

## Bosnia: A Test of Political Maturity in Mostar

### I. OVERVIEW

The administration of Mostar is collapsing, a warning sign for Bosnia and Herzegovina (BiH). There has been no mayor, budget or functioning city council since an October 2008 election; tension threatens to poison relations between the leading Bosniak and Croat parties, which are coalition partners throughout BiH. The crisis is rooted in ethnic demographics, recent conflict history and a city statute that replicates many of the power-sharing rules that govern the state. Mostar's Croat majority, much like the state's Bosniak majority, chafes against these rules, considering them illegitimate and foreign-imposed, and seeks to force the Office of the High Representative (OHR – the international community's peace implementation body) to impose a solution on its behalf. Yet, a fair solution is within the council's competence and, like the city's chronic grievances, can best be handled without the High Representative using his extraordinary (Bonn) powers. The international community should deliver the message that fourteen years after the end of their war, it is time for the Bosnians to take responsibility for their own futures.

Some of the heaviest and most destructive fighting of the Bosnian war took place in downtown Mostar, which until recently had districts of almost lunar desolation. During the fighting, Croat authorities conducted a brutal campaign of ethnic cleansing against their Bosniak neighbours, and a quieter version of this persecution lasted years after the Dayton Accords brought peace. Wartime experiences still strongly affect political expectations, especially among the Bosniaks, and Mostar is today Bosnia and Herzegovina's only truly divided city. Still, healing has begun. Long considered the Beirut of the Balkans, it is today peaceful and bustling. The long-hovering threat of renewed violence has decisively receded. The statute imposed by the High Representative after consultation with local and national leaders in 2004 has united the city administratively.

Nevertheless, peace and unification have not kept Mostar from a general breakdown of its government. Its multi-ethnic city council has failed on fourteen separate occasions to elect a mayor, and councillors have begun boycotting sessions. The city has not paid its

employees, schoolteachers and firemen, as well as the construction workers and staff of its many publicly-owned companies since March 2009. The council has transacted no business since passing a temporary budget, long since expired. As townspeople wish a pox on all of them, the city's divided political elites are escalating their rhetoric and invoking wartime injustices with worrying frequency.

The immediate crisis concerns the procedure for electing the mayor, but it has brought older, deeper and more fundamental problems to the surface that will persist long after Mostar finally gets its chief executive. The real disputes are over Mostar's role in the broader Croat community, the Croats' position in Bosnia and Herzegovina, and most generally, how majority rule and minority rights can coexist in a multi-ethnic environment. These problems mirror those that afflict BiH as a whole, and the prescription for the city's ills points the way toward countrywide reform. A full resolution to Mostar's problems cannot be found within its city limits; it can only be part of a general reform of the state and the entities.

Mostar's ethnic structure and political landscape are similar to BiH's, but with the players reversed. Alone among Bosnia's cities, it runs on laws and institutions built on the same, internationally-designed framework used to build the Bosnian state. The Croat majority is frustrated, internally divided and deeply hostile to the city's power sharing statute, which it seeks to replace with a less restrictive form of majority rule. The Croats also try to compensate through Mostar for their lack of a home territorial unit. The large and assertive Bosniak minority is fiercely protective of its legal privileges, enshrined in that same statute, but complains of neglect at the hands of both its more prosperous Croat neighbours and the Bosniak national leadership, whose interests are elsewhere. The tiny Serb minority, remnant of wartime ethnic cleansing carried out by Bosniaks and Croats alike, deals with its perceived vulnerability largely through ingratiation and emigration.

The breakdown of Mostar's internationally-imposed government shows what happens to a consensus-based system in the absence of inter-ethnic agreement. The solution requires that the mayoral deadlock be addressed urgently:

- the High Representative should facilitate a solution by clarifying the law, previous statements from his office notwithstanding; and
- the city council must honour the statutory provision for electing the mayor by secret ballot. After formally adopting the imposed statute, the city council should amend the statute if it considers that any ambiguity remains, so as to allow the election of the mayor by a majority of those present and voting in the council in a third and final round, thereby guaranteeing the election of a new chief executive.

But Mostar's leaders should not stop there. They must work together to articulate a vision of their common home that recognises its symbolic importance to Bosnia and Herzegovina's Croats, while ensuring Bosniaks and Serbs a fair share in the city's administration and development. They should begin with practical local measures, including:

- the city council and the new mayor should complete the consolidation of the city's utilities and publicly-owned companies, taking into account not only the ethnic balance but also the rights and interests of the companies concerned; and
- the city council should take steps to reduce opportunities for corruption and favouritism, especially in the lucrative regulation of construction permits, by streamlining procedures in line with World Bank recommendations.

Responsibility falls also on Bosnia's leaders, who should in due course:

- change Mostar's electoral system, as part of a general reform of the country's constitutional order, to bring it into line with the rest of the country; institute direct election of the mayor; and adopt provisions that retain protection for Bosniak and Serb political interests; and
- work toward a national constitutional solution that meet the needs of all three constituent peoples.

Much like counterparts in Sarajevo and Banja Luka, Mostar's leaders expect the international community, in the form of the High Representative, to rescue them from their failure to compromise. Since ambiguities in the statute imposed by the High Representative and a subsequent interpretation by his office have contributed to the present crisis, such an intervention could be justified. But the threat of imminent violence does not hang over this crisis in a way that would require a last-resort, imposed solution, and taking responsibility out of Bosnian hands would weaken national capacity and reinforce a culture of dependence countrywide. The solution to Mostar's ills, like BiH's, is within the reach

of local and national leaders. The OHR will likely close soon, and those leaders will have to assume full responsibility for their country. Bosnians must show the political maturity – and not only in Mostar – to run their own affairs.

## II. THE CRISIS

Mostar is the biggest and most influential city in Herzegovina, the southern region of Bosnia and Herzegovina (BiH), and the capital of the Federation of Bosnia and Herzegovina's (FBiH) Herzegovina-Neretva canton.<sup>1</sup> In the last pre-war census (1991), Bosniaks were a slight plurality, with 35 per cent of Mostar's population, but many believe that the bulk of those who refused to identify themselves, up to 12 per cent, would today self-identify as Bosniaks. If true, this means that Bosniaks outnumbered Croats by about four to three before the war. During the war, Croatian forces persecuted the Bosniak population with great brutality, imprisoning most of the men in large camps under appalling conditions, expelling most of the women and children and subjecting the Bosniak side of town to intense bombardment while cutting off its food.<sup>2</sup>

Few of the thousands of Bosniaks who became refugees throughout the world have returned.<sup>3</sup> Croats may now be the largest national group in Mostar by a substantial margin, and the Bosniak districts are still war-scarred and decrepit.<sup>4</sup> In the absence of a post-war census no reliable figures are available, but many believe Croats are today between 50 and 60 per cent of Mostar's approximately 100,000 residents, with the

<sup>1</sup> For background on Bosnia and Herzegovina, see Crisis Group Europe Report N°198, *Bosnia's Incomplete Transition: Between Dayton and Europe*, 9 March 2009. For background on Mostar, see Crisis Group Europe Report N°150, *Building Bridges in Mostar*, 20 November 2003. In this report, "Bosnia", "Bosnia and Herzegovina" and "BiH" are used interchangeably to refer to the whole country.

<sup>2</sup> International Court for the Former Yugoslavia (ICTY) IT-01-48-T, Prosecutor vs. Mladen Naletilić Tuta and Vinko Martić Štela, Judgment, 31 March 2003, p. 14 ff.

<sup>3</sup> Crisis Group interview, Faruk Čupina, member of Mostar city council (SDA), 3 July 2009.

<sup>4</sup> Croat demographic preponderance in Mostar seems to date more from the post-war years than the war itself: a study by demographers working for the ICTY found that in the first post-war elections (1996-1997), the Bosniak and Croat populations were almost equal, while the Serbs (19 per cent before the war) were only 2.6 per cent. Large population shifts had taken place within Mostar, with most Bosniaks expelled from Croat-majority districts on the west bank of the river and virtually all Croats having left the Bosniak-dominated east bank.

