

THESSALONIKI AND AFTER II:

THE EU AND BOSNIA

I. OVERVIEW

Afflicted still by the physical, psychological and political wounds of war, and encumbered by the flawed structures imposed by the international community to implement peace, Bosnia and Herzegovina (hereafter: Bosnia) is not yet capable of plotting a strategy or undertaking the measures likely to win it membership in the European Union (EU). Yet the government announced on 10 April 2003 that its major policy goal is to join the EU in 2009, in the blind faith that the processes of European integration will themselves provide Bosnia with remedies for its wartime and post-war enfeeblement. The Thessaloniki summit meeting between the heads of state or government of the EU members and the Western Balkan states to be held on 21 June is likely to throw some cold water on their ambitions.

Bitter memories of Western European complicity in and indifference towards Bosnia's wartime tragedy remain strong among many of the country's citizens, particularly Bosniaks. The EU countries' stringent visa regimes provide a continuing and humiliating reminder that Bosnians are not fully welcome in Europe's more prosperous half. The ever-tougher and more complicated requirements set by the European Commission (EC) if Bosnia is to edge towards a Stabilisation and Association Agreement (SAA) may be meant as incentives, but look too often like barriers. And, of course, the dire state of the country's economy inspires little hope that actual accession can come in time to win plaudits for any politicians now active.

All these factors will make it difficult for the policymaking elite that has willed the goal and set the target date to "sell" its vision to the public or, for that matter, to rise to the challenge of making it

happen. Thus the belief that progress from a Feasibility Study to an SAA and ultimate EU accession will either solve or sideline the country's past and present problems is necessary but not sufficient.

Pledges to adopt "European standards" and invocations of Bosnia's "European destiny" were much in evidence during last year's election campaign. All of the parties now sharing power in the nationalist-dominated governments at state and entity level sought to push these buttons with the electorate. There is little evidence, however, that either the parties or the public understands much of what European integration entails. The EU is generally identified with peace, probity, prosperity and freedom to travel and work abroad. Rarely are voices raised to warn that there is a price to pay. The reforms required to attain those "European standards" will be costly and the constraints on government, corporate and personal behaviour will be considerable.¹

If Bosnians appreciated either the extent to which some of their free and easy ways will have to change or the Herculean effort that will be required to secure EU membership, many might conclude

¹ Full implementation of EU environmental protection laws, for example, will cost the present accession countries between €50 billion and €100 billion over the next decade. Standards for industrial and agricultural products and for accountancy and public finances will have to be harmonised with those of the EU – at a cost. State intervention, subsidies and protectionist measures to help various industries will be largely impossible. Taxes will rise. Bosnia's heavy smoking population would be hit hard by the application of minimum EU duties on cigarettes, which that would shoot up in price from about €0.45 to €2.70 per pack. See "Joining the West: Why candidate countries want enlargement, warts and all", *The Economist*, 17 May 2001.

that drowning now is preferable to swimming for years. As it is, ignorance is bliss. The dream of EU membership can serve to inspire both hope and reform, at least until it becomes a real enough prospect to generate informed debate and/or obdurate dissent.

But even in dreams, things are not simple in Bosnia. A closer examination of the declarative consensus in favour of “Europe” that exists among the national political establishments reveals substantial differences. Like much else in Bosnia, these differences stem from the war and contradict the cosy assumption that everyone can unite in support of European integration. Only sovereign and competent states can traverse the road to Brussels.² Thanks to the war, the Dayton armistice that ended the fighting, and the continuing struggle to improve upon Dayton, Bosnia is not yet a competent state. That, however, is how too many people and parties want to keep it, notwithstanding their simultaneous advocacy of “Europe”. These would-be Europeans could also defect from the cause once it becomes obvious that the more ardently felt causes for which they fought the war are in jeopardy. Meanwhile, those who are keenest on building a competent and integral state also have reservations about Europe.

The EC and the Office of the High Representative (OHR) are reluctant to spoil the pro-European atmosphere by getting tough with those political forces that talk about European integration but sabotage the state-building that is its precondition. Like the domestic officials who lodge their trust in irreversible processes, the EC and OHR may also think that the enemies of the state can be jollied along until there is no going back. This is unlikely to work, largely because time is not on Bosnia’s side. What is worse, it invites suspicion that the EC

and the member states are less keen on helping Bosnia make the grade than they claim. If they really want to get Bosnia on the road to Brussels, European institutions will not only need to offer unparalleled technical assistance, they will also have to identify and anathematise those who stand in the way.

The most effective tool for accomplishing both aims was invented long ago, but has not yet been applied in Bosnia with much consistency or resolve – conditionality. The message to the governments of Bosnia should be simple: if you do not play your assigned parts, there will be no more EU support. But if you do, the EU will help you to develop the capacities you lack. Setting conditions without helping to build the institutions that will prove competent to fulfil them guarantees either failure or the abandonment of the conditions. In the first case, the failure would be immediate. But in the second, it would merely be postponed, since the necessary transformation of the state would be no farther forward. Yet with all the will in the world, the crippled state created by Dayton cannot make the running alone.

The EU has an unsurpassed record in turning former enemies and economically depressed states and regions into peaceable and prosperous members of the European family. The Western Balkan countries in general and Bosnia in particular represent another great challenge. Just as Bosnia – with its nationally, religiously, economically and geographically variegated populace – epitomised the old Yugoslavia, so too is it Europe in miniature. This makes its successful integration in the EU all the more needful and significant.

