



WHY THE BOSNIAN ELECTIONS  
MUST BE POSTPONED

ICG Bosnia Report No. 14

14 August 1996

---

## TABLE OF CONTENTS

- I. Introduction
- II. The OSCE's Mandate to Postpone the Elections
- III. Unfulfilled and Deteriorating Conditions
  - A. Repatriation Far Short of Expectations, Reintegration a Mere Fantasy
  - B. Indicted War Criminals Still at Large
  - C. Freedom of Movement Virtually Impossible
  - D. Freedom of Expression for the Ruling Parties Only
  - E. Political Environment Anything But Neutral
- IV. Flagrant Election Manipulation
  - A. Abuses of Voter Registration are Turning Dayton Into an Ethnic Cleansers' Charter
  - B. Absence of OSCE Response to Abuses
  - C. Conclusions Drawn by the Parties
- V. Consequences of Proceeding with Elections
  - A. The Day
    - 1. Voter Confusion
    - 2. Disenfranchised Voters
    - 3. Violence
    - 4. Irregularities
  - B. The Aftermath
    - 1. The International Community's Loss of Leverage
    - 2. The Installation of Newly-Elected Officials
    - 3. The Repercussions on the Ground
- VI. Response to Arguments for Proceeding with the Elections
- VII. The Alternative: Recommendations on Conditions for a New Electoral Schedule

## I. INTRODUCTION

The International Crisis Group (ICG) has been monitoring the implementation of the Dayton Peace Agreement (DPA) in Bosnia and Herzegovina since early March 1996. In a report in May on prospects for holding democratic elections as foreseen by the DPA, ICG expressed the hope that announcing a date for the elections would spur efforts by the international community to press the Parties to implement the Dayton Peace Agreement. ICG believed that the signatories to the DPA would be persuaded at least to begin the repatriation and reintegration of refugees and displaced persons; to deliver indicted war criminals for trial; and to ensure greater freedom of movement and expression. In June ICG said that willing the ends of the elections also meant willing the means of realizing them and that they must be called off if the circumstances did not significantly improve in the next three months. Now with only a month to go ICG has concluded that most of the conditions for holding elections have not improved and that in many respects they have actually deteriorated. Of course ICG recognizes that it is the responsibility of the Parties to the DPA to address these unsatisfactory conditions, but it has always been understood that they would do so only when subjected to strenuous and continuous pressure from the international community. It has become clear in the interval that, on the civilian side of Dayton, the international community's political efforts and financial resources have failed to convince the Parties to meet their obligations. *Since even minimum conditions for the elections to be effective do not exist and are unlikely to be created within the remaining period, ICG recommends the Organisation for Security and Cooperation in Europe (OSCE) should withdraw certification and proposes that the elections be postponed.*

## II. THE OSCE'S MANDATE TO POSTPONE THE ELECTIONS

The State of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina (Federation), and the Republika Srpska (Parties) pledged to "promote free, fair, and democratic elections, ... lay the foundation for representative government and ensure the progressive achievement of democratic goals throughout Bosnia and Herzegovina."<sup>1</sup> They requested that the OSCE certify whether elections could be "effective under current social conditions in both Entities."<sup>2</sup> They agreed that the elections, if certified, would take place within nine months of the signing, which meant no later than 14 September 1996.<sup>3</sup>

---

1

DPA, Annex 3, Preamble.

2

DPA, Annex 3, Article I(2).

3

DPA, Annex 3, Article II(4).

At a peace implementation conference in early June, the Parties again stressed the importance of holding free and fair elections within the time period established by the DPA. They also “recommitted themselves to the task of establishing the necessary conditions for the elections” and urged the OSCE to announce the date on which elections would be held “on the basis of the conditions specified by the OSCE and the [Dayton] Agreement.” Declaring a specific date, they said, would “provide a focus for the work remaining to achieve the full standards established by the OSCE,” and they left no doubt about their interpretation of the DPA or the OSCE certification, stating, “*Achievement of these standards is essential for the holding of free and fair elections.*”<sup>4</sup>

When on 25 June, the OSCE chairman-in-office Flavio Cotti issued the long expected certification and gave the green light for the elections to take place on 14 September, he warned that if certain minimal prerequisites were not met during the remaining three months, the elections ought not take place as they would lead to further tensions and “pseudo-democratic legitimisation of extreme nationalist power structures.” *The nine-month deadline for holding the elections formulated in the DPA was not cast in stone, but hinged upon the Parties’ fulfillment of the obligation to meet minimum conditions for free and fair elections.* In particular Cotti noted the need to establish freedom of movement, freedom of expression and media, freedom of association, and, more generally, a politically neutral environment.<sup>5</sup> The most important prerequisite, in Cotti’s view, was the elimination of “every single possibility of direct or indirect exertion of influence by indicted war criminals.” Cotti acknowledged that, “after [the] years of war and suffering, perfectionism is out of place,” but he stressed that “just the same: *Minimal prerequisite conditions must be met so that ‘free, fair, and democratic elections’ can take place,*” preconditions that he said plainly had then “in spite of the small progress mentioned, not been fulfilled.”<sup>6</sup>

