

**TURNING STRIFE TO ADVANTAGE
A BLUEPRINT TO INTEGRATE
THE CROATS IN BOSNIA AND HERZEGOVINA**

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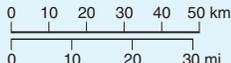
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BOSNIA AND HERZEGOVINA



- ★ National capital
- Town, village
- International boundary
- ⋯ Inter-entity boundary line
- Republic boundary
- Provincial boundary
- Main road
- Secondary road
- Railroad
- Airport

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.





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EXECUTIVE SUMMARY

The current attempts by the leadership of the Croat Democratic Union (HDZ) of Bosnia and Herzegovina¹ to secede from the legal and constitutional structures of the state are the most serious challenge yet to the post-war order established by the 1995 Dayton Peace Accords.

These actions are themselves a response to recent international measures that weakened the HDZ position. The international community's High Representative (OHR) in Sarajevo has taken steps, in line with his mandate to drive forward the implementation of Dayton, that cut into the HDZ' financial and political muscle. The November 2000 elections, which for the first time gave a non-nationalist coalition a plurality in the Federation and at the state level, have made it more difficult for the HDZ to influence policy-making in Sarajevo. At the same time, the government of Croatia has ended key elements of its support to Croat extremists in Bosnia and Herzegovina.

These developments in turn have caused the support by the Croat community to begin to peel away from the HDZ. Exploiting a controversial decision by the OSCE mission in Bosnia and Herzegovina shortly before the November 2000 election (its so-called House of Peoples decision), the HDZ hopes to halt the erosion of its power.

The HDZ expected the OHR to react by removing several high-ranking HDZ officials, in particular the party's president, Ante Jelavic, from their public and political positions. This was duly and appropriately done on 7 March. The OHR should, however, deny Jelavic the satisfaction of banning the HDZ. While the party's hostility to the spirit and much of the substance of the Dayton Accords, as well as its links to criminal activity, could justify such a radical step, it would serve to entrench support for the secessionist cause.

The HDZ now relies upon the international community's long-standing inclination to evade sustained confrontation with any of Bosnia and Herzegovina's extreme nationalist parties. The party expects – and needs – the international community to shrink before the double challenge of, on the one hand, compelling the HDZ to clean up its act while, on the other hand, showing full respect for the legitimate concerns of the Croat community.

If the international community reverts to form and backs down from a long-term struggle, as the HDZ expects, the extremists will maintain their grip on the Croat community and continue to block the development of a stable, democratic state. This in turn would have consequences beyond the Croat community. It would alienate citizens who are already disillusioned by the glacial speed of reform in Bosnia and Herzegovina.

¹ The party began as an offshoot of the HDZ party in Croatia. Unless indicated to the contrary, the term HDZ in this report refers to the Bosnia and Hercegovina party.

And it would signal to the other entity, the virtually mono-ethnic Republika Srpska (RS), that it can continue to defy efforts to make Dayton work and retain hope of eventually splitting away.

The international community should rise to this challenge. It has a rare and crucial opportunity to strike a strong blow for Dayton implementation. The removal of Jelavic and his associates should represent only the first move in a much longer game of outflanking the secessionists.

A three-fold strategy is required. Administratively, the OHR needs to carry out consistently and consequentially a series of technical measures that, while avoiding the creation of more martyrs, strike at the ability of the party and its key supporters to finance their activities and otherwise maintain political power. Politically, OHR should reach out to start a dialogue that engages the Croats in a discussion of their community's legitimate interests -- interests that until now neither the HDZ nor the international community have addressed satisfactorily. Diplomatically, the international community should work in Zagreb to ensure that Croatia continues to distance itself from the secessionists.

ICG presents a blueprint for such a strategy in this report. It is designed to provide genuine rewards for individuals and institutions co-operating with the Dayton Accords while applying low-key but legitimate and effective sanctions on those who defy the development of a democratic, stable Bosnia and Herzegovina. It offers a way to engage the constructive elements among the Croats while dividing them from the secessionists, thus giving new impetus to the flagging efforts to build a viable state.

RECOMMENDATIONS

1. Build Trust with the Croats

- a) The OHR and OSCE should open a public debate about the House of People's decision and the Permanent Election Law with Croat representatives from a spectrum of parties and other civic and religious institutions and organisations, including the HDZ.
- b) The OHR and OSCE should open a separate public dialogue with a variety of Croat representatives from the political, civic and religious communities about other legitimate Croat interests and concerns. This should focus on vital collective group interests vis-à-vis individual human rights, as well as the institutions needed to protect both.
- c) The Hague Tribunal (ICTY) should conclude its investigations into war crimes against Croat civilians at Grabovica, Uskoplje and elsewhere, and issue indictments against those responsible.
- d) The international community should focus its aid efforts on direct support to Croat returnees to central Bosnia and the Posavina (north-western Bosnia) and on the institutions that would support sustainable return, circumventing obstructionist HDZ-controlled institutions.

