

Report

The Dayton Peace Agreement, Two Decades Later: What was achieved and what to expect?

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Is it time to revisit the Dayton Peace Accords?

Beyond the bloodshed: Progress after peace⁽¹⁾

The Dayton Peace Agreement achieved its immediate intent. It provided the structure for ending the bloody conflict and halting the ethnic cleansing in Bosnia and Herzegovina (BiH). It is important, however, to consider two questions in addressing progress beyond this point: Why has BiH not met the greater intent of the Dayton Peace Agreement? Even more pressing: Has the Dayton Peace Agreement become a roadblock to further progress in BiH?

The answer for achieving lasting peace and unity lies in renewed diplomatic intervention, constitutional reforms, and holding all former belligerents to their obligations written in the agreement. The strategic importance of Bosnia and Herzegovina should compel the United States to take a leading role to halt renewed Serbian and Croatian aggression. The overall strategic importance of the Balkans—and especially BiH—still present a significant national security challenge for the US and Europe.

Wounds from the war in Bosnia run deep, and fervent nationalism is still the dominating factor shared by the three former warring ethno-nationalist groups (Bosniak, Croat, and Serb). According to Larry Wentz, “Even with international assistance and supervision, the parties to the conflict continue to prevent full implementation of many aspects of the Dayton Accords, especially in the areas of freedom of movement, return of refugees, prosecution of war crimes, and creation of a multi-ethnic political structure.”⁽²⁾ As early as 1997, during the Implementation Force (IFOR) period in Bosnia, Wentz recognized the difficulty in applying the articles of the Dayton Peace Agreement. Many of these same challenges exist today, and there remains a steadfast refusal by all parties to engage in the serious constitutional reform that is needed to create a viable multi-ethnic state. In addition to these challenges, the current process is now missing the intense international diplomacy and resources available in 1995.

Dayton successfully ended the war, yet as a blueprint for a stable and peaceful state, the Dayton Agreement continues to struggle. The agreement provided a policy answer for a volatile and complex situation in the former Yugoslavia, and as such it could not address all of the dynamics in play to ensure a positive long term outcome for BiH. For example, as Colonel Stephen Gerras writes, Dayton “could not anticipate the lasting cultural paranoia, reemerging nationalism, and continuous refusal to accept progressive reforms to move BiH and the region forward in peace and prosperity.”⁽³⁾

For scholars and policymakers today, several key questions remain. Does the Dayton Peace Agreement, as written, pose an obstacle to continued unification and progress for BiH? Is it time to either revisit the agreement or reinforce the original intent and reset

the milestones for implementation? Who is responsible for addressing the current lack of progress? Is it the UN? Or is it the key players who orchestrated the accords, including the US, EU, and NATO?

This paper argues that the Dayton Accords should be revisited to address the lack of political and economic progress in BiH today. The Balkans, and especially BiH, still present a significant national security challenge for the US and Europe. As the US and Europe both struggle to deal with a decade of financial upheaval, a renewed conflict in BiH would surely destabilize Europe and lengthen economic recovery.

The conflict and the accord: then and now

In March of 1992 President Izetbegovic declared independence for BiH, with most Croats and Bosniaks voting for independence. The following month Serbian paramilitary forces supported by the Yugoslav Army launched attacks throughout BiH. The combined force rapidly annexed more than two-thirds of BiH and began a three-year siege of Sarajevo, ending the possibility of a unified, democratic state of the former Yugoslavia republics. Fueled by Milosevic's rhetoric and fully supported by Bosnian Serb leader Radovan Karadzic, Bosnian Serbian forces led by Ratko Mladic, attacked Bosniak and Croat civilians, forcing them from their ethnically mixed communities. Serb forces further terrorized both Bosniaks and Croats, killing many thousands and forcing others into concentration camps. Especially targeted were women, who were beaten, subjected to forced labor, and raped. Although none of the warring parties were without responsibility for atrocities and all committed similar brutalities, Serbian units were identified as the most ruthless during the conflict. Serb forces created an environment for escalation of crimes against humanity not seen since WWII, something the Western world believed was only possible in the most remote and failed states. It is estimated that well over two million people were driven from their homes, and not since WWII had Europe encountered that magnitude of displacement and slaughter of civilians. The death toll is still disputed, and is difficult to quantify based on the causes of death, but estimates are as high as 300,000. Regardless of the exact figures, the impact of the conflict continues to shape life in BiH today. Most of BiH's civil infrastructure was destroyed and the majority of communities sustained considerable destruction of private property during the conflict.

