

How to stop Bosnia and Herzegovina from further deteriorating? Time for a new transatlantic initiative

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Executive Summary

On May 20th, 2010, the Heinrich-Böll-Foundation and the Democratization Policy Council organized a policy roundtable in Berlin: "How to stop Bosnia and Herzegovina from further deteriorating? Time for a new transatlantic initiative". The expert meeting brought together policy makers and analysts from Europe and America, including representatives from international organizations in Bosnia, with their counterparts from Germany.

The aim of this meeting was to determine what international strategy - particularly that of the Peace Implementation Council's Steering Board - could best confront the downward spiral in the country's political climate and backsliding on reform, and to develop concrete policy recommendations. Special focus was given to the role of transatlantic relations.

A majority of participants agreed that there is a serious ongoing political crisis in Bosnia-Herzegovina, resulting primarily from the international community's lack of strategy and paying insufficient attention to the country since 2006.

Many asserted that the international community's stated aim to "transition" away from its own executive peace implementing institutions in Bosnia, the Office of the High Representative (OHR), and its military counterpart, EUFOR, toward a non-executive "reinforced EUSR" has become an end in itself rather than a means to an end, and that their weakening has reduced international leverage within Bosnia. At the same time, the European Union is struggling to apply its standard integration approach to a country and region where it meets a substantially different reality from previous waves of enlargement. A serious analytical assessment as to whether peace in Bosnia is self-sustaining should be a prerequisite toward changing the international architecture on the ground, a number of participants argued.

Numerous participants expressed concern that Western government representatives have repeatedly demonstrated weakness in addressing Republika Srpska (RS) Prime Minister Milorad Dodik, his divisive nationalist rhetoric, secession threats, and challenging of the authority of international institutions in Bosnia. Many also noted that while the default assumption is that Dodik is invincible in RS politics, policymakers ignore signs of his power base eroding.

On the security situation a larger number of those assembled countered the notion dominant among international actors of the country being stable and drew attention to the existence of a huge grey area between full-fledged war and no violence. The discussion identified a large number of security threats, among others the rise in hate speech and a substantial rise of fear among citizens. Participants warned that due to the international community's ignorant stance no reliable information on the security situation are available today.

Regarding the security situation, a large number of those assembled rebuffed the dominant international assessment that the country's security situation is stable, drawing attention to the huge grey area between full-fledged war a la 1992-1995 and a lack of violence. The discussion identified a considerable number of security threats, including, a number of violent and contentious interethnic incidents, rise in hate speech, and a consequent rise of fear

among citizens – a condition which some fear makes further violent incidents more likely. Participants warned that due to the international community's willful ignorance (manifest in such decisions as to cease routine EUFOR patrols), there is little reliable information on the security situation in its totality.

Concerning the future policies of the EU and US in Bosnia, numerous participants insisted that while upcoming elections in October leave little space for substantial democratic reforms, international actors can still affect the dynamic to allow for future progress. Reducing the level of ambient uncertainty and fear among citizens prior to the elections through sending strong messages to citizens and elites alike, as well as identifying those politicians blocking reform and EU integration and the costs their policies incur were among the suggested possibilities.

In more general terms, strong EU-US leadership and cooperation toward the strategic goal of Bosnia's ability to be self-sustaining was considered essential by many participants, as was the need to engage other international players like Russia from a position of unity. The essential nature of US engagement and of Germany in forging an EU consensus was noted by several participants.

The idea of "decoupling" OHR and EUSR generated heated debate among participants, and it clearly has a number of competing interpretations. One participant voiced concern of having "two captains on one boat," while others raised concerns that such a division of functions could precipitate greater transatlantic friction. The conflict between a peace enforcement role, aimed at defending Dayton and post-Dayton reforms, and an EU integration role, which will require changes to the Dayton construct, was also raised. No consensus was reached, but a widely expressed view was that changes should be undertaken without due consideration to preventing further deterioration in the situation. Most viewed "big bang" solutions as unlikely, and expressed the view that the international commitment to Bosnia would need to remain for the long-term, with an aim of fostering a durable and organic system.

Most speakers stated that substantial constitutional and governance reform had to be the central focus of international policy in Bosnia, and that the EU must play a key role in this long-term process. Several participants insisted the international community must facilitate the reform process in such a way that citizens of Bosnia-Herzegovina are engaged in devising a solution that could serve their needs and interests. Others noted positive experience with the municipal level of governance, and reform of the current state structure should take the needs of local government into account.

