

Summary and Policy Recommendations

**Proceedings of the Round-Table organized at Clingendael by the
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“Hope is not a Plan”: In Search of a Western Strategy in Bosnia and Herzegovina

Authors: Kurt Bassuener, Marianne Rogier, Maja Nenadovic and Bodo Weber

Introduction

On October 1st, 2009, the Clingendael Institute and the Democratization Policy Council convened over 40 international policymakers (representing both governments and international organizations) and analysts from Europe and North America for an all-day policy roundtable: “The Future of International Involvement in Bosnia and Herzegovina: What is the Strategy?” The aim of the meeting was to promote international coherence in approach toward Bosnia and Herzegovina (BiH), 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. Because of this 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 felt necessity to address divisions among the international community.

The meeting, in open roundtable format, was held under Chatham House rule. Within those confines, this paper will summarize the proceedings, which consisted of four discussions: the Current Situation, Reforms to Achieve State Functionality, International Structure in Bosnia, and Where Do We Go from Here? In addition to a meeting summary, the authors will write a postscript, in light of both the differences exposed in sharp relief at the roundtable and the “Butmir process”, which was launched with an announcement on October 2nd, and taking into account the outcome of the PIC meeting of 18-19 November 2009¹. This postscript will be written in the own name of the authors, and opinions expressed will represent their views only.

Unfortunately, while consensus was possible on some points, the gulf in perceptions and prescriptions remained as wide at the end of the meeting as at the beginning. This divide was not a simple transatlantic divide; there were pronounced differences among European participants – officials and non-governmental actors included.

¹ A number of would-be participants who had RSVP’d for the roundtable had to back-out for consultations in Brussels to develop the Butmir “package.”

1. The Current Situation

This introductory discussion was to address a number of questions:

- Discussion of the Peace Implementation Council (PIC) conclusions of June 30
- How serious is the situation in Bosnia? What about public security?
- What are the main challenges to be tackled immediately?
- How to interpret 5 + 2²
- EU and NATO accession processes – status of related reforms?
- What is the regional dynamic? Serbia and Croatia? The Russia factor?

The situation was seen by a great many of those assembled as serious and worsening, with reference to the dispute over Elektroprenos³ and the general defiance of the Republika Srpska (RS) government to the High Representative and Brčko Supervisor, as well as radicalization in Bosniak politics. The potential threat of attempts to dissolve the state were raised by a number of participants, with particular concern around private security firms and veterans organizations' activity, which while small, could have a significant impact. The sense of fear and uncertainty among citizens was noted as being driven from the top-down, and it was underlined and approved by many participants that money and control of the economy were the main drivers for political instability. For some actors, it might also be that escaping justice was a strong drive for obstruction. The view was widely held that the current political leaders were motivated by political patronage opportunities, and operated without any accountability.

A general international fatigue with Bosnia seemed to be universally acknowledged. A number noted that the international reaction to the threats to peace, security, and the Dayton Accords, which OHR is meant to ensure, has been weak and irresolute. Some also made clear their frustration (many others concurred) with the international fixation on the question of “transition” (closing the Office of the High Representative and creating a “reinforced EU Special Representative (EUSR),” who would be double-hatted with the European Commission Head of Delegation) rather than the immediate ground realities of threats to the current Dayton order. Others expressed the view that it was essential to accomplish transition away from OHR this year, before the 2010 election campaign. The options presented were to “renew HR” or “go for transition.” According to this viewpoint,

² The PIC Steering Board decided in February 2008 to make meeting five technical objectives and two political conditions the hurdle for transition from OHR to a “reinforced” EUSR. These were drawn from OHR's Mission Implementation Plan. Not included in the 5+2, but considered at the time, were constitutional reform and full implementation of the BiH Constitutional Court's rulings on constituent peoples. For the list of the 5+2, see the PIC Communiqué from February 2008 at http://www.ohr.int/pic/default.asp?content_id=41352.

³ The RS Government has boycotted the Management Board of the state company for the transmission of electric power, Elektroprenos BiH (also known as TRANSCO), which has prevented an appointment of a new General Director. The serving General Director's term was set to expire on September 19; the High Representative issued a decision on September 18 to maintain him in his role as a caretaker until a new General Director is appointed. (see http://www.ohr.int/decisions/statemattersdec/default.asp?content_id=43975). This decision elicited an indignant response from the RS Government, which portrayed the decision as a usurpation of RS assets (see OHR's fact sheet at http://www.ohr.int/ohr-dept/presso/pressr/default.asp?content_id=44005). On November 6, there appeared to be a breakthrough on this issue: see <http://in.reuters.com/article/oilRpt/idINL651097620091106?sp=true>.

expressed by a number of participants, the use of the Bonn Powers “only triggered Dodik’s reaction,” so it was better to employ “EU leverage.” The perceived benefit of the latter option would be to prevent BiH from falling further behind its neighbours in the EU accession process. The rationale behind this perception was that the EU would not allow BiH to proceed further toward EU membership so long as OHR was present, as Bosnia’s sovereignty was seen as compromised. Some who held this view admitted either of the two options was dangerous, but the current approach had shown its limitations and it was time to change the approach.