The Western Balkan heads of state or government are set to meet with the EU Council in Thessaloniki on 21 June 2003 to put the seal on the Greek Presidency’s six-month long effort to enhance EU engagement in the region. This briefing paper examines some of the key problems that have arisen in making the prospect of EU membership either a motor for reform or a realistic expectation for the people of Bosnia. It aims also to identify additional steps that the Bosnian authorities, the EC and the EU member states might take to improve the region’s chances of catching up with most of the rest of the continent.

² The Head of the European Commission Delegation to Bosnia, Ambassador Michael Humphreys, took pains to clarify the matter for readers of a news magazine published in Republika Srpska: “We negotiate only with state institutions, and the state should take care to involve the entities in the negotiations. We are not trying to undermine the constitutional arrangements of this country. In the EU we have many different constitutional arrangements. The most similar situations to the one in Bosnia are the constitutional set-ups in Belgium and Germany. We can live quite comfortably with the current constitutional arrangement here if it functions. But I am not sure that it does function”. “Bolje ne raditi nista, nego to raditi lose”, *Novi reporter*, 14 May 2003.

II. THE CREDIBILITY GAP

Despite affirming the goal and setting the target date, policymakers in Bosnia are well aware of both their country's and their compatriots' unreadiness for the struggle. They would like to believe that early adoption of EU laws and regulations (the *Acquis communautaire*) would remedy many of the defects of the Dayton constitution. Yet they also fear, in present circumstances, that it might make no difference. Bosnia has no lack of laws. What it lacks is either respect for the law or the capacity to enforce it.³ As long as accession is remote and EU enforcement mechanisms are missing, adoption of the *Acquis* might just make matters worse.

Less than a decade after it was born in war, Bosnia is tempted to believe that it needs military security more than the political and economic security that European integration assures. With the late development of its still rudimentary defence policy, the EU has not yet become a credible provider of the former. For these reasons, some members of the country's political and intellectual elite have questioned the relevance and credibility of the EU for Bosnia. As elsewhere, the EU is often characterised, too simply, as an economic giant but a military and political dwarf. Bosniaks, in particular, would rather cleave to the United States.

Historical prejudices, wartime memories and post-war experiences also reduce the attraction of Europe. There is deep-rooted fear in some quarters that the EU states will never appreciate or comprehend Bosnia. As Sarajevo University philosophy professor and former Bosnian ambassador to Switzerland and the United Kingdom Muhamed Filipovic warned in a recent television interview, Bosnians should be sceptical about Western European intentions towards the region. "One would be blind not to see", he said, that the EU aims to legalise the situation created in Bosnia through war crimes and genocide. He added that it could only redeem itself by ceasing to tolerate the injustice and lawlessness of

³ At a recent colloquy in Sarajevo on Bosnia's European prospects organised by the Political Affairs Committee of the Council of Europe Parliamentary Assembly (Bosnia & Herzegovina on the Road to European Integration, 19 May 2003), Petar Kunic, a prominent lawyer and member of the RS-based Party of Democratic Progress (PDP), bewailed the continuing absence of the rule of law. He noted the enormous discrepancy between what the law ordains and what is enforced, between norms and their application. Worst of all, such a situation is regarded as normal..

Republika Srpska and by repudiating centuries of hostility towards Islam in the Balkans.⁴

Another prominent opinion-maker, Professor Rusmir Mahmutcehajic of the NGO "International Forum Bosnae", noted recently that the EU has failed to recognise or oppose apartheid in Bosnia. Although admitting that the country's citizens bore most of the responsibility for their plight, guilt also attached to the international community for permitting and continuing to tolerate the effects of wartime crimes.⁵

Such views make it easier to understand why Bosnia signed an agreement with the U.S. on 16 May 2003 exempting American citizens from the jurisdiction of the International Criminal Court – and why the government felt few qualms about doing so, regardless of the well-founded expectation that the EU would disapprove.⁶ The EU may represent Bosnia's best hope for the future, but present realities and past experience still lead many of its politicians to conclude that paying obeisance to the U.S. is more important. Despite warnings from EC External Affairs Commissioner Christopher Patten and Greek Foreign Minister George Papandreou that ratification of the agreement might imperil Bosnia's chances of securing a positive verdict on the Feasibility Study now under way, the Presidency has remained firm. The House of Representatives ratified the agreement on 6 June and the House of Peoples is expected to confirm it before 1 July.⁷

Presidency member Sulejman Tihic also ruffled EU feathers when he "confided" to the press his hunch that Bosnia would join the EU together with Croatia – since it would be inconceivable that

⁴ "Intervju dana", NTV Studio 99, Sarajevo, 22 April 2003.

⁵ Rusmir Mahmutcehajic, "Six Ways to Rebuild Bosnia: Hard-earned Lessons in Nation Building", Paper presented at CoE colloquy, Bosnia on the Road to European Integration, 19 May 2003.

⁶ Such agreements have become a political football between the U.S., which maintains opposition to the ICC in its present form and the EU, which strongly champions the new court. It was indicative that the Bosniak member of the Presidency, Sulejman Tihic, told the press that the EU had no right to offer lectures in morality to Bosnian citizens, who knew more about the need to prosecute war crimes than did Europe. "Tihic: Neki bi voljeli da se SAD povuku iz BiH", *Dnevni avaz*, 30 May 2003.

