

**BOSNIA'S NATIONALIST GOVERNMENTS:
PADDY ASHDOWN AND THE PARADOXES OF
STATE BUILDING**

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BOSNIA'S NATIONALIST GOVERNMENTS:

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

The return of the nationalist parties to power after the October 2002 general elections in Bosnia & Herzegovina (BiH) was widely assessed as a calamity. Some observers went so far as to claim that it signified the failure of the international peace-building mission over the previous seven years. But the new High Representative, Paddy Ashdown, refused to be downcast. Not only was the nationalists' victory narrow, but he was confident he could work with them if they proved faithful to their pre-election pledges to embrace the reform agenda he had been charting since taking office in May 2002. This agenda seeks to make up for lost time: implementing the economic, legal and governance reforms required both to make BiH a prosperous, lawful and peaceable state and to set the country on track for European integration. Lord Ashdown aims to put himself out of a job by putting BiH on the road to the EU.

Nine months on, but only six months into the terms of the belatedly established state and entity governments, it remains too early to say whether the compact Ashdown believes he has established with the nationalists will produce results. It is certainly a new approach. Ashdown's predecessor, Wolfgang Petritsch, had tried something new as well: "partnership" between the international community and the non-nationalist Alliance for Change coalition cobbled together with foreign assistance after the November 2000 elections. This had some modest success, but not enough to satisfy either the would-be partners or the electorate.

Ashdown has sought partnership not so much with the governments as with the people. Claiming, as any good Western politician would, to have

listened to their voices and intuited their hearts, he insists that Bosnia's politicians should do likewise. He has skilfully manoeuvred the nationalists into signing up for the reforms that he and his colleagues in other international organisations propose. The invocation of requirements set by NATO, the EU, the Council of Europe, the U.S. and others has provided Lord Ashdown with leverage as potent as that he enjoys by virtue of the so-called Bonn powers, which allow him to sack officeholders, impose laws and make administrative edicts. In their hunger for votes and office – and maybe even because they agree – the new governments have endorsed his aims.

There may, in any case, be some advantage in a reform process driven by the international community but carried out by nationalist-dominated governments. The elections confirmed that the national parties retain the confidence of the largest part of a divided electorate, whose separate nations still resonate to assertions either that they were the war's main victims or that they are most at threat from the others. This means that the nationalists could be best placed to reassure their constituents that the reforms under way will not endanger their respective national interests. The new governments may thus find it easier to muster support for reform than did the Alliance.

So far they have accepted or tolerated the reforms insisted upon by Lord Ashdown – either because they are necessary for the Euro-Atlantic integration all parties claim to want or because of the retribution that would otherwise follow. Compelling the nationalists who made and fought the war to take responsibility for reform may thus

be the only option and the best revenge. But it is also a high-risk strategy. The High Representative can command, but he cannot actually implement reforms. For this he needs the genuine engagement of the domestic authorities.

Yet if the governments do no more than pay lip service to reform and the numerous bureaucracies do nothing at all, the game will be up. The performance of the Council of Ministers (CoM) to date does not inspire much confidence. It has adopted several strategic documents prepared for it by the international community, but has failed to translate these into a legislative program. Initially hailed as signal contributions to BiH's burgeoning statehood, the new justice and security ministries created by Lord Ashdown remain empty shells, without staffs or budgets of their own. Meantime, national parallelism appears to be emerging once again in other ministries, many of which are also rudderless because they still lack organisational rulebooks, work plans or both.

The now non-rotating chairman of the CoM, Adnan Terzic, whom Ashdown prefers to refer to as Bosnia's prime minister, has thus far failed to exert the leadership necessary to break such impasses or to move from declarative endorsement of reform to its realisation. The CoM reacts, but does not yet act. The entity governments are no more coherent or competent. The initiative remains almost entirely with the High Representative, and there it is likely to stay for some time yet.

Nearly eight years after Dayton, this state of affairs worries many. It certainly worries Lord Ashdown. He hoped to be the last High Representative. The dilemma over when and how to disengage is real. The longer the people and politicians of BiH rely on foreigners to make their tough decisions and to pay their bills, the more difficult will be the reckoning. But it is too soon either for despair or for neo-colonial guilt. In the first case, the consistency with which Ashdown has pushed and preached reform is beginning to dissipate popular gloom in BiH if not abroad. As for the second, the international community needs still to expiate a different sort of guilt: for a war that need not have happened or lasted so long, a peace that established only the possibility of creating a viable state, and for several years that followed when it was not even feasible to try.

Lord Ashdown is in a hurry to accomplish what might, in better circumstances, have been attempted at the outset: to establish the rule of law; to regenerate a non-productive, aid-addicted, post-communist economy; to streamline and enhance the competence of public services; and to equip the virtual state inherited from Dayton with the attributes necessary for BiH to aspire to EU membership. He must do these things before international patience and resources run out and while there are still citizens inclined to hope rather than despair.

The terminal phase of the international community's belated effort to build a self-sustaining state in BiH will be replete with paradox. In order to get out, the country's foreign guardians will have to get in more deeply. In order to abjure use of the Bonn powers, Ashdown will need in the short run to use them more intensively. In order to realise the promise of Dayton, the High Representative will have to lift the ceiling of what is meant to be permissible under the Dayton constitution. He is doing all these things, most importantly through special, internationally-chaired commissions which are seeking to find the constitutional justifications and political consensus necessary to redress the balance of power between the state and the entities in the spheres of defence, intelligence and indirect taxation.

If these commissions realise their potential to undo the worst effects of BiH's partition at Dayton, the High Representative could have recourse to more such issue-specific bodies. The hope then would be that the cumulative effect of *ad hoc* reassessments of what the constitution allows will create the consensus required for a fully-fledged domestic revision of BiH's constitutional architecture. But if the commissions fail to adopt state-boosting options, there may be no alternative but for the international community to address constitutional obstacles directly. The fact that it is doing so already in promoting amendments that would permit the Constitutional Court to take over the mandate of the Human Rights Chamber could set a potent precedent.

RECOMMENDATIONS

To the international community:

1. Continue to leverage essential reforms in BiH by invoking the requirements of the EU Stabilisation and Association process (SAp), membership in the NATO Partnership for Peace and the post-accession conditions of the Council of Europe.
2. Reconsider demands for the creation of new institutions or bodies that BiH cannot afford and for which foreign donors will no longer pay.
3. Accept that the nationalist parties are a natural and legitimate phenomenon in BiH, but that there is no need to fear pushing them to the limit, especially by attacking their illicit sources of financial power and powers of patronage.
4. Support the High Representative in his efforts to mobilise a popular constituency for reform.

To the Peace Implementation Council and High Representative:

5. Seek to ensure that the special commissions at work on reforming BiH's defence, intelligence and indirect taxation systems do not settle for the lowest common denominator of agreement, but embrace state-building solutions. For if the confines of the Dayton constitutional edifice cannot be expanded from within through *ad hoc* commissions and administrative changes, it will be impossible to avoid reconstructing them from without.
6. Elaborate and publish criteria for the future use of the Bonn powers that will either limit their deployment to essential spheres over a defined period or associate the Presidency and/or CoM in their use.
7. Maintain pressure on the entity and cantonal governments to implement the provisions of the 2002 constitutional amendments relating to the proportional representation of the constituent peoples in all public institutions.

To the BiH authorities:

8. Open a debate on amendments to the electoral law that would apply the 3 per cent threshold for parliamentary representation to the allocation of compensatory seats, thereby lessening the fragmentation of legislative bodies in BiH.
9. Seek to enhance the policy planning capacity of the CoM and entity governments while international assistance is available through the SAp and bilateral donors.

Sarajevo/Brussels, 22 July 2003



BOSNIA'S NATIONALIST GOVERNMENTS: PADDY ASHDOWN AND THE PARADOXES OF STATE BUILDING

I. INTRODUCTION

The results of the first domestically organised elections in Bosnia & Herzegovina (BiH) since the war produced some surprise and more consternation among both local and foreign observers. Not only did the big-three nationalist parties regain or retain control of the principal state and entity parliaments and executive posts in the 5 October 2002 poll; they were also accepted by the new High Representative (OHR), Paddy Ashdown, as people with whom he could do business.

As the principal authors or protagonists of the 1992-95 war – and as the predominant foes of reconciliation, reform or state-building thereafter – the professions of the (Bosniak) Party of Democratic Action (SDA), the Croatian Democratic Union (HDZ) and the Serb Democratic Party (SDS) that they had remade themselves as pragmatic modernisers who could put their past antagonisms aside while continuing to defend their respective national interests inspired little confidence. It appeared even less likely that these parties would prove capable of pushing the country forward towards either normality or Euro-Atlantic integration. Yet Lord Ashdown professed to believe that the reform agenda he had been charting since assuming office in May 2002 would be safe in their hands.

All those who derided this possibility or gave vent to despair over the defeat of the non-nationalist Alliance for Change coalition seemed not to have noticed, however, that BiH in 2002 was itself much changed from what it had been in 1992 or even in

1998, when the nationalists had last swept to victory at the polls. Thanks to increasing activism on the part of BiH's international protectors, the institutional, legal and political environment has altered markedly in recent years. The pace has accelerated further since Ashdown's installation. Having made plain from the outset his intention to use his powers to impose laws, to issue administrative decisions and to sack recalcitrant or corrupt officeholders whenever local institutions failed to do the job, Lord Ashdown has served notice on the nationalists that their room for manoeuvre – let alone for abuse of office – will be slight.

This approach is at odds with the international community's earlier and earnest invocations of "partnership" with the Alliance parties and of plans to transfer to them "ownership" over the institutions and political processes stemming from that partnership. In practice, both notions had provided the disunited and compromise-averse Alliance with an occasional veto over international initiatives during its two-year mandate, and led former High Representative Wolfgang Petritsch to do his own fair share of imposing. Although Lord Ashdown need not now pay lip service to such politically correct notions or handle the nationalists with kid gloves, his single-minded pursuit of reform is highlighting the extent to which, more than seven years after Dayton, progress in BiH remains dependent on the country's foreign guardians. But at least the rules of engagement are now clear.

What is less clear is how and when international disengagement is to take place. A newly aggressive

approach to state-building could well produce results in terms of institutions and legality without, at the same time, warranting the transfer of real power to local political leaderships that have lost both credibility and the habit of taking responsibility for their country's fate. In other words, the (admittedly few) trains may be made to run on time, but the politicians could remain incapable of taking over the running of the state.

Although frustration over the High Representative's monopolisation of political initiative and, more especially, resentment at his prohibition of appointments of party hacks to key positions prompted mutterings among some newly installed officeholders and a threat to quit by one, there have been neither mutinies nor resignations. The complaints demonstrate, however, the extent to which the domestic political establishments are keen to recover and exercise power in their own accustomed fashion.

This burgeoning of colonial ingratitude will make it more difficult for the international community to assess and accept that the essential minimum of measures necessary for BiH to function as a competent and lawful state have been put in place, and then to make a phased withdrawal. In the first place, the role of the High Representative will need to shift from arbitration to mediation among local political factors as his office shrinks and his powers wither. The country's governmental structures, meanwhile, will have to have become so enmeshed in the competence-raising processes of EU integration that there can be little risk of backsliding. This remains a tall order.

This report assesses the implications of the nationalists' return to power and the evident intention of the international community to pursue, at least in the short term, an increasingly intrusive approach to state-making. It will review the background to and context of the October 2002 elections, discuss the main issues during the campaign, analyse the results, and examine the lengthy business of coalition-making that followed. In addition, it will consider the extent of real change within the key parties, assess the development of the international community's reform agenda, and look at the High Representative's impact on BiH during his first year in office.

II. THE NEW CONTEXT OF THE 2002 ELECTIONS

Elections have become routine in post-war Bosnia & Herzegovina. General elections have taken place every two years, and municipal polls in most off-years. The electorate increasingly gives them a miss. But the fourth round of general elections on 5 October 2002 was different. They were the first to be organised and administered by the local authorities rather than by the Organisation for Security and Co-operation in Europe (OSCE). They passed off with few hitches. The OSCE observer mission concluded that there had been no significant procedural failures and that their conduct was generally in line with international standards.¹ On the other hand, because the domestic governments failed to allocate adequate funds, international bodies ended up footing 70 per cent of the bill. What is more, the international community continues to subsidise the State Electoral Commission by paying the salaries of 21 members of staff, as well as providing logistical support.²

The October elections were also the first to elect state, entity, cantonal and one municipality's office holders and representatives to four-year terms. After years of operating under OSCE's provisional rules and regulations, a permanent electoral law providing for quadrennial elections was adopted in August 2001. The law also replaced the OSCE-led Provisional Electoral Commission with a permanent BiH body. Although these are formal indicators that the country is gradually equipping itself with the institutions of a normal state, the fact remains that the 2002 polls took place in an environment in which the international community continued to have the final say in most aspects of political life, including the electoral process. The High Representative imposed significant changes to the executive branches at different levels of government both before and after the elections.³ As

¹ See OSCE, Office for Democratic Institutions and Human Rights, "Bosnia and Herzegovina - General Elections", 9 January 2003. Report available at: www.osce.org/odihr/documents/reports/election_reports/ba/ba_5oct2002_fr.php3.

² Ibid.

³ For example, only two days after the polls, Lord Ashdown amended the Federation constitution to abolish

a consequence, local politicians still regard foreign institutions as the main locus of power. Thus most of the criticism, complaints and demands for redress that followed the elections were directed at OHR rather than the State Electoral Commission.

A. IMPLEMENTING THE CONSTITUTIONAL AMENDMENTS

What distinguished the October elections most substantively from their predecessors was that they gave electoral effect to the entity constitutional amendments necessitated by the Constitutional Court's "constituent peoples" decisions of July-August 2000 and ultimately imposed by Wolfgang Petritsch on 19 April 2002. These represent the first significant modification of BiH's post-Dayton dispensation.⁴

Although the BiH constitution (contained in Annex 4 to the Dayton Peace Accords) decreed that any provisions of the two entities' constitutions that were inconsistent with its own must be rectified *within three months* of the state constitution coming into force (that is, by 14 March 1996), it was not until April 2002 that this was even partly achieved. That it happened at last was the result of a suit brought before the Constitutional Court by then Bosniak Presidency Member Alija Izetbegovic in February 1998. Izetbegovic complained that several aspects of the entities' constitutions violated that of the state. In particular, he pointed to articles specifying each entity's "constituent peoples" and official languages to the exclusion of the others, as well as to rhetorical invocations of sovereignty and self-determination. For example, the preamble to the Republika Srpska (RS) constitution called effectively for the entity's unification with Serbia.⁵

both the office of cantonal governor and the special regime cantons. On 3 December 2002 he imposed the Law on the Council of Ministers, which increased the number of state-level ministries. All such decisions can be accessed on the OHR website: www.ohr.int.

⁴ For the background, see ICG Balkans Report No. 128, *Implementing Equality: The 'Constituent Peoples' Decision in Bosnia & Herzegovina*, 16 April 2002.

⁵ The preamble begins as follows: "Taking the natural and democratic right, will and determination of the Serb people from Republika Srpska into account to link its State

The Constitutional Court established that it was the clear intent of the RS leadership to secede from BiH and join Serbia. It also ruled that the existence of the entities did not give them the right to preserve the effects of "ethnic cleansing".⁶ It both emphasised the importance of re-establishing a multinational society and offered estimates, for the first time in an official BiH document, of how pervasive the "cleansing" had been and remained. The Court calculated that the non-Serb population of the current RS had fallen from 46 per cent in 1991 to 3 per cent in 1997. In the Federation, meanwhile, the proportion of Serbs had shrunk from more than 17 per cent to less than 3 per cent. These figures accorded perfectly with Radovan Karadzic's reported wartime goals.

The Court's decision provided the basis for belated talks – under OHR auspices and pressure – starting in late 2001 among the country's eight largest political parties.⁷ Six of them signed up to the so-called Sarajevo Agreement that was announced with considerable fanfare on 27 March 2002. Although the three RS-based parties recorded their reservations on several counts, the agreement set out the principles to be embodied in amendments to the entity constitutions.⁸

As far as its electoral impact was concerned, the agreement prescribed that the RS should have two directly elected vice-presidents (one each from the

completely and tightly with other States of the Serb people..." Partial Decision of the Constitutional Court, 1 July 2000. Available at: www.ccbh.ba/en/decisions.

⁶ Paragraph 61 notes that "despite the territorial delimitation of Bosnia and Herzegovina by the establishment of the two Entities, this territorial delimitation cannot serve as a constitutional legitimisation for ethnic domination, national homogenisation or a right to uphold the effects of ethnic cleansing". Paragraph 73 proclaims that "it is an overall objective of the Dayton Peace Agreement to provide for the return of refugees and displaced persons to their homes of origin and thereby to re-establish the multi-ethnic society which had existed before the war without any territorial separation with ethnic inclination". Partial Decision, 1 July 2000.

⁷ The High Representative had established and charged commissions of the entity parliaments with producing amendments, but these had either failed to reach agreement (in the RS) or were sidelined by the government (in the Federation).

⁸ The full text of the Sarajevo Agreement can be accessed at www.ohr.int. For a detailed analysis of the negotiations and agreement, see ICG Report, *Implementing Equality*, op. cit.

ranks of Bosniaks and Croats), while the Federation should have an additional (Serb) vice-president to be elected, like his colleagues, by parliament. Each “constituent people” would be guaranteed at least four seats in the entity assemblies. Moreover, Part 4 of the agreement provided that each nation’s representation in “public institutions” should mirror its share of the population in the last Yugoslav census of 1991.⁹ Although no parties expressed any reservations about Part 4 at the time, the fact that it has since been ignored suggests that the parties never intended to apply a provision so inimical to the maintenance of their powers of patronage. However, in a transparent attempt to evade even having to pretend to good faith, RS leaders prepared and submitted a rather different text to the National Assembly (RSNA) for its ratification. This limited the proportions of non-Serbs to be employed in public institutions to those required for “elected functionaries”.¹⁰

Petritsch was obliged to intervene, imposing both the original sense of Part 4 and other elements of the Sarajevo Agreement with which the RS had sought to tamper. In the case of the Federation, the High Representative had to impose the whole set of amendments, since the Bosniak and Croat nationalist parties refused to support amendments that were more generous to Serbs in the Federation than were the RS amendments to their brethren in that entity. To this day, however, neither entity’s parliament has retrospectively enacted the full package of amendments.¹¹ They have adopted parts of it, but have largely ignored the provisions

specifying proportional national representation in public institutions.

It is impossible to find the complete, amended texts of the RS and Federation constitutions on their government or parliamentary websites. The farthest they have gone has been to insert a link to the High Representative’s 19 April decision next to the unchanged originals. The RS government site still displays the old constitution’s definition of the RS as a “state” of the Serb people whose official language is Serbian and script Cyrillic. There is not a word about proportional national representation in public institutions. For their part, the new Federation authorities have taken care to elect or appoint docile Serbs to the positions earmarked for them, thereby ensuring that there will be as little alteration as possible in the re-established practices of Bosniak-Croat power-sharing.¹²

All this could have been – and was – predicted at the time of the Sarajevo Agreement. Yet three of the ruling Alliance for Change parties decided to sign. They have said since that they were well aware of the agreement’s shortcomings, but saw it as a good beginning: creating a forum which might produce something better at a later stage. However far-sighted, their identification with amendments that satisfied too few of their constituents was certainly a political miscalculation so soon before the elections.

The rejectionist parties and press accused the Alliance of selling out cheaply to the RS, of betraying the BiH state interest, and even of conniving with Petritsch to legitimise Karadzic’s genocidal creation. The SDA in particular made a solid case, demonstrating the deficiencies of the agreement and accusing the Alliance of settling for half a loaf of constitutional reform when it could have had the whole thing. However dubious the latter proposition, the fact that the RS parties both expressed satisfaction that they had weathered the

⁹ Part 4 provides that “Constituent peoples and members of the group of Others shall be proportionately represented in public institutions in the Federation of Bosnia & Herzegovina and in Republika Srpska. As a constitutional principle, such proportionate representation shall follow the 1991 census until Annex 7 is fully implemented, in line with the Civil Service Law of Bosnia & Herzegovina”. The “public institutions” comprise entity and cantonal ministries, municipal governments, cantonal courts in the Federation and district courts in the RS, and municipal courts in both entities. Sarajevo Agreement, 27 March 2002.

¹⁰ The text of the amendments ratified by the RSNA on 18 April 2002 is available at www.vladars.net.

¹¹ Federation MPs refused to adopt the full slate of amendments as recently as 25 March 2003. The SDA insisted the item be removed from the agenda. The party demands complete symmetry between the two entities’ entitlements.

¹² The inability of the HDZ and SDA to agree on who should occupy the one seat in the Herzegovina-Neretva cantonal government reserved for a Serb was a principal reason why no government could be formed until June 2003, when the High Representative intervened to fine the parties and dock the acting ministers’ pay for every day they failed to establish a government. Since the SDA and HDZ had agreed at the outset that Bosniaks and Croats should have four ministries each, the likely proclivities of the Serb to be selected assumed major significance.

storm and proclaimed that these would be the last constitutional changes to which they would be prepared to subscribe did the Alliance parties no good. Because the SDP and its leader, Zlatko Lagumdžija, were the most closely associated with a purported triumph that seemed, on reflection, to be a setback, they suffered most damage. But this was not the only pre-election miscalculation by the coalition.

