

STATEMENT BY
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COMMISSION ON SECURITY AND COOPERATION IN EUROPE
ON
BOSNIA-HERZEGOVINA: OUTSTANDING ISSUES
IN POST-CONFLICT RECOVERY AND RECONCILIATION
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Thank you for offering me the opportunity to talk about the OSCE and its role in Bosnia and Herzegovina's recovery from conflict. For twelve years we in the OSCE have been one part of a larger effort to help Bosnia and Herzegovina become a modern, multi-ethnic democratic state. Our role in this effort is, I think, a distinct one. High politics we leave to the High Representative. Instead we try to help build democracy from the ground up.

In his book *Pericles of Athens and the Birth of Modern Democracy*, Donald Kagan observes that: "Although in our time democracy is taken for granted, it is in fact one of the rarest, most delicate and fragile flowers in the jungle of human experience...an examination of the few successful democracies in history shows that they need to meet three conditions if they are to flourish. The first is to have a set of good institutions; the second is to have a body of citizens who possess a good understanding of the principles of democracy, or who at least have developed a character consistent with the democratic way of life; the third is to have a high quality of leadership, at least at critical moments." If Professor Kagan is correct, we cannot yet describe Bosnia and Herzegovina as a successful democracy. It has not yet fully met the three conditions needed for democracy to flourish.

This is not for want of trying. In our part of the effort to help democracy flourish, we in the OSCE have striven to help create precisely such a set of good institutions. We have not only sought to strengthen the structures of government – executive, legislative, and judicial alike – we have also encouraged these structures to become more transparent in their work, more accountable to their constituents, and more cognizant of the underlying principles of democracy and human rights to which they have subscribed. The strengthening of the structures of government is, however, not enough in itself to create democracy. Openness and transparency and democracy, after all, do little good if citizens are unwilling or unable to take advantage of them – if they are unwilling or

unable to participate actively in their own governance and thus to ensure that their elected and appointed representatives are held responsible for their decisions and actions. This requires a genuine and active civil society.

In Bosnia and Herzegovina such a civil society is still largely absent. A feeling of helplessness, of apathy and disengagement, appears to be pervasive among the citizenry. Political affiliations tend to conform to ethnic affiliations. People do not readily band together – especially across ethnic lines – to advance a common cause. We have sought to overcome this by seeking to nourish the growth of a body of citizens who possess a good understanding of the principles of democracy.

This has proven to be one of the hardest parts of our job. We have learned through experience that you cannot simply give people money to form a non-governmental organization and expect this to result in effective civil society. We have found that it makes more sense to seek out, assist, and support those who already wish to help one another. Under-represented groups of people in politics and public life, particularly youth and women, need encouragement too. We are devoting especial attention to youth because we are concerned about the “brain-drain” – the continuing departure of the country’s brightest young people to western Europe and North America, a journey that about seventy percent of Bosnia and Herzegovina’s younger citizens say they would like to make. We want to encourage these young men and women to recognize that, if they stay in the country, they *can* make a difference. Without them, we fear, the country has no future.

The Dayton Agreement also assigned to the OSCE a role in promoting, protecting, and preserving human rights. The return of refugees and displaced people to their homes has long been one of our prime human rights concerns. The war in Bosnia and Herzegovina displaced roughly half of the pre-war population of four million people. The destruction to property was similarly sweeping. Today, however, most of the property lost in war is now once again in the hands of its original owners. This is a rare achievement in countries recovering from war.

The restoration of property did not happen automatically or without turmoil. It required a new property law and a plan to implement it. This realization arose in response to a phenomenon that had become obvious a few years after war’s end: despite the existence of Annex Seven of the Dayton Agreement, few people had actually returned to their pre-war homes. The Property Law Implementation Plan process –

“PLIP,” for short – brought international oversight to bear over the administrative procedures by which pre-war owners or occupants reclaimed their property. It worked. By now, almost all of the claims submitted – and there were slightly more than two hundred thousand of them – have been resolved and most have resulted in the repossession of the properties in question.

The successful repossession of property does not, however, mean that all problems related to residence in a community disappear. The OSCE has therefore turned its attention from repossession itself to the other things necessary to make return to pre-war homes sustainable and successful. Here, too, the transformation of Bosnia and Herzegovina into a successful multi-ethnic or multi-confessional state is less than complete. Discrimination against and intimidation of minorities in communities throughout the country still too frequently occurs.

A culture of impunity also impedes return. It exists in matters large and small. Despite the nearly unanimous passage four years ago by the Parliamentary Assembly of Bosnia and Herzegovina of a law regulating primary and secondary education and despite commitments made by the government of the Bosnia and Herzegovina to the Council of Europe upon joining that organization to end such practices, schools remain divided by ethnicity. Despite the adoption of new criminal procedure codes and the creation of a war crimes chamber in the Court of Bosnia and Herzegovina, war criminals still walk free and even continue to work in public institutions, including the police. The rule of law – that is, good laws fairly enforced – is too often lacking. This, too, hinders the development of democracy.

Obstacles both hidden and overt block the fair and effective prosecution of war crimes cases. Ethnic bias in local courts still prevents justice from taking its proper course. In addition, the countries of this region all have constitutional or legal provisions against extradition. These provisions permit those suspected or even convicted of crimes, not least of war crimes, in Bosnia and Herzegovina to flee across borders and, thanks to dual citizenship, to avoid incarceration. The OSCE has for several years attempted to promote greater regional cooperation in war crimes prosecution as a means to end this particular kind of impunity and to bring criminals to justice. These attempts have foundered on the unwillingness of the governments involved to transfer proceedings or to change their laws or constitutional restrictions on extradition. We can only hope that similar initiatives launched more recently by the United States of America and the High Representative of Bosnia and Herzegovina meet with more success.

Education presents another large barrier to the advancement of the country. The classroom can, if misused, be a most efficient means of perpetuating prejudices. Bosnia and Herzegovina essentially has three school systems – one for each constituent people. They contribute to the growing divide in the country. Students emerge from them having little knowledge of the other nationalities and national minorities with which they share their state. Their schools may also reinforce beliefs about the particular uniqueness and superiority of one's own group over the others in the country. Ideally, of course, each state should seek to educate its citizens so that they become tolerant and reasoning adults prepared for their duties as citizens of a democracy. Bosnia and Herzegovina has committed to educating its future citizens in this way by virtue of the international covenants it has signed, the international pledges it has made, and the international organizations it has joined. But the reality of education in Bosnia and Herzegovina is, sadly, somewhat different.

The Rand Corporation concluded a recent study of nation-building with a chapter called "lessons learned." Among other things, it said this: "Democratization is the core objective of nation-building...what distinguishes Germany, Japan, Bosnia, and Kosovo on the one hand from Somalia, Haiti, and Afghanistan on the other are not their levels of economic development, western culture, or national homogeneity. Rather, what distinguishes these two groups is the levels of effort the international community has put into their democratic transformation. Successful nation-building...needs time and resources."

That, I think, is certainly true in the case of Bosnia and Herzegovina. It is also true, I think, that the democratic transformation of Bosnia and Herzegovina has not yet run its course. To become a truly successful democracy, it will most likely require more time and more resources. Whether the international community still has sufficient appetite to devote more time and more resources to this country is a question I cannot answer. I can only say I hope it does.