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Levelling the Political Playing Field: Democratization through Supporting a Pluralistic and Moderate Party System in Bosnia and Herzegovina

"We have found that non-ethnically-based political parties are openly supported by the various international organizations."¹

Introduction

In November 1990, the first post-communist elections were held in Bosnia and Herzegovina. Although all established in the year of the elections, the three main nationalist parties representing the three main ethnic groups attained an overwhelming victory. Bosniacs voted mainly for the Party of Democratic Action (SDA), Bosnian Croats for the Croatian Democratic Union (HDZ) and Bosnian Serbs for the Serbian Democratic Party (SDS). After their victory these parties formed a government coalition on 18 November 1990. All levels of government, central and de-central, in virtually all locations were divided up between the three coalition partners. The parties developed a tight grip on the armed forces, police, judiciary, humanitarian aid, media, economy and other crucial sectors on their own territory.² So far they have maintained a strong level of control.

The signing of the General Framework Agreement for Peace in Bosnia and Herzegovina in November 1995, brought into existence a weak central state, comprising two entities with strong self-governing powers: the Republika Srpska and the Federation of Bosnia and Herzegovina. While the large majority of Republika Srpska inhabitants are Bosnian Serbs and its main nationalist parties are SDS and the Serbian Radical Party (SRS), the large majority of inhabitants of the Federation are Bosnian Croats and Bosniacs. In the Federation, political power is still divided between SDA and HDZ. The Federation does not function properly and its political powers are split between the two parties. The country is thus *de facto* divided into roughly three sectors.

The international community has been following a "deliberate policy to hold elections frequently in order to (...) accelerate the erosion of support for

1 Report on the conformity of the legal order of Bosnia and Herzegovina with the Council of Europe standards, AS/But/BiH (1999) 1Rev., Strasbourg, 7 January 1999, p. 39.

2 Cf. John B. Allock/Marko Milivojevic/John J. Horton (Eds.), *Roots of Modern Conflict. Conflict in the former Yugoslavia*, California 1998; European Community Monitor Mission (ECMM), *An Overview of the Bosnia and Herzegovina Political Spectrum, Pre-election Special Report*, Sarajevo 1998; David A. Dyker/Ivan Vejvoda, *Yugoslavia and After*, New York 1996, p. 99.

hardline nationalist politicians".³ A few years of international involvement were to move the country up the road of Western democracy, and moderate political forces were expected to come to the fore. This was a serious over-estimation. The same nationalists not only overwhelmingly won the first post-war 1996 elections, but also failed to lose their majority in the subsequent 1997 and 1998 elections. An exception forms the central government in the Republika Srpska, where a moderate nationalist coalition (SLOGA) is in power.⁴ Opposition parties have been growing, but not fast enough to contest the nationalist parties throughout the country. As the former director of the International Crisis Group (ICG) for Bosnia and Herzegovina⁵, Christopher Bennett, observed after the 1998 elections: "The elections resemble an ethnic census and those politicians playing the ethnic card perform best."⁶

More importantly, soon after the first post-Dayton elections, it became clear that the elected nationalist parties could not deliver peace and stability as they simply continued to wage war by political means. As early as 1997, the OSCE became aware that high-level authorities, leaders of dominant political parties, armed forces and police were blocking OSCE democratization efforts. The very influential Peace Implementation Council (PIC)⁷ has traditionally been critical of nationalist rule. For instance, a Ministerial PIC meeting of 9 June 1998, noted that "the Bosnian political leaders elected in 1996 have largely failed to serve the interest of the people of Bosnia and Herzegovina in rapidly implementing the Peace Agreement and in laying the basis for a peaceful and prosperous future".⁸ On 15 June 1999, it expressed deep concern about the lack of progress in the implementation of the Dayton Peace Agreement. Along with its resentment of the nationalist parties, the PIC has been very supportive of multi-ethnic opposition parties. This support was especially explicit in their June 1998 conference: "The Steering Board encourages political parties and non-governing organisations in member countries of the Peace Implementation Council to support and assist pro-Dayton and

3 Report on the conformity of the legal order of Bosnia and Herzegovina with the Council of Europe standards, cited above (Note 1), p. 39.