Bosniaks composing about 40 per cent and the Serbs reduced to at most a few per cent.<sup>5</sup>

The abuse did not end with the war. Mostar's Croats spent years afterwards in a sustained campaign to keep Bosniak refugees from returning, terrorising those who tried to cross into "their" side of the city and maintaining a rigid separation between east and west Mostar. The international community, led by the European Union (EU), was largely unsuccessful in its attempts to break Croat defiance and to protect the Bosniaks.<sup>6</sup>

The border between east and west Mostar is harder to spot these days, but the city remains thoroughly divided, "literally two cities" living side by side.<sup>7</sup> Even this represents progress: residents now cross safely and easily back and forth, and their political leaders at least try to run the city together.<sup>8</sup> Violence – apart from endemic football hooliganism – is just a memory and unlikely to return.<sup>9</sup>

Mostar is, however, increasingly ungovernable. For nine months the city council has failed to elect a mayor or pass a true budget.<sup>10</sup> The city has made no payments since March 2009, to its employees, publicly owned companies and schools and has ceased honouring its contracts. In June the multinational fire department

went on strike, announcing that henceforth it would only fight "necessary" fires.<sup>11</sup> Construction of urgently needed housing has stopped.<sup>12</sup> But these are only the most recent and acute symptoms of Mostar's inability to govern itself. None of the city council's decisions to create common institutions and public companies have been implemented. After a long absence, Mostar is back on the international community's radar screen: the Steering Board of the Peace Implementation Council (PIC)<sup>13</sup> judged it "unacceptable that the Mostar city council has failed to appoint a new Mayor over eight months after the elections" and instructed the High Representative to "take further steps to facilitate the election of a new Mayor".<sup>14</sup>

It was not supposed to be this way. When Paddy Ashdown, then the High Representative, used his powers to impose a new statute on the city in January 2004, his goal was to salve a "running sore that can poison the whole body politic of this country" and to create the foundations for "a modern European city" responsive to its citizens' wishes and needs.<sup>15</sup> The initial signs were good. As it was designed to do, the first city council elected under the new statute produced a strong multi-ethnic coalition government. The coalition was itself the product of a state-level agreement between the Party of Democratic Action (Stranka demokratske akcije, SDA) and the Croatian Democratic Union (Hrvatska demokratska zajednica, HDZ) that committed the SDA to support the HDZ's candidate for mayor in 2004 and the HDZ to return the favour after the next elections, in 2008.<sup>16</sup>

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<sup>5</sup> Crisis Group in 2003 estimated Croats, Bosniaks and Serbs as 58, 40 and 1.5 per cent respectively; Crisis Group Report, *Building Bridges in Mostar*, op. cit., p. 7. Analysis of the 2008 election returns suggests figures of 53, 44 and 3 per cent respectively, assuming that all voters for the national parties were of the corresponding ethnicity, and that voting for the multinational parties mirrored the voting ratio of the national parties in each electoral district. Vote totals taken from the website of the Central Election Commission, [www.izbori.ba](http://www.izbori.ba).

<sup>6</sup> For a detailed summary of Croat obstruction and maltreatment of the Bosniaks, see Crisis Group Europe Report N°90, *Re-unifying Mostar: Opportunities for Progress*, 19 April 2000, especially pp. 4-26 and 37-40.

<sup>7</sup> Crisis Group interviews, Faruk Ćupina, member of Mostar city council, Mostar, 6 July 2009, senior member of SDA leadership, Sarajevo, 1 July 2009.

<sup>8</sup> Crisis Group interviews, Sladana Gotovac, member of Mostar city council, Mostar, 13 May 2009; Anatoly Viktorov, Deputy High Representative, Mostar, 14 May 2009.

<sup>9</sup> Football violence occasionally escalates: Croat hooligans stopped and burned a bus carrying out-of-town Bosniak supporters on 29 April 2009; no one was hurt, the police made arrests, and the incident, while serious, seems to have been limited to the hooligan underworld. Crisis Group interviews, Salem Marić, head of SDA Mostar city board, Mostar, 12 May 2009, Danijel Vidović, president of Mostar city council, Mostar, 13 May 2009.

<sup>10</sup> The council remains deadlocked, with Mayor Ljubo Bešlić remaining in office, holding a quasi-legal "technical mandate" with unclear powers.

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<sup>11</sup> Crisis Group interview, Radmila Komadina, Mostar chief counsel, Mostar, 8 June 2009. City employees have been on intermittent strike in June and July 2009.

<sup>12</sup> Crisis Group interviews, Žarko Markić, head of Mostar urbanism and construction department, Mostar, 8 June 2009; Edita Avdić, head of Mostar finance and real estate department, Mostar, 8 June 2009.

<sup>13</sup> The PIC consists of 55 countries and agencies and last met at the ministerial level in May 2000; its executive authority rests with a Steering Board, whose members are Canada, France, Germany, Italy, Japan, Russia, the UK, the U.S., the presidency of the European Union, the European Commission and the Organisation of the Islamic Conference (OIC), represented by Turkey.

<sup>14</sup> "Communiqué of the Steering Board of the Peace Implementation Council", 30 June 2009.

<sup>15</sup> "High Representative issues temporary decision on Mostar", press release, OHR, 9 January 2004.

<sup>16</sup> The agreement, signed by then-party leaders Bariša Čolak for the HDZ and Sulejman Tihić for the SDA, has never been made public. It contained a number of other provisions, including transfer of Mostar's shares in the Herzegovina Television studio to the three Herzegovina cantons (Croat-dominated) and unification of sport and cultural institutions in Mostar,

The new administration implemented the major provisions of the statute. The six city-municipalities into which Mostar had been divided since 1995 were dissolved and their employees taken onto a unified city payroll. Under the old interim statute, Mostar had a relatively weak mayor, who served with a deputy of the other nationality and was in effect a co-mayor, plus six mayors of the six city municipalities for a total of eight chief executives. One mayor, without a deputy and with strong executive powers, replaced all this. Over the next several years, the city council ordered the unification of public utilities and publicly-owned companies; and prohibited – by unanimous vote – funding for “parallel” institutions and institutions with a national name (Croat, Bosniak, Serb).

In the meantime, and with ample international funding, Mostar repaired the worst of the damage that had left it the most war-scarred cityscape in Bosnia and Herzegovina. The former front line, which bisected the city, is now the site of new housing estates and the only public high school in which Croat and Bosniak students attend classes, albeit separate ones, at the same time. It is no longer dangerous or even remarkable for Bosniaks to cross to the west side or Croats to the east, even if many choose to remain among their kin. The famous and lovely Old Bridge, destroyed by Croat shelling in 1993, has been rebuilt and is once again the symbol of the city.

But progress gradually slowed, halted and in some areas reversed. The unification of public services stalled at the formal level, with the old divided services under a common name but still operating separately. Worsening tensions at the state level and anxiety about the approaching end of the High Representative’s mandate did not help.<sup>17</sup> The HDZ and SDA both reneged on several parts of their 2004 agreement.<sup>18</sup>

In the October 2008 local elections, the Croat electorate split its votes among three parties: the HDZ, a splinter group called the HDZ 1990, and the new, nominally multinational People’s Party – Progress

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most of which were (and are) split along national lines. Crisis Group interviews, Salem Marić, secretary of SDA Mostar city board, 12 May 2009; Danijel Vidović, president of Mostar city council, Mostar, 13 May 2009.

<sup>17</sup>For the general political situation in 2007-2008, see Crisis Group Report, *Bosnia’s Incomplete Transition*, op. cit.

<sup>18</sup>Crisis Group interviews, Salem Marić, secretary of SDA Mostar city board, Mostar, 12 May 2009; Danijel Vidović, president of Mostar city council, Mostar, 13 May 2009; Srećko Boras, prime minister of Herzegovina-Neretva canton, Mostar, 13 May 2009; senior member of SDA leadership, Sarajevo, 1 July 2009; Ljubo Bešlić, acting mayor of Mostar, Mostar, 8 July 2009.

through Work (NS, Narodna stranka – Radom za boljitak).<sup>19</sup> Bosniaks overwhelmingly supported the SDA, which won twelve seats on the city council, five fewer than the parties favoured by Croat voters together captured. Smaller parties, including the multinational (but Bosniak-dominated) Social Democratic Party (SDP, Socijalnodemokratska partija) and the Bosniak Party for Bosnia and Herzegovina (SBiH, Stranka za Bosnu i Hercegovinu), divided the remaining six seats in the 35-seat council.

