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DEFENCE REFORM IN BOSNIA AND HERZEGOVINA – A LONG WAY TOWARDS PARTNERSHIP FOR PEACE

A. The Current Situation of Defence Structures in Bosnia and Herzegovina

The current structure and composition of the armed forces in Bosnia and Herzegovina remain based on wartime needs and arrangements that no longer apply. Though two phases of demobilization took place in the years 1996 – 2000, the system based on Dayton Peace Accord (DPA) did not change.

Current arrangements for defence in Bosnia and Herzegovina are wholly inadequate to meet the guidelines for Partnership for Peace candidacy and to fulfil existing international commitments.

Command and Control

The entities have maintained separate military forces, organised and commanded at the entity level, with insufficient State – level command, control and oversight. Each change by one entity is made conditional on changes by the other entity, and has prevented Bosnia and Herzegovina from developing armed forces commensurate with its security needs. Past reforms have failed to address the core issue: that the State is supreme and, as a fundamental principle of Statehood, must be empowered with command and control of its armed forces to have the capacity to defend its territorial integrity, sovereignty, political independence and international personality.

The 2001 – 02 reforms that stood up the Standing Committee on Military Matters (SCMM) and its institutions created a quasi State-level

chain of command and control; yet actual power remained with the entities whose constitutions and laws define their defence responsibilities in detail. The result was two distinct and parallel chains of command and levels of authority, creating conflicting command and control arrangements extending from both the State and entity levels.

From the perspective of Partnership for Peace candidacy, the State must be empowered with command and control authority over the armed forces, and the independent authority of the entities to control and command military forces must be deleted.

Entity Armies and Defence Laws

In the Federation of Bosnia and Herzegovina, the legal and constitutional provisions relating to defence matters are inconsistent. The Constitution grants command and control authority to the Entity President, whereas the Law on Defence grants it to pre-Dayton figures, with a caveat that this must be resolved once the Dayton institutions were established. Because these interim arrangements were not updated, constitutional and legal inconsistency and ambiguity remain about whether some command and control responsibilities still rest with the institutions of the federation of Bosnia and Herzegovina.

To a certain extent, the defence arrangements in the Federation of Bosnia and Herzegovina have continued the parallelism of pre-Dayton, Washington Agreement structures, in the then form of the Army of the Rupublic of Bosnia and Herzegovina and the Croatian Defence Council (HVO). This is illustrated by the lack of a common Law on the Army. The Croat component still uses the Law on Service in the Croatian Defence Council, and the Bosniak component currently uses the Law on Service in the Army of the Republic of Bosnia and Herzegovina. The absence of a common law adds to the duality and parallelism of defence structures in the Army of the Federation of Bosnia and Herzegovina.

The Constitution of Republika Srpska has – even more visibly than the Federation of Bosnia and Herzegovina – perpetuated the original self understanding of the entity as a sovereign state, until the High

Representative changed it in April 2003. The competencies related to defence reinforce a view of statehood, in which the framework for defence is defined with supremacy resting with entity institutions. Both the Constitution and Law on Defence of Republika Srpska grant supreme command and control authority over the army to the Entity President, therefore failing to acknowledge the supremacy of the State for matters of defence.

The entity armed forces are currently primarily developed to defend the territory of each respective entity and do not refer to the imperative of the defence of the entire State. They lack the capacities to address mission tasks other than defending territorial integrity, and they must address compatibility and interoperability with each other and NATO forces. Bosnia and Herzegovina must also address the training, doctrine and force structures of its armed forces so that it can make an effective PfP contribution, with solid capacities to organise, train and deploy troops, and thereby to enhance the stability and collective activities of partner countries.