4 For a majority, the moderate SLOGA coalition depends on the support of the Federation-based Coalition for a Whole and Democratic Bosnia and Herzegovina (KCD, headed by the Bosniac nationalist SDA).

5 The ICG is a non-governmental organization, mainly involved with writing political analyses.

6 European Voice, 22-28 October 1998.

7 The PIC is the main international political policy body overseeing the implementation of the Peace Agreement. It has a Steering Board (SB) which operates under the chairmanship of the High Representative. It consists of representatives of Canada, France, Germany, Italy, Japan, Russia, UK, US, the EU Presidency, the EC and Turkey (in the name of the Organization of the Islamic Conference). International organizations like the UN and OSCE are also represented. The Steering Board gives the High Representative political guidance. Cf. Conclusions of the Peace Implementation Conference Held at Lancaster House, London, 8-9 December 1995 and information given by Mr. Lonnback (Office of the High Representative, Sarajevo).

8 Declaration of the Ministerial PIC SB, Article 61, Luxembourg, 9 June 1998.

multi-ethnic political parties in Bosnia."⁹ The continuing division of the country not only calls into question the viability of the state, but a multi-ethnic, self-sustainable Bosnia and Herzegovina is the ultimate "exit-strategy" of the international community. Before outside assistance can be scaled down significantly, moderate parties will have to gain considerable support from the voters.

This article will discuss four instruments which the OSCE uses to support moderate and multi-ethnic opposition parties: political support, material/in-kind support, training support and legislative electoral support. The first three of these are being provided (or have been) by the Democratization Department of the OSCE Mission to Bosnia and Herzegovina. The electoral support is provided by the Office of the High Representative (OHR) in collaboration with mainly OSCE election staff. Before we turn to these instruments, we will first briefly review the set-up of the Mission and the place of the Democratization Department within it.

The OSCE Mission to Bosnia and Herzegovina

Bosnia and Herzegovina has been an OSCE participating State since April 1992. The Organization's presence in the country began in 1994, when a human rights Ombudsman was appointed and a Mission to Sarajevo established. However, the OSCE Mission to Bosnia and Herzegovina as we know it today was established on 8 December 1995 at the fifth meeting of the OSCE Ministerial Council and has three tasks: supervision of the preparation and conduct of elections; monitoring and reporting on human rights issues; and negotiating and implementing confidence- and security-building measures and arms control.

The Mission has five departments: Elections, Democratization, Human Rights, Regional Stabilization, and Media Affairs. Besides these there are sections for political affairs, press, administration, staff and operations. Additionally, it operates two election bodies: the Provisional Election Commission (PEC) and the Elections Appeals Sub-Commission (EASC). The OSCE has four regional centres and twenty-four field offices throughout the country. Its international staff is largely seconded by participating States. In April 1999, 223 international staff were working at the Mission, mostly seconded by North America and Western Europe (88 per cent). It is these same countries that provide over 90 per cent of the budget, which totals approximately 56 million US-Dollars for 1999. Central and Eastern European participation in the Mission is small. The Mission is very independent. Although it must comply with its mandate from the General Framework Agreement and directives of the Vienna Permanent Council and the Peace Implementation Council, it has vast room to manoeuvre.

9 Ibid.

In early 1996, a small democratization unit was created within the Human Rights Department, focusing on civil society, confidence-building initiatives and dialogue. Its activities were mainly considered an instrument to secure conditions for free and fair elections and fell under the election-related annex of the General Framework Agreement. After the OSCE Lisbon Summit of December 1996, it was decided to establish a separate branch for democratization.¹⁰ Throughout 1997 the PIC encouraged the OSCE to continue democratization activities, which were subsequently declared a high priority by the OSCE Ministerial Troika in Warsaw in January 1998.¹¹ The concept of democratization was broadened over time and is no longer strictly elections-related as it was in 1996. Today the Department conducts programmes to develop civil society, political parties, good governance and promotes the rule of law. The main office of the Department is located in Sarajevo and is represented in all regional centres and field offices. In 1997, the first budget of the Democratization Department was a little over a million US-Dollars and consisted solely of voluntary contributions by four participating States. By 1999 the budget had risen to over four million US-Dollars and was being financed through the regular Mission budget constituting about seven per cent thereof.

