignment Needed***

While a broad agreement among the Western PIC members is essential in order to achieve these policy shifts, the roles of the US and Germany are pivotal.

The US is by far the most likely catalyst in the PIC for a policy turnaround. This is unlikely to occur without a concerted American effort to develop support within the EU and the PIC for a different strategy, through appointment of a Presidential special envoy who would have the full-time job of corralling this coalition together. It is not difficult to envision which countries such a group could include: one consisting of the US, EU members Britain and the Netherlands, and non-EU PIC members Turkey, Canada, and Japan could be easily assembled. Non-PIC members Norway and Switzerland could also comfortably align with such a grouping.

But even after the British election and a potential amplification of London's efforts on Bosnia, Germany is the *sine qua non* for aligning critical mass behind a new transatlantic strategy to achieve Bosnia's self-sustaining functionality. Bringing Berlin on side will be harder now than it would have been before Butmir, but is no less essential. A US special envoy, if appointed, should make a first stop in Berlin.