



CRS Report for Congress

Bosnia: Overview of Current Issues

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Summary

Over 11 years since the signing of the Dayton accords that ended the Bosnian war, Bosnia-Herzegovina continues to make gradual progress toward integration into Euro-Atlantic institutions. In December 2006, Bosnia formally joined NATO's Partnership for Peace (PfP) program. Bosnia is in talks with the European Union on finalizing a stabilization and association agreement, a first step toward eventual EU accession. Bosnia held nationwide elections on October 1; the results highlighted opposing ethnic positions and produced no clear consensus (and possibly greater divisiveness) on many key issues regarding Bosnia's foundations and future. Notably, a U.S.-backed package of major constitutional reforms to strengthen Bosnia's central state institutions narrowly failed in April 2006 to pass parliament and now appears to be largely on hold. Meanwhile, the international community plans to substantially reduce its presence and role in Bosnia in 2007. This report provides an overview of prominent current issues concerning Bosnia that may be of interest to Members of the 110th Congress.

Introduction and U.S. Policy

The Dayton peace agreement,¹ reached in November 1995 with U.S. leadership, ended a brutal three and one-half year ethnic and territorial conflict in Bosnia-Herzegovina that erupted after the dissolution of the state of Yugoslavia. The Dayton agreement outlined a common state of Bosnia and Herzegovina comprised of two entities, the Bosniak (Muslim)-Croat Federation and the Republika Srpska (RS), under the authority of an international representative and a NATO-led peacekeeping presence. Central Bosnian governmental institutions include a three-member presidency, Prime Minister and Council of Ministers, and bicameral state Parliament. Under Dayton, central governing powers were kept weak, with many governing functions remaining at the Federation and RS entity level, which have their own governments and parliaments.

¹ Full text of the Dayton accords can be found at [<http://www.oscebih.org>]. The constitution is in Annex 4. The accords were signed in Paris on December 14, 1995.

Below the entity level are cantons and municipalities in the Federation and municipalities only in the RS. At the international level, Dayton mandated an Office of the High Representative (OHR) to oversee international activities in Bosnia and bear authority to impose decisions and remove officials. As the security situation improved, NATO gradually reduced its presence in Bosnia and turned over peacekeeping duties to the European Union (EU) in December 2004.

Most observers agree that Dayton was a great achievement in that it ended the war and laid the foundation for consolidating peace. However, many observers also believe that the Dayton agreement, as a document derived from compromises and reflecting wartime circumstances, cannot by itself insure Bosnia's future as a functioning democratic state.² In particular, Bosnia's multi-layered and ethnically-defined governing structures have presented challenges to its efforts to integrate into the European Union and NATO. For years, political differences among Bosnia's leaders and vested interests in the status quo hindered efforts to strengthen Bosnia's central governing institutions and administrative capacity. In recent years, however, the pull of Euro-Atlantic integration appears to have fostered greater cooperation on this front.

Since early 2005, the Bush Administration has given renewed emphasis to addressing "unfinished business" in the western Balkan region in conjunction with European Union efforts. A major thrust of U.S. policy concerns addressing the unresolved status of Kosovo, a U.N.-run province of Serbia that seeks independence. The United States has also sought to bolster Bosnia's further development as a unified, democratic, and stable state on the path toward Euro-Atlantic integration with close U.S. ties. The Administration has supported Bosnia's Euro-Atlantic aspirations but has also encouraged Bosnia to consolidate its state structures and erase the major political divisions that Dayton accommodated.³ It expressed disappointment that Bosnia failed to pass landmark legislation on constitutional reform in April 2006 (see below). The 109th Congress has considered some legislation on Bosnia, and Members of the 110th Congress may remain interested in Bosnia's progress since Dayton, its path toward NATO membership and EU integration, as well as its record of cooperation on war crimes issues.

