

Bosnia and Herzegovina: the international mission at a turning point

Judy Batt

>>> On 22 January, the international community's High Representative (HR) and European Union Special Representative (EUSR) in Bosnia and Herzegovina (BiH) unexpectedly announced his resignation in order to take up the post of Slovak Foreign Minister from 2 February. An urgent search is now on to find a suitable replacement at very short notice. Lajcak will continue as High Representative from Bratislava until the next meeting of the Peace Implementation Council (PIC) on 26-27 March, when a replacement will be appointed. Meanwhile, in Sarajevo, the deputy HR will manage day-to-day affairs. But the EU has to act even faster, as its rules preclude a member-state foreign minister from exercising the function of EUSR. Thus, that 'hat' of the 'double-hatted' HR/EUSR post is already seeking a head.

Lajcak has been unusually frank in expressing his frustrations with the international mission: his position was like 'riding a dead horse', he said. His abrupt departure was no doubt intended to deliver a much-needed wake-up call to the EU. But this was only the latest, albeit the most dramatic, in quite a series of warnings to the international community and the EU in particular about the dangerous drift in their policy towards BiH. They have failed to get to grips with Europe's most complex, damaged and dysfunctional country. Lajcak's resignation is a challenge to the EU to gear up urgently for the 'reinforced European strategy for BiH', promised – but not adequately defined – in the Joint Report produced by Javier Solana and Olli Rehn last October on *The EU's policy in Bosnia and Herzegovina: The way ahead*. Yet in the scramble to find a replacement for Lajcak, the urgent is overtaking the important: policy-makers' main focus is on finding a competent person of the

HIGHLIGHTS

- The abrupt departure of HR/EUSR Lajcak has exposed drift and disarray in the EU's policy towards BiH.
- The OHR has run out of steam and the Bonn Powers have become unusable, while the 'pull factor' of EU integration is not yet enough to override BiH's deadlocked political confrontations and the threat of disintegration.
- The EU promises a 'reinforced strategy' in BiH, but is divided and unready to meet the challenges of state building in the country.
- This could become an unwelcome point of friction in the EU's relationship with the new US administration.
- The EU needs to rebuild its credibility in BiH by forging a unified position on a long-term strategy for the country, actively engaging in the constitutional reform process and giving more effective support to the next EUSR.

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»»»»» 'right' nationality, while it is time for serious reflection on how to breathe new life into a flagging mission that has been suffering from a lack of international, and especially EU, attention and support.

TIME TO GET SERIOUS

BiH politicians have manifestly failed to demonstrate serious commitment to seizing the opportunities offered by the signature of the Stabilisation and Association Agreement (SAA) last year. Yet instead of a coherent, credible and tough-minded response to these failures, there has been a lack of EU leadership and unity. Many in the EU may feel that the EU has bent over backwards to push this troubled, limping state onto the EU integration path, but they have averted their eyes from the uncomfortable reality that BiH continues to lurch from stagnation to crisis and back again.

Even after BiH signed the SAA last June, there is little evidence of the EU's much vaunted 'attractive power' pulling BiH onto a self-sustaining path of reform and integration. Rather than focus on building consensus to implement the key tasks set out in the SAA, BiH politicians instead seem to take malicious satisfaction (the legendary Bosnian *inat*) in their capacity to tie the EU in knots and exploit its hesitancy, division and distracted attention. The only cue from the EU that BiH politicians seem ready to follow is regularly delivering rhetorical flourishes of hollow 'Eurospeak' for external consumption, while back home remaining doggedly entrenched in their fanatical provincialism. Confident that they can set their own terms for integrating (or not) with the EU, they are blithely indifferent to the exasperation this causes. Thus, for example, current BiH President Radmanovic emerging from supposedly tough-talking meetings with HR Solana and Commissioner Rehn in January to make the wholly fanciful claim that BiH will be ready for candidate status in the course of 2009.

Both the EU and BiH politicians are falling into a game of 'virtual politics' in which neither side takes the other seriously: 'We pretend to do European integration, and you pretend you want us'. Quite apart from the damage of this for the people of BiH and the credibility of the EU in the whole Western Balkans region, if left long unchecked it will become an unwelcome point of friction in the EU's relationship with the new US administration. If the EU cannot do better, it will not be ready to assume the leadership role in the region that the US has long been ready to cede. If the EU does not take its responsibilities in the Western Balkans seriously, the US cannot be expected to take the EU seriously as a partner either here or elsewhere in the world.