B. THE ALLIANCE FOR CHANGE IN OFFICE AND DECLINE

The October elections offered voters an opportunity to assess the performance of the loosely structured and ostensibly non-nationalist Alliance for Change over the previous eighteen months. Created in the aftermath of the November 2000 elections thanks to intervention primarily by former American and British Ambassadors Tom Miller and Graham Hand, the ten-party coalition was cheered by foreigners and locals alike as a potentially decisive break with the sterile obstructionism of the nationalists since Dayton. Some even wanted to believe that it would redeem the sufferings of the war. Such high expectations were a problem in their own right. A weak and weird agglomeration of parties of varied strengths, national composition and ideological descent, the Alliance would have been hard put to deliver big changes in ideal circumstances and with unlimited time. It had neither.¹³

Two parties, the SDP and the Party for BiH (SBiH), dominated the Alliance. The eight (and later nine) others, each possessing only a seat or two, were nonetheless necessary to maintain the government's wafer-thin margin in the Federation parliament.¹⁴ At the state level, the Alliance commanded only seventeen (out of 42) seats in the House of Representatives. It thus entered into an arrangement of mutual support with four RS-based parties in order to run state institutions and apportion posts in the Council of Ministers

(CoM).¹⁵ Yet three of the four RS parties were also in government in Banja Luka, where they shared power with the *bête noir* of their allies at state level, the SDS. This strange combination of elements never found it easy to function as a coherent, reform-driven coalition.¹⁶

It quickly became apparent both that the two big Alliance parties did not care much for their partners and that their domineering leaders were averse to inter-party discussions, democratic decision-making and scrupulous adherence to their programs. This made it seem that only hunger for office, not any common commitment to reform, bound the Alliance parties together. The smaller parties began accusing the SDP and SBiH of wanting them merely as vote fodder in parliament or as embellishments of their non-nationalist images, but denying them any substantive role in making policy. By spring 2002 it became clear that the Alliance parties would not present themselves jointly to the electorate in the autumn. The big parties wanted to go it alone. This pre-campaign dissolution reinforced popular cynicism about the Alliance, undermining its claim to be a new and constructive force in politics, setting off an intensified bout of quarrelling over portfolios, and leading to recriminations about everything else.

Events also seemed to conspire against the Alliance in the first months of 2002. They certainly jeopardised the standing of the SDP with a crucial element of the electorate: those Bosniaks who had defected from the SDA in 2000 and made the Alliance possible.

First came the case of the so-called Algerian Group. In mid-January the government acceded to American demands to hand over six naturalised BiH citizens of Algerian origin suspected of plotting an attack on the U.S. Embassy in Sarajevo. The six were promptly despatched to Guantanamo

¹³ For an analysis of the Alliance performance, see ICG Balkans Report No 132, *Bosnia's Alliance for (Smallish) Change*, 2 August 2002.

¹⁴ The original ten parties could command just 69 out of 140 seats. The SDP had 37 deputies and the SBiH 21. The other eight had just eleven deputies among them.

¹⁵ These were the Party of Democratic Progress (PDP), the Alliance of Independent Social Democrats (SNSD), Socialist Party of Republika Srpska (SPRS), and the Serb National Alliance (SNS).

¹⁶ One leading Alliance politician told ICG that people often complained to him about situations prevailing at levels of government over which the Alliance parties had no control. Many people were confused about where exactly the coalition ruled and might do something and where it did not and could not. ICG interview with Alliance leader, 7 March 2003.

Bay. Although the Algerians had been in prison since October 2001, the Americans had declined to share such evidence as might have justified their prosecution. When they could be held in custody no longer – and despite a Human Rights Chamber order prohibiting it – the BiH authorities surrendered them to U.S. forces.¹⁷ Both Islamist sympathisers and defenders of human rights were outraged.

The second blow to the Alliance was self-inflicted. On 1 March 2002 SDP leader and CoM Chairman Zlatko Lagumdžija addressed an angry crowd of Bosniak war veterans protesting against government proposals to reform the unaffordable benefits system. When the demonstrators turned nasty, Lagumdžija responded by comparing them to the Serb rioters he had faced in Banja Luka in May 2001 and who had prevented the laying of a foundation stone for the reconstruction of the city's most historic mosque. Lagumdžija's intemperate remarks were a gift to the SDA, which could now portray Lagumdžija as a traitor to his fellow Bosniaks.

The third development to impair the Alliance's reputation among Bosniaks was the arrest in April of five SDA politicians or former intelligence officers on suspicion that they had organised an Iranian-staffed training camp for "terrorists" on Mt. Pogorelica in 1996. The five men were kept in detention for several months during the ensuing investigation, but were released on bail when court proceedings commenced just before Election Day. The SDA agitated throughout on behalf of its "anti-terrorist" heroes and attacked the Alliance for persecuting them. It celebrated their release on remand as a great victory. The Pogorelica case is still before the Federation Supreme Court.¹⁸

These and other affairs helped the SDA to foster the impression that the Alliance in general and the SDP in particular were deficient in Bosniak patriotism and delinquent in defending Bosniak interests. This was all the more damaging because the Alliance parties had very little support in areas not governed by Bosniaks. Although the HDZ had, as usual, won most Croat votes in the 2000 elections, it had been excluded from entity and state government. But it retained control over the four Croat-majority cantons and divided power with the SDA in the two "special regime" cantons. The HDZ thus enjoyed the double advantage of being able to inveigh against the failures of the Alliance in power while itself wielding power where it most counted.

The Alliance's state-level cohabitation with parties from the RS who were in coalition with the SDS at home also confused voters. Notwithstanding the efforts of Party of Democratic Progress (PDP) leader and RS Premier Mladen Ivanic to obscure the matter, everyone believed that his supposed government of experts was, in fact, driven by the SDS.¹⁹ The Alliance was tarnished by this association.

In their relations with the international community the Alliance leaders sought to present themselves as equal partners who enjoyed the support of the foreigners while being ready and able to say "no" when BiH interests were at stake. Occasional biting of the hand that had conceived (if not fed) them played rather well with a public that seemed tired of local leaders always saying (if not doing) "yes".²⁰ There was, however, a lot less to Petritsch and Lagumdžija's regular invocations of "partnership" and "ownership" than met the eye. The Alliance relied heavily on OHR to do all the

¹⁷ Curiously enough, the U.S. State Department's most recent Human Rights Report offers implicit support for the Human Rights Chamber's subsequent rulings against the BiH authorities for their treatment of four of these men and their handover to what it coyly describes as "a foreign government" that retains the death penalty. U.S. Department of State, Bosnia and Herzegovina: Country Report on Human Rights Practices 2002, 31 March 2003, pp. 6-7, at www.state.gov/g/drl/rls/hrrpt/2002/18356.htm.

¹⁸ One of the SDP's former vice-presidents also cited Lagumdžija's poor timing in visiting Washington in late July 2002, when President George W. Bush had just appeared to declare a "crusade" against Islamist terrorism.

Lagumdžija then sought to portray his surprise photo opportunity with the U.S. President as an American endorsement of the SDP. ICG interview with a former SDP vice-president, 18 February 2003.

¹⁹ One senior international official in the RS described Ivanic's political profile as "SDS lite". ICG interview with Western official, 7 February 2003.

²⁰ The former SDP vice-president cited above told ICG about witnessing an embarrassing altercation in Petritsch's office when, during a particularly tense meeting, Lagumdžija suddenly stood up with his files and then slammed them down on the table in front of a stunned Petritsch. ICG interview with a former SDP vice-president, 18 February 2003.

things it could not or dared not do for itself. The big-two Alliance parties certainly expected OHR to see them right in the elections.

For all its shortcomings, however, the Alliance scored some significant successes. It made progress in abolishing the parallel structures of government that had marked the nationalists' years in power; established fiscal discipline in government; started army reforms and reduced troop numbers; normalised relations with Serbia and Montenegro; and saw BiH enter the Council of Europe on its watch (in April 2002). The trouble was that the key parties did not know how to capitalise on or sell these achievements during the campaign. Instead, they quarrelled among themselves as much as with their overt opponents.²¹ When the SDP and SBiH decided to go to the polls on their own, the others lost either any interest in or the ability to form a rump coalition.

III. THE ELECTION CAMPAIGN

A. NATION AND STATE

More parties contested the October 2002 elections than ever before.²² Fifty-seven parties, nine coalitions and three independent candidates ran – a total of 7,537 candidates for office at four levels of government. But the turn-out, at 55.5 per cent, was the lowest yet.²³

The constitutional changes ensured a significant increase in cross-entity campaigns, with 27 Federation-based parties contesting posts in the RS and twelve RS parties fighting races in the Federation.²⁴ The HDZ made its first foray into the RS, albeit tentatively and unsuccessfully. Senior SDS leaders confirmed to ICG that they had seriously considered running candidates in the Federation, but only if it had proved possible to do so as part of an all-Serb bloc. (This was the tactic adopted by the SDA in the RS in 1996, when it ran

²² Forty-seven parties contested the first post-war elections in 1996. For details on previous elections, visit OSCE's comprehensive website: www.oscebih.org.

²³ The low turn-out (57.4 per cent in the Federation and 52.9 per cent in the RS) has been ascribed to a variety of factors. People were doubtless tired of frequent elections that failed to bring substantive improvements in their lives. A pattern of declining participation has been noted in many other post-communist states that have endured fewer elections than BiH in equivalent periods. On the other hand, citizens were well aware of the importance of these elections, with their gift of four-year terms. The poor turn-out must have had something to do with the quality of the campaign, which was full of empty rhetoric, mud-slinging and incredible promises. Potential Alliance voters may have been particularly prone to disillusionment and, hence, to abstention. The low turn-out may also have had something to do with the widespread belief that, regardless of elections, the international community would run the show anyway.

²⁴ Yet the OSCE observer mission noted in its report that cross-entity campaigns did not translate into cross-national campaigning. Most parties confined their attention to "their" returnees. For example, the SNSD and PDP held rallies largely in the Drvar area of the Federation, where Serbs again constitute the majority. Similarly, the SBiH, SDP and SDA campaigned mostly in those areas of the RS which have seen substantial Bosniak returns, e.g., Prijedor, Doboje and Banja Luka. Furthermore, many of their rallies went unattended. See Office for Democratic Institutions and Human Rights, *Bosnia and Herzegovina - General Elections*, op. cit., p. 10.

²¹ SBiH founder and shadow leader Haris Silajdzic told ICG he was well aware that a joint campaign would have made the Alliance look stronger and more attractive, but said that it would have been impossible: "Long before the campaign started it all turned into vanity and personality issues. Joint appearances by the SBiH and SDP were not possible". ICG interview with Haris Silajdzic, 11 March 2003.

at the head of a so-called Coalition for a United Bosnia.) The other Serb parties rejected the idea. SDS leaders told ICG they will probably put up candidates for Federation races next time.²⁵

Most observers agree that nationalist issues were more implicit than explicit in the 2002 campaign. Public opinion polls before the elections and politicians' assessments thereafter were in agreement that voters were more interested in economic and social issues – job-creation, improvements in health care, pension payments – than in emblematic national questions. The majority of respondents told the pollsters they wanted the parties to offer solutions to their pressing economic problems and practical ideas about how to improve their lives. Yet, in the end, the results showed that those people who took the trouble to vote were still inclined to cast their ballots on behalf of the parties they identified with their entity and nation.²⁶ This was not necessarily a vote in favour of nationalism, although in BiH circumstances the identification of material and national interests remains strong.

The nationalist parties sought to perpetuate such entrenched behavioural patterns in their campaigns. SDS billboards exhorted passers-by to "Vote Serb". The HDZ portrayed itself as the main defender of Croats' patrimony, faith and interests. And, as we have seen, the SDA sought Bosniak votes by attacking the Alliance parties' alleged neglect of Bosniak interests and denigration of Bosniak wartime heroism. Some of the minor parties went farther. For example, the Croatian Rights Bloc (Hrvatski Pravaski Blok) ran a poster campaign featuring the fascist Ustasa oath from the Second World War, "Ready for the Fatherland!"²⁷ When Yugoslav President Vojislav Kostunica, engaged in his own election campaign, took the opportunity of a rally in the border town of Mali

Zvornik in early September to describe the River Drina as only temporarily separating Serbs, he provoked paroxysms of patriotic indignation on the part of Bosniak politicians and, no doubt, some glee in the RS.

The more moderate parties tried to have it both ways. They sought to appeal to those of their own kind who were fed up with the old nationalists, but rarely missed a chance to emphasise their own commitment to true or better national values. This worked well for both the SBiH and, more especially, for Milorad Dodik's Alliance of Independent Social Democrats (SNSD). The PDP, true to its "SDS lite" tag, made a particularly obvious – but less successful – bid for all Serbs' support with its ubiquitous slogan "To become European, but to stay Serbian".²⁸

Accusations of national betrayal, totalitarian tendencies, overweening arrogance or narcissism, abuse of power, and pervasive sleaze provided the cut and thrust of an overwhelmingly negative campaign. The readiness, indeed eagerness, of the former Alliance parties to play by these rules was another abandonment of their supposed high-mindedness. By taking the low road, the Alliance leaders only reinforced popular assumptions that politicians are vain, incompetent, corrupt and unworthy. Voting would only encourage them.

B. PROMISES, PROMISES

On the other hand, personalities proved more compelling for those who voted than did their parties' programs. Most voters appear to have been wholly ignorant of their preferred party's manifesto. This was understandable, however, in view of the manner in which the parties presented those programs. The big parties produced fairly comprehensive manifestos. The Alliance parties even had a program written for them – by OHR. But they all failed to present their prospectuses in an innovative or clever fashion. Instead, they offered dull, disorganised and occasionally frivolous wish lists or sets of promises to which they could never be held. Voters seeking enlightenment on a given party's proposals for fighting corruption, creating jobs and halting the

²⁵ ICG interview with SDS leaders, 20 February 2003.

²⁶ One feature of these elections emphasised by RS politicians was that people tended to vote within their entity's political-ideological spectrum. Thus, RS voters who did not want to vote for nationalists opted for what pass as non-nationalist parties in that entity. They did not vote for a Federation-based party. Nor did Federation residents of a social democratic persuasion consider the SNSD as an alternative to the SDP.

²⁷ "Za dom spremni"! The party was fined KM 5,000 (€ 2,500) by the Electoral Commission and forced to remove the offending billboards.

²⁸ "Da postane evropska, a ostane Srpska".

brain drain would have been hard-pressed to find more than generalities in its propaganda. Voters, it seems, relied more on their assessments of individuals and their performance during the campaign. So it happened that representatives of parties that paid little if any attention to producing intelligible programs were just as likely to be elected as those that did.

But if party programs provide any reliable indicators of a party's intentions, then there is some hope of change for the better in BiH. As the UN Development Program's research for its Early Warning System has pointed out, almost all the country's parties, regardless of ideological orientation or geopolitical base, produced programs with three identical tenets. They all accepted BiH as their common state and the only subject of international law. They all supported "reforms", whatever they might have meant by that obligatory mantra. And, most importantly, all declared that their party's major political goal was BiH membership in the European Union.²⁹ These elements of rhetorical consensus offer at least some leverage for international action.

C. FOREIGN INTERVENTION IN THE CAMPAIGN

The 2002 campaign was tracked by more public opinion polls than ever before. The National Democratic Institute (NDI) of the U.S. sponsored the most frequent and authoritative surveys. But regardless of the professionalism of the agency that conducted them, their presentation and interpretation appear to have aimed to puff the Alliance parties. The polls were thus both deceptive as snapshots and unreliable as predictors. For example, the NDI surveys indicated throughout that participation would be down, but their worst prognosis was that up to one-third of the electorate would abstain. In fact, 44.5 per cent of registered voters failed to cast ballots. The NDI continued to show the SDP as the single strongest party. In fact, the SDP's vote collapsed by 50 per cent, making it the biggest loser in the elections. According to one foreign political party consultant, the principal problem with the NDI's polls was

their presentation of aggregated data from across the whole country. A truer picture of sentiment would have been provided had the polls focussed on sub-sets of data representing likely voters.³⁰

Probably the biggest surprise – and certainly the most glaring failure of the polls – related to the contest for the Bosniak seat on the state Presidency. The surveys showed Haris Silajdzic with a commanding lead throughout the campaign. Most awarded second place to the SDP's Alija Behmen. Yet it was the SDA candidate, Sulejman Tihic, who won a narrow victory over Silajdzic, relegating Behmen to a poor third.³¹ Tihic pursued a vigorous and aggressive campaign, troubling to visit even the smallest towns and villages, and addressing innumerable town-hall meetings. Silajdzic, on the other hand, ran a detached race, aimed at an educated and urban constituency with hi-brow messages about the structural reforms necessary in BiH. Choosing between the charismatic but increasingly remote Silajdzic and the un-photogenic but hustling Tihic cannot have been easy. Even SDA founder and Bosniak father figure Alija Izetbegovic took his time before endorsing his successor rather than his onetime protégé.³² Izetbegovic's support probably tipped the balance in favour of Tihic.

There was no drama and no failure by the pollsters in picking the winners of the races for the Croat and Serb seats on the Presidency. RS President Mirko Sarovic of the SDS and Mostar businessman Dragan Covic of the HDZ each won handily.³³

²⁹ UNDP Early Warning System, Bosnia & Herzegovina 2002 Election Special, December 2002.

³⁰ ICG interview with political party adviser, 13 May 2003.

³¹ The race turned out to be less tight than it seemed when the first, partial results were published. Tihic defeated Silajdzic by some 15,000 votes, a margin of 2.5 per cent. For the details, see www.izbori.ba.

³² The ailing Izetbegovic had hinted in several interviews during the first half of the year that Silajdzic would make the best Bosniak member of the Presidency. In an interview in July 2002, however, he announced that the time of charismatic leaders had passed, and that BiH now needed hardworking and hands-on politicians like Tihic. "Silajdzic ima harizmu vodje, ali je vrijeme vodja u Bosni prošlo", *Oslobodjenje*, 2 July 2002.

³³ Covic won 62 per cent of the vote. His nearest competitor, Mladen Ivankovic Lijanovic, took 17 per cent. Sarovic ran 20 per cent ahead of his nearest rival, Nebojsa Radmanovic of the SNSD, but managed to secure just 35.5 per cent of the vote in a crowded field.

Contrary to the expectations of the Alliance parties and their supporters – and not, it seems, without some soul searching – the international community resolved to avoid overt partisanship on behalf of its favourites. OHR attempted instead to help make the Alliance government look worthier of re-election, in the first place by providing it with an economic reform program for presentation to the PIC Steering Board on 30 July 2002.³⁴ Appearing with Lagumdžija at a joint press conference the next day, Lord Ashdown urged voters to cast their ballots for “those who propose and insist on reform”, all the while denying that he supported any particular party. Rather, the PIC’s acceptance of the Alliance government’s reform plan represented, according to Ashdown, “a contract of sorts between BiH and the international community”.³⁵ The same exercise was repeated in September, when rule-of-law issues formed the agenda. This was the inception of the “Jobs and Justice” manifesto to which OHR then invited all parties to adhere and for which the public was exhorted to vote.

Fearful, however, that a low turnout would guarantee victories by the nationalists, OHR mounted a considerable get-out-the-vote campaign. This culminated, just before polling day, in Ashdown’s despatch of “personal” letters to BiH’s 1.3 million households urging people not just to vote, but to vote “for reform”. Foreign statesmen conveyed the same message. Javier Solana, the EU’s chief foreign policy representative, visited Sarajevo to do so and U.S. Secretary of State Colin Powell offered televised support from Washington. Chris Patten, the EU’s External Relations Commissioner, had weighed in a couple weeks earlier by announcing that BiH had “substantially completed” the Road Map reforms that would permit the European Commission to launch a Feasibility Study on a Stabilisation and Association Agreement.

Although a more subtle form of intervention than in the past, the concerted effort to mobilise votes for reform still made the international community’s

preference for the non-nationalists clear. But even the persuasive Ashdown could do little to help those who were determined not to help themselves. Lagumdžija’s perceived arrogance and Silajdžić’s apparent lassitude made it seem that they were merely awaiting either the acclaim of a grateful populace or – should that fail to materialise – rescue by an equally grateful and vastly more powerful international community. Ivanić’s PDP and the new Croat Work for Betterment-Economic Bloc also appeared to rely inordinately on their presumption of international support. By late summer, however – and despite the NDI’s spin – OHR knew better. It had to prepare to accommodate nationalist victories. The nationalists, for their part, appeared genuinely grateful to be again on speaking terms with OHR.

D. THE CAMPAIGN IN THE MEDIA

Organisations monitoring media coverage of the election campaign concluded that, on balance, broadcasters and the press either played by the rules or did not endanger the integrity of the electoral process. The former consideration applied especially to the electronic media, while the latter assessment related more to the print media. Broadcasters were obliged to adhere to the strict guidelines of the Communications Regulatory Agency (CRA),³⁶ which is authorised to fine any station that offends against them.