Political Support

In November 1998, the OSCE Mission's Democratization Department organized a conference on "The Role of the International Community in the Development of a Democratic and Multi-Ethnic Political Environment in Bosnia and Herzegovina". The conference included national and international experts as well as NGOs and embassy representatives. It concluded, *inter alia*, that the international community should continue supporting multi-ethnic parties. In order to assist these "multi-ethnic parties" in their development, the OSCE Democratization Department runs different projects under its "Political Party Development Programme". These mainly aim to support two parties and one coalition:¹²

- The Social Democratic Party recently merged (February 1999) out of the "old" Social Democratic Party (SDP), which was the reformed former Republican League of Communists, and the Social Democrats of Bosnia and Herzegovina (SDBiH, founded in 1993). The new party is multi-ethnic/socialist-oriented. It is - by far - the strongest opposition party to the

10 Cf. Siri Hustad, OSCE in Bosnia and Herzegovina: Lessons Learned - Building Democracy in Former Yugoslavia: The Democratization Programme 1996/97, Norwegian Institute of Human Rights, Oslo 1998, pp. 3 and 8

11 Cf. OSCE Press Communiqué, 21 January 1998, CIO.INF/7/98.

12 Cf. OSCE Mission to Bosnia and Herzegovina, Democratization Department, Semi-annual Report, January-June 1999, p. 13.

- SDA. The party has its main power bases in the large urban Federation centres and operates mainly in that entity.
- The New Croatian Initiative (NHI) was founded on 27 June 1998 when moderates left the nationalist HDZ. It is a moderate nationalist Croat party, operating in the Federation. It has been relatively unsuccessful in obtaining support throughout the country, but did attract some votes in middle and northern Federation areas. It is considered the largest moderate opposition party to the HDZ, but remains weak.
 - The SLOGA Coalition is an unstable moderate Serb nationalist alliance of three political parties (Serb National Alliance, SNS; Party of Independent Social Democrats, SNSD; Socialist Party of the Republika Srpska, SPRS), two of which were established by former SDS members. Like SDP and NHI, it is strongly supported by the international community. Unlike the NHI and SDP it is actually the ruling coalition on the Republika Srpska entity level. For a majority on this level, it depends on the support of Federation-based parties in the Republika Srpska. It has significant influence only in the western part of the Republika Srpska, the other (eastern) half of the entity remains under strong SDS/SRS control. The SLOGA coalition is the largest coalition against the radical SDS/SRS coalition.

Material/In-kind Support

Although numerous forms of material/in-kind support have been provided, only two crucial forms are discussed here: financial/in-kind electoral campaign support (since the 1996 elections) and political resource centres (prior to the 1998 elections).

Since 1996, four elections have been held in Bosnia and Herzegovina. In all of these, the OSCE helped political parties run their election campaigns through direct financing (1996 and twice in 1997) or in-kind support (1998). Whereas in 1996 and 1997 the OSCE Provisional Election Commission was responsible for this support, the OSCE Democratization Department reformed and implemented the programme in 1998.

Prior to the 1996 elections, the OSCE provided an estimated 4.2 million US-Dollars in support for political parties. In these elections all parties received funding. This caused a very embarrassing incident, as the OSCE awarded the party of the accused war criminal¹³ Zeljko "Arkan" Raznjatović 200,000 US-Dollars.¹⁴ At the time, Reuters noted: "In campaign literature paid for by the OSCE, Arkan's candidates oppose reunification of Bosnia as required by the

13 The US State Department had accused Arkan's notorious paramilitary forces of committing war crimes as early as 1993. For instance, see: Telegram from Istanbul US representative to State Department, code: 93istanb03414, 14 September 1993.

14 Cf. The Balkan Institute, *Balkan Watch* 37/1996.

Dayton treaty and advocate unification with neighbouring Serbia."¹⁵ OSCE officials responded that as long as the International Criminal Tribunal for the former Yugoslavia had not formally indicted Arkan, they must be even-handed in supporting all sides and could not censor campaign literature.