Defence Spending

Bosnia and Herzegovina is committed to have only those armed forces necessary for its legitimate defence needs, a concept that includes fiscal responsibility. State authorities, entity authorities and parliaments all have the responsibility for ensuring the most effective armed forces possible within affordable resource limits. Defence spending by Bosnia and Herzegovina is substantially greater than that of European countries of similar size and more than can reasonably be sustained given Bosnia and Herzegovina's limited economy and other domestic needs. Reducing the size of the armed forces and resolving outstanding personnel issues are major priorities for reform. Under – pricing and under – funding of defence budgets routinely produce crises in budget execution. Without significant reform in this area, Bosnia and Herzegovina will remain incapable of producing reliable and transparent estimates of defence expenditures, consistent with its OSCE and potential NATO PfP obligations.

Parliamentary Oversight

Parliamentary oversight of defence matters is a requirement for Pfp membership. Currently, no provision in law assigns oversight capability to the bicameral State – level Parliamentary Assembly. The Rules of Procedure of both parliamentary chambers reflect this situation; thus, for example, no provision allows for a permanent committee that would examine issues exclusively within the field of defence. Entity laws provide for legislative oversight by the National Assembly in Republika Srpska and the Parliamentary Assembly of the Federation of Bosnia and Herzegovina, but there is insufficient exercise of this responsibility.

Conclusion

In summary, current defence arrangements and army structure and size have led to the following deficits:

- lack of adequate command and control at the State level;
- ambiguity and inconsistency in law regarding the competency of the State and entities for defence matters;
- insufficient oversight capabilities, including democratic parliamentary control of armed forces;
- lack of transparency at all levels for defence matters;
- non – compliance with international obligations, primarily OSCE politicomilitary accords;
- an unjustifiable amount of passive reservs and, thereby, also small arms and light weapons to arm them;
- excessive, deteriorating arms at too many locations;
- waste of human and financial resources in the defence sector; and

- forces sized and equipped for missions no longer appropriate for the real security situation or PfP and NATO requirements.

These are among the reasons why Bosnia and Herzegovina currently is not a credible candidate for the PfP.

B. The Future Concept for Defence in BiH

The benefits of Partnership for Peace membership are many. NATO has assisted Partner countries in improving their defence and security capacities in numerous areas. Beyond such tangible benefits, an invitation to Partnership for Peace signals an acceptance by NATO and member nations that a country has been accepted into an association of like – minded democratic nations. An invitation also reflects a strengthened political legitimacy, with favourable implications for the political and economic viability of an emerging democracy. Nations who have joined and actively participated in Partnership for Peace have found that their involvement has facilitated further steps toward European integration. The recognition of political and military stability encourages foreign investment, which creates jobs and increases prosperity.

The fulfilment of the new defence structures of Bosnia and Herzegovina, as well as the laws establishing those structures, would be a significant step towards harmonisation with Euro – Atlantic standards, and would help to ensure credible Partnership for Peace candidacy.

Joining Partnership for Peace is an important step. Bosnia and Herzegovina will need to undertake additional reforms in the future to meet NATO's standards. The BiH Defence Reform Commission has envisioned possible options for such future reforms and has ensured that its recommendations in the immediate period will facilitate future changes.

The Commission determined that each of its recommended reforms is consistent with the provisions of the **Constitution of Bosnia and Herzegovina**. Four Constitutional provisions provide the bases for the Commission's recommendations. Article III.5 of envisages the State

assuming responsibilities as necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina and that «additional institutions may be established as necessary to carry out such responsibilities». This provision articulates a fundamental principle of Statehood: a State must have the capacity to defend its territorial integrity and sovereignty. To have this capacity, a State must control its armed forces. Article III.1 determines that foreign policy is the responsibility of the institutions of Bosnia and Herzegovina. The conduct of foreign policy includes defending borders and projecting force abroad. Article III.2 stipulates the responsibility of the entities to provide all necessary assistance to the Government of Bosnia and Herzegovina to enable it to honour the international obligations of the State. Article IV.4 grants authority to the Parliamentary Assembly to enact legislation necessary to implement the decisions of the Presidency of Bosnia and Herzegovina.