Many in the room reacted to this viewpoint strongly, questioning the assumptions behind it, and asking what exactly the EU’s leverage in BiH would be after such a transition. These participants also cast doubt on the view that OHR stood in the way of Bosnia’s Euro-Atlantic aspirations.

The question of EUFOR, the EU military force with the mandate to ensure a safe and secure environment under Dayton, was also raised. Outside the confines of the roundtable, EU officials and several member state governments have expressed a desire to move to a non-executive mandate, abandoning the peace enforcement mandate granted by the UN Security Council.⁴ This was viewed by a large number of participants as dangerous. In the event of renewed violence, one participant stated that the BiH Armed Forces would likely fall apart, and that in any case they were legally not allowed to perform internal security tasks. Another participant said “we are perilously close to accidents” in the current political tension. Some others cast doubt on this view, noting that the political tension had not yet affected the on-the-ground security situation.⁵

The roles of regional actors and Russia were discussed. Few saw Croatian policy as a problem, though one noted that President Mesić had threatened to interfere in any RS independence effort, should it arise. Some expressed the view that Serbia and Russia should be called upon to deliver the message to RS Premier Milorad Dodik that nobody would recognize an independent RS, and that if it were to try to secede, it wouldn’t leave Bosnia and Herzegovina intact. There was also a sense that Dodik had already received such messages, as well as those confirming that the RS could remain in a functioning BiH state, from as high as US Vice President Joseph Biden. Russia was seen to be heavily invested in Dodik, as the US once was, and unwilling to see Bonn Powers employed against him, whatever the reason. Others noted that the best help Serbia and Croatia could give would be to stay out of Bosnia’s affairs.

⁴ Although conceding that “evolution of the ESDP operations should take into account the political developments”, top Commission officials emphasize “EUFOR-Althea should evolve in the direction of a nonexecutive operation.” Javier Solana and Olli Rehn, cover letter to *Joint Report – EU’s policy in Bosnia and Herzegovina: the way ahead*, letter and report to EU Foreign Ministers obtained by DPC, 31 October 2008 [hereinafter, *Joint Report*], p 5. This remains the position of the EU Presidency, institutions, and many (but not all) member states: DPC meetings with EU officials, Sarajevo, October and November 2009.

⁵ A few days after the roundtable, on October 4th, a Sarajevo football fan, 24-year-old Vedran Puljić, was shot and killed before a football match in Široki Brijeg, in Herzegovina. The incident amplified popular tensions considerably, in this case between Bosniaks and Croats. See ISN Security Watch, October 23 at <http://www.isn.ethz.ch/isn/Security-Watch/Detail/?lng=en&id=108850>

Participants expressed little disagreement over the assessment of the current situation, but rather over what to do about it. On that score, there were deep divisions, both transatlantic and intra-EU.

2. Reforms to Achieve State Functionality

This segment of the roundtable was intended to discuss the following topics:

- Why is constitutional / functional reform essential?
- Can the international community afford to remove the Dayton instruments before major constitutional reform is accomplished?
- What are the prospects for reform before the 2010 elections?
- What is the prospect for wider reforms that can change the fundamental political agenda?
- What can the EU's role be? The US? What are the incentives?

One participant noted that since BiH entered the Council of Europe seven years ago, Bosnia hadn't addressed any of its outstanding commitments to the Council. Reforms have been possible under the current system, but only with heavy external pressure. The current system is characterized by a straight power-sharing deal, not a democratic system. While constitutional reform is not technically a "condition" for EU and NATO membership, effectively, it is one – it must happen before entry. So the EU and NATO ought to make their conditionality very clear to all concerned in Bosnia, and stand by it. Others added that the EU accession process will not produce the different political structure BiH needs, so a wider external role is necessary in developing the content of the needed functional reform – but not to impose it – everybody agreed that this process had to be led by Bosnian citizens.

