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Mr. Chairman and Distinguished Members of the Commission:

Thank you for the opportunity to address you today and discuss the latest developments in the Western Balkans. The National Endowment for Democracy (NED) is grateful for your committed interest in the region, ongoing support, and recognition of the need for continued international attention to the problems facing the Balkans.

I have been asked to speak today about democratic developments and civil society in all Western Balkan countries. Although I will devote most of my testimony to Bosnia and Herzegovina, the country which arguably deserves the greatest consideration at the moment, I will first briefly review the situation in other countries, from the perspective of civil society and the challenges it faces.

Almost exactly a year ago, I was invited to brief the Commission on the state of democracy in **Serbia**, and I had little reason for optimism. The attacks on the U.S. Embassy, prompted by Kosovo's declaration of independence, threats against and attacks on human rights defenders and the media, and the uncertain outcome of the upcoming elections, painted a grim picture. Yet today, I can say that I am cautiously optimistic about Serbia. After the May 2008 elections and formation of the new government coalition, one that is awkward but stable, a leading war criminal was arrested and delivered to The Hague, signaling to the EU and the rest of the world that Serbia was ready to move forward. Since then, a number of important laws were adopted, including a much needed anti-discrimination law, which was passed despite strong objections by the church and conservative parties. NED's grantees also report a better relationship with the new government and more interest in cooperating with and supporting the NGO sector.

A number of challenges remain, however, including full cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY), a workable solution for Serbia's future relations with Kosovo, and a stronger commitment to the reforms necessary for full Euro-Atlantic integration. And despite signs of improvement, continued attention needs to be devoted to the status of civil society in Serbia, especially the treatment of the human rights

defenders and the media. Verbal or even physical violence is not uncommon, as witnessed several days ago when four journalists were attacked by a radical group organizing a commemoration of the 10-year anniversary of NATO bombing.

Increased pressure on the media and NGOs is not unique to Serbia. In preparing for my testimony, I solicited opinions from current and former NED grantees. Almost without exception, I heard grave concerns about freedom of information and expression.

This was the case in **Kosovo**, for example, where attempts to expose endemic corruption are often met with fierce resistance by public officials, who do not shy away from exerting political or financial pressure on watchdog NGOs or investigative media. The Radio Television of Kosovo (RTK), the country's PBS, is facing constant attempts by the government to control it. As a result, journalists tend to self-censor their work and are cautious in criticizing public officials. Rare are the media organizations with the capacity, skills, and ability to engage in serious investigative reporting. The exception is the Balkan Investigative Reporting Network (BIRN), a NED grantee, which spotlights cases of corruption or government inefficiency without fear of political or financial repercussion.

The situation is similar in neighboring **Montenegro**, where a NED grantee MANS was recently accused by a government official of undermining the state because of its principled and uncompromising work in exposing cases of corruption and conflict of interest. Public officials have also turned to trumped-up defamation and libel cases to exert financial pressure on independent media.

Ahead of parliamentary elections in **Albania**, scheduled for this summer, media is in a similar situation. The magazine *Tema* was recently evicted from its premises, rented from the government, and had its printing halted after it published a report on alleged corrupt activities by government officials. And TV News 24, generally critical of the government, was assessed a hefty fine for ridiculing another station's promotion of the prime minister.

I would like to particularly draw your attention to Albania prior to the summer parliamentary elections. The 2005 parliamentary elections saw the first peaceful transfer of power since the fall of communism. In June, Albania will face an important test of its capacity to organize free and fair elections and continue on its path to Euro-Atlantic integrations, particularly since this will be the first parliamentary election under a new electoral system. But in addition to observing instances of media pressure, NED grantees who monitor various election-related activities report serious delays in completing technical requirements, such as issuing ID cards, compiling transparent voter lists and establishing a new Central Electoral Commission, which put at risk the credibility of the electoral process.

The recent elections in the neighboring **Macedonia**, on the other hand, demonstrated the country's maturity and its commitment to democracy. In stark contrast to the June 2008 parliamentary elections, the March local and presidential elections met most international standards, were well administered, and free of violence. But the issue of Macedonia's name

and an indefinite delay in Euro-Atlantic integrations are undermining the democratic achievements of this Balkan success story and risk destabilizing fragile interethnic peace.

And this brings me to **Bosnia and Herzegovina**, where interethnic harmony seems to be an elusive goal. In fact, ethnic tensions seem to be at their highest since the signing of the Dayton Peace Accords 14 years ago. At the same time, pressure on media and NGOs, particularly in Republika Srpska (RS), remind us of the darkest period in Serbia under Milosevic. Transparency International had to close its office in Banja Luka last summer to ensure the safety of its staff following a barrage of verbal attacks and threats by RS officials. Journalists in both entities frequently find themselves under similar pressure, as evidenced recently when a group of investigative reporters from the Federal Television (FTV) was attacked in Trebinje, while their Monday night program is often censored and blacked out by the RS government.

