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Articles

South-East European Federalism and Contemporary Bosnia and Herzegovina

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Abstract: *The influence of federalist ideas, practical experience and elements of federalism have been present in South-Eastern Europe since the second half of the XIX century, initially in a truncated form of the dual Austro-Hungarian monarchy. Federalism twice appeared briefly at the foundation and shortly prior to the demise of the "Kingdom of Yugoslavia." A confederation of regional resistance movements during the Second World War developed later into a "socialist federation," initially imitating the Soviet Union on a reduced scale (DFY, FPRY, SFRY). The collapse of this structure in 1991-1992 was accompanied by bloody armed conflicts and wars. The idea of a still wider Balkan Federation was floated in 1947 but never got off the ground. In addition, a small part of SE Europe (Moldova) had been for decades a republic in the quasi-federal Soviet Union which broke down in 1991. To the string of unsuccessful federalist experiments one should also add the "Federal Republic of Yugoslavia" (1992-2003), which lost its province Kosova/Kosovo in 1999 and was transformed in 2003 into "The State Community of Serbia and Montenegro." This loose confederation might in turn disintegrate in summer 2006. At present peculiar federalist arrangements are present within "Bosnia and Herzegovina" (with two "entities" – the "Federation B & H," the "Serbian Republic" and the separate Brčko District). Moreover there have been proposals to resolve the "frozen conflicts" in Moldova and on Cyprus by creating confederal structures. This paper looks into the present malfunctioning post-Dayton arrangements in Bosnia and Herzegovina and the dilemmas related to badly needed institutional reforms in that country. Finally it examines the reasons for numerous failures and federalist prospects for the future, including the slow expansion into the region of the European Union.*

Key words: *South-Eastern Europe, Balkans, Bosnia & Herzegovina, federalism, political system, Dayton-Paris agreements.*

Modern federalism has appeared and developed, more or less successfully, in various parts of the globe and on all continents, with the sole exception of Antarctica. South-Eastern Europe has been one of the regions where modern federalist solutions were adopted relatively late and where the influence of US federalism has been the feeblest and until, at least 1995, only indirect.

Historical Background of Federalism in the Region

The influence of federalist ideas, practical experience and elements of modern federalism have been present in South-Eastern Europe since the second half of the XIX century. A truncated and asymmetric variety of federalism had

developed in the Austrian Empire – Hungarian Kingdom (KuK). It evolved from the feudal fragmentation of lands which were conquered or otherwise acquired, often through marriages, by the Habsburg dynasty. According to a deal (*Ausgleich*) between the Habsburgs and Hungarian aristocracy in 1867 this multinational monarchy was divided into two parts with their separate constitutions and governments. Both parts were however under the common ruling dynasty advised by the Crown Council. The dual state community had had three common ministries (but no Prime Minister) and few other common institutions – economic union, single currency, National Bank, etc. The Austrian half was divided into 17 Crown Lands with their own statutes, governors, provincial governments and assemblies (Landtags). Most of the Hungarian half had been ruled directly from Budapest, with limited local self-government granted to several national minority groups. "Croatia and Slavonia" (without Dalmatia) enjoyed on the other hand a special status similar to that of a federal unit. It was linked to Budapest by the common crown, the same Croatian deputies sat in Hungarian Parliament and constituted the Croatian Diet (*Sabor*). "Croatia and Slavonia" had its own governor ("Ban") and administration. The dual monarchy covered areas adjacent to the Western Balkans, including the entire territory of today's Hungary, Croatia, Slovenia and partly also of Romania (Transylvania) and Serbia (Voivodina). In 1878 KuK expanded the territory under its effective administration in the Western Balkans by invading and occupying Bosnia & Herzegovina (B & H).[1]

The assassination of Archduke Franz Ferdinand von Habsburg on June 28, 1914 in Sarajevo ignited the First World War. This continental conflagration proved to be fatal to the dual monarchy as it created, in combination with the earlier Bosnian adventure, a critical overload. The Empire's delicate internal political balance collapsed under its pressure. KuK's breakdown however was not due to the fact that the Empire's structure had contained some elements of federalism. The real cause of her demise was KuK's lacking internal cohesion and adaptability to social and political pressures of national emancipation among the underprivileged minority groups, primarily the Slavs. The desperate offer by the last Emperor Karl I von Habsburg to thoroughly federalize the Empire by granting autonomy to all national groups came far too late to save the multinational conglomerate in one piece.[2] Moreover his Manifesto of October 17, 1918 was repudiated by the Hungarian government and was thus valid for the Austrian Crown lands alone.

Loose federalism was briefly present in the form of the short-lived "State of the Slovenians, Croats and Serbs" (November – December 1918). This state

1 József Galántai, *Der österreichisch-ungarische Dualismus 1867-1918 [The Austro-Hungarian Dualism 1867-1918]* (Budapest: Corvina/Österreichischer Bundesverlag, 1985), pp. 37-89, 126-131.

2 Ibid., pp. 161-166.

was quickly absorbed by the "Kingdom of the Serbs, Croats and Slovenians" (KSCS). Following the First World War the elites of several smaller Slavic nations in South Eastern Europe twice opted for a common state with Serbia. This alliance of lands formerly belonging to three other monarchies with Serbia developed into a unitarian and centralist state under the Serbian dynasty of Karadjordjevich. This multinational compound in its monarchic incarnation started experiencing strong centripetal tendencies already during the first decade of her existence. The royal, predominantly Serbian officialdom responded to them by further strengthening unitarian centralism and by trying to suppress national and ethnic diversity under the guise of integral and national Yugoslavism. Roughly ten years after the KSCS foundation it was renamed into the "Kingdom of Yugoslavia" (KY). In 1939 an attempt was made to overcome strong centripetal pressures by partly federalizing the state. This half-hearted operation came too late and failed to save Yugoslavia in one piece.[3] After her military defeat, occupation and dismemberment by the Axis in April 1941, an alliance of regionally-based resistance organizations reappeared on her ashes within the Yugoslav liberation movement. By the war's end the elements of para-state confederalism present in this movement gradually gave way to a new centralist system ruled by the Communist Party of Yugoslavia.

The newly-born Yugoslavia, this time as federal republic had existed between 1945 and 1991-92 in three constitutional forms – DFY, FPRY and SFRY. During roughly four and a half decades a Yugoslav variety of "socialist federalism" had been developed, at the beginning as emulation of the Soviet model, obviously on a reduced scale (Constitution of FPRY, 1946). The creation of the Soviet Union two and a half decades earlier drew its intellectual inspiration from Austrian Marxism. At the turn of the twentieth century these Austro-Marxian ideas about handling the national problem in a multinational state were selectively borrowed and modified by the Russian Bolsheviks. They adapted the Austro-Marxian ideas to the need to govern the huge Eurasian conglomerate created by Russian territorial expansion and military conquests in Europe and Asia. Yugoslavia's origin, on the other side, was quite different and much closer to the Swiss model of a voluntary security alliance.[4] The official ideology of the second, republican and communist-ruled Yugoslavia stressed supranational patriotism and massively used the slogan of "brotherhood and unity." The official Communist policy however, unlike in the prewar kingdom clearly recognized the national identities and autonomy of major national groups (five Slavic and one non-Slavic). The regime's Marxist ideology

3 Branko Petanović, Momčilo Zečević, *Jugoslavija 1918-1984, zbirka dokumenata [Yugoslavia 1918-1984, Collection of Documents]* (Beograd: Izdavačka radna organizacija RAD, 1985), pp. 361-366.