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Introduction

On May 20th, 2010, the Heinrich-Böll-Foundation and the Democratization Policy Council organized a policy roundtable in Berlin: "How to stop Bosnia and Herzegovina from further deteriorating? Time for a new transatlantic initiative". This event represented the third in a series of roundtables on the international community's policy towards Bosnia that the Democratization Policy Council had initiated or co-organized since spring 2009. The aim of this meeting as with the previous two meetings -in Washington, DC at the US Institute of Peace in April 2009 and in The Hague with the Clingendael Institute in October 2009 - was to promote international coherence in approach toward Bosnia, to determine what international strategy could best confront the downward spiral in the country's political climate and backsliding on reform, and to develop concrete policy recommendations.

The upcoming general elections in BiH in October 2010 set the frame for these strategic discussions. Due to the re-entrance of the US into the game in 2009 (with the May 2009 visit of Vice President Joe Biden) and the lack of concrete results of joint EU-US efforts such as the "Butmir process," special focus was given to the role of transatlantic relations. The venue of the roundtable was purposefully chosen: The organizers believe that Germany, due to its weight and position within the European Union, must play a central role in getting the EU on a course that will return Bosnia to progress. To this end, the roundtable in Berlin brought policy makers and analysts from Europe, North America and Japan, including representatives from international organizations in Bosnia, together with their counterparts from Germany. Because of the specific focus on international strategy, only international actors were invited to take part in the meeting, a deliberate choice of the organizers, deriving from the necessity to address the lack of an effective, joint international strategy to confront the Bosnian political crisis. The meeting, in open roundtable format, was held under Chatham House rules.

Within those confines, this paper will summarize the proceedings, which consisted of two discussions: one on the current situation in Bosnia-Herzegovina and one on the future joint EU-US strategy for Bosnia.

I. The political crisis in Bosnia and how we got there

How did we get where we are? The roots of the current crisis

The discussion started with a short retrospection by one of the participants on the origins of the current crises. The following section reflects his presentation.

The deep political crisis in Bosnia that made its way to the international media in 2009 provokes questions like: hasn't there anything changed since 2000? Such questions, he noted, show that the crisis is primarily the result of the international community having tuned-out.

He reminded those assembled that until 2005 many important reforms (defense reform, intelligence services reform, introduction of the Value Added Tax etc.) were realized in spite of the Dayton constitution and governments composed of nationalist parties, and were not imposed. Police reform – a requirement for initialing an SAA – seemed to be moving forward following a deal in October 2005 between then-RS President Dragan Čavić and outgoing High Representative Paddy Ashdown, though the important details had yet to be agreed. The resulting mood among the international community was very optimistic. The first signs of trouble emerged in early 2006. Following an agreement among political leaders in

Washington at the 10th Anniversary of Dayton to pursue constitutional reform was disavowed by Party for BiH (SBiH) Haris Silajdžić, presaging the later failure of the “April package.” Milorad Dodik, head of the RS-based League of Independent Social Democrats (SNSD), became Prime Minister of the Republika Srpska (RS), and among his first acts was to reduce RS participation in police reform discussions to mere observers. The process ground to a halt. Following Montenegro’s successful independence referendum in May 2006, Dodik began mooted the idea of RS secession. Even so, two months after the failure of the April package and four months prior to general elections, the Peace Implementation Council’s Steering Board agreed in June 2006 that the OHR should close within one year. The referendum theme became dominant in the campaign, though Dodik assured then-High Representative Christian Schwarz-Schilling that it was “only tactical.” At the end of the year, High Representative Schwarz-Schilling’s told the PIC that he thought he needed to remove Milorad Dodik from office; key countries rejected this, citing the upcoming Kosovo status issue. In January 2007, HR Schwarz-Schilling learned he was not to be renewed as High Representative/EUSR. The following month, the PIC assessed that the situation required the extension of the OHR’s role into the following year, subject to review. Police reform ground to a definitive halt as well in March 2007 with the rejection of a one-time only offer from Dodik that would have been compliant with all three EU principles by Silajdžić. He recounted that instead of pressing Silajdžić to take the deal, international diplomats dithered and the opportunity was lost.