Approximately 1.44 Million US-Dollars were allocated to the 1997 municipal elections. As the three ruling parties were entitled to receive public funds, they received no additional funding from the OSCE. As in the first elections (and all subsequent elections), amounts released to parties were not published, which was criticized by an ODIHR observation mission: "Not making the fund distribution public could create suspicion among the parties and candidates and does not favour the transparency of the electoral process."¹⁶

Prior to the 1997 Republika Srpska national assembly elections, all parties were entitled to funds, with the exception of Arkan's party whom the Criminal Tribunal had meanwhile secretly indicted. The OSCE spent an estimated 821,000 US-Dollars on these funds.

During the 1998 pre-election campaign, three aspects of the support significantly changed. First, the Democratization Department administered the type of support, which was renamed the "In-kind Assistance Programme". Secondly, money was no longer given directly, but the OSCE paid bills for campaigning activities and provided different types of in-kind facilities. This change of strategy was evaluated positively by ODIHR as it "avoided the mis-use of cash which occurred in 1997".¹⁷ Third, and most significantly, support was targeted more extensively towards so-called "multi-ethnic parties". A total of approximately two million US-Dollars was spent.

Out of these two million US-Dollars, 750,000 were spent on political campaign support limited to 20 parties and one independent candidate with a moderate, or multi-ethnic orientation. Neither the SDA, SRS, SDS, nor HDZ qualified for extra support.¹⁸ The OSCE was no longer allowed to provide direct monetary contributions but could provide parties with in-kind support. "To the extent that the OSCE provides in-kind assistance, political parties, coalitions, and independent candidates which support multi-ethnicity, either through a multi-ethnic platform or multi-ethnic candidate lists, shall have priority to the in-kind assistance."¹⁹ The policy shift is significant, especially if one realizes that in 1996, the OSCE financed all parties who ran in the Bosnian elections - even one of a suspected war criminal.

The ODIHR observed that in the Republika Srpska the parties of the SLOGA coalition benefited most, and in the Federation the SDP, SDBiH and NHI were the main beneficiaries. These are the same parties the OSCE Democra-

15 Internet Periodical "This week in Bosnia-Herzegovina", 12 September 1996.

16 ODIHR Election Observation Report, Bosnia and Herzegovina Municipal Elections, 13-14 September 1997, Warsaw 1997.

17 ODIHR Election Observation Report, Bosnia and Herzegovina Elections 1998, 12-13 September 1998, Warsaw 1998, p. 7.

18 Cf. *ibid.*, p. 7.

19 OSCE, Provisional Election Commission, Rules and Regulations, Article 7.140, Campaign Funding, as adopted on 2 April 1998.

tization Department later chose as priority parties for training support (see below). The list of parties which were supported and the amounts spent on each of them is considered confidential.

The indirect financial support to moderate and multi-ethnic parties was criticized by the ODIHR: "(...) it necessitates some discriminatory decisions on behalf of the election authorities, as they essentially provide assistance to some registered parties and not others on the basis of the parties' political programmes. This can harm the parties' perception of the election authorities. It is common practice in many countries for assistance, be it cash or in-kind assistance, to be given on a proportional basis (...) it is unusual that such assistance, particularly appropriated by the election authorities, is dependent upon the political content of the parties' programmes (...) such practice is not in line with OSCE commitments on equal treatment of all political parties by the authorities."²⁰

Nevertheless, the "In-kind Assistance Programme" was very important, especially since opposition parties have to compete with foreign financed ruling nationalist parties, which additionally (covertly) use government sources for their campaign expenses. Neutrality in the sense the ODIHR sees it would therefore greatly benefit these strong, nationalist ruling parties. Although the OSCE in 1996 had *de jure* been neutral, *de facto* it had certainly not.

In addition to the 750,000 US-Dollars targeted for multi-ethnic and moderate parties, the same amount was to be spent equally on all parties. This was used for training seminars, 16 political parties support centres (discussed below), and newspapers containing political party platforms. An additional half million was spent by the Media Development Office.

Political Resource Centres (PRCs)

As part of the "In-kind Assistance Programme", 16 political party service centres (PPSCs) were established throughout the country, two and a half months before the 1998 elections. During the pre-election period these centres organized over 500 events for political parties (including public meetings, round tables, radio/TV debates and press conferences). Among other things, they offered office space and phone, fax or photocopier facilities.

