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Before the
COMMITTEE ON FOREIGN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

Washington, DC
September 16, 2010

Hearing on
“FULFILLING THE PROMISE OF PEACE:
HUMAN RIGHTS, PEACE AND RECONCILIATION IN NORTHERN IRELAND AND BOSNIA”

Chairman Carnahan, Ranking Member Rohrabacher, Distinguished Members of the
Committee:

I welcome the opportunity to be here today and speak to you about human rights, the peace process, and reconciliation efforts in Bosnia and Herzegovina. And on behalf of the National Endowment for Democracy (NED), I would like to thank you for your continued commitment to the Balkans and attention to the problems facing post-conflict states.

With Congressional funding, NED has supported democratic development in Bosnia since 1993, when it provided assistance to print the daily *Oslobodjenje* and air Radio ZID in the besieged city of Sarajevo. Today, as its democratic transition falters, Bosnia and Herzegovina has become the Endowment's most important priority in the Balkans. Therefore, in addition to offering an overview of the current situation in Bosnia and the challenges facing the international community, I will also highlight some of the efforts being made by civil society organizations to promote reconciliation and advance the country's democratic transition and Euro-Atlantic integration.

I would like to dedicate this testimony to the many civic activists working tirelessly to promote free and fair presidential and parliamentary elections in Bosnia, which are scheduled for October 3rd.

International Intervention

Let me begin by noting that this timely hearing occurs only three months before we mark the fifteenth anniversary of the Dayton Peace Accords (DPA), signed in Paris on December 14. Agreed upon after weeks of arduous negotiations between the three warring sides, and facilitated by the United States at the Wright Patterson Air Force Base in Dayton, Ohio in November 1995, the Dayton Peace Accords brought an end to the bloodiest conflict in Europe since World War II. In less than four years, the war in Bosnia left an estimated

100,000 people dead and more than half of the country's pre-war population displaced. But it was not until after most heinous of crimes was committed in July 1995 – when 8,000 Muslim men and boys seeking refuge in the UN-protected enclave of Srebrenica were systematically and brutally executed by Serb forces – that U.S.-led NATO air strikes forced a ceasefire and subsequent negotiations in Dayton.

It can be said that the Bosnia intervention forever changed the nature of international involvement in post-conflict situations. For NATO, it was the first use of armed force and the first out-of-area intervention. Moreover, intervention in Bosnia extended the Alliance's central mission beyond collective defense to crisis management, post-conflict reconstruction, and even state-building. As a 19-year-old interpreter for NATO forces in Bosnia, I was personally involved in assisting the U.S. Army in conflict resolution, prisoner-remains exchange, disarmament efforts, infrastructure rebuilding projects, and election support in the Brčko area. A native of this strategically important city, I will be forever grateful for the role that the United States, now also my country, played in bringing peace to Bosnia.

Of course, the role played by the international community, including the United States, in post-conflict Bosnia extended beyond simply keeping the warring sides apart; it took the lead in developing long-term political solutions. Initially, the country was effectively run by a network of international community institutions representing the major world powers, with the UN, OSCE and NATO as leading implementing organs. The DPA also spelled out the role of the internationally-appointed High Representative to oversee civilian peace implementation and coordinate other international actors, answering to the intergovernmental Peace Implementation Council (PIC), which includes the U.S. In 2004, the NATO military operation was replaced by the EU Forces (EUFOR) mission; today, fewer than 2,000 EUFOR troops and 150 NATO personnel remain in Bosnia to maintain a secure environment and ensure continued compliance with the military aspects of the DPA.

It is estimated that over \$15 billion in international aid has been poured into reconstruction and state-building efforts since the Dayton Accords were signed, approximately \$1.5 billion of which came from Support for East European Democracy (SEED) funds approved by the US Congress. NED has provided approximately \$8 million to assist civil society in Bosnia and Herzegovina since 1993, supporting more than 160 in-country projects to date.

Impact and Current Situation

Without a doubt, this significant investment has produced notable results. To date, Bosnia remains the only post-conflict country in modern history in which international intervention has secured lasting peace, without a single major incident of interethnic violence since 1995. Substantial state-building reforms were also achieved, including the creation of a common currency, customs area, and indirect taxation authority. And small but consistent progress in electoral processes, civil society, governance, and judicial framework has been made. Most notably, defense reform succeeded in unifying three completely separate and previously warring armies.

Although not fully successful, police reform led to the signing of the Stabilization and Association Agreement (SAA), the first step towards EU membership. Bosnia has also made substantial headway in addressing the visa liberalization conditions set by the EU, opening up the possibility for visa-free travel by Bosnian citizens later this year. And earlier in 2010, Bosnia was offered a Membership Action Plan, the final step prior to full NATO membership, albeit under certain conditions. But the most important recognition of the progress achieved over the last fifteen years was the country's election to a non-permanent seat in the UN Security Council, starting in January 2010.