Overall, this period reflected the EU’s lack of resolve, both to back the OHR and its own conditionality on police reform, as well as displaying unwillingness to take on more than one contentious issue at a time in the Western Balkans, the birthplace of the Common Foreign and Security Policy.

Schwarz-Schilling’s successor as High Representative, Slovak diplomat Miroslav Lajčák, also pursued police reform without success. He decided that absent a police reform deal (which the EU Council Secretariat had signaled its baseline was very low), he would move ahead with Dayton fundamentals. One target was to adjust the quorum on the Council of Ministers and the rules of procedure, to prevent absenteeism from stifling government business. The Republika Srpska vehemently objected. Focused on Kosovo, Brussels instructed Lajčák to stick with his decision on the Council of Ministers, but to hold off on the rules of procedure. Lajčák then began to negotiate with RS authorities over decisions he had already taken; the discussions over a so-called “authentic interpretation.” This further diminished the High Representative’s leverage. But this failure also precipitated the signing of the Stabilization and Association Agreement (SAA) between Bosnia-Herzegovina and the EU, watering-down police reform to a degree that the EU’s previous conditionality was abandoned. This was described as “faking progress;” several participants voiced their concurrence with this characterization.

Kosovo independence amplified cries from within the RS on the right to secede. The SNSD’s Declaration in 2008, according to this speaker’s recollection, read like Montenegro’s independence plan. This, and the “faked progress” of the SAA, set the tone for 2008. In February 2008, the PIC Steering Board reacted by shifting from the time-driven approach to one of benchmarks. The “5+2” objectives and conditions were a distillation of the OHR’s standing Mission Implementation Plan (by then folded into the “Workplan”) – deriving from Dayton, the Brčko Final Award, and other international obligations. Those remaining elements are to be pursued by a future EU presence without executive powers (implying a need for the Bonn Powers for the 5+2). Some items suggested for inclusion among the benchmarks – implementation of Annex 7 (on refugee return), implementation of the BiH Constitutional Court’s rulings on the rights of constituent peoples, and constitutional reform – did not make the cut. Dayton “has no sunset clause,” so it continues to pertain until the agreement is superseded – so in his view, these PIC SB decisions were political, without contending with the legal implications.

OHR, EU-integration and transition

The international community's institutional configuration in Bosnia was next on the agenda, and source of much contention among participants. Many of those assembled criticized a dominant and growing international position that its own peace implementation structure, the OHR, is the problem. According to the EU's Solana-Rehn document which is the clearest expression of the still-vague EU strategy, "transition remains the goal." One replied that he'd often heard among colleagues that "the OHR is part of the problem," and he concurred, as its intrusive presence reduced the will among Bosnian politicians to compromise. OHR's closure is only a sub-goal, while the PIC's strategy aims at creating a stable state. Another replied that the policy of the PIC towards the OHR over the past four years had turned into a self-fulfilling prophecy by weakening the OHR by impeding its use of authority, thereby encouraging domestic Bosnian challenges. Simultaneously, many asserted that the Bonn Powers are no longer potent, and that the OHR is too weak to act. Others countered that this was a reflection of lack of political will among PIC SB members rather than something intrinsic, and that the Bonn Powers were almost always employed as an act of last resort. It was added that neither the PIC nor the UN Security Council responded to several years of RS efforts to undermine OHR's authority to interpret and enforce Dayton.

One participant expressed the view that the double-hatting of OHR and EUSR (EU Special Representative) allowed the EU to blame the international community's lack of success in Bosnia on the OHR. How can the OHR be the sole problem, he asked, when a large part of its staff is also double-hatted? He pointed to the fact that the EU integration process has led to Brussels bypassing the PIC and directly influencing the OHR/EUSR, mostly to tell the High Representative not to use his Bonn Powers.

The policy of "transition" from the OHR to a so-called "reinforced EUSR" also generated heated debate. One participant noted that "transition" – closure of the OHR and abandoning its executive authority (as well as EUFOR's Chapter 7 mandate bestowed by the UN Security Council) has become the international community's goal, rather than being a means to ensure a durable, functional state, with another adding that this represents a dangerous inversion of aims and means by the EU. The nadir of this approach was seen following the failed Butmir talks at the November 2009 PIC Steering Board meeting, when RS Prime Minister Dodik told the member states' representatives that Swedish Foreign Minister Carl Bildt had told him at Butmir that acceptance of any symbolic constitutional reform would be sufficient to get the OHR closed,¹ he noted.