The Democratization Department concluded that PPSCs "primarily benefited the alternative parties supporting multi-ethnic democracy, which tend to be smaller and lack sufficient resources to set up proper local offices or campaign efficiently around the country".²¹ Evidence suggests that PPSCs have indeed helped opposition parties to obtain seats. Elections in Goražde are a good example of this. Here, support on the canton level for moderate and

20 ODIHR Election Observation Report, Bosnia and Herzegovina Elections 1998, cited above (Note 17), pp. 7-8.

21 OSCE Mission to Bosnia and Herzegovina, Democratization Department, Semi-annual Report, July-December 1998, p. 13.

multi-ethnic parties has grown significantly in the most recent elections. In 1996 a coalition of five multi-ethnic/moderate parties and one other moderate party together obtained five per cent of the votes and one out of 31 seats in the Canton Assembly.²² In 1998 support for such parties rose to 28 per cent and nine seats.²³ It is difficult to determine the exact influence the PPSCs had on the results, as other factors undoubtedly also played a role and growing support for moderate parties was a general trend throughout the country.

After the elections, ten centres continued to operate, which were renamed political resource centres (PRCs). They are managed by a national manager and assistant. The PRC activities include: facilitating training of moderate and multi-ethnic opposition parties; offering office facilities; assisting in organizing press conferences and voter-meetings; facilitating contact between opposition parties and helping to form opposition co-ordination boards.²⁴ Besides having their own activities, the PRCs assist the OSCE in the implementation of other programmes.

Training of Opposition Parties

"We just finished OSCE/FES training. It was very, very good (...) We also got financial support for printing our posters (in the pre-election campaign, YdP). Without their help our work would be very hard, so much more difficult."²⁵

Parties qualifying for training overlapped to a large extent with those which received the campaign assistance. The Federation-based SDP and NHI as well as the Republika Srpska based SLOGA coalition were given priority to take part in training.²⁶ As we have seen before, these are considered the most viable parties supporting a multi-ethnic democracy and have the potential to develop into real political actors. These parties were offered "prioritized support (...) individually tailored to the needs of each party".²⁷ SDP training was the first of these to be implemented.

International support for the SDP was evident at the merger conference of the Social Democratic Party and the Social Democrats of Bosnia and Herzegovina. Important representatives from the international community attended the conference, which was held on 27 February 1999 in Sarajevo. International organizations such as the OHR, UN, OSCE, Council of Europe and the EU were represented as well as ambassadors of all of the most important for-

22 Cf. Zoran Tomic/Nevenko Herceg, *Izbori u Bosni i Hercegovini, Sveuciliste u Mostaru, Mostar 1998*, p. 156.

23 Cf. *Official Gazette of Bosnia and Herzegovina*, Year II, No. 23, Sarajevo, 15 November 1998, pp. 660, 664.

24 Cf. *Semi-annual Report*, cited above (Note 21), pp. 14-15.

25 Selim Beslagić, second man of the SDP and mayor of Tuzla, in an interview.

26 Cf. *Semi-annual Report*, cited above (Note 21), p. 13.

27 *Ibid.*, p. 14.

eign states.²⁸ Subsequently, the OSCE, in collaboration with the Friedrich Ebert Foundation (FES) and the SDP, developed a training programme. The FES, affiliated with the Social Democratic Party of Germany, had been working with the SDP since 1996. The training took place in March 1999 in the form of workshops for 200 party officials. Especially in combination with the many other kinds of training the party is receiving from European Social Democratic Parties and the American National Democratic Institute (NDI), this training can be expected to have an impact.

Individual training for the other two SLOGA parties was scheduled to go ahead in late summer 1999. Support to the NHI consisted mainly of facilitating links with the Norwegian Christian Democratic Party, which will assist in building the NHI party infrastructure, developing party PR materials etc.²⁹

Legislative Electoral Support

*"The new Permanent Election Law is the first step towards our victory. The current electoral law supports the nationalists."*³⁰

The new Permanent Electoral Law (PEL) is a form of backing that originated primarily from the OHR and OSCE election staff, and was supported by the Democratization Department.

