

Perspective of EU policy towards Bosnia and Herzegovina
-Policy note-

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By 2006, Bosnia was considered as one of the most successful examples of post-war reconstruction and reconciliation, as well as an example of successful international intervention. After a decade of intense international efforts towards stabilization, reconstruction and democratization of the country, it seemed that BiH is moving from the post-conflict phase to the EU accession phase.

The reforms and overall progress at that time had been dominantly led by the Office of the High Representative (OHR), backed up by extensive use of sanctions to politicians endangering the Dayton Peace Agreement and legislation imposing. Also, reform processes have been conditioned by the EU pre-accession requirements.

Over time, it became clear the Dayton Constitution has created obstacles for further EU accession progress; it has major discriminatory elements and is unsuitable for social and economic development of the country. After the failure of the Constitutional change initiative in April 2006, the strategy of the international community has significantly changed in the direction of transferring responsibilities to BiH authorities for the ownership of political processes. The OHR instantly became a passive observer of the political processes in the country.

General elections held in October 2006 showed that the nationalist rhetoric and politics of fear have been well-awarded. Since then, political crisis has only deepened. Over the last four years, nationalist rhetoric, directed towards deepening the ethnic divisions, and the questioning of the Dayton constitutional framework, call into a question stability of the country and has reversed long-standing efforts of the international community.

Conditionality of EU pre-accession policy toward BiH was consistent until 2008 when the Stabilisation and Association agreement was signed without the fulfilment of the necessary conditions. EU has decided to loosen conditions previously set on the police reform and such a decision sent a message to BiH authorities saying that if they are persistent enough, the EU will sooner or later give up their requirements and reward them with the 'carrot from Brussels'.

On the other hand, the visa liberalisation issue the EU strictly stuck to the conditions. If this decision was made outside of the regional context, it would have been effective use of conditionality policy. In mid-2009 Brussels approved Serbia, Monte Negro and Macedonia for visa liberalisation allowing some of them to meet the remaining obligations in short-time. When BiH reached a comparable level of fulfilment of those conditions, the green light was not switched on.

Widely spread dual citizenship (mainly Croatian and Serbian) phenomena, gave ethnic connotations to the issue of visa liberalization. The decision to postpone the visa liberalization for BiH further deepened the crisis. Voices claiming the Bosniaks are discriminated by EU has created perception that the government could not do anything on this issue.

Recent EU policy towards Bosnia and Herzegovina was largely focused on fulfilling the necessary conditions for the closure of the OHR, the transfer of responsibility to the EUSR and constitutional changes. However, the joint EU-US effort at making relatively minor changes to the BiH constitution, and fulfilling the remaining conditions for closure of OHR-the so called 'Butmir process'-had failed at the end of 2009. This *ad hoc* initiative demonstrated a lack of strategy of the international community, and a tendency towards instant solutions. The constitutional rearrangements and the closure of the OHR were used the precondition for faster visa liberalization, instant EU candidate status, and NATO Membership Action Plan. This conversion of technical into political criteria further endangered the credibility of EU technical requirements.

Communication of EU and U.S. representatives during negotiations was reduced to meetings with political party leaders. Representatives of the State and Entity institutions were excluded from this process. In addition, local experts and non-governmental sector did not have the opportunity to participate in the course.

The weakening of the influence of the international community, which was not undone by the Butmir process, allowed RS Prime-minister Milorad Dodik to start fulfilling its threat of a possible referendum in RS. After the failure of the Butmir initiative, the RS National Assembly decided to adopt a new law on referendum. The psychological effect of this law on the population in BiH cannot be underestimated and it represents a threat to the stability of the country. Further threats by the RS Prime Minister Milorad Dodik that, one day, RS will hold a referendum on independence, gave this legislation additional political weight. Having in mind the impact of Dodik's threats, a fairly mild response of the international community is difficult to rationalize.