⁷ "Izmedju SAD-a i EU-a Drzavni Parlament izabrao manje zlo", *Vecernji list*, 8 June 2003.

Bosnia should be left as an isolated island “without European standards, with the reign of war criminals and organised crime.”⁸ European officials dismiss this expectation as totally unfounded, reiterating that only objective and country-specific criteria will apply. Tihic’s hunch, however, was another illustration of the widespread belief in Bosnia that political considerations will ultimately carry most weight in EU decision-making. Given that political exigencies have played an important part in some past EU enlargement decisions, senior Bosnian officials believe they will do so again.⁹

After meeting with key EC officials in Brussels on 6 May – and enduring criticism for Bosnia’s laggard pace in pushing through reforms – Tihic offered four excuses: the legacy of wartime devastation; the negative interference of Bosnia’s neighbours; the disunity of the international community; and the defective constitution imposed at Dayton.¹⁰ Since then he has launched a campaign for a new international conference to rewrite the constitution. Tihic claims that some European countries have offered to host such a conference.¹¹ EC Ambassador Michael Humphreys said he expected no such thing, but that if domestic politicians could reach a consensus on the subject, the international community would not oppose the idea. Tihic’s Croat colleague on the Presidency, Dragan Covic, quickly endorsed the proposal; but their Serb counterpart and current chairman, Borislav Paravac, condemned it as dangerous, as did most other Serb politicians from the RS.¹²

⁸ “BiH ce u Evropsku uniju zajedno sa Hrvatskom”, *Dnevni avaz*, 5 May 2003.

⁹ Two such officials insisted to ICG that only politics can account for the fact that Romania and Bulgaria are being given precedence over Croatia, and even over Bosnia. They believe that economic and legislative standards in those countries lag behind Croatia and Bosnia. One opined that the only reason why Romania has been given a notional entry date is the brave and helpful stance it took in 1999 during NATO’s air war on Yugoslavia over Kosovo. ICG interview with Bosnian officials, 22 and 23 May 2003.

¹⁰ “Predložio sam promjenu Ustava BiH”, *Dnevni avaz*, and “Hitno izmjeniti Ustav BiH”, *Oslobodjenje*, 8 May 2003.

¹¹ “Na jesen konferencija o promjeni Ustava BiH”, *Dnevni avaz* 29 May 2003.

¹² “Predsjedavajući Predsjedništva BiH Borislav Paravac uputio saopćenje za javnost”, 15 May 2003, www.predsjednistvobih.ba; “Mikerevic: Takve izjave su neprimjerene i lose po BiH”, *Dnevni avaz*, 29 May 2003.

Yet the view that the Dayton constitution has just about exhausted its usefulness is gaining ground. Many domestic and foreign speakers at a colloquy hosted by the Council of Europe Parliamentary Assembly on 19 May opined that the constitution is becoming a principal obstacle both to Bosnia’s EU ambitions and to its development as a functional state.¹³ There are those in OHR who agree.¹⁴ The High Representative, however, has gone no farther than to warn that the entities’ state-like pretensions could stop Euro-Atlantic integration in its tracks.¹⁵

III. THE PRO-EUROPEAN CONSENSUS

Whether Bosnia has emerged from its post-Dayton phase and is now entering its pre-European transition or, on the other hand, is still struggling to find a better end to the war has been debated in various forums.¹⁶ It is certainly the case, however, that discussions of European integration usually carry a substantial subtext relating to wartime divisions over the purpose, organisation and very existence of the common state.

The big-three nationalist parties have nonetheless been able to make pursuit of European integration their common and core policy since their return to power. They may be at odds with one another about much else, but the Council of Ministers (CoM) formed in January 2003 has made Europe its first priority. Enlarged and reformed in structure thanks to the High Representative, the former and ineffectual Ministry of European Integration has become a Directorate for European Integration (DEI) under the Chairman of the CoM (whom Lord Ashdown prefers now to refer to as the Prime Minister). The DEI has been tasked with producing a comprehensive strategy and preparing the technical briefs, studies and responses required for

¹³ Among them was Professor Josef Marko, a member of the CoE’s Venice Commission and a former foreign judge of the Bosnia & Herzegovina Constitutional Court.

¹⁴ A senior OHR official told ICG that some of the reforms necessary if Bosnia is to enter either NATO or the EU would be unconstitutional as matters stand. ICG interview with OHR official 19 April 2003.

¹⁵ “Entiteti ne smiju postati drzave”, *Oslobodjenje*, 5 June 2003.

¹⁶ Dr Zoran Pajic, head of the OHR Legal Reform Unit in OHR, argued the former at the CoE colloquy on 19 May. Several prominent newspaper columnists, however, maintain the latter view.

negotiating with the EC. It is, therefore, the EC's main contact point for communications relating to the Stabilisation and Association process (SAP) and preparation of the Feasibility Study (FS) due to be completed by late this year. The DEI, however, inherited a relatively small staff (50) with an inappropriate mix of professional skills from the former ministry, and may have difficulty coping with the demands that will be made of it.

The CoM accepted the DEI's recommendation to set a target date of 2009 for accession. Setting a highly ambitious date was designed, as in other candidate countries, to energise state structures and engage public opinion. It was neither intended to be nor could it represent a carefully calculated schedule or firm deadline. After all, it will not be up to Bosnia to determine whether it has fulfilled the EC's criteria, let alone won the support of EU states. Yet Paravac (a member of the Serb Democratic Party) could not resist the temptation to rubbish the target date as fanciful in one of his first interviews with the foreign press and, thus, to imply that he had no confidence in the CoM.¹⁷ Although perhaps a realistic commentary on Bosnia's chances of actually entering the EU in 2009, Paravac's intervention was hardly helpful to the new government at the outset of its effort to gear up for accession. If the CoM cannot engage the state Presidency, it is hard to imagine that it will be able to win the support and enthusiasm of ordinary people.