The fear of fines doubtless helped keep broadcasters on the straight and narrow. But caution and restraint also often produced programming of unbearable tedium.³⁷ Most election programs took the form of panel discussions among a veritable throng of party representatives. They were generally supposed to

³⁴ See OHR, Communiqué by the PIC Steering Board, 31 July 2002; OHR, “Our Reform Agenda: An Agenda for Reform Agreed between the Government of Bosnia & Herzegovina and the International Community”, 31 July 2002.

³⁵ OHR Morning Media Brief, 1 August 2002.

³⁶ Formed in March 2001 in succession to the Independent Media Commission, the CRA is an independent state authority staffed by local and international experts.

³⁷ The incipient, state-wide Public Broadcasting Service (PBS) contributed to the boredom. It launched an early evening newscast on 7 May 2002. Both entity networks carry this twenty-minute broadcast immediately before their own. This double dose of news – combined with the denatured even-handedness of the PBS product – was a turn off. According to recent research, less than 5 per cent of the population regards the PBS ‘Dnevnik’ as a primary source of information. “Gledanost Dnevnika BHTV 1 manja od pet posto”, *Vecernji list*, 19 March 2003.

speak to one selected issue, but their debates usually turned into rhetorical excursions around everything but that topic. The absence of hard-hitting journalism or meaningful debates among the politicians on the airwaves probably contributed to the public's lack of interest in the proceedings. It certainly did nothing to arouse it.³⁸ OSCE observers noted, too, that most political reporting by the broadcast media was parochial.³⁹

The print media made up for the blandness of the electronic coverage. Its reporting was lively and extensive, but extremely negative, personalised and biased. Because the press is self-regulated in BiH, newspapers and magazines were in a position to indulge their owners' or editors' passions. The result was fierce fights between and among the parties, their champions and their detractors in the press. Several commentators assessed the media campaign as the dirtiest yet in post-war BiH.⁴⁰

The Co-ordination of Journalists' Associations in BiH monitored the print media's reporting of the campaign. It found that the press rarely covered or tackled the parties' programs, seeing them as collections of empty promises that deserved no serious investigation. The papers focussed instead on personalities, inter-party relations, speculation about possible coalitions, and the mechanics of the electoral process. There was little coverage of economic issues, while corruption and criminality figured almost exclusively in the trading of accusations as alleged scandal succeeded scandal.⁴¹

The most revealing finding of this study was that, in more than 80 per cent of the articles examined, either no source or only one source was cited – and that was the party being written about. By this standard, the SDP was the most covered party during the campaign. It was also the obvious favourite of *Oslobodjenje*, which made no secret either of its aversion to the HDZ. The best-selling *Dnevni avaz* pursued a vendetta against the SDP while supporting its Alliance partner, the SBiH. The Mostar-based and self-consciously Croat *Dnevni list* was nonetheless highly critical of the HDZ. Banja Luka-edited *Nezavisne novine* supported Dodik's SNSD, and adopted a negative stance towards both the SDS and PDP. *Glas Srpski*, meanwhile, maintained its pro-SDS line, but did not take a particularly hostile approach to either the PDP or SNSD.⁴²

Another survey showed that the winning parties were the ones that most often sought to exert various forms of pressure on the media.⁴³ In general and not surprisingly, it was the strongest parties that seem to have been most concerned about the way in which they were presented in the media.

³⁸ The OSCE mission report even recommended that the CRA consider issuing less stringent guidelines that might encourage more attractive campaign coverage. OSCE, Office for Democratic Institutions and Human Rights, "Bosnia & Herzegovina – General Elections", op. cit., p. 10.

³⁹ Thus Mostar-based HTV devoted most attention to the doings of the Croat parties, while RTRS gave precedence to Serb parties. Federation TV made more of an effort to cover all political parties. Ibid.

⁴⁰ The OSCE monitoring mission noted the unremitting attacks by BiH's highest circulation daily, *Dnevni avaz*, on the SDP, Lagumdžija and his family. Ibid.

⁴¹ For details, see Co-ordination of Journalists' Associations in Bosnia & Herzegovina, "Final Report on Monitoring of Elections Coverage by Printed Media", 9 December 2002. According to this survey, only 3.4 per cent of the articles published during the campaign were concerned primarily with the economy. Criminality and corruption figured in only in 1.9 per cent of articles.

⁴² Ibid.

⁴³ Representatives of the SDS, PDP, SDA and SDP were the principal offenders when it came to threatening journalists over the telephone, initiating sudden financial reviews or court procedures against journalists or media, and even physically attacking journalists. Internews BiH & University of Sarajevo Faculty of Political Sciences, "Research Concerning Pressures on Printed and Electronic Media", December 2002.

IV. THE RESULTS

The electorate, whether it voted or abstained, and the provisions of the electoral law relating to compensatory seats combined to provide BiH and its entities with highly fragmented legislatures.⁴⁴ Fourteen parties won or were allotted seats in the 42-member BiH House of Representatives. Seven parties have only one deputy each. The other seven, however, are those that also won significant representation at other levels of government.⁴⁵

It took until 13 January 2003 to form and confirm the enlarged Council of Ministers. Regardless of the haggling over what party should get which ministry or parliamentary office, there had been little doubt from the outset that the SDA, HDZ, SDS and PDP would form a coalition. What was in doubt was whether or not the SBiH would join them, so reaffirming its role as an essential party of government in any combination of parties and providing the nationalists with a secure majority. Silajdzic's ultimate decision to reject the proffered chairmanship of the CoM – combined with his colleagues' determination not to brave opposition – required re-negotiation of the pre-existing deal on dividing the spoils at the state and Federation levels between the SDA and HDZ. The resulting and asymmetrical apportionment of state ministries

⁴⁴ Seven of the 28 Federation seats and five of the fourteen RS seats in the BiH House of Representatives are distributed as compensation to parties failing to win seats in the individual electoral units because they did not reach the 3 per cent threshold set by law. Yet no threshold applies to the allocation of compensatory seats. Since hardly anyone understood the relevant parts of the Electoral Law (Articles 9.6 and 9.7), there was much post-election acrimony and numerous allegations of fraud. The effect of the law, however, is plain: it allows parties with tiny votes to sneak into parliament and promotes fragmentation. For a commentary, see the interview with Zagreb political scientist Mirjana Kasapovic, "Protektorat je logicniji", *Dani*, 25 October 2002.

⁴⁵ The three nationalist parties took twenty of the 42 seats: SDA ten; HDZ five; and SDS five. The coalition-ready SBiH and PDP took six and two seats, respectively, making it possible to establish a ruling majority of 28. The core opposition comprised the SDP (four) and SNSD (three). Parties receiving just one seat each were the NHI, BOSS, DNZ, Work for Betterment-Economic Bloc, SP/U (all Federation-based), SPRS and SRS (from the RS). For the details, see the BiH Election Commission website at www.izbori.ba.

thus reflects the SDA's need to compensate the HDZ for failing to make good Tihic's original offer of the CoM chairmanship if Silajdzic were, as expected, to reject it.⁴⁶

As after the 2000 elections, it would have been arithmetically possible to construct a multiparty coalition to exclude the nationalists from power at state level. U.S. officials were certainly keen to try. But the number of small, heterogeneous and jealous parties that would have had to be included was a formidable deterrent; and the resulting confection would have made the Alliance for Change look wonderfully coherent by comparison. In the absence of any real interest or concord among the parties essential to such an undertaking, however, the High Representative was not inclined to make the effort. He preferred the prospect of working with a strong government to the certainty of having to babysit a precarious combination of egotists.⁴⁷

⁴⁶ Making Silajdzic premier would have made the nationalists look more plausible as reformers. But the SDA barons refused to countenance Tihic's fallback offer of the CoM chairmanship to the HDZ. The SDA thus took the chairmanship for its man, Adnan Terzic, as well as the ministry for human rights and refugees. The HDZ received three substantive portfolios: foreign trade and economic relations, treasury and finance, and security (a new state-level ministry). The PDP won the foreign ministry and the SBiH got civil affairs. The new justice ministry was reserved for the SDS, but not occupied when parliament confirmed the CoM. OHR had rejected the first SDS candidate. The House of Representatives approved the CoM by a 24-9 vote, with seven abstentions.

⁴⁷ On the eve of the elections, U.S. Ambassador Clifford Bond told journalists that "Nationalists in governments here would not be considered legitimate by European and other partners in the international community. Simply, there would be no trust in dealing with such partners. We are not sure that they would fulfil their declarations about bringing BiH into Europe". "Nacionaliste u vladama ne bi smatrali legitimim", *Dnevni avaz*, 3 October 2002. After the elections, Bond had several meetings with non-nationalist party leaders at which he urged them to forge coalitions on the state and RS levels. Ashdown, however, was not enthusiastic. He reportedly felt that pursuit of his reform agenda required governments with strong majorities, not tenuous coalitions even weaker than the Alliance. ICG interview with senior Western diplomat, 24 March 2003. The leaders of the potential members of any such moderate coalitions were no less sceptical. There would be too many prima donnas, too many parties, and too few votes to sustain them. ICG interviews with party leaders, 7 and 11 March 2003. Ashdown would have

In any case, the SDP and SNSD were resolved on opposition. By May 2003 they were seeking, along with the New Croatian Initiative (NHI), to form a fully-fledged opposition bloc based on the demand for early elections. In their view, the nationalists had already demonstrated their incapacity to govern.⁴⁸

Eighteen parties secured seats in the 98-member Federation House of Representatives, fourteen with three or fewer deputies. The SDA (with 32 seats) and the HDZ (sixteen) were just short of a majority. In combination with the SBiH (fifteen), however, they would command a majority of 63 deputies.⁴⁹ Although it would, again, have been theoretically possible to concoct a majority without the SDA and HDZ, such a government would have had to win the backing of all the other parties. Even then, it would have had a majority of just two votes. In these circumstances, no one considered this option.

It nonetheless took even longer to form the Federation government than it had to establish the CoM. Not until 14 February 2003 did parliament confirm the new SDA-HDZ-SBiH cabinet under an SDA premier.⁵⁰ The delays were the result of

preferred broad coalitions embracing both nationalist and non-nationalist parties that would have been able to push through reform measures agreed between OHR and their leaders. Both the SDP and SNSD, however, rejected any idea of grand coalitions. See "Silajdzic nece u koaliciju sa SDS-om, Dodik i Ivanić ne ze le sa Silajdzicem", *Slobodna Bosna*, 24 October 2002, and "Ashdown predlozio Lagumdžiji da se skloni iz BiH dok on ne završi posao", *Slobodna Bosna*, 14 November 2002.

⁴⁸ See "Prijevremeni izbori za islazak BiH iz krize", *Oslobodjenje*, 16 May 2003, and "Ujedinjena opozicija trazi vanredne izbore", *Slobodna Bosna*, 27 March 2003.

⁴⁹ The Federation's lower house was reduced from 140 to 98 members as a result of the 2002 constitutional amendments. The SDP was the only other party to win a significant number of seats: fifteen. BOSS took three. The NHI, SP/U, DNZ and Work for Betterment – Economic Bloc each won two seats. The HSS, HKDU, GDS, ProENS, HSP, HPB, BPS, LDS, and SNSD each received one seat. The SNSD was thus the only RS-based party to take a seat in the Federation House of Representatives.

⁵⁰ Ahmet Hadžipasić's government won the backing of 60 MPs, while nine voted against and seven abstained. The SDA and HDZ each took five ministries, while the SBiH received four. In accordance with the constitutional changes, three ministerial posts went to Serbs. Two were non-party appointees; the third, however, was a leading member of the SBiH.

difficulties either in fulfilling the terms of the constitutional amendments (too few Serbs in the House of Peoples and too many Bosniaks among the six top offices in which national parity is meant to apply) or in getting HDZ candidates for office past the OHR vetting procedure.

Unusually, it was the RS that presented the best chance of forming a viable coalition of relatively moderate parties. This was because of the exceptionally strong showing of the SNSD and the decent performance of the non-nationalists from the Federation. The SDS and SDA won, between them, only 32 out of 83 seats in the RSNA.⁵¹ Yet a coalition of moderates implied co-operation between Ivanić and Dodik. This proved impossible to establish, leaving the PDP free to broker – and profit from – a strange marriage of convenience between the SDS and SDA.⁵² The resulting coalition government, led by the PDP's Dragan Mikerević, won the support of the RSNA on 17

⁵¹ Fifteen parties won seats in the RSNA, eleven of which have four or fewer mandates. The distribution is as follows: SDS, 26; SNSD, nineteen; PDP, nine; SDA, six; SBiH, four; SRS, four; SDP, three; SPRS, three; and DNS, three. The DPS, NHI, SNP, DS, SNS, and Pensioners Party won a single seat apiece. The Federation-based parties accounted for fourteen seats (or 17 per cent of the total).

⁵² A Western official who monitors developments there told ICG that the source of most political struggles in the RS is the unremitting enmity between the president of the SDS and RSNA, Dragan Kalinić, and SNSD leader Milorad Dodik. ICG interview with Western official, 7 February 2003. Yet, in the post-election period, the principal axis of animosity seemed to shift to the relationship between Dodik and Ivanić. They were once close friends and political allies. At one point Dodik had offered Ivanić the SNSD leadership. But Ivanić created his own party, supplanted Dodik in the affections of the international community, and achieved power by offering the SDS the opportunity to return from the wilderness to share it with him after the 2000 elections. Ivanić's PDP successor as RS premier, Dragan Mikerević, told a TV interviewer in January 2003 that the international community had pressured his party to form a government without the nationalists but that the PDP could strike no deal with the moderates because they would not all work together. There was no alternative, therefore, but for the PDP to serve as the link in government between the SDS and SDA. "Telering", OBN Television, 23 January 2003. On the other hand, SNSD official Krstan Simić claims that Ivanić shied away from a coalition of moderates because he knew his party would fare far better in cahoots with the nationalists. ICG interview with Krstan Simić, 7 February 2003.

January.⁵³ Despite its modest number of deputies, the PDP's vital role as go-between is illustrated by its otherwise inordinate number of portfolios. It had managed a similar feat in 2000, albeit after a far stronger showing at the polls.⁵⁴ Composed largely of non-entities and beset from the start by conflicts between the SDS and PDP, the opposition parties predict that the RS government will never see the end of its four-year mandate.⁵⁵

V. THE REACTIONS

Gloom, doom and an angry rush to identify scapegoats prevailed not only among the losers at the polls, but also among most of the liberal Bosnian and international media. Depending on whether the commentator sat in Sarajevo or Paris, the results either evoked premonitions of a disaster as horrific as at the beginning of the 1990s or provoked reflections on the final failure of the post-Dayton international experiment in BiH. Writing in *The International Herald Tribune*, William Pfaff announced that it was time to give up on efforts to keep Bosnia whole.⁵⁶ Domestic columnists denied in particular that the nationalist parties, given their dark pasts, were capable of changing to the extent of repudiating everything they had once stood for, fought for and actually created.⁵⁷ Most pundits simply denied that the nationalists had changed at all, and in their anger over what they saw as a throwback to 1991-92, looked for someone both to blame and from whom to demand redress. They found that person in Paddy Ashdown. Numerous articles and columns appearing in the weeks following the elections accused the High Representative of having either promoted or been duped by the nationalists. Whichever, he was responsible for their victories and, it was implied, should make amends by declaring the elections invalid.⁵⁸

Although a striking illustration of the dependent mindset of the successfully colonised, such commentators exaggerated the danger. They failed to note that the elections had passed off without serious incident. They refused to admit that the people themselves had chosen – whether by voting

⁵³ The government secured a 48-33 majority, leading to Serb crowing that a “Serb solution” had been found, i.e., that the government was not dependent on non-Serb votes.

⁵⁴ Besides the premiership, the PDP took five of the sixteen ministries: finance, interior, health (nominating a Croat), forestry and water, and transport and communications. The SDS received four ministries: economy, education, defence, and labour and veterans' affairs. The SDA acquired three ministries: justice, urban planning and environment, and economic relations and co-ordination. Non-party Croats received the ministries of administration and local government and trade and tourism. Non-party Bosniaks took the ministries for refugees and displaced persons and science and technology. The 8:5:3 ratio required by the constitutional amendments was thus observed – at least formally. For the post-2000 emergence of the PDP-SDS coalition, see ICG Balkans Report No. 118, *The Wages of Sin: Confronting Bosnia's Republika Srpska*, 8 October 2001.

⁵⁵ Article 14 of the electoral law prescribes the conditions for early elections. They are possible in the entities if their respective presidents dismiss the legislatures for constitutionally valid reasons. Despite the ingrained expectation in BiH that the High Representative can do anything he likes, he cannot *call* new elections, though he could *call upon* the presidents or presidency to do so if he deemed circumstances required them.

⁵⁶ William Pfaff, “Time to Concede Defeat in Bosnia-Herzegovina”, *International Herald Tribune*, 10 October 2002. He was quickly answered by Lord Ashdown, “Peacemaking in Bosnia”, *International Herald Tribune*, 16 October 2002.

⁵⁷ A good example of this line of argument is Ivan Lovrenovic, “Kameleonstvo i promjene”, *Dani*, 13 December 2002.

⁵⁸ See, for example, the following commentaries from *Oslobodjenje*: “Cas istine i suocenje” (12 October 2002), “Esdaun iznad izbora” (22 October 2002), “Pokorni reformatori” (7 November 2002), “Bond protiv 007” (12 November 2002), “Dotakni me nježno” (28 November 2002). Also, “Kako ce nas IDIOT reformski unistiti”, *Slobodna Bosna*, 24 October 2002.

or by abstaining – the result. And they failed to notice what was missing from their picture of Bosnia's perilous return to the politics of the early 1990s. The local nationalists might still be carrying the baggage of that time, but the regional environment has been purged of its predators. Franjo Tudjman has met his maker and Slobodan Milosevic is being tried for his crimes. Croatia and Serbia are different countries. There is no Yugoslav People's Army. Gone, too, are the drum-beating media and the popular hysteria they incited on behalf of their masters.

In fact, the low turnout – down 10 per cent on 2000 – actually suggested both blithe unconcern and widespread disillusionment with the political process. It was certainly a vote (or non-vote) against the Alliance for Change and its leading party, the SDP. As the biggest loser at the polls, the SDP saw its vote halved from what it had been in 2000. The SBiH's tally, by contrast, fell by about 14 per cent. But the victories of the nationalists were highly relative. Only the SDA chalked up a 0.9 per cent increase in its vote, as Bosniaks deserted the SDP, went half-way home to the SBiH, all the way home to the SDA, or simply stayed at home. Both the SDS and the HDZ registered falls of about 30 per cent in their respective entities. The big winner in the elections, in fact, was Dodik's SNSD, a party that counts as non-nationalist in the RS. Its vote went up by 36 per cent in the contests for seats in the RSNA and by 72 per cent in the races for the state parliament. Dodik himself won more votes than any other individual candidate in the RS.⁵⁹

However dispiriting, the election results provided BiH's nationalist parties with no mandate to rule alone. They have been obliged to form coalitions with more moderate parties at both state and entity level. Nor can they disregard the country's foreign protectors. OHR's aggressive assertion of its (self-proclaimed) right to vet candidates for certain ministerial offices and government agencies has served to remind the nationalists of the limits on their power. Having signed up to reform, they

cannot easily revert to their bad old ways. Willingly or not, they must now at least go along with the High Representative's assaults on the cronyism, corruption, indiscipline and irresponsibility that have become so deeply entrenched in the country's post-communist and post-war politics. Moreover, the national power-sharing required by the 2002 constitutional amendments is likely, with the passage of time, to acquire substance. What is now merely decorative could end up generating real changes in the assumptions and operations of all parties, nationalists included.

The domestic press was on target, however, in expressing scepticism bordering on incredulity concerning the reformist pretensions of the nationalist parties. More than six months after the formation of the state and entity administrations, the initiative remains almost entirely with the High Representative. And there it is likely to stay. The governments will react rather than act: fulfilling (or not) the tasks set them by Lord Ashdown and, increasingly, by the EU and NATO as well. This is as much "partnership" as BiH can expect in present circumstances.

There is, however, one possible advantage in a reform process driven by the international community but carried out by nationalist-dominated governments. These elections have made it plain that, nearly eight years after the war, the nationalist and national parties retain the confidence of the largest part of their wary, vulnerable and discrete constituencies, each of which still resonates to assertions either that it was the war's true victim or that it is threatened by the others. The nationalist parties hardly deserve this confidence, but they probably remain best placed to reassure their followers that the reforms under way will not endanger their respective national interests. In other words, the nationalists, just because they are nationalists, may find it easier to mobilise support for reform than did the Alliance.