The OSCE chairman-in-office added, “we have scarcely three months separating us from the election day. This period must be employed in order to improve the framework conditions. This is absolutely imperative for us all. With this in mind, I appeal to all of the actors both in Bosnia and Herzegovina and abroad to observe their commitments to the fullest extent. I appeal to the international community and to the international organisations to persevere in their efforts for the implementation of the Peace Agreement with even more determination than before.... Improving the freedom of movement and

---

<sup>4</sup> Agreed Statement, Geneva, 2 June 1996, paragraphs 4-5, emphasis added.

<sup>5</sup> DPA, Annex 3, Article I(1).

<sup>6</sup> Certification of the Elections in Bosnia and Herzegovina, Declaration of the Chairman-in-Office, Federal Councilor Flavio Cotti, at the Permanent Council of the OSCE, 25 June 1996, page 4, emphasis added; hereinafter referred to as the Cotti Statement.

establishing transportation links and telephone communications beyond the boundaries of the entities, is an unalterable and concrete must. The same holds true for facilitating the factual return of the refugees and displaced persons, as well as for the realisation of media projects..., and for a generally enhanced freedom of the media.”<sup>7</sup>

However, as ICG will demonstrate in this report, the prerequisite conditions have not improved since mid-June. On the contrary, in many respects the conditions have deteriorated. Under such conditions, the *OSCE should not preside over an election which will only lend a sheen of democratic legitimacy to a process neither fair nor free, and which will only legitimise ethnic cleansing and expedite partition.* The OSCE chairman-in-office should withdraw the certification and propose that the elections be postponed to a date when minimum conditions in the country permit the holding of free, fair, and effective elections.

### III. UNFULFILLED AND DETERIORATING CONDITIONS

#### A. Repatriation far short of expectations, reintegration a mere fantasy

The Parties to the DPA agreed that the early return of refugees and displaced persons was an “important objective of the settlement of the conflict in Bosnia and Herzegovina.” They committed themselves to “take all necessary steps to prevent activities within their territories which would hinder or impede the safe and voluntary return of refugees and displaced persons,”<sup>8</sup> and they pledged themselves to “create in their territories political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons.”<sup>9</sup> The right of all refugees and displaced persons to return to their homes is reiterated in the Constitution of Bosnia and Herzegovina.<sup>10</sup>

With the above commitments in mind, the Parties concluded that “by Election Day, the return of refugees should already be underway.”<sup>11</sup> However, this is not the case.

By mid-August, only 100,000 of over 2 million refugees and displaced persons had returned, and principally to areas where the returnees

<sup>7</sup> Cotti Statement, page 6.

<sup>8</sup> DPA, Annex 7, Article I.

<sup>9</sup> DPA, Annex 7, Article II(1).

<sup>10</sup> DPA, Annex 4, Constitution of Bosnia and Herzegovina, Article II(5).

<sup>11</sup> DPA, Annex 3, Article IV(1), 5th sentence.

belonged to the majority ethnic group. And even this is a misleading figure because close to 80,000 persons belonging to minority groups have been displaced since the signing of the DPA.

Upon their brief return to territories controlled by one of the other nationalities, refugees and internally displaced persons are increasingly subject to arbitrary police controls, open discrimination, expulsions, arbitrary detention, and violence. Even short assessment visits by groups of displaced persons across the inter-entity boundary line (IEBL) are prevented by mob violence or other threats - only two out of some 40 visits planned and organised by UNHCR have been successful during the past two months. Individual initiatives are even more at risk. In a small sample of cases reported in recent days by the International Police Task Force (IPTF): on 28 July one Bosniac man who attempted to visit his former home near Dobo, Republika Srpska territory, was found in a ditch with his thumbs severed and ribs smashed - he died later; another Bosniac died of internal bleeding after beatings in Banja Luka police custody; and, in early August, a Bosniac mob stoned a Serb attempting to return to his home in a suburb of Sarajevo. The incidents are often tolerated by the authorities, and in some cases carried out with their participation.

