The Dayton Agreement Then and Now

The year 2015 marked the 20th anniversary of the Dayton Accords, an agreement that ended a three-and-a-half-year war between the Serbian, Croatian and Bosnian population, the worst conflict Europe has seen since 1945, with more than 250,000 deaths and two million people displaced. It was a war of brutality, marked by imprisonment in camps, war atrocities and ethnic cleansing. In order to stop the violence, it was necessary to find a solution convenient for all three ethnicities at the same time. This effort of the international actors involved, resulted in a document, which enabled the creation of Bosnia and Herzegovina as a single state, comprised of two entities, and gave birth to a constitution, which is currently the legal basis for the country. The Dayton Agreement (Dayton) was widely seen as a compromise deal among the Balkan society and the only workable solution at the time it was brokered. However, two decades on, this agreement is outdated, ineffective for proper state-functioning needs and has to be revised. In case that a common solution is not found and the constitution remains unreformed, the country will be placed at risk of having increased ethnic tensions, a declining economy and a continuously fragmented government.

The dissolution of Yugoslavia

The Balkan wars broke out in the 1990s after Croatia and Bosnia and Herzegovina declared their independence, followed by the dissolution of the Yugoslav federation. These moves towards independence prompted the Serbian minorities in both states and the Croat minority in Bosnia to seek a major alteration of borders. The possibility of a peaceful transition was precluded, when ethnic Serbs with a vision of a “Great Serbia” with the military support of Slobodan Milosevic, opposed the acts of independence and launched an armed conflict with the aim to achieve separate Serb-controlled territories in both areas and prevent the formation of Bosnia and Herzegovina. Croats and Bosniaks also got involved in an armed territory struggle against each other and added to the violence. In the course of the events, rebellious Serbs declared their own Republica Srpska Krajina in Croatia and the nationalistic Serb political party and the Serb Democratic Party declared the creation of the Republika Srpska in Bosnia, while nationalist Croats created their own minor state of Herceg-Bosna. The war in Croatia ended in January 1992, by brokering a cease-fire between the Croatian government and ethnic Serbs. Furthermore the Washington agreement put an end to the conflict between Croats and Bosniaks in March 1994, however the unrest between Croat-Bosniak forces and the Serbs continued, experiencing a turn after the first defeat of Serbs during a large-scale military operation known as the Operation Storm in 1995. This operation resulted in the recapture of previously Serb held territories in Bosnia by the Bosniak and Croat army. During the summer of 1995, Serbian forces began shelling Srebrenica the world’s first United Nations Safe Area. Only five days after the attack on this Bosnian town, more than 7,000 Muslim men had been murdered. This event of genocide, compelled the NATO forces to bomb Bosnian Serb military positions and therewith, successfully weakened them. After the US took over the lead and got Radovan Karadžić and Ratko Mladić, both leaders of the Bosnian Serbs, to sign an agreement, the peace talks set in Dayton, Ohio began on September 14. These were, preceded by several proposals from the international community, all based on a division along ethnic lines in order to create a suitable solution to the crisis. The peace conference was led by Richard Holbrooke and chaired by EU Special Representative Carl Bildt and First Deputy Foreign Minister of Russia Igor Ivanov. The negotiations of November 1995 lasted for 21 days.

The General Framework Agreement for Peace was reached on November 21, 1995 by the president of Bosnia Alija Izetbegović, the president of Serbia Milosevic and the president of Croatia Franjo Tudjman in Dayton and signed in Paris weeks later on December 14.

The early post-Dayton period

The Dayton Peace Agreement was an ambitious achievement, a hard-won peace plan that brought an end to a long lasting bloody conflict marked by mass rape and genocide. It laid down the legal basis for the future development of Bosnia and Herzegovina (BiH), with its overreaching framework of eleven annexes, one of which, the Annex IV presenting the new constitution for the country. Annex VII contains essential provisions for the victims of ethnic cleansing, regarding restitution, through pensions, compensation payments or various support programs. Annex X, established the institution of the High Representative (OHR) aiming to establish trust between the population and tackle incorrect interpretations by one of the two entities. The High Representative is responsible for acting as the final authority and intervening immediately in violations or breaches of the peace agreement.

Dayton accords called for the full respect of sovereign equality in each state, as well as for the respect of human rights and the rights of refugees. Moreover, all concerned states were obliged to fully cooperate with the United Nations Security Council, in implementing the peace settlement and investigating, prosecuting and convicting war crimes in The International Criminal Tribunal of The Hague. The Dayton Agreement enabled the creation of BiH as a single state comprising of the Bosniak-Croatian federation representing 51% and the Bosnian Serbian Republic resembling 49%, with Sarajevo as the capital city. A third, smaller entity, the Brcko District, was created in the late 1990s as a self-governing unit.