Shaken by its losses in Mostar and elsewhere (to the SDA in the Central Bosnian towns of Busovača and Novi Travnik and to the splinter HDZ 1990 in Posušje and Prozor), the HDZ chose not to honour its agreement with the SDA. Instead, it launched a campaign to win a second term as mayor for its candidate, the incumbent Ljubo Bešlić. Nine months of often surreal parliamentary manoeuvres ensued.

The council’s inability to elect a mayor turns on drafting and interpretive imprecision in the statute imposed by the High Representative. If no candidate wins a two-thirds majority in the first two rounds of voting within the city council, a runoff is held, in which “a simple majority of elected Councillors” is needed; and if that round results in a tie, the younger candidate is declared the victor. The wording, at least as interpreted by the High Representative, implies that victory requires the votes of at least eighteen of the 35 councillors, or a tie – even a zero-zero tie. In other words, if the older candidate gets ten votes, the younger rival can only win by getting exactly ten votes or eighteen or more – eleven to seventeen votes for the leader would be insufficient.<sup>20</sup>

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<sup>19</sup>The parties favoured by Croat voters won seventeen council seats in all: seven each by the HDZ and the NS and three by the HDZ 1990. In the previous council, the HDZ had held fourteen seats. All results are taken from the website of the Central Election Commission, [www.izbori.ba](http://www.izbori.ba). To some extent, this fracture was a direct result of the failure of Bosnia’s attempt at constitutional reform in April 2006: the HDZ 1990 split from the HDZ because it rejected the proposed amendments; its votes were decisive in killing the reform. The NS is closely associated with a wealthy agribusiness dynasty in Herzegovina, the Lijanović family and its business empire; the party’s rhetoric is tolerant and progressive, but its delegates often seem mainly interested in promoting legislation that would benefit the company.

<sup>20</sup>The English language term “simple majority” might reasonably be thought to mean any majority of those voting, not necessarily an absolute majority of at least eighteen members of the 35-member council. Indeed, the Bosnian translation of this phrase renders “simple majority” with a term of art that always means a majority of those present and voting. How-

Each of fourteen attempts has followed the same bizarre choreography. In defiance of the statute, the council votes by public roll call.<sup>21</sup> In the initial rounds, with no tie-breaking provision, each candidate gets fourteen votes; in the third round, the SDA ensures that at least one of its councillors abstains, because in this topsy-turvy world, that vote for the SDA candidate would mean a tie, thus victory for his HDZ opponent. Instead, the result is no tie and thus no mayor.<sup>22</sup>

Nine months of failure have brought the council to the breaking point. Both sides are alleged to have offered bribes – “write down how much you want” – in exchange for key votes.<sup>23</sup> Councillors report feeling strong pressure not to betray their ethnicity by voting for the “wrong” candidate; one told Crisis Group she would fear for her safety if she did so, and party officials report receiving threats of violence.<sup>24</sup> Three parties have announced a boycott.<sup>25</sup>

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ever, when the council sought an interpretation in March 2009, the OHR replied that a majority of those eligible to vote – that is, at least eighteen votes – was needed. Crisis Group telephone interview, city council official, 22 July 2009. The High Representative had previously stated that until his decisions are formally adopted, “the official English version signed by the High Representative prevails over the translated version”; Christian Schwarz-Schilling, “Decision correcting the translation of the official decision of the High Representative Enacting Amendments to the Constitution of the Federation of Bosnia and Herzegovina”, 4 May 2007.

<sup>21</sup> Articles 36 (1) and 44 require a secret ballot; by a vote of 31 to 4, the council chose to ignore this provision. Crisis Group interview, Faruk Čupina, member of Mostar city council (SDA), Mostar, 8 July 2009.

<sup>22</sup> Before voting began, the SDA candidate, Suad Hasandedić, took the podium to complain that an independent councillor had abandoned his old seat and was now in the back row. He demanded that the president order him back to his old seat; failing that, he warned, “I will walk out of this room and sit down upstairs in the hall”. Hasandedić feared this was a trick to snatch the coveted last voting slot, crucial for avoiding a tie, from his party; the president assured him voting would take place in the same order as always. It turned out that a Croat councillor was absent and voted by proxy, and there was a tense moment when Bosniaks feared the proxy would be used for an abstention that would produce a tie.

<sup>23</sup> Crisis Group interview, Zoran Perić, head of SDP Mostar city board, Mostar, 3 July 2009.

<sup>24</sup> Crisis Group interviews, Vahida Bebanić, member of Mostar city council, Mostar, 3 July 2009; Mladen Ivanković-Lijanović, president of NS, and Jerko Ivanković-Lijanović, member of Parliamentary Assembly of Bosnia and Herzegovina, Široki Brijeg, 6 July 2009.

<sup>25</sup> “SDA Mostar: Do daljnjeg ne učestvujemo u radu Gradskog vijeća [SDA Mostar: We will not participate in the work of the city council until further notice]”, *Dnevni Avaz*, 14 July 2009 (online); the SDP boycotted a session witnessed

While this Sisyphean frustration can be traced back to ambiguous drafting in the statute imposed by the OHR, it also stems from the councillors’ stubborn refusal to take responsibility for clearing up the matter.<sup>26</sup> The statute can be amended by the city council, but only after its formal adoption, and the city council has never taken that necessary first step.<sup>27</sup> Until and unless it is adopted by the council, its only authoritative version is the English-language text promulgated by the OHR, which contains the ambiguous wording. Adopting the statute would bring its clearer Bosnian text into force. This alone might be enough to eliminate the problem; if not, the council could simply amend the statute to provide for election of the mayor by a majority of those present and voting in a third and final round.

However, resentment against the OHR’s original imposition has drawn Mostar’s politicians into the self-destructive pose of refusing to adopt the statute.<sup>28</sup> Instead, Croat leaders hope to use the crisis to build pressure on the High Representative to change not only the problematic provision for electing a mayor but also to impose direct, popular election of the mayor and to wipe out the six electoral districts, thus strengthening the Croat position as the city’s dominant national group.<sup>29</sup> The High Representative also wrote these latter provisions into the constitution of the federation and the electoral law of the state, which are beyond Mostar’s powers to change.<sup>30</sup>

Crisis Group has in recent years called on the High Representative to show extraordinary restraint in the use of his “proconsul” powers (known as Bonn powers,

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by Crisis Group on 3 July 2009, at which another small party, the Hrvatska stranka prava (Croatian Party of the Right, HSP), announced its own boycott.

<sup>26</sup> Paddy Ashdown, a member of the Crisis Group Board, told Crisis Group that the drafters considered all possible voting scenarios at length and did not intend to allow this kind of deadlock; Crisis Group interview, 11 July 2009. The OHR did not respond to repeated telephone and email queries.

<sup>27</sup> “The Statute shall be in force on an interim basis until adopted by the City Council of the City of Mostar in due form, without amendments and with no conditions attached”, “Decision Enacting the Statute of the City of Mostar”, 28 January 2008. The statute provides that once it is enacted by the city council, that body can amend it by a two-thirds majority of elected councillors.

<sup>28</sup> The acting mayor, Ljubo Bešlić, told Crisis Group the city council would “never” adopt the statute; Crisis Group interview, Mostar, 8 July 2009.

<sup>29</sup> See section IV, below, on the origin and operation of Mostar’s electoral districts.

<sup>30</sup> “Decision enacting amendments to the Constitution of the Federation of Bosnia and Herzegovina” and “Decision enacting the law on amendments to the election law of Bosnia and Herzegovina”, 28 January 2004.

from the site of the international agreement that established them following the Dayton Accords) to impose legislation.<sup>31</sup> Use of those powers when the solution to the problem is within the competence of the local authorities would send the wrong message not only to Mostar but also to the country. If the High Representative acts because Bosnia's leaders refuse to take responsibility, it would reward intransigence and remove the incentive for those leaders to make the difficult decisions necessary to advance BiH's expressed desire to achieve EU membership and perpetuate a culture of tutelage and dependency. Many believe the OHR will close by the end of 2009; it should not reinforce that outdated culture in its last months.