- e) The international community should consider giving special aid to any Croat-majority municipalities and areas that continue to participate in the legitimate Federation institutions.
- f) The OHR and the Federation government should restructure by June 2001 at the latest the long-delayed Federation Television so as to give liberal Croat voices a media outlet.

2. Control Bosnia and Herzegovina's Borders

- a) The Federation government should assert actively its right to control customs terminals throughout the Federation.
- b) SFOR should assist the legitimate Federation customs authorities to take control over customs terminals in areas where the local authorities refuse to recognise the constitutional legitimacy of the Federation.
- c) Both the Federation and Republika Srpska tax and customs authorities should refuse to honour customs declarations issued by customs officers and organs operating outside Bosnia and Herzegovina's legal constitutional framework.
- d) The Federation should require all companies wishing to import and export to use customs terminals under Federation control, until such time as the Federation is able to control all customs terminals on its territory.
- e) The OHR and the European Union's Customs and Fiscal Assistance Office (CAFAO) should transfer responsibility for issuance of customs numbers (carinski brojevi) identifying traders to the state level in order to increase transparency in importing and exporting through the Federation and Republika Srpska.
- f) The state government should require all companies in Bosnia and Herzegovina to register with its treasury ministry in order to receive a customs number.
- g) The OHR and CAFAO should merge the two entity customs authorities into one state level customs authority by the end of the year.
- h) OHR and CAFAO should work with the state government to facilitate collection of all customs revenues by the state government by the end of the year.
- i) The OHR, SFOR and the United Nations Mission to Bosnia and Herzegovina (UNMiBH) should ensure that state border service officers are at all border crossings within two months.
- j) The EU should immediately provide adequate funding for full deployment of the state border service in order to curtail smuggling networks and reduce human trafficking into the member states of the European Union.
- k) SFOR should work closely with the state government and state border service to secure Bosnia and Herzegovina's borders.

- l) The state border service under UNMiBH supervision and SFOR should rotate officers away from border crossing points where their loyalty might be compromised by ethnic considerations.
- m) The OHR, the Federation and the state government should decertify Federation customs and border service civil servants who support illegal "self-governing" structures.
- n) The state government, the OHR, and the Peace Implementation Council (PIC) members should request Bosnia and Herzegovina's trading partners to respect the state government's sole authority to grant permission for export and import of goods.
- o) Croatia, as a guarantor of the Dayton Accords, should support the above administrative measures, and expand and standardise its presence at border crossings with Bosnia and Herzegovina.

3. Cut Off Illegal Revenue Flows

- a) The Federation finance police, the Federation banking agency, and the internationally appointed Federation special auditor -- under Article 5 of OHR's decision on the special auditor for the cantons of the Federation of Bosnia and Herzegovina (5 February 2001) -- should immediately audit Hercegovacka banka [the Bank of Herzegovina] and subsequently other HDZ-controlled companies such as the Croat power monopoly Elektroprivreda, HPT (telephone company), and Sume HB.
- b) SFOR should physically secure Hercegovacka banka prior to arrival of the special auditor's team and subsequently provide security to the auditors.
- c) SFOR should immediately release the findings of its raids against illegal HDZ parallel institutions, including but not limited to the October 1999 WESTAR raid in western Mostar and the raids in Vares, Livno and Orasje during 2000.
- d) The Federation government, in co-operation with the OHR's anti-fraud department, should investigate the alleged criminal activities of leading Croat politicians and businessmen.
- e) To increase financial transparency, the Croat and Bosniak elements of all budgets in the Federation should be unified immediately. This should begin with the long-awaited unification of the budgets of Canton 7 and the city of Mostar.
- f) The newly formed Federation government should appoint new executives to public corporations that are suspected of funnelling funds to the HDZ and the illegal Croat "self-government" structures.

4. Take Pre-emptive Security Measures

- a) SFOR should place the heavy equipment and weaponry belonging to the Croat component (HVO) of the Federation Army -- including weapons donated under the "Train and Equip" program -- into containment sites until the HVO indicates willingness to participate in Federation institutions.

5. Use Administrative Measures

- a) OHR should work with the state and entity governments to transfer responsibility for issuance of the following documents to state organs: drivers' licences, vehicle registrations and licence plates, passports, unique identity number (JMB), and identity cards.
- b) The state government should only issue the aforementioned documents through the constitutionally established structures as envisioned by Annex 4 of Dayton.
- c) The Croatian government should, in line with its continuing obligations as a guarantor of Dayton, take away Croatian passports from Croat leaders in Bosnia and Herzegovina who oppose the legal constitutional structures and implementation of the Dayton Accords.