Many questions still remain regarding the limited commitment made by the Europeans during the conflict, especially in the light of the genocide committed by Nazi Germany during WWII and subsequent promises of "never again." Between 1992 and 1994, several attempts were made to halt the violence, including plans by Carrington-Cutileiro, Vance-Owen, Owen-Stoltenberg, and the Contact Group. In early 1993, the US and Europe differed over the Clinton administration's proposed "lift and strike" initiative. The US proposal would lift the UN arms embargo that blocked Bosnians from getting

weapons and use NATO airstrikes to force the aggressors to the peace table. In general, the various peace plans offered complex territorial division based on ethnic considerations. All of these plans failed to gain support. In a 1995 visit to Washington the newly elected French president, Jacques Chirac, threatened to recall 3,900 French UN peacekeepers if the US did not more actively commit to a peace effort. The US was bound by NATO treaty to supply support forces if the UN peacekeepers were forced to evacuate Bosnia to secure their safety. As the US hesitated to convince the Europeans to intervene more aggressively, the escalating atrocities and renewed Serbian offensive in the fall of 1995 finally forced a very reluctant Clinton administration to commit to an aggressive US plan of action to stop the conflict and set the conditions for a lasting peace. It would take both a US-led effort to end the Bosnia conflict and a US-led NATO mission to forge the peace.

Initial success, inadequate follow-through

Many of Dayton's intended milestones have come and gone without meeting their goals, primarily due to the lack of international enforcement. Nor have the constitutional reforms outlined in the agreement been implemented within the region. For example, as Human Rights Watch noted in 2012, "Bosnia again failed to implement a 2009 European Court of Human Rights ruling (*Sejdic and Finci v. Bosnia and Herzegovina*) ordering the country to amend its constitution to eliminate ethnic discrimination in the national tripartite presidency and House of Peoples."⁽⁴⁾

The country's failure to evolve into a unified central government with a single president, and the reluctance or inability of the Office of the High Representative (OHR) to exercise the power to remove obstructionists, has prevented lasting reform and the implementation of required peace agreement articles that would allow BiH to become a full member of the EU and NATO. Currently the OHR receives authority and support from the Peace Implementation Council (PIC), a group of fifty-five countries and agencies. The PIC is tasked with providing guidance and creating economic opportunities for the region, as well as encouraging the development of a functioning central government. This organization is supposed to provide the OHR with workable solutions that move BiH towards national unity, but to date these efforts have been mostly unsuccessful.

Many of these impasses are reinforced by the three conflicting political powers of the region, and are sustained by localized corruption. The lack of adequate policing has highlighted the failure to enforce basic rule of law and to prevent (and even report) human rights violations. Accurate accountability of foreign aid is a failure of the BiH, US, and European governments. In the words of Edward Joseph, "instead of an inevitable EU member, Bosnia is more likely to remain an unwelcome, dysfunctional, and divided country, with an aggrieved Bosniak (Muslim) plurality, a frustrated, increasingly defensive Serb entity, and an anxious, existentially threatened Croat population."⁽⁵⁾

The most problematic issue for BiH is the fractured government structure. The current government elected in February 2012 faces the same roadblocks as previous governments. It is composed of narrow nationalistic political goals based on ethnic considerations. In addition, Steven Woehrel notes that “the impact of a parliamentary majority in the Bosnian political system has less significance than in other systems, as representatives of an ethnic group, even if in a minority, can veto any decision that they feel does not accord with their interests.”⁽⁶⁾ This is one of the major reasons progress in BiH remains stymied: because any of the political ethnic groups can defeat proposals for new laws by not consenting. Each of the ethnic groups still maintains separate local level government institutions that duplicate the central government. The lack of centralized government oversight greatly enhances corruption and undermines the integration of reforms that would significantly benefit the BiH citizenry at large. In the words of Valery Perry, “core constitutional problems that devolved significant competencies to the ethnically oriented entities or cantons remained unreformed, resulting in a disconnect between ground-level institution building and reform projects and the country’s blueprint for existence.”⁽⁷⁾

Efforts in other sectors lag as well. The promise of the Dayton Peace Agreement to return displaced persons to their homes is mostly unrealized. Also still lacking is a serious restructuring of police forces at the national level, as local police continue to turn a blind eye to organized crime. And the international community mostly left the responsibility of addressing corruption to the BiH government, which has further entrenched ethnic nationalism as rewards are allocated in support of maintaining the status quo.