These successes notwithstanding, Bosnia remains an extremely fragile state. Over the last year, a number of domestic analysts and international experts have rang alarm bells, warning that the country is on the brink of collapse and even renewed conflict. The real potential for collective violence is difficult to determine, because there have been no recent attempts to systematically assess the security situation in Bosnia. What is clearer is the international community's limited ability to react to and control such violence, should it occur. As regularly pointed out by analysts in Bosnia, the enfeebled international presence has lost the deterrence effect it once had, which has been poignantly illustrated by a recent series of violent clashes and attacks. While these incidents have been apparently isolated and non-ethnic in nature, they have the potential to be both provocative and deadly. A broader security threat was narrowly averted after a violent clash of Bosniak and Croat soccer fans in the Croat stronghold of Široki Brijeg in October 2009; and the recent June 2010 bomb attack outside a police station in the town of Bugojno, which killed one policeman and wounded six others, is considered one of the most serious security incidents in Bosnia since the war ended.

The danger to Bosnia's peace and stability, as well as its democratic transition, has also assumed more complicated forms. Following a series of successful reforms achieved by 2005, the international community decided to withdraw and transfer "ownership" to domestic political elites. As a result, Bosnia's progress came to a screeching halt and has been on a downward slide ever since. Having discovered the electoral power of nationalism, political leaders have used it to further entrench their positions of power. This is particularly true in Republika Srpska (RS), the Serb-dominated entity, whose leaders are seeking to reverse any reforms leading to stronger State institutions, thus limiting the country's ability to meet the responsibilities that go with EU and NATO membership. In the process, the language of hate and fear used to secure their positions and electoral successes has increased ethnic tensions to a level unseen since the war's end.

Key Challenges

A multitude of challenges still remain to fulfill the "promise of peace" made to Bosnia with the signing of the DPA. Here, I would like to outline only a few that fit the three themes of today's hearing – reconciliation, human rights, and peace and stability – and offer some suggestions on how to ensure that the legacy of the time and resources invested in consolidating peace and democracy in Bosnia is solidified and becomes irreversible.

Reconciliation

The extent of the crimes committed during the war in Bosnia has left a painful legacy and sown seeds of deep division and mistrust between the three major ethnic groups. Punishing those guilty of war crimes has been an essential element in not only consolidating peace but also promoting reconciliation. For all its controversies and oft questioned legitimacy by the broader public, especially the Serbs who view it as heavily biased against them, the International Criminal Tribunal for the former Yugoslavia (ICTY) has made a major contribution to peace and democratization. As noted in a recent report by the NATO Parliamentary Assembly, the ICTY has not only contributed to the development of international humanitarian law, but has also helped to strengthen legal systems and the rule of law in Bosnia. More importantly, it has helped to establish the facts about the recent past and determine responsibility for some of the worst events in Europe's modern history. Above all, it has provided justice for war crimes victims and lent them a voice for the world to hear.

There have been, however, major shortcomings in the process of transitional justice, including Serbia's failure to arrest Ratko Mladić, a mastermind and chief executor of the Srebrenica genocide. Continued impunity for Mladić is a major impediment to the international community's efforts for reconciliation in Bosnia, and is jeopardizing the process of transitional justice in the entire region.

Moreover, while the ICTY and the domestic courts remain the only legal instruments for establishing individual criminal responsibility, their limited capacity warrants alternative approaches to satisfying truth and justice for all victims. One such approach is offered by the Coalition for RECOM – a regional coalition of nongovernmental organizations, victims' associations, and individuals, led by long-time NED-grantee Nataša Kandić – that advocates for the establishment of an official independent interstate commission. Modeled after similar commissions established in post-conflict societies around the world, but adapted for the specificities of the Yugoslav conflicts, RECOM would investigate and disclose facts about war crimes and other serious violations of human rights committed in the former Yugoslavia, including the fate of the 11,000 persons still missing in Bosnia and 1,800 in Kosovo, and help to locate their remains. The initiative, which has been supported by NED for the last three years, was recently endorsed by Croatia's President Ivo Josipović and Serbia's President Boris Tadić.

Recognizing that only by facing the truth about the past can new generations have a chance at a peaceful future, Bosnia's civil society is developing and implementing innovative approaches to educating the broader public, particularly youth, about the horrific events of the recent past. NED-grantee Youth Initiative for Human Rights has, for example, developed an interactive digital map of the events that led to the Srebrenica genocide, presenting legally determined facts in a user-friendly and understandable way. Faced with a deeply divided education system and ethnically-based curricula, which perpetuate ethnonationalism, NGOs are promoting the use of multi-perspective history textbooks and human rights documentary films in classrooms to promote historical reconciliation,

tolerance, and multiculturalism. In a society in which ethnic divisions are institutionalized at all levels of government and glorified by political elites, theirs is an uphill battle.