Sarajevo/Brussels 15 March 2001



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I. INTRODUCTION

Five and a half years after the Dayton Peace Accords, Bosnia and Herzegovina is in a major constitutional crisis. The ultra-nationalist Croatian Democratic Union of Bosnia and Herzegovina (HDZ) has hijacked what could have become a constructive dialogue about necessary constitutional changes in order to further the party's separatist and financial goals. Its actions are the biggest challenge to the Dayton Peace Accords since they were signed in November 1995 and have the potential to destabilise the broader region while calling the integrity of the state into question.

On 3 March 2001 the Croat National Congress (HNS), an organisation of seven Croat nationalist parties led and organised by the HDZ and its president, Ante Jelavic, voted to separate from the Federation and to establish parallel intra-cantonal and intra-municipal councils as a form of "Croat self-government." In a printed "decision," Jelavic announced that this parallel government would include legislative, executive and judicial bodies and would finance itself by collecting taxes "based on the positive regulations on the territory of the Croat Self-government." These measures followed the HDZ's three-month refusal to implement the results of the November 2000 general elections, both at the Federation and state levels.

The HDZ and HNS defended their action by arguing that the international community has threatened the rights and very survival of the Croat people in Bosnia and Herzegovina through a number of recently enacted measures. They claimed that "temporary" structures of self-government were the only measures left to the "legitimate representatives of the Croat people" to protect Croats' collective rights. In fact, however, the congress' conclusions represented less new steps than a public admission of illegal Croat parallel institutions that have existed since the beginning of the Federation.

The international community has long been unwilling to take risks to dismantle those institutions, preferring instead to negotiate and avoid direct confrontation. This policy has been largely ineffectual. For example, in the divided Federation city of Mostar the international community brokered over 30 agreements relating to the city's reunification between 1994 and 1999. While alternating boycott with negotiation, the HDZ broke all those agreements.² As a result, Mostar, as the Federation itself, remains essentially divided between Bosniak and Croat institutions. In Canton 7, where Mostar is located, the Bosniak and Croat authorities retain separate budgets, with revenues collected from different

² See ICG Balkans Report N° 90, *Reunifying Mostar: Opportunities for Progress*, 19 April 2000.

sources, and Croat and Bosniak civil servants have different salary levels.³ Such parallel institutions cut through the entire Federation.

As will be discussed in detail below, it is only recently that a combination of external and internal developments, including more assertive international community policies, has endangered the *de facto* Croat "third entity". The 3 March congress decisions to "go public" and force a showdown actually represent a defensive HDZ response to those developments. By unilaterally demanding that the legitimacy of its separatist aims be openly accepted instead of quietly tolerated, the HDZ is playing for high stakes.

The congress set a two-week deadline for the structures of the "Croat self-government" to come into effect unless the international community changes the policies that had begun to hurt the HDZ. This time it seems unlikely that the two sides will come to an agreement.

II. A WEAKENED HDZ

Several developments over the past two years have contributed significantly to weakening the HDZ. First was Croatia's decision to end support for the Croat component (HVO) of the Federation Army and the illegal parallel structures of "Herzeg-Bosna" through non-transparent cash transfers. Coincidentally, Croatia cut off all funds to the HVO just one week prior to the HNS meeting. Second, the imposition of a state border service law by the international community's High Representative (OHR)⁴ and an increasingly unified Federation customs administration under the guidance of the European Commission's Customs and Financial Assistance Office (CAFAO) have set the stage for reducing Herzeg-Bosna's ability to finance itself through smuggling. Third, the recent appointment by the High Representative of a special international auditor⁵ for Federation institutions points to new international community willingness to halt the illegal monetary flows that are the lifeblood of parallel institutions.

There has already been some progress in bringing more transparency to Bosnia and Herzegovina's institutions. One example is the High Representative's removal in February 2001 of the former SDA⁶ vice-president and federation premier, Edhem Bicakcic, as director of the highly influential public power company, Elektroprivreda. Criminal investigations were also announced against Bicakcic. A senior HDZ member, Dragan Covic, the former Federation vice-premier and minister of finance, may also be coming under investigation for misuse of the Federation budget. In fact, the long-running tacit agreement between the two nationalist parties to maintain control over their respective separate economies within the Bosniak and Croat segments of the Federation has begun to fall apart,

³ In April 2000, ICG recommended that the international community take decisive action to unify the budgets of Canton 7 and Mostar, but this has yet to happen. See *Reunifying Mostar: Opportunities for Progress*, Recommendations 3 and 24.

⁴ "Decision imposing the Law on State Border Service," 13 January 1999. The High Representative exercises vast executive and legislative power on behalf of the international community pursuant to the Dayton Accords.