One participant noted that the issue has been further complicated with the Lisbon Treaty's entry into force this year. The treaty's unification of foreign policy and subsequent turf battles between the Council and Commission raises the question as to whether there will continue to be an EUSR for Bosnia-Herzegovina at all.

Many saw the main reason for the EU's struggling with Bosnia in its desire to adhere to a standardized enlargement formula developed for the integration of Eastern Europe. The assumptions inherent in the approach – most notably the will of local political elites to meet the standards – appear not to apply in Bosnia. Some remarked that in the Western Balkans more broadly the EU is faced with the challenge of countries which do not operate according to the political physics with which Brussels is accustomed.

¹ In October 2009 a joint EU-US effort was undertaken to negotiate an agreement with political leaders in Bosnia to meet reform conditions for Euro-Atlantic integration. The effort was co-chaired by Carl Bildt, the foreign minister of Sweden that at that time held the EU-presidency and US Deputy Secretary of State James Steinberg. Though never officially acknowledged, the effort failed after two rounds of talks. See: DPC Policy Brief by Kurt Bassuener/Bodo Weber, "Are we there yet?", pp.4-5, at <http://democratizationpolicy.org/2010/06/02/are-we-there-yet-new-dpc-policy-brief-on-bosnia/>

One participant concluded that much of the argument could be eliminated by an honest answer to the following question by Western policymakers: “Is peace in Bosnia self-sustaining? If the answer is ‘yes’ then close OHR immediately, as it’s superfluous. If it is ‘no,’ think of a new strategy.”

The PIC and beyond

The balance of power within the PIC SB and beyond was also generated strong discussion. Some asserted that no PIC member states are seriously dedicated to the development of a functioning Bosnia, save Turkey, for which the country’s crisis is consistently among their foreign policy priorities. Another noted that the PIC SB members of late that could be counted upon to insist on maintenance of international conditionality were Turkey, Canada, and sometimes Japan. In this perspective, the EU-US joint failure at Butmir produced a vacuum on Bosnia, into which Turkey and Russia stepped with more assertive policies. The role of Russia was hotly disputed. One participant stated that Russia’s role was essential, and that it had been more constructive over the last few months. Many others rejected this assessment with incredulity. Russia is not constructive, but playing an opportunistic spoiler role, facilitated by Western lack of unity, one participant remarked. Another added that it was the only non-Bosnian winner from the Butmir process (the Bosnian winner being RS Prime Minister Milorad Dodik), and has made the West “look like fools.”

The Western style of engagement with President Boris Tadić’s government in Belgrade also drew criticism, with some opining it was deferential to the point of indulgence. One participant posited that this approach was basically motivated by “asking Belgrade to do our job” – to moderate RS Prime Minister Dodik. He asserted that this was not only an abdication of responsibility by those sworn to uphold the Dayton Agreement as well as delivering scant results, but it was counterproductive as it helped destabilize Serbia.

International judges and prosecutors

Several participants referred back to the December 2009 decision of the PIC on the mandate of international judges and prosecutors working at the Court of Bosnia-Herzegovina,² stressing its negative consequences. One participant stated that in December 2009 there was no support among PIC member states for prolonging the mandate of the international judges and prosecutors working at the two court chambers for war crimes and organized crimes and corruption. Another countered that there had been consensus in September 2009 to extend the mandate of international personal on both chambers (“Plan A”), but that after the two rounds of Butmir-talks that consensus had atomized, with those countries engaged in Butmir giving it priority. Broad agreement could only be assembled for extending war crimes, not organized crime and corruption personnel (“Plan B”). The pivotal difference, one participant asserted, was the shift in the US position, which appeared motivated by a hope to resurrect the Butmir process and avoid confrontation with RS Prime Minister Dodik. With moderate diplomatic effort, the Western members of the PIC SB could have been aligned, leaving only Russia in opposition. Another added that even the September consensus had come too late for some important foreign staff, who sought alternative employment because of the uncertainty. Prosecutor Philip Alcock, the prosecutor who had worked on the so-called Dobrovoljačka ulica case, left in September 2009.³ His departure contributed to the

² For details on the PIC decision on the mandate of international judges and prosecutors see: Bassuener/Weber “Are we there yet”, pp. 5/6