4 Anton Bebler, "Yugoslavia's Variety of Communist Federalism and Her Demise," *Communist and Post-Communist Studies* (March 1993), pp. 71-73.

had been however combined with the repression of "bourgeois" nationalism and separatism. When around 1970 the Yugoslav leaders faced again strong centripetal tendencies they attempted to contain the threat of disintegration by a combination of repression and kindness. SFRY's last constitution adopted in 1974 contained a mixture of authoritarian centralism (expressed notably in the single-party monopoly of power), of confederalism (with very extensive powers granted to federal units), semi-market economy, institutionalized corporativism and "workers' self-management." This combination resulted in the state's structural incoherence and very considerably contributed to the malfunctioning and eventually to the breakdown of the Yugoslav federation. The second Yugoslavia started falling apart soon after the death of her founder Marshal J. Broz-Tito. This process commenced in May 1980 and reached its acme in 1991-92. By then the already fictitious SFRY was finally officially dissolved by the remaining two of the original six republics in April 1992.[5] Serbia and Montenegro retained nevertheless the name "Yugoslavia," without the consent of other federal units. The newly founded "Federal Republic of Yugoslavia" (FRY) claimed, in addition, the exclusive legal succession of SFRY and all ensuing rights and benefits (but not the staggering liabilities of the bankrupt SFRY).

The idea of a "Balkan Federation," territorially considerably larger than Yugoslavia, was floated after the Second World War and debated in 1946-1947 behind closed doors among the Soviet, Yugoslav, Bulgarian and Albanian leaders. This project however never got off the ground. Further to the North-East, Moldova was made in 1922 a second-class federal unit within the newly founded USSR. It was territorially enlarged in 1940, following the occupation and annexation of Bessarabia (previously a province of Romania) by the Soviet Union. She was officially upgraded to the status of a full-fledged "Soviet Socialist Republic." After the breakdown of the USSR in December 1991 Moldova proclaimed her independence. This declaration led to armed violence and disintegration of the newly-born South Eastern European state. Since then, two feuding entities – the internationally recognized "Republic of Moldova" and an unrecognized para-state called the "Transdnestrian Republic" have continued to tensely co-exist on her territory.

Two "socialist federations" SFRY and USSR disintegrated in the same year of 1991 and were followed soon by the peaceful dissolution of Czechoslovakia. The temporal coincidence of three breakdowns was not accidental but closely related to the end of the "Cold War" and the downfall of autocratic communist regimes in Eastern and South-Eastern Europe. The collapse of two out of three "socialist federations" mentioned above was accompanied and followed by low-level violence in some parts of USSR, by a bloody war in Chechnya and by armed violence and terrorism elsewhere in the Northern Caucasus (Russian

5 Ibid., pp. 76-82.

Federation). Even bloodier armed conflicts and localized wars followed the downfall of SFRY.

The breakdown of SFR of Yugoslavia, an internationally prominent and to many observers a rather successful and prosperous state, caused consternation, very considerable media attention and a scholarly debate on its causes. The progressing internal weakening of the Yugoslav federation since the 1960s was due to a combination of:

- partly concealed structural weaknesses of a multinational, multicultural and multireligious conglomerate, with the persisting residues of Serbian colonialism and with the built-in discrimination against the non-Slavs (particularly the Albanians, Gypsies and several other smaller groups);
- deepening delegitimation of the regime in parallel with the declining psychological impact of the Second World War;
- an incoherent institutional structure maladapted to the realities in the Western Balkans and to the coming wave of democratization in Eastern Europe;
- insufficient adaptive and self-correcting capacity of a closed communist oligarchy, systematic promotion of obedient and intellectually mediocre courtiers to the highest federal positions, biological attrition and self-deception of the top Yugoslav leadership;
- increasing influence of Western liberal-democratic values and the demonstration effect from the prosperous West, in contrast to the regime's resolute refusal to test its own legitimacy in competitive free elections, to share state power with anyone, let alone to peacefully relinquish it, if defeated.

The ensuing internal decay of the regime had been combined with the system's dwindling capacity to distribute material rewards and to satisfy the growing aspirations in the more developed regions and among the better-educated urban strata. Magnified by fundamental disagreements among the regional elites, this decay had resulted in an internal blockage within the federal system and finally in its collapse. The fundamental causes of the breakdown of SFRY were thus internal – contrary to the theory of foreign conspiracy spread by the official propaganda in Serbia. The end of the "Cold War" and the tepid international environment of "neo-detente" had only facilitated and sped up the process of internal decay.[6]

The breakdown of SFRY occurred abruptly. Her political system basically failed the test of competitive political democracy and imploded in the

6 Bebler, "Yugoslavia's Variety," pp. 82-85.

wave of democratization which suddenly flooded Eastern Europe. Similarly as in the case of Austro-Hungary SFR of Yugoslavia did not collapse *because it* was a federal state. The resistance of the ruling political bloc in the federal center to adapting Yugoslavia's political system to national emancipatory and democratic demands sealed her fate. This time another "Oriental" question (Kosova/Kosovo) provided the critical overload to the Yugoslav multinational conglomerate.

In spite of her inherent weaknesses the breakdown of SFRY was not inevitable. As late as in 1989-1990 the margin between her demise and survival was rather slim. But once the process of dissolution started its violent turn became inavoidable, given the position, authoritarian structure and ideology of the Serbian political elite. Its, by then indisputable leader Slobodan Milošević insisted on recentralization of SFRY and refused to accept a non-coercive resolution of the crisis other than on his own terms. This uncompromising position of the Serbian leadership made irrelevant the Slovenian and Croatian proposals to transform SFRY into a loose confederation of sovereign republics, with a common market, common currency, etc. The Serbian political elite had been the relatively weakest among the dominating elites in the three communist multinational federations (USSR, ČSFR, SFRY). In the ensuing power struggle this elite used as principal tool its strongest advantage – the control over federal bureaucracy, including notably the military and security organizations. The Serbs' relative economic weakness, insistence on a superior status in the multinational state (e.g. refusing to accept their minority position in Croatia and Bosnia), the propensity to value highly and unrestrainedly the use of military force contributed greatly to stepping up repression and the unleashing of violence, first in Kosova/Kosovo in 1987-1989 and in August 1990 also in Croatia. Since other national elites did not yield to S. Milošević's pressures, threats and economic boycott (against Slovenia), the initial low-level violence degenerated step by step into several local wars.[7]

The demise of the second, communist-dominated Yugoslavia occurred almost simultaneously and ran a similar course with the upheavals and liberal democratic revolutions in the other, much more nationally homogenous East-Central and South-East European countries of the former Communist bloc. The great similarity in symptoms and numerous other common characteristics of the crises throughout the region allows us to exclude the ethnic, national and religious cleavages as *the root cause* of the Yugoslav breakdown. Ethnic and national heterogeneity influenced only one, admittedly important difference in the outcome of the social and political upheavals in Eastern Europe – the very variable incidence of armed violence.