⁵ "Decision on the Special Auditor for the Cantons of the Federation of Bosnia and Herzegovina," 5 February 2001 and "Decision on the Special Auditor for the Federation of Bosnia and Herzegovina," 2 March 2001.

⁶ SDA stands for "Party for Democratic Action" the Bosniak party of Alija Izetbegovic.

in large part because the November elections relegated both the HDZ and SDA to the political opposition.⁷

Ideological differences between hard line and more moderate members have increased within the HDZ. The change of government in Croatia and constructive statements by Croatia's President, Stipe Mesic, have influenced some HDZ politicians to work within national and Federation institutions. Largely as a result of policies that discourage return of Croats to Posavina and central Bosnia, the HDZ is losing its voter base in those regions. The party's moderate wing appears to be gaining ground even in Mostar, where it claims the HDZ mayor, Neven Tomic, and in Canton 7 where there is some movement towards integration of the Bosniak and Croat Interior Ministries.

Establishment of "Croat self-government" at the 3 March congress was intended as a slap in the face of these moderates and an attempt to isolate them in the party. The HDZ hard liners who called the shots are cooperating closely with the brother HDZ in Croatia to radicalise the political climate in both Bosnia and Herzegovina and Croatia. This was seen most recently this winter in the massive participation by Croats from Bosnia and Herzegovina in demonstrations inside Croatia against the Zagreb government's co-operation with the Hague War Crimes Tribunal (ICTY) and its issuance of an arrest warrant for a prominent Croat general for war crimes against Serbs.

III. LOSING POLITICAL POWER

It took three months to form a state government in Bosnia and Herzegovina after the November elections. The success of the multiethnic Social Democratic Party (SDP) -- particularly in areas with a Bosniak majority -- meant that for the first time a non-nationalist party had sufficient seats in the national and Federation parliaments to form coalitions without the nationalist parties (SDS, HDZ and SDA). As the Alliance for Change consolidated around the SDP, the nationalists banded together to obstruct the formation of governments they could not control.

The state level government finally came together in late February following resolution of a deadlock over selection of a national prime minister. Under Bosnia and Herzegovina's Constitution (Annex 4 of the Dayton Accords), the three-member presidency nominates a national prime minister to chair the Council of Ministers. Since parliament must approve the nominee, protocol suggests that nominee should represent one of the parties in the ruling coalition of the parliament, in this case the SDP-led "Alliance for Change." Nonetheless, nationalist party representatives who remained in the presidency, including the HDZ' Jelavic, defiantly nominated Martin Raguz of the HDZ, though they knew the parliament would not confirm him.

Under pressure from the international community to implement the election results, the Serb and Bosniak members of the presidency finally accepted the Alliance candidate, a Croat from the SDP, Bozidar Matic. When they voted down

⁷ The multiethnic Alliance for Change coalition, led by the Social Democratic Party (SDP) and consisting of several other moderate parties, was formed after the elections. It is capable of organising governments at the national and Federation levels without the nationalists, including the HDZ. The election results and their implementation are discussed at greater length below.

his effort to veto this on the grounds that it represented an issue vital to the national interests of Croats, Jelavic walked out of the meeting.

IV. THE HOUSE OF PEOPLES DECISION

It took even longer to form a Federation government -- until mid-March -- largely because of an HDZ boycott. The party claimed this boycott was a protest against a Provisional Election Commission (PEC)⁸ temporary election rule concerning selection of representatives to the Federation House of Peoples. Although the Croats have some legitimate concerns about this rule (see below), the manner in which the HDZ conducted itself suggests it sought to exploit those concerns for narrow partisan purposes.

The PEC promulgated its new provisional rule, perhaps unwisely, in October 2000, just before the general elections. The rule determined the method by which cantonal assemblies would elect members to the Federation House of Peoples. That body is a parliamentary upper house designed to ensure that legislation does not violate the "vital interests" of any ethnic group. Under the old rule, Croats in the cantonal assemblies selected Croat representatives in the House of Peoples. Under the new rule, all members of the cantonal assembly vote for all candidates so that Croats help determine Bosniak representatives and *vice versa*. It was hoped this would bring moderate Bosniaks and Croats to the fore.

The concern with the rule among Croats stems from the fact that since there are many more Bosniaks than Croats in the Federation, Bosniaks would have a disproportionate say in determining Croat representatives. The fact that the House of Peoples is actually designed to protect the "vital interests" of the ethnic groups, makes the issue all the more sensitive.

Nevertheless, the controversial rule, like the entire PEC Rules and Regulations, is a temporary measure intended to regulate the electoral process until the central parliament passes a permanent election law.⁹ According to sources in the OSCE, the current draft of the permanent election law proposed by the international community leaves blank pending negotiation the key rules regulating selection of the presidents of the Federation and the Serb entity (Republika Srpska, or RS), and members of the House of Peoples. OHR and OSCE both approached Jelavic, offering to support a permanent election law with a House of Peoples rule more acceptable to the HDZ and other Croat representatives. Jelavic refused to discuss the issue.