Bosnia had to undergo a threefold transition, starting from conflict evolving to...
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peace, followed by a transition from communism to democracy and lastly it had to achieve an independent statehood. Bosnia became a semi-presidential state with a collective office of the head of state that is held by three directly elected members representing the three ethnic groups. It became a democratic state, having all the elements of a formal democracy and adhering to the principle of the rule of law. The internal structure in BiH was modified by a dominant role given to entities, each having its own administrative units, as well as legislative, executive and judiciary bodies and its own capital as well as economic and academic institutions. Bosnia has 14 governments and 14 parliaments, with an enormous structure of administration and public authorities and more than 143 municipalities responsible for the 3.7 million citizens. Public expenses within this complex structure absorb two thirds of the country’s GDP. Concerning the immediate post-conflict period, the agreement maintained stability and achieved disarmament. Great importance was laid on the realisation of the public authorities’ elections from the side of the international community. The first elections were conducted in 1996, with the ethnic single-national Serb Democratic Party (SDS), Croatian Democratic Union of Bosnia and Herzegovina (HDZ) and Party of Democratic Action (SDA), with these parties receiving the majority of the votes in the parliaments. In this post-conflict era, several institutions that guarantee the protection of human rights were created, such institutions did not exist in Yugoslavia before. Furthermore, the issues related to the day-to-day life and security of the citizens were tackled. With the support of high levels of international financial assistance provided to Bosnia, actions were taken to reconstruct the infrastructure, the electricity supply networks and the transportation. Moreover, a common currency was introduced, and unified army and intelligence services were created. All in all, Bosnia received 5 billion support from the international community. As funds were mostly invested in the state-building process and provided for the needs of returned refugees, no investments were put in the reconstruction of the economy. In the first years, special property provisions, which protect the right of the citizens towards their property were introduced. The largest number of refugees returned to Bosnia during the years 1996-2003 reaching 900,000 returnees. During this period, 100,000 citizens of Serbian nationality returned to the Federation of Bosnia and Herzegovina, over 100,000 Bosniaks and 10,000 Croats returned to the Republic of Srpska.

To conclude, it is generally agreed that the first years of peace in the country brought overall progress, and improved the relations between the warring ethnicities.

Dayton two decades on

The Dayton agreement initially aimed at securing equality among the three constituent nations, yet two decades on, the opposite trend prevails, as the country remains strongly divided. The Dayton agreement still has a great impact on the daily life of Bosnian citizens and has notable influence on the current political, economic and social developments in the state. There are conflicting opinions among the citizens of Bosnia over Dayton’s impact on the country. The term “Dayton” itself has a negative reminiscence among the population and media representatives. Croats are unsatisfied with the agreement as it did not grant them their own entity within the Federation of BiH. On the other hand, politicians from Republika Srpska refer to the agreement as it guarantees the existence of the Republic.

The supporters of the agreement think it was the best possible solution that the warring parties could find, in order to stop the unrest, whereas the adversaries are of the opinion that it froze the conflict and left each ethnic group unsatisfied while establishing structural deficiencies that have been hindering the country’s development.

However, it is clear, that among the citizens of Bosnia, more people would vote for Dayton, if there had been a renewed referendum on the peace agreement, according to a poll held in 2013 with a Bosnian representative sample of 1,007 respondents. According to the poll, Bosnian Serb voters would support the agreement by 42% of votes with only 9% votes against. Regarding the Croatian respondents, 22% of them would vote against Dayton and 37% of the voters were not sure about their choice. Lastly 39% of Bosniaks answered, that they would definitely or probably vote in favour of the agreement.

Despite the initial success of the Dayton accords, the last decade revealed the shortcomings of the constitution and showed an alarming need for a revised document. Currently, BiH has a discriminatory and dysfunctional institutional framework that strengthens the marginalisation of dominant ethnic groups. It is a state with enormous levels of corruption, economic stagnation and the highest youth unemployment reaching 60%. The unformed Annex IV of the General Framework Agreement, still stands as the constitution for BiH and continues to support rigid government structures, divisions in political structures and hinders the progress in reforms.

Moreover, the country has to cope with bureaucratic entanglements as inequality in pension systems between the two entities as well as differing standards of social and medical services in different parts of the country. A census of 2013 revealed worrying facts of illiteracy among the population, showing that 146,000 citizens of BiH, with 83.55% from this number being women aged 15 and above, have no education at all. Whereas 274,000 of the same age group, 69.6% women, have incomplete primary education. These numbers are the result of the reluctance of the politicians towards their citizens. Dayton should not be blamed for the entire situation in the country. It is the continuous lack of political leadership and independent media as well as continuous ethnic tensions that add to the inconvenient conditions.

The future outlook

With resurgent Russian influence, the intensive flow of migrants from the Middle East arriving to the country as well as the
spread of radical Islam in BiH lately, the idea of upgrading the Dayton agreement became even more urgent. However, in the current environment it is very difficult to find a consensus both, within the international community and in the political sphere of BiH. The two entities of the country have been passing their own laws, conducting contradicting politics and maintaining their separate administrative bodies for twenty years, without any overall coordination being present. The leaders of both entities and the three nationalist parties, keep on pushing the establishment of sovereignty of their geographic territories with the promise, that this effort will secure a permanent ruling position for each. The current political sphere of the country is a drawback for the enforcement of amendments, as each of both governments follow their own interests and prefer only changes that would benefit their own ethnic group in the country while limiting the other ethnicities.