Under Dayton, an OSCE-chaired Provisional Election Commission, using so-called "rules and regulations", was mandated to guide the 1996 elections. Thereafter a nationalized permanent commission under a new law was to take over responsibility for future elections.³¹ This has been delayed: to date all elections have been conducted under the Dayton arrangement. Simultaneously, mono-ethnic parties drawing support from a single ethnic group dominated all elections. The electoral system is not penalizing parties who seek support only among their own ethnic group, but rather encourages this.

In Bosnia and Herzegovina, basically all elections are held on the entity level and in the Dayton Accords no provision for a national election is made. The Presidential election is a good example and is very narrowly defined under Dayton: "The Presidency of Bosnia and Herzegovina shall consist of three Members: one Bosniac and one Croat, each directly elected from the territory of the Federation, and one Serb directly elected from the territory of the Republika Srpska."³² It is thus impossible for a Bosniac or Croat from the Republika Srpska, or for a Serb from the Federation to be elected. In practice,

28 Cf. ONASA Election Service, Sarajevo, 26 February 1999; ONASA Evening Service, Sarajevo, 27 February 1999.

29 Cf. Semi-annual Report, cited above (Note 21), p. 13.

30 Selim Beslagić, cited above (Note 25).

31 Cf. The General Agreement for Peace in Bosnia and Herzegovina, Annex 3, Elections, Article V: Permanent Election Commission, Dayton, 21 November 1995.

32 The General Agreement for Peace in Bosnia and Herzegovina, Annex 4, Constitution, Article V: Presidency, Dayton, 21 November 1995.

these Presidency members are elected by - and represent - only their own ethnic group.

Currently however, the OHR and OSCE - in a joint effort - are making headway on the new law, which will regulate the autumn 2000 general elections. The law might significantly influence politics in Bosnia and Herzegovina. Besides stabilizing the country, this would also further the OSCE's own agenda; its exit-strategy is entirely dependent on a stable Bosnia and Herzegovina. Alternatively, Bosnia and Herzegovina is bound to stay a protectorate for an indefinite period. Therefore, the Madrid PIC (in November 1998) called for the new law to, *inter alia*, "promote the concept of a multi-ethnic state" and "encourage candidates, parties and coalitions to seek a broad base of support amongst all citizens of Bosnia and Herzegovina".³³

A system which encouraged parties to take the vote of all ethnic groups into account would stimulate moderation in politics. A Bosnian Serb is unlikely to vote for a nationalist Bosniac candidate, but would rather support a moderate - and vice versa. It would help current moderate parties to obtain more mandates and encourage nationalist politicians to seek a more moderate political line, as the support of one ethnic group would no longer guarantee them an election victory.

An OSCE survey from March 1999³⁴ at first sight casts serious doubts on the feasibility of a multi-ethnic voting system. Based on these findings, one could argue that it would be best to maintain the ethnically divided system.³⁵ However, it would be wrong to conclude immediately that all nationalist voters are for the ethnic division of the country. Many of them, according to the ICG, might in fact be "hidden moderates": "Some Bosnians vote for nationalist parties simply because they want Bosnia to remain divided. But others feel obliged to vote nationalist for defensive reasons, out of fear of extremists in other groups. The effects of the 'fear vote' maintain the strength of all three national party structures. If this fear were removed voters might be more willing to vote for more moderate parties. The existing electoral system offers them no incentive to do this, nor is there any way to tell how numerous these hidden moderates are."³⁶

A system that would create moderation simultaneously amongst all three groups, might thus defeat this *de facto* "prisoners dilemma". Thus the law is

33 Conclusions of the Madrid Peace Implementation Council, Section V, Democratization, 16 December 1998.

34 Between 21 and 25 March 1999, a local firm conducted a survey for the OSCE on electoral issues. A total of 3,000 citizens of Bosnia and Herzegovina of voting age were interviewed throughout the country. From: <http://www.oscebih.org/PEL/SurveyGraphs-eng/Survey-graphs-Eng-2.htm>.