But the OHR has already entered into this case by giving, in response to a request from the city council in the midst of the deadlock, an interpretation that, while technically correct, is not in keeping with the spirit of the statute and the intent of its drafters – including the High Representative who imposed it. Because this interpretation is an obstacle to a solution by the city council, the OHR should “de-intervene”, by withdrawing it; explaining that the intent of the statutory provision was to require the election of Mostar's mayor at the first session of the newly-elected city council; and making clear that responsibility for implementation of the Statute rests with the city council.<sup>32</sup>

This should unblock the mayoral election. If it does not by its own immediate effect, the city council should formally adopt the statute and then amend its Article 44 to unambiguously allow election of the mayor by a simple majority of those present and voting, at least in a third round of voting in the council. It should also respect the statutory provision for a secret ballot. Taken together, these changes would eliminate the possibility of prolonged deadlock and guarantee the election of a mayor. Ending the deadlock over that election should in turn unblock passage of the city budget.<sup>33</sup>

While this would formally solve the immediate crisis, it is necessary to look deeper into the root causes of the long crisis to understand the larger implications for Mostar and BiH.

### III. ETHNIC AND HISTORICAL ROOTS OF THE CRISIS

How important is the mayor, and why has the mayoral election poisoned relations among Mostar's political elites and brought the city to a dead halt? Curiously, Bosniaks and Croats both express guarded approval for each other's candidate. In more than two dozen interviews with political leaders of all three constituent peoples, few expressed any substantial fears about what the election of Ljubo Bešlić or his SDA rival Suad Hasandedić would mean for their communities.<sup>34</sup> It is not the prospect of any concrete harm that might come to Mostar from either of these men that disturbs. Instead, each community sees the mayoral election as providing the symbolic answer to the question, “who is the master of Mostar?”<sup>35</sup> The election has become a contest about Mostar's identity and countrywide role: is it, by analogy to Sarajevo and Banja Luka, the “Croat capital city”?<sup>36</sup> If so, where does that leave its Bosniak residents; and if not, where should the Croats look for leadership?

There is another reason for the bitter determination with which the HDZ and the SDA have fought the mayoral contest, namely that the prize has grown in value. Before 2004, Mostar's mayor shared power with a strong deputy of another constituent nationality, and his authority was also balanced by the six municipal mayors; under the new statute, the mayor governs alone and is the only official with responsibility for all aspects of the city government. The holder of the office has broad powers to appoint, promote and fire all city officials; prepare the budget; make policy for each of

<sup>31</sup> Crisis Group Report, *Bosnia's Incomplete Transition*, op. cit. Background on the origin and nature of the Bonn powers, which allow the High Representative to act in place of the Bosnian government to impose legislation and appoint and remove officials, is available in that report at p. 12 and following.

<sup>32</sup> The situation does not call for use of the Bonn powers – no new law or extraordinary measures are in play. The OHR need only state what the current law is; Mostar's authorities are already bound to honour it. This is an example of the kind of active facilitation that should form the kernel of what will be the mandate of the new European Union Special Representative (EUSR) once the OHR is closed down and the anticipated transition to greater EU responsibility occurs.

<sup>33</sup> Interim funding ran out on 31 March 2009, and no salaries or other payments have been made to anyone employed by the

city or to any of the large public companies – water, sanitation, parks and maintenance – owned by the city. The SDA has enough votes to block the budget, but its opposition is purely procedural; it points out that if the budget passes before a mayor is elected, the Croat acting mayor could simply govern for another year.

<sup>34</sup> Crisis Group interviews, Salem Marić, secretary of SDA Mostar city board, Mostar, 12 May 2009; Danijel Vidović, president of Mostar city council, Mostar, 13 May 2009; Radmila Komadina, chief counsel of the city of Mostar, Mostar, 8 June 2009.

<sup>35</sup> Crisis Group interview, Seid efendi Smajkić, mufti of Mostar, Mostar, 8 June 2009.

<sup>36</sup> Ibid; Crisis Group interview, Faruk Čupina, member of Mostar city council, Mostar, 3 July 2009.

the city's departments; monitor any and all acts of the city administration; and supervise all city-owned companies and enterprises.<sup>37</sup>

## A. THE CROAT VIEW

Many Croats find the idea of a Bosniak mayor deeply upsetting for reasons that have little to do with Mostar itself. The Bosniak candidate, Suad Hasandedić, is widely viewed as a decent and honest politician. Croat resentment focuses instead on more diffuse and symbolic issues centred on their status and role in Bosnia and Herzegovina.

Virtually all Croat leaders Crisis Group interviewed agreed that Mostar's unique statute is unjust; even politicians who do not favour the Croat mayoral candidate oppose the electoral system.<sup>38</sup> In a referendum on the eve of the new statute's imposition, the Croat-dominated municipalities overwhelmingly rejected parts of it and called for a single-city administration governed on the same rules as elsewhere in BiH.<sup>39</sup> Croats point out that Mostar is the only city with a Croat majority and the only city in which the ethnic majority is limited by statute to a minority of council seats, so unable to elect a mayor on its own. Other cities that experienced equal wartime devastation and ethnic cleansing operate smoothly with the same local government rules used throughout Bosnia and Herzegovina.<sup>40</sup> Crisis Group warned at the time that imposing a unique regime in the sole Croat-dominated town would amplify feelings of injustice.<sup>41</sup> These arguments

were well known, and the High Representative Paddy Ashdown was sensitive to them, even if in the end he did not find them persuasive.<sup>42</sup>

Croats will resent Mostar's unique statute for a long time; as an influential religious leader put it, "people care about injustice".<sup>43</sup> Many also see the loss of political power in Mostar as a symbol of Croat demographic decline throughout Bosnia and Herzegovina. In the absence of a postwar census, precise numbers are hard to come by, but widely-circulated figures given by the Catholic Church show a precipitous drop, from about 820,000 before the war to 466,000.<sup>44</sup>

Mostar has also long been a surrogate for the autonomous territorial unit Croats still hope to obtain and a focus of their national aspirations and cultural identity. Almost all the Croat leaders interviewed by Crisis Group, in Sarajevo as well as Mostar, strongly supported the creation of a territorial unit with at least a Croat plurality.<sup>45</sup> One Mostar politician claimed "99 per cent" of BiH Croats want a territorial unit.<sup>46</sup> In the absence of such a unit, Mostar has by default become the home for a range of Croat cultural, social and business institutions, each proudly bearing the Croat national name.<sup>47</sup> Croats point out there is no other place in Bosnia and Herzegovina for these bodies; Bosniaks

<sup>37</sup> City statute, Article 43.

<sup>38</sup> Crisis Group interviews, Mostar and Sarajevo, May, June and July 2009.

<sup>39</sup> "Odluka o odbijanju i neprihvatanju preporuke predloženog Statuta Grada Mostara [Decision on rejecting and not accepting the recommendations of the proffered Statute of the City of Mostar]", Municipal Council of Mostar South city municipality, OV-01-332/04, 9 January 2004; "Odluka o raspisivanju referenduma [Decision on holding a referendum]", OV-01-335/04, 9 January 2004. The referendum was held in the largely Croat districts of Mostar West, South West and South. "Referendum za Mostar kao jednu opštinu [Referendum for Mostar as one municipality]", B92, 25 January 2004 (online).

<sup>40</sup> Croat forces in Central Bosnia ethnically cleansed the municipalities of Busovača and Vitez and besieged and pounded into rubble the Bosniak-populated old town of Vitez, just as they did in Mostar; inter-ethnic relations in both municipalities are now relatively good, business flourishes, and Busovača just elected – much to the HDZ's dismay – its first Bosniak mayor. Only the Brčko District has strong power-sharing rules, but they are much less rigid than Mostar's.