Even without the war, it would be natural for a multinational state to have strong nationalist parties. The surviving defenders of *bratstvo i jedinstvo* (brotherhood and unity) understandably regret this fact. Less understandably, many in the international community have turned nationalist into a synonym for fascist in BiH. This is especially unfortunate in a country where something close to the real thing has and continues

⁵⁹ Dodik won his seat in the RSNA with 23,000 votes. Dragan Kalinic, by contrast, took 10,000 and Mladen Ivanic just 6,000 votes. Complete results can be accessed at www.izbori.ba. UNDP Early Warning System, *Bosnia & Herzegovina 2002 Election Special*, op. cit., provides a comprehensive analysis.

to exist. If the current lot of nationalists proves willing to play ball in implementing the reforms necessary for BiH to become a more normal, prosperous and European state, then they can also prove that they are not *četniks*, *ustase* or *mujahedin*. But their degree of commitment to reform will also test whether the ordinary Bosniaks, Croats and Serbs on whose behalf they claim to speak and whose support they still enjoy also yearn for normality and a European future. If Bosnians of all national persuasions do not in fact want these things – or if they do, and their parties fail to deliver them – then the nationalists will sooner or later pay the price at the polls.

VI. THE SEVEN KEY PLAYERS: PARTY PROFILES

The October elections confirmed the dominance of seven political parties. The rest, quite literally, were also rans. Four (the SDP, HDZ, SDA and SDS) pre-date the war; and three are post-war creations (the SBiH, SNSD and PDP). The SDP lost power and split, but remains a political force. The HDZ and SDA regained power. The SDS formalised its power in the RS and returned to government at the state level. The SBiH and PDP reinforced their positions as essential parties of government. And the SNSD became an ever more formidable party of opposition.

A. THE SDA: MAKE MINE A HALF

When Sulejman Tihić was elected president of the SDA, he told a journalist that the party would now be “open too for those who drink beer”.⁶⁰ This is Tihić’s most memorable remark to date. He doubtless aimed to indicate that, with the retirement of the austere Alija Izetbegović, the party was abandoning not just its rigid stance regarding alcohol, but its implicit identification of Islam and Bosniak national identity. Liberality in the matter of alcohol thus became a measure of the party’s democratisation and inclusiveness. Although the new leadership has brought in some significant changes, it still appears to find it difficult to apply the beer standard. Moreover, the SDA continues to bear the burden of its leaders’ past religiosity and tacit clericalism, their wartime embrace of the wider Islamic world, and their eager pursuit of personal enrichment both during and after the war.

The party was confronted on Christmas Eve 2002 with a tragic event highlighting the continuing legacy of some of its former leaders’ flirtation with Islamic radicalism. A young Islamist burst into the house of a family of Croat returnees near Konjic and killed three people. The killer, who was quickly caught, admitted that he had acted out of

⁶⁰ “U SDA se sada moze i sa pivom”, *Magazin Express*, 18 October 2001.

religious and national hatred.⁶¹ The anti-nationalist press and some NGOs concluded equally quickly that the murderer had been inspired to act – or that the climate for such an act had been created – by the victories of the nationalist parties in October. (There was a simultaneous rush to produce evidence of an upturn in attacks on returnees and their places of worship in the RS.) The SDA, the Islamic community and virtually everyone else naturally denounced the Christmas Eve killings. But the party went a step further, acknowledging the existence of extremism among Bosniaks and pledging an open discussion within the party of the danger represented by the alien form of Islam being propagated by foreign zealots in BiH.⁶²

On the other hand, the SDA maintains its line that the SDP-led Alliance did Bosniaks and BiH a grave disservice by subscribing to the view that the country is either mixed up in or especially vulnerable to Islamist terrorism. It also continues to argue that the five SDA men facing trial in the Pogorelica case are war heroes, who were engaged in fighting, not plotting terrorism. Party leaders contend that the former government and ex-head of the Federation Intelligence Service (FOSS) concocted this and other affairs in order to play up to the U.S. after 11 September 2001. They complain loudly about this alleged “criminalisation” of Bosniaks’ struggle for survival and freedom.

Although SDA officials profess to have launched a zero-tolerance offensive against corruption in party ranks, new affairs and scandals implicating senior members continue to be revealed.⁶³ The party still finds it as hard to renounce its grafters as to welcome imbibers.

⁶¹ The self-confessed killer, Muamer Topalovic, was sentenced to 35 years in prison, the longest term ever prescribed in BiH.

⁶² Topalovic was believed to have taken religious instruction from such emissaries and was alleged to have been a member of one of their front organisations, Active Islamic Youth, which denied any connection.

⁶³ Two of the most prominent pillars of the old SDA to fall victim to new or renewed allegations of embezzling public funds are former UN Ambassador Muhamed Sacirbey and former Federation Premier and Elektroprivreda chief Edhem Bicakcic. Other one-time SDA leaders, including Hasan Cengic, found themselves on the list of 150 Balkan undesirables promulgated by U.S. President Bush on 29 May 2003.

There are other inconsistencies between the party’s words and deeds. It portrays itself as the defender of the BiH state. It calls for co-operation with the international community and for the adoption by local parliaments and governments of all the High Representative’s decisions and impositions. Its election platform noted that, although it was dissatisfied with the asymmetry of the 2002 constitutional amendments, it would fight for their full implementation. Yet the party insisted in March 2003 on the removal from the Federation parliament’s agenda of the bill that would have retrospectively enacted the amendments. SDA officials told the press that they will never permit the adoption of the amendments because they apply a higher standard to the Federation than to the RS.

As for co-operation with the international community, it started well enough after Lord Ashdown re-branded the SDA as a “national” rather than a nationalist party on the morrow of the elections, but has since been strained. The party’s biggest gripe has been over what it considered OHR’s inconsistency and non-transparency in vetting candidates for ministerial or appointive office. The SDA argued that it was being denied the fruits of its electoral victory, and Tihic even talked about quitting. The party was particularly exercised over OHR’s insistence that the FOSS directorship should go to an uncompromised professional rather than to a party loyalist. Given the long time it took to form the new state and Federation governments, the SDA also argued that all those persons appointed in the meantime by the caretaker governments should be considered fair game for dismissal. In fact, the party claimed the right to appoint its people to some 2,000 positions in government service and publicly owned companies.⁶⁴ Most such appointments have meanwhile been stalled by the need to apply the new civil service laws and to make the resulting appointments’ agencies operational.

⁶⁴ Angered that OHR had purportedly leaked to the press a letter from Ashdown to him on the subject, Tihic said his party would insist on replacing all 2,000 Alliance appointees. If the High Representative intervened, then he would have to bear the consequences for the resulting situation. See “OHR je za administraciju Alijanse koja je izgubila na izborima”, *Dnevni avaz*, 27 April 2003.

The SDA's re-established partnership with the HDZ also started well. The two parties signed a formal agreement on co-operation in government on 21 November 2002 that set out their joint aims.⁶⁵ The SDA leadership claims to accept that a new HDZ has been born: one that has abandoned all idea of creating a third (Croat) entity and now honestly supports building and reinforcing state institutions. The division of key positions in the Federation government and the Council of Ministers proceeded without major hitches, and the HDZ even gave up its claim on some posts when Tihic met with difficulties in carrying out his original promises. As the new governments have settled in, however, clashes have begun to emerge.⁶⁶

The SDA has had more trouble sharing power with the party that ought to have been its natural ally, the SBiH. Relations have been strained since the election results were announced. As noted above, Silajdzic's prolonged dithering over whether to accept the proffered chairmanship of the CoM and, then, his rejection of the offer necessitated both a re-negotiation of the SDA's division of the spoils with the HDZ and finding another post for a lesser SBiH luminary. The SBiH ultimately received the (restyled) Ministry for Civil Affairs,⁶⁷ but the two parties have since complained about each other's competence and commitment.

Although it maintains that it is not formally in coalition with the SDS in the RS, but collaborating with its onetime arch-enemy through the PDP – and the SDS returns the compliment – SDA officials have admitted that they are open to co-operation with the SDS and other RS-based parties. As far as they are concerned, when it

comes to ardent Serb nationalism, there is little to choose between the SDS, PDP and SNSD. In fact, the latter two can be far fiercer.⁶⁸ In any case, SDA leaders have acknowledged that they have to work with parties enjoying Serb popular support, and that they believe the SDS is nowadays ready to forge compromises.⁶⁹

This will not be easy. The Serb parties cleave to Dayton as the font of their entity's (and would-be state's) existence. The SDA, meanwhile, stands for the adoption of a new state constitution that would abolish the entities and cantons, establishing a two-tier structure composed only of a strong central government at the top and municipalities at the bottom.⁷⁰ Not only should the central government have the full range of necessary competencies, including defence and interior ministries, but the state should rejoice again in the name "*Republic of Bosnia & Herzegovina*". The SDA likewise insists on pursuing the former republic's case for damages against the old Yugoslavia at the International Court of Justice – another touchstone issue in BiH. Yet it also claims to be keen on recruiting non-Bosniaks and, in fact, becoming a Bosnian rather than a Bosniak party. It has made scant headway.⁷¹

The SDA is no monolith and Tihic is no Izetbegovic. Aside from needing both to accommodate several ideological strands and to defend its past, the party has to reconcile the

⁶⁵ The parties agreed to support the strengthening of state institutions, including the establishment of interior and defence ministries, the introduction of VAT at state level, the unification of the customs services, and the abolition of all discriminatory provisions from the country's constitutions and laws. See "Osnove Parlamentarne vecine za demokratske reforme u BiH", 21 November 2002.

⁶⁶ Aside from the long stalemate in Mostar over the formation of a cantonal government and disagreements on how or whether the city itself should be unified, the HDZ has opposed provisions of the civil service and framework education laws that were acceptable to the SDA. The parties are also at odds over which (Croat) firm should get the third GSM licence in BiH.

⁶⁷ The choice fell on SBiH President (and former Federation President) Safet Halilovic.

⁶⁸ A top SDA leader told ICG that Dodik bases his opposition strategy on ultra-nationalism while Ivanic uses his intelligence, political skills and charm to defend what Radovan Karadzic created in blood. ICG interview with senior SDA official, 28 January 2003.

⁶⁹ SDA Vice-President Seada Palavric told an interviewer that the SDA regards the SDS as more reform-minded than the SNSD. "SDS veci reformisti od SNSD-a", *Nezavisne novine*, 10 February 2003.

⁷⁰ Tihic has mounted a campaign to convince both domestic parties and the international community that BiH cannot possibly enter the EU and NATO with the Dayton constitution in force. Because the current constitution makes domestic amendment so difficult (requiring a seven-eighths majority in some cases), an international conference would be necessary to force through revisions. "S ovakim Ustavom ne mozemo u Evropu", *Dnevni avaz*, 28 May 2003.

⁷¹ A conspicuous exception is the former president of the Srebrenica municipal council, Desnica Radivojevic. He ran on behalf of the SDA for the Serb seat on the state presidency in the RS in 2002, since when he has been imported to Sarajevo to serve as the necessary Serb vice-president of the Federation.

sometimes divergent demands of its canton-based power structures. Although dismissed at the outset of his party presidency as Izetbegovic's placeman, Tihic has emerged as its indisputable leader and most popular figure, even if he has to work to build consensus and does not command the unquestionable authority of his predecessor.⁷² It is Tihic in both his party and state roles that aggressively articulates Bosniak and BiH interests and stands up to the international community. This makes life difficult for CoM Chairman Adnan Terzic, who is obliged to work closely with and often do the bidding of OHR in elaborating reforms. Terzic would prefer less criticism of the foreigners by his leader and more genuine partnership with OHR. If push comes to shove, however, it is Tihic who will prevail.

B. THE HDZ: WHERE'S THE BEEF?

HDZ leaders nowadays spin an amazingly progressive – indeed, revolutionary – line about their devotion to the common state. They talk about strengthening state institutions, about the need for one army, interior ministry and intelligence agency, as well as about constitutional changes that would eliminate the entities and cantons, but endow BiH with strong municipalities to balance a competent state. So soon on the heels of the party's 2001 bid for Croat "self-rule" and a

third entity, this Damascene conversion has left most observers either reeling or suspicious, pointing both to the absence of accompanying deeds and to similar HDZ U-turns in the past. The HDZ, they say, has talked the talk, but never walked the walk.

Key HDZ leaders have told ICG that the party is truly committed to strengthening state institutions and normalising the country through "municipalisation".⁷³ The HDZ has not only abandoned all idea of a third entity, but it is also ready to jettison the cantonal organisation of the Federation if the whole state is endowed with strong municipalities. Federation President Niko Lozančić said that he hoped to be its last president, and that both entities should disappear by the time of the next election in 2006. The party's president, Barisa Colak, told ICG that the HDZ wants BiH to be a model multinational state. What the HDZ does not want is the status quo, since it is both dysfunctional and unaffordable.

Although there are nuances in the degree of their radicalism, top HDZ functionaries are spinning the same line in both public and private, and in Mostar as well as Sarajevo. The unreconstructed brethren in the backwoods are being hushed up. And, most extraordinarily, party leaders have even dared to rebuke busybodies from Croatia for their unwelcome commentaries and unwanted interference in BiH affairs.⁷⁴

⁷² Several SDA politicians were at pains to assure ICG that Tihic is the real leader and neither needs to nor often does consult the party's honorary president. Tihic enjoys great respect among the party faithful because of his difficult wartime experiences and indefatigable post-war work on the party's behalf, above all in the RS. Tihic is the only senior SDA politician who survived imprisonment in Serb concentration camps in both BiH and Serbia. A scandal recently erupted when the press revealed that Belgrade's ambassador in Sarajevo, Stanimir Vukicevic, had asked Tihic in November 2002 to remove the references to his wartime incarceration in Serbia from his biography on the Presidency website. Tihic refused. "Zatrazeno da Tihic demantira logoraski staz", *Oslobodjenje*, 19 March 2003. Another story likely to boost Tihic's popularity among Bosniaks broke following the assassination of Zoran Djindjic. Tihic told journalists that Djindjic's presumed murderer, Zvezdan Jovanovic, had been a prison guard who beat him severely in 1992 and had, at one point, taken him out in the middle of the night for execution. "Djindjicev ubica me 1992 godine izvodio na strijeljanje", *Dnevni avaz*, 16 April 2003.

⁷³ ICG interviews with Dragan Covic (30 January 2003), Niko Lozancic (18 February 2003) and Barisa Colak (19 February 2003).

⁷⁴ For example, BiH Presidency member Dragan Covic threatened in an interview that if Croatia did not ratify the long-stalled treaty that would grant BiH free port rights at the Adriatic harbour of Ploce, then BiH would repudiate that part of the agreement providing for unimpeded transit rights for travellers crossing BiH's tiny stretch of coast at Neum, thereby impeding traffic flows between central and southern Dalmatia and hurting Croatia's tourist industry. (On the other hand, at a subsequent meeting with Croatian government leaders on the issue, Covic was conspicuously silent.) Covic also told his interviewer that Croatia's solicitude for BiH Croats had produced more headaches than help, which he also said was the result of Serbia's interventions on behalf of BiH Serbs. "Slazem se sa Silajdzicem da zakoni o privatizaciji nisu pravljani za potrebe BiH", *Dnevni avaz*, 2 February 2003. Covic was mauled by the Croatian press for his effrontery and

Senior SDA officials profess to believe that the HDZ leadership has turned over a new leaf, but express doubts about lower ranking officials, particularly in Herzegovina.⁷⁵ SBiH founder Haris Silajdzic is less impressed with the “new” HDZ, observing that it was about time the party realised its own self-interest in building a state in which Croats would enjoy one-third of the power with only about one-tenth of the population.⁷⁶ The SDP leadership is more sceptical still, believing that the HDZ’s enthusiasm for the state is only a tactical feint designed to justify reversion to its true aim – an exclusively Croat third entity – when the RS stops state-building in its tracks.⁷⁷ International officials are cautious. If the HDZ is serious, then a milestone has been passed. But they are not prepared to hail the HDZ’s putative transformation until its rhetoric has been matched by deeds.⁷⁸

The most troubling thing about the “new” HDZ is that its leaders deny it is new. They claim their policies have not changed substantially in the past three years. Yet it is unnecessary to go back any farther than the party’s election manifesto to see that this is not true. The program on which the HDZ fought the elections – and which presumably binds the leadership – not only refers to securing a third entity as one of the means by which Croats could realise their full equality in BiH, but also makes no reference whatsoever to municipalisation and the abolition of entities and cantons. Indeed, it denounces proposals to reduce the powers of the

cantons, particularly their interior ministries.⁷⁹ The program contends that the already unsatisfactory position of Croats in BiH has worsened since the April 2002 constitutional amendments, which relegated Croats to minority status in both entities.⁸⁰

The HDZ program offers two remedies: either the complete cantonisation of BiH or the establishment of a third entity with a Croat majority. The party pledges to push these ideas with the international community and to press for an international conference to reconstruct the state accordingly. If it gets no joy, it proposes to take unilateral steps to ensure Croats’ national equality.⁸¹

When it comes to co-operation with the international community, current HDZ leaders are more consistent with their program. They think the High Representative should be sparing in his impositions, and insist that his decisions should have only temporary effect. He should allow more time for the domestic authorities to reach agreements. If they cannot do so, then his impositions should reflect the majority view. HDZ officials contend that such a near-consensus existed during discussions on the new Council of Ministers law, and that they were disappointed Ashdown did not take the opportunity to establish a state-level defence ministry at the time.

Although the HDZ has thus far adopted a fairly constructive approach to government, it has lately showed signs of reverting to its once-habitual bleating about the existential threats to which Croats are supposedly subjected.⁸² Yet its

supposedly weak grasp of the issues. See OHR Media Round-up, 7 February 2003.

⁷⁵ SDA officials were not sure whether Covic, Colak and Lozancic would win the backing of party activists at the HDZ congress scheduled for 26 April. In fact, they did, although dissenting voices were raised. See below. ICG interviews with SDA officials, 28 January and 5 March 2003.

⁷⁶ ICG interview with Haris Silajdzic, 11 March 2003.

⁷⁷ ICG interview with SDP leader, 7 February 2003.

⁷⁸ International officials explain the HDZ’s new line by reference to cuts in Croatia’s subvention of parallel institutions in “Herceg-Bosna” and their own toughness in raiding and closing down the party’s bank in April 2001. Subsequent audits of the three (national) electricity utilities have served, albeit less dramatically, the same purpose: to cut the nationalist parties’ financial umbilical cords. ICG interview with Western official, 27 February 2003.

⁷⁹ See “Programska Deklaracija HDZ-a”, *Programi političkih partija i koalicija zastupljenih u Predstavničkom domu Parlamentarne skupštine BiH*, Sarajevo, 2002.

⁸⁰ The HDZ is as unhappy as is the SDA with the results of the changes in the RS, but its real fury stems from what it regards as the conversion of the Federation into a Bosniak-majority polity. Croats used to have half the power, but must now make do with just one-third.

⁸¹ “Programska Deklaracija HDZ-a”, op. cit.

⁸² This was evident in its initial opposition to the state-level framework law on primary and secondary education, which it professed to see as a threat to the purity of the Croat language, and in its reaction to the inclusion of once-prominent HDZ leaders on the 29 May 2003 U.S. list of Balkan reprobates. On the other hand, HDZ representatives in the House of Representatives reacted to a proposal by Serb deputies that the House should condemn the Christmas Eve murders of three members of

November 2002 compact on government with the SDA testified to a commitment to state-building that the party has generally upheld. One of the first steps of the new HDZ defence minister, Miroslav Nikolic, was to suggest the transfer of some of his powers to the state. Both he and Covic have called for the establishment of a state-level defence ministry and common army (albeit, with three components) by the beginning of 2004.

Dilemmas about what the HDZ really stands for were not resolved during its Eighth Congress on 26 April 2003. Party activists endorsed the moderate leadership – with Colak as president, Covic as vice-president, and Lozancic and Anto Spajic as deputy presidents – but subjected their policies to some serious criticism. Moreover, both the list of guests representing the “mother” party in Zagreb and the reactions of delegates to what they had to say harked back to the bad old days. Andrija Hebrang denounced Croatia’s “neo-communist” government for denigrating the country’s “glorious” wartime achievements by co-operating with The Hague Tribunal. Ivic Pasalic defended Franjo Tudjman’s partition policies in and towards BiH during the war. The late president’s son, Miroslav Tudjman, declared that “Croats have one homeland, but live in two states”, so mirroring Kostunica’s campaign-trail assertion in 2002 that the RS is only temporarily separated from its motherland. Ljubo Cestic Rojs, claiming to speak on behalf of Hague indictees Janko Bobetko, Ante Gotovina and Mirko Norac, called for a return to the values of the Tudjman-Gojko Susak regime – values that had, by the way, served to make him both a general and very rich in short order.⁸³

None of the HDZ BiH’s newly confirmed and moderate state-builders felt the need to answer or rebut these theses during the gathering in Mostar. HDZ BiH leaders seem to think they can have it both ways: presenting themselves as newborn moderates to their domestic partners and foreign interlocutors in BiH, but revelling in the old-time

the Andjelic family by suggesting that, instead of denouncing a particular incident, they should hold a session to devoted to considering the general problem of attacks on returnees in BiH.

⁸³ See “Lijepa nasa BiH, ali bez tutora”, *Oslobodjenje*, 27 April 2003; “Uzaludan trud Boze Ljubica”, *Oslobodjenje*, 28 April 2003; “Bez Tudjmana na celu, sa Suskom u srcu”, *Dani*, 2 May 2003. Cestic Rojs is among those blacklisted in May by the U.S.

religion when at home with the cross-border party faithful. Hypocrisy, however, is no bar to political success, at least in the short run.