For BiH citizens, regardless of ethnic identity, lack of progress has contributed to mistrust in government institutions and has lowered confidence that elected officials will formulate policy and laws that are fair and designed for the public good. During a visit to Sarajevo in October 2012 US Secretary of State Hillary Rodham Clinton urged

...that all of the leaders of this country find common ground and act in the interests of the people. Obstacles that the country faced when I was last here still remain. Key reforms have not yet been made. Party differences stand in the way of shared progress.⁽⁸⁾

Many Serbs and Croats would prefer realignment of areas within the BiH Serbian and Croatian confederacies as a method of stepping away from the Dayton Peace Agreement. Milorad Dodik, President of Republika Srpska (the Serb-dominated entity in Bosnia) marked the seventeenth anniversary of the Dayton Accords by urging Bosnia’s transformation into a confederation of three units, including a new entity for Croatians.

"If the three ethnic territorial structure does not happen as a realistic solution," writes Elvira Jukic, "the agony of dissolution will continue, which will lead to a day when one can say Bosnia and Herzegovina no longer exists."⁽⁹⁾

From within BiH there are continued calls to dissolve the OHR because it no longer serves the purpose of balanced progress. As Steven Woehrel notes:

[The] OHR has itself been reducing its role in Bosnia, in particular its use of the Bonn powers. In June 2011, OHR lifted almost all the bans from holding office that previous High Representatives had imposed on Bosnian politicians for violations of the Dayton Peace Accords. Many observers in and outside of Bosnia believe that [the] OHR retains little credibility in Bosnia, and therefore should be eliminated in the near future.⁽¹⁰⁾

Is it time to revisit Dayton?

The primary reason BiH has not met the intent of the Dayton Peace Agreement lies in the failure of the BiH citizens to find compromise as a nation. To grow and prosper BiH needs to gain acceptance into the European fold. This includes membership in the European Union and NATO that would accelerate the departure of international oversight. The questions that are difficult, if not impossible, to answer are the willingness or ability of the former warring parties to put the past behind them in recognition that a unified state will provide the best possible future. Given these political and economic difficulties, is it time to revisit the Dayton Peace Accords?

A central question is whether it would benefit the US and EU to revisit the Dayton Peace Accords and develop a new agreement (Dayton II), thus making a reality of a functioning multi-ethnic state. Conventional wisdom suggests that the US, EU, and most BiH stakeholders would not entertain new negotiations to create a Dayton II. In June 2011, US Assistant Secretary of State Gordon visited Bosnia and other countries in the region. In interviews with Bosnian media and a speech delivered to a conference in Sarajevo, Gordon repeatedly said that the United States did not advocate a Dayton II.⁽¹¹⁾

Bosnia signed a Stabilization and Association Agreement (SAA) with the EU in June 2008. The SAA opened the door for BiH to join the EU as well as to receive greater aid and advice to realize full membership. But this has been delayed due to most of the prerequisite conditions still not being fulfilled. The US fully supports integration of BiH into the EU, but the US must assert more pressure on BiH to meet the conditions and standards set forth by Dayton. As US Assistant Secretary of State for European and Eurasian Affairs Philip Gordon noted, "the Balkans are a critical part of Europe—historically, geographically and culturally—and its future lies within the Euro-Atlantic

institutions. The United States will always support an open door to the European Union and to NATO and we will always be ready to help countries to walk through that door.”⁽¹²⁾ Regrettably, current strides are not enough to walk through the door.

