

Remarks by the Senior Deputy HR, Martin Ney, at a Seminar on Conflict Solving and European Integration, Perspectives for the Western Balkans

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Bosnia and Herzegovina from Dayton to Brussels : prospects of European Integration

The 3 October, when Brussels initiated SAA negotiations with Serbia and Montenegro and accession talks with Croatia , was a frustrating day for BiH. It appeared that BiH might have remained the only country in South-Eastern Europe not included in the SAA process. Hopes for the future road to Europe seemed to vanish for a moment. But that would have been to underestimate the determination of the people of Bosnia and Herzegovina to become part of the EU: within days, through the well coordinated and painstaking effort of all political parties and the IC, BiH fulfilled the last two remaining conditions (PBS and police reform) and enabled the European Commission to give a green light for the start of SAA negotiations. The Council will most likely take a decision in December to start these negotiations before the end of this year, i.e. soon after the tenth anniversary of the Dayton Peace Accord.

Several lessons can be learned from this dramatic, but not unusual, experience:

there is no alternative for the future of BiH but integration into European and transatlantic structures,

- the prospect of EU integration provides the strongest incentive for the internal reform process in this country,
- to achieve that goal the EU criteria must be upheld firmly and should not be watered down; nor should the goal posts be moved,
- and, last but not least, BiH is still not yet a “normal” country and requires the continued special attention of the EU.

Celebrating the 10th anniversary of the Dayton Peace Accord in a couple of weeks BiH stands at a crossroads “from Dayton to Brussels ”. The Dayton constitutional system created a rather loose state framework with two strong autonomous Entities, which exercise de facto more than 70 percent of regular government activity. The system is based on an attempt to balance carefully the representation of all three constituent peoples (Bosniaks, Serbs, Croats) at all levels and gives each of them powerful mechanisms designed to protect their interests (or what are perceived as such) and block any decision through extensive veto rights.

Many of the academic conferences connected to the Dayton anniversary concentrate more on the shortcomings and in-built weaknesses of the Dayton system rather than on its historic merits. While reassessing the DPA of 1995 in 2005, one should not forget the historical conditions under which it came about: Dayton ended the war through strong international intervention, namely by the USA ; it set the scene for peace and reconciliation and initiated the development of democratic institutions. No less and no more. The realistic objective was to end the war and to build a functioning state, but not yet a normal state.

10 years after Dayton I think it can be said that that this process has been largely completed and has been successful. It has been the mandate of the Office of the High Representative under Annex 10 of the DPA to guarantee the civilian implementation of the Peace Settlement, which means first and foremost the creation of sustainable democratic institutions. This has been achieved: all institutions are functioning, but most of the institutions are still weak.

Discussion about how to reform the Dayton constitution is already in full swing, starting from the shortcomings that were identified by the Venice Commission of the Council of Europe in March 2005:

- division along ethnic lines has been perpetuated and used to the benefit of the nationalist parties,
- the veto rights of the ethnic caucuses, guaranteed through the House of Peoples, are too far reaching and have not been sufficiently defined,
- the system based on constituent people clashes in some regards with individual political rights enshrined in the ECHR,
- through the de facto split of executive functions between the Presidency and the Council of Ministers, which works on a consensus basis among ethnic groups, the state-level executive is still weak and has few competences and resources.

The “ownership” of constitutional reform rests with the people of BiH and not with the OHR. However, the IC still has a role to play in facilitating this process and providing incentives for its success. The role of OHR with its special executive powers, the so-called “Bonn Powers”, to implement legislation and remove obstructive politicians if necessary, will have to come to an end, once the SAA process is properly underway, once there is sufficient cooperation with the Hague Tribunal

and when the general elections in 2006 have produced stable results. Then the role of the EU will become even greater than at present.

The current double function of the OHR/EUSR will come to an end; the institution could be transformed towards the end of 2006 into an office of the EU Special Representative, finally without Bonn Powers. This Special Representative would continue to have the responsibility of ensuring that initiated reforms, such as defence reform, police reform and reform of the Public Broadcasting System, are fully implemented. Whereas OHR guaranteed that the country is ready for the beginning of the SAA process and that the entrance conditions have been fulfilled, the SAA process will continue to be premised on the continuation of the reform process and could be suspended whenever necessary.

BiH not yet being a "normal" country, the EU will have to apply a two-fold institutional approach: the European Commission as a negotiating partner for the SAA, and the EUSR helping the domestic institutions to pursue the path of reform. The further we go into discussing the *acquis communautaire* the more we will realize institutional shortcomings and insufficient competences, (eg economic and social policy currently not being state competences). As Ambassador Michael B. Humphreys, Head of the European Commission Delegation to BiH in Sarajevo, has put it, "BiH will not be able to enter the EU with its present institutions".

Even though constitutional reform is not a condition within the SAA process, the attractiveness of the prospect of eventual membership serves as a strong "pull factor" which works in that direction.

Representing OHR at this conference I have been mainly concentrating on the civil peace implementation aspects. These successes would not have been possible without the military

implementation of the DPA, which as of the end of 2004 has been taken over by the first ever EU military operation, EUFOR. The 7000-strong EUFOR as a still needed guarantor for stability in BiH, and the 500-strong EU Police Mission, are the finest proof of the smooth functioning of the ESDP, as coordinated military and civilian peace implementation missions under the roof of the EU.

Conclusion: 10 years after Dayton BiH is well on its way towards European Integration. The prospect of this integration is the overriding incentive for the internal reform process in this country, which is not yet completed. Therefore offering that road the EU assumes a great responsibility for the future of BiH and has to extend a helping hand through a strong presence including a continued military presence and a Special Representative, who will have wider functions compared to other EUSRs. There is no alternative to active EU engagement. BiH is on the EU agenda, whether we like it or not, because BiH is part of Europe. The only political question is if and when Bosnia becomes part of the EU.