"Written constitutions are not static documents, they become outmoded...but they are hard to change," noted one speaker. His view was that the international community could provide ideas and frameworks based on best practices. But the process would be a long one, 2-4 years, and require a consistency in international engagement hitherto unseen. The Dayton constitutional arrangements would also have to be addressed.

Some participants expressed the view that the term "constitutional reform" had become hollowed-out of meaning. The point of the exercise was not to amend the constitution for technical reasons, but to produce a system that could function without an executive High Representative and self-propel itself toward EU and NATO membership.

A number of participants suggested that the EU and NATO put forward guidelines on what sort of constitutional order would make BiH a clubbable EU and NATO applicant. Responses to this included that the constitution should not be an international product (which nobody at the table suggested). Some also added that the EU couldn't require constitutional change, because it wasn't a part of the *acquis communautaire*.

One participant remarked on the lack of coherence in the international approach, with local actors taking advantage of divisions. This participant (with the audible concurrence of many

others) said that incentives were needed for citizens, not just for politicians. The benefits of moving toward the EU remained rather abstract for most Bosnians.

An idea presented that generated support among many other participants was the idea of an “international consultative group” to work with BiH politicians and the broader population on the question of constitutional and governance reform and come up with a set of guidelines for the process

The most important gap between the participants was however on the question about the potential removal of Dayton instruments before constitutional reform. Some participants echoed the importance of long-term commitment by the international community. If left to their own devices, one participant opined that local political leaders might ask “why not just carve up the country?” Others concurred that if BiH was to maintain its integrity, OHR would need to remain with a long timeline. If the international community is too distracted to do so, then there would be a need to “lower our ambitions and accept local solutions.” Nobody expressed the belief that state dissolution would be peaceful. One criticized the current approach by stating that “hope is not a plan.”

One opinion was that the High Representative was being restrained from using his executive “Bonn Powers” to ensure compliance with the Dayton Peace Agreement by the EU and many of its member states. This constituted, according to one participant “a breach in the firewall between the HR and EUSR” and a “new dual key,” through which not only the Peace Implementation Council (PIC) but also the EU had to agree to the use of Bonn Powers. All this added-up to a contradiction: the reports of the High Representative and media reports on the declining situation were very much out of sync with the policy approach. While 5 + 2 remains the PIC’s official policy, according to the EU, “transition remains the goal.” Many viewed retention of the Dayton instruments until substantial constitutional reform had not just been agreed, but implemented and seen to function.

On the other hand, other participants expressed the opinion that removing the OHR would indeed pave the way for changes to occur in Bosnia, since the OHR and its executive powers were perceived as the main obstacles for Bosnians to assume their responsibilities. In these participants’ view, the solution would be to exchange Bonn powers and OHR executive authority with EU incentives.

In response to a question from the chair as to what constituted EU leverage, one participant noted that the EU had received “huge results in the region” from EU leverage, and thought the reason BiH bucked that trend was because “Bosnians think they can live in a protectorate forever...They don’t have to take responsibility for their own affairs. We need to move from a protectorate to independence.” The example of success proffered in Bosnia’s case was visa liberalization, where the EC’s recommendation not to include BiH in the Schengen White List accelerated political activity to meet EC conditions.

On the subject of the October 2010 general elections, there were varying views on how much change might be possible as a result, and how the international community should deal with them. Some viewed the elections as an opportunity to force politicians to be more responsive to popular desires in the economic and accountability sphere. Others viewed the elections as unlikely to change the overall political landscape, and cautioned against letting

the electoral process drive the constitutional reform agenda. Many saw the media environment as perhaps the crucial factor influencing the coming election.

3. International Structure in Bosnia

The questions to be answered in this discussion were:

- What will the “reinforced” EUSR mission be in terms of mandate and goals? Can it still be initiated before constitutional reform?
- How will non-EU members engage? What mechanisms for policy coordination?
- What will non-EU IO’s roles be?

The moderator noted that the proposed transition is not the first in the international community’s engagement in Bosnia. NATO’s IFOR (Implementation Force) became SFOR (Stabilization Force), which ultimately became EUFOR, under EU command, in December 2004. The UN’s International Police Task Force (IPTF) handed over the EU Police Mission (EUPM) in 2002. Each transition inflamed passions and concerns. But none has yet dealt with the international pivot point in Bosnia: the OHR. What sort of scenarios might a post-OHR EUSR have to deal with, and how would it deal with local obstruction? What sort of problems might it face? Non-compliance with an indictment? Private security firms and veterans’ organizations re-arming?

It was noted that the plan to transition was made at a time that the common assumption was that Bosnia was irreversibly moving toward functionality and meeting the standards for membership in the EU and NATO, it was just a question of how fast it would go. This assumption has been proven false. The EU’s approach to BiH is forced through the filter of the enlargement formula, and many elements of the Bosnian reality don’t fit.

