Testimony :: Jeff Fischer

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Ten years ago this month, I assumed responsibility as Director General of Elections for the Organization for Security and Cooperation in Europe's (OSCE) Mission to Bosnia and Herzegovina. The elections, under OSCE supervision, were those set forth in the Dayton Peace Accords, and were designed to establish democratically elected governance at the local, cantonal, entity, and national levels. In the provisions of the Dayton Accords, there were a number of requirements established to enfranchise those who had been displaced by the conflict or were ethnically cleansed from their home communities. In fact, the enfranchisement opportunities for those displaced by the conflict were global in scale and postal voting was conducted in over 50 countries. From the development of a regulatory framework for the elections to the certification of results, the Dayton Accords stipulated a timeline of from six to nine months for the completion of the election cycle.

Let me point to some issues to place into a context.

First, it is rare for the international community to assume responsibility for the conduct of an election process and occurs in those post-conflict cases where institutions are weak and mistrust is high. Recent examples of international supervision from the United Nations (UN) include Cambodia (1993), Eastern Slavonia (1997), and East Timor (1999 – 2001). In each of these cases, as well as that of Kosovo, the international community served as the de facto election administrator and developed the election regulations, decided the election policy questions, adjudicated election disputes, and certified the election results. The OSCE's supervisory role in Bosnia and Herzegovina was a first for the OSCE and a first for any inter-governmental organization other than the UN to be charged with this responsibility.

The Office of Democratic Institutions and Human Rights (ODIHR) was in a difficult position, since the OSCE was the organization charged with conducting the election it was argued that OSCE could not also be an impartial observer of the process. In order to provide some appearance of independence, the Bosnian observer mission, headed by former Dutch minister Edward von Thijn, was given a mandate directly from the Swiss Chair-in-Office. But, despite this maneuver, the appropriateness of the OSCE to OSCE relationship remained a matter of debate throughout the process. In any case, the scale of the operation that was eventually mounted for the Bosnian observer mission bolstered the size and capacity of the ODIHR.

Nine months from the signing of the Dayton Accords, elections at the national, entity, and

cantonal levels were held in accordance with the peace agreement's timeline. Only municipal elections were postponed for several reasons. The reasons ranged from purely technical issues such as municipal boundary disputes, to the strategic municipal voter registrations targeting "future intended residences" that required review and dispute resolution. Although the accomplishment of these elections within the specified timeline was one of the few actions of the Dayton Accords to be completed on schedule, that fact also became one of these elections most detracting factors.

Because of the compressed timeline, there was virtually no advance planning possible for the elections. I use the analogy that the experience was similar to building an automobile and driving it at the same time. The crisis nature of the exercise led to administrative mis-steps, uneven training, and voter disaffection. At points, the relationship with the Implementation Force (IFOR) was strained.

Moving forward from September 1996 to February 2000, the OSCE was once again tasked with the responsibility to supervise elections. In this case, that authority was granted through the UN and Security Council Resolution 1244 in Kosovo. The OSCE was a pillar in the four-pillar United Nations Mission in Kosovo (UNMIK). The other pillars were the UN, European Union (EU), and UN High Commission for Refugees (UNHCR). During that month, I assumed responsibilities as Director of Elections for the OSCE in Kosovo and as Head of the Joint Registration Taskforce for the OSCE and UN, the only such joint appointment that has ever occurred. Although many of the circumstances in Kosovo were similar or analogous to those in Bosnia, there were some important differences in the approaches taken that represent lessons learned by the OSCE and the international community.

First, there was no timeline specified in the SCR 1244. Although the OSCE was under pressure to organize elections as soon as possible, there were no statutory deadlines put forward that had to be met.

Extensive advance planning for the October municipal elections occurred in December 1999 and January 2000. This allowed for a clear and common vision of how the process would unfold and how it would be communicated to domestic and international stakeholders. Joint election security planning and coordination occurred between election organizers and security forces (Kosovo Force, International Civilian Police) from the outset and task force structures were devised to facilitate security planning and coordination of activities.

It was also possible for the OSCE to make mid-course corrections. Although the OSCE's administrative performance improved over that of the Bosnian experience, the challenging political and security environment in Kosovo still caused many difficulties. However, the OSCE still demonstrated institutional dexterity to address and correct problems that were experienced, in particular, with the voter registry and the overcrowding of polls.

The OSCE also introduced precedents into the electoral process that would positively impact a subsequent Kosovo political process. These precedents included gender quotas on candidate lists, political finance disclosure, enfranchisement of conflict-forced migrants, homebound and institutional voting.

Finally, ODIHR did not even consider observing the elections due to the very concerns that emerged in the Bosnian elections, and the Council of Europe ultimately fielded the largest of the election observation missions.

I would like to conclude with three considerations.

An election supervision mandate may never again be given to the OSCE. On the other hand, the needs for international and impartial oversight of electoral events may be required in response to potential crisis settlements in Nagorno-Karabakh (Armenia and Azerbaijan), Trans-Dniester (Moldova), Abkhazia and South Ossetia (Georgia); or a status referendum (Montenegro). For this reason, the lessons learned by the OSCE should be preserved in case it is called upon to serve again in such a capacity

As I mentioned earlier in my remarks, the UN and the OSCE have been the only inter-governmental organizations tasked with supervising elections. Although both organizations have implemented their mandates with fairness and competence, there are different characteristics to the approaches demonstrated by each organization. The UN has tended to approach their scope as generally more limited than that of the OSCE. For example, in the OSCE approach, the electoral processes have included such features as political finance regulation, conflict-forced migrant voting, and homebound voting for the disabled. The UN would probably approach many of these activities as "second generation" and not appropriate for nascent, post-conflict elections.

Finally, the fundamental change in the perspective of the elections from Bosnia to Kosovo was that it was elevated from an event-focused activity to a process-focused activity. In Bosnia, the objective was to accomplish the schedule of election set forth in the Dayton Accords. In Kosovo, there was no such framework that defined features and timelines, allowing the OSCE organizers to plan the process with a longer term vision to establish a sustainable political process.

Thank you.