Even worse, however, was the failure of the CoM and DEI to counter Paravac's entirely predictable shower of cold water. Nobody bothered to answer or to explain what exactly Bosnia plans to do to achieve its ambitious goal. 2009 is sufficiently close at hand that the Bosnian authorities should be doing more than making a wish. They should be outlining their strategy to make it come true and reporting regularly to the public on both progress made and problems encountered. They need, in other words, to demonstrate that they are taking charge of the European integration agenda.

The DEI is tasked by the Bjelasnica Declaration, agreed among state and entity leaders at the "retreat" organised by CoM Chairman Adnan

Terzic and High Representative Paddy Ashdown on 23-24 April, to produce a comprehensive "European integration strategy".¹⁸ That strategy needs to be as inclusive as possible if it is to engage the country's governments, media, NGOs, businessmen, young people, and general public. It should aim, in fact, to make Bosnia's Road to Europe a large-scale civil movement.

The strategy needs to replace the current picture of the EU as distant, complicated and unattainable by bringing it closer to ordinary people and by convincing them that the effort required to achieve membership will not only improve their lives and prospects, but also make Bosnia a more normal country. If Bosnia embarks decisively on the reforms required to become a credible candidate for EU membership, it will, in the meantime, become a more functional state. And as the process proceeds and gains in credibility, the actual accession date will matter less and less.

Unfortunately, neither the DEI nor the CoM has yet communicated this message. On the other hand, reforms there are aplenty. Bosnia is currently in the throes of major overhauls of the judiciary and courts, indirect taxation, education, public administration, military establishments, intelligence agencies and the business environment. All these can be touted in Thessaloniki as indicative of Bosnia's seriousness about making itself fit for Europe. Alas, none of these reform programs would or could have been launched without the initiative of the international community and, particularly, its main incarnation in Bosnia, OHR. This fact helps explain Bosnia's priorities for Thessaloniki.

IV. BOSNIA'S THESSALONIKI AGENDA

The first of the four principal outcomes the Bosnia government seeks from the Thessaloniki summit is a clear statement by the EU that it wants Bosnia as a member. This is a crucial and sensitive issue to which the EU will need to respond. Bosnia politicians claim that it is not clear to them whether Bosnia will really be welcome and, if so, what sort of Bosnia. Officials complain privately that the larger European states pursue different policies in

¹⁷ Paravac's interview with the Austrian press agency APA appeared as "BiH nece uci u EU 2009 godine", *Oslobodjenje*, 25 May 2003.

¹⁸ OHR, Bjelasnica Declaration: Putting People First, 30 April 2003, www.ohr.int.

Bosnia. They thus want an unambiguous endorsement of the EU's readiness to accept Bosnia into the club when it has fulfilled the terms and conditions. Their need to be told that a membership card is reserved for them is a function of the country's post-war dependency. As a ward of the international community, Bosnia requires reassurance, in effect, that the EU will step in as OHR bows out.

The second item on Bosnia's wish list for Thessaloniki is explicit guidance about what more is required in order to be rewarded by liberalisation of the EU states' visa regimes for Bosnia citizens. Long queues from dawn in front of the Sarajevo embassies of the nearby EU states are annoying reminders of how far away those near neighbours still are, and what they really think of Bosnians.¹⁹ Bosnia has been campaigning on this front for years, but without appreciable success. Negotiators from Bosnia – be they domestic officials or the High Representative – are always reminded of the traffickers in drugs, sex slaves and illegal immigrants who use the country as a corridor to the west. Sometimes the fear of a massive wave of economic migrants is also cited as a reason for those strict visa regimes.

These arguments are so hoary with age that they have become received wisdom. They are periodically reinforced by sensational accounts of Islamist terrorists based in or transiting Bosnia. In combination, they appear impervious to refutation. Bosnia representatives should nonetheless take the opportunity in Thessaloniki to circulate a paper setting out what has been and is being done to seal their once porous borders. For thanks (again) mostly to international initiatives, Bosnia now has a State Border Service that patrols all its frontiers and polices its ports of entry, and which has latterly been responsible for a dramatic fall in the number of illegal immigrants entering the country. It is also in the process of issuing new, high-tech ID cards, passports and driving licences. It has signed readmission agreements with its neighbours, and respects the obligation to accept the return of all Bosnia citizens found to be staying illegally in other countries. If such a memorandum were

backed by reliable statistics, Bosnia would have every right to expect EU states to tell it what more is required to put an end to the queuing.

Unfortunately, the Bosnia authorities have themselves done little to counter the country's dubious reputation abroad. Cheerleading has been left to foreign proconsuls. The government appears to make no attempt to deny or investigate unsubstantiated stories in the foreign press that perpetuate Bosnia's insalubrious image. A recent account attributed to *Jane's Defence Weekly* of an alleged conclave in Travnik in late 2002 at which 150 international terrorists and crime tsars from 50 countries met to forge an alliance for dealing in nuclear materials elicited no riposte from the authorities.²⁰ Instead, domestic politicians contribute to the problem. If Croat Presidency member Dragan Covic actually has reliable intelligence on active al-Qaeda cells in Bosnia that could destabilise the whole region, then he ought to have told the police or SFOR rather than *The Washington Times*.²¹ Irresponsibility of this sort merely fuels Western doubts about Bosnia.