C. THE SDS: BOSNIA’S BA’ATH PARTY?

The SDS is the least changed of BiH’s big-three nationalist parties. It continues to oppose anything that might undermine or call into question its greatest achievement – Republika Srpska. The party has thus learned to love Dayton: both as the international act that draws a line under the entity’s genocidal origins and as the constitutional bulwark behind which it shelters. Defence of the entity’s state-like prerogatives and obstruction of reforms that might normalise its politics or decriminalise its economy remain core elements of SDS policy.⁸⁴ Yet even the SDS is not what it was. RS President Cavic and RSNA President Kalinic created a stir in November 2002 when they attended one of Tihic’s *iftar* feasts during Ramadan.⁸⁵ The party aims to preserve BiH in its current recession rather than to destroy it; it claims to want Euro-Atlantic integration; and it is now ready to discuss issues and themes that were once taboo. As the historic visit of Pope John Paul II to Banja Luka on 22 June 2003 showed, the SDS is both keen to present a civilised face to the world and fully capable of doing so.

But however much the current SDS leaders would like to portray their party as a standard-issue national party, they remain prisoners of their past. They cannot repudiate their party’s father, Radovan Karadzic, without at the same time alienating too many of their followers and sacrificing their claim to be the inheritors and guardians of his “state”. They cannot even credibly deny that elements within the party continue to fund and provide logistical support for their

⁸⁴ As President Sarovic told ICG two months before he was forced to resign, “Let’s not play games with each other. We had a war here. We wanted to secede and join with Serbia, while people in the Federation wanted an independent Bosnia. We got peace in Dayton that we all accepted. Now, we are not going to give up any bit of our sovereignty that we got at Dayton”. ICG interview with Mirko Sarovic, 31 January 2003.

⁸⁵ “Cavic i Kalinic na iftaru Tihica”, *Dnevni avaz*, 28 November 2002.

fugitive founder.⁸⁶ SDA and HDZ officials believe that the SDS longs to be set free, and report that its leaders say privately that they would welcome Karadzic's capture or – better yet – his natural death.⁸⁷ The SDS itself, however, will do nothing to accelerate events. Despite ritualistic demands to the contrary, international officials also know that RS officialdom cannot or will not turn on or turn in Karadzic.⁸⁸

Senior SDS officials have admitted as much to ICG. They say that the Karadzic burden is discussed openly within the party these days, and that members often suggest that Karadzic might better serve the interests of Serbs and the RS by defending himself in The Hague (and before a vast television audience) than by hiding out in the mountains.⁸⁹ One SDS leader told ICG that Karadzic demeans himself – and, presumably, the RS – by scuttling through the wilderness like “a hunted beast”.⁹⁰

Under international pressure, some RS leaders have called publicly if irresolutely for Karadzic's arrest, since they also say that it is not up to them to do it. The first to adopt this tack after the elections was Prime Minister Dragan Mikerevic of the PDP.⁹¹ More weight attached to President

Dragan Cavic's subsequent revelation to NATO Secretary-General George Robertson on 10 April that the RS authorities had issued an arrest warrant for Karadzic. Cavic also declared that he would make it his responsibility to ensure it was carried out.⁹² However disingenuous this pronouncement, it would have been as inconceivable a couple years ago that an SDS president of the RS could make it as it would have been to see him welcoming the Pope to Banja Luka.

Following SFOR's discovery in March that RS military intelligence had been spying on international functionaries, Federation politicians, RS opposition leaders, and Croatian institutions – and sharing its products with Belgrade – Cavic spoke to the RSNA on 4 April in equally startling terms.⁹³ Instead of complaining about the indignity of SFOR's unannounced raids, including a swoop on the RSNA building itself, Cavic called on RS Army officers to choose between serving the RS or Serbia, since they could no longer do both.⁹⁴

Up until that point, Cavic and the SDS had been defending both the RS military and themselves from the repercussions of the Orao and espionage affairs by offering up a few scapegoats and denying any high-level responsibility for wrongdoing. In any case, close links with Serbia were taken for granted. Yet the murder of Zoran Djindjic by elements in the Belgrade underworld once patronised by the regime seems to have concentrated minds in Banja Luka. Now the RS president was telling his officers to understand that their command no longer lay in Belgrade.

⁸⁶ There was much speculation that Dragan Kalinic would be included on the EU's list of persons banned from entering the EU because of their support for war criminals and that he would, as a consequence, resign from at least his party post at the SDS congress in July 2003. In the event, he was spared. See “Dragan Kalinic pred zabranom ulaska u EU”, *Nezavisne novine*, 28 May 2003.

⁸⁷ ICG interviews with senior SDA and HDZ officials, 28 January and 30 January 2003.

⁸⁸ As one senior Western official noted, “That would be political suicide, or perhaps even physical [suicide], similar to what we recently witnessed with Djindjic in Serbia.” ICG interview, 24 March 2003.

⁸⁹ “Many feel the need to close this, and to open our party for true cooperation with the world. Yet there is no political will to go into the mountains to arrest Karadzic. Any stronger campaign in this direction by anyone in RS would be the end of that person's political campaigning”. ICG interview with senior SDS official, 31 January 2003.

⁹⁰ ICG interview with senior SDS leader, 20 February 2003.

⁹¹ “Policija treba da uhapsi Karadzica”, *Nezavisne novine*, 28 January 2003. Mikerevic was ambushed by journalists in Vienna, who asked why “he” didn't arrest Karadzic. The permanently bewildered-looking Mikerevic took the journalist's question literally. His response, therefore, sought to shift responsibility on to the police rather than to

announce a new, get-tough policy. Mikerevic has never repeated his call for someone else to arrest Karadzic.

⁹² “Ova vojna struktura nije prihvatljiva”, *Vecernji list*, 11 April 2003.

⁹³ Analysis of the documents and computers taken away by SFOR troops in their 7 March 2003 raids in Banja Luka and Bijeljina revealed that Intelligence Centre 410 was working on behalf of Serbia as well as the RS Supreme Command. Coming on top of both Zoran Djindjic's assassination and the arms-for-Iraq affair (which showed the Orao Aviation Institute to be as enmeshed in ex-JNA networks as it was in RS power structures), the High Representative was presented with an opportunity to add military and intelligence reform to his agenda. This is discussed below.

⁹⁴ “Cavic najavio cistke u VRS”, *Nezavisne novine*, 4 April 2003; “Znao sam za prisluskuvanje”, *Oslobodjenje*, 4 April 2003; “Cavic: Spijuni su radili za Beograd”, *Slobodna Dalmacija*, 4 April 2003.

Moreover, because of these affairs it would no longer be possible for the RS to resist the establishment of a unified military command under civilian control at state level.⁹⁵

All this demonstrates something that should have been learned long ago: for the sake of retaining power, the SDS will accommodate far more radical reforms than it ever lets on, but only if the international community is prepared to push, and to push hard. The RS political establishment is less unified and intransigent than it pretends. Not only does a significant part of the public welcome decisive and well-founded interventions by the High Representative, but so too do many politicians.⁹⁶ No doubt there are some even within the SDS who are keen on reforms, notwithstanding their reluctance to break ranks publicly. In any case, the party as a whole is now more likely to grumble than to bluster, let alone to threaten blood in the streets.

No one, however, should confuse these intimations of sweet reasonableness on the part of the SDS with fundamental change. The party is still the biggest obstacle to creating a viable BiH state. It is simply that the SDS leadership is now inclined to make the most of those concessions it cannot avoid if it is to preserve its hold on power and wealth.⁹⁷ It will yield only when the alternative is worse. It will then seek to cheat. It cannot truly support co-operation with the ICTY because too many of its leading lights were fully engaged in the "joint criminal enterprise" to which so many indictments refer, despite the fact that such co-operation is a

prerequisite to the Euro-Atlantic integration that the SDS also professes to support.⁹⁸

By appearing to play ball over last year's constitutional amendments, the SDS not only won an asymmetrical solution, it also secured the opportunity to implement "national equality" after its own fashion.⁹⁹ Thus Cavic has sidelined his Bosniak and Croat vice-presidents, on whom the RS amendments confer no obvious powers.¹⁰⁰ SDS officials do not hide the fact that they intend to do the bare minimum required in implementing the amendments, for if the decorative changes they have accepted were ever to become substantive, then the nature of their "state" would be in jeopardy. They are yet more resolute in proclaiming that the 2002 amendments are the last word in the matter. They will entertain no more talk of constitutional change.

The SDS now accepts the return of refugees and DPs to the RS, but actively supports only the implementation of the property laws, which the international community has been successful in

⁹⁵ Worse was to come: a state-level intelligence service. See Sead Numanovic, "Bosnian Spooks Unite", Institute for War and Peace Reporting, Balkan Crisis Report No. 432, 23 May 2003, and OHR Press Release, "High Representative Establishes BiH Intelligence Reform Commission", 29 May 2003.

⁹⁶ An opinion poll reportedly carried out at the behest of OHR revealed that 42 per cent of RS residents support OHR, while 40 per cent oppose the institution. In the Federation, meanwhile, 79 per cent expressed support and 16 per cent opposition. Lord Ashdown personally won more support than the international community in general. His approval rating was 47.5 per cent across BiH. Disapproval was voiced by 34.6 per cent of respondents. See "Gradjani podrzavaju Esdauna", *Nezavisne novine*, 24-25 May 2003.

⁹⁷ The continuing audits of public utilities (discussed below) have indicated that party bosses are heavily involved in criminal activities of all sorts.

⁹⁸ Perhaps the best illustration of how much (or little) the SDS has changed came when former RS President Biljana Plavsic, having pled guilty to reduced but still momentous charges, was sentenced to eleven years' imprisonment. SDS leaders condemned the harshness of the sentence, Sarovic noting that, if this was how the ICTY rewarded co-operation, it could expect even less of it in future. He also bemoaned the fact that her confession would imperil the defence efforts of subsequent Serb defendants. See "Previsoka kazna", *Oslobodjenje*, 1 March 2003. His message, in other words, was keep your mouth shut, do not confess to the crimes we committed.

⁹⁹ During the negotiations leading to the Sarajevo Agreement of 27 March 2002, the SDS insisted successfully that it would be absurd to expect symmetry in the entities' implementation of constitutional amendments. In essence, this meant that the SDS would support the equality of constituent peoples in the Federation, but not in the RS.

¹⁰⁰ According to the RS constitution, the two vice-presidents enjoy only such authority as the president may delegate to them. Cavic chooses to delegate nothing. When they requested instructions from him about what they should be doing, he reportedly told them that they did not need to come to work at all. This prompted the Croat vice-president, Ivan Tomljenovic, to give a press interview in which he described his position as akin to that of a "flower arrangement" on the RS structure of power. See "Caviceva sam ikebana", *Nezavisne novine*, 7 February 2003.

making unavoidable.¹⁰¹ It and the municipal governments it controls see no obligation to provide incentives for non-Serbs to return to the RS, though it has heretofore offered every possible incentive for Serb DPs to stay put in the RS. It claims, however, to have stopped this latter practice.¹⁰² But the party insists that a new census should be conducted before the municipal elections scheduled for October 2004. This, of course, is a transparent attempt to ensure that the national ratios of 1991 to which the amendments refer as benchmarks no longer apply when it comes time to establish municipal governments. A new census would both testify to the enormity and help cement the permanence of “ethnic cleansing” by freeing the RS authorities of any obligation to establish multinational administrations in most municipalities.

SDS officials claim that they accept BiH as it is now, and that they no longer dream of unification with Serbia.¹⁰³ They admit this was once their policy, and could be again if the populace were to become convinced that the international community is determined to centralise BiH.¹⁰⁴ Such implicit threats have served the SDS well since Dayton. It is no surprise, therefore, that the party's current program warns – uniquely among BiH parties – that any effort to undermine Dayton principles could result in “renewal of conflict with tragic consequences”.¹⁰⁵ The international community should be unmoved. Karadzic may still be in the woods, but there is no fire in the bellies of

the godfathers, deal-makers and “laptop cetniks” who nowadays preside over the SDS.¹⁰⁶

D. THE SBIH AND PDP: OUR PROGRAM IS POWER

The two moderate parties that helped the SDA, HDZ and SDS establish their parliamentary majorities at state and entity level were expected to be balancing and consensus-building forces that would ensure the nationalists' regnum proceeds without catastrophes. Yet the problem with the SBIH and PDP is that they have always been parties of government. They have also been one-man bands. That has not stopped them, however, from being chameleons that have adopted the coloration of the bigger parties with whom they have shared power.

When the SBIH was in league with the SDA from 1996, its Bosniak credentials were to the fore. When it helped form the Alliance in 2001, it acquired a more civic cast. The PDP, for its part, has had two faces at once: serving as “SDS lite” at home in the RS while emphasising its moderate demeanour at the state level during the Alliance period. Given their records, therefore, it is questionable whether these parties have a purpose or political philosophy – other than serving as vehicles for the realisation of their respective leaders' ambitions. It may be too much to expect them to play the moderating role in which they have been cast, either by themselves or by foreigners looking for a silver lining in the nationalists' return to power.

Although both claim to be parties of the centre, they are not perceived that way in the “other” entity. The PDP is seen as the SDS's smarter and smoother younger brother in the Federation. The SBIH is regarded as nothing but an SDA clone in the RS, and Haris Silajdzic is viewed both as its most formidable foe and the most dangerous advocate of an integral and Bosniak-dominated state. In the Federation, the SBIH's role in the Alliance was to reassure Bosniaks that their national interests would be secure. (The NHI played an analogous part among Croats, albeit less convincingly.) Despite

¹⁰¹ For details, see ICG Balkans Report No. 137, *The Continuing Challenge of Refugee Return in Bosnia & Herzegovina*, 13 December 2002.

¹⁰² Kalinic told ICG that the party no longer seeks to dissuade Serbs from returning to the Federation: “That was our policy in the past. Now our policy is that everybody should decide freely about it. But we want this story about Annex 7 ended. And we want a new census”. ICG interview with Dragan Kalinic, 20 February 2003.

¹⁰³ At least one well-placed international official based in Banja Luka begs to differ: “Dreams of reunion with Serbia are still alive in RS”. ICG interview with a senior Western official in the RS, 7 February 2003.

¹⁰⁴ ICG interview with senior leaders of SDS, 20 February 2003.

¹⁰⁵ See “Programski principi Srpske Demokratske Stranke”, in *Programi političkih partija i koalicija zastupljenih u Predstavničkom domu Parlamentarne skupštine BiH*, Sarajevo, 2002.

¹⁰⁶ The phrase “laptop cetnik” was reputedly coined by Zlatko Lagumdžija to describe Dragan Cavic.

Silajdzic's withdrawal from the stage, the SBiH also brought with it into the Alliance the considerable baggage of its leaders' past membership of or association with the SDA during Bosniaks' "ten most difficult years". Thanks to its control over the Federation interior ministry during the Alliance government, the SBiH was in a position to defend its cadres' (and Bosniaks') reputations by suppressing investigations into old or current allegations of corruption in office, infiltration by radical Islamists, and weapons smuggling.¹⁰⁷

The SBiH has evinced some casuistry about its relationships with its new (old) partners in government. Because it cannot stomach the SDS, it takes pride in remaining in opposition in the RS and eschews direct contacts in the CoM with the SDS and PDP, maintaining that its participation is merely the result of a side deal struck with the SDA.¹⁰⁸ In the Federation, however, it regards itself as a full member of the SDA-HDZ coalition.

The SBiH stands for strengthening state institutions to the maximum. It calls on the High Representative to impose decisions that bolster the state whenever compromises are not possible among local forces.¹⁰⁹ The party considers that the High Representative should keep his Bonn powers until he has finished the job of engineering or imposing the requisite legal structure. In this sense there is little difference between the SBiH and SDA. On the other hand, the SBiH has a vision of BiH's future regionalisation through the re-emergence of nationally mixed but economically and historically natural regions that would both render the entities redundant while maintaining a functionally decentralised state. This is at odds with the SDA's commitment to an integral state.

The SBiH's biggest problem is the determination of its charismatic founder to remain in the

background. Although the party is relatively well endowed with talent, there is neither certainty that the great leader will let go for good nor agreement about who should succeed him. In the meantime, the party has appeared to be in disarray. The spectacle of three (out of six) SBiH deputies abstaining from the 13 January 2003 vote of confidence in the CoM in which their president, Safet Halilovic, was included spoke volumes about the party's condition.

The PDP portrays itself as a pragmatic centrist party and safe pair of hands, thanks to which the RS has latterly avoided major crises and boosted its fiscal stability. The PDP has certainly been adept at leveraging its reputation to secure more power than its tally of votes or parliamentary seats would justify. Benefiting from the simple fact that his party is not the SDS, the affable, competent and English-speaking Mladen Ivanic inherited the mantle of international favourite in the RS from Milorad Dodik in 2000. With this he has been able to pursue a twin-track strategy of co-operating with the foreigners whenever that would benefit the RS while defending its state-like prerogatives more effectively than the SDS can do. This strategy was encapsulated in his party's election slogan: 'to become European, but remain Serb'. And although the masses did not appear to resonate to this duality, and the party slumped at the polls, it remained the essential kernel without which neither the SDS nor the SNSD could form an RS government. Ivanic's position is so strong, in fact, that he has been able to leave Mikerevic to mind the shop in Banja Luka while he serves as BiH foreign minister in Sarajevo.

The policy of the PDP, therefore, is Serb nationalism when possible, BiH integration when unavoidable, and power at all times. The party program reflects its happy position of being able to have its cake and eat it. The PDP supports BiH entry into NATO's Partnership for Peace, but has opposed the necessary prerequisite of a single army command. It hails BiH's European vocation, but has looked to the resolution of the country's existential fears and constitutional dilemmas after rather than before EU membership. In the meanwhile, the PDP insists on strengthening the special, parallel relations that the RS has established with Serbia.

When it comes to co-operation with the international community, the PDP stands for

¹⁰⁷ This inclination to keep various skeletons in their closets was much reduced, however, after the September 2001 terrorist attacks on the U.S. See ICG Report, *Bosnia's Alliance for (Smallish) Change*, op. cit.

¹⁰⁸ ICG interview with SBiH party official, 14 April 2003.

¹⁰⁹ Silajdzic told ICG that OHR is too cautious in emphasising the process of confidence-building rather than the salutary effect of simply sacking obstructionists: "A process is a series of events. A process does not come out of nowhere; you need to do something to have a process". ICG interview with Haris Silajdzic, 11 March 2003.

limiting the authority of the High Representative to impose laws. It insists that OHR should leave it to the domestic parties to discuss, argue over and decide on major initiatives, no matter how slowly that goes, since imposed solutions will not endure.¹¹⁰ One prominent PDP politician, Petar Kunic, has challenged the High Representative's use of the Bonn powers, arguing that they can and should be used only to provide temporary solutions when the local parties cannot reach agreement.¹¹¹ The PDP has also provided more resolute opposition to the introduction of VAT under the auspices of the state and to the unification of the customs services than has the SDS, perhaps because Ivanic actually understands the issues involved. Like SDS leaders, however, Ivanic regards the 2002 amendments to the entity constitutions as final. He maintains that they have changed the two entities fundamentally, and that there is no scope for further discussion of constitutional changes.¹¹²

Ivanic expects his party to play a constructive role in resolving contradictions among its avowedly nationalist partners in government.¹¹³ But that, of course, is what his party is for: facing two directions simultaneously and bridging disagreements from the comfort of ministerial office.

E. THE SDP AND SNSD: OPPOSITION Á LA OUIRANCE

The October elections left BiH with two strong parties of opposition. Although the SNSD increased its vote by more than 35 per cent and the SDP saw its tally fall by some 50 per cent, the effect was to create a rough balance between the two. They have since talked about forming – along with the NHI, which at least survived the cull – a potentially formidable cross-entity and cross-national opposition bloc.¹¹⁴

The SDP and SNSD have much in common, but there is also much that separates them. Aside from their social democratic ideology, they both stand for strengthening state institutions, including a single customs administration, fighting corruption, and cutting bureaucracy. They and the NHI share the view that Ashdown can impose only framework solutions. The real implementation of reform requires partnership between OHR and domestic political forces, namely themselves. More important than such programmatic agreement, the parties are convinced that the incapacity and internal contradictions of the governing coalitions will lead the country into an impasse resolvable only through early elections.¹¹⁵

Yet the SNSD owes its success in the October elections and continuing high profile not just to its advocacy of reform, but also to its ardent defence of RS prerogatives.¹¹⁶ People who know Dodik well say that he is no nationalist, but since all political discourse in the RS takes place within nationalistic terms of reference, he has no alternative but to speak the phrases his electorate wants and expects to hear. In any case, the business of opposition is to oppose, and to use every weapon to hand, including the trump card of nationalist rabble-rousing. It is not at all clear, therefore, whether Dodik can or would run the risk of too close an alignment with the SDP and NHI.¹¹⁷

For details about the alleged corruption cases, see "Anic mutio s barutom, Zubak s novom stankom?", *Slobodna Dalmacija*, 21 March 2003. On the other hand, as a Croat party with an energetic leader, Kresimir Zubak, and bright ideas about the reorganisation of BiH, the NHI would be an asset to any SNSD-SDP bloc. For Zubak's proposals on constitutional change, see "Vrijeme je za novu BiH", *Oslobodjenje*, 10 April 2003, and "Kresimir Zubak: Reforme stvaraju tek iluziju o promjenama", *Vecernji list*, 13 April 2003.