State Consolidation Efforts and 2006 Elections

As noted above, the Bush Administration and the EU have sought to promote further constitutional reform to improve the governing effectiveness of Bosnia's political institutions and overcome some of the dysfunctional aspects of the post-Dayton legacy. Among other things, a stronger Bosnian state could contribute to greater self-sufficiency in Bosnia's peaceful and democratic development, an improved ability to address pressing political and economic concerns including combating organized criminal and international terrorist activity, and improved prospects for Euro-Atlantic integration. In March 2005, the Council of Europe's Venice Commission concluded that Bosnia's current constitutional arrangements were neither efficient nor rational, and that state-level

² Lord Paddy Ashdown, the outgoing High Representative in Bosnia, called Dayton "a superb agreement to end a war, but a very bad agreement to make a state." "Farewell, Sarajevo," *The Guardian* (U.K.), Nov. 2, 2005.

³ See statement of Undersecretary of State for Political Affairs R. Nicholas Burns, Senate Committee on Foreign Relations, November 8, 2005.

institutions needed to become far more effective for Bosnia to move closer to EU integration.⁴

Several milestone political and economic reforms reached by Bosnia's state and entity institutions in recent years, often with extensive input from and pressure by the international community, gave greater impetus to the U.S. and EU constitutional reform initiative. For example, the Bosnian entities in late 2005 agreed to a package of EU-driven police reforms that was to give legislative and budgetary authority to central Bosnian institutions (although implementation of the package since has become problematic). Earlier in 2005, the Bosnian parties agreed to defense and security reforms that will eventually merge the formerly rival separate forces into an integrated army controlled by the central government.⁵ Further agreements on intelligence and information services, state prosecution offices and justice ministry, and border and customs services, among others, have steadily expanded central state competencies and institutions.

At a Washington meeting in November 2005 to commemorate the 10th anniversary of the Dayton accords, Bosnia's leaders signed a "Commitment to Pursue Constitutional Reform," a document in which the leadership pledged to embark on a process of constitutional reform to create stronger and more efficient democratic institutions. Such reforms were envisioned to include creating a single presidency instead of the current tripartite presidency, strengthening the Prime Minister's office, and strengthening the Bosnian parliament. Negotiations on a reform package continued through early 2006, with the intention to complete them in time for scheduled elections in October. In March 2006, seven Bosnian parties agreed to a package of constitutional reforms, and the Bosnian presidency likewise adopted it. Despite a broad political consensus, the measure failed in Bosnia's lower house of parliament on April 24, missing the required two-thirds majority by two votes. Some Bosnian Croat and opposition Muslim deputies opposed the bill. U.S. and other international officials publicly decried the outcome as a setback to the state consolidation process. After the vote, several parties reiterated their commitment to continue negotiations toward reaching a consensus on constitutional reforms, which many recognize to be essential for eventual integration with the European Union.

On October 1, Bosnia held elections for the three-member Bosnian presidency, the Bosnian parliamentary assembly, the parliaments of the two entities, the RS presidency, and the Federation's cantonal assembly. Overall turnout was 55% and the conduct and administration of the electoral process were generally praised.⁶ The election campaign featured heightened nationalist rhetoric among parties still largely representing distinct ethnic groups. The results have brought about some political realignments and changes in leadership at various levels of government (talks on forming governments are ongoing). While the hold on power of the wartime nationalist parties was weakened in the October vote, the relatively hardline positions of the nominally moderate victorious parties point to sharply conflicting views on the country's future and substantial difficulties in building

⁴ Text of the report can be found at [<http://www.venice.coe.int>].

⁵ See "Defense Reform Fact Sheet," NATO Headquarters Sarajevo, July 21, 2005, available at [<http://www.afsouth.nato.int>].

⁶ These were the first elections since Dayton to be administered entirely by Bosnian authorities.

national consensus across ethnic lines on key issues. For example, the Party for BiH, which led in the Federation, has called for the entity structure to be dismantled in favor of greater state centralization. On the other hand, the leader of Alliance of Independent Social Democrats in the RS has threatened to call for a referendum on independence for the RS. Consensus or even compromise in the areas of state consolidation may therefore prove elusive in this new political landscape.

