

# AT THE HARRIMAN INSTITUTE

Timothy Frye, Director

Columbia University 420 West 118th Street, New York, NY 10027 <http://www.harriman.columbia.edu>

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## Beyond Dayton in Bosnia: Challenges of International Withdrawal

Sophia Sebastian of the London School of Economics and FRIDE, Madrid, discussed Bosnia-Herzegovina's unsuccessful attempts at constitutional reform, at a Harriman-sponsored lecture titled "Beyond Dayton in Bosnia: Challenges of International Withdrawal." Sebastian lamented the European Union's focus on Kosovo as it neglects the other Balkan states. "The European Union needs a comprehensive approach towards all of the Balkans," Sebastian urged, stressing that, in its failure to apply a more "hands on" approach to the reform process in Bosnia, the European Union is in large part responsible for the country's inability to change its constitution.

Bosnia's current constitution, established by the Dayton Accord in 1995, separates the country into two political entities, a Republic of Serbia and the Federation of Bosnia and Herzegovina, which co-exist within one state. The state is divided into four levels of government: state-wide, entity-level, cantonal level (within the Federation), and municipal. There is a three-member rotating presidency, a Council of Ministers, which is the country's executive branch, and a Parliament. The decentralized power structure makes it difficult to reach consensus, resulting in constant government deadlock. "Right now nothing functions on the state level," Sebastian said. "Parliament cannot pass new laws because everything is blocked."

According to Sebastian, the process of constitutional reform arose in response to sluggish state building, and the institutional shortcomings of the Dayton Accords. She mentioned two reform premises: to create a framework more in line with European accession and to centralize the government. The European Union has acknowledged that it will refuse to consider Bosnia's European accession until there is an overhaul of the system set up by the Dayton Accord. Unfortunately, it has not provided any guidelines for Bosnia.

The first reform attempt began in 2005, under the private initiative of Donald Hayes, former American Ambassador in Bosnia. Neither the EU nor the United States were officially part of this

process, "the two countries wanted to see how far the negotiations could go, but remained skeptical that they would go too far," Sebastian remarked.

Sebastian explained that the parties conducted the reform process in secret (she obtained her information by conducting interviews with key actors). "The process was groundbreaking," she noted, because it was the first time that all major parties in Bosnia voluntarily engaged in a process of constitutional reform. The reformers divided the negotiations into five major areas: human rights, division of competences, parliamentary, electoral, and presidential. The goal was to create the offices of a single presidency as well as a prime minister, and to reform the Council of Ministers.

Sebastian deemed the first phase of negotiations to be productive, but stated that by the second phase, where party leaders participated directly, the process became dramatic. "The party leaders started to make mutually exclusive claims," she said, pointing to rising ethnic tensions between party leaders. At this point, "the United States assumed a formal role," Sebastian indicated. The European Union played a secondary role.

In March 2006, with heavy US backing, the parties reached an agreement. In April 2006, the agreement fell two votes short of being passed by parliament. This is referred to as the "April Package."

The Serbs voted for the package, but the Bosniak Party for BiH did not support it, chiefly because of the approaching election. "Political parties capitalized politically on the April package by upping nationalistic rhetoric," Sebastian reflected. "Failure of the package produced the worst political climate since the war," she said, noting that it led to highly polarized elections and stunted EU accession.

Sebastian speculates that the reform failed for several reasons, namely the fragmented nature of the party system, but also the inter-ethnic tensions in the region and the failure of the European Union to play an active role in the reform process. "Given the fact that European accession was one of the major goals, the EU should have played a

larger role,” stated Sebastian. She reasoned that if the European Union had stressed accession as an incentive, and provided a specific set of guidelines for constitutional reform, the package would have had a much greater chance of succeeding.

Sebastian referred to tensions over US involvement, stating that the EU supported US efforts but feared that the US would impose a solution, undermining the reform process. Other obstacles were the bad timing, in light of the election process, and time constraints that left “little room for maneuvering while the package was in parliament,” Sebastian concluded.

Since the “April Package,” little has been done in the way of reform. The divisions between the EU and the US prevented a coherent international plan. While the EU wanted to continue its “hands off” approach, and encouraged the birth of a completely new reform process, the United States urged Bosnia to revive the April Package and maintained its “hands on” strategy.

There were no reform attempts until November 2008, when the leaders Sulejman Tihić (SDA), Dragan Čović (HDZ BiH) and Milorad Dodik (SNSD) signed the Prud Agreement. This was geared, once again, to put the constitution on par with EU accession requirements and also addressed institutional reform and issues of territorial organization. Another plan outlined by the agreement sought to divide the region into four administrative units. “But soon this all fell apart,” concluded Sebastian, adding that the failed agreement “raised the political temperature.”

The US and the EU announced a negotiation process to be held in Butmir, just outside of Sarajevo, on October 9th. Swedish Foreign Minister Carl Bildt and US Deputy Secretary of State James Steinberg plan to present a comprehensive plan to Bosnian leaders. Bosnia filed a request for a NATO membership action plan last week, but Bosnia still falls short of meeting either NATO or EU standards, and the US and the EU hope that these negotiations will effectively restructure Bosnia’s constitution, so that it will no longer lag behind the rest of the region.

There is no public information about the nature of these reforms, but Sebastian guesses that “they will not be too radical, given the current political climate.” In order for the reforms to be successful, Sebastian advocates the engagement of as many social and political actors as possible, and emphasizes that the media should be prepared for constitutional discussions.

*Reported by Masha Udensiva-Brenner*