¹¹⁵ For background details on the emerging bloc, see "Ujedinjena opozicija trazi vanredne izbore", *Slobodna Bosna*, 27 March 2003.

¹¹⁶ According to some senior Bosniak and Croat officials, Milorad Dodik was the toughest negotiator during the inter-party talks on constitutional amendments in early 2002, and his positions were sometimes "ultra-nationalist". ICG interviews with Bosniak and Croat politicians, 28 January and 18 February 2003.

¹¹⁷ While creating the spectre of an opposition bloc is useful to him in agitating for early elections, especially in the RS, it is doubtful that Dodik would enter any pre-election coalition with the SDP and NHI. Such a compact would likely do him more harm than good in the RS. Nor

¹¹⁰ See Ivanic's interview "Borit cu se za interese BiH", *Dnevni list*, 21 February 2003.

¹¹¹ "Zakoni mimo zakona", *Glas Srpski*, 11 March 2003.

¹¹² ICG interview with Mladen Ivanic, 19 February 2003.

¹¹³ *Ibid.*

¹¹⁴ The NHI is weakened not only by its small representation in the entity and state parliaments, but also by several scandals involving prominent party members.

Dodik deserves credit, however, for his brave and penetrating denunciations of the power of organised crime in the days following Djindjic's murder. Dodik had met with Djindjic only a week before the assassination, and had reportedly warned him that RS criminal and intelligence circles might be plotting something together with their Serbian counterparts.¹¹⁸ He subsequently pressed the RS authorities to seize the moment and follow the Serbian example in launching a decisive reckoning with criminal networks in the RS.

Not surprisingly, the knives were out for Lagumdzija in the aftermath of the SDP's defeat at the polls. The party's would-be crown princes held him personally responsible for their humiliation. Yet the extraordinary SDP congress called for 23 November led not to Lagumdzija doing penance and offering his resignation, but to walk-outs by the four principal dissidents and to a final goodbye on the part of party founder Nijaz Durakovic, who had already signalled his defection by running on the SBiH slate.¹¹⁹ The four main defectors – later joined by another 100 or so – announced their intention to establish a new Social Democratic Union (SDU). Founded formally on 8 December, the SDU promised to provide a beacon of hope to all those rendered hopeless by the outcome of the elections and to rescue social democracy from Lagumdzija's megalomania.¹²⁰

Despite the high profile of its founders and the lavish attention initially offered by the press, the SDU has both failed to attract other prominent SDP members and suffered its own defections. Its acting president and sole parliamentary deputy, Sead Avdic, opted to become an independent after quarrelling with the new leadership elected at the SDU's first congress on 15 March 2003.¹²¹ Although Dodik has paid the SDU the compliment of talking with it about taking part in an opposition bloc, the new party has otherwise suffered the fate of most breakaway movements, and appears to be lapsing into irrelevance.

Having survived the bust-up, the residual SDP leadership has become more bullish about its prospects in a situation in which, as Lagumdzija likes to say, the ruling parties have the numbers but not the logic. Like Dodik from the outset, the SDP has also set its sights on early elections, probably in 2004.¹²² This recovery of nerve has permitted Lagumdzija to admit for the first time to having made mistakes, whether in his leadership of his own party or in government.¹²³ Contrition does not come easily to Lagumdzija. Given the assaults he and his wife continue to suffer at the hands of *Dnevni avaz*, it is probably natural that he should remain on the defensive. But he has lived to fight another day.

does it seem he is especially keen on early state or FBiH elections, where the benefit of a joint campaign would probably be greater.

¹¹⁸ RS Interior Minister Zoran Djeric announced that Dodik would be interrogated about his meeting with Djindjic on 5 March, to which Dodik replied that he would refuse to talk to the RS police, since they were not above suspicion themselves. See "Nema potreba da me MUP RS saslušava", *Dnevni avaz*, 13 April 2003, and "Dodik upozorio Djindjica na kriminalce iz RS", *Oslobodjenje*, 13 April 2003. In the event, Dodik did talk to the police on 15 April, stating thereafter that he had told them no more than he had already made known to the media.

¹¹⁹ The gang of four comprised two former SDP vice-presidents, Sead Avdic and Ivo Komsic, former board president Sejfidin Tokic, and ex-general secretary Miro Lazovic. See "Završena transformacija SDP-a BiH", *Dani*, 29 November 2002.

¹²⁰ See "Ovo nikada nece biti stranka jednog lica", *Dnevni avaz*, 28 November 2002; "Mi se ne stidimo svog radnicko-seljackog porijekla", *Dnevni avaz*, 30 November, 2002; and "108 disidenta", *Dani*, 13 December 2002.

¹²¹ "Tokic je glavni krivac za rascjep u SDP BiH", *Oslobodjenje*, 8 April 2003.

¹²² "Ashdown ima dva casna izlaza", *Dani*, 4 April 2003.

¹²³ For example, Lagumdzija said that he had been remiss in allowing his remarks to the protesting war veterans in March 2002 to be manipulated and to cause offence among veterans and invalids generally. He also explained that he had signed the Sarajevo Agreement only because he was convinced that it was just the beginning of a process that would continue. See "Radoncic je mali, primitivni provincijalac", *Dani*, 11 April 2003.

VII. FIRST BLOOD: CLASHES AMONG THE NATIONALISTS

Despite the certainty of the opposition that the governing coalitions cannot endure, they have thus far avoided providing their opponents with any disasters. The nationalists have generally avoided criticising each other.¹²⁴ They have also managed a few symbolically significant demonstrations of common purpose. The Presidency, for example, found it possible on 16 January 2003 to condemn statements calling BiH's territorial integrity into question by both Zdravko Tomac from Croatia and Vojislav Kostunica from Serbia.¹²⁵ It agreed the same day to demand that SFOR hand over to domestic courts a suspected Islamist terrorist whom the Americans had been holding at their Eagle Base near Tuzla since October 2002. The Americans complied.

The Council of Ministers, meanwhile, managed on 30 January to agree and adopt a new law on state-level ministries during a single marathon session. This gave effect to the High Representative's imposition on 3 December 2002 (but following exhaustive inter-party talks) of an expanded, eight-ministry CoM with a permanent chairman or prime minister.¹²⁶ In similar fashion, the entity

¹²⁴ Tihic averred after taking office that BiH depends upon the co-operation of the parties enjoying the overwhelming support of the constituent peoples, a remark that echoed – as the media were quick to note – the assurances of democratic concord from the same three nationalist parties following the 1990 elections. Tihic has latterly traded barbs with Paravac over his advocacy of constitutional change.

¹²⁵ Tomac is a vice-president of the Croatian SDP and chairman of the parliamentary foreign affairs committee. He said at a colloquium that Tudjman's wartime policy towards BiH had turned out to have been correct, and that BiH Croats could only flourish if they had an entity to call their own. "Historijske podvale Zdravka Tomca", *Oslobodjenje*, 9 December 2002. Kostunica, it will be recalled, had referred during his election campaign to the supposedly temporary separation of Bosnian Serbs from their motherland.

¹²⁶ On the other hand, the first attempt by the new ministry of security to command the co-operation of its entity counterparts was a failure. Wishing to discuss the security situation in the country over the preceding year, the CoM asked Security Minister Colak to obtain substantive analyses from the entity interior ministries and the Brcko District police. Instead of providing such an analysis,

governments were formed (eventually) with the requisite numbers of Bosniak, Croat and Serb ministers. It was starting to look, in fact, like the beginning of a beautiful friendship – but not for long.

Predictably, the first notes of discord emerged from those charged with pioneering the national integration of the entities' executive and legislative branches. Soon after assuming office as the Croat vice-president of the RS, Ivan Tomljenovic realised that President Cavic had no intention of giving him anything to do. When his "flower arrangement" interview in February produced no change, Tomljenovic elaborated his critique to suggest that the RS and FBiH constitutions be amended to provide for rotation among the three national "presidents" in each entity.¹²⁷ In the meantime, he and his Bosniak counterpart, Adil Osmanovic, have sought to carve out useful jobs for themselves within the limited scope offered by the constitution. They have taken to receiving complainants and representatives of organisations – mostly of returnees – for whom Cavic has no time. They also tour the provinces to promote the full implementation of the constitutional amendments on the municipal level.¹²⁸

Problems arose too in the Federation in establishing the Serb caucus in the House of Peoples. Too few Serbs (nine) were elected to the cantonal assemblies, which elect delegates onwards, to fill the seventeen seats guaranteed to Serbs in the House of Peoples. Although the House was constituted nonetheless, no alternative arrangements for selecting representatives of "deficit" nations have yet been agreed. Nor has the surfeit of Bosniaks in the six top Federation jobs been sorted out. In the RS, meanwhile, the formation of the (non-symmetrical) Council of

however, the RS ministry merely forwarded some data on the doings of foreign citizens and human trafficking in the RS.

¹²⁷ See "Zalazem se za troclano Predsjedništvo u RS i FBiH", *Nezavisne novine*, 31 March 2003.

¹²⁸ No mayor will refuse to see a vice-president, even if there is little chance he will take vice-presidential admonitions on board. A Banja Luka-based international official told ICG that the vice-presidents' high profiles offer them a chance to make a difference if they are sufficiently persistent. ICG interview with Western official, 7 February 2003.

Peoples was intentionally deferred for months after the elections.¹²⁹

It was always likely that there would be difficulties in implementing the provisions of the constitutional amendments requiring proportional or equal representation of the constituent peoples in entity posts. More unexpected quarrels have broken out between the coalition partners that were assumed to be natural or necessary allies: that is, between the SDS and PDP in the RS and between the HDZ and SDA in the Federation. On the state level, meanwhile, there have been no serious arguments to date, in part because no hugely contentious issues have yet appeared on the CoM agenda. As will be discussed below, however, the absence of argument also reflects the absence of activity – save for the adoption of measures decreed by the High Representative.

The PDP-SDS row was set off by the publication in late February of the first of the international community's special audits of BiH's three (national) electricity utilities, Elektroprivreda RS.¹³⁰ The revelation of embezzlement, dereliction of duty, conflicts of interest, and losses totalling some KM 166 million per annum by the long-time SDS management led the High Representative to sack the managing director and one board member immediately and to insist that the RS government should finish the job of cleaning house. When Mikerevic sought to install a temporary director, the SDS rebelled at the prospect of losing control over this vital generator of jobs for the boys and cash for the party. A classic instance of the traditional struggle between the wielders of formal and informal power in the Balkans, the result was equally traditional: Mikerevic's appointee withdrew in the face of ructions in the RSNA and rebellion by the workforce. An SDS trusty was put in his place.

Despite winning the battle, the SDS leaders were apparently nervous about the outcome of the war, and bitter that Mikerevic should have presumed to trespass on the turf grazed by their cash cow. Party

spokespersons let it be known that the SDS might reconsider its partnership with the PDP and seek a new ally.¹³¹

Another blow to the SDS-PDP coalition was struck when the two parties failed to agree – up until the last moment – over which of their candidates should replace Mirko Sarovic as the Serb (and then presiding) member of the Presidency. Sarovic had chosen resignation over dismissal on 2 April 2003, since Ashdown was clearly determined that he, as the former RS president, should take command responsibility for the arms-for-Iraq and spying affairs. The PDP waited until the last minute before withdrawing its candidate, Petar Kunic, in favour of SDS nominee Borislav Paravac from the poll by Serb members of the House of Representatives. Paravac was duly elected on 10 April. Other RS-based parties smelled a rat, but statements by PDP officials indicated that there was indeed deep discontent in the party over the state of its relationship with the SDS.¹³²

This was all the more creditable in view of what happened when it came time on 22 April to fill the Serb slot that Paravac had just vacated, that of deputy speaker of the BiH House of Representatives. The SDS failed to get its man elected when the selfsame Kunic defied the party whip and ensured the election of the SNSD candidate, Nikola Spiric. SDS President Kalinic was furious, warning that this “catastrophe” could mark the beginning of the end of the ruling coalition on the RS and state levels.¹³³

The SDA and HDZ have also been skirmishing in the Federation over key appointments. They have averted war, however, because of their previous promise to OHR to await passage of the Civil Service Law and the establishment of an appointments' agency before filling other than vacant posts and nine top “permanent secretary” posts in the CoM authorised by the High Representative. But that did not stop the HDZ from

¹²⁹ The Council of Peoples in the RSNA was only formed on 20 March 2003. Difficulties followed in constituting its Bosniak caucus. “Potvrđen izbor delegata u Vijeće naroda RS”, *Nezavisne novine*, 21 March 2003, and ‘Za predsjednika izabran Ramiz Salkic’, *Dnevni avaz*, 28 May 2003.

¹³⁰ The audit reports are available on www.ohr.int.

¹³¹ See “Vrh SDS-a za raskid koalicije sa PDP-om”, *Nezavisne novine*, 10 March 2003. SDS threats of divorce continued through the spring, but faded away as the July party congress drew near.

¹³² Mikerevic told the press that there were real problems between the parties, and that “more and more issues are becoming a morass for the PDP”. “Ima problema sa SDS-om, ali su rjesivi”, *Nezavisne novine*, 9 April 2003.

¹³³ RTRS TV, “Dnevnik”, 22 April 2003.

trying to amend the draft law to provide for civil service agencies in each canton. When OHR refused to budge, the HDZ sought a re-division of other spoils with the SDA.¹³⁴ Much of this haggling over plum or self-protective posts lost its point, however, when Lord Ashdown established a commission to unify the entity intelligence agencies (29 May), the Federation parliament finally passed the Civil Service Law (3 June), and the BiH parliament enacted the interim law providing for a single state customs service and indirect tax administration (30 June).

In both entities, therefore, the spats over patronage have been serious; but they have thus far been contained lest they jeopardise the whole point of the political game.

VIII. PADDY RULES, OK?

When former UK Liberal Democrat party leader Paddy Ashdown took over at the end of May 2002 as the international community's fourth "co-ordinator" of civilian peace implementation in BiH since Dayton, he told the Parliamentary Assembly that his aim would be "to work with the people of Bosnia & Herzegovina to put this country irreversibly on to the road to statehood and membership of Europe". He would do this by setting clear priorities and the means to achieve them: "First Justice. Then Jobs. Through Reform".¹³⁵ What followed was a political campaign that quickly eclipsed those of the quarrelling Alliance parties and their opponents as they geared up for the October elections. Ashdown was everywhere: on television, in the press, on trams, in markets, on shop floors, in the homes of returnees, and on hikes in the mountains. No previous High Representative had been so visibly engaged or in such a hurry to do great things. None had sought before to connect with the masses or to show so obviously who was in charge.¹³⁶

Ashdown has used both his pulpit and his powers to telling but not yet decisive effect. He has set priorities – the rule of law, economic reform, responsibility in public office, rationalisation of government – to which he has stuck; although he has also taken advantage of windfalls like Orao and the RS espionage affair to broaden his agenda. He has sacked and imposed and decided accordingly. He has helped create and then benefited from an unprecedented degree of harmony among the previously mutinous barons at the head of other international organisations and the once fractious ambassadors of the major powers.

He manoeuvred the main political parties into signing up for his reform agenda, "Jobs and

¹³⁴ For example, the HDZ claimed the right both to fill the vacant position of deputy head of the Federation customs administration and to replace the current director, Zelimir Rebac, a holdover from the Alliance government. Rebac told the media that the nationalist parties want control over the customs service in order to prevent investigations of large-scale frauds in which their key officials were involved in the past. Soon after his statement, charges were indeed laid against some prominent HDZ bosses, including Presidency member Covic, who is alleged to have been implicated in frauds costing the FBiH budget tens of millions of marks in unpaid customs duties when he was finance minister. See "HDZ i SDA nastoje kontrolisati carine", *Oslobodjenje*, 10 April 2003. The HDZ also aimed to put its people in charge of the financial police and tax administration and to do a package deal with the SDA whereby that party would get to nominate the director of FOSS and the HDZ his deputy.

¹³⁵ OHR, Inaugural Speech by Paddy Ashdown, the new High Representative for Bosnia & Herzegovina, 27 May 2002.

¹³⁶ A senior foreign ministry official told ICG that he had found it necessary to remonstrate with OHR to ensure that visiting dignitaries from abroad met first with state officials rather than with Lord Ashdown, as had become the practice. There seems to have been progress in this respect. ICG interview with ministry of foreign affairs official, 19 February 2003.

Justice”.¹³⁷ In fact, he has done so twice: both before the elections and, more recently, after summoning the new governments to an April “retreat” on Mt. Bjelasnica to produce an updated set of commitments entitled “Putting People First”.¹³⁸ He has mobilised businesspeople in a so-called Bulldozer Committee to identify and demand the elimination of 50 legal or bureaucratic obstacles to doing business honestly in BiH. By mid-May 2003, 49 of the 50 offending laws or regulations had been axed.¹³⁹ Most importantly, he has set the stage for a fundamental change in the balance of power between the entities and the state by establishing internationally-chaired working parties to draft plans and legislation for unifying the customs services, introducing VAT at the state level, subordinating the entity armies to state-level civilian command and a common general staff, and establishing a state intelligence agency.

All this may serve eventually to enhance the authority and competence of the state. But immediate and tangible benefits have been few. “Jobs and Justice” may be a fine strategy, but actually delivering more of either in appreciable measure will take time. Moreover, as Lord Ashdown acknowledged during a first anniversary television interview on 29 May 2003, he faces two formidable enemies: the impatience of the international community to be done with BiH and the reluctance of the country’s citizens to believe that things can change for the better.¹⁴⁰ In fact, he confronts a third foe as well. He can sack and impose and exhort, but he cannot actually run the country. He has made himself reformer-in-chief, but those reforms have to be embraced by domestic politicians who may be uninterested when they are not hostile. And they have to be implemented by bureaucracies that may be unresponsive when they are not incompetent.

¹³⁷ “Jobs and Justice” was published as a supplement in the daily newspapers and is available on the OHR website: www.ohr.int.

¹³⁸ OHR, Bjelasnica Declaration: Putting People First, 30 April 2003.

¹³⁹ OHR Press Release, “One Economic Reform Every Four Days”, 17 May 2003. The 50th had gone by the end of the month, and a new offensive on another 50 impediments to business was launched with a deadline of 31 December 2003.

¹⁴⁰ OBN TV, “Telering”, 29 May 2003.

Ashdown admitted in his inaugural address to parliament in 2002 that Dayton was “designed to end a war, not to build a country”. But he also professed to regard it as “the floor, not the ceiling”: “And like all foundations, it must be built on”. State institutions would have to be built if BiH were ever to be accepted into Europe. It could be a decentralised state, but not a “fractured” or “failed state” composed of two or three “failed statelets”.¹⁴¹ It appears of late, however, that Lord Ashdown has come to suspect that Dayton does represent a ceiling that must be raised if all the construction he has initiated is to prove sound. Before considering that issue, however, it is necessary to look at what the High Representative has sought to accomplish in the post-election period, and why he might now be more amenable to thinking about the constitutional architecture.

Lord Ashdown has been remarkably consistent in outlining and promoting his key goals since assuming office. These were codified in the Mission Implementation Plan approved by the PIC Steering Board in January 2003. The six core tasks are:

- entrenching the rule of law;
- ensuring that extreme nationalists, war criminals, and organised criminal networks cannot reverse peace implementation;
- reforming the economy;
- strengthening the capacity of BiH’s governing institutions, especially at the state level;
- establishing state-level civilian command and control over the armed forces, reforming the security sector, and paving the way for integration into Euro-Atlantic institutions; and
- promoting the sustainable return of refugees and displaced persons.

Between two and six programs, each with a “transition point” at which OHR will consider its

¹⁴¹ OHR, Inaugural Speech by Paddy Ashdown, op. cit.

work complete and hand over to the BiH authorities, are attached to the six core tasks.¹⁴²

Ashdown has worked hard both to enlist the political parties' support for "Jobs and Justice" and its supplement and to create non-political constituencies for reform like the Bulldozer Committee. These schemes have aimed to forge the maximum possible consensus in favour of practical measures while locking the parties into endorsing principles in such areas as legal and civil service reform that will, if implemented, radically alter their traditional means of exercising power.

Although local commentators failed to see, either before or after the elections, that "Jobs and Justice" was designed by OHR to provide the Alliance parties with the credible platform they were incapable of writing for themselves, the invitation to the nationalists to sign up to it as well offered some assurance that the reform agenda would survive their return to power. Ashdown was thus in a position to accept the electorate's verdict with relative equanimity and to spurn the Americans' proposals that they should work to cobble together what would have been an unstable and artificial coalition of "moderate" forces.¹⁴³ He needed governments with strong majorities to push through the programs he intended to pursue. Having got the nationalists to sign up to reform lest they be repudiated by the international community, he could subsequently hold them to their pledges. They might not be very convincing as born-again reformers, but that might not matter so long as it was OHR that continued to set and define the reform agenda.