<sup>41</sup> Crisis Group Report, *Building Bridges in Mostar*, op. cit., p. 13: "If limitations on majority rule are deemed appropriate

in Mostar... then why should they not also apply in Sarajevo, Travnik, Tuzla and Zenica?"

<sup>42</sup> "[W]e have to remember that Mostar is unique and is defined as the only place in Dayton where I have responsibility. If some principles from the Mostar solution can be applied to government in other cities, I have nothing against it, but that has to be accomplished by local politicians. I will solve Mostar, and local politicians have to solve Bugojno, Banja Luka and similar cities". Renata Radić, "Intervju: visoki predstavnik Paddy Ashdown: 'Ne mislim da će novim ustrojem grada u Mostaru zavladatai bratstvo i jedinstvo' [Interview: High Representative Paddy Ashdown: 'I do not think that brotherhood and unity will reign in Mostar with the new city organisation']", *Dnevni list*, 20 January 2004. See section IV below for more detail on the adoption of the statute, including these controversial provisions.

<sup>43</sup> Crisis Group interview, Friar Ivan Sesar, provincial of the Herzegovinian Franciscan province, Mostar, 3 July 2009.

<sup>44</sup> Crisis Group interview, Vinko Cardinal Puljić, archbishop of Vrhbosna (Sarajevo), Sarajevo, 27 March 2009.

<sup>45</sup> Crisis Group interviews, Croat political and community leaders, Sarajevo, Mostar and Široki Brijeg, October 2008 and March through July 2009.

<sup>46</sup> Crisis Group interview, Danijel Vidović, president, Mostar city council, Mostar, 13 May 2009.

<sup>47</sup> For example, Mostar hosts the Croatian National Hall, Herceg Stjepan Kosača, the Croatian national theatre, the Croatian sport club Zrinski, a largely Croat university and a number of smaller organisations.

ask why their taxes should pay for institutions whose very names exclude them.<sup>48</sup>

This is not a burden Mostar should have to bear. The Croats' unhappiness with their prerogatives within Bosnia and Herzegovina contributes much to their determination to hold onto power in the city at all costs. That struggle in turn threatens to poison relations at the state level, where the HDZ and the SDA are everywhere in an uneasy coalition. An influential community leader said Mostar will remain tense until relations at the state level are resolved.<sup>49</sup> Settlement of the Croats' nationwide grievances, in some form, could enable a more relaxed political climate in Mostar, in which a Bosniak mayor would no longer seem an existential threat.<sup>50</sup>

The HDZ also has a more pragmatic reason to hold on to the mayor's office. Long the dominant party among Bosnian Croats, its position has been slipping. It has recently lost the municipal mayor's office to the Bosniak SDA in both Busovača and Novi Travnik and to the Croat splinter HDZ 1990 in Posušje and Prozor, as well as seats elsewhere to the NS, especially in Široki Brijeg, a boomtown next to Mostar that is attracting a rich flow of corporate investment.<sup>51</sup> The party also lost the Croat seat on Bosnia's presidency to the multi-ethnic SDP. Municipal mayoralties are important sources of patronage, influence and money – legitimate and corrupt. Self-interest alone is thus enough to explain the HDZ's determination to hold onto Mostar by any means.

## B. THE BOSNIAK VIEW

The SDA has a strong claim to the mayor's office. It won the largest number of votes (20,242) and city council seats (twelve), more than the HDZ (16,258 and seven).<sup>52</sup> The agreement with the HDZ should have guaranteed it the office. The HDZ's implicit message – that a Bosniak candidate can in effect never be mayor of Mostar – risks further alienating the two communities and confirming Bosniak fears for their future in a Croat-dominated city. Some Bosniaks argue that the HDZ is prolonging the crisis in an attempt to build pressure for change in the statute, including scrapping some or all of its power-sharing provisions.<sup>53</sup>

Bosniak grievances stem from the unhealed trauma of the war that has left their community shrunken and impoverished. Bosniaks have traditionally advocated a united city, but recent history suggests their fear of becoming second-class citizens in a fully-centralised city dominated by their Croat neighbours is reasonable. During the dark post-war years, when Mostar Croats subjected them to a campaign of intimidation and abuse, Bosniaks looked to the three city municipalities they controlled for protection and necessary services. For this reason, the SDA sought to keep the six urban municipalities that existed before the current statute was imposed, and many Bosniaks still regret their loss.<sup>54</sup> Some Bosniak leaders believe reviving the municipalities in some form would be good, at least for the "quality of life" in Bosniak precincts, if not politically.<sup>55</sup> They point out that Bosniak areas that were growing and developing rapidly under municipal administration have stagnated since the reforms of 2004, as

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<sup>48</sup> Crisis Group interview, Ljubo Bešlić, acting mayor of Mostar, 8 July 2009. Ironically, this bothers Bosniaks in Sarajevo much less, and the federation is happy to finance Croat cultural events and institutions in Mostar, because it sees this as the counterpart to even more generous support for largely Bosniak projects in Sarajevo. Crisis Group interview, former minister in Herzegovina-Neretva cantonal government, 6 July 2009.

<sup>49</sup> Crisis Group interview, Seid ef. Smajkić, mufti of Mostar, Mostar, 8 June 2009.

<sup>50</sup> An opinion piece in an influential Mostar daily argued that "many Croat citizens of Mostar... hold that it would be better for Mostar to have a Bosniak mayor", in part because it would press Croat politicians to overcome their differences in the future; Dalibor Drlje, "Jedino OHR-u odgovara kriza u Mostar [The crisis in Mostar is only to OHR's benefit]", *Dnevni list*, 22 July 2009 (online).

<sup>51</sup> Crisis Group interview, member of Mostar city council, Mostar, 6 July 2009; election data taken from the website of the Central Electoral Commission, [www.izbori.ba](http://www.izbori.ba).

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<sup>52</sup> Combined totals for the citywide list and the six electoral districts, taken from [www.izbori.ba](http://www.izbori.ba).

<sup>53</sup> Crisis Group interviews, member of Herzegovina-Neretva cantonal government, 8 June 2009; member of Mostar city council, Mostar, 3 July 2009.

<sup>54</sup> Crisis Group interviews, Murat Ćorić, vice president of Mostar city council, Mostar, 13 May 2009; Seid ef. Smajkić, mufti of Mostar, 8 June 2009; senior member of SDA leadership, Sarajevo, 1 July 2009; former minister in Herzegovina-Neretva canton, Mostar, 6 July 2009. The Mostar city council went so far as to remind the Constitutional Court of the federation "that the former city municipalities lost the status of units of local self-government even though they were opposed to this, and [it] recommends that if part of the decision of the High Representative for Bosnia and Herzegovina is found to be unconstitutional, that the Court then rules the whole package of changes by which the municipalities were abolished as units of local self-government to be unconstitutional". Constitutional Court of the Federation of Bosnia and Herzegovina, Judgment, U-31/06, 21 March 2007.

<sup>55</sup> Crisis Group interview, senior member of SDA leadership, Sarajevo, 1 July 2009.



development funds and projects are channelled to Croat areas favoured by the Bešlić administration.<sup>56</sup>

Mostar's Bosniaks are far from their dominant parties' centres of power and suffer from misunderstanding and neglect as a result. Bosniak culture in the city does not move to the Sarajevo rhythm: "we are a little different here – we're Mediterranean".<sup>57</sup> Few leading members of the SDA, the SBiH or the SDP are from the Mostar area, and some Mostar Bosniaks feel written off by Sarajevo, which, they suspect, does not mind and perhaps even approves of the idea that Mostar is the Croat capital.<sup>58</sup> Their contest with Croat parties, almost all headquartered in Mostar, is unequal. Political neglect has an economic corollary, as Bosniak capital concentrates heavily in central Bosnia, leaving east Mostar starved of funds and stagnating, while Croat districts thrive.