One participant suggested that the PIC not name a successor to the High Representative, leaving an empty chair to change the incentive structure for Bosnian politicians, but maintain a Chapter 7 safeguard as a deterrent and a legal right to intervene. Another noted the out-of-theatre Brčko Arbitrator Roberts Owen and his continued role as a possible model⁶. Others noted that this “in case of emergency, break glass” idea had been put forward before, and shelved. Others doubted the concept of “residual Bonn Powers” – essentially the ability to freeze assets, ban visas and halt EU funding. But under current planning, the “reinforced” EUSR will only be able to recommend these to the EU Council. The question of how the EU saw its role in Bosnia through EUSR was raised, but never answered. One participant made clear that where EU leverage has been effective, it was with clear and consistent conditionality.

⁶ Brčko Arbitrator Roberts Owen’s position as Chair of the Arbitral Tribunal was established following a decision of the International Court of Justice and in accordance to Annex 2 of the Dayton Peace Agreement. The Tribunal remains in existence until the Brčko supervisor, presently Principal Deputy High Representative Raffi Gregorian, in concurrence with the High Representative, notifies the Tribunal that the Final Award of 1999, which created the Brčko District as distinct from the two entities, has been fully implemented. See http://www.ohr.int/ohr-offices/brcko/history/default.asp?content_id=5531.

On the use of the Bonn Powers themselves, there were deep divisions. One participant noted that their usage since 2006 had been not to drive large reforms, but merely “hold the line,” preventing backsliding. Another later stated that “holding the line moves the line. Every time you intervene in a non-functioning institution, you change its rules.” A few others mooted the potential to restrict the use of Bonn Powers to removals and annulment of laws, rather than imposition of them. Another opined this was legally impossible. Another made clear that the EU needed to develop a commitment to the use of Bonn Powers. This too was disputed. OHR and the constitution of BiH are both integral elements of the Dayton Peace Agreement; some questioned whether one could function without the other. One mentioned his view that the OHR function is the same as “outvoting” – making a decision possible when it would not have been otherwise possible.

The question of whether the need to close OHR before allowing BiH to move any further toward EU integration was legal or merely political was a source of friction at the roundtable. While several cited Enlargement Commissioner Olli Rehn as stating this is so, many other participants doubted this had a legal character, rather considering this was more a political condition that could be changed. None were able to make a citation to refute this view. One participant recalled that the line had once been that a Stabilization and Association Agreement could not be signed so long as OHR remained. A further point raised was that the EU was negotiating with Serbia, which has a constitution including Kosovo, which 22 EU members have recognized as independent. One EU government participant stated its view that no formal decision to that effect had been made, and that OHR closure and EU accession should be de-linked.

There were varying viewpoints on how the PIC could even go about transition, given that its role stems from an international peace agreement that will remain valid. One view was that all Dayton signatories would have to agree to abolish OHR or transfer any of its authorities or responsibilities to the EUSR. Most agreed that it could not simply be ended by political fiat. One participant said that an EUSR empowered to employ EU instruments (not just advise they be used) could function as a “governor general,” without power to impose, but to block. Others thought there was little or no chance that the EU would not have extraordinary powers, and noted that “the EU is really good with carrots, but the problem is its only stick is denial of carrots.”

Aside from the exact nature of the mission, which remained vague throughout the day, how the “reinforced” EUSR would be staffed generated discussion. One participant noted that the EUSR competences were the subject of a “very political process” and the powers would be developed in light of developments. Another proposed that all PIC Steering Board members delegate half their current embassy staffs to the new EUSR, and send the rest home. The participation of non-EU nationals, especially from the US and Turkey, was seen as important by a clear majority. The sense of several participants was that the objections of Greece and Cyprus to non-EU participation in the “reinforced” EUSR could be overcome. Another participant questioned the logic of having countries that were neither members of the EU or NATO (a clear reference to Russia) sitting in bodies devoted to facilitating Bosnia’s Euro-Atlantic integration.

The question of EUFOR’s deployment aroused little discussion. A participant questioned whether a Chapter 7 mandate could be unilaterally surrendered.

Another participant noted his confusion regarding the discussion of transition of OHR to EUSR, but maintaining competences. If the current competences remain necessary, why transition at all?

4. Where Do We Go from Here?

This final discussion was to address the following questions:

- What should the common international goals be regarding Bosnia?
- How can the international community create a context for self-generated reform in Bosnia?
- How do we know when we're there?