Even with the new rule, the HDZ probably held enough seats in the cantonal assemblies to win a majority of seats among the Croat representatives to the House of Peoples. As the High Representative noted in a recent press release, "If the HDZ cooperated in the legal structures, they could make sure that the election law takes their concerns into account. They would also have had the majority of the Croat seats in the Federation House of Peoples and thereby be

⁸ The PEC is the temporary body, consisting of international and local officials and led by the OSCE, charged with developing the election rules and regulations. This provisional set of election rules will remain in force until such time as Bosnia's national parliament passes a permanent election law.

⁹ Reportedly, the PEC rule that Jelavic and the HDZ find publicly so objectionable was drafted by a committee that included an expert close to the HDZ.

capable of blocking any legislation by invoking the vital interest clause."¹⁰ The HDZ' preference, however, appears to be to use the widespread Croat unhappiness over the PEC rule and underlying concern over the place of Croats in Bosnia and Herzegovina to justify its challenges both specifically to the November 2000 election results and more generally to the international community over parallel structures.

V. THE HDZ AND CROAT "VITAL NATIONAL INTERESTS"

The HDZ did gain a majority of votes in heavily Croat areas in the last election.¹¹ Since a number of HDZ policies appear on their face to have damaged the position of Croats, however, it is fair to ask how sincerely and effectively the party has sought to represent the interests of its constituency. For example, the HDZ has consistently blocked return of Croat refugees to areas of the country (e.g., central Bosnia) it does not control. Rather than work for the betterment of opportunities for Croats throughout Bosnia and Herzegovina when it was a member of ruling coalitions or governments, it relied, as long as Tudjman was in power, on assistance from Croatia to create and maintain an ethnically exclusive Croat territory in Herzegovina.

The HDZ' lack of interest in protecting Croat rights generally may also be inferred from its refusal to participate in the formation of a temporary constitutional commission in the Federation Parliament. The High Representative imposed a decision to form these commissions (there is also a commission in the RS) as temporary bodies that would prevent ethnically discriminatory legislation. These bodies were also to propose changes to the entity constitutions, the better to ensure the rights of Croats, Serbs and Bosniaks throughout the country. However, the HDZ did not respond to letters from the High Representative urging its participation in selecting representatives to the commissions.

Rather than engage in constructive discussion of what institutions and procedures are actually required to protect Croat rights and interests in Bosnia and Herzegovina, the HDZ has typically relied on high decibel, scare rhetoric to the effect that Croats' "vital national interests" are under extreme threat. It needs to be recognised that, for whatever political ends the HDZ may use this rhetoric, it has enormous resonance even among those Croats who may in principle be prepared to cooperate in a functional, multiethnic state. "Vital national interests" have never been clearly defined. This has allowed the HDZ (and other nationalist parties) to invoke a vague concept as a tactic to block whatever threatens their control over the community.

¹⁰ OHR Press Release, 7 March 2001.

¹¹ Continued decline in voter turnout, however, suggests that HDZ support has been slipping in these core areas.

VI. OPENING A DIALOGUE

Judging from its statements, the HDZ appears to argue that the core of "vital national interests" is that a party with an exclusive ethnic identification may block any measure at any level of government that it asserts violates collective rights. Since such a view makes the functioning of common institutions virtually impossible, the international community needs to find a way to stimulate the Croat community to examine its real needs.

A starting point might be to consider how as a practical matter to reconcile the protection of collective rights and individual rights. In order to maintain their control of ethnically relatively homogeneous areas, Bosnia and Herzegovina's nationalist parties – the HDZ but also the Serb SDS and to some extent the Bosniak SDA – have systematically obstructed the rights of individual Croats, Bosniaks, and Serbs displaced by the war to reclaim their property throughout the country. Until an honest public debate about such issues occurs, "vital national interests" will remain a propaganda tool ripe for exploitation. The lack of media outlets in Herzegovina to express alternative Croat voices, in particular the continued lack of Federation television, contributes to the problem. Not all the rallying cries that the HDZ uses to maintain the fidelity of its constituency, however, are as general and as misleading as "vital national interests." Sources within the international community, throughout the Croat community, and in the Catholic Church unanimously tell ICG that last year's PEC House of Peoples decision has evoked genuine concern by Croats that they risk being marginalised in a state where Bosniaks and Serbs enjoy special advantages. That the HDZ has capitalised on this concern to bridge its growing internal divisions and otherwise regain ground it was losing in the community as a whole does not denigrate the passion the issue has evoked.