7 Ibid., pp. 71, 85-86.

To the list of unsuccessful federalist experiments on the Balkans one should also add the "Federal Republic of Yugoslavia" (FRY) which lasted from 1992 till 2003. In 1999 this asymmetric two-member federation lost its Southern province Kosova/Kosovo, formerly a second-class federal unit (autonomous province) in SFRY. In 2003 FRY was transformed into a malfunctioning confederation called the "State Community of Serbia and Montenegro."

Bosnia and Herzegovina's Past Experience with Federalism

After about four centuries of unitarian governance by the Ottomans Bosnia was brought into her first association with federalism in July 1878. Austro-Hungarian troops invaded then the country and were met with considerable but poorly organized resistance by the Bosnian Moslems and the Bosnian Serbs. The occupation and imposition of Austro-Hungarian administration were carried out with a mandate given at the Berlin congress of 1878 by other European great powers. Once, after three months of hostilities, the occupation was complete B & H was made a non-self-governing entity outside the two constituent parts of the Austro-Hungarian Empire (KuK). The two vilayets of Bosnia and of Herzegovina were united and the land was officially renamed by the new rulers into B & H.[8] For about three decades the country had been governed jointly by two bureaucracies of the dual monarchy – by an Austrian military governor with his chain of command and by civilian administration directed by the Common Minister of Finance (a Hungarian politician). The authorities of the Austrian Empire-Hungarian Kingdom (KuK) retained the Ottoman administrative division of the country and only renamed the "sandzhaks" into "Kreise" (regions) and the lower units "kazas" into "Bezirke" (districts). In 1908 B & H was also formally annexed by KuK and in February 1910 her constitutional statute was solemnly inaugurated. The charter gave the country limited internal autonomy but no voice in imperial affairs. Emperor Franz Joseph von Habsburg appointed then a Bosnian civilian governor and his cabinet which were however directly subordinated to the imperial government. For about three years B & H had her consultative Assembly ("Sabor") consisting of representatives elected on the basis of a limited franchise by the Orthodox Serb (37), Moslem Bosniak (29), Catholic Croat (23) and Jewish (1) communities. In addition 20 ex-officio members were appointed by the Crown.[9] The Assembly gave the country very brief and limited experience of a modern quasi-parliamentarian institution. The control over B & H and her ties with other Slavs inside and outside the Empire have been for several decades a bone of contention in internal Austro-Hungarian politics. Finally in October 1915 the Budapest

8 Mustafa Imamović, *Historija države i prava Bosne i Hercegovine [A History of Bosnia & Herzegovina's State and Law]* (Sarajevo: Magistrat, 2003), pp. 117-124.

9 Ibid., pp. 218-224, 258-260.

government adopted a plan to annex B & H into Hungary and to dismantle all forms of her limited autonomy. The plan was however never executed.

A radical change in B & H's status occurred when the Austro-Hungarian Empire broke down and disintegrated. At this historic turning point the country became part of another multinational state, again under abnormal, near war-time circumstances. During several tumultuous months in the second half of 1918 a Council representing Bosnian political parties and prominent citizens took two crucial decisions: to terminate B & H's ties with the dual monarchy and to enter the newly formed republican "State of the Slovenians, Croats and Serbs," with its centre in Zagreb. In this loose and short-lived confederation B & H had briefly had her own country government although being occupied by troops of the Kingdom of Serbia. B & H's limited internal autonomy as "pokrajina" (province) with a provincial head and his government was finally abolished by a decree in 1924. Following the royal coup in January 1929 and the new renaming of the state into the "Kingdom of Yugoslavia" a further step in the same direction was taken when B & H was unceremoniously partitioned and her historic external borders erased. The centralist policy of suppressing national identities under the guise of integral Yugoslavism did not bring however the desired internal stability to the Kingdom. Yugoslavia's deep malaise continued and only deepened after the coup executor King Alexander was assassinated by a Macedonian terrorist during his official visit to France in 1934.[10]

In order to quell the boiling dissatisfaction among the Croats (the second largest national group) an attempt was made to decentralize the Kingdom and to transform it into an asymmetric federation. The Cvetković-Maček agreement of August 26, 1939 accorded to the Croats the privilege of largely controlling their own affairs. The sole "banovina" allowed to bear a national name and to have her own civilian administration was the newly formed "Banovina Croatia."[11] B & H was partitioned again between the Serbs and the Croats and her best parts allotted to "Banovina Croatia." However the attempt to save the Kingdom by partly federalizing it proved to be too timid and came far too late. Torn by internal conflicts and subjected to the Axes' military onslaught royal Yugoslavia miserably fell apart in less than ten days. In April 1941 entire B & H found herself under German and Italian military occupation, while the satellite "Independent State of Croatia" (NDH) was entrusted by the Axes with running the civilian administration in the entire country. On April 10, 1941 the *Ustaše* government in Zagreb formally annexed entire B & H and subdivided her into six "zhupas." Some of the "zhupas" included territories of and had

10 Mehmedalija Bojić, *Historija Bosne i Bošnjaka [A History of Bosnia and the Bosniaks]* (Sarajevo: TKD Šahinpašić, 2001), pp. 161-176.

11 Petanović, Zečević, *Jugoslavija 1918-1984*, pp. 357-360.

their centers in Croatia proper.[12] The Croatian annexation of B & H ended with the country's liberation by the Yugoslav partisans in spring 1945.

