

# CRS Report for Congress

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## Bosnia: Overview of Current Issues

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### Summary

Over ten years since the signing of the Dayton accords that ended the Bosnian war, Bosnia-Herzegovina is in a transitional state from post-Dayton peace implementation to Euro-Atlantic integration. In November 2005, the United States hosted a meeting with Bosnia's collective leadership to commemorate Dayton's 10<sup>th</sup> anniversary. In Washington, Bosnia's leaders pledged to carry out major constitutional reforms to strengthen Bosnia's central state institutions; however, a reform package narrowly failed to pass Bosnia's legislature in April 2006. Upcoming elections in October 2006 are considered crucial for the next stage of Bosnia's development, although they will occur under the Dayton constitutional structure. Reflecting Bosnia's progress to date and a broad international consensus, the international community plans to substantially reduce its presence and role in Bosnia. This report provides an overview of prominent current issues concerning Bosnia and may be updated. For further background information, see CRS Report RL32392, *Bosnia and Herzegovina: Issues for U.S. Policy*, by Steven Woehrel.

### Introduction and U.S. Policy

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

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

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

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

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

## State Consolidation

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

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

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

institutions needed to become far more effective for Bosnia to move closer to EU integration.<sup>4</sup>

Recent milestone political and economic reforms reached by Bosnia's state and entity institutions, often with extensive input from and pressure by the international community, have given impetus to the U.S. and EU constitutional reform initiative. After numerous delays, the Bosnian entities in late 2005 agreed to a package of EU-driven police reforms that will give legislative and budgetary authority to central Bosnian institutions, although aspects of implementation will stretch out five years. Earlier in the year, the Bosnian parties agreed to defense and security reforms that will eventually merge the formerly rival separate forces into an integrated army controlled by the central government.<sup>5</sup> Further agreements on intelligence and information services, state prosecution offices and justice ministry, and border and customs services, among others, have steadily expanded central state competencies and institutions.

Calls to overhaul Bosnia's constitutional structure remained controversial for many years. Some observers called for the High Representative to use his authority to push through whatever measures are necessary to consolidate reforms. Others have said that major constitutional changes should not be imposed from the outside, but should come about through domestic political processes and in a gradual, incremental fashion.<sup>6</sup> International officials have resisted going so far as to abolish the entity structure recognized by Dayton, or ban specific political parties such as the Serbian Democratic Party (SDS), the party most resistant to state-building efforts (but still popular). In any case, the international community's powers are set to be curtailed in the near term (see below). Some Bosnian Serb representatives remain concerned about the viability of the RS and perceived attempts to eliminate it. In addition, some ethnic Croat parties have promoted the idea of a third Croat entity.

At the Dayton anniversary meeting in Washington in November 2005, Bosnia's leaders signed a "Commitment to Pursue Constitutional Reform," a document in which the leadership pledged to embark on a process of constitutional reform to create stronger and more efficient democratic institutions. Such reforms were envisioned to include creating a single presidency instead of the current tri-partite presidency, strengthening the Prime Minister's office, and strengthening the Bosnian parliament. U.S. officials claimed that such reforms would represent a logical extension of several recent landmark reforms. In remarks at the ceremony, Secretary of State Rice emphasized that Dayton must be transformed and modernized for Bosnia to reach the full goal of Euro-Atlantic integration. She also pledged that the United States would remain a "dedicated partner" in this process.

Negotiations on a reform package continued through early 2006. In March 2006, seven Bosnian parties agreed to a package of constitutional reforms, and the Bosnian

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

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

<sup>6</sup> For example, see "The Balkans in Europe's Future," Report of the International Commission on the Balkans, April 2005. Report available at [<http://www.balkan-commission.org>].

presidency likewise adopted it. Despite a broad political consensus, the measure failed in Bosnia's lower house of parliament on April 24, missing the required two-thirds majority by two votes. Some Bosnian Croat and opposition Muslim deputies opposed the bill. U.S. and other international officials publicly decried the outcome as a setback to the state consolidation process. Afterward, several parties reiterated their commitment to continue negotiations toward reaching a consensus on constitutional reforms, which many recognize to be a pre-requisite for Euro-Atlantic integration. Further progress will likely have to wait until after the upcoming elections on October 1, which will take place under the existing constitution.

## **Euro-Atlantic Integration**

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

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

In 2005, the EU especially emphasized the need for Bosnia to implement reforms in the defense and security sector, including reforms regarding the police, and public broadcasting. Transferring controls over the police from the entity level to the central government proved to be the most difficult obstacle to overcome, as RS leaders remained opposed to the loss of this vital institution and support structure. The RS Parliament repeatedly rejected EU proposals to unify and reorganize police structures across entity lines. Finally in early October, the EU and RS came to a compromise agreement that adhered to EU principles on state-level control over the police, but postponed decisions on a number of related disputed items. With these hurdles largely cleared, the EU approved the start of SAA negotiations, which officially opened on November 25, 2005, and continued intensively in 2006. The RS position shift may have been prompted by concerns that Bosnia could "miss the boat" on EU integration, especially as neighboring states are making progress on this front, and as it appears that EU enthusiasm for further enlargement could be waning.

Some Bosnian and EU officials predict that they could conclude the SAA negotiations by the end of 2006. However, EU officials have expressed concern about recent Bosnian Serb objections to how police reform is being carried out. EU officials warn that poor implementation of police reforms could delay the SAA process.<sup>7</sup>

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<sup>7</sup> "After 14 years, Serb statelet is still Bosnian stumbling block," *Financial Times*, July 31, 2006.

**NATO.** Along with Serbia-Montenegro, Bosnia is the only former Yugoslav state that has not yet joined NATO's Partnership for Peace (PFP) program. As noted above, Bosnia's government agreed to sweeping defense reforms in 2004 and 2005 to unify the armed forces structure and command and to create a professional military. In July 2006, Bosnia's presidency decided to merge the armed forces into a unified Bosnian army by the end of 2007. With these achievements on transforming the armed forces, the only remaining hurdle to Bosnia's PFP aspirations is the RS' still incomplete cooperation with The Hague war crimes tribunal, especially with regard to arresting fugitive war crimes suspects such as Radovan Karadzic. A small, residual NATO presence in Sarajevo has provided the Bosnian government with advice and assistance on defense reform issues, and is also engaged in efforts to capture and detain remaining war criminals.

## **ICTY Cooperation<sup>8</sup>**

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

## **International Role**

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

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

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

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

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

**EUFOR/NATO Headquarters.** At the end of 2004, NATO concluded its SFOR mission in Bosnia and turned over peacekeeping duties to a European Union military force, EUFOR, to ensure continued compliance with Dayton and contribute to a secure environment in Bosnia. EUFOR has a strength of about 6,000-7,000 troops. NATO maintains a small headquarters presence in Sarajevo that provides assistance to the Bosnian government and undertakes counter-terrorism and intelligence operations and missions to detain indicted war criminals. The NATO presence includes a small contingent of U.S. forces.<sup>11</sup> On November 21, 2005, the U.N. Security Council extended the authorization for the EU and NATO presence in Bosnia for another year (S/Res/1639).

The EU also took over the U.N. police monitoring and advisory mission in 2003. The EU Police Mission in Bosnia currently comprises over 500 international police officers and its mandate runs through 2007.

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

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

<sup>11</sup> For more information, see CRS Report RS21774, *Bosnia and the European Union Military Force (EUFOR): Post-NATO Peacekeeping*, by Julie Kim.