The **new Defence Law of Bosnia and Herzegovina**, proposed by the Commission, is supported by these Constitutional imperatives, as are the proposed amendments to the entity Constitutions, Laws on Defence, and Republika Srpska Law on Army. In addition to these legislative proposals, the Commission recommends a new Law on Army of the Federation of Bosnia and Herzegovina (presented separately) and a legislative framework for a new State – level Ministry of Defence. This framework includes amendments to the Law on Council of Ministers and Law on Ministries and a proposed decision by the Presidency of Bosnia and Herzegovina to transfer competencies to the Ministry from the Standing Committee on Military Matters.

Most fundamentally, the Commission's recommendations recognise the supremacy of the State for defence matters. A **single defence establishment for Bosnia and Herzegovina** is proposed with an appropriate and workable division of responsibilities between State and entity institutions. The Presidency would act collectively in exercising command and control of the Armed Forces of Bosnia and Herzegovina in peacetime, crises, and war. A State – level Ministry of defence, headed by a Minister of Defence with assistance from two Deputy Ministers, would be created to assist the Presidency. The Minister would

be a full – voting member of the Council of Ministers and would be appointed like all other State Ministers. The Minister would be in both the chain of command for military operations, known as the operational chain of command, and the chain of command for manning, training, and equipping the armed forces, known as the administrative chain of command.

Subordinate to the Minister in the operational chain of command would be a Chief of Staff of a new Joint Staff of Bosnia and Herzegovina. Key duties of the Chief of Staff would include acting as the senior military advisor to the Presidency and Minister and transmitting orders to operational commands and units. The Joint Staff would prepare and oversee the execution of orders and plan and direct military operations. A second new State – level military institution would be created: an Operational Command, headed by a Commander. This officer would serve as the commander for any mission requiring the deployment or employment of any operational element of Armed Forces of Bosnia and Herzegovina. Under the Commission's recommendations, the State would have the exclusive right to mobilise and employ forces, except in a highly extraordinary natural disaster or accident during which an entity President could authorise an immediate, but limited use of units from the entity army to assist civil authority.

The **entities** would continue to make an important contribution to defence in Bosnia and Herzegovina. They would still perform the administrative functions of manning, training, and equipping the Army of the Federation of Bosnia and Herzegovina and Army of the Republika Srpska. Each entity would have a Ministry of Defence, headed by a Minister. The Joint Command would continue to exist in the Federation of Bosnia and Herzegovina, and the Republika Srpska would retain its General Staff. The duties of these two military staffs would be narrowed to only administrative functions. The Army of the Federation of Bosnia and Herzegovina and Army of the Republika Srpska would continue to exist and provide the operational capabilities of the Armed Forces of Bosnia and Herzegovina.

In addition to the day – to – day administration and support of their armies, the entity ministers and military staff would have responsibility for supporting any operations or activities of units under State operational command. The entity Ministers of Defence would report to the State Minister of Defence who would establish standards for the administrative activities of the entities. Common standards would promote compatibility and interoperability between units of the entity armies and better ensure meeting the support requirements of the operational chain of command.

The Commission's recommendations for parliamentary reforms are guided by the principles of democratic civilian control of the armed forces, transparency in defence planning and budgeting, and the need for fiscal limits for defence to be established by political authorities in a democratic manner. Key among recommended reforms is the creation of a new Joint Committee on Defence and Security in the Parliamentary Assembly of Bosnia and Herzegovina. Furthermore, under the proposed recommendations the Parliamentary Assembly would have exclusive power to declare a state of war and ratify a State emergency at the request of the Presidency of Bosnia and Herzegovina. It would exercise legal oversight authority over the Armed Forces of Bosnia and Herzegovina and all State – level institutions.