Despite the increased political instability and the fact that the OHR is a part of Constitutional structure of BiH, some voices still advocate a quick closure of OHR and transition to EUSR whose mandate is yet to be defined. Also, what is little mentioned in these discussions on closure of OHR is that it would also constitute an end of the NATO and EUFOR peacekeeping mandates in BiH. Given the increase in nationalist rhetoric in pre-election period- set as a precedent in 2006, it is difficult to foresee the psychological impact of the official end of NATO and EUFOR presence.

Furthermore, creating political instability and general insecurity is certainly the strategy of ruling coalition, and the referendum issue serves this purpose well. Raising tensions before the election will divert attention from the social and economic problems, and unfulfilled promises, to ethnic homogenisation and fear.

RECOMMENDATIONS

Dayton instruments – OHR and EUFOR - should be retained until BiH modifies the existing constitutional framework. Pressure to close OHR without fulfilling the necessary conditions and creating a functioning Constitutional framework - including the introduction of the functions of the Supreme Court - should end.

EU needs to strength its credibility among all citizens of BiH, especially in terms of maintaining a secure environment, by clearly stating that the EUFOR presence depends on the level of Constitutional reform and political stability.

The international community must send a clear signal to everyone that threats of a referendum to challenge the Dayton constitution, the existence of the OHR and Bonn powers, shall provoke a decisive action by PIC / OHR.

Since BiH fulfilled the same level of visa liberalisation requirements as Serbia did when it got visa liberalisation, it is necessary to provide BiH citizens with the same opportunity of visa-free travel, no later than 1 July 2010.

When it comes to Constitutional changes, it is necessary to put emphasis on a clear set of results that the process should produce instead of trying to achieve any kind of a political agreement. The international community should make a clear distinction between the so-called technical and political criteria for EU accession. It is necessary to firmly support the strengthening of democratic processes and institutions in BiH, and to give priority to official institutions of the country instead of the ruling leaders. The process that leads to changes is essential as well as clear objectives that it should meet. The process and the goals should be clearly defined in the medium-term EU strategy towards Bosnia. Also, it is necessary to include other segments of society into the process.

EU needs to assist maintaining the conditions for conducting democratic elections. The efforts should focus on abolishing the atmosphere of fear which intimidates the citizens with nationalist rhetoric, instead to focus the campaign on the real socio-economic problems and requirements of EU integration that must be met. It is necessary to avoid dealing with geopolitical / territorial issues and focus on the democratization processes. The upcoming elections represent a chance for the EU to make a positive effect and restore credibility in the eyes of the citizens of Bosnia and Herzegovina.

It is necessary to place emphasis on respect for human rights in general and to insist on the urgency to change the Constitution and the Election Law of BiH in terms of judgments of the Human Rights Court in Strasbourg regarding the rights of minority communities in the country up to May 3rd, 2010 so that the elections in October 2010 could be conducted in accordance with basic principles of human rights. The dilution of the existing problems with possible cosmetic changes of the Law and postponing the real changes for some of the next elections should not be allowed.

EU needs to make clear that freedom and independence of media are basic democratic achievements, and to insist on the protection of media freedom, but also on ethics and zero tolerance towards hate speech, which is spread by some media own by political leaders.

It is necessary to have a clear communication strategy towards BiH citizens. Citizens should receive a clear message and stated requirements - expectations of BiH in terms of the process of convergence with the EU aiming to avoid different interpretations once again. It is important to explain how each segment of BiH society will benefit from the European integration as may be otherwise lost, and how much we are losing even now by not using currently available options such as the IPA funds, EBRD loans, community programs, etc. The real facts and resources should be accessible for citizens in order to use elections as a referendum on the results of government in the past four years. It is up to BiH citizens then to decide how these tools will be used, but before this, they need to be provided with a platform that will help them analyse the things done in the previous period. With such an approach, international community in BiH would gain multipliers / levers for the democratization of society and creation of a constructive atmosphere ahead of elections.