Since there is near consensus across the Croat political spectrum that the PEC rule opens the door for Croats – the smallest of Bosnia and Herzegovina's three main ethnic groups – to be out-voted, a strategy for dialogue on legitimate Croat interests has to start with the House of Peoples decision. Related concerns that will need to be addressed involve the appointment of members to the constitutional commissions, the general problem of RS and support for Croatian language and culture.

The HDZ, of course, can be expected to resist any attempt to start a serious dialogue about these issues. A significant force in Croat life that the international community often rather ignores but that could be helpful in such an endeavour, however, is the Catholic Church. The Croat clergy is split on a number of issues. Many Franciscan priests have backed HDZ policy.¹² However, the Church hierarchy's official position since the beginning of the war, consistently accepted by moderate clergy, has been support of "suzivot" (co-existence) of all the country's peoples while respecting cultural and religious differences.¹³ The Holy See recognises Bosnia and Herzegovina and supports its territorial integrity and

¹² The Franciscan Order in Bosnia and Hercegovina has a long tradition of defiance to the hierarchy's attempts to limit its independence. See "Katolicanstvo u Bosni i Hercegovini, Hrvatsko Kulturno drustvo "Napredak", Sarajevo, 1993; Konfesionalnost i nacionalnost Bosne i Hercegovine, Srecko M. Dzaja, Svjetlost, Sarajevo, 1992

¹³ "Pastoral Letters, Statements, and Appeals of the Catholic Bishops of Bosnia and Herzegovina – 1990-1997, VRHBOSNA, Official Bulletin of Vrhbosna Metropoly, Sarajevo, 1998.

the reintegration of its ethnic groups. The Church has appointed priests to all pre-war parishes in RS irrespective of the number of Croat returnees.

Though the Mostar bishop, Peric, gave an emotional speech at the 3 March HNS Congress, high-ranking Church moderates did not attend. The Church has not given public support to the HDZ' newly proclaimed policy of separatism. In fact, moderate Church leaders continue to express concern over the HDZ' favouritism of Croats in western Herzegovina to the neglect of those elsewhere. The Church appears to have considerable untapped potential for helping reconcile not only the current crisis but also the uncertainty over what constitutes "vital national interests."

VII. THE REPUBLIKA SRPSKA EFFECT

The existence of Republika Srpska is a daily encouragement for Bosnia and Herzegovina's Croats to ask why they cannot have their own "entity", if not to dream, as many Serbs still obviously do, of breaking away entirely. In some ways, this has become more acute since the fall of Milosevic. Vojislav Kostunica's rise to power in Belgrade accompanied a significant increase in FRY support for the ultra-nationalist Serbian Democratic Party (SDS) in Bosnia and Herzegovina. During the November 2000 general elections officials of Kostunica's Democratic Party of Serbia (DSS) openly campaigned for the SDS inside Bosnia and Herzegovina. The agreement signed in March 2001 gives the FRY and RS governments nearly free rein to strengthen ties, including harmonisation of laws on issues ranging from privatisation to the legal system.

Open questions about the future status of Kosovo and Montenegro, as well as what appears to be the FRY's continued intense interest in RS, contribute to the considerable unhappiness with which Croats consider their situation within Bosnia and Herzegovina – an unhappiness that is grist for the HDZ' nationalist mill. It is beyond the scope of this report whether the international community should review the very nature of the "entity" system. At least, if it wishes to maintain Dayton's goals and Bosnia and Herzegovina's territorial integrity, however, it needs to find ways to promote the position of Croats far more consistently and energetically than it has done to date.

VIII. CONCLUSIONS: AN INTERNATIONAL COMMUNITY RESPONSE

A ranking source in the international community told ICG that Jelavic had assured the head of the OSCE Mission, Ambassador Robert Barry, a few days before the 3 March congress that nothing drastic would be done. The international community was, therefore, initially thrown off balance.

The HDZ has consistently shown it has a shrewd understanding of the workings of the international community. It clearly assumed that the initial reaction would concentrate on removal of high-ranking HDZ officials, including Jelavic.¹⁴ A few

¹⁴ Prior to Jelavic's removal, members of the HDZ commented publicly on the possibility of sanctions, including Jelavic's removal. The document establishing this "Self-government" clearly foresaw High Representative decisions against the organisation and its members: "...decisions which would be directed towards the annulment of election results and non-recognition of the Croat Self-government

days after the congress, OHR indeed announced the removal of Jelavic from the presidency of Bosnia and Herzegovina and his party functions, as well as the removal of three other leading figures in the "Croat Self-Government" from all elected and party positions. These banishments, while justified on their face, will do no meaningful harm to either the HDZ or the politicians directly affected. In fact, they will increase the popularity of the latter with many Croats.