FACING UP TO THE EU'S STRATEGIC RESPONSIBILITIES

The choice that has been looming in BiH for some time now is well known: to maintain the role of the Office of the High Representative (OHR), including the Bonn Powers, under international supervision, or to make the transition to a wholly EU-led mission under the EUSR, relying on the 'soft power' of EU conditionality to reorient BiH politics towards EU integration. The dilemma, however, is also clear: the OHR has run out of steam and the Bonn Powers have become unusable, while the 'pull factor' of EU integration is not yet working in BiH.

If the OHR is to be maintained, the authority of the HR and his effective capacity to deploy the Bonn Powers will have to be reinforced. Is this option either desirable or possible? Realistically, a new mandate for the OHR beyond June 2009 must mean at least two more years, because 2010 will be a major election year for BiH – a wholly unsuitably time for closing the OHR. After repeated missed deadlines for OHR closure, the purported goal of preparing BiH for self-sustainable statehood would look like an increasingly ragged fig leaf covering a *de facto* protectorate.

The US seems likely to prefer this option *faute de mieux* – that is, as long as it lacks confidence in the EU to take over. But is the US really ready to sustain a long-term protectorate on the periphery of Europe, when BiH has dropped as low down the list of priorities for the key EU capitals as it has for Washington? Russia, on the other hand (to judge by its recent position in the PIC) will oppose this with determination. What are the prospects of overcoming Russian resistance by a united US-EU stand?

The EU is divided. Some will back the US in favouring a reinforced OHR, but presumably, they take it for granted the US would lead the bare-knuckles showdown with Republika Srpska that would follow. Others may fear precisely that, while yet others may just not have the stomach for any sort of fight. The funda-

mental difference is between those who take BiH seriously as a future EU candidate, and those who are ready to give up on that and settle for an indefinite protectorate. Many argue on ethical grounds that the coercive approach is

fundamentally at odds with the EU's democratic values and is incompatible with European integration. This may be wishful thinking that overlooks inconvenient facts: BiH politicians are not yet ready to play by the EU's rulebook, and do not appear to be that interested in European integration.

If the EU is to put forward a credible alternative for BiH, its engagement must be 'reinforced' – that much is agreed. But if taking over the Bonn Powers is ruled out, what does a 'reinforced' EUSR actually mean? It is easy to agree on the formal institutional arrangements – essentially the EUSR will be 'double-hatted' as Head of the (enlarged) EC Delegation – and to settle the usual diplomatic wrangling about

whose candidate will be chosen for the post. It seems the Solana-Rehn paper recognized that BiH will need a stronger EUSR than that in Macedonia, but it was vague on key issues, such as executive powers, and the participation of the US (as in EULEX in Kosovo).

The hardest task for the EU will be to assure the political credibility of its EUSR and his mission. This means building strong and sustainable political consensus among the member states and institutions of the EU on the substantive content of its reinforced engagement in BiH: the objectives, the methods and resources to achieve them, recognizing that this is a long-haul commitment. There is no 'magic bullet' for BiH.

THE EU'S TENUOUS CREDIBILITY

The EU cannot take its credibility for granted in BiH. In Bosnian eyes, the EU has looked weak, indecisive and unreliable ever since it failed to prevent or stop war in the 1990s. Although by 2003 the EU had clearly committed itself to BiH's European future, the Stabilisation and Association process proved not to offer enough, and soon enough, to break the mould of BiH's ethnic politics. The EU has failed to engage in the process of constitutional reform, leaving the initiative to the US despite the fact that constitutional reform would be essential to BiH's evolution into a functional future EU member state.

The EU's conditions have been inconsistent and often seemed arbitrary or unfair. Thus, BiH's reluctant reformers have exploited the EU's hesitancy, impatience for results, and internal divisions among member states. The lesson learned by one side was that the EU's terms are infinitely negotiable, and by the other, that the EU cannot be relied upon to guarantee BiH's future. Meanwhile, the EU's lapse into the so-called 'enlargement fatigue' seemed to confirm that it had lost the sense of its strategic interest in the region, and in BiH



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»»»» in particular, the EU's aim seemed limited to keeping the lid on a turbulent, complicated and ungrateful country.