During the Second World War B & H served as the main base of the Yugoslav resistance movement led by the Communists. The movement had been structured and for about three and a half years in fact functioned as confederation of several national resistance movements. At a historic session of their representatives held in Central Bosnia in late November 1943 a provisional, Communist-dominated government was proclaimed with Marshal Josip Broz-Tito as its head. The Assembly decided to reestablish Yugoslavia, this time as a federation of her nations. When the war ended, with the partisans as winners on the side of the Allies, B & H consequently became part of Communist-ruled Yugoslavia.[13]

In 1946 B & H for the first time in her history obtained a constitution, all representative institutions, symbols and other distinct features of statehood. The constitution of the Federal People's Republic of Yugoslavia (FPRY) accorded B & H the highest status of a full-fledged "People's Republic," in spite of some opposition and alternative proposals to give her a second-tier status of autonomy. B & H's position, formally equal with that of Serbia and Croatia, was thus legally assured. The federal constitution of 1963 renamed B & H into a "Socialist Republic" confirming thus her status of equality with Serbia and Croatia.[14] Furthermore the new Bosnian constitution of 1963 accorded the Bosnian Moslems the position of one of the three "constituent peoples" of B & H. In the late 1960s an internal system was instituted through which all important positions within B & H and in the Bosnian federal "slots" were distributed among the political, economic and cultural elites of the three largest national groups – the Moslems, Bosnian Serbs and Bosnian Croats, occasionally including also prominent Jews. The latter instrument of sharing power (and its spoils) on a non-territorial basis had functioned rather well in B & H until SFRY's demise and the outbreak of war in the country. From the beginning it had had several important drawbacks. The system did not take sufficiently into account the quite unequal numerical strength of the three communities at the time of its introduction and still more their very different demographic dynamics. It also left out smaller national and ethnic groups as well as the growing number of ethnically mixed Bosnians and of ethnically undecided "Yugoslavs."

Although B & H had enjoyed formally the highest status among the republics in Tito's Yugoslavia it took the Bosnian political elite an additional 25-30 years to achieve for the republic a *de facto* position as a fully politically autonomous federal unit. However during this process of political emancipation at the federal level B & H had internally continued to function as an authoritar-

12 Imamović, *Historija države,* pp. 341-347.

13 Ibid., pp. 348-363.

14 Bojić, *Historija Bosne i Bošnjaka*, pp. 225-232.

ian police state which repressed all signs of opposition even more severely and pervasively than was the case in the neighboring "big sister" republics of Serbia and Croatia. The decades of police intimidation, arrests and imprisonment of dissidents greatly weakened the Bosnian civil society and its potential for the development of a viable democratic political opposition among Bosnian intellectuals and students. Furthermore, among known repressed dissidents one found more often nationalists with strong authoritarian inclinations (like V. Šešelj, later indicted at the Hague Tribunal) and Islamists (like A. Izetbegović, later President of B & H) than liberal democrats.[15]

Bosnia and Herzegovina' Disintegration in 1991-1992

Great obstacles to the country's democratic development had continued to persist for more than a century since the Ottomans withdrew their military forces and administration from the country. To a large extent it had been due to Bosnia's status as an occupied territory (still formally under Ottoman sovereignty) until 1908 and as a non-self-governing crown land of dual monarchy Austro-Hungary until 1918. The obstacles to democratization had continued under Yugoslav monarchy, triple occupation regime during the Second World War and under the totalitarian single-party system established by the Yugoslav Communists after 1945. When the Yugoslav communist system collapsed at the federal level in 1991, B & H, among the six "Socialist Republics," was the least prepared for the introduction of competitive multi-party politics. Several periods of her association with federalism have been marred with unequal statuses and authoritarianism. Even more importantly federalism has never been practiced inside B & H.

The difficulties of democratic transition had been magnified by the institutional structure of B & H. This most nationally, religiously and culturally heterogeneous republic, a miniature of Yugoslavia, had until 1990 operated as a unitarian political system combining an authoritarian single-party monopoly of power, a non-competitive majoritarian electoral system, a unicameral parliament, weak and fragmented civil society and a strong undercurrent of authoritarianism in popular political culture. The Bosnian constitutional system did not recognize political and cultural autonomy of national groups and lacked effective instruments for regular consensual intercommunal decision-making at the regional and state levels. Several proposals to internally federalize or confederalize B & H came far too late and failed to gain simultaneous support within the three major political blocks. A combination of the above-enumerated characteristics of the political system and the very shallow tradition of Bosnian statehood turned out to be fatal for the country. The moment of truth came rather unexpectedly in 1991-1992 when the Yugoslav federation

15 Noel Malcolm, *Bosnia: A Short History* (London: Macmillan, 1994), pp. 193-212.

foundered, a war flared up in Croatia and the Serbian-Croatian armed conflict spilled over into B & H. This temporal coincidence was not accidental.

When competitive multi-party politics were introduced in B & H the political system had in several months degenerated into three politically segregated but territorially considerably overlapping systems. The result was a far cry from tolerant political pluralism across national-cum-confessional lines. In each of the three separate systems a single nationalist party gained through ballot a position of domination if not a monopoly. The three para-states had very soon developed their own separate sets of institutions as well as separate security and military forces.[16] Still more ominously, only one of the three ruling parties (the Bosniak Moslem SDA) acted fully autonomously while the other two were mere extensions of and/or were closely linked with the nationalist parties bearing the same official names as in neighboring Croatia and Serbia. One of these parties (HDZ) soon became directly subordinated to the state leadership in a foreign capital (Zagreb) while the other (SDS) had been throughout highly dependent on rump Yugoslavia (FRY) and on the Milošević regime in Serbia. This situation made B & H highly vulnerable to possible attempts of partition and annexation by two neighboring states.

The disintegration of B & H started already on December 1991 when the intention to create the so-called "Serbian Republic" was made public, almost simultaneously with a very similar pronouncement in Croatia. On the other hand the Moslem and Bosnian-Croatian leadership acceded to a demand by the European Economic Community (EEC) to democratically ascertain the popular support for independence, if B & H wished to be recognized by the EEC members.[17] The Eurocrats overlooked however a cardinal fact – the multinational composition of B & H's population. Subsequently the Assembly of B & H, in the absence of its most Bosnian-Serbian deputies enacted speedily a law on a referendum. For this purpose B & H was treated as a single unit and no provision was made for ascertaining necessary majorities within each of the three "constituent peoples." The adopted procedure was contrary to one of the basic principles enshrined in B & H's constitution and thus substantively unconstitutional. At the referendum held on February 29 – March 1, 1992 about 62 percent of registered Bosnian voters supported the independence proposal, among them probably also a considerable number of Bosnian Serbs living in ethnically mixed areas. A majority of Bosnian Serbian voters however abstained or were prevented from voting, particularly those residing in the areas under control of Bosnian Serbian nationalists. Only two days later, on March 4, 1992 the Assembly in Sarajevo solemnly proclaimed B & H an independent state. The predominantly Moslem and Bosnian Croatian ma-

16 Jože Pirjevec, *Jugoslovanske vojne 1991-2001 [The Yugoslav Wars 1991-1992]* (Ljubljana: Cankarjeva Založba, 2005), pp. 114-143.