The OHR should, however, deny Jelavic the satisfaction of taking the extra step of banning the HDZ itself. While the party's hostility to the spirit and much of the substance of the Dayton Accords, as well as its links to criminal activity, could justify such a radical step, it would serve to entrench support for the secessionist cause. ICG last year recommended that the international community exclude the extremist Serb party that dominates the Republika Srpska, the SDS, from participation in Bosnian political life and decertify that party and its candidates from participating in further elections, including the then imminent November 2000 general elections.¹⁵ But while the HDZ, like the SDS, has a record of working consistently against Dayton, the existence of serious ideological splits within the HDZ suggests that a strategy of drawing the more moderate elements away from the leadership has reasonable chance of success. In any event, unlike the case of the SDS before the last election, the HDZ has a recent mandate, and a ban would only apply to the next election. Nonetheless, the international community should keep the question of a possible ban on the HDZ under careful review.

The HDZ has clearly weakened over the past two years, for reasons discussed above. It seems to have created the present crisis as part of a plan to revitalise itself and to protect the parallel institutions that have paralysed the Federation for six years. The HDZ also seems to be operating toward the longer-term goal of the final destruction of the Federation. It counts on the international community's inability – demonstrated too often in the past – to maintain its resolve past an initial series of largely symbolic actions. In particular, the HDZ anticipates that the international community will not have the stamina and stomach to dismantle the financial pillars of Herzeg-Bosna, which is what must be done if the extreme nationalists' stranglehold on the Croat community is to be broken.

Even though many moderate Croats oppose HDZ policies, the fact of the matter is that the HDZ pays the salaries of all bureaucrats, judges, police officers and other civil servants, while providing political patronage through its control over the yet-to-be privatised state-owned economy. A major source of revenue for the institutions of Herzeg-Bosna comes from smuggling operations that exploit Bosnia and Herzegovina's porous borders with Croatia. The heaviest cross border trafficking occurs at the numerous border crossings, not currently manned by the state border service. A number of HDZ controlled private and public companies are involved in these dubious activities. These companies contribute to the budget of illegal Croat parallel institutions. There are good indications that these activities all concentrate around one financial institution, Hercegovacka Banka in west Mostar, controlled by the hard-line "generals" wing of the HDZ.

Of course, the HDZ has other than financial resources with which to keep its constituency in line. Politically extreme satellite organisations such as the

by the representatives of the international administration in Bosnia and Herzegovina shall not be implemented on the territory of the Croat Self-government."

¹⁵ See ICG Balkans Report N° 103, *War Criminals in Bosnia's Republika Srpska*, 2 November 2000.

veterans' organisation HVIDR-a, have been known to use violence and intimidation against individuals who do not follow the party line. Individuals and companies, as well as moderate members of the HDZ that agree to dialogue with the international community or attempt to circumvent the institutions of the Croat self-government may face threats of physical harm.

There will be some immediate costs to any measures the international community takes. The HDZ is experienced and skilful at using moves against the party to portray all Croats as victims and boost voter support. Some of the measures ICG recommends in this report would most certainly be used as further "proofs" of the international community's hostility to the Croat people.

However, dismantling the parallel institutions that nurture the hard-liners is the only way to begin to split away the more moderate elements in the party. The international community has a wide range of tools available with which to pursue this process. Many Croats working in the administrative offices of west Mostar and other HDZ controlled parts of Bosnia and Herzegovina will not welcome the isolation that will result from the 3 March congress decisions if the international community is resolute. Large numbers of Croats may not immediately accept that it is not in their interest to lose human rights protection mechanisms such as the Ombudsmen provided by the Federation. They will more quickly see personal disadvantages, however, if things as simple as university degrees and court verdicts are no longer valid outside a small ghetto centred in western Herzegovina. Much of the military hardware of the HVO, donated through the U.S. government's "Train and Equip" program belongs to the Federation government. If the Croat component of the Federation Defence Ministry chooses to leave the Federation, it could lose a substantial portion of its equipment.

In addition to dismantling parallel institutions, the international community will have to play an active role in supporting the vital interests of Croats in Bosnia and Herzegovina. This must include keeping the door open to talk with moderate HDZ members and otherwise promoting more moderate Croat parties and politicians. A number of Croat representatives, particularly in central Bosnia and Posavina, have been outspokenly critical of the HDZ for policies that harm the interests of Bosnia and Herzegovina's Croats.¹⁶

The international community already donates funds to support refugee return. The next step must be to support Croat culture, institutions, and language within a multiethnic context designed to integrate the various peoples of Bosnia and Herzegovina. This support should involve more than short-term dialogue until the current crisis is resolved. Bosnia and Herzegovina as a multiethnic state will not be viable without a buy-in from the Croat population and that requires a solid commitment over considerable time.