In April 2010, NATO invited BiH to participate in its Partnership for Peace (PFP) program. The PFP provides multi-lateral opportunities for nations to improve military professionalism and training opportunities focused on NATO doctrine. Invitation into the PFP program is one of the major milestones for NATO Membership. As Steven Woehrel notes, “NATO foreign ministers agreed to permit Bosnia to join the Membership Action Plan program, a key stepping-stone to membership for NATO aspirants.”⁽¹³⁾

The Dayton Peace Agreement is still a viable document. The Dayton Peace Agreement itself has not been a roadblock to BiH meeting the greater intent of the accords. Rather, the obstacles continue to be the same narrow issues that started the original conflict: fractured government, ethnic divide, and rampant corruption. At a time when both the US and Europe are mired in economic and geopolitical challenges, minimizing efforts towards lasting reform in BiH will only prove more costly down the road. It is time to reinvigorate the Dayton Agreement by enforcing the accords and applying renewed diplomatic pressure on the parties toward the unified nation envisioned in 1995. Further progress lies in the enforcement of the agreement, and the time is now.

The argument against Dayton⁽¹⁴⁾

Contrary to the argument above, many analysts have concluded that the Dayton framework is the main obstacle and roadblock preventing BiH from normal development, making its functioning extremely difficult if not impossible.

Pointing to its shortcomings, numerous commentaries since the signing of the accords have criticized the elite-driven, artificial, rigid, and yet complex nature of the state it tried to establish. It would, however, be simplistic to ignore the underlying merits of the Dayton Accords, namely establishing peace in the region and strengthening the institutional state network. From a strictly political point of view, the accords established the groundwork for an evolution of institutional infrastructure. Secondly, the Dayton Accords determined an increased specialization of agencies and institutions focused on human rights, refugee policies, and European integration. “Briefly put, the Dayton Accords marked post-war institutional development in BiH. However, its eventual exploitation by external and internal political elites has proven problematic to this day.”⁽¹⁵⁾

Serb and Croat leaders refused to accept the reality of Bosnia and Herzegovina as a sovereign state because their intention was to divide and annex its territory, anticipating from the outset that its creation would lead to partition. As such, the visions of an

effective multiethnic state based on trust and collaboration were essentially dashed from the start.(16)

As Cretu rightfully concludes:

In effect, the “power-sharing” arrangements that external actors saw so necessary to end violence later worked against the crucial transition to an effective government. It is for this reason that political scientist David Chandler has harshly suggested that the Dayton period is one marked by the “faking of democracy.”(17) Despite the maintaining of peace and the immediate strengthening of core state institutions within liberal-democratic frames, the political system that the Accords imposed on Bosnia at Dayton complicated an already difficult situation for ordinary people from areas where their ethnic group was in the minority after the war. This is because the Constitution included in Annex 4 of the Dayton Accords has determined ethnic separation and irreconcilable multi-ethnicity at an institutional level.(18)

The intrinsic problem of the political arrangement imposed by Dayton can be recognized especially in the tripartite “collective presidency” (one president from each major ethnic group), ethnic-based federalism, a vital interest veto (Annex 4, Article V), and ethnic quotas in public institutions. Dayton’s formal political institutions have not cultivated a strong enough strategy for inclusiveness; in effect, the country was transformed from being highly intermixed in 1991 to nearly full segregation of the three nations by 1995. Secondly, institutions that were put in place to oversee the recognition and subsequent implementation of human rights and fundamental freedoms were partly staffed with internationals. In a Catch 22 situation, institutions that were supposed to be homegrown and developed from within the newly established (or re-established) state became subordinated to international bodies of decision-making, recurrently blocking promises of domestic political processes of “democratization.”(19)

A negative byproduct of the Dayton Peace Accords in the past twenty years has been the increased apathy of everyday citizens toward influencing political decision-making beyond their personal or local networks. The low turnout in the 2014 general elections (54%) reflects widespread disenchantment. This inertia of a heterogeneous civil society is not unique in Eastern and Southeastern Europe and cannot be correlated with innate tendencies of BiH. But, to a large extent, this trend can be connected to the poor experiences with the Dayton-imposed political paralysis of the central government.(20) In fact, public trust in the tri-ethnic national-level political institutions has been assessed as lower than trust in local political institutions.(21)

The contradictions imposed by the constitution were apparent in 2005, as suggested by “The Balkans in Europe’s Future,” a report published by the International Commission on

the Balkans that called for a process of constitutional change in Bosnia and Herzegovina geared towards eventual EU accession.⁽²²⁾ The report argued that the constitutional architecture set out in the 1995 Dayton Peace Agreement was no longer working, and there was a need for a genuine constitutional debate regarding the framework of an EU accession process. A decade later, without any significant constitutional change, that assessment remains valid.