17 Malcolm, *Bosnia*, pp. 225-233.

jority of deputies easily carried the vote, again in the absence of most Bosnian Serbian colleagues. The latter rejected the country's secession from the already rump Yugoslav federation.[18]

All nations in B & H paid a horrible price in lives, sufferings and the country's destruction for these seminal and unwise decisions and for their tragic consequences. Among all conflicts between and within the successor states of SFRY the war in B & H turned out to be the nastiest, bloodiest and costliest, much worse in these respects than the war in Croatia. The ferocity of the armed conflicts in B & H was to a large extent due to a combination of armed aggression against a UN member state and civil war (B & H's suit against the State Community Serbia and Montenegro as successor state to the aggressor is currently being considered by the International Court of Justice in the Hague). The approximate number of dead has been estimated at 100,000 (of which about 70,000 Moslems), while the number of refugees and displaced persons at well over one million.

Already in March-April 1992, the Territorial Defence units and police of the Bosnian Serbs attacked the Moslem population in villages and towns of Eastern, Northern and Central Bosnia. Having exploited the advantages of thorough preparation, combat and logistical support by regular units of the Yugoslav federal army (JNA), military preponderance particularly in heavy weapons, armour and aviation, as well as surprise and deceit the Bosnian Serbs easily overran occasional resistance of the unprepared Moslem and Croat civilians and their poorly organized defenders. Numerous crimes and the accompanying acts of ethnic cleansing were perpetrated on the Bosnian territory also by auxiliary units of the police, paramilitary units of political parties and by ordinary criminals from Serbia proper.[19] These military operations, violence and terror provoked a flood of dispossessed and frightened Moslem and Croatian refugees to other parts of Bosnia, to neighboring Croatia, Slovenia, Western Europe and Turkey. The Bosnian Serbian nationalists carved out by naked force a secessionist entity on more than two-thirds of B & H's territory. At a gathering on March 27, 1992 the secessionists adopted the "Constitution of the Serbian people in B & H" and soon established all separate institutions of the para-state. It was officially called the "*Republika Srpska*" (Serbian Republic).

The Bosnian-Herzegovian Croatian nationalists acted less brutally but they also took by force control over 30 "opshtinas" (counties), among them also some where the ethnic Croatians constituted only a minority. Using threats

18 Pirjevec, *Jugoslovanske vojne*, pp. 122-136.

19 Sead Hadžović, "Sastavni dio ciljeva rata protiv BiH – genocid i etničko čišćenje [The Integral Components of the War Aims against Bosnia & Herzegovina – Genocide and Ethnic Cleansing]," in *Ratovi u Jugoslaviji 1991-1999 [The Wars in Yugoslavia 1991-1992]* (Beograd: Društvo za istinu o antifašističkoj narodnooslobodilačkoj borbi u Jugoslaviji 1941-1945, 2002), pp. 263-275.

and coercion they created an ethnically cleansed Croatian para-state. Initially it was called the "Croatian Community of Herzeg-Bosna" to be renamed in August 1993 into the "Croatian Republic of Herzeg-Bosna." The para-state had had its own state symbols (almost identical with the symbols of the Republic of Croatia), President, House of Representatives, Government, courts, separate legal system, armed forces (wearing uniforms almost identical with the uniforms of the Croatian Army), police etc.[20] By an agreement concluded under US pressure in early 1994 in Washington this para-state entered the "Federation of Croatian and Moslem Peoples," together with the areas controlled by the Bosnian Moslems. A Constitution of this Federation was proclaimed on March 30, 1994. According to the charter ten cantons with equal rights, a two-chamber Assembly and a government consisting of a Moslem and Croatian ministers were created. Furthermore, for the foreseeable future a confederation between this Federation and Croatia was publicly contemplated.

For more than three years B & H had remained broken into a mosaic of warring fiefs controlled by at least four Bosnian authorities and by local thugs. In the so-called "UN protected areas" international "peace-keepers" of UNPROFOR were present, but did not control them and mostly idly observed continuing violence. The country's bleeding, the sufferings of her population trapped in blockaded enclaves and the military stalemate along the new partition lines were finally broken by NATO's decisive military intervention. The NATO air campaign followed the bombing of the Markala marketplace in Sarajevo and the Srebrenica massacre – probably the worst case of this kind in Europe since 1945.[21]

Bosnia and Herzegovina's Formal Reunification and the Post-Dayton System

By 1995 the Western policy of "letting the Balkan tribes boil in their own stew" failed miserably. Moreover the Bosnian crisis became an important source of regional instability, causing social problems in the neighboring states and also in Western Europe. It had also provoked mounting frictions and recriminations directed towards and among the NATO allies. Having realized these facts and become fed up with the Balkan turmoil the Western powers abandoned their policy of non-intervention and containment. They started unceremoniously pressing the warring parties (particularly the Bosnian Serbs) to terminate the continuing bloodshed. By strong political and military pressure, including the bombing of the Bosnian Serbs' positions, the NATO powers, led

20 Ciril Ribičič, *Geneza jedne zablude. Ustavnopravna analiza nastanka i djelovanja Hrvatske zajednice Herceg-Bosne [The Origin of a Blunder: Constitutional-legal Analysis of the Origin and Activity of the Croatian Community of Herzeg-Bosna]* (Idrija: Založba Bogataj, 2001), pp. 48-67.

21 Pirjevec, *Jugoslovanske vojne*, pp. 423-431.

by USA forced them to a negotiating table at a US military base near Dayton, Ohio. The Dayton-Paris agreements legally glued together the warring bits and pieces of the country. In mid-December 1995 their sum total was officially proclaimed a reconstituted independent state called simply B & H.[22] Similarly as many times before the country's fate was once again decided by foreign powers. In autumn 1995 the NATO intervention was supported by the Bosnian Moslems and the Bosnian Croats while resisted by the Bosnian Serbs.

In order to obtain as soon as possible the consent of the militarily strongest party in the conflict the Western powers accorded the Bosnian Serbs sizeable chunks of territory on which prior to the war they constituted only a minority. The West thus, contrary to its previous pronouncements awarded the aggressors. The Dayton "godfathers" also acceded to the principal demand by the Bosnian Serb nationalists – the legalization of the "Serbian Republic." This separatist entity created by violence and genocide was allowed to retain its constitution and institutions as well as to use the trappings of a quasi-independent state, to have her own army and police and to maintain special relations with Serbia. The Western powers thus seriously compromised the territorial integrity and unity of B & H.

One of its founding documents, called a B & H "Constitution," was elaborated by foreign (mostly American) experts and inserted into an omnibus international treaty under the title Annex 4. The text of the new B & H constitution was signed under duress by the leaders of three nationalist parties, each representing a major national group.[23] Subsequently the document has never been submitted to a referendum and approved by the B & H population. For the first time in her history the country was legally transformed into a federation consisting of three parts – two so-called "entities" (one illogically called "Federation of B & H," the other being the "Serbian Republic") as well as a small *corpus separatum* – the Brčko District. The Dayton-Paris agreements incorporated some features taken from the ill-fated Vance-Owen plan (1993), including the division of the "Federation of B & H" into ten "cantons." Thus an asymmetric and clumsy compound structure was created containing three or four tiers of governance, 13 parliaments, 13 executive branches and about 180 ministries and ministers. The delimitation between the two entities largely followed the lines of military cease-fire. As they cut mountain ranges, valleys, rivers, rail lines, roads etc. this delimitation has been fully artificial and harmful to the country from the social, economic, ecological and other points of view.