In addition to these, the moderator added his own questions: how to differentiate the Bosnian EU accession process from that in other states? Which issues should be prioritized? How to deal with constitutional reform? His view was "We'll know when we are there. It's when Bosnian politicians do things for themselves." A related question is how to get the US and EU aligned and keep Turkey plugged-in? Bosnia needs its own accession process – what should that special path be?

One participant listed three possible ways forward: 1) close OHR, lose the Bonn Powers, launch the "reinforced" EUSR and hope for the best, 2) keep the OHR in place and reinforce it, or 3) maintain the status quo, but recognize that it is in constant decline. He warned however that "the glue that held (Yugoslavia) together melted fast, Bosnia would go faster." His suggestion to avoid such a scenario was then that "the OHR needs to stay around while the EUSR ramps up. This will keep the Bosniaks locked in. We need to put both the OHR and EUSR on steroids." He also noted the need for "strategic patience."

An EU member state diplomat said "after hearing everything today, someone unfamiliar with Bosnia would probably ask himself 'and you want to close OHR? You couldn't do it. If the successor to OHR needs continuity in terms of powers, then why close OHR?'...If fatigue is the reason, then we need to address that."

Some other EU diplomats defended the transition, stating that the choice is between, as one put it "an OHR with a useless mandate and an EUSR without it." With it, Bosnians can exploit OHR for their own interests and maintain a "protectorate mentality." Without it, leaders can no longer blame the OHR. Closing OHR would also make EU membership more tangible for Bosnians.

Another participant echoed the contention that once Bonn Powers are gone, they are gone forever, so a sober risk assessment is required. "OHR without EUFOR backup is also useless. We could close it...but what if things go really wrong?" This participant also doubted the attractive power of EU integration: "Bosnians and Serbians know that the EU cannot afford black holes in Europe...they expect lots of exemptions from conditions." So conditions need to be clearly identified to all citizens, as well as politicians. Another

participant disputed this view, noting the importance of public opinion in member states on enlargement: the window of opportunity may be closing.

Another participant doubted the existence of the Bonn Powers, as the Serbs had withdrawn their consent. His view was that disengagement was the only strategy at this point.

Some participants disputed the contention that Bosnia with OHR is a “protectorate,” noting OHR’s role as an interpreter of Dayton and actor of last resort, not as a body that runs the country by diktat. According to one, the international community has hamstrung its own effectiveness by constantly communicating a desire to curtail its engagement. This emboldens Bosnia’s political elites to believe they can obstruct reforms and drag their feet on implementing them, as they believe they can wait the international community out. The international community refuses to accept the ugly reality that the political dynamic in Bosnia is oligarchic, not democratic. “The common denominator among Bosnia’s political elites is to keep what they stole, remain in a position to keep stealing, and to remain unaccountable...Citizens have checked out of this ‘democratic’ process and have resigned themselves to this system as inevitable.” The system lacks popular legitimacy.

Another participant concurred, noting “we need to get the patronage system out of politics.” He added that the current state of affairs was subject to change, noting that Dodik, having received 200,000 votes in the municipal elections, represented a small proportion of the Bosnian people, but was successfully holding all hostage. One participant noted that the 2010 elections remained important, and that polls had consistently shown popular concern with unemployment, social security, education, visa liberalization, and that no parties offered viable policies on these issues. A number of others were dubious about the general elections as a likely platform for change. One participant went so far as to state that if it were up to her, the elections would be postponed, as the nationalist politics has such an inherent advantage in the current system. She reminded that international efforts to counteract that by supporting moderate parties had backfired spectacularly in Dodik.

Another believed that as long as the current situation in Bosnia required post-conflict engagement, OHR remained an appropriate instrument. If Bonn Powers were a problem, they or their usage might be redefined. Yet another noted that the Bonn Powers have been effective even since 2006 when employed and backed-up by the international community. How to deal with challenges to state institutions without them? An EU member state diplomat stated that closing OHR was “pragmatic” and discussing a stronger international approach with a shrinking EUFOR was dangerous. So they should be phased-out together.

Cold water was poured on the prospects for Bosnian accession to the EU in the foreseeable future by another speaker. “Enlargement is alive, but accession is not on the horizon.” He added that there is a real danger of the Western Balkans being divided into two groups – those who can join, and those who cannot. Croatia and Serbia were included in the former group, Bosnia and Macedonia in the latter. And that is leaving aside the question of Kosovo. Another noted that the EU’s proclamations of progress seemed to be intended to seed the real thing, and never did.

Summary

Despite the wide disagreement expressed throughout the day, elements of commonality emerged.