Euro-Atlantic Integration

Along with the other western Balkan states, Bosnia and Herzegovina seeks eventual full membership in the European Union and NATO. Both institutions have committed to the region's full integration, once various conditions have been met. Until recently, Bosnia found itself more isolated from international organizations than most of its neighboring states.

European Union. At its June 2003 Thessaloniki summit, the EU committed to integrate all of the countries of the western Balkans and created new instruments to foster closer ties to the EU, including the Stabilization and Association Agreement (SAA), the first step toward eventual EU accession. The European Commission concluded a Feasibility Study for the SAA in late 2003 and outlined 16 priority tasks for Bosnia to achieve prior to opening SAA negotiations, mainly dealing with the capacity of state institutions. Delays in implementing reforms and limited RS cooperation on war crimes issues held up further progress for several months.

In 2005, the EU prioritized implementation of reforms in the defense and security sector, including reforms regarding the police, and public broadcasting. Transferring controls over the police from the entity level to the central government proved to be the most difficult obstacle to overcome, as RS leaders remained opposed to the loss of this vital institution and support structure. The RS Parliament repeatedly rejected EU proposals to unify and reorganize police structures across entity lines. In early October 2005, the EU and RS came to a compromise agreement that adhered to EU principles on state-level control over the police, but postponed decisions on a number of related disputed items. With these hurdles largely cleared, the EU approved the start of SAA negotiations, which officially opened on November 25, 2005, and continued intensively in 2006.

Some Bosnian and EU officials predicted that they could conclude the SAA negotiations by the end of 2006. However, some reform efforts, especially concerning police consolidation, stalled during the campaign period. A progress report by the European Commission in November 2006 cited slow progress in police reform implementation, public broadcasting reforms, and a continued lack of full cooperation with The Hague war crimes tribunal.⁷

NATO. For several years, Bosnia, along with Serbia and Montenegro, had been the only former Yugoslav state that had not yet joined NATO's Partnership for Peace (PfP) program. As noted above, Bosnia's government agreed to sweeping defense reforms in 2004 and 2005 to unify the armed forces structure and command and to create a

⁷ Full text of the progress report can be found at [<http://ec.europa.eu/enlargement>].

professional military. In July 2006, Bosnia's presidency decided to merge the armed forces into a unified Bosnian army by the end of 2007. With these achievements on transforming the armed forces, the only remaining hurdle to Bosnia's PfP aspirations had been the RS' still incomplete cooperation with The Hague war crimes tribunal, especially with regard to arresting fugitive war crimes suspects such as Radovan Karadzic. In a somewhat unexpected development, NATO leaders at the November 2006 Riga summit invited Bosnia, Serbia, and Montenegro to join PfP (without achieving full cooperation with the war crimes tribunal), which all three states did in December. A small, residual NATO presence in Sarajevo has provided the Bosnian government with advice and assistance on defense reform issues, and is also engaged in efforts to capture and detain remaining war criminals.

ICTY Cooperation⁸

Full cooperation with the International Criminal Tribunal for the former Yugoslavia has long been a major precondition for closer association with the EU and NATO. With regard to Bosnia, the ICTY Prosecutor has expressed satisfaction with the level of cooperation shown by the Bosnian Federation, but not the RS authorities. Until January 2005, RS authorities had not arrested a single indicted war crimes suspect. Several suspects have since been turned over to The Hague, especially by Serbia; however, Serbia's and the RS' levels of cooperation with ICTY have been judged to be insufficient, primarily because of their inability or unwillingness to locate and arrest former Bosnian Serb leaders Radovan Karadzic and General Ratko Mladic, both of whom have been thought to be located (at least intermittently) in Serbia and Montenegro or in the RS. While this status did not hold up the start of SAA talks with the EU for both Serbia and Bosnia, the EU suspended talks with Serbia in May 2006 and has stressed that much further progress toward EU integration cannot be expected while the top war crimes suspects remain fugitives. Similarly, the United States had long insisted on their capture before either state can join NATO's PfP program, but altered this policy at the November 2006 NATO summit in Riga, and agreed to PfP membership for Bosnia, Serbia, and Montenegro.

