

Bosnia-Herzegovina – Chances for Regional Cooperation under Difficult Internal Conditions

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Background

Bosnia and Herzegovina is currently facing an overall institutional and political impasse. It is repeatedly claimed that BiH is generally stable, which may be an accurate portrayal of the picture from an outside perspective. However, from an insider's point of view, there is a growing belief that the political situation resembles that of the immediate aftermath of the war.

However, the society, and politicians in particular, find it hard to come to grips with the fact that there will not be any more robust international interventions or high profile conferences which will overcome this impasse.

Domestic political forces who count on such options are not only maintaining the *status quo*, but also making the overall political tensions even higher. They rely on nationalism, which continues to be a dominant force and a major factor impeding the introduction and consolidation of democracy, provoking scepticism over the success of the state-building process in BiH. This dilemma becomes ever more striking considering the fact that the international community has poured over five billion dollars in BiH 'state-building' since the war. And yet, it proves not to have been enough to make BiH a functional state capable of assuming full ownership of its political processes.

On the other hand, the international community, and the EU in particular have shown a growing interest for developments in the rest of the region, which has significantly diverted their interest and focus away from BiH. This lack of interest is unproductive and exacerbated by the position of

some EU representatives in BiH, who believe that they should let the political situation deteriorate until the system collapses. The rationale behind this is that local political leaders would take more initiative and ownership under that pressure.

From the perspective of wider regional implications of this situation, it needs to be stressed that regional influences are not a one-way street, and in as much as the final Kosovo status and political situation in Serbia may generate some influence on BiH, so could an internally unstable and dysfunctional BiH have the potential to become a problem for the region as a whole. Therefore, the international community should become concerned whether its 'state-building investment' in BiH is an irreversible process, and whether going back to square one could contribute to serious instability of the region.

Virtual State-building = Virtual Statehood

BiH today is suffering from an acute case of virtual statehood. A dangerous delusion continues to affect local as well as international officials who refuse, for various reasons, to understand or acknowledge that the establishment and functioning of the Dayton governance structure has been and continues to be dependent on international intervention.

Political tensions within the country and a destabilising regional environment in particular have extended the Office of the High Representative of the UN's (OHR) mandate, and political division in the country, though mostly rhetorical, seems to be dangerously high. In this environment of institutional and political uncertainty, it is easy to divert attention from the nitty gritty of day-to-day governance with polemic debates and counter debates. The signature of the Stabilisation and Association Agreement with the EU is no longer so close, and the EU Special Representative waits to assume a more prominent, though as yet undefined role.

On top of such demoralizing political conditions, BiH and its population also remain hostage to a cumbersome governance structure, in which numerous levels of government, wielding both legislative and executive powers and served by thousands of civil servants, operate largely in isolation from each other. The system is cumbersome, inefficient, expensive, and constrained by constitutional provisions designed to prevent common government at state level rather than to enable it. An attempt made in April 2006 to modify the BiH constitutional framework was aimed at addressing some of these deficiencies. Unfortunately, this attempt not only failed, but also exposed some of the inherent weaknesses in the existing system, including the fact that many people in BiH do not identify with the state and have not yet come to terms with the Dayton version of statehood – for reasons more unitarian or separatist in nature.

Politicians from both entities ignore and undermine the present state. Federation politicians tend to view it as a temporary system, hardly worthy of their attention that will be ditched sooner or later in favour of a ‘normal’ unitary European state, with sub-units organised on ‘functional’ lines. Their counterparts in the Republika Srpska (RS) view the current state as a minor obstacle to their autonomist ambitions.

In practice, this process of gradual, step-by-step state-building has had the advantage of allowing the state to acquire some ‘normal’ functions of statehood without requiring the politically impossible, i.e. explicit constitutional change. However, the trade-off for this has been that the already weak Dayton structures are now the shaky foundations on top of which a range of state institutions perilously sit. The weakest of these state institutions are those that share competencies with the entities. Most are the result of political compromise and are built around a complex system of overlapping and unclear divisions of responsibility and authority that allows state, entity and other institutions to coexist and overlap without any clear hierarchy. The system of state governance barely functions with strong international pressure and is in danger of paralysis without it. This virtual state cannot fulfil BiH’s present international obligations let alone future commitments to the EU and NATO.