#### B. Indicted war criminals still at large

As of mid-August, out of a total of 75 war criminals indicted by the International Criminal Tribunal for the former Yugoslavia (Tribunal), only seven low-ranking indictees had been arrested or had surrendered to the Tribunal in The Hague. The rest remain at large and, in most cases, their whereabouts in Republika Srpska, Yugoslavia, Croatia and Croat-controlled parts of the Federation are well known. Some of the accused are still exerting influence on their communities in a manner incompatible with the goals formulated in the DPA, if not openly then behind the scenes.

When the OSCE chairman-in-office Cotti certified the elections, he said that the Parties' full cooperation with the Tribunal was a precondition for creating the necessary political conditions for free, fair, and democratic elections, and that "every single possibility of direct or indirect exertion of influence by indicted war criminals of the likes of Radovan Karadzic, must be hindered." Cotti went beyond merely calling for the removal of suspected war criminals from office; he said, "Cooperation with the Tribunal at The Hague must become a fact.... If no actions are undertaken right now against the indicted war criminals, it can be taken for granted that the elections will very quickly give way to developments diametrically opposed to those

which they were expected to yield. There exists the most serious danger that they then degenerate into a pseudo-democratic legitimisation of extreme nationalist power structures and ethnic cleansing. Instead of the peaceful evolution in keeping with the Peace Agreement, the elections would lead to further dramatic tensions. Under no conditions whatsoever ... should we permit such a development to ensue.”<sup>12</sup>

After many setbacks the international community was able to force the resignation of Radovan Karadzic from the presidency of Republika Srpska as well as the SDS. However, Republika Srpska is still laden with campaign posters with Karadzic’s visage, SDS politicians introduce themselves on behalf of their “closest associate” and make frequent reference to Karadzic, and, as US envoy John Kornblum stated, there is also “evidence [Karadzic] could be participating in decisions.” In other words, not only does Karadzic remain at large, but he is still “exercising political influence.” One example of such influence is provided in a statement issued by the SDS on the occasion of Karadzic’s resignation from the party presidency - “President Karadzic’s view is that everyone must vote at the elections, and vote for the SDS, in order to prevent puppet and Muslim Parties from getting the one-third of the vote they need to drown the Republika Srpska in Bosnia and Herzegovina.”

### C. Freedom of movement virtually impossible

The Parties to the DPA agreed to “ensure ... freedom of movement.”<sup>13</sup> At the June Geneva implementation conference they reaffirmed their belief that the right to move freely and without fear throughout Bosnia and Herzegovina was a cornerstone of elections.<sup>14</sup> In order to ensure that election preparations were conducted as smoothly as possible, the Parties committed themselves to facilitate the traffic of vehicles between the two entities, to ensure that local authorities cease confiscating identity documents issued by either entity, to re-establish telephone connections between the entities, and to allow all candidates and Parties to engage in political activity and campaign freely and without obstruction in both entities.<sup>15</sup>

---

<sup>12</sup> Cotti Statement, page 6. “Co-operation,” as defined in the Statute of the International Tribunal adopted 25 May 1993, Article 29, includes the arrest and transfer to The Hague of those indicted by the Tribunal.

<sup>13</sup> DPA, Annex 3, Article I(1).

<sup>14</sup> Agreed Statement, Geneva, 2 June 1996, paragraph 10.

<sup>15</sup> Annex to Agreed Statement, Geneva, 2 June 1996, Administrative and Confidence-Building Measures, Par. 1.

However, on none of these issues has there been satisfactory progress. Individuals who venture into areas or entities not under the control of their own nationality are often threatened, subjected to violence, detained, or even murdered. Despite bureaucratic obstacles concocted by authorities mainly in Republika Srpska, seven UNHCR sponsored bus-lines have been ferrying displaced persons between the two entities. However, the buses are often stoned and passengers harassed, even detained. Because the license plates of private cars generally denote the ethnicity of passengers, individual visits take place by foot, bicycle, taxi, or foreign-plated car, to avoid harassment.

D. Freedom of expression for the ruling Parties only

The Parties to the DPA agreed to “ensure that conditions exist for the organisation of free and fair elections, in particular ... freedom of expression and of the press”.<sup>16</sup>

In mid-June Cotti said that independent media “continue to be hindered by various obstacles to their development.” In Republika Srpska, specifically, he said there were “in fact no independent media at all,” and he stressed that the state media were heavily biased in favor of the ruling Parties.” Since Cotti’s statement, again, the situation has deteriorated.