The third Bosnian aim in Thessaloniki is, unsurprisingly, to secure a promise of additional financial assistance from the EU. Together with the other Western Balkan states, Bosnia will ask the EU to grant potential candidates access to so-called "cohesion" and "structural" funds – but without any consequent reductions in CARDS money.²² Although the EC indicated in its 21 May 2003 strategy paper that it might be willing to consider such a scheme, the ten 2004 accession countries will soon occupy pole position in competing for these funds. On the other hand, there appears to be no possibility of reallocating unspent accession money to the Western Balkan countries.²³

¹⁹ Unlike other Eastern Europeans, citizens of the former Yugoslav republics remember when a Yugoslav passport allowed them to travel much of the world without let or hindrance. The hassles and humiliation involved in securing visas are thus especially galling.

²⁰ "U BiH odrzan tajni sastanak terorista", *Nezavisne novine*, 28 May 2003, relying on a Beta Agency account of the original article.

²¹ "Al Qaeda links pose threat in Europe; President urges help from Bush", *The Washington Times*, 17 March 2003.

²² CARDS = Community Assistance for Reconstruction, Development and Stabilisation.

²³ The idea of offering unspent accession funds to the Western Balkan states was elaborated in two papers by the European Stability Initiative: "Western Balkans 2004: Assistance, Cohesion and the New Boundaries in Europe" (3 November 2002) and "The Road to Thessaloniki: Cohesion and the Western Balkans" (12 March 2003). See www.esiweb.org. The EC insists, however, that CARDS

Although Bosnia's dysfunctional government structures and limited sovereignty represent the most serious obstacles to EU accession, its economic weakness is not far behind. The principal remedies prescribed for the country's grim economic situation remain the completion of privatisation and the attraction of direct foreign investments. There is, however, no consensus about what else to do. A former Federation premier and leading light of the (Bosniak) Party for Democratic Action, Hasan Muratovic, has proposed measures to fight unemployment.²⁴ Muratovic suggests increasing taxes on high-tariff goods so as to create, within three years, a fund sufficient to support the launch of thousands of new small and medium-sized enterprises.²⁵

Denounced by some economists as a "socialist" measure likely to discourage rather than encourage foreign investment,²⁶ Muratovic's proposal nonetheless had popular appeal. If the Bosnia economy were not so compromised by the "grey" and "black" sectors, which thrive beyond the reach of the taxman, Muratovic's idea might also be realistic.²⁷ As it is, high-tariff goods are traded mostly in the grey economy. Increasing the already high taxes on products sold in law-abiding shops would merely reinforce the rogue sector,²⁸ making Muratovic's scheme a non-starter in the absence of a well-

should remain the main financial support mechanism, and that only in cases of special need and under specific circumstances should other macro-financial assistance be considered. See COM (2003) 285, Communication from the Commission to the Council and the European Parliament: The Western Balkans and European Integration, 21 May 2003. EC officials told ICG that current member states are demanding the return of "their" accession funds. There will, therefore, be little extra to redirect towards the Western Balkans. ICG interview with EC officials, 24 April 2003.

²⁴ Officially, the unemployment rate is just over 40 per cent. But the ubiquity of the grey economy means that real joblessness is probably about half of that alarming figure.

²⁵ For details, see "Za nova radna mjesta 1.5 milijardi maraka", *Oslobodjenje*, 25 May 2003.

²⁶ See "Samo u socijalizmu drzava zaposljava", *Oslobodjenje*, 28 May 2003.

²⁷ Trading in smuggled and other non-taxed goods is not restricted to back streets and the backs of lorries. It is open and ubiquitous in city centres.

²⁸ Coffee, for example, already sells in the "duty free" economy for a third of what it costs in proper shops. Most people naturally take advantage of the available discount.

regulated economy.²⁹ Other taxes – like the notoriously high levies on salaries – are also counterproductive and widely evaded. Lower rates would encourage compliance and increase revenues but that, too, presupposes a competent administration and respect for the law.

Meanwhile, the long wait for foreign investors in export-oriented companies continues, but with few signs that they will arrive any time soon. The experience of other transition countries indicates, however, that foreign investments follow rather than precede domestic investments. When local business people, who know the potential of the market, feel confident enough to invest, it is likely that foreign firms will follow. The need to exchange Deutschmarks for Euros at the beginning of 2002, and the consequent flood of money into the commercial banks, confirmed that there was no shortage of cash in the hands of Bosnia citizens. Some DM 4.3 billion was converted.³⁰ This shows that the problem is not the absence of money, but the lack of conditions that would guarantee the security and profitability of investments.

Bosnia's fourth proposal for Thessaloniki is that the countries of the Western Balkans should express their keenness to benefit from the experience of those states that have recently won admission to the EU. This, of course, is designed to play to the regional dimension ordained by the SAP. Bosnia envisages the exchange of experts and bureaucrats with accession states, most obviously Slovenia and Hungary. Along with the other states of the region, Bosnia will express its support for deepening mutual co-operation in fighting organised crime, establishing a free trade area, jointly regulating the energy sector, recognising university diplomas, and addressing other problems of young people.