Apart from the country's Constitution the Dayton-Paris package contained ten other important documents signed by various groups of signatories. Although formally outside the constitutional framework these documents have had very considerable bearing on the implementation of the constitution and

22 Ibid., pp. 445-449.

23 Ibid., pp. 450-455.

on the functioning of B & H. The most important extra-constitutional arrangement is contained in Annex 10 called "Civilian implementation." Through its provisions a structure of international protectorate was superimposed over democratically constituted organs and institutions of B & H. This structure of appointed foreign officials consists of a High Representative of the International Community (HR), his Office (OHR), and the steering "Peace Implementation Committee" (PIC) at the ambassadorial level. According to the Annex the High Representative chairs a "Joint Civilian Commission" (JCC) in which high Bosnian officials also sit. The Commission could establish its affiliates at a local level. According to Annex 11 the High Representative has the power to "guide" the International Police Task Force. Other additional annexes regulate such important matters as the inter-entity boundary, human rights, military aspects of the peace settlement (including the long-term presence of foreign troops), regional stabilization, arbitration between two entities, elections etc.

Acting in a hurry the Dayton "godfathers" set up a political system in B & H essentially based on collective rights of three ethnic-cum-religious communities.[24] Its structure has been from the beginning clearly at odds with the proclaimed lofty goal of restoring a multiethnic and multicultural society in that country. Instead the Western powers imposed a system which has in fact cemented the political, administrative, economic and cultural walls segregating the three national communities. Probably majorities in two of them still do not accept B & H as their own state. The country has today two to three economic systems, two separate energy generation and distribution systems, two transportation and water supply systems etc. The Dayton arrangements resolved neither the tremendous problem of refugees and displaced persons nor assured equal rights to minority groups. Additional problems have been caused by the very selective applications of the elaborate provisions contained in the Dayton-Paris accords. All this has added up to a dysfunctional, top-heavy and wasteful bureaucratic structure which from the start has been deficient in legitimacy, coherence and rationality, but not in corruption. Concerning the latter the entire region of South Eastern Europe has been consistently evaluated by international observers and experts as much more corrupt than Northern and Western Europe. In the Corruption Perception Index 2005[25] based on six different surveys B & H was ranked the 90th among 159 states. She was evaluated less favorably than Slovenia, Cyprus, Greece, Bulgaria, Turkey, Croatia and Romania but as less prone to corruption than Moldova, Serbia & Montenegro, Macedonia and Albania. B & H's insufficient self-sustaining capability has been so far artificially compensated by the international protectorate, foreign

24 Mirko Pejanović, *Politički razvitak Bosne i Hercegovine u postdejtonskom periodu [The Post-Dayton Political Development of Bosnia & Herzegovina]* (Sarajevo: TKD Šahinpašić, November 2005), pp. 37-52.

25 http://www.infoplease.com/ipa/A0781359.html

military and police presence and by the quasi-dictatorial powers which have been selectively exercised by the High Representative.

Post-Dayton Bosnia and Herzegovina at a Cross-roads

During the last ten years the West's immediate objective in the Balkans has been achieved-the termination of armed hostilities, violence and the spill-over of social pathology from the Western Balkans to other parts of Europe. The political and security environment in the region and in B & H herself has been since greatly improved. However, according to a group of Bosnian legal experts acting on behalf of a non-governmental "Movement for change in B & H" "the system created on the basis of the Dayton-Paris agreements has become a constraint to any sort of progress and democratic development of B & H."[26] The experts added that the Dayton system could not be fixed "with some constitutional annexes or amendments" only. In its most recent report the International Commission on the Balkans came to a similar conclusion: "The need for constitutional change is high on the political agenda. All agree that there are serious problems with the present system of federalism in B & H. This is partly due to the absence of a coherent structure of regional government. It is also because of a tendency to see the federal system as a problem to be overcome, rather than as a promising model which allows ethnic communities to flourish side by side and facilitates healthy policy competition. The present constitutional architecture is dysfunctional. What is important is a constitutional debate that accepts the need to facilitate and indeed drives forward a reform of the Bosnian constitutional system."[27]

There is considerable consensus in the international community that the Dayton system has largely outlived its original purpose. The present institutional arrangements in B & H need therefore to be replaced with a simpler, more transparent and institutionally homogeneous political system. However there is no consensus in B & H itself on what went wrong with the country in the past, what is precisely wrong with the present system and how it should be fixed. The main parties in the Serbian entity adamantly oppose any radical change of the Dayton system. On the other hand most parties in the "Federation B & H" favor instead a partly decentralized and regionalized unitary state structure for entire B & H. It would be based on the rule of law and on other general liberal democratic principles, but not on collective ethnic rights. Influential Bosniak (and some Bosnian Serbian) intellectuals see the root cause of B & H's troubles in collective rights accorded to ethnic communities and accuse

26 Sahbaz Džihanovic, Slavo Kukić, Stasa Kosarac, Mirko Pejanović, Vehid Šehić, Miodrag Živanović, *The Constituion of Republic of Bosnia and Herzegovina* (Sarajevo, June 2005).

27 "The Balkans in Europe's Future," *The Report of the International Commission on the Balkans* (Washington, April 2005), p. 24.

the godfathers of the Dayton system of this capital sin. The strongest party representing the Bosnian Croats (HDZ) also argues for an institutional reform but in the direction opposite to that favored by Bosniak politicians.

The above-mentioned group of Bosnian legal experts advanced last year a constitutional proposal which would have certainly been useful and feasible about 25 years ago. If introduced then the proposed regionalized unitarian system would have reduced the chances of a civil war erupting in B & H (but might not have prevented it). During long centuries, under many rulers and in various state formations and geographic configurations B & H had been administratively subdivided into several (most often six) regions. However the basis for these divisions have always been historically constituted and geographically-environmentally shaped parts of the country and not homogenous ethnic or confessional composition of population. For the first time in her history an ethnically almost pure Serbian para-state was created in Bosnia by violence and genocide in 1992-1993. The Serbian nationalists only materialized then the political ideas contained in the notorious "Memorandum of the Serbian Academy of Science and Arts." The Herzegovian Croatian nationalists followed suit. The partition of B & H by force could not have succeeded in 1992-1993 without active interference by two neighboring states. Thus it is inappropriate to put the entire blame on the Dayton godfathers for the present division of B & H along national-confessional lines, as some Bosnian critics contend today. Actually the partition of the country was carried out by "sword and fire" three years earlier.