The eastern bank of the Neretva River and the Bosniak enclave on the west bank comprise the historic urban core of Mostar and are home to the vast majority of its architecturally significant buildings. The sixteenth-century complex of fortifications, mosques, houses, public squares and bridges, centred on the iconic Old Bridge, is one of the most beautiful urban landscapes in Bosnia and Herzegovina and the object of most of Mostar's tourism. Yet these Bosniak areas are strikingly impoverished and decrepit compared to the somewhat charmless but bustling and lively Croat districts on the west bank. Just a block or two from the Old Bridge, buildings stand gutted and pockmarked by bullet holes and shell explosions; businesses are few and seedy and the whole area is neglected. Bosniak leaders point out that their part of town suffered far more war damage than the Croat west and has been unfairly slighted ever since; they also note that Croatia invests large sums in west Mostar.<sup>59</sup>

This is not the whole story: west Mostar attracts Croat capital from all over BiH, while Bosniak money gravitates to Bosniak-dominated centres, most of all to booming Sarajevo. But the visibly uneven development of Mostar reinforces the perception of two

cities and can foster a sense of alienation that inflicts real damage.<sup>60</sup> In the prevailing climate of mistrust, even Croat investment in Bosniak areas – one of the more hopeful signs of healing, and necessary for the city's future – strikes some Bosniaks as ill-intentioned encroachment.<sup>61</sup>

#### IV. POWER SHARING IN PRACTICE

Mostar's statute was the product of a negotiation process that involved all the city's political parties and the OHR.<sup>62</sup> Over several months in 2003, the parties reached consensus on all but two matters, and the High Representative, Paddy Ashdown, accepted their conclusions without change.<sup>63</sup> The two remaining issues were the fate of the six city municipalities and the electoral system for the city council; ironically, the procedure for electing the mayor was not in dispute.<sup>64</sup>

Both issues arose from the question of how ethnic communities can share power in a democracy while protecting the interests of minorities. In Mostar, that question is far from academic: the city and the region have a long history of majority abuse, where even 49 per cent of the vote can translate into no influence and no rights. The premier Bosniak party, the SDA, sought protection through decentralisation, preservation in some form of the municipal structures that sheltered them after the war. The Croats, through the HDZ, favoured a united city administration, with as direct a democracy as possible.

The High Representative in 2004 overruled both sides. "My Bosniak friends and friends from the SDA promise me they will not create a divided city if they are allowed to keep the municipalities. My Croatian friends promise me they will not outvote the other people if they are given the government of Mostar. I cannot

<sup>56</sup> Crisis Group interview, former minister in Herzegovina-Neretva canton, Mostar, 6 July 2009. Informal conversations in Mostar show this concern is not limited to Bosniaks and that some Croats also feel their neighbourhoods have been neglected under the new centralised regime.

<sup>57</sup> Crisis Group interview, Salem Marić, head of SDA Mostar city board, Mostar, 12 May 2009.

<sup>58</sup> Crisis Group interviews, former minister, Herzegovina-Neretva canton, 6 July 2009; member of Bosniak caucus, Mostar city council, Mostar, 8 July 2009.

<sup>59</sup> Crisis Group interview, Seid ef. Smajkić, mufti of Mostar, Mostar, 8 June 2009.

<sup>60</sup> Crisis Group interview, Friar Ivan Sesar, provincial of the Herzegovinian Franciscan province, Mostar, 3 July 2009.

<sup>61</sup> Crisis Group interview, former member of Herzegovina-Neretva canton government, Mostar, 6 July 2009.

<sup>62</sup> Crisis Group Report, *Building Bridges in Mostar*, op. cit., pp. 7-10; "Recommendations of the Committee, Report of the Chairman", Commission for Reforming the City of Mostar, pp. 9-11.

<sup>63</sup> "High Representative issues temporary decision on Mostar", press release, OHR, 9 January 2004; Crisis Group interview, senior OHR official, Mostar, 14 May 2009.

<sup>64</sup> "Recommendations of the Committee, Report of the Chairman", Commission for Reforming the City of Mostar, pp. 18-21.

believe such promises".<sup>65</sup> The Bosniaks lost their municipalities, but gained a guaranteed share of seats in the city council; the Croats lost the preponderant role their demographic weight might have given them, but gained a single city. The solution was not ideal and was not meant to last for all time, but Ashdown considered it the best available at the time.<sup>66</sup> Enshrined in the city statute, it offered "guarantees that in the established city structure there will be no space for a renewed establishment of parallelisms that would divide the city, a single administration without municipalities, and guarantees that no constituent people can rule the city on its own".<sup>67</sup>

The statute in effect assigns Mostar's communities fixed ethnic quotas in the city council, with fifteen seats each for the Bosniaks and Croats, four for the Serbs and one for "others".<sup>68</sup> Over time, a rigid quota system may become unsustainable; for now, its effect is surprisingly subtle. Crisis Group calculations suggest that if the city council had been elected in 2008 on the basis of the system used elsewhere in BiH, with no quotas or maximums, Croat candidates would have won only one extra seat, for a total of sixteen (two short of an absolute majority), with Bosniaks losing one for a total of fourteen, together with three Serb seats and two others.<sup>69</sup>

If the statute does not discriminate significantly against any constituent people, it does work strongly in favour of one political party, the SDA. More than half the city council seats are elected in districts corresponding to the six old municipalities, each of which chooses three councillors.<sup>70</sup> Three largely Bosniak districts are much

smaller than the three mostly Croat districts.<sup>71</sup> The division of the city into districts of unequal size creates a variable "hidden threshold" required to elect a councillor and favours "large parties" that are strong in "small districts".<sup>72</sup> Were it not for this advantage, the SDA would have won only eight seats, instead of the twelve they now hold; their main rivals the HDZ and the NS, would have had no change in their results, and several smaller parties would have entered the city council.<sup>73</sup>

With its twelve seats, the SDA can unilaterally block any measure requiring a two-thirds super majority in the city council, including the budget, adoption of urban plans, amendments to the statute and even changes to street names.<sup>74</sup> This is a powerful bulwark against ethnic discrimination. The requirement of a super majority for adoption of the budget and other sensitive matters had strong support among all parties when it was put into the statute, and none of the city leaders interviewed by Crisis Group questioned its ongoing relevance.

Mostar's Serbs were biggest losers in the 2004 reform, going from a guaranteed ten seats to four. Even this understates their loss, since there are in fact too few Serb voters to elect even a single representative on their own; all four of their city councillors were elected in 2008 on the tickets of other parties, including the HDZ and the SDA. Mostar, in other words, has Serb representatives, but no representatives of the Serbs. But it was not either the old or the new statutes that disenfranchised Mostar's Serbs; it was the ethnic cleansing

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<sup>65</sup> Renata Radić, "Intervju: visoki predstavnik Paddy Ashdown", 20 January 2004, op. cit.

<sup>66</sup> Crisis Group telephone interview, Paddy Ashdown, 11 July 2009.

<sup>67</sup> Renata Radić, "Interview: Paddy Ashdown, High Representative: 'If politicians fail to reach consensus, I will impose Mostar solution'", *Dnevni list*, 12 January 2004.

<sup>68</sup> Article 16 guarantees each of the three constituent peoples at least four seats, with one more reserved for a candidate who is not from any of the three, and limits any one people to fifteen seats. Since there are too few Serbs or others to elect more than their guaranteed minimums, the remaining 30 seats are divided among Bosniaks and Croats.

<sup>69</sup> Crisis Group calculations based on vote totals on the website of the Central Electoral Commission, [www.izbori.ba](http://www.izbori.ba). Of course, if the rules had been different, the parties would have adopted different electoral strategies and candidate lists, which could have produced different results.

<sup>70</sup> City statute, Article 17 (1). This provision also partially disenfranchises the residents of the "Central Zone", a small area left out of all six districts, who may only vote on the city-wide list. This discriminatory provision was challenged

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in the Constitutional Court of the federation, which upheld it on the technical ground that it was consistent with the entity constitution, as amended by the High Representative on the same day as the imposition of the Mostar statute. Constitutional Court of the Federation of Bosnia and Herzegovina, Judgment, Case U-31/06, 21 March 2007.

<sup>71</sup> The districts where the SDA did very well have 6,869, 8,866 and 18,977 registered voters respectively; the two districts with strong showings by Croat parties have 17,406 and 29,522 registered voters. A small district with 6,989 voters elected both Bosniak and Croat councillors.