Commitments to open up the media during the election campaign made by state television in Republika Srpska in May are being flouted on a daily basis. While Republika Srpska television has set aside an hour and a half each night to political parties ostensibly to give them a chance to present themselves to the electorate, the programs have descended into an attempt to smear all opposition to the SDS. As a result, aspiring politicians spend most of the allotted time defending themselves and their war records from accusations made by pre-selected and carefully rehearsed viewers. When opposition politicians complained about their treatment, Republika Srpska television editorial board issued a statement saying that the station was defending the national interest and Republika Srpska and concluding that:

“[Bosnian] Serb television will not allow certain parties and their leaders to attack, humiliate and hurt its journalists and editors with their groundless accusations. Political parties and coalitions which think

<sup>16</sup> DPA, Annex 3, Article I(1).



that they will generate support from viewers through lies and still take part in the pre-election campaign, must expect to be pulled from the screen of [Bosnian] Serb television.”<sup>17</sup>

When representatives of the Party for Democratic Action (SDA) of Bosnian President Alija Izetbegovic appeared on this program, as was their right, the television picture rapidly broke up to be replaced after 14 minutes of blank screens by pop videos.

The Croat station HTV in the southern town of Mostar never signed up to any commitments and has made no effort to open itself up to the opposition during the election campaign. Bosnian television, by contrast, has generally been compliant, although there have been complaints that opposition party events have not been reported.

Television news coverage in both Republika Srpska and Croat-controlled Federation territory remains highly partial and systematically violates the electoral code of conduct drawn up by the Provision Electoral Commission (PEC). Meanwhile, international attempts to influence the media have failed to have any impact or even address the fundamental problems. A Swiss-financed election radio station began broadcasting on 15 July. However, it broadcasts out of Sarajevo with a staff based in Bosniac-controlled Federation territory. As a result, it effectively only covers the part of the country where the media is already the most open.

The TV-IN, an \$US 11 million television station sponsored by the Office of the High Representative which was supposed to span Bosnia and Herzegovina and provide an alternative to the state-controlled media, has yet to begin broadcasting. Technically it has been very difficult to assemble such a station so quickly; politically it has proven even more problematic. Bosnian President Alija Izetbegovic has yet to give the project the go-ahead and allocate a frequency. At present, the station is supposed to go on air in early September (even this is optimistic), which is too late to have a real influence on the electorate before voting day. In any case, the station is based on a network of five local, essentially Bosniac stations and again broadcasts from Sarajevo, thereby minimizing the potential impact in Republika Srpska and Croat-controlled federation territory.

E. Political environment anything but neutral

---

<sup>17</sup> Editorial Board statement, 31 July 1996.

The Parties to the DPA agreed to “ensure that conditions exist for the organisation of free and fair elections, in particular a politically neutral environment”.<sup>18</sup>

It is difficult to imagine how the environment in Bosnia and Herzegovina could be characterized as “politically neutral” when refugees and displaced persons are unable to return to their homes, indicted war criminals remain at large (some of whom exert political influence), the inter-entity boundary line and even the former Bosniac-Croat frontlines are still difficult and dangerous to cross, and only the ruling parties enjoy freedom of expression in most areas of the country.

Now that the election campaign has started, the ruling parties are in fact going to great lengths to propagate fear and insecurity among voters. For example, advertisements of the Croat Democratic Party (HDZ) tell Croat voters that the “survival of their nation” is at stake on 14 September. Republika Srpska television, for its part, announces that a vote against the Serb Democratic Party (SDS) constitutes a vote “against the Republika Srpska and the Serb people.”

Perhaps the most graphic evidence of the climate, as it exists in Bosnia, is the tactics used by the Bosnian Serb and Bosnian Croat authorities in voter registration (see below). Both groups are manipulating the electoral rules to suit political ends and consolidate with the ballot that which they won with the bullet.

#### IV. FLAGRANT ELECTION MANIPULATION

##### A. Abuses of voter registration are turning the Dayton Agreement into an ethnic cleansers’ charter

While the architects of the DPA intended elections to contribute to the reintegration of Bosnia and Herzegovina, the Republika Srpska authorities have seized upon part of a single sentence and abused their authority to turn the agreement into an ethnic cleansers’ charter.

The agreement stipulates that “[a] citizen who no longer lives in the municipality in which he or she resided in 1991 shall, as a *general rule*, be expected to vote, in person or by absentee ballot, in that

---

<sup>18</sup> DPA, Annex 3, Article I(1).

municipality,” and continues, “Such a citizen may, however, apply... to cast his or her ballot elsewhere.”<sup>19</sup>

It is clear that most displaced Bosnians were expected to be voting in the municipalities in which they were living in 1991 in order to start the process of reintegration. Voting elsewhere was to be the exception. Under the electoral rules and regulations drawn up by the Provisional Election Commission, displaced persons