35 In response to the question "What was the main reason you voted the way you did in the last elections?" voters answered: "Best represents the national interest of my people": 31,3 per cent; "I have always voted that way": 17,8 per cent; "Citizens of other nationalities voted for their own": 12,1; "I am a member of the party for which I voted": 7,4 per cent; "Good economic program": 7 per cent; other nine reasons: 24,4 per cent.

36 International Crisis Group Report, Breaking The Mould: Electoral Reform in Bosnia and Herzegovina, Sarajevo, 4 March 1999.

obviously not just a legal/technical issue, but a vital political tool and will - to some extent - determine the political future of Bosnia and Herzegovina. ICG: "Different voting systems favour different outcomes. Voters with different political views may support various types of reform depending on their own agenda. Systems can be designed which will favour any of a range of broad results."³⁷

On the other hand, the nationalist parties are wary of any changes the international community might bring into the system. They are aware that the changes foreseen by the international community could seriously erode their power base.

Although the new law is meant to promote moderation and reform, it has limitations. In this respect the PIC noted that the Election Law has to be consistent with Annexes 3, 4 and 7 of the Dayton Peace Agreement.³⁸ By insisting on this, the PIC sets substantial limitations on the level of reform possible. It will, for instance, be difficult to have all citizens of Bosnia and Herzegovina vote together in one election. The Presidential elections, as outlined previously in this paper, will be almost impossible to change. Moreover, no one except Bosniacs, Serbs or Croats can be elected to the Presidency at all. This directly conflicts with, *inter alia*, Paragraph 7.5. of the OSCE 1990 Copenhagen Document, (which is an attachment to the election annex of the Dayton Peace Accords) that requires that one "respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination".³⁹

As early as April 1998, the OHR, OSCE and the Council of Europe produced a first draft law. This draft was rejected by these same organizations and never published. After the writing of this stillborn draft, it was decided to increase Bosnian involvement in the process. A seven-member national working group (NWG) was formed on 1 August 1998 by the OHR, which started work as of mid-September. In February 1999 the PIC Steering Board demanded results and set a 1 July deadline for a draft. At the same time it concluded that more international guidance was needed. However, the PIC did not explicitly state which international organization was to take the lead in the process, and leadership over the process shifted up and down between the OHR and OSCE for a while. In May, the OHR appointed a permanent new head of the drafting group. Simultaneously, the OSCE established a PEL secretariat. These new resources enabled the project to move forward.

Currently the draft has been sent to the Council of Europe and the PIC Steering Board for comments. After all relevant international actors have been able to respond, the Law will be sent to the Bosnian Parliament. Be-

37 Ibid.

38 Cf. Conclusions of the Peace Implementation Council, cited above (Note 33).

39 Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, in: Arie Bloed (Ed.), *The Conference on Security and Co-operation in Europe. Analysis and Basic Documents, 1972-1993*, Dordrecht/Boston/London 1993, pp. 439-465, here: p. 444.

cause nationalists from the three ethnic groups have a clear majority in Parliament, passage of a progressive Electoral Law is unlikely, as they would be voting for a law which would diminish the number of their seats. It is thus expected that the High Representative will impose it. However, although the new law will diminish their influence, the nationalist parties will probably retain overall political control after the year 2000 elections. It will thus be extremely difficult for the OSCE to hand over responsibility for the implementation of the law to the authorities, which will still be made up of members of the nationalist parties that oppose it. Is it then possible to "transfer responsibility to state institutions"⁴⁰ as the PIC Madrid meeting calls for? This seems highly unlikely as "the moment Carlos Westendorp imposes something, he creates a foreign fact. People would reject it (...) If they make and impose a new law, they are responsible and they'll have to stay to implement it", Brian Hopkinson, the ICG director observes. It is thus safe to assume that OSCE presence will be necessary for a while to come.

In an interview, an OHR source warns that many will be disappointed by the limited changes that the new Election Law will be able to achieve: "The Election Law can push the margins, but cannot change the opinion of 95 per cent of the people (...) the PEL has been overloaded with unrealistic expectations."⁴¹ And indeed, in a first reaction to the draft, the ICG and SDP have shown their disappointment in the mild changes proposed.⁴² The international community will push for gradual, rather than radical changes, as the latter would enrage the nationalist parties, in which case the international community might lose grip on the situation in the country.