- All participants saw the Bonn Powers eroding, and that without the capacity to implement decisions, they will erode further. The disagreement is on what to do about it.
- Wide agreement on the need for transatlantic unity, which is frayed. Bosnian politicians see our divisions and take advantage of them.
- Participants also agreed that measures are required to tamp down the incitement in the media, to allow for a more moderate environment for the elections.
- On basic security in BiH, all seemed to agree that the international community needed to be prepared to respond to serious threats.

Participants offered a few final thoughts before the roundtable closed.

One noted that if peace and stability were the goals, OHR needed to remain until the state had a minimal level of supremacy over the entities – the EU enlargement process could not deliver this.

Another stated that the potential division of BiH should not be discussed, noting that some believe that the country will fall apart, and this is why they want OHR to close. “I don’t appreciate some EU countries – and you know who you are – hinting to the RS that secession is an option.” Bringing BiH into the EU and NATO isn’t enlargement, it’s completion.

Finally, one participant opined that “We can’t fix Bosnia, only Bosnians can. But only the international community can provide the context for this to happen, and can act as a catalyst for it.”

Conclusion

Despite the best efforts of the organizers and moderators, and many other participants, the discussion throughout the day looped back to the issue of the transition of OHR to a “reinforced” EUSR. The on-the-ground situation and dynamics were repeatedly raised, but there was little or no will on the part of some officials to address them, or even dispute the views of others on them. For some, transition seemed not to be a means to an end, but rather an end in itself. The day’s discussion revealed deep rifts in interpretation of the current situation in Bosnia and the policies that should be adopted to address it.

Because of this repetitive loop, many of the questions posed were never sufficiently answered. And while the need for a common strategy was readily apparent and acknowledged by most (though some left it a “we should speak with one voice” which can mean considerably less than that), no strategy, or even commonly defined strategic target, came into clear focus.

Annex: Questions and Answers from the Four Discussions

In brief summary, the answers to the questions posed were the following:

1. The Current Situation:

- *How serious is the situation in Bosnia? What about public security?*

A majority of those who spoke seemed to agree that the situation was very serious, and that the risk of violent conflict could not be excluded. Views on potential triggers, flashpoints, and conflict actors varied.

- *What are the main challenges to be tackled immediately?*

The group was divided. A large number believed the problem was structural, and that maintaining the Dayton instruments of the OHR and a Chapter 7 EUFOR were needed until constitutional and governance reform had been accomplished and seen to function. Another smaller but vocal group clearly believed that closing OHR was the priority. A still smaller group thought that the 2010 elections were the looming priority, though the issue of the media environment in the election campaign seemed to be a broader, majority concern.

- *How to interpret 5 + 2?*

Oddly, despite 5+2 being the PIC-defined hurdle for transition, which was clearly the *idée fixe* of some participants, this topic garnered little or no attention in the day's discussion.

- *What was the status of EU and NATO-related reforms?*

The specific details and requirements of reform processes got short shrift as well. However, it was noted that the requirements for the Feasibility Study and SAA with the EU included TRANSCO, which was the subject of a major dispute between OHR and the RS.

- *What is the regional dynamic? Serbia and Croatia? Russia factor?*

Croatia was apparently seen by nobody as problematic, as it didn't rate a mention, except in terms of its NATO membership and EU candidacy. There were different views on the Serbian role. Most appeared to think that Serbia's President Boris Tadić had attempted to moderate RS Premier Milorad Dodik's statements and actions, but questioned whether he had done his utmost. Some articulated their view that the best both neighbors could do would be to stay out of BiH's internal politics entirely.

Regarding Russia, there were also differing views. Some cited it as a factor that would prevent continuation of OHR or allowing a "reinforced" EUSR any executive authority. Others wondered at its putative inclusion in discussions on Bosnia's Euro-Atlantic integration, given its membership in neither the EU nor NATO. Some

added that Russia had no deep strategic interests in BiH, but rather acted opportunistically as a spoiler, exploiting a divided West. Russia's continued close relationship with Milorad Dodik, and opposition to use of Bonn Powers against him or the RS, was also mentioned. There was little hope in evidence that Russia would do more to promote stability and meeting of the 5 + 2 criteria.

2. Reforms to Achieve State Functionality

- *Why is constitutional/functional reform essential?*

There was broad agreement that some such reforms were necessary for BiH to function effectively, as well as to advance into the EU and NATO, despite these not being a formal condition. However, on the substance of these reforms, and whether adequate functionality was possible within the current state structures, there was no agreement.