Due to a massive but unequal loss and displacement of population the three major national groups in B & H became to a high degree spatially segregated one from another. Thus the percentage of the Bosnian Serbs in the "Serbian Republic" rose at the war's end from 54 to about 95, while the percentage of the Croats on the territory of former "Herzeg-Bosna" went up from about 50 to about 96.[28] The rather meagre return of refugees across ethnic lines and other movements of population since the war have not significantly changed the radically altered geographic distribution of the national groups in the country. The legal experts' proposal to divide the country into five or six regions on a non-ethnic basis does not therefore take sufficiently into account this cardinal consequence of the last war and, in addition, does not provide for institutionalized transregional representation of collective national-cum-cultural-cum-confessional interests (as, e.g., does the Belgian federal system). A unitarian state structure, even if regionalized, would only imperfectly cater for the present needs and would not take sufficiently into account the hypersensitivities of the nationally and culturally deeply divided B & H society.

28 Hadžović, "Sastavni dio ciljeva," pp. 267-268.

The legal experts' proposal contains however several positive features. Unlike the present administrative division the proposed geography of the regions largely correspond to the historically developed patterns of habitation which allowed in the past for cohabilitation and coexistence among numerous ethnic, religious and national groups. Secondly, the proposed regions are sufficiently large to function as self-sustaining social and economic entities. Thirdly, the proposed size of the regions corresponds to the EU criteria for regionalization. The legal experts' platform could therefore serve as a starting-point for discussions and, in addition, be made more politically palatable to its present opponents among the Bosnian Serbs and Herzegovian Croats if modified in the direction of a nationally-colored federalist structure. The historical experience of two Yugoslavias has shown convincingly that the threat of malignant and aggressive nationalism in multiethnic societies cannot be avoided or eliminated by prohibiting and suppressing the visible manifestations and symbols of nationhood and by disregarding collective ethnic or national rights. The legal experts' draft has had little impact on the key decision-makers and also on the public in B & H.

The most recent attempt to reform the Dayton system started in spring 2005 as ostensibly a non-governmental initiative led by Ambassador Donald Hays, with the backing of the Washington-based US Institute for Peace and its Public International Law and Policy Group. This former Deputy High Representative in B & H conducted confidential separate consultations with the leaders of the main political parties represented in the Parliamentarian Assembly. In November 2005, on the tenth anniversary of Dayton the leaders of eight parties were invited to Washington where they signed a joint statement announcing an agreement on constitutional amendments, to be enacted by March 2006. The substance of the amendments was not however made public and apparently continued to be a subject of further bargaining. Upon the leaders' return home the mediating role has been taken over by the US Embassy in Sarajevo. The resulting draft amendments, endorsed eventually by six party leaders, were finally published on March 25, 2006 and sent expeditiously to Parliamentary Assembly by Presidency of B & H.

The published document contained four rather lengthy amendments. Amendment I increased the constitutional powers of the B & H central institutions at the expense of the two entities. Most notably the central authorities would control defence, security, foreign policy, foreign trade, customs, monetary matters etc. However the entities would still enjoy shared powers in taxation, electoral system, justice, agriculture, science, technology, local government etc. Amendment II modified the B & H parliamentary system consisting of the House of Representatives and the House of the Peoples. The deputies of the former house were to be elected in general election according to the democratic principle "one elector one vote." The deputies of the latter house would not be elected directly by citizenry but by deputies of the House of Representatives. The House of the Peoples would have a fixed ethnic

composition – seven Bosniaks, seven Croats and seven Serbs (N.B. There was no provision for national minorities). The positions of leadership in the Parliamentary Assembly were to be shared among the three constituent national groups. While the House of Representatives would pass all laws, the other house would participate only in enacting constitutional amendments, electing President and two Vice-Presidents of B & H. The federal house could veto any bill when a "vital national interest" of a constituent people is deemed to be at stake. Amendment III defined anew the institution of B & H Presidency. Instead of a rotating three-member body it would contain one President and two Vice-Presidents, elected for a fixed four year term. The House of Representatives would elect (or rather confirm) the Presidency's composition on the basis of a list of three nominees drawn by the three national clubs of deputies from both chambers. The powers of new Presidency would be reduced in comparison with the present system, in favor of the central Council of Ministers. All decisions by the Presidency regarding defence, appointment of Justices of the Constitutional Court and Governors of the Central Bank should be agreed upon by consensus. Amendment IV would increase the powers of the Council of Ministers and the number of ministries.

The amendments contained some positive and some negative features. On the positive side one noticed a substantively higher input in their elaboration by the Bosnian themselves than was the case with the Dayton constitution. Yet an active prodding and mediating role by unofficial and later official US actors proved to be indispensable. This fact indicated a great deficiency in B & H polity. The amendments would have strengthen the central B & H executive making it more effective. On the other hand an opportunity was missed to tackle the main sources of B & H invalidity – the ethnically defined political empowerment, unnatural and dysfunctional structure of the state with its "entities" and "cantons" and their over-size and wasteful bureaucracy. The amendments confirmed the political monopoly of ethnically defined political blocs and corresponding elites. Moreover they would have entrenched the Serbian para-state and legitimized its existence, this time by presumably freely and democratically expressed will of the other two communities (and not by foreign imposition). The amendments would have given the Bosnian Serbian elite the power to block and paralyze at will the central B & H institutions and to prevent any constitutional change that would endanger the perpetuation of the "Serbian Republic."

The proposed constitutional amendments ("Dayton-2") had been met with numerous sharp criticisms, often from different directions and politically divided all three national communities. Among their opponents one found prominent figures from the "Party for B & H," Social Democratic Union, the newly established Croatian party "HDZ 1990," the Conference of Roman Catholic Bishops, from among the Bosnians abroad represented in the "Patriotic Front of B & H" and also Serbian Radicals and several foreign experts. Some opponents denounced the constitutional deal even as treason and a mortal

threat to B & H' existence as a single state. Due to wide-spread opposition, fierce campaign against the amendments and critical public opinion[29] their adoption in Parliamentary Assembly remained uncertain, till the vote on April 26, 2006. The "Dayton-2" package was defeated as its proponents failed to obtain the required two-third majority. The final result was 26 for and 16 against the proposal.

Anyway, as it stood the "Dayton-2" package did not seem sufficient to make B & H a well-functioning state. The method chosen to carry out the constitutional reform had been also disappointing – without informing the public, without debating openly vital and clearly contentious issues prior to its submission to Parliament, without involving civil society in searching for optimal solutions and in forging wide political consensus, etc.

The failure to address the most glaring negative features of the Dayton constitution was softened however by the US commitment to pursue further constitutional reforms. This commitment was expressed by US Secretary of the State Condoleeza Rice in her letter to the B & H authorities and the party leaders shortly prior to the vote in B & H Parliamentary Assembly. The present situation in B & H differs greatly from that eleven years ago. This time the same instruments could not be used by the West to help the Bosnians to make B & H a viable state and flourishing country. The High Representatives with their dictatorial powers have so far played a crucial role in post-Dayton B & H. Without them numerous badly needed reforms would not have been adopted although some were subsequently sabotaged by the Bosnians. The "Dayton-2" package however was not imposed on the country by the present High Representative. There is a wide-spread expectation that the time has finally come to phase out his Office also because of the pending negotiations with the European Union. The present High Representative Christian Schwarz Schilling is expected be the last in the line, to be made in autumn 2006 a more normal EU representative. Instead of OHR and PIC a new body will be possibly created with the task of helping to bring the country closer to EU and NATO. The mode of its operation would be made more consistent with B & H's sovereignty and rely chiefly on inducements and not on coercion.