V. THE EU ANGLE

²⁹ A campaign is taking place at present to convince shopkeepers to offer – and the public to demand – cash register receipts for all purchases. The Federation budget is estimated to lose more than €50 million per annum because of receipt avoidance. "FBiH godisnje gubi 100 miliona KM zbog neizdavanja racuna pri prodaji", *Nezavisne novine*, 4 June 2003.

³⁰ UNDP, "Early Warning System: Bosnia & Herzegovina Annual Report 2002", Sarajevo, 2003, p. 12.

Given their long preoccupation with negotiating and worrying over the mega-enlargement now set to take place in May 2004, it is remarkable that the EC and EU have managed to devote as much attention to the Western Balkans as they have in recent years. In Bosnia, the “double-hatting” of Lord Ashdown as an EU special representative in spring 2002 and the takeover from the UN of the police monitoring role by the EU Police Mission (EUPM) at the start of 2003 have testified to the Brussels commitment. The Greek Presidency has spotlighted the region over the past six months and the Italian Presidency to follow can be expected to continue to give it priority.

However, Bosnia’s leaders can no longer expect tea, sympathy and a big cheque when they meet with EU and EC representatives. They are more likely to encounter exasperation with another interminable Balkan imbroglio – and more likely to receive a lecture about pulling their socks up than a handout. Bosnia enjoys no special status anymore. It will be required to keep pace with the other countries of the region and will be assessed for admission according to the same criteria. Some Bosnians hope that a sense of moral obligation stemming from the war will result either in the EU relaxing the conditions Bosnia will have to meet or stiffening those that will apply to its formerly predatory neighbours. There is little chance of that.

It is one thing, however, to demand that Bosnian leaders should grow up, and another to expect that they should do so alone in the wretched environment the international community has bequeathed. The EU needs to be a leading and persistent promoter of Bosnia’s normalisation as a state. For a start, the EC should develop mechanisms to punish obstructionist forces in the country by applying strict conditionality in its disbursements of CARDS money and other aid. The EC and EU member states must be able to differentiate between those in Bosnia who are supporting and retarding reform.

Tough measures might be taken through domestic institutions. For example, the EC could attach senior advisers to the DEI with the object of both strengthening its capacity and serving as a conduit for recommending punitive measures against state or entity structures that impede Bosnia’s progress towards fulfilling the SAA or accession criteria. Such an arrangement might give the DEI and CoM the clout they will need to assert their leadership role. If successful, this could serve as a model for

the gradual withdrawal of the international community and transfer of real power to the domestic authorities.

At the moment, however, the most important step that the EU could take would be to seek to assure popular support for and engagement in the reforms required if Bosnia is ever to qualify for EU membership. It has to be recognised that Brussels is at present perceived as providing new hurdles rather than rewards.³¹ As noted above, the Thessaloniki Summit should serve to clarify what more the Balkan countries must do to ensure their citizens qualify for visa-free travel to the EU. Bosnian citizens, in particular, need to be told how they can press their governments or contribute themselves to make this happen. Every past innovation – the State Border Service, new ID cards and passports – has been promoted as a contribution towards the abolition of visas. The perpetual postponement of the happy day, despite heavy EU investment in the projects that were meant to bring it closer, is not only a source of frustration; it also undermines support for the next round of required reforms.³²

Apart from its political and psychological salience, the visa issue also raises practical and, indeed,

³¹ A recent paper by Othon Anastasakis and Dimitar Bechev points to the worrying divergence between EU priorities and those of the peoples of the Western Balkans. The EU’s failure to recognise or accommodate local specificities and needs encourages voters to repudiate reformist, pro-European political parties and to vote for unreconstructed nationalists. Othon Anastasakis & Dimitar Bechev, “EU Conditionality in South East Europe: Bringing Commitment to the Process”, South East European Studies Programme, European Studies Centre, St. Antony’s College, Oxford, April 2003, www.sant.ox.ac.uk/areastudies/EUconditionality.doc.

³² Paddy Ashdown has found himself of late in an embarrassing position on this score. Having pushed the state to ensure adequate funding of the CIPS (Citizen Information Protection System) project with the argument that it would contribute to doing away with visas, he has had to backtrack. He says now that leaders in Berlin, London and Paris scoff when he raises the issue, telling him that it is nonsensical to expect the abolition of visa requirements when most trafficked drugs and immigrants coming into Western Europe pass through Bosnia. (See “Zatvoriti granice za krijumcare”, *Oslobodjenje*, 2 June 2003.) But this explanation does not stand close examination. Not only do more illegal migrants arrive through other gateways, but Croatia and Slovenia are also on the Balkan route and Romania is one of the jumping off points; yet their citizens do not need visas for EU countries.

human rights issues. Some half-million Bosnian citizens do enjoy the privilege of visa-free entry to the EU because they also hold Croatian passports.³³ Come 2007, these same Bosnian inhabitants could also be EU citizens. This anomaly of Yugoslavia's bust up and the war against Bosnia is doubtless resolvable, but there is little sign that the EC or EU states have recognised the need to do so – and quickly.³⁴

VI. THE SAP AND FEASIBILITY STUDY

The EC decided in autumn 2002 that Bosnia had “substantially completed” the eighteen requirements set out on the “Road Map” along which it had been plodding for nearly two years. This meant that Bosnia had finally qualified for a full-fledged Feasibility Study (FS). Although several EU states opposed embarking on a study at this stage – and the EC worried about the impact a negative verdict might have – the EC has decided to go ahead. The rationale that convinced the doubters was that an FS would serve as a potent self-teaching device, offering the Bosnia authorities both vital experience and useful guidance about the tasks ahead. Whatever the outcome – and EU ambassadors in Sarajevo variously predict it will be either “no, but” or “yes, but” – the exercise will certainly identify the main problems and help both the EC and the Bosnia government to prioritise their efforts in years to come.