CREDIBILITY REQUIRES EU UNITY AND COMMON POLITICAL WILL

The first step to overcoming this unfortunate legacy is a more determined effort on the part of EU member states and institutions to forge and uphold a unified common position on the strategy for BiH. This will provide the essential underpinning of the authority of the new EUSR. He must be able to rely with confidence on the EU's consistent and unambiguous backing for his day-to-day implementation of that strategy.

The past difficulties with EU conditionality in BiH have been closely associated with divisions within the EU over the timing and substantive content of explicitly political conditions, especially police reform. Some have argued that the EU should avoid setting political conditions, in the hope that implementing the 'technical' conditions set out in the SAA would prove less contentious and lead to more productive consensus on practical issues. However, the result so far is that almost nothing has been achieved. Thus moving BiH forward along the SAA track will demand that the EU show more political nimbleness and understanding of the tricky challenges and obstacles that BiH politics continually throws up.

THE EU'S ROLE AND RESPONSIBILITY IN BIH'S CONSTITUTIONAL REFORM

The EU should be ready to take the lead in an active and assertive approach to mediating the constitutional reform process. This does not mean imposing any new blueprint, but assuring the quality of the process. The EU, however, can and must unwaveringly insist that no questioning of the integrity of BiH will be allowed. The basic Dayton 'rules of the game' will be

respected: constitutional change requires the consent of all constituent peoples. But 'no change' is not an option, because – as all agree – BiH today is not a functional state for the purposes of EU integration.

The EU's role in the process of constitutional reform is to keep the functional requirements of EU integration at the forefront, as the key consideration in negotiations. It should take as the point of departure the following paragraph from the 2006 'April package':

State institutions are responsible for negotiating, developing, adopting and implementing, and the functioning of laws necessary for the fulfilment of European standards, as well as political and economic conditions linked with European integration. The State shall ensure compliance with the principles, priorities, and demands set forth by the European Union in the phases before and after accession. The State will establish the necessary bodies by law and undertake the necessary measures and determine the necessary procedures for the fulfilment of all criteria for accession and membership in the European Union, which also includes the necessary mechanisms of coordination and cooperation with authorities at lower levels.

Clearly, the 'functional requirements of EU integration' can be delivered in a variety of possible ways, and the complexity of BiH will demand imaginative innovation. The impartial expert advice of the Council of Europe's Venice Commission will be invaluable here. But the options are not infinite, and it is the EU's responsibility to define the limits of the possible: to explain clearly what will *not* work, and why not.

All can agree that the only way forward is by means of a serious political process: the quality of the process itself is key to a sustainable, legitimate outcome. This means rejecting the 'virtual politics' of cheap, deceitful rhetoric and confrontational grand-standing, and instead fostering the real politics of negotiation, compromise and mutual respect that are the hallmarks of

the EU's own way of doing business. Those who prove unable or unwilling to 'do politics' as a genuine search for consensus must find themselves marginalised and discredited.

THREATS AND/OR OPPORTUNITIES

The EU needs to be realistic about the timescale, and ready for the long haul. On current form, BiH's EU integration will take a long time, and there can be no short cuts. As we have seen before, any sign of faint-heartedness on the part of the EU bolsters the self-

confidence of those BiH politicians whose interests and objectives are opposed to BiH's European future. The threats to BiH's stability and integrity as a state must be taken seriously. It is the fragile heart of the Western Balkans, with its barely-contained Serbian

and Croatian 'questions' that have the potential to disrupt the whole region. Although the mechanisms are in place to prevent chaotic breakdown and a return to violence, BiH is not far from becoming an intractable 'frozen conflict' like Cyprus.

The global financial crisis and the unfolding economic recession in Europe are already having a severe impact on BiH (and its neighbours) that greatly complicates reform and the project of EU integration for the Western Balkans region. But the economic downturn will also fully expose the unsustainability of BiH's economic trajectory of the past decade. The external resources on which BiH has depended for so long are much less readily available, while the costs of wasted time – of incomplete and skewed reforms, hesitant and half-hearted regional cooperation – will make themselves felt all too clearly.

The EU must turn this threat into a new opportunity to demonstrate convincingly that there is no alternative to EU integration. The idea of a 'New Marshall Plan' for the region has been around for so long, and so many times dismissed as unrealistic. Yet, given the scale and dimensions of the re-think of international and European financial and economic systems that has to take place, the time is ripe to include a 'New Marshall Plan' for the Balkans in the rescue package for the European economy.

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