<sup>72</sup> "D'Hondt Method", [http://en.wikipedia.org/wiki/D%27Hondt\\_method](http://en.wikipedia.org/wiki/D%27Hondt_method). Bosnia and Herzegovina uses the Saint-Laguë method, a variant of the D'Hondt electoral system designed to achieve greater proportionality, but the same large-party, small-district advantage applies.

<sup>73</sup> The Serb Party of Independent Social Democrats (SNSD, Stranka nezavisnih socijaldemokrata), the Bosniak Bosnian-Herzegovinian Patriotic Party (BPS, Bosanskohercegovačka patriotska stranka) and the multiethnic "Our party" (Naša stranka) would each have won one seat. Crisis Group calculations based on vote totals on [www.izbori.ba](http://www.izbori.ba).

<sup>74</sup> City statute, Article 33 (2).

of 1992, carried out by then-allied Bosniak and Croat armed forces.<sup>75</sup> There is no way to ensure genuine Serb representation at anything close to prewar levels without resorting to explicitly ethnic voting. The best option is to make it easier for small parties to win seats on the city council, which would give Mostar's Serbs a chance of electing at least one of their own to the city's representative body.

Mostar's legacy of ethnic persecution, during and after the war, justifies limits on majority rule for some time,<sup>76</sup> but these can and perhaps should take different institutional form. The statute's power-sharing rules already show severe strains; but insofar as the same rules are written into federation and state legislation, the city council cannot modify them. A solution to Mostar's ills will thus require action at those levels and can only be implemented as part of a more comprehensive reform. Direct election of the mayor would ease the Croat sense of injustice, and since Bosnia's election law does not provide for a runoff, a Bosniak candidate might win a direct election even if Bosniak voters are a minority on the full electoral roll.<sup>77</sup> Likewise, the city's electoral districts should be discarded or redrawn more equitably. New mechanisms to protect the interests of neighbourhoods and constituent peoples should be considered.<sup>78</sup> Mostar's Serbs urgently need a voice of their own choosing on the city council, as well as economic and political support for their return to the city.

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<sup>75</sup> The OHR's Mostar commission estimated that Serbs and Yugoslavs, once almost 30 per cent of the city's residents, had fallen to less than 1 per cent by 2003; "Recommendations of the Commission, Report of the Chairman", Commission for Reforming the City of Mostar, p. 15. Murat Ćorić, the Bosniak vice president of the city council, told Crisis Group that essentially none of the crimes committed by or against Serbs in Mostar had been investigated or prosecuted by any jurisdiction and that this obstructed Serb return; Crisis Group interview, Mostar, 13 May 2009.

<sup>76</sup> Crisis Group telephone interview, Paddy Ashdown, former High Representative, 11 July 2009; Crisis Group interview, Seid ef. Smajkić, mufti of Mostar, Mostar, 8 June 2009.

<sup>77</sup> Indeed, if the mayoral race had been decided by which city councillor got the most individual votes, the winner would have been the SDA's Suad Hasandedić, with 4,537 votes to Ljubo Bešlić's 4,378. [www.izbori.ba](http://www.izbori.ba).

<sup>78</sup> These could be based on the SDA's 2004 proposals for greater decentralisation, summarised in "Recommendations of the Commission, Report of the Chairman", Commission to Reform the City of Mostar, p. 19.

## V. CITY SERVICES: "ONLY THE WATER IS COMMON"

Before unification, Mostar had a weak and fractured executive, a large and redundant administration and at least two of everything: "two payment bureaux, two post offices, two public bus companies, two public companies for city cleaning, two water and sewage companies, two electric distribution companies and two public pension funds".<sup>79</sup> Elimination of this costly and inefficient duplication was one of the drivers behind the 2004 reforms.

On the surface, much has been accomplished. The firefighters, emergency services, water utility and large public companies that handle everything from sanitation to road and park maintenance have all been consolidated into single city-wide entities. But the unity is paper-thin. Where duplication once meant two institutions offering the same service to different parts of Mostar, it now means one institution with all key functions doubled and extensive ethnic separation.

There are worrying signs that the new city administration is not functioning as planned and that its ponderous inefficiency suits the local political elites. In 2008, a World Bank survey found that Mostar was the single worst city in south-eastern Europe in which to do business.<sup>80</sup> It takes 535 days on average to obtain a construction permit, the longest in the region.<sup>81</sup> A successful Mostar attorney told Crisis Group that he had sought such a permit for a foreign client without success for more than a year, at which point his client bought it illegally through an underworld intermediary.<sup>82</sup> The combination of centralised oversight of all city business and a cumbersome bureaucracy inherited from Bosnian tradition but apparently even worse than elsewhere in the country creates tempting opportunities for corruption and favouritism.

One of the goals of the 2004 reform was to reduce the city's bloated bureaucracy and the inefficiencies and expense caused by ethnic duplication in its services and public utilities. Little reduction has taken place: the city still has at least 120 excess employees on its direct payroll (out of a total of 568) and many more in the public companies, none of which have been truly inte-

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<sup>79</sup> Crisis Group Report, *Reunifying Mostar*, op. cit., p. 51.

<sup>80</sup> "Doing Business in South East Europe 2008", World Bank, p. 1.

<sup>81</sup> *Ibid*, p. 9.

<sup>82</sup> Crisis Group interview, Mostar, July 2009.

grated.<sup>83</sup> The general view inside and outside government is that politicians of all parties are reluctant to reduce the city payroll because it would mean losing valuable patronage and alienating clients and supporters. The same dynamic applies to city-owned companies. Two examples show how fraught the seemingly simple unification process has been.

There are few utilities with less nationalist valence than water, which is cheap and plentiful in Mostar. The persistence of two entirely separate public water utilities, with the same name and function, was one of the absurdities of life in the post-war years. The two companies have duly merged, and Mostar's citizens now receive the same water at the same price. But within this ostensibly unified public company, all is as before. The Croat director sits in an office on the western, Croat side of town and oversees the Croat staff and supply to the west bank, while a Bosniak "executive director" sits in an office on the eastern side, supervising Bosniak staff and taking care of a largely Bosniak clientele. Every administrative department duplicates this parallel structure, with two incumbents for each post. One of the directors told Crisis Group: "Only the water itself is common", everything else is separate.<sup>84</sup> Partly due to this doubling of employees, and partly due to inherited inefficiency, a utility that only needs about 100 staff employs 242.

The money spent on two water companies under a single bureaucratic umbrella could instead have gone to financing a modern sewage system, also within the competence of the water utility. As it stands, however, Mostar's sewage is dumped untreated into the Neretva River.<sup>85</sup> Construction of a joint sewage collection and treatment facility is in the final planning stages; but implementation will not begin before 2010 at best.

The situation is if anything even worse in the other public companies. Parkovi and Komos are sprawling utility conglomerates that handle everything from sani-

tation to road maintenance, parks and nurseries, holiday decoration of public buildings, gravel quarries and other services. Parkovi covers the western part of town, while Komos serves the east, their division yet another legacy of the war. In 2004, Parkovi went into court-ordered bankruptcy, from which it emerged with a clean balance sheet and a much-reduced workforce in August 2008.<sup>86</sup> In the meantime Komos, once a relatively successful and well-run utility, has fallen on hard times and is burdened by heavy debts and excess staff.