The CoM received its first homework assignment in March: a set of 346 questions relating to almost all aspects of state governance, law-making,

administration, media regulation, banking, and justice. Each section requires a description of the current state of play in a given ministry, agency or institution, an assessment of the quality of the laws that regulate it, an indication of any changes that are planned, and an evaluation of its administration and outcomes. It is not just the current situation that is being assessed, but the future functionality and sustainability of state bodies. Although all the questions were supposedly tailored specifically for Bosnia, some appear to be standard issue and/or not strictly relevant to Bosnia realities. As local press commentators have noted, certain queries seemed perverse.³⁵ Yet there were more deficiencies in the answers that have been offered thus far (in two instalments of 79 and 78 replies each) than in the queries.

Although they have not ventured an opinion on the content of the submissions received to date, EC officials have complimented the DEI on the speed, form and good English in which it edited and delivered the first sets of replies. There are credible reports, however, that certain ministries and agencies put little effort into providing meaningful, honest and depoliticised answers. Some officials were even annoyed at having to take part in such an exercise, and showed it by despatching superficial answers.³⁶ ICG has learned that many replies were too general, or laden with irrelevant information or evasive. They either ducked the invitation to engage in self-criticism or attempted to conceal unsatisfactory situations. In some instances, respondents failed to point out that the necessary laws and regulations exist in a particular sphere but that they are mostly ignored. The greatest failing, though, was that many of the answers delivered thus far have been highly defensive and have not clearly identified where European standards are being violated and improvements required.

Since some questions sought to probe Bosnia's constitutionally dysfunctional essence, it was

³³ According to a senior Bosnian official, Croatia's enjoyment of a visa-free regime sends a disconcerting message to the majority of Bosnian citizens: “Through the war, Croatia ethnically cleansed its territory and is now being rewarded for it, whereas Bosnia seems to be being punished for struggling to preserve its multi-ethnicity.” ICG interview with Bosnian official, 23 May 2003. Zagreb is under political pressure for its inadequate co-operation with The Hague Tribunal and its obstruction of Serb refugee return, but the relaxed visa regime remains.

³⁴ The Commission's most recent strategy paper on the region touches only briefly on the visa issue and makes no mention of the problem of Bosnian Croats. The EC expresses its willingness “to lead concrete discussions” with each state in order “to take these issues forward in concrete terms” within the SAP framework. This is rather short on specifics. See COM (2003) 285, op. cit.

³⁵ For example, one question asks if civil servants' salaries are sufficient to attract and keep good people from deserting to the private sector. In Bosnia the problem is not retaining bureaucrats, but getting rid of them. Unfortunately, private sector jobs are both less abundant and attractive than those in Bosnia's all-devouring public sector, though this situation applies more to the entities and cantons than to the skeletal state. See “Koliko ima vremena do 2009?”, Dani, 9 May 2003.

³⁶ ICG interview with senior Bosnian official, 30 May 2003.

particularly unfortunate that this urge to disassemble should have been to the fore. For example, one question asked about progress in implementing the 2002 amendments to the entity constitutions. The answer failed either to convey the significance of the issues at stake or to admit that full implementation is being resisted, particularly in the public services. Besides the RS National Assembly's attempt to restrict nationally proportional representation to elected officials, the answer should have drawn attention to the fact that the new, state-level civil service law itself deviates from the provision in the entity amendments that "constituent peoples" should be represented according to their numbers in the 1991 census. Thus the civil service law refers instead to the "last census", which as RS politicians know all too well, is not the same thing. Matters such as these are likely to become highly contentions, and should have been flagged as such. After all, one purpose of the Feasibility Study is to get the Commission engaged in helping Bosnia sort out its continuing lacunae.

Another key purpose is to establish if and when Bosnia can live without OHR. The Commission thus expects the government of Bosnia, not OHR, to lead the way on the reforms required for an SAA and eventual accession. This is far from being the case in the "specific protectorate" that is Bosnia today.³⁷ The High Representative continues to work as Bosnia's chief reformer, moderniser, defender and promoter. It is he who sounds the alarm when insolvency looms, plots the defence, wages war on slackers and recidivists, and offers inspiring glimpses of the sunlit uplands ahead. While members of Presidency carp at being thwarted in their efforts to pack the civil service with party loyalists (Tihic), or spread gloom over the disastrous state of the economy and Bosnia's EU ambitions (Paravac), or espy terrorists under every bed and unjustly persecuted Croats on every list (Covic), the High Representative uses the media to portray Bosnia as the best place in the region for foreign investors and lobbies abroad on its behalf.³⁸

It is probably easier for Bosnia citizens to imagine their country without a Presidency, CoM or state parliament than without OHR. The High Representative is the unwritten but functional part of the constitution. For all his and his predecessors' efforts to change matters, formal state structures still appear to belong to what Walter Bagehot termed the "dignified" part of the constitution – though in Bosnia "dignified" is not the first adjective one would employ. Opinion polls show that people (and particularly Bosniaks and Serbs) lodge more trust in OHR than in domestic legislative and executive bodies.³⁹ As such, the High Representative can nowadays get away with imposing previously unthinkable reforms in nationally sensitive spheres like defence and intelligence. Moreover – and despite professions that it should be otherwise – foreign governments still treat OHR as the real locus of power.