The coordinated strategy in this report is designed both to attack the HDZ's main sources of power, especially its illegal financing, and to allow moderates within the HDZ and other Croat parties to begin a real discussion of how to preserve a Croat identity within a multiethnic Bosnia and Herzegovina.

¹⁶ This point of view is frequently voiced by members of the New Croat Initiative (NHI) and other moderate Croat parties. The Sarajevo media frequently quotes Croat leaders in criticism of the HDZ, but such voices are not heard in the HDZ strongholds of Herzegovina. The long-awaited establishment of a new Federation television would have the potential to correct this one-sided media climate.

The HDZ has used the legitimate concerns of Croats to create an inaccurate image among much of the Croat electorate of the international community as anti-Croat. The international community will need to demonstrate through concrete acts of good will that this is propaganda. It can best accomplish this through a concerted effort to build bridges with Bosnia and Herzegovina's Croats on issues that really matter to them. These include election laws and regulations, human rights, punishment of those responsible for war crimes against Croats, and continued support for the return of Croat refugees to central Bosnia and the Posavina.

To reduce and eventually cut all sources of illegal financing for the HDZ., the international community should strengthen state institutions, particularly the customs and border services. This will weaken illegal activities not only in western Herzegovina, but also in Republika Srpska.

In order to address the root causes of the current crisis, the international community and constitutionally established local authorities must control Bosnia and Herzegovina's borders. In the short term, better border control can prevent traders from importing and exporting through the illegal Croat self-government. In the long term, full centralisation of customs collection at the state level will strengthen central institutions.

Much of the HDZ' strength is derived from its control of illegal revenue from various public and private companies. To shut off this revenue the international community should use its powers of audit and criminal investigation.

SFOR assistance – primarily provision of security -- is essential for implementing many of these measures. Another important SFOR contribution would be to safeguard all heavy equipment and weaponry belonging to the Croat component of the Federation army until that component is prepared to participate in Federation institutions.

Local authorities and the international administration should not take measures that directly punish average citizens. Rather, they should force citizens to circumvent the illegal administration of the Croat self-government. The average citizen needs many routine documents such as a driver's licence, vehicle registration and licence plates in order to function efficiently in Bosnia and Herzegovina as in any state. By transferring authority to issue such documents to the state and Federation controlled organs, OHR can painlessly but effectively make the Croats more dependent on central institutions for essential administrative services that the illegal parallel structures controlled by the HDZ cannot provide.

While recent events may represent the greatest threat yet to the goals of Dayton, they are also an opportunity finally to dismantle parallel institutions and, more importantly, open a dialogue on how to protect the rights of Bosnia and Herzegovina's ethnic groups following an international community withdrawal.

GLOSSARY

CAFAO	European Commission (EU) Customs and Financial Assistance Office. International office that is guiding the development of customs administrations in the Federation and Republika Srpska.
DSS	Demokratska Stranka Srbije/Democratic Party of Serbia. Party led by Vojislav Kostunica, the President of Yugoslavia (FRY).
EU	European Union.
HDZ	Hrvatska Demokratska Zajednica/Croatian Democratic Union. Main Croat nationalist party in Bosnia and Herzegovina.
HNS	Hrvatski Narodni Sabor/Croat National Congress. An organisation of seven Croat nationalist parties led and organised by the HDZ.
HVIDRA	Hrvatski veterani i invalidi domovinskog rata/Organisation of Croat War Veterans. An association known to advocate extreme nationalist positions, sometimes using violence and intimidation.
HVO	Hrvatsko Vijeće Obrane/Croat Defense Council. Croat component of the Federation Army.
ICTY	International Criminal Tribunal for the Former Yugoslavia (the Hague Tribunal).
NHI	Nova Hrvatska Inicijativa/New Croat Initiative. Moderate Croat party, led by Kresimir Zubak.
OSCE	Organisation for Security and Co-operation in Europe.
OHR	Office of the High Representative. The international community's senior representative in Bosnia and Herzegovina charged with overseeing, and possessing considerable executive and legislative power to achieve, implementation of the Dayton Accords.
PEC	OSCE-led Provisional Election Commission. A temporary body, consisting of international and local officials, charged with developing the election rules and regulations in Bosnia and Herzegovina.
PIC	Peace Implementation Council. The international community's senior level political body for achieving implementation of the Dayton Accords.
RS	Republika Srpska.
SDA	Stranka Demokratske Akcije/Party for Democratic Action. Bosniak nationalist party of Alija Izetbegovic.
SDP	Socialdemokratska Partija/Social Democratic party. Multiethnic party led by Zlatko Lagumdžija.
SDS	Srpska Demokratska Stranka/Serb Democratic Party. Leading Serb nationalist party.
SFOR	Stabilisation Force led by NATO.
UNMiBH	United Nations Mission in Bosnia and Herzegovina.

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