- *Can the international community afford to remove the Dayton instruments (of executive OHR and EUFOR) before major constitutional reform is accomplished?*

A variety of views were expressed related to this topic, but there were few who explicitly linked these. Those who did believe that these guardrails needed to be maintained until BiH was self-propelling itself toward the EU and NATO. By implication, those of the view that transition is the priority clearly believe that the Dayton instruments must be eliminated before constitutional reform.

- *What are the prospects for reform before the 2010 elections?*

While most seemed to hope for reforms to be initiated prior to the October 2010 elections (and some expressed hope that change could kick into a higher gear after them), there was little confidence in evidence that this would be the case.

- *What prospects for wider reforms that can change the fundamental political agenda?*

There was wide agreement between many participants that the media environment was poisonous to any constructive political debate on outstanding social, economic, or political issues. But no methods were suggested on how to influence the media environment.

Similarly, many participants stressed the importance of increasing political leaders' accountability at all levels of governance. No clear strategy on how to do this was however provided.

One participant noted that quite a number of reforms had been compiled in the Venice Commission report, mostly dealing with constitutional arrangements, but which implementation could have a significant impact on the fundamental political environment of the country.

Another participant underlined the importance to carry out reforms at all levels of society and stressed in that regard the relevance of efforts to improve the education sector.

- *What can the EU's role be? The US? What are the incentives?*

There were a variety of proposals on what needed to be done to accelerate constitutional and governance reform in Bosnia. Many participants from both sides of the Atlantic expressed the need for clarity on what sorts of reforms are needed for BiH to be a viable candidate for membership in the EU and NATO. Furthermore, some (again, from both Europe and North America) expressed the need for guidelines on what sort of constitutional and governance order BiH would need to have to enter these organizations. Others (from Europe) stated that any constitutional process had to be homegrown (a fact none disputed) and that therefore guidelines couldn't be created (which some did). The view that no further clarity on the constitutional system could be given by the EU because it was not part of the *acquis* was also expressed. NATO was called upon to clarify its call for constitutional reform calls.

One participant proposed assembling an international consultative committee on constitutional reform to interact not only with Bosnia's politicians, but also society at large. This was the only concrete proposal on how the US, EU, and other interested actors could deal with the challenge of constitutional and governance reform.

3. International Structure in Bosnia

- *What will the "reinforced" EUSR mission be in terms of mandate and goals? Can it still be initiated before constitutional reform?*

Given the centrality of launching the "reinforced" EUSR to some participants (who thought it should happen ASAP, with the decision on OHR closure at the November PIC), it was odd to have very little in the way of specifics offered on what the mission would be, and what tools it would have at its disposal.

Much discussion centered on the likely functions the "reinforced" EUSR could perform, and whether some executive authorities of the OHR might be transferred to it. Many questioned the logic of closing the OHR if such powers might still be needed, while others went on to question whether the Bonn Powers were still functional. This inevitably reanimated the discussion of Bonn Powers.

Several people also said that the EUSR ought to have the possibility to employ the powers mooted for the office – visa bans, asset freezes, and halts to EU funding mechanisms. According to the current thinking, the EUSR would only be able to recommend that these actions be taken by the Council, rather than the EU giving their joint representative on the ground that leverage. If this remains the case, the tool will only be as strong as the weakest link among 27 members.

The goals and strategy of a “reinforced” EUSR remained as opaque at the end of the meeting as at the beginning. One participant said that the parameters of the mission were subject to a “very political process” in the EU, and that they would depend on developments in BiH.

- *How will non-EU members engage?*

There was a sense that seemed universal that the US and other non-EU members needed to be included in the “reinforced” EUSR mission, though this has yet to be decided (and will likely impede the transition if it remains unresolved).

One concrete suggestion was made to pool the diplomatic resources of EU, US, Canadian and Turkish embassies under the “reinforced” EUSR flag, but this elicited little discernible support.

- *What will non-EU IO's roles be?*

There was no discussion on this point.

4. Where Do We Go from Here?

- *What should the common international goal be regarding Bosnia?*

One widely held view on this was to get BiH into the EU. The underlying (but never stated or elaborated) assumption seems to be that Bosnia in the EU (and NATO) will be secure and its internal problems can be more easily solved, or will matter less, once inside. One participant questioned this logic, stating that the goal ought to be to help Bosnians develop a state/governance system that could function without an executive High Representative; essentially to graduate from Dayton. Several others questioned the attractive force of the EU to Bosnia's politicians and citizens alike, noting that a fatigue had set in for further accession that was unlikely to fade for the foreseeable future.