It should come as no surprise, therefore, that OHR played a significant part in designing the proposals the Bosnia delegation intends to present in Thessaloniki. Yet if everyone recognises that reliance on OHR has to stop if Bosnia is to make substantive progress towards the EU, few want OHR to depart any time soon.⁴⁰ The EC does not think the continuing presence of the High Representative constitutes a bar to signing a SAA.⁴¹ It may be enough for the High Representative to forswear frequent recourse to his Bonn powers⁴² or to restrict impositions to pushing forward reforms already in train. In other words, there would be no new schemes introduced by international fiat.

Eventually, of course, the High Representative will have to give up the Bonn powers entirely and hand over to domestic institutions. There is no doubt that Bosnia cannot join the EU while they remain. At the time it appointed Lord Ashdown in early 2002, the Peace Implementation Council (PIC) envisaged that the handover should take place in 2005. On the

assets would be frozen that was signed by President George Bush on 28 May 2003.

³⁹ See UNDP, "Early Warning System", op. cit., pp. 8-9.

⁴⁰ The Serb Democratic Party is an exception.

⁴¹ Some observers in Sarajevo suspect that the Commission takes a relaxed view of the question because it does not believe it will present a practical issue in the near future.

⁴² In a significant reinterpretation of the Dayton Peace Accords, the Peace Implementation Council, meeting in Bonn in December 1997, conferred the authority to impose laws, sack officials and issue executive orders on the High Representative.

³⁷ The formulation "specific protectorate" has lately achieved widespread currency among Bosnian officialdom.

³⁸ See, for example, extracts from an interview with Paddy Ashdown on the BBC World Service in "BiH naprivlacnija na Balkanu za biznis", *Oslobodjenje*, 28 May 2003, and the report on his recent visit to France, "BiH je prirodni kandidat za EU", *Dnevni avaz*, 16 May 2003. Covic took virulent exception to the presence of Croat "heroes" on the U.S. list of ex-Yugoslav war criminals and gangsters whose

other hand, OHR's Mission Implementation Plan (MIP), approved by the PIC in January 2003, sets no dates or deadlines for transition. Rather, it establishes benchmarks for determining when domestic capacities have developed to the extent that will warrant the transfer of power to local authorities in the various core areas.⁴³

Contemplation of OHR's withering away or partial replacement by the EC Delegation ("OHR lite") has nonetheless helped set off a renewed bout of debate about the need to amend or replace the Dayton constitution. In order to prevent the invention of some other extraneous mechanism for breaking deadlocks and advancing change, it would be better to start devolving or sharing the High Representative's powers. For example, instead of abjuring or restricting his exercise of the Bonn powers, the High Representative might announce that he would not use them without the consent of two members of Presidency or a majority of the CoM. This would formalise the increasingly frequent practice of making "soft impositions" following the creation of a near-consensus among the principal parties. Such a stratagem might enhance the relevance of the state and accustom the executive to wielding power and assuming responsibility as the end of OHR draws nigh.

VII. CONCLUSION

Irrespective of whether Bosnia is going to win admission to the EU within the next decade or remain an international semi-protectorate for the foreseeable future, it will have to adopt and implement the reforms necessary to live and pay its way in the modern world. Reforms to normalise the state and improve the lives and prospects of its citizens also happen to be only means of achieving EU membership. This virtuous coincidence is Bosnia's great chance.

The likelihood that the Thessaloniki Summit will endorse a new EU strategy to offer "potential candidates" in the Western Balkans a "privileged relationship" with the EU and the opportunity to become subjects rather than remaining objects in plotting their paths towards integration is encouraging. If adopted, the EC proposal of

European Partnerships would require the countries of the region to respond to annual SAP reports by preparing and implementing individual action plans, in return for which the EC promises "regular dialogue" on progress.⁴⁴ Although engagement in such a process would be hugely challenging for Bosnia, it would also offer the country the chance to take the initiative under EC supervision.

The "enrichment" of the SAP with elements of the pre-accession experience is not, however, a result calculated to fire the enthusiasm of Bosnia citizens. The benefits, after all, will be slow in coming and difficult to attribute to the ministrations of Brussels. It is thus a pity – at least on present showing – that there seems so little chance of gestures towards liberalisation of the visa regime. But even spelling out what more needs to be done would be a plus. After all, the aspiration to join "Europe" is one of the few political goals shared by all three peoples of Bosnia. Their support for the idea makes it the most powerful tool available for energising reform, delivering a new deal and legitimising the state.

The EU should do everything possible to avoid deepening the historically sanctioned inferiority complex of the Balkan peoples. In the case of Bosnia, the EC and EU states need also to bear in mind the continuing fragility of post-Dayton structures and to reflect occasionally on their own responsibility for this state of affairs. Bosnia has made remarkable progress in the last two years, also thanks in part to the EU. However tired the outside world may be of Bosnia, what was once hopeless is now only serious. But Bosnia's "European perspective" not only needs to be nourished, it should be force fed.

Sarajevo/Brussels, 20 June 2003

43 OHR's Mission Implementation Plan is available at www.ohr.int.

⁴⁴ COM (2003) 285, op. cit.