Being a unique country B & H needs admittedly a unique institutional structure. But it also has a number of similarities with other nationally, culturally and/or confessionally fragmented societies. The closest parallels on the European continent are to be found in Belgium and Switzerland, in Mediterra-

29 Several recent public opinion surveys showed that about 60 percent of B & H respondents did not support the amendments, about 30 percent had a positive opinion and about ten percent no opinion. IFIMES phone survey, with 1544 respondents carried out on March 23-24, 2006 (http://www.worldsecuritynetwork.com/showArticle3.cfm?article_id=12746&topicID=55).

nean on Cyprus and in Lebanon. The similarity with the Kingdom of Belgium and the Helvetic Confederation has resulted from coexistence of several major national or linguistic-cultural groups using the languages close to those in the larger neighboring nations. It took many centuries to develop the Swiss federal system containing 26 similarly but not uniformly structured and culturally-linguistically colored cantons. In Belgium a very complicated and asymmetric federalism replaced relatively recently a centralized unitary system which was on the verge of collapsing. B & H's similarity with Cyprus and Lebanon rests on the coexistence of several major national or religious-cultural groups speaking more or less the same language (in Lebanon); on the deep Moslem-Christian divide (both on Cyprus and in Lebanon); on several centuries of Ottoman rule and on the recent war experience (much longer and bloodier in Lebanon than on Cyprus). While Cyprus broke down, underwent partition and still remains divided into two states Lebanon was reunited and its parliamentary democracy reestablished. The latter's functioning rests, i.a., on an agreed upon formula for regular distribution of key governmental posts and spoils among four major confessional groups and on their considerable internal autonomy. In B & H a unitary system of governance might well produce another political explosion and collapse as a single state. This likely outcome would be due to very weak parliamentarian traditions, wide-spread authoritarian habits and practically no tradition of a politically independent judiciary. It would not be wise therefore to give up a federalist solution for B & H because of the present malfunctioning institutions. In rebuilding the B & H polity it would be advisable to take into account and adopt selectively some institutional solutions similar to those which proved to be useful in the Swiss and Belgian systems.

Logically there are several ways to make B & H's state structure more rational and homogenous. In the opinion of many, including this author, the best approach would be to abolish the two existing entities and to establish instead five or six institutionally similar but culturally individualized federal units corresponding to historic regions. Such a solution might be acceptable to the Bosniak community and would also satisfy the Herzegovian Croatian demand for an equal status with the Bosnian Serbs. Such a system would bring B & H closer to the Swiss federal model. The Croatian demand could be alternatively met if the present "Federation of B & H" be divided into two republics (Herzegovian Croatian and Bosniak) and the intermediary level of quasi-cantons abolished in them, as it is the case today in the Serbian entity. In the latter scenario the Brčko District would remain a separate federal unit enjoying a status equal to or lower than that of the three republics. Both above-stated solutions would lead to a more homogenous, simpler and rational administrative structure throughout the country. Whatever system is adopted greater attention should be paid to individual human rights, without however neglecting the collective ones. It seems however that neither of the above-stated solutions is at present politically achievable due to the resistance among the Bosnian Serbian (to the first) and among the Bosniak ethnic elite (to the second solution).

It would be desirable that new institutional arrangements for B & H be based on a wide political consensus reached on a non-partisan and non-ethnic basis and enjoying sufficient popular support in all parts of the country. This however is not the case with "Dayton-2." Only when this democratic consensus is attained can one hope with greater optimism for the internal consolidation of the country, her economic progress and increasingly active participation in the processes of European economic and political integration as well as in Euro-Atlantic security cooperation. Yet securing B & H's existence and self-sustaining progress is a necessary prerequisite for stabilizing the Western Balkans and for crowning with lasting success the peace process initiated at Dayton.

Regional Prospects for Federalist Developments in South-Eastern Europe

In spite of numerous difficulties, conflicts and failures in the past federalism has its place in South Eastern Europe. The still uncertain future of a viable B & H will be best assured if she develops her own, appropriate and rational model of federal governance. Having invested so much effort and funds the international community certainly would not allow any attempt to break up again her territorial integrity and to provoke a relapse into sharp intercommunal conflicts and violence. I am referring here to veiled threats by some Serbian politicians to demand again self-determination for the Bosnian Serbs if Kosova/Kosovo is granted independence.

To the East of B & H a loose association of two sovereign states might replace the "State Community of Serbia and Montenegro," following a successful referendum in Montenegro on May 21, 2006. The first step in this direction was the proclamation of Montenegro's independence on June 4, 2006. Prior to the referendum the Montenegrin government proposed to the Serbian government to start negotiations on a pragmatic association.

In 2005 President of Serbia B. Tadić proposed a federalist solution for Kosovo, however somewhat different from that in B & H. According to his proposal Kosovo would reacquire far-reaching autonomy within Serbia which was abolished in 1989 by the Serbian regime. The non-contiguous districts inhabited by the ethnic Serbs would be administratively linked together and constitute an autonomous entity within the predominantly Albanian province. An autonomous status of Kosovo was incorporated into the new constitution of Serbia adopted in December 2006. But this concession came too late and is now utterly unacceptable to the Kosovar Albanians. The idea of cantonizing Kosovo had also been previously floated. Furthermore decentralization and regionalization are being discussed within the framework of talks on the future of Kosova/Kosovo. Decentralization might be part of the package solution for the present international protectorate. The very probable international recognition of Kosova's also legal separation from Serbia and independence would be limited by international tutelage as well as by EU's and NATO's police and military presence.

Possible solutions for the so-called "frozen conflicts" in Moldova and on Cyprus have also been proposed in the form of two confederal structures consisting of (a) the Republic of Moldova and the Transdnestrian Republic, and (b) the Republic of Cyprus and Turkish Republic of Northern Cyprus.

On a wider scale the expansion of the European Union brings into South Eastern Europe a new and specific form of loose confederalism. Greece, Romania, Bulgaria and two states bordering on the Balkans (Hungary and Slovenia) already belong to this unique association of states. Croatia and Turkey have been negotiating their respective accession, while several other states in the region are among further prospective or conceivable candidates for EU membership. This growing interstate net, its "Stability Pact for South-Eastern Europe," NATO, its "Partnership for Peace" and several other multilateral instruments of interstate cooperation offer the best framework for managing numerous problems and political conflicts in the still unstable Balkans.