Human Rights

The Dayton Peace Accords have put an end to the gross and systematic violations of human rights committed during the war. However, the outcome of a compromise to belligerents has led to human rights violations of a different kind. Namely, certain provisions of Bosnia's constitution, contained in Annex 4 of the DPA, include a preference for members of the three "constituent" peoples – Bosniaks, Croats, and Serbs – over national minorities, grouped under an all-encompassing label of "others": the means by which the members of the Presidency or the upper chamber of the Parliament are elected therefore limits those eligible to the three constituent peoples and specifies the ethnicity of the candidates to be elected from each entity. As such, the constitution not only denies equal representation to national minorities, but also discourages refugees and displaced persons from returning to their original places of residence, where they would now be a minority.

These fundamentally undemocratic provisions of the Dayton Constitution are also inconsistent with provisions for human and minority rights protection contained in conventions ratified by Bosnia. As well, the constitution itself includes the European Convention on Human Rights in its preamble, producing obvious contradictions – Bosnia not only violates its own constitution, but its constitution violates human rights. The December 2009 ruling by the European Court on Human Rights, that Bosnia must amend its constitution to allow "others" to compete for the Presidency and House of Peoples, is the most recent in the series of requirements made to the Bosnian government as a condition for the country to advance toward EU and NATO membership. Unfortunately, it is a requirement almost impossible to meet under current decision-making arrangements.

Peace, Stability and Democracy

In an April 2009 testimony to the U.S. Helsinki Commission on challenges in the Western Balkans for U.S. and EU engagement, I pointed out that Bosnia's system of government, devised under the DPA, "is not only highly dysfunctional, inefficient, and unsustainable, but it also impedes long-term stability by entrenching ethnicity into politics." The complex decision-making system, designed in Dayton to protect the interests of each self-defining group, has inadvertently created a self-reinforcing mechanism that rewards political extremism. It enables hardliners to employ ethnic appeals to consolidate their grip on power and obstruct any reforms that would endanger status quo. Consequently, the system has not only helped to cement the position of ethnically-defined political parties, but has also suppressed alternative voices from civic groups, moderate political parties, and the media.

Like the system it created, the Dayton Constitution also lacks popular legitimacy. It was never subject to either public debate or parliamentary ratification. This is understandable given the circumstances surrounding the creation of the constitution, but the process has never been revisited in a way that would redress these deficiencies. Just how far removed

the constitution is from ordinary Bosnian citizens is best illustrated by the fact that the legally binding document remains in its English-language original – the text was never officially translated into the locally spoken language(s). Moreover, heavily dependent on the political will of ruling elites, the system requires international intervention to function and would likely fall apart without it; yet, continued international involvement also further undermines the system's legitimacy.

The result of this vicious circle is a dysfunctional and divided country suffering a serious democracy deficit. At best, Bosnia will remain unable to meet requirements for Euro-Atlantic integration; at worst, its weak institutions will render it vulnerable to political instability or even conflict. The country and its people have become prisoners of their own peace.

Lessons Learned and Recommendations

Although its inherent flaws were painfully obvious by the time first elections were held in 1996, which brought the nationalists to power, the Dayton Constitution remains unchanged. This was not for lack of trying: at least two major efforts – in 2006 and in 2009 – were made by the international community to reform the constitution. Both failed, as have several other attempts to address the system's various deficiencies.

The inability to devise durable solutions has led to fatigue in the international community and repeated calls for downsizing its involvement, most specifically by closing down the Office of the High Representative. But with the rapid deterioration of the political situation since 2006 – most recently demonstrated by calls for a referendum on the secession of Republika Srpska and the repeated questioning of the Bosnian state's viability by RS leaders – it is clear that, under the current system, the international community's departure could easily translate into an end to peace and reconciliation in the country.

This situation poses a considerable risk to the substantial investment made by the international community, including the U.S., in securing peace and stability in Bosnia. Just to be clear, Bosnia is the key to the stability and security of the entire Western Balkans – another Bosnian implosion or even prolonged stagnation is sure to have a ripple effect throughout the still-vulnerable region. The inability to secure Bosnia's stability and complete its democratic transition would have disastrous consequences on American and European interests elsewhere: Bosnia has served as a precedent and a trail-blazer for subsequent interventions in Kosovo, Afghanistan and Iraq; a failure in Bosnia would seriously question the credibility of more demanding peace-building and democratization efforts in places like the Middle East.

Therefore, I would offer the following lessons learned and recommendations for continued international engagement in Bosnia and Herzegovina and other post-conflict countries; and let me note, Mr. Chairman, that I am speaking here in a personal capacity.