As a result, a virtual state yields virtual politics, and has a virtual statehood.

EU Integration

Although significant political conditions are yet to be fulfilled, the technical round of negotiations for signing the Stabilisation and Association Agreement (SAA) is complete. However, even if BiH were to meet outstanding political conditions and sign the SAA today, the country would still face a number of challenges and difficulties that arise from the nature and substance of the Agreement.

BiH's constitutional set-up and dysfunctional cooperative governance system mean that obligations from the SAA will be very difficult to implement. There is a real danger that BiH could thus lag behind its neighbours in the process of EU integration and that the country's overall development will be harmed, not only because of a lack of political will, but also because the country is not prepared in terms of organizational capacity for the obligations and opportunities that come with EU integration.

Bosnia and Herzegovina is thus not prepared to take further steps towards EU integration. Numerous EC projects have provided policy, technical and capacity-building assistance to BiH institutions, and the more successful of them have pushed at the limits of institutional inventiveness in order to find a way around the constraints of the country's dysfunctional constitutional set up. However, what have been created at state-level is mostly framework laws and 'coordinating' state institutions that cannot enforce state-level policy.

Conclusion and Recommendations

- The current dysfunctional system, dependent on international intervention, can be made more operational and autonomous, but only if

there is agreement in BiH that a secure, minimally autonomous and credible state-level is a reasonable and desirable common goal. Local political leaders, with the support of the international community, need to agree on a minimum package of constitutional, legal and political measures required to give the BiH state basic levels of autonomy and credibility prior to the closure of OHR.

- Such proposals need to be able to work within the constraints of the current territorial division of BiH and need not necessarily require redrawing entity borders, or even the transfer of whole new sectors to the state. Rather they should focus on measures that must be taken to deepen current reforms to the point where the state has the *actual* authority and resources to implement its obligations, as any other central state in a decentralised system.
- BiH must at least have the authority to legislate and implement its modest list of competencies and to lead the process of EU integration with credibility. Otherwise the system has little chance of working without international interference.
- Bosnia and Herzegovina's road towards the EU has no viable alternative, yet it remains a highly politicized issue. The fulfilment of this goal, which is supported by most BiH citizens, is dependent on the functioning of highly cooperative governance mechanisms, which do not function. Thus, in the absence of specific institutional remedies, the country's road to Europe is likely to provoke huge political, structural, sociological and economic problems, which may have larger regional implications.
- Given the current political situation, the incentive for change will not come from political leaders, particularly having in mind their failed attempt to adopted changes to the Constitution in April 2006.
- OHR has lost much of its credibility, and trying to restore it during the remaining 13 months of its mandate will be a mammoth task.
- Given the impetus to sign the SAA and BiH alleged aspiration to integrate, the EU appears as the natural and only choice that may drive a more substantive effort to make BiH a more functional state. However, given the fact that their attention has recently been di-

verted by the independence of Montenegro, Kosovo final status, and election results in Serbia, the EU's very lenient and unobtrusive approach to the political situation in BiH has become more visible.

- Thus the EU political leverage has also lost momentum. To the BiH public and politicians, the EU no longer appears as a political force that has potential to yield pressure and produce a breakthrough in this institutional impasse. By accepting half solutions in meeting the SAA requirements, and giving unnecessary concessions to parties which otherwise obstruct EU integrations, the EU has sent a message that it agrees with this virtual system that exists only on paper and does not work.
- Therefore, the starting point should be a change of attitude in the EC and EU. They must become aware of the severity of the situation, and understand that the state-building process has reached its peak within the limits of the existing constitutional structure. What we face at best is an infinite political and economic *status quo*.
- The EC should show more concern from the point of view of the SAA implementation. If implemented fully and properly, the SAA could become the most powerful state-building mechanism. But the necessary precondition for this is that the state becomes more operable, manageable and able to implement the SAA in the first place.
- Without the prospect of the SAA and with an endless political *status quo*, the question that arises more and more among BiH citizens and media, whether how long this situation can last and what can follow from it. There is a growing and justified fear that such weak and institutionally unstable BiH is more vulnerable to potential risks from an unstable region. But if we take the argument from the beginning of this paper, that regional dynamics work both ways, then the question that needs to be asked is not only what regional instability can do to BiH, but also what BiH can do to an existing regional instability.