³ The Dobrovoljačka ulica case involves the killing of a number of Yugoslav Army (JNA) soldiers in Sarajevo at the outset of the war. Serbia’s authorities accuse Ganić of being politically responsible for the killings. Investigation of the case at the Bosnian state court has been delayed by prosecutor Alcock’s departure. For more details 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>

complications in the case that eventually led to the escalation of tension between Bosnia and Serbia over the arrest of former Bosnian state presidency member Ejup Ganić in the UK at Serbia's request. Additional damage was inflicted on the work of the war crimes chamber by the late decision on the mandates. Some international prosecutors working on Srebrenica cases departed before the extension. In the organized crimes chamber, this participant continued, the departure of international personnel also affected cases involving potential Islamist terrorism, among them one with a nexus in Germany and Austria.

Dodik and the international community

The EU-US approach towards RS Prime Minister Milorad Dodik came up repeatedly in the day's discussion. Many perceived the international community as having demonstrated weakness in its reactions to Dodik's regular provocations against international policy in Bosnia. One participant expressed the view that PIC ambassadors in Sarajevo are engaged in a policy of appeasing Dodik.

Another stated that Dodik's rise to power was primarily the product of an international community's policy that has been based on two subsequent (mis-)perceptions of him as a politician. He was perceived as a democratic political alternative when the PIC shifted in 2005/06 from the extensive use of the Bonn Powers. His nationalistic rhetoric was widely perceived as purely instrumental, a tactic to be dropped after election. When Dodik continued with his divisive populism and provoking of international institutions in BiH following his election and assembly of a majority in the RS, this perception was replaced by another which regards Dodik as a rational, Macchiavellian political actor and the ultimate, unchallengeable political strongman in the RS. This perception is again useful, as it enables the EU and the US to stick to their current, unsuccessful policy. As a consequence, the dominant international perception is oblivious to the erosion of support for the Dodik-government ongoing in the RS, especially outside Banja Luka.

This view was supported by a participant who remarked that the political strength of Milorad Dodik does not primarily lie in his personal skills, but is primarily institutional, that is he is commanding the only de facto mono-ethnic territorial unit in Bosnia, with a strong structural advantage over the fragmented and dysfunctional Federation. He too noted that support for the SNSD is declining and that there is every possibility for political change in the RS. "So why is the international community engaging in an appeasement policy towards Dodik when he is only a temporary figure?" he asked. "Because the PIC member states want to find a way out of Bosnia." Another participant added that policy makers in Washington share the perception that Dodik is invincible. A recent poll on voter attitudes conducted by the National Democratic Institute rebuts that assumption.

The security situation

Whether there is potential for violence was first raised by a participant who pointed to the dominant view in PIC SB governments that the security situation in Bosnia is stable. This assessment was vehemently countered by many. One participant held the view that the international community is creating an illusion in pointing on the impossibility of a new war because "there is a huge grey area between full-fledged war and no violence." Another noted that there is a big danger in the international policy of denying the existence of a potential security risk, underlining his position by quoting a EU member diplomat who told him that the official view in most quarters could be summed up as "We already signed a Stabilization and Association Agreement with Bosnia, therefore it must be stable."

A number of potential security threats were raised. The RS threat to hold a referendum was seen by many as an almost certain spark for violence if initiated. One additionally stated that there is behind-the-scene support by some EU governments for the secession threats coming out of the Serb entity and warned that "it only takes one vote inside the EU to block action

against the RS moving towards independence.” Nobody present disputed this assertion. One participant stated that 100.000 organized war veterans in the Federation had threatened to take up arms in case of referendum. The veracity of the threat is unknown and could not be ascertained since the capabilities have not been investigated. Outgoing now-former Croatian President Mesic’s statement that he would order the Croatian Army into Posavina (NE Bosnia, along the Sava River) to sunder the RS in the event of action toward secession was not a mere statement by an ex-politician, according to one participant, but represents a broadly held state policy and was intended as a clear warning. A worrying rise in hate speech and a substantial rise of fear among B-H citizens were mentioned as indicators of threat. Unregulated private security firms also were raised as a potential conflict actor. Here it was noted that when the Brčko Supervisor banned Alpha Security from operating in Brčko, neither the PIC nor at that time EUFOR showed any interest.