- The international community should recognize that stabilization and state-building are long and arduous processes, and remain committed for the foreseeable future. U.S.

soldiers deployed to Bosnia expected to stay for one year; but it was not until 2004 that the last U.S. troops left the country, and a small NATO contingent still remains. Had the international community planned to remain engaged in the country for fifteen or more years, and designed its programs and missions accordingly from the very beginning, including long-term planning and consistency in policies and programming, it is likely that Bosnia's stability and democratic transition would look very different today.

- As in other places, the U.S. and EU must share the burden of stabilization and democratization efforts in Bosnia. It is often said that, by the virtue of geography, Bosnia is a "European problem." Indeed, the country's best chance for political stability and democratic consolidation lies with EU integration. However, Bosnia's particular problems have proven too complex to be resolved simply by the lure of EU membership. The U.S., which still possesses unrivaled credibility in the region, remains indispensable in forging a common international policy and providing the necessary political and technical support to its EU partners. In the case of Bosnia and Herzegovina, the U.S. should work with its PIC partners to find a common voice and formulate a coherent strategy with the political will needed to see through indispensable reforms.
- Neither the U.S. nor the EU should abandon efforts to reform the Dayton Constitution; however, the nature of this involvement must change. Instead of offering ready-made solutions and negotiating them with a handful of political leaders down to the point of the least common denominator, the international community should allow the process to be domestically-driven and facilitate it by offering expertise and incentives for change. At best, international experts should offer a framework for domestic decision-makers and civil society to operate within, so they can arrive at durable solutions. To provide incentives, the process of implementing these reforms should be directly tied to EU and NATO accession, both of which would have to be presented as plausible outcomes in the foreseeable future.
- In general, peace agreements should contain a sunset clause that expires at a certain point in the future. To paraphrase two leading experts in conflict management in divided societies, the system that is most appropriate for initially ending conflict may not be the best one for longer-term conflict management. The current situation in Bosnia demonstrates the dangers of having a system designed to bring about peace that is maintained over a long period of time without alternative solutions, particularly when its provisions clash with new requirements and reforms needed to consolidate peace and democracy. At the same time, the international community should not be tempted to simply remove integral parts of a peace agreement, such as its enforcement mechanisms, while leaving the rest of the system intact. In Bosnia, support for the Office of the High Representative should be strengthened, and not withdrawn, as long as the DPA remains in force.
- In addition to strengthening formal state institutions, the international community should continue to provide democracy support to civil society organizations, independent media, and moderate political parties. Civil society organizations are working for moderation, compromise, and dialogue, thus helping to mitigate political

conflict. Support for watchdog groups to critique state performance or advocacy NGOs to develop reform policies with the government can help to improve accountability and reduce corruption, thereby strengthening rule of law and democratic governance. And strengthening moderate political parties and objective media can enlarge the political space currently monopolized by nationalist political elites. These democracy-building efforts can substantially contribute to political stability and, by extension, to durable peace and prosperity in countries like Bosnia.

Mr. Chairman, Distinguished Members of the Committee,

On October 3rd, Bosnia and Herzegovina will hold presidential and parliamentary elections. With a sense that the international community is running out of time to help fashion a stable and viable state, the upcoming elections are viewed as a key indicator of the country's democratic progress. Foreign diplomats and international representatives in Sarajevo often say that it is up to the Bosnian people to elect the kind of leadership that will lead the country to a better future. Yet they too recognize that fear and uncertainty about the future has been repeatedly used by nationalist political elites to successfully influence the outcome of elections in favor of ethnically-based parties; consequently, most observers do not see the potential for any substantial change to the political landscape in what will be the country's tenth poll.

I am optimistic about the outcome of these elections. By Election Day, NED will have supported well over 30 nonpartisan organizations – NGOs, youth movements, media outlets, and civic associations – throughout Bosnia to educate citizens, boost voter turnout, foster freedom of information, hold politicians accountable for their performance, and promote issues that unite different ethnic groups. Over the last two years, NED has also supported the work of the National Democratic Institute, which oversees the only U.S. program promoting political party reform. It is these kinds of programs that NED and its grantees are supporting in Bosnia and Herzegovina to promote issue-based campaigning and voting; together we are trying to remove fear as a decisive factor in casting one's vote. I believe these programs will make a difference.

But regardless of the outcome of the October 3 general elections, an opportunity will emerge to advance alternative approaches to post-election dialogue on reform. The international community should be prepared to seize this opportunity and build on any momentum for change created by domestic actors, above all civil society. Only a strong commitment and continued engagement by the United States and its European partners to strengthen democracy in Bosnia and Herzegovina will ensure long-term stability and prosperity in the country and the entire Balkan region. I thank you once again for demonstrating that commitment.

Thank you. I look forward to your questions.