The Parliamentary Assembly would have primary authority to make and approve laws governing the organisation, funding, manning, training, equipping, deploying, and employing the Armed Forces of Bosnia and Herzegovina. It would confirm the nomination the nomination of the Minister and Deputy Ministers of Defence, Chief and Deputy Chiefs of Staff of the Joint Staff of Bosnia and Herzegovina, and all General officers. Entity parliamentary responsibilities would be amended to reflect the new division of competencies between the State and entities. The entity parliaments will need to undertake significant reforms to meet Euro – Atlantic standards on democratic parliamentary oversight and control of the armed forces

The Armed Forces of Bosnia and Herzegovina are not affordable. Many areas of the defence system will need to be reduced to balance **defence**

budgets and provide modern and professional armed forces. The Commission recommends reductions in professional soldiers from 19,090 to 12,000 and in reserves from 240,000 to 60,000. The intake of conscripts would be reduced by 50 percent, and the conscript training period shortened from six to four months. The headquarters and field staff of the entity Ministries of Defence would also be reduced by 25 percent.

The Commission also recommends accelerated efforts to reduce weapon storage sites and excess property, including business holdings. To demonstrate the capacity of the Armed Forces of Bosnia and Herzegovina to work compatibly, under a single chain of command, the Commission recommends that Bosnia and Herzegovina combine the entity de-mining teams into a single de-mining unit organised under the State. This would have the added benefit of enhancing Bosnia and Herzegovina's credibility in the field of de-mining, thereby attracting greater attention to the problem as well as international donors. If implemented, the Commission's recommendations would have lead to lower defence budgets and reduce the defence burden on the peoples and economy of Bosnia and Herzegovina.

C. Ways for enhanced regional cooperation in BiH

There are many options for cooperation between NATO, EUFOR forces, or bilateral activities with BiH Armed Forces (AF) available. After 9 years of SFOR presence in the country the deterrence aspect can be «over the horizon», and one should concentrate with deployed forces on **civil military cooperation**. They could help in municipalities in the full spectrum of municipality tasks. Building firm partnerships with local communities. This would provide continuity for the work of own contingents, and create a much stronger positive perception of SFOR/EUFOR in the public.

In order to deepen the in country cooperation with BiH armed forces, the NATO/EU forces should use the concepts, which NATO had in earlier time for cooperation between allied forces stationed in Germany: Provide partnership affiliations and develop a concrete program for all

units of BiH forces in the own area. Start to train, educate and conduct the full range of activities always in a joint way, including always the Federation AF and RS AF.

No expert team being sent from a capital will change the AF of BiH quicker than permanent influence from those NATO/EU troops stationed on the ground. And it would give those deployed troops new spirit and additional motivation as well.

Reconciliation, institution – and state building and helping to modernize BiH AF and make them PFP compatible could not be done in a better way.

The **bilateral military cooperation** with BiH AF is characterized by a lot of bilateral support initiatives in order to help to build up the state level defence structure and to reorganize BiH Armed Forces. This work is important, but I have my doubts that it is coordinated and is always matching the real needs on the grounds in BiH. Such bilateral activities should be based on the real needs of the receiving country and therefore be closely coordinated with the newly created BiH Ministry of Defence and its entities. The support in training of future BiH military key personnel and the build up of training institutions seems to be of highest priority.

A major step forward would be the inclusion of BiH armed forces in existing **multinational SEE formations**, or to create a new peacekeeping unit with some states in the region, like SCG, Croatia, Albania and other countries.

D. Conclusion

BiH has mastered quite a considerable way on its transition towards NATO‘s PfP and European integration. With its Defence Reform and the political acceptance of the proposed steps it has proved that it wants to reform its armed forces in a promising way. The concept is now available. The challenge lies in the rapid and powerful implementation of the proposed concept.

This requires from BiH a lot of own efforts and offers to its neighbours many opportunities for support.. The Defence Reform in BiH will facilitate regional cooperation in many areas and will be a major contribution to stability in South East Europe.

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