I should, nevertheless, point to some reasons for optimism, the most recent being the adoption of the constitutional amendment on the status of Brcko. This historical event not only fulfills one of the five objectives set forth by the Peace Implementation Council, but also opens the door to a much-needed constitutional reform process. I would also qualify as promising the outcome of the October 2008 local elections, in which multiethnic parties either retained or gained power in important cities such as Sarajevo and, in general, increased their share of votes at the expense of nationalist parties.

That being said, there are many challenges ahead. Yet, I can sum up the key issue facing Bosnia and Herzegovina today, as well as the top priority for the international community, in two words – constitutional reform.

All of us present here are quite aware of why Bosnia and Herzegovina needs a new constitution. The current system is not only highly dysfunctional, inefficient, and unsustainable, but it also impedes long-term stability by entrenching ethnicity into politics. It allows political elites to repeatedly use the fear of “others” as a mobilizing tool, especially ahead of elections, giving them a consistent advantage over non-ethnic parties. Moreover, a number of existing constitutional provisions conflict with the European Charter of Human Rights and are thus inconsistent with the goal of EU membership.

This fear factor must be removed if Bosnia and Herzegovina is to have a chance at becoming a fully functional, democratic state, integrated into Euro-Atlantic structures. An important contribution towards rebuilding a sense of security, the importance of which may be underestimated at times by the international community, was made with the recent appointment of the new High Representative. Now the major task and the center point of the international community’s efforts should be constitutional reform.

I realize that the failure of the “April package” left a bitter taste in everyone’s mouth and that many countries, the U.S. in particular, may have little desire to tackle this issue again. But the international community has invested considerable time and resources into Bosnia and Herzegovina. As you, Mr. Co-Chairman, mentioned in your opening remarks of a November 2007 hearing on Bosnia and Herzegovina, “it would be a serious error if this

international effort were allowed to fail...we owe it to the people of Bosnia to encourage them to move forward.”

Therefore, I would like to offer the following recommendations for future U.S. and European engagement in Bosnia and Herzegovina and the region:

- The U.S. and EU should again focus on the Western Balkans and demonstrate a strong and consistent dedication to addressing all outstanding issues. Recommendations for renewed U.S. engagement include appointing a special envoy to the region, giving the Balkan portfolio a higher priority in the State Department, or, in the case of Bosnia and Herzegovina, organizing a Dayton II process. All of these approaches would be beneficial. In fact, increased attention to the region tends to have an immediate effect on the ground. For example, the simple announcement of a series of policy events in Washington focusing on Bosnia and Herzegovina, including this one, dampened nationalist rhetoric in the RS, whose leaders have remained fairly moderate in their statements over the last few weeks.
- While no longer in the driver’s seat, the U.S. could nevertheless be useful in navigating and facilitating international engagement in the Balkans by providing the necessary political and technical support to its EU and Balkan partners. In the case of Bosnia and Herzegovina, it should work with its EU partners to find a common voice and formulate a coherent strategy with enough political will to see constitutional reform through as soon as possible, while securing a broad popular legitimacy.
- Both the U.S. and the EU should adopt a more pluralist approach to reform processes throughout the region by reaching out to a broader, more diversified group of political and civic actors. This is especially important in Bosnia and Herzegovina’s constitutional reform, where self-proclaimed ethnic leaders should never again be allowed monopolize and manipulate the process, as was the case with the “April package.” Constitutional reform in Bosnia and Herzegovina should not be a top-down process but include broad public participation and awareness, thereby ensuring popular legitimacy. Prodemocratic opposition leaders, as well as civil society, should be recognized and allowed to participate as equal players in drafting, debating, and advocating for the new constitutional provisions.
- Finally, time is of the essence. With every delay in restarting the reform process in the Balkans, we risk losing democratic gains made at such a cost. Bosnia and Herzegovina’s constitutional reform is particularly time sensitive. Any attempt at constitutional reform must be swift and completed by the end of this year if prodemocratic, multiethnic forces are to have any chance in the October 2010 general elections. Allowing constitutional reform to be a topic in 2010 will force citizens to again cast their votes based on fear, and nationalist leaders to misuse the issue to their own gain. Thus, the international community should quickly engage all available resources, not the least those available locally, to help to create a new constitution by the end of 2009.

Mr. Chairman, Distinguished Members of the Commission,

In November 2005, the Secretary of State invited three Bosnian leaders to Washington to commemorate the 10-year anniversary of the Dayton Peace Accords and pledge support to the constitutional reform process. Almost four years later, we remain concerned about the country's territorial integrity, democratic future, and fragile interethnic peace. The kinds of programs that NED and its grantees are doing in Bosnia and Herzegovina and the Balkans to strengthen democracy remain important for the long-term stability and prosperity of the region. But, only a strong commitment by the United States and its European partners to help to create a new constitution can make Bosnia and Herzegovina a fully democratic state. If we succeed, we will have more reason to celebrate the 15-year anniversary of the Dayton Peace Accords.

Thank you very much. I look forward to taking your questions.