Looking ahead

So what lies ahead for Bosnia and Herzegovina in relation to the Dayton arrangements? A very strong warning was issued in 2014 in the assessment of BiH elections by the Organization for Security and Co-operation in Europe, which insisted that “the lack of political will to move beyond the Dayton Agreement prevents the country from moving away from the current inter-ethnic divides and towards real progress for the country.”⁽²³⁾ Almost the same alarm was signaled by the European Commission’s 2014 Progress Report, which criticized the “lack of collective political will on the part of the political leaders to address the necessary reforms,” stating that the country remained “at a standstill” in the European integration process. However, the language that the EU has used in the last ten years has been ambiguous at best, and any leverage previously employed in Slovakia or Romania in the early 1990s seems to have been absent.⁽²⁴⁾ It can be argued that the involvement of the EU has been minimal—negative even—in the progress toward necessary constitutional reforms. This was confirmed by Sorensen, who was quoted saying that “we do not have, at this point in time, any sort of designs on constitutional changes.”⁽²⁵⁾

A change in European attitudes, however, can be detected in a November 2014 statement by the German-British Initiative that, on paper, offers an opportunity to make progress towards EU membership. The conditionality remains a set of substantive reforms that BiH politicians would have to implement. Issues of minority rights, coordination mechanisms, economic reforms, strengthening the rule of law, and cutting the costs of government are just a few of the proposed reforms.⁽²⁶⁾

As for the US, the government has sent mixed signals regarding the potential for reforming the framework of the Dayton Accords. One reason is that US foreign policy has had a clear shift in the past twenty years, as the administrations of George W. Bush and Barack Obama directed focus toward the Middle East and Asia Pacific. Nonetheless, while US involvement in Bosnia and Herzegovina has systematically been transferred to the EU and its “accession” processes, a joint editorial written in 2011 by US Secretary of State Hillary Clinton and British Foreign Minister William Hague and published in newspapers throughout Bosnia, noted that

...there must be no doubt about the resolve of the international community to stand by the settlement agreed at Dayton which ended the conflict. Our message is crystal clear: we are committed to Bosnia Herzegovina as a single state, with two vibrant entities and three constituent peoples.(27)

Unwilling to permit any important changes without its direct control, the US continues to underline the great benefits brought about by the Dayton Accords, while also acknowledging that its provisions have often acted as an obstacle to wider reform that has been mandatory for Bosnia and Herzegovina to join the EU.(28) As such, it could be concluded that Dayton Agreement has lost its justification in the context of the current social and political situation in BiH. To quote Cretu once more, the "Dayton Agreement essentially became an infamous trademark of failed international involvement in state (re-)construction and peace building practices."(29)

The logic of divided institutions, put in place to establish peace in a war zone, was an effective tool at the time. But in the long run the agreement's rigidity, and the resulting sociopolitical and economic stagnation rooted in the divisive institutional politics, have led to forceful criticisms from policy makers and scholars. International actors, so prevalent in the political domain of the state, have either started a slow departure from BiH (as seen with the US), or have had mixed responses to the needs of a new constitutional order (as seen with the EU).

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References

- (1) Colin Woodard, "In rebuilt Bosnia, no terror toehold" (The Christian Science Monitor: March 24, 2004); Colonel Edwin W. Larkin, "Has the Dayton Peace Agreement Stopped Progress in Bosnia and Herzegovina?" (United States Army War College, 2013)
- (2) Larry Wentz, "Lessons From Bosnia: The IFOR Experience" (Washington, DC: National Defense University, 1997), 12
- (3) Colonel (Retired) Stephen J. Gerras, Ph.D, "Thinking Critically about Critical Thinking: A Fundamental Guide for Strategic Leaders" (Department of Command, Leadership, & Management, US Army War College, 2008), C2
- (4) Human Rights Watch, "Bosnia and Herzegovina, Country Summary: January 2012" www.hrw.org/sites/default/files/related_material/bosnia_2012.pdf (accessed November 24, 2012)
- (5) Edward P. Joseph, "What to do about Bosnia and Herzegovina? The Case for Accelerated NATO Membership and OSCE Coordination of Constitutional Reform" (United States Institute For Peace, May 2009), 1.
- (6) Steven Woehrel, "Bosnia: Current Issues and US Policy" (Washington, DC: Congressional Research Service), 4.