International Role

The international community has played a dominant role in postwar Bosnian affairs since 1995. The international community's role is currently in a state of transition, as responsibility for governance and security is being transferred to Bosnian authorities. In particular, the Office of the High Representative, which wielded extensive political authority for many years, is now slated to be closed by mid-2007, unless the international community reconsiders this decision in early 2007.

Office of the High Representative (OHR). Successive High Representatives have frequently exercised considerable executive power, under the so-called "Bonn powers" authority, to break through political stalemates, push difficult reforms forward,

⁸ For further information, see CRS Report RS22097, *Balkan Cooperation on War Crimes Issues*, by Julie Kim.

and even remove obstructionist leaders.⁹ The previous High Representative, Lord Paddy Ashdown, freely wielded his powers during his tenure, making binding decisions and taking action against or removing officials thought to support Radovan Karadzic. While an effective mechanism, the High Representative's office came under increasing criticism for allegedly stymieing the political development of Bosnia's leaders. Ashdown completed his term in January 2006 and was succeeded by German politician Christian Schwarz-Schilling, who has emphasized a "hands off" approach and the need for Bosnia's government to assume responsibility for most decisions.¹⁰ In addition, Schwarz-Schilling has reinstated several officials previously removed from office by Ashdown. As did Ashdown, Schwarz-Schilling simultaneously serves as EU Special Representative in Bosnia, a function expected to grow in prominence as Bosnia moves closer to the EU.

In June 2006, the Peace Implementation Council (PIC), which oversees the OHR, decided to "immediately begin preparations to close" (OHR) by June 30, 2007, in "the interest of all for Bosnia to take full responsibility for its own affairs."¹¹ The PIC agreed to review the situation in early 2007. In its place, but with a smaller presence and different mandate, the Office of the EU Special Representative is to be enhanced. It is not foreseen that the EUSR will maintain the Bonn powers. Should Bosnia continue to make progress toward eventual EU integration, some observers and officials believe that the EU accession process, with its comprehensive and stringent political, economic, and legal requirements, will provide its own impetus for sustainable reforms. Others are concerned that Bosnia's prospects for EU membership remain distant and may not provide sufficient incentive for competing political leaders, including those newly elected, to pursue reforms.

EUFOR/NATO Headquarters. At the end of 2004, NATO concluded its SFOR mission in Bosnia and turned over peacekeeping duties to a European Union military force, EUFOR, to ensure continued compliance with Dayton and contribute to a secure environment in Bosnia. EUFOR has a strength of about 6,000 troops. NATO maintains a small headquarters presence in Sarajevo that provides assistance to the Bosnian government and undertakes counter-terrorism and intelligence operations and missions to detain indicted war criminals.¹² On November 21, 2006, the U.N. Security Council extended the authorization for the EU and NATO presence in Bosnia for another year (S/Res/1722).

The EU also took over the U.N. police monitoring and advisory mission in 2003. The EU Police Mission (EUPM) in Bosnia currently comprises about 370 international police officers and its mandate runs through 2007.

⁹ At its December 1997 conference in Bonn, the Peace Implementation Council (PIC), the international oversight body for the OHR, extended the High Representative's mandate to include imposing laws and removing officials.

¹⁰ High Representative Schwarz-Schilling address before the Bosnian parliamentary assembly, May 24, 2006 [<http://www.ohr.int>].

¹¹ Communiqué by the PIC Steering Board, June 23, 2006, available at [<http://www.ohr.int>].

¹² For more information, see CRS Report RS21774, *Bosnia and the European Union Military Force (EUFOR): Post-NATO Peacekeeping*, by Julie Kim.