- *How can the international community create a context for self-generated reform in Bosnia?*

Various views on this emerged, but none went so far as to explain how these processes might become organic and self-sustaining. Several made the case that involving the general population as well as the political leaders was essential, given that the leaders have their own interests in the current system they aim to protect. Others noted that ending the “protectorate” over Bosnia by closing OHR would foster political responsibility. Still others noted that the starting point for any forward movement was creating a calmer context – by making clear to all concerned that the Dayton instruments will remain in place until the system is reformed, with majority support from each self-defined group, obviating the need for them.

- *How do we know when we're there?*

Two views were stated; it is unclear where the majority of participants stood. One view was that EU accession constituted success. The other was a BiH that could function without the need for OHR should be the goal.

Postscript by the Authors

The round-table failed to produce concrete recommendations to be put forward to the next PIC meeting as initially envisaged by the organisers. However, we would like to seize the opportunity of this report to issue our own assessment of the current situation, taking into account the recently launched “Butmir process” and the last PIC steering board meeting in the form of a post-script. The following *only* represents the views of the authors of this report, and not the opinions expressed by the 1st October roundtable participants.

- The Dayton instruments, an executive OHR and operational Chapter VII EUFOR, must remain until BiH’s constitutional and governance structure has evolved to the point they are no longer required. There is no expiration date. Furthermore, these instruments should be used as needed. Since their credibility has been allowed to diminish, it may be necessary to resort to them to show BiH actors that the will is still there to use them.
- There is a clear necessity to differentiate the role of the High Representative from the EUSR. Both functions have different goals and require different tools to fulfil them. The OHR will remain until Bosnia shows itself consistently capable of functioning and reforming itself in the interest of its citizens. This is of particular importance at a time when attempts are being made against the territorial integrity of the state. The EUSR’s role is to support Bosnia’s EU integration process. Hopefully, both processes are self-reinforcing ones, and should go in parallel. We firmly believe that they should not be sequenced: Bosnia may still need the OHR while progressing on the European path. Both instruments may have to be reinforced, but not at the expense of each other. Furthermore, we believe that further clarification is needed on what type of mandate and power a “reinforced EUSR” will have. The EU is currently reorganising its foreign policy under the new Lisbon Treaty, and will have to come up with concrete proposals on what role it foresees for the EUSR in Bosnia.
- We note that the “5+ 2” approach has been reaffirmed by the November meeting of the PIC Steering Board as the hurdle for OHR’s closure. We agree that no action to close the OHR should be undertaken so long as those conditions have not been fulfilled. We urge the PIC steering board members to hold this line, and not hollow-out these conditions for expediency’s sake, as has been the case with international conditionality with BiH before.
- International engagement must continue to achieve meaningful constitutional and governance reform, but should expand beyond the standard “let’s make a deal” approach with local political leaders. There needs to be a much more sustained, concerted effort to engage citizens directly on these issues in order to apply pressure from below on what amount to oligarchic and unrepresentative structures. The Bosnian population needs assurance that the country will not be allowed to dissolve, and nor will the necessary constitutional and governance reform be undertaken without popular consent. The EU and NATO also need to clarify what types of structural changes would need to be seen implemented (beyond the standard *acquis communautaire*) to achieve BiH’s Euro-Atlantic integration.

In addition to these specific points, we would like to stress our deep concern regarding the current deteriorating situation in Bosnia and the lack of adequate response by the international community. We are profoundly worried at the indications that some wish to see the country partitioned, and fear that they might feel encouraged by the appeasing attitude advocated by some EU states. **Have we forgotten that the main war aim of the Bosnian Serbs was to detach *Republika Srpska* from the rest of the country?** If this is allowed 14 years after Dayton, after unprecedented international investment of political, human and financial capital to reconstruct a multiethnic, democratic Bosnia-Herzegovina, this would constitute an admission of ignominious defeat. Such a policy would reward ethnic cleansing, war crimes, crimes against humanity and genocide in the heart of Europe and with the support of the European Union. Is this the message that we want to send to future generations and to the world ridden with other secessionist conflicts? Can the EU's still nascent Common Foreign and Security Policy afford such a resounding failure on its own doorstep?

Bosnia can not be compared to Kosovo or Montenegro. There is no valid argument, either political or legal, to support *Republika Srpska's* independence. Furthermore, such a process would not be a peaceful one: it would most certainly throw the whole region back into conflict and instability. It is thus time to take a resolute stand to protect the peace that we have been building in the past 14 years, to protect the values for which the European Union stands, and to avoid any further conflicts in the region.

Sarajevo, The Hague, Amsterdam, Hanover, 27 November 2009.