The invocations of "partnership" that characterised Wolfgang Petritsch's relations with the Alliance have thus been replaced by exhortations to perform and, in some spheres, by hands-on management of the reform process through special commissions. Among his first post-election measures, Ashdown imposed amendments to the state and entity laws granting immunity from prosecution to public

officials that significantly narrowed their scope.¹⁴⁴ He followed this up by decisions amending the Federation laws on government and ministries in order to bring them into line with the April 2002 constitutional amendments and to eliminate parallelism by doing away with deputy ministers' positions.¹⁴⁵ Having canvassed various schemes to enhance both the role and competence of the state during the autumn, Ashdown proceeded in December 2002 to impose the Council of Ministers Law. This increased the number of ministries from six to eight, created a permanent chairman (or premier), and provided for a single deputy minister in each ministry.¹⁴⁶

To insure against the appointment of crooks, incompetents, obstructionists and people with dubious wartime pasts by the nationalist parties, OHR also claimed the right to vet a wider range of would-be ministers in the state, entity and cantonal governments.¹⁴⁷ According to what appear to have been rather informal procedures, the vetting process was carried out by circulating the names of

¹⁴⁴ The generous immunity laws had been widely abused. See OHR Press Release, "High Representative Acts to Clean Up BiH Politics", 6 October 2002.

¹⁴⁵ OHR Press Release, "High Representative Changes Law on Ministries in the Federation BiH", 21 October 2002.

¹⁴⁶ OHR, High Representative's Decisions, Law on the Council of Ministers of Bosnia & Herzegovina, 3 December 2002. The transformation of the previous ministry for European integration into a directorate under the non-rotating chairman meant in fact that three new ministries were created (security, justice and transport and communications, previously yoked with civil affairs). In October, however, Ashdown had floated the idea of creating a "powerful engine room of an effective government" by establishing a cabinet committee to be composed of the chairman and the foreign and treasury ministers, each of whom would come from one of the constituent peoples. His simultaneous proposal to equip the chairman with a cabinet secretariat did endure. See OHR Press Release, "Making the BiH Council of Ministers More Efficient and Effective", 16 October 2002.

¹⁴⁷ Vetting of candidates for ministerial appointment became mandatory for the state ministries of economic relations and foreign trade, finance and treasury, justice, security, and human rights and refugees. At entity level, nominees to the ministries of defence, interior, finance, justice, education, and refugees were subjected to vetting. While in the cantons, candidates for the interior, education and justice portfolios required a green light from OHR. OHR Press Release, "High Representative to Vet New Ministers", 21 October 2002.

¹⁴² The Mission Implementation Plan can be accessed at www.ohr.int.

¹⁴³ An OHR official told ICG that the Americans admitted that the odds against success were high, but took the view that it would be "better to try and fail than not to try at all." ICG interview with OHR official, 14 April 2003.

ministerial candidates among the important international bodies (SFOR, EUPM, ICTY, etc.) and key embassies in BiH. If any of these institutions regarded a nominee as inappropriate, then that candidate was rejected without any explanation. The political parties were merely informed that they must propose another candidate. As we have seen, this procedure produced both anger and suspicion on the part of the parties, who accused OHR of relying on politically tainted information from the entity intelligence agencies and of subverting its own professed commitment to transparent governance.¹⁴⁸

These were not the only measures that OHR devised to keep potential obstructionists or those compromised by their pasts from office. There was also the option of sacking people already in post. The High Representative's first post-election exercise of this power was directed not against the nationalists, however, but against the SDP's appointee as head of the Federation intelligence service (FOSS).

A. THE REMOVAL OF ALIBABIC

Ashdown made his single most controversial decision to date when, two weeks after the elections, he removed Munir Alibabic as director of FOSS. The reason he cited was that intelligence documents had been leaked to the media and used for party political purposes, so undermining the "integrity, reputation and professionalism" of the service. According to the official rationale, such leaks were clear violations of Articles 6, 8 and 16 of the Law on the Intelligence Service of the Federation, which require the director to take all measures necessary to protect information obtained by the agency.¹⁴⁹

¹⁴⁸ It may well be that OHR's informants relied on information that derived from local intelligence and security agencies, since the EU Police Mission and SFOR naturally maintain links with them. Transparency, however, was not possible, since none of the agencies involved would have been likely to possess evidence sufficient to bring criminal charges against people who had thus far avoided them. A lesser standard of proof – and a higher possibility of error – had to be accepted.

¹⁴⁹ OHR Press Release, "High Representative Removes Director of Federation Intelligence Service", 22 October

Few believed this was the full story. Liberal commentators professed to be as astounded by Ashdown's treatment of Alibabic as they had been by his acceptance of the nationalists' victories at the polls. Yet OHR offered no additional explanation. Some admirers of Alibabic, including ICTY Chief Prosecutor Carla Del Ponte, expressed their concern, noting that he had worked closely with The Hague Tribunal. She told BBC reporter Nick Hawton that Alibabic's dismissal was a great loss, and that she had subsequently protested to Ashdown about it. But she, too, failed to secure a compelling explanation.¹⁵⁰

Alibabic's enemies, foremost in the SDA, were naturally delighted. Several Bosniak politicians variously told ICG that Alibabic was a relic of the old communist security service, UDBA, that he was incompetent, or that he had generated dozens of high-profile criminal charges that turned out to have been badly prepared and politically motivated. Some media even speculated that senior SDA and SBiH party bosses, invoking their wartime comradeship with Ashdown, had somehow prevailed upon him to oust Alibabic.¹⁵¹ SDA leaders denied any such thing, pointing instead to the conspicuous absence of support for Alibabic from U.S. Embassy officials in Sarajevo who had also counted among his enthusiasts.¹⁵² There were also rumours that Alibabic had blotted his copybook with SFOR by passing on intelligence leads that prompted two operations that turned into public relations fiascos.¹⁵³

2002. The full text of the decision is also available on the OHR website www.ohr.int.

¹⁵⁰ Nick Hawton, "Ashdown in Media Storm", Institute for War and Peace Reporting, Balkan Crisis Report No. 413, 11 March 2003.

¹⁵¹ See "Silajdzic nece u koaliciju sa SDS-om, Dodik i Ivanic ne zeke sa Silajdzicem", *Slobodna Bosna*, 24 October 2002.

¹⁵² ICG interview with SDA official, 28 January 2003.

¹⁵³ In the first case, Alibabic was reported to have passed on the dud information on the whereabouts of Karadzic that led to the failed SFOR operations near Celebici on 28 February - 1 March 2002. Alibabic later denied that he provided any intelligence in connection with these raids. In the second case, Alibabic was alleged to have served as a conduit for a Croatian intelligence tip-off that a terrorist attack might be mounted on the leaders of Yugoslavia, Croatia and BiH when they met in Sarajevo on 15 July 2002. SFOR troops stopped and searched cars entering the city on 14 July, producing huge tailbacks, but finding

One well-informed diplomat told ICG that the Americans had valued Alibabic's cooperation in the anti-terrorist struggle and had therefore played no part in initiating his removal. Yet they did not question Ashdown's decision to sack him.¹⁵⁴ As the March 2003 espionage scandal in the RS would confirm, Ashdown was determined to do what he could to professionalise, de-politicise and ultimately unify the country's rogue intelligence services. In retrospect, therefore, Alibabic's dismissal looks more like an opening shot in a premeditated campaign than an isolated incident.¹⁵⁵

Alibabic, however, has argued that the reasons for his removal were different from those offered at the time. He told the press that he had been working on several cases that were alarming high-ranking local and international officials, including the acquisition, just weeks before polling day, of compromising information about the ultimately victorious candidates for the BiH Presidency. This intelligence subsequently figured either in criminal charges or press assaults against the newly elected members of the Presidency.¹⁵⁶

nothing. ICG interview with former intelligence officer, 14 March 2003.

¹⁵⁴ ICG interview with senior Western diplomat, 24 March 2003. Ashdown had allegedly wanted to remove Alibabic when FOSS files started appearing in the press during the election campaign. The fact that the OSCE Election Observation Mission also received complaints about interference by FOSS in the campaign may have confirmed the High Representative's resolve to act after the elections. See Office for Democratic Institutions and Human Rights, "Bosnia and Herzegovina - General Elections", op. cit.

¹⁵⁵ An OHR official told ICG that Alibabic had behaved like an old-style secret police commissar rather than a professional intelligence chief in several high-profile investigations. During the electoral campaign, moreover, he had sought through selective leaks to advance the interests of the SDP. OHR thus aims now to establish new standards in this area, severing the traditional link between the intelligence agencies and the parties in power. ICG interview with OHR official, 14 April 2003.

¹⁵⁶ See "Esdaun smjenio Munju da bi spasio Karadzica", *Oslobodjenje*, 2 November 2002. FOSS obtained information regarding Covic's alleged misuse of office when serving as president of the steering board of Mostar-based Croatian Posts and Telecommunications (HPT). Covic has since been charged with illegally transferring part ownership of HPT to mobile phone operator Eronet and other companies close to the HDZ. FOSS also secured intelligence relating to a supposed meeting between

Alibabic contended that another reason for his dismissal was his investigation of the wartime and post-war decisions to grant BiH citizenship to 741 individuals of North African and Middle Eastern origin.¹⁵⁷ He also claimed that he had been getting close to locating Karadzic, but that this had upset the foreign governments and intelligence agencies allegedly responsible in 1996 for promising Karadzic that he would not be arrested if he were to drop out of public life. Alibabic asserted in particular that a British diplomat had been lobbying strongly for his removal.¹⁵⁸

However farfetched some or all of this may be, the absence of an authoritative explanation by OHR for Alibabic's dismissal opened a space for sensational and speculative substitutes. It also helped to poison Ashdown's relations with most of the Sarajevo-based press. Although they were already uneasy over the High Representative's readiness to work with the nationalists and increasingly resentful of what they regarded as the favouritism shown by his media advisers towards the biggest-selling BiH newspaper, *Dnevni avaz*, the Alibabic story provided another stick with which to beat Ashdown. The weekly *Slobodna Bosna* surpassed even its normally high sensation quotient in both retailing every allegation by Alibabic and excoriating Ashdown for all his supposed past and present misdeeds. Ashdown's reported dismissal of the magazine and its readers made matters worse.¹⁵⁹ Ironically, however, the

Sarovic and Karadzic on Mt. Ozren in summer 2002. Finally, FOSS acquired data regarding Tihic's alleged business sideline of conducting weddings while serving as BiH Consul in Bonn in the latter stages of the war. ICG interview with former intelligence officer, 14 March 2003.

¹⁵⁷ Several articles in *Slobodna Bosna*, which is widely believed to serve as Alibabic's mouthpiece, alleged that the most disturbing thing for the SDA leadership was that FOSS investigations were connecting the pre-war *Mladi Muslimani* (the "Young Muslims" out of which the SDA was born) with Arab terrorist networks. As a consequence, Bosniak leaders were supposedly determined to get Ashdown to sack Alibabic. See, for example, "Mladi Muslimani su bosanske muslimane vezali uz Hitlera, a njihovi danasnji sljedbenici us Bin Ladena", *Slobodna Bosna*, 10 January 2002.

¹⁵⁸ See, for example, "Esdaun pokriva Karadzica, sprske i britanske spijune", *Oslobodjenje*, 3 November 2002, and "Sta radis za Britance?", *Slobodna Bosna*, 1 May 2003.

¹⁵⁹ For accounts of the end of the affair, see the articles by Nick Hawton, *Dani* editor Senad Pecanic and OHR media

candidates subsequently put up by the Federation government to run FOSS were regarded by OHR as worse than Alibabic,¹⁶⁰ while the (Croat) acting director of FOSS, Ivan Vuksic, has since been charged with taking part in attacks on SFOR troops during the OHR-organised raids on Hercegovacka Banka in April 2001.

B. THE PURSUIT OF REFORM

Apart from narrowing the application of the immunity law, expanding the scope of the vetting procedure and pushing through state and entity civil service laws, Lord Ashdown has pressed for implementation of the Law on Conflicts of Interest and sought to spark a public debate on the high cost of government. Although the state and entity premiers pledged in March to undertake a thoroughgoing reform of public administration when they appeared before the PIC Steering Board, such an effort runs counter both to the prevailing political culture and to the specific circumstances created by the international regime in BiH.

As Ashdown acknowledged in a speech on 9 June 2003, the “substantial international presence” has itself bred irresponsibility among the country’s political class. Foreigners have taken charge of reform, drafting key laws and regulations, and reversing bad decisions:

If spending limits are about to be breached, or a Standby Agreement about to fall, we tend to intervene, the problem disappears, and life goes on. So the symptoms are relieved, the immediate crisis averted; but too often the chronic disease remains unaffected.¹⁶¹

Notwithstanding the improved legal environment, Ashdown continued, “I have lost count of the number of times in the last six months when I have had to intervene to prevent elected politicians and

political parties from undermining the spirit of the civil service laws”.¹⁶²

BiH, he insists, cannot continue to spend “64 per cent of its GDP [*sic*] on its politicians and bureaucrats” or twice as much proportionately on defence as Britain or France. Nor can it sustain the haemorrhage of young people and academics that it has suffered over the past decade. Yet signs of rebellion by the “citizens who pay the taxes, who stand in line, who pay their bills, who respect the law” but who get precious little in return have been few. The “silent majority” is “more silent than [a] majority.” Ashdown could cite only the example of the Bulldozer Committee – another international initiative – as a portent of change.¹⁶³

He might, however, have mentioned refugee return in this context. Not only has this been a truly popular phenomenon, but a rare instance of the international community succeeding in changing the behaviour of – and transferring responsibility to – domestic institutions.¹⁶⁴ The decision of the PIC in January 2003 not to equate implementation of the property laws (which will be largely complete by the end of the year) with fulfilment of Annex 7 to the DPA means that promoting return will remain a priority. Moreover, the PIC’s endorsement of the strategy prepared by the state Ministry for Human Rights and Refugees under the former government but taken over by their successors, testifies to the emergence of a consensus in this sphere, despite the fact that the plan envisages – by BiH standards – a remarkable degree of subordination of the entity and cantonal refugee ministries to the state ministry.¹⁶⁵

The High Representative has imposed several laws and decisions aimed at improving the country’s

director Julian Braithwaite in Institute for War and Peace Reporting, Balkan Crisis Report No. 413, 11 March 2003.

¹⁶⁰ ICG interview with OHR official, 14 April 2003.

¹⁶¹ OHR, Speech by the High Representative for BiH, Paddy Ashdown, at the Launch of the UNDP Governance Perception Survey, 9 June 2003.

¹⁶² Ibid.

¹⁶³ Ibid. There has been considerable debate whether public spending actually consumes 64 per cent of GDP, but not that it is far too high. The propensity of parliamentarians to vote themselves salary rises and press reports of what some newly appointed heads of state agencies are being paid ensure that Ashdown’s strictures strike a popular chord.

¹⁶⁴ For details, see ICG Report, *The Continuing Challenge of Refugee Return in Bosnia & Herzegovina*, op. cit.

¹⁶⁵ See “Strategija Bosne i Hercegovine za provedbu aneksa VII Dejtonskog mirovnog sporazuma”, December 2002, and OHR, Peace Implementation Council, Declaration of the Political Directors of the Peace Implementation Council Steering Board, 30 January 2003.

legal framework and inculcating the rule of law.¹⁶⁶ But the international community is proving reluctant to fund some of the institutions it has previously insisted that BiH must have. For example, the establishment of a special State Court chamber to try the several thousand war crimes cases that the ICTY will not be able to handle has been repeatedly deferred for want of funding. Meanwhile, the Human Rights Chamber, created by Annex 6 to the DPA, is being abolished and its mandate transferred to the Constitutional Court – mainly because no one wants to pay any longer for its expensive and allegedly non-productive foreign judges.

On the other hand, combating the links between political structures and organised crime has rapidly ascended the international agenda. Together with other international agencies and foreign governments, OHR launched a campaign to combat organised crime and, in particular, to root out the networks believed to support fugitives from the Hague Tribunal. At the outset of the skilfully co-ordinated series of actions on 7 March 2003, OHR blocked the bank accounts of two prominent SDS members and their firms. Momcilo Mandic (Manco Oil) and Milovan Bjelica (Privredna Banka Srpsko Sarajevo) are reputed to be Karadzic's chief financial and logistical backers.¹⁶⁷ Ashdown also sacked Bjelica as president of the

Municipal Assembly of Srpsko Sarajevo, while the American and EU governments later imposed travel bans and asset freezing orders on these men and other alleged helpmates of indicted war criminals.¹⁶⁸

As noted above, SFOR also raided offices of RS Military Intelligence Centre 410 on 7 March and confiscated computers and documentation that were later said to confirm that the entity's spooks were spying on SFOR, international organisations, Federation agencies, and individuals in the RS. These data had allegedly been shared not only with the RS hierarchy, but also with the authorities in Belgrade, including elements involved in plotting Zoran Djindjic's assassination.¹⁶⁹ Coming on top of the Orao affair, this left Presidency Chairman (and former RS President) Sarovic with no alternative but to resign before he was sacked on 2 April. Ashdown announced the same day the abolition of the RS Supreme Defence Council and the formation of a joint OHR-OSCE commission to draft legislation providing for effective state-level civilian command and a common general staff for the country's armed forces by the end of 2003.¹⁷⁰

NATO Secretary-General Robertson, who had previously made the running in promoting military reform in BiH, now visited Sarajevo to reinforce OHR's seizure of the initiative. Robertson

¹⁶⁶ The most important include the state-level Criminal Code and the Criminal Procedure Code, imposed by Ashdown in January 2003. For the first time in BiH legal practice, these laws provided mechanisms for the seizure of property and profits obtained through criminal activities. The Federation parliament was still arguing over amendments to the analogous, entity-level criminal procedure law into the summer, but did finally enact the code on 9 July 2003. The full texts of the codes are available on www.ohr.int.

¹⁶⁷ Such actions became possible after the High Representative imposed amendments to the banking laws allowing the regulatory agencies to block the assets and prohibit transactions by individuals or companies that obstruct implementation of the DPA. These amendments were likewise imposed on 7 March. According to press reports, however, the affected companies continued to operate normally throughout the RS. See "Mandiceve pumpe i banke nesmetano posluju, Karadzicev budzet i dalje stabilan", *Slobodna Bosna*, 10 April 2003. Mandic was subsequently arrested in Serbia on 13 April as part of the round-up following the assassination of Prime Minister Djindjic. BiH has issued a warrant for his arrest should he be released from custody in Serbia.

¹⁶⁸ The EU Council and OHR finally published their long-touted list of persons banned from travelling to EU states because of their support for indicted war criminals on 1 July 2003. Containing only fourteen names (including Mandic and Bjelica) rather than the 25 or 100 that had been expected, the list was said to be provisional. Many of those included immediately proclaimed their innocence and/or bafflement. One person on the list, the abbot of Milesevo Monastery in Serbia, Vasilije Veinovic, was subsequently revealed to have been dead since 1997. See "Na 'crnoj listi' EU 14 osoba", *Nezavisne novine*, 2 July 2003. Ashdown issued an order freezing the bank accounts of more alleged supporters of indicted war criminals on 7 July, including four members of the Karadzic family. OHR Press Release, "High Representative Announces further Action in the Fight against Crime", 7 July 2003.

¹⁶⁹ "Obavjestajci VRS ucestvovali u pripremi ubistva Djindjica", *Nezavisne novine*, 28 March 2003.

¹⁷⁰ OHR Press Release, "High Representative Acts to Ensure that Military in BiH are under Effective Civilian Control", 2 April 2003. Ashdown later appointed former U.S. Assistant Secretary of Defence James R. Locher III to chair the Defence Reform Commission. OHR Press Release, "High Representative Appoints Defence Reform Commission", 8 May 2003.

reiterated that the creation of a state-level defence ministry was a prerequisite if BiH were serious about progressing from the Partnership for Peace program to actual NATO membership.¹⁷¹ Maintaining the momentum, the High Representative moved on 29 May to establish an intelligence reform commission charged with elaborating proposals and drafting laws by 1 August 2003 to create a single, state-level intelligence agency by 1 January 2004.¹⁷²

The defence and intelligence reform commissions – like that on indirect taxation set up on 12 February 2003 – represent significant moves by Ashdown to redress the balance of power between the state and the entities. The first two will also require a creative reinterpretation of the Dayton constitution if prerogatives heretofore regarded as belonging to the entities are to be assumed by the state without formal constitutional amendments. Although no such constitutional dilemma arises in the sphere of customs reform, the introduction of VAT on the state level could also involve an enlargement of the Dayton envelope.