Conclusion

The international community undoubtedly hoped that by now nationalist parties would have been replaced by more moderate ones. Although the 1998 elections have shown increasing support for moderate opposition parties, they still do not seriously challenge the nationalist parties (except in the western part of Republika Srpska).

Since Dayton, the OSCE has increasingly involved itself in political life in Bosnia and Herzegovina. In 1996 it was possible, under the naïve banner of neutrality, for the political party of an indicted war criminal to receive financial support. Fortunately, OSCE support now - 1999 - is focused on moderate and multi-ethnic parties. Political, financial, training and legal support help those political forces that are expected to offer the country a better future. Although support is extended to a large range of moderate parties, it is con-

40 Conclusions of the Madrid Peace Implementation Council, cited above (Note 33).

41 The source requested to remain anonymous.

42 Cf. Office of the High Representative, OBN News Review, 12 August 1999 (<http://www.ohr.int>).

centrated on the Federation-based SDP and NHI and the SLOGA coalition in the Republika Srpska. This support has been politically validated by, *inter alia*, the PIC. Nevertheless, it is obvious that political reality changes slowly in Bosnia and Herzegovina and that there are certain limits to what can be accomplished through international involvement.

Support is not without risks. Firstly, support from international organizations can be politically counterproductive. The ICG also noted the problem of overly open support by the international community for the leader of the SLOGA coalition partner SNSD: "It would be harmful for him to be perceived as a puppet of Western policy in Republika Srpska - he is not, but the extreme and obvious international support for him risks making him appear so."⁴³ This same problem can be expected with regard to the NHI. Confidence in the OSCE is rather low among the Bosnian Croats and Bosnian Serbs. A 1998 USIS survey illustrates the point. According to this survey 72 per cent of the Bosniacs have confidence in the OSCE, but only 25 per cent of the Bosnian Croats and 21 per cent of the Bosnian Serbs share this opinion.⁴⁴

Secondly, the neutrality of the Organization was questioned by the ODHIR. As an organizer of the elections, ODHIR believed, the OSCE should not discriminate between parties based on political programme. This conclusion (which the ODHIR applied to 1998 campaign support but which it logically applies to all forms of support) does, however, not take due account of the political reality in Bosnia and Herzegovina. We have seen that the nationalist parties have an enormous majority and hold a tight grip on political life in the country. Moreover, they all receive substantial foreign support. Neutrality, as the ODHIR understands it, would greatly benefit the strongest, nationalist parties and would thus be only a falseneutrality. It seems the OSCE cannot, and should not, avoid applying some form of "counter-engineering" to level the playing field. The policy shift towards "levelling the playing field" can most certainly be welcomed and hopefully will persist during the election in the year 2000. Needless to say, this support should be the subject of constant democratic control and discussion within the Organization. Certain limits should be set and respected. In this respect Christopher Bennett, former ICG director, observed after the 1998 elections that "officials of the OSCE (...) complain of having pressure exerted on them to send out, together with the absentee ballots, campaign material on behalf of favoured parties - pressure which, it must be pointed out, they refused to succumb to".⁴⁵

This last issue touches upon the principle of sovereignty and political independence of OSCE participating States, as laid down in the Helsinki Final Act. But drawing on these principles would certainly miss the point, as Bos-

43 ICG Report, Republika Srpska - Poplacen, Brčko and Kosovo: Three Crises and Out?, Sarajevo, 6 April 1999.

44 Cf. USIS Survey, Public Opinion in Bosnia and Herzegovina, Volume V: Two years after Dayton, Table 7, Washington, April 1998.

45 European Voice, cited above (Note 6), p. 19.

nia and Herzegovina might *de jure* be a sovereign state, *de facto* it is an international protectorate,⁴⁶ where, as has become obvious, different standards inevitably apply. And with Kosovo as the second international protectorate, it is high time to start a political discussion within the OSCE on the necessity, possibilities and limitations of political interventionism. Especially as it is becoming clear that strong OSCE involvement in the region will be inevitable for a long time to come.

46 Cf. ICG Report, *Whither Bosnia?*, Sarajevo, 9 September 1998.