- (7) Valery Perry, "At Cross Purposes? Democratization and Peace Implementation Strategies in Bosnia and Herzegovina's Frozen Conflict," Springer Science + Business Media B.V. (July 2008): 46.
- (8) Hillary Rodham Clinton, Secretary of State: Remarks With Bosnian Presidency Chairman Bakir Izetbegovic and EU High Representative Lady Catherine Ashton, (Sarajevo: October 2012) http://sarajevo.usembassy.gov/speech_20121030.html (accessed November 15, 2012).
- (9) Elvira M. Jukic, "Serb Leader Advocates Croat Unit in Bosnia," BalkanInsight, 22 November 2012.
- (10) Steven Woehrel, "Bosnia: Current Issues and US Policy" (Washington, DC: Congressional Research Service), 6.
- (11) Ibid., 10.
- (12) Philip H. Gordon, Assistant Secretary of State for European and Eurasian Affairs, Keynote Address to the Conference: "The Western Balkans: Progress, Stagnation or Regression?" June 14, 2011, 2.
- (13) Steven Woehrel, "Bosnia: Current Issues and US Policy" (Washington, DC: Congressional Research Service)
- (14) This section consults several equally important sources, but its emphasis is shared with the paper by Anca Doina Cretu, "Twenty Years After: The Dayton Accords, Legacies and Opportunities in Bosnia and Herzegovina" (Graduate Institute of International and Development Studies, Geneva; Papiers d'actualité/Current Affairs in Perspective, Fondation Pierre du Bois, No 6, July 2015)
- (15) *ibid.*
- (16) See Paula Pickering, *Peacebuilding in the Balkans: The View from the Ground Floor* (Ithaca, NY: Cornell University Press, 2007).
- (17) *f.n.* David Chandler, *Bosnia: Faking Democracy After Dayton* (London: Pluto Press, 1999).
- (18) Cretu, "Twenty Years After: The Dayton Accords, Legacies and Opportunities in Bosnia and Herzegovina"
- (19) *ibid.*
- (20) *ibid.*
- (21) Bertelsmann Stiftung, *Bosnia and Herzegovina Country Report* (Gütersloh: Bertelsmann Stiftung, 2014). Quoted in Cretu, "Twenty Years After: The Dayton Accords, Legacies and Opportunities in Bosnia and Herzegovina"
- (22) International Commission on the Balkans, "The Balkans in Europe's Future" (April 2005).
- (23) OSCE Press Release, 13 October 2014. Accessed at www.osce.org/odihr/elections/bih/125488
- (24) Milada Anna Vachudova, "The Leverage of the European Union on Reform in Postcommunist Europe" (Paper presented at Workshop 4, "Enlargement and European Governance," Turin 22-27 March 2002.) Accessed at <http://ecpr.eu/Filestore/PaperProposal/0171f7e2-349c-4dfb-a368-adb8ce1c23de.pdf>
- (25) Quoted in Oscar Fernandez, Valery Perry, and Kurt Bassuener, "Making the Market on Constitution Reform in BiH in the Wake of the EU Initiative," Democratization Policy Council (March 2015), 4.
- (26) Elvira Jukic, "UK, Germany Launch Joint Initiative on Bosnia," (Balkan Insight, 5 November 2014.) Accessed at www.balkaninsight.com/en/article/uk-germany-propose-bosnia-s-renewed-eu-perspective

- (27) "Joint OP-ED on Bosnia and Herzegovina by Foreign Secretary William Hague and Secretary of State Hillary Clinton," Embassy of the United States Bosnia & Herzegovina, 8 June 2011. Accessed at http://sarajevo.usembassy.gov/speech_20110608.html
- (28) Oscar Fernandez, Valery Perry, and Kurt Bassuener, "Making the Market on Constitution Reform in BiH in the Wake of the EU Initiative," (Democratization Policy Council, March 2015), 5.
- (29) Cretu, Twenty Years After: The Dayton Accords