Several participants criticized what they saw as the EU’s abdication of EUFOR’s deterrent role. Under former commander General Villalain closed operational bases outside Sarajevo in 2007 and stopped patrolling on demand of the commander’s national government. As a consequence, some European embassies started to report back to their ministries that EUFOR was idle, leading to the questioning of the need for EUFOR by many EU governments, eager to meet other commitments and for budget lines to cross-out. As a consequence, one participant concluded, current information on the security situation is sorely deficient. Several participants stressed the urgent need for a serious assessment of the security situation in Bosnia-Herzegovina to compensate for this willful blindness.

II. Towards a future EU-US strategy for Bosnia

The second discussion moved from analysis of the situation in Bosnia to what could be done to address it, both in the immediate and long-term.

Acting in an election year

One participant noted a general perception in the international community that nothing really can be done in this election year. Yet while important structural changes and substantial democratic reforms are unlikely this year, it does not follow that nothing can be done before the elections. As one of these measures, called for the international community to adopt and communicate policies to reduce or eliminate the fear factor, so as to maximize the positive potential in the elections – such as articulating the Dayton rules will remain until they are consensually replaced, that Bosnia’s territorial integrity is guaranteed, and that no violence will be allowed to occur by the international community. Absent fear, and without the same possibilities for patronage on the part of politicians as seen in 2006, voters would be more likely to vote in their own self-interest, rather than defensively. Such messages, added another participant should include that there will be no future border changes in the Western Balkans. A third noted that messages should be sent out on all levels of society, including the grassroots level. Another expressed the view that the international community should refrain from engaging in election engineering aimed at supporting individual political actors or parties, as it had earlier in the post-Dayton era.

The potential of the EU’s communications strategy in promoting an election outcome most likely to allow progress was asserted by several participants. The necessity for the EU to speak with one voice was highlighted by one participant. Another criticized the one with access to the EU’s communication strategy as vacuous, stating it could be reduced to one meta-message: “The EU is good for you, trust us.” Considering the self-inflicted loss of credibility with Bosnia’s citizens the EU has suffered over the last few years, this he deemed would convince no-one. The EU should rather spell-out in monetary figures what Bosnians have lost in potential funds and economic development as a result of the governments’ policies, issue by issue, sector by sector. In so doing, the EU would develop its credibility with

citizens, and dispel the view that the only partnership relationship was with political elites. Another participant asserted the campaign was doing this.

The future policy of the international community in BiH

While most participants seemed to see EU-US cooperation as essential, a number of participants asserted that such partnership should not be an end in itself. Other international actors, including Russia, Turkey, and other PIC members should also be involved in any strategy, many agreed. Russia's spoiler possibility was merely a function of Western disunity, one asserted. So long as it was cost-free, Russia could continue to use Bosnia as a convenient venue in which to remind the West it was still an international player that cannot be ignored.

Following the elections, the international community must be prepared to "hit the ground running" following the election results, one participant asserted. It must deter an RS referendum, and be ready to act decisively in case the RS government decides to pursue one.

Many participants raised the configuration of the international community on the ground. One expected that the PIC Steering Board will make substantial decisions at its first post-election meeting, including whether to close OHR or "de-couple" OHR and EUSR. Several in the room rejected the idea of de-coupling, though it was apparent that there were several competing concepts. The concept embraced by much of the Brussels machinery was characterized by one speaker as an effort to divest the EU of responsibility. One participant stated that the US is opposed because Washington perceives it as a way for the PIC EU member states to walk away from the OHR. Another held the view that splitting the institutions – "having two captains on one boat" – would create conflicts between EUSR and OHR. Some asserted that de-coupling could be positive, allowing a specialization in the EUSR's and OHR's differing roles, but as part of a coordinated strategy, not as a substitute for one.

A number of those assembled noted that there are big all-inclusive solutions, because "there are no bombs like in Dayton," as one participant put it. Another opined that there was a logical contradiction in the international approach. "One can make the case for pursuing evolutionary change in Bosnia. But this requires an open-ended commitment to the Dayton rules and enforcement mechanisms – and that Bosnians are convinced this will remain until they agree to change those rules. Absent the long-term commitment that allows for gradualism, more radical change is needed. Right now, the international approach is to pursue evolutionary change without long-term commitment. That's a contradiction – you can't do both."

As noted earlier, many in the room agreed that Bosnia's situation is not compatible with the standard EU integration approach. One participant opined that the EU thus has to decide whether to admit its current approach is not working and adjust to face the challenge or go on pretending and risk the further deepening of the crisis.