In 2006 the city council ordered Parkovi and Komos to combine their operations into a new united company to be called Komunalno. This was impossible while Parkovi was in bankruptcy proceedings. In the year since it emerged from administration, however, no merger has taken place, and Mostar now has three separate companies dealing with sanitation and related business: the city contracts with Komunalno, which then sub-contracts to Parkovi or Komos, adding 10 to 12 per cent to the bill in the process.<sup>87</sup>

City officials and company managers blame "lack of political will" for this situation.<sup>88</sup> Croat leaders, including the management of Parkovi, accuse their Bosniak partners of trying to appropriate the hard-earned property of "their" company and use it to settle the debts arising from years of mismanagement and cronyism in Komos. Bosniak leaders argue that Croat resistance to unification stems from a desire to dominate Mostar (some trace this to wartime plans for a separatist Croat mini-state) and from fears of losing management positions in the new company. Both arguments seem to have merit. Parkovi has a comparatively lean – and multi-ethnic – workforce of about 115, while Komos retains over 160 largely Bosniak staff to service a smaller part of the city.<sup>89</sup>

The status quo serves no community's interests and wastes resources. The new administration should take immediate steps to set the consolidation process in motion. The process should respect the rights of employees and guarantee the city efficient utilities and services. Given the delays and controversies, some of which have an inter-ethnic component, transparency

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<sup>83</sup> Crisis Group interview, Radmila Komadina, Mostar chief counsel, Mostar, 8 June 2009. A senior OHR official told Crisis Group that the fire department had been successfully integrated, but the other services retained extensive parallelism; Crisis Group interview, Mostar, 14 May 2009. Even the success of the fire department may be exaggerated; a city councillor told Crisis Group that the fire-fighters "only go on strike together" but are otherwise still divided; Crisis Group interview, Mostar, 6 July 2009.

<sup>84</sup> Crisis Group interview, Mostar, 6 July 2009.

<sup>85</sup> Crisis Group interview, Vodovod executive, Mostar, 6 July 2009; member of senior SDA leadership, Sarajevo, 1 July 2009. See also A. Dučić, "Neretva u Mostaru nije za kupanje" [The Neretva in Mostar is not for bathing], *Dnevni Avaz*, 15 July 2009 (online).

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<sup>86</sup> Crisis Group interview, Dragan Krtalić, acting director, Parkovi, Mostar, 6 July 2009.

<sup>87</sup> Crisis Group interviews, directors of Parkovi, Komos and Komunalno, Mostar, 6 and 8 July 2009.

<sup>88</sup> Crisis Group interviews, Edita Avdić, head of finance and real estate department, Mostar city government, Mostar, 8 June 2009; directors of Parkovi, Komos and Komunalno, Mostar, 6 and 8 July 2009.

<sup>89</sup> Crisis Group interviews, directors of Parkovi, Komos and Komunalno, Mostar, 6 and 8 July 2009.

and equality are essential. The city council, working with the mayor, should, therefore, require the directors of the companies concerned to prepare staffing plans and organisational structures to present to the council in public session; the mayor should then monitor implementation on a regular basis.

## VI. CONCLUSION

In Mostar, the Croats, a small minority at the state level, exercise the dominant majority role similar to the role played by the Bosniaks statewide. The Serbs, a large minority with ample constitutional protections at state level, are a small minority in Mostar and thus take on the Croats' state-level role. The Bosniaks find themselves cast as the large, protected minority in Mostar, taking at the local level the Serbs' position at the state level.

Curiously, the positions of the constituent peoples and political parties track their relative size at the expense of national consistency. At the state level, all Bosniak political parties favour majority rule with the fewest possible restrictions and chafe at the constitution's numerous provisions for special entity and constituent people vetoes and rights. In Mostar, however, the Bosniak parties are the most enthusiastic and committed supporters of the parallel provisions of the city statute, and their rhetoric is oddly similar to that of Republika Srpska's premier, Milorad Dodik.<sup>90</sup> This is true even of the SBiH, which is everywhere else absolutely committed to an ethnicity-blind "state of the citizens" but firmly supports the special rights the Mostar statute grants to Bosniaks.<sup>91</sup> The Croats, who not only support special ethnic rights but also complain bitterly that those protections do not go far enough to help them at the state and entity level, adopt the opposite position in Mostar, rejecting the statute and pushing for unrestricted majority rule and direct election of the mayor.

The tactics adopted by the parties are as similar as the overall philosophy. The largest groups target the international community with a show of intransigence, hoping to win support for fundamental constitutional changes they cannot attain through the normal political process. At the state level, the predominant Bosniaks have pulled out of three-party talks with Serb and

Croat leaders and now limit their appeals to the OHR and diplomats.<sup>92</sup> In Mostar, Croat leaders make a show of giving up on the city council and tell anyone who asks that the only solution is a wholesale change in the city's statute.<sup>93</sup>

The encouraging lesson of this situation is that national agendas may well be far more malleable than they appear. The leading political parties in Bosnia and Herzegovina are staking out positions based on rational estimates of their self-interest at each level of government. This opens up the possibility of mutually advantageous trades, both at the local (Mostar) level and at the entity and state levels.

Regardless of the outcome of the mayoral deadlock, Mostar urgently needs clarity about how it chooses its chief executive. The OHR, itself a source of some of the confusion, should help by retracting its earlier interpretive guidance, which was not in keeping with the spirit of the city statute. However, the main responsibility should be carried by the city council, which should honour the statute's requirement of a secret ballot in mayoral elections and take the steps required to ensure that the debilitating deadlock is broken by instituting the requirement for a simple majority of those present and voting no later than a third round.

Serious problems will remain even after the council has chosen a mayor and passed the annual budget. Paddy Ashdown was right to warn that expecting "brotherhood and unity" to break out in Mostar was naive; overcoming such wide divisions is the work of a generation, not a single mayoral term.<sup>94</sup> The mayoral crisis has exposed deep grievances that even time may not heal. One of these is the Croats' growing sense of irrelevance and homelessness in Bosnia; another is the benign neglect of Mostar Bosniaks by their wealthier Croat neighbours and their Sarajevo co-nationals alike. The city council can no longer afford to shirk its responsibility to adopt and then amend the city statute.

Mostar will always have a special importance for BiH Croats. It is the only city with a Croat majority; the centre of gravity for a largely Croat-inhabited region

<sup>90</sup> Mostar's Bosniak leaders do not question the usefulness or indeed the survival of the state, however, as the Republika Srpska premier occasionally does.

<sup>91</sup> Crisis Group interview, SBiH official, Mostar, 6 July 2009; for background on the SBiH's general positions, see Crisis Group Report, *Bosnia's Incomplete Transition*, op. cit.

<sup>92</sup> Crisis Group interview, Sulejman Tihic, SDA president, Sarajevo, 26 June 2009; T. Lazovic, "Sulejman Tihic opet odbio prudsku trojku [Sulejman Tihic again rejected the Prud troika]", *Dnevni Avaz*, 10 July 2009 (online).

<sup>93</sup> Crisis Group interview, Ljubo Bešlić, acting mayor of Mostar, Mostar, 8 July 2009; Dalibor Drlje, "Ostavka Bešlića nije prihvaćena [Bešlić's resignation was not accepted]", *Dnevni list*, 9 July 2009 (online).

<sup>94</sup> Crisis Group interview, Paddy Ashdown, 11 July 2009; Renata Radić, "Intervju: visoki predstavnik Paddy Ashdown", 20 January 2004, op. cit.

and home to many Croat cultural institutions, companies and political parties. A stable, sustainable resolution – which may be a long way off – requires recognition of these facts and likely a thorough revision of Mostar's statute as well. It must also guarantee the city's Bosniaks and its few remaining Serbs both a genuine voice in government and an equitable share in the city's prosperity.

Mostar's Croats resent the city statute much as Bosniaks countrywide dislike the Dayton Accords. Both argue these foundational documents are unjust and unfair; both are, to an extent, right. The statute and the accords do need revision. But the main obstacle to this is the belief, common to Croats and Bosniaks, that if they hold out long enough, the OHR or some other international agent will recognise the rightness of their

cause and do away with the injustice. This is an illusion whose persistence keeps Croats and Bosniaks from seriously negotiating reform. While the statute and the accords are imperfect, they are also the only starting points available. Reform in Bosnia and Herzegovina will necessarily consist of trades among the constituent peoples and the parties that represent them, starting from the sets of institutional advantages, disadvantages and privileges each has under the current dispensation. For the Croats, who crave a leading role in and around Mostar, this may mean accepting a certain loss of influence at the state level. The choices will be hard, but they should no longer be made by foreigners.

**Sarajevo/Brussels, 27 July 2009**

APPENDIX A

MAP OF BOSNIA AND HERZEGOVINA