Therefore, only negligible amendments were made regarding the agreement over the last years, such as the introduction of new provision for the state institutions to conduct international tasks in order to get closer towards the European Union. The population has been left defenceless to these developments over the years. However, there were minor protests, in February 2014, which only lasted for a short period of time and haven’t brought any change. Generations have to cope with ethnic party loyalty and mass unemployment. The youth is leaving the country with the hope of seeking a better future elsewhere and the businesses are being relocating to different countries.

In order to take a step forward, it is important to recognize that BiH is in a serious way politically deadlocked, and with this trend staying in place, the country has very poor possibilities of progress. With the view of establishing a functioning state, ethnic pluralism which supports the territorialisation of powers among the ethnic parties, has to disappear. This is hard to accomplish, as during the past twelve years; ethnic parties have been holding a monopoly in the economy and the media and are supported by the religious communities. The abolishment of ethnic democracy and the weakening of national parties is needed, involving modifications of the constitution of BiH and the final abolition of the predominant ethnic basis in the internal structure of the state.

After the Bosnians rejected the package of amendments to the constitution in 2006, levels of nationalist ideologies dominating the political sphere gained even more popularity. It is the lack of a political will, and an absence of horizontal mechanisms that aggravate the country’s poor social and economic developments. The current government elected in February 2012 faces the same roadblocks as the previous governments did and the lack of centralized leadership greatly increases corruption and undermines the integration of the reforms. Moreover, the president of Republika Srpska is contributing to the ethnic tensions by frequently questioning the continued existence of the state of BiH and has repeatedly threatened secession, thus undermining the fragility of the country, most recently by calling for an independence referendum for 2018. More alarming is the fact that recent polls showed, that a majority of Bosnian Serb respondents believe Republika Srpska has the right to self-determination and independence and would vote to secede.

However, it is not entirely impossible to go forward with the reforms and improve the situation in the country, as under different circumstances a substantial reform to the Dayton constitution could be accepted if the right incentives and pressure were put on political actors. Under renewed diplomatic intervention, the country could possibly evolve into a unified central government with a single president and find a replacement for the Dayton agreement, which would open the door towards the membership in NATO since 2008. BiH was also invited to join the Membership Action Plan.

The perspective of joining not only NATO, but also the European Union could bring Bosnia on the right track and drive leaders to pursue reforms in return for benefits for the country. So far, the quest to join the EU has been hindered by the Sejdić-Finci case, which refers to an unlawful part of Bosnia’s power-sharing, as it prevents members of minority communities to fully participate in the political and democratic process.

The European Court of Human Rights confirmed the constitutional discrimination against the Jewish and Roma people in 2010 and called upon Bosnia to reform the constitution. The Bosnian leaders have been reluctant to fix this problem since and thus, the constitutional discrimination against citizens who do not belong to the three main ethnic groups continues. This means, that a citizen not belonging to these three ethnic groups cannot become a member of the Presidency of BiH and has limited active and passive voting rights. The promise of the European Union membership, would prompt the upgrading of the Dayton Peace Agreement, amendments of the Constitution of BiH, an establishment of economic regions as well as the transfer of competence of entities to the central bodies of the state of BiH in the fields of defence, security and jurisdiction.

Bosnia and Herzegovina was identified as a potential candidate of the European Union membership in 2003, the Stabilization and Association Agreement has been ratified and entered into force on 1st of June 2015, and in February 2016 BiH submitted its application to join the EU.

The further progress of BiH depends on the political will to upgrade the Dayton Agreement, which is currently absent, this prevents the country from moving forward. The core failure for BiH is the fact, that many actors involved in the political apparatus seem to be opposing each other’s ideas and are unwilling to find mutual cooperation. The state leaders are unable to agree on a replacement for the Dayton Agreement and this will only
enhance political fragmentation, bringing new episodes of social unrest and ethnic-based violence.36

All in all, most Bosnians agree that the Agreement has run its course, and brought numerous positive changes, but as mentioned before, today the agreement does not offer a sufficient solution for the country anymore and a common solution has to be found for the document’s replacement soon. While the deal showed success in ending the war, today it is only causing chaos and instability and could lead to new conflicts in the future. If Dayton remains unreformed, it will stand in the way of Bosnia moving towards the European Union, as a true European state needs a constitution differing from the one established by the agreement.37

The Western Balkans have already evolved since the military conflicts and achieved inevitable progress in several areas, but for successfully overcoming the crisis the support of the European Union will be needed in order to solve the regional problems in the country.44 Bosnia and Herzegovina is currently far from being prepared to meet the challenges of European integration. The state is permanently failing in reform processes and the citizens are being discriminated. The driving force behind these changes should come from the people and their elite, and the reform process should be done by a step-by-step approach. The political spectrum in the country should learn to become united and to find a common voice, a consensus in political decisions that would put through important constitutional changes. If this will not be done the country will fall into stagnation with no hope for a better life for Bosnia’s citizens in the near future.41

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Notes


28) International Institute for Middle East and Balkan Studies. 2014. The Dayton Peace Agreement and the Development of Po-
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