Another participant proposed that the international community pursue a policy of "real ownership:" letting deal with the negative consequences of their policy. PIC ambassadors pressured the Federation's ruling parties to make the unpleasant decisions they weren't ready to make on their own in the case of talks between the entity and the IMF, ⁴ the international community should leave the domestic political elites to decide on their own and face the negative socio-economic consequences of their obstructionist policy like social unrest. At the same time, he asserted, a deterrent EUFOR should be kept to prevent the ruling elites from

⁴ Talks between the IMF and the Federation government for financial assistance to prevent a budgetary crisis stalled in February 2010 because the ruling parties didn't want to take hard decisions required to meet the IMF's conditions, first and foremost the rationalization of the pension system for war veterans, who threatened with protests should their benefits be trimmed. The stalemate was only overcome after substantial pressure by PIC ambassadors on the coalition's party leaders.

turning social unrest into ethnic violence, while the OHR should be maintained solely to prevent moves towards undermining the state or its dissolution.

Constitutional reform

There was broad – but not universal – agreement that constitutional reform is a crucial necessity for Bosnia, and must be focal point of international policy. One participant questioned the international community’s right to engage in constitutional reform in principle. The majority rejected this view. “We earned a place at the table” to be engaged in efforts to reform the current Dayton constitution, one participant asserted, at Dayton.

The need for constitutional reform that changes the incentives in the system was stressed by one participant. Another mentioned that many internationals do not grasp the wide constitutional and legal implications of the European Court for Human Rights in the Sejdić-Finci ruling.⁵ Most participants seemed to agree that the EU will have a long-term role in constitutional reform, so it should develop a consistent policy on the issue, setting clear guidelines based on democratic principles for Bosnia’s EU membership.

In response to the wide critique of the RS’ role, one participant made the point that the Federation too generated problems, many related to its dysfunction. This met with broad agreement. Another participant pointed-out that the entities’ constitutions are not part of the DPA and can thus be changed without touching Dayton. Decisions of the BiH Constitutional Court remain unimplemented in both entities. The Federation is a long-term threat to BiH too, he continued, and therefore one alternative element of constitutional reform could be to re-structure the Federation.

Political elites have pursued constitutional reform without seeking meaningful popular input or consent. Many participants stated it will be crucial for the international community to find a way to moderate a constitutional reform process in which the citizens of Bosnia-Herzegovina have a voice. Without broad public buy-in, the system cannot work. The crucial question that remained open during the discussion was not if, but how to citizens’ views were integrated into the process, because as one participant stated, the current system militates against grassroots influence on politics.

Several of those assembled stressed the positive experience with the local governance, particularly since direct election of mayors, as a guideline for future constitutional reform. One participant held the view that the only level where substantial inter-ethnic cooperation exists is the municipal level. He noted Brčko District as an important positive example. There, he told, politicians are no better than in the rest of the country, yet constitutional reform undertaken in the context of the Brčko Arbitration “made them govern.” Another participant supported this view by adding that the local level is the only level where ethnic affiliation does not prevent citizens from demanding responsive governance, citizens’ participation and accountability.

⁵ See http://www.coe.org.rs/eng/news_sr_eng/?conid=1545.

III. Conclusions

While no consensus was reached, a number of conclusions representatives of majority opinion can be drawn on what policies the EU and US should pursue:

- There is a need for strong EU-US cooperation and leadership toward a strategic goal.
- The roles of other PIC members, such as Russia and Turkey, must also be taken into account, so as to avoid counterproductive disunity. However, Russia's ability to play "spoiler" is contingent on Western unity within the Peace Implementation Council Steering Board.
- To succeed, the EU must deviate from its standard enlargement playbook
- RS Prime Minister Milorad Dodik is not a permanent fixture; treating him as such bolsters his leverage
- Much is unknown about the security situation, and there are many reasons to doubt its stability. There is a need for a credible security risk assessment.
- The international community can act to some effect before the election, by adopting policies and messaging to reduce the level of ambient fear and uncertainty prior to the October elections. In addition, the EU can enumerate the financial costs to citizens of the policy choices of their government in the context of Bosnia's relationship with the Union.
- The international community must be prepared to "hit the ground running" after the elections, including responding effectively to challenges like move toward a referendum in the Republika Srpska.
- Constitutional and governance reform must be a focal point for international engagement in Bosnia until the country has a functioning system.