An important step towards softening up the nationalist parties for the blows to come took place even before the elections. In order to curb political malversation in the management of public companies, OHR and OSCE engaged special auditors to investigate the most lucrative firms, above all the electricity utilities and telecoms operators. They have traditionally served as the major sources of revenue, patronage and power for the big-three nationalist parties in their respective fiefdoms. The first audits of the three electric companies, published in February 2003, revealed brazen embezzlement and abuse of public funds in the RS and “Herceg-Bosna” firms and less spectacular malpractice in the case of the Bosniak-controlled Elektroprivreda.¹⁷³ A public opinion poll

sponsored by OSCE showed that people were both appalled by these revelations (or confirmations of their suspicions) and sceptical that their leaders possessed either the will or the ability to fight corruption.¹⁷⁴

According to Ashdown, “the most important reforms that I have been involved in since I became High Representative” are the unification of the country’s three customs services and the introduction of VAT on the level of the state.¹⁷⁵ This project, undertaken with the financial and technical support of the EU, aims not only to increase the yield from indirect taxes by putting an end to KM 1.4 billion (€ 700 million) in annual losses to fraud, but also to empower the state by making it the entities’ banker. The Indirect Tax Policy Commission he established in February 2003 under the chairmanship of veteran EU official Jolly Dixon was tasked with examining the modalities and preparing the necessary legislation.¹⁷⁶ Although there are still many uncertainties regarding how exactly VAT will be collected and distributed, the unification of the customs services and the creation of an Indirect Taxation Administration have proceeded apace. The interim law providing for the merger of the customs services and establishing the Indirect Taxation Administration completed its accelerated

Obradovic dao milion maraka FK Sarajevo”, *Slobodna Bosna*, 27 February 2003. The auditors’ reports on the electricity companies are available at www.ohr.int. Those on the telecoms firms are expected shortly.

¹⁷⁴ OSCE Press Release, “OSCE Poll Shows Public Has No Confidence in BiH Leaders to Fight Corruption”, 1 April 2003. Demonstrations of the hollowness of the political elites’ invocations of their respective national interests while they line their own pockets have long seemed the most promising means of undermining their popular support. The OSCE poll – which showed that 70 per cent of respondents across BiH had little or no faith in their politicians’ commitments to reform and fighting corruption – appears to confirm the effectiveness of this approach.

¹⁷⁵ OHR Press Release, “High Representative Establishes Indirect Tax Policy Commission”, 12 February 2003. Besides the two entities, Brcko District has its own customs administration.

¹⁷⁶ OHR, Decision Establishing the Indirect Tax Policy Commission, 12 February 2003.

¹⁷¹ “Jedinstvena vojska do kraja godine”, *Dnevni avaz*, 11 April 2003.

¹⁷² OHR Press Release, “High Representative Establishes BiH Intelligence Reform Commission”, 29 May 2003. Ashdown named Kalman Kocsis, a former head of Hungary’s post-communist intelligence agency and, more recently, his country’s ambassador to BiH, to chair the commission.

¹⁷³ See “Iz Elektroprivrede RS nelegalno izvlicen novac”, *Nezavisne novine*, 6 February 2003; “Hejs: Od gradjana opljackali milioni”, *Nezavisne novine*, 26 February 2003; “Za obnovu zgrade Bicakcic platilo 15 miliona maraka, a

parliamentary procedure on 30 June and was proclaimed formally in force on 1 July 2003.¹⁷⁷

As for the more politically contentious question of VAT, only the basic principles that will prevail are known thus far. It is envisaged that tax receipts will be paid into one account, from which disbursements will go, firstly, to state institutions (so putting them at the head of the queue rather than at the tail) and only then to the entities and Brcko District in proportion to their collection rates. There are conflicting interpretations, however, about what all this could mean. While some international officials express the conviction that it will fundamentally redress the balance of power between the entities and the state, others aver that, given Dayton constraints, it will have no such far-reaching impact.¹⁷⁸

All these OHR-initiated reforms, as well as the ongoing restructuring of the judiciary, prosecution services and courts, have been endorsed or tolerated by the nationalist parties. They have accepted them either because they are necessary if BiH is to join the EU and NATO's Partnership for Peace or because the High Representative has given the parties no alternative if they want to enjoy such pleasures of office as will remain to them. Ashdown has thus sought to remake as well as to re-brand the nationalists. Instead of pursuing the vain quest for "moderates", he has endeavoured to accommodate both the logic of BiH's

multinational essence and the initial error of the international community in rushing to hold early elections that confirmed the power and democratic legitimacy of the criminalised parties that had fought the war.

This is a high-risk strategy: not just because it seeks to effect an improbable transformation in normalising the nationalists, but also because it is motivated in large part by the urgent need to proclaim victory and depart. On the other hand, it is now too late to ban these parties or to elect a new people.¹⁷⁹ Compelling the nationalists to take responsibility for reform may be both the only option and the best revenge. The trouble is that the nationalists are again in a position to stonewall over implementation, and OHR may be tempted to let them get away with it – not just because it cannot actually run the country, but also because too much political capital may have been expended in getting the nationalists to sign up to reform. Lord Ashdown may therefore have less room for manoeuvre than he imagines. For it would be difficult to re-brand the nationalists yet again as hopeless obstructionists should "Jobs and Justice" and the other reform agendas turn out to be no more than persuasive power-point presentations.

The performance of the Council of Ministers to date does not, for example, inspire confidence. It has adopted the several strategic documents prepared for it by the international community, but has failed to translate these into a legislative program. It has been reactive rather than proactive. The only substantial laws it has pushed through are those drafted for it by others: OHR, the Bulldozer Committee, the Indirect Tax Policy Commission, and the Council of Europe. It has taken few if any steps towards meeting the good governance requirements set out by the European Commission's Stabilisation and Association process.

Not until 3 July 2003 did the CoM adopt rules of procedure reflecting its new composition or move to equip itself with any policy-planning capacity by setting up committees for economic policy (under Mladen Ivanic) and home affairs (under

¹⁷⁷ "Jedinstvena carina u BiH bitna za sve gradjane", *Nezavisne novine*, 2 July 2003. In the meantime, however, the RS members of the Indirect Tax Policy Commission appear to have lobbied successfully for the preservation of the seven existing customs regions, which reflect entity boundaries, rather than the creation of four, cross-entity regions proposed by the Croat and Bosniak members. Seven regions would, according to FBiH Finance Minister Dragan Vrankic, "mean that the entities will have their fiscal sovereignty and an incompletely united customs". The commission is required to draft the definitive customs law by the end of July 2003. "RS isposlovala podijeljenu carinu", *Oslobodjenje*, 4 July 2003.

¹⁷⁸ One Western official told ICG that there are people in the international community who think that tax revenues should simply pass untouched through the state's coffers to the entities, while others aim to make the state the direct paymaster of end users at all levels, without entity participation. The latter would constitute an assault on the fiscal sovereignty of the entities for which there appears to be insufficient international unity and determination. ICG interview with Western official, 27 February 2003.

¹⁷⁹ Dayton architect Richard Holbrooke continues, however, to advocate an electoral ban on the SDS. See "Nisu oni nacionalisti, to je kriminalna banda", *Dani*, 27 June 2003.

Barisa Colak).¹⁸⁰ The Justice and Security ministries remain empty shells, without staffs or budgets of their own. National parallelism appears to be emerging once more in other ministries, many of which are also rudderless because they still lack organisational rulebooks, work plans or both. Without these they cannot hire or re-deploy administrative staff according to the dictates of the Civil Service Law. But without staff, they complain that they cannot proceed to implement the new CoM structure. Bosnia's putative prime minister has thus far failed to exert the leadership necessary to break such impasses or to move from declarative endorsement of reform to its realisation.

This situation is fraught with danger. The High Representative can command but not implement reform. As matters stand, however, neither can the CoM. Whether through sloth, incompetence, inter-party discord or conscious sabotage it has yet to acquire the legal and organisational capacity to make good its pledges. There is no reason to imagine that the entity governments are any more coherent or competent. They too are in office but not in power.¹⁸¹

Ashdown and his team will not be able to pretend indefinitely that all is well with the nationalist governments. Such a face-saving approach merely strengthens the notion among domestic politicians that the international community is weak, that it does not know what it is doing and that, in essence, it is ready to settle for profession if it cannot get practice. Although dismissals and impositions are imperfect weapons – and potentially counterproductive in what is meant to be the final phase of overt international stewardship in BiH –

there may need to be yet more of them. In deploying his Bonn powers, however, Lord Ashdown enjoys two big advantages over his predecessors. In the first place, he has created a popular constituency for himself and for reform unlike anything that has existed before. Secondly – and notwithstanding the happy talk designed to create the impression and stimulate the reality of progress – he has carefully avoided actual identification with the new governments. Both he and they should remember that.

There is also the option of constitutional change. While there is no prospect that Sulejman Tihić will get his wish for a set-piece international conference (Dayton II) to revise or replace Annex 4 any time soon, the commissions at work on defence, intelligence and indirect taxation could result in *de facto* amendment of the constitution. But they may not. If the unity, resolve and ingenuity of the international community prove insufficient to permit their foreign chairmen to overcome Serb opposition to real state-building solutions, the commissions may simply paper over some of Dayton's cracks rather than raise the Dayton ceiling. But if, on the other hand, the commissions *do* realise their potential to redefine Dayton, the High Representative could have recourse to more such issue-specific bodies.¹⁸²

The current proposal that the Constitutional Court should take over the mandate of the Human Rights Chamber in 2004 offers an insight into the evolution of opinion on the question of how much change is possible within the confines of the Dayton constitution. OHR believed initially that the authority of the Constitutional Court as defined in Annex 4 was sufficiently broad to permit it to assume the Annex 6 responsibilities of the Human Rights Chamber. It has now changed its collective

¹⁸⁰ "Zamjenici nece biti na sjednicama", *Oslobodjenje*, 4 July 2003. This means that Ashdown's suggestion in October 2002 that there should be an inner-cabinet composed of representatives of each constituent nation has been partly realised.

¹⁸¹ SDP Vice-President Nebojsa Popović told *Blic* that "Our governments in BiH feel comfortable because their job is done by OHR, and they just do what they are told". Otherwise, they are irresponsible and incompetent. Ivanić, however, blamed the new multinational composition and the presence of inexperienced ministers for the failure of the RS government to tackle pressing issues, but promised it would have "a clear conception of key reforms by October or November"! OHR Media Round-Up, 7 July 2003.

¹⁸² Tihić fears the commissions will "legalise" Dayton's worst aspects by preserving entity prerogatives in these spheres and, in fact, effect retreats from the standard set by the State Border Service and SIPA (the nascent state security organisation). The foreigners will settle for form over substance. "Kompromisi na stetu BiH", *Dnevni avaz*, 7 July 2003. On the other hand, his party colleague Hasan Muratović, vice-president of the Council of Europe Parliamentary Assembly, has argued that although the Dayton constitution requires formal revision, it is sufficiently flexible to permit significant improvements through *ad hoc* legislative commissions. "Do promjene Ustava BiH nece brzo doci", *Dnevni list*, 4 July 2003.

mind, and proposes instead a transitional arrangement whereby the mandate (and some personnel) of the Human Rights Chamber will be relocated to the Constitutional Court until such time as constitutional amendments are enacted to broaden the jurisdiction of the Constitutional Court. OHR is confident that the necessary constitutional amendments can be passed before the middle of 2004, when the transitional arrangement is due to end.¹⁸³

Although the subject of judicial competencies may be highly technical – and the prospect of “nationalising” and rationalising jurisdiction in the human rights field is likely to appeal to jurists across BiH – the fact remains that an important precedent will be set if OHR succeeds in securing agreement on constitutional amendments. Not only would a central state institution acquire more authority, but the taboo on constitutional amendments would be broken thanks to an internationally mediated effort to solve a specific problem. This could offer another model for rolling, consensus-driven revision of BiH’s constitutional structure.

Although High Representatives cannot amend the DPA, they can – as beneficiaries of its 1997 reinterpretation – make other changes that might set the process in motion. The entity constitutions are certainly fair game. There is much discussion at present, for example, about the possibility that Ashdown might remove policing from the purview of the cantons in the Federation and/or initiate the establishment of a state-wide police service and interior ministry. He could also, of course, simply abolish the cantons. This, however, is not a realistic option, largely because Croats would regard it as a declaration of war. The HDZ would accept the elimination of the cantons only if the entities were to go at the same time. And there is no chance of that becoming feasible within the foreseeable future.

The increased emphasis on administrative and governance reform – required by both Brussels and financial necessity – might provide justification, however, for the major redistribution of power that several parties claim to want. Like the current assaults on the parties’ control of the public

utilities and the ongoing attempts to establish a non-political civil service, a significant redistribution of administrative and fiscal competencies, both upwards to the state and downwards to the municipalities, could help break the constitutional impasse. Whether there will be scope for municipalisation will depend, however, on realising the potential of military, intelligence and indirect tax reform. If the commissions now at work fail to adopt radical, state-boosting options, there will be no opening for any movement in the other direction. The international community will then have to think again about tackling constitutional issues directly. Fortunately, the example of the Human Rights Chamber indicates that there is already some scope for this.

¹⁸³ ICG interviews with OHR officials, 1 and 10 July 2003.

IX. CONCLUSION: THE PARADOXES OF STATE-BUILDING

Far from representing a disaster, the return of the nationalists to government has liberated the High Representative from the constraints of “partnership” and disabused Bosnians of the notion that the foreigners can or should anoint their leaders. Far from inducing disengagement, the certainty that the international experiment in Bosnia & Herzegovina has entered its terminal phase has required Lord Ashdown to pursue an energetic strategy of “back to basics”. This has meant, seven years after the war, attempting to do what Bosnia’s reluctant guardians had neither the power nor the ambition nor the wit to attempt in the first two years of peace implementation. State-building was not, after all, what Dayton was about. It was designed to put an end to the carnage and to get Sarajevo and Srebrenica and columns of refugees off the world’s television screens, thereby patching up NATO and re-electing an American president.

The gradual realisation that what had served to end a war was not sufficient to create a viable state or to perpetuate the peace led to the equally gradual elaboration of an international protectorate that looked likely, by the late 1990s, to become permanent. Increasingly unaccountable because uninteresting to the outside world, but also wholly absorbing to those involved and relatively cheap to run, the international regime in BiH proceeded by trial and error. It was characterised by turf wars among rival organisations and powers and a continuing search for both big ideas and “moderate” political forces through whom those ideas might be realised. Its great success was to have stayed the course: outlasting both the war criminals who had accepted a mere armistice at Dayton and the realists who had programmed Dayton implementation to last but a year.

When it turned out, in the absence of body bags, that there was no pressing need to exercise that exit strategy – but an obvious need to slog on – thoughts turned to doing rather than finishing a still-undefined job. The trouble was that the starting point (partition) was so unpromising, the tools (the Bonn powers) so blunt, the helpers (the international community) so fractious, the locals (the three constituent peoples) so divided, and the destination so obscure. Only during Wolfgang

Petritsch’s time in office did the lineaments of the journey’s end appear. BiH would transcend the *ad hoc* arrangements stemming from Dayton as it traversed the road to Brussels. Exit would become entry. But Petritsch also posited a “partnership” between the international community and the Alliance government to make this happen that turned out to be mutually disappointing. Neither could deliver what the other required because neither was actually in control of a country that still lacked the basic rudiments of competent and legitimate government, the rule of law, a viable post-communist economy, and any consensus over or faith in the way ahead.¹⁸⁴

Ashdown has set out to provide the remedies in the short time left before the states that comprise the PIC lose all patience with BiH and there is no more money to keep either OHR or BiH afloat – but while the welcome mat still sits in front of the EU’s door. For the first time there is a Mission Implementation Plan setting out the specific goals and the points at which the handovers to domestic institutions will take place. For the first time, too, there is serious thought in OHR itself about how and when to lay down the Bonn powers. Most encouragingly, however, Ashdown’s efforts to build a popular and political mandate for reform appear to be bearing fruit. There is no guarantee, of course, that this incipient mandate will be translated into successful or timely reforms. The variables are many and the obstacles are intractable. The nationalist governments retain the capacity to obstruct progress and the international community remains prone to cave in, wimp out and screw up.

In the meantime, paradox will prevail. In order to get out, OHR must get in more deeply. In order to do away with the Bonn powers, they will have to be used more intensively. In order to accustom BiH politicians again to take responsibility for

¹⁸⁴ See in this context the otherwise mischievous and wrong-headed article by Gerald Knaus & Felix Martin, “Travails of the European Raj: Lessons from Bosnia & Herzegovina”, *Journal of Democracy* (Vol. 14, No. 3, July 2003), p. 68. Knaus and Martin quite incorrectly state that the High Representative’s powers are destined to “expand indefinitely”. While they grudgingly acknowledge that “some coercive powers were required” by the international community in early years, they seem unaware of the High Representative’s Mission Implementation Plan, discussed above.

their country, the High Representative will have to seek to hold them to the pledges he has extracted. In order to inculcate the rule of law, make democratic governance possible, and free the peoples of BiH from their fears and obsessions, the High Representative will need occasionally to ride roughshod over the norms of legality, transparency and democracy. This will not always look pretty. But neither did the war and the past international failures that have made it necessary.

Sarajevo/Brussels, 22 July 2003

APPENDIX A

MAP OF BOSNIA & HERZEGOVINA



APPENDIX B

LIST OF ACRONYMS

BiH	Bosnia & Herzegovina
CoM	Council of Ministers
DNS	Democratic People's Alliance (minor RS-based political party)
DPA	Dayton Peace Accords
DPS	Democratic Patriotic Party (minor RS-based political party)
DS	Democratic Party (minor RS-based political party)
EU	European Union
EUPM	European Union Police Mission
FBiH	Federation of Bosnia & Herzegovina
FOSS	Federation Intelligence Service
HDZ	Croatian Democratic Union BiH (major Croat nationalist party, formerly a branch of its namesake in Croatia)
ICTY	International Criminal Tribunal for the Former Yugoslavia (The Hague Tribunal)
NATO	North Atlantic Treaty Organisation
NHI	New Croatian Initiative (moderate Croat party led by ex-HDZ leader Kresimir Zubak)
OHR	Office of the High Representative
OSCE	Organisation for Security and Cooperation in Europe
PDP	Party of Democratic Progress (RS-based political party led by Mladen Ivanic)
PIC	Peace Implementation Council
RS	Republika Srpska
RSNA	Republika Srpska National Assembly
SBiH	Party for Bosnia & Herzegovina (predominantly Bosniak political party founded by Haris Silajdzic)
SDA	Party of Democratic Action (major Bosniak nationalist party founded by Alija Izetbegovic)
SDP	Social Democratic Party (multinational party descended from Communists led by Zlatko Lagumdzija)
SDS	Serbian Democratic Party (major Serb nationalist party founded by Radovan Karadzic)
SDU	Social Democratic Union (party founded in 2002 by former SDP members)
SFOR	Stabilisation Force
SNS	Serb National Alliance (minor RS-based party founded by Biljana Plavsic)
SNSD	Alliance of Independent Social Democrats (major RS-based party led by Milorad Dodik)
SNP	Alliance of National Revival (minor RS-based party founded by Mirko Banjac)
SPRS	Socialist Party of Republika Srpska (minor RS-based party, once an offshoot of Slobodan Milosevic's Socialist Party of Serbia)
SPU	Party of Pensioners and Retirees (minor RS-based political party)
SRS	Serbian Radical Party (RS-based party closely linked to extremist party in Serbia with same name led by Vojislav Seselj)

APPENDIX C

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (ICG) is an independent, non-profit, multinational organisation, with over 90 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

ICG's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, ICG produces regular analytical reports containing practical recommendations targeted at key international decision-takers.

ICG's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made generally available at the same time via the organisation's Internet site, www.crisisweb.org. ICG works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The ICG Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring ICG reports and recommendations to the attention of senior policy-makers around the world. ICG is chaired by former Finnish President Martti Ahtisaari; and its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

ICG's international headquarters are in Brussels, with advocacy offices in Washington DC, New York, Moscow and Paris and a media liaison office in London. The organisation currently operates

twelve field offices (in Amman, Belgrade, Bogota, Islamabad, Jakarta, Nairobi, Osh, Pristina, Sarajevo, Sierra Leone, Skopje and Tbilisi) with analysts working in over 30 crisis-affected countries and territories across four continents.

In *Africa*, those countries include Burundi, Rwanda, the Democratic Republic of Congo, Sierra Leone-Liberia-Guinea, Somalia, Sudan and Zimbabwe; in *Asia*, Indonesia, Myanmar, Kyrgyzstan, Tajikistan, Uzbekistan, Pakistan, Afghanistan and Kashmir; in *Europe*, Albania, Bosnia, Georgia, Kosovo, Macedonia, Montenegro and Serbia; in the *Middle East*, the whole region from North Africa to Iran; and in *Latin America*, Colombia.

ICG raises funds from governments, charitable foundations, companies and individual donors. The following governments currently provide funding: Australia, Austria, Canada, Denmark, Finland, France, Germany, Ireland, Japan, Luxembourg, The Netherlands, Norway, Sweden, Switzerland, the Republic of China (Taiwan), Turkey, the United Kingdom and the United States.

Foundation and private sector donors include Atlantic Philanthropies, Carnegie Corporation of New York, Ford Foundation, Bill & Melinda Gates Foundation, William & Flora Hewlett Foundation, Henry Luce Foundation Inc., John D. & Catherine T. MacArthur Foundation, John Merck Fund, Charles Stewart Mott Foundation, Open Society Institute, Ploughshares Fund, Ruben & Elisabeth Rausing Trust, Sasakawa Peace Foundation, Sarlo Foundation of the Jewish Community Endowment Fund and the United States Institute of Peace.

July 2003

APPENDIX D

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* The Algeria project was transferred from the Africa Program to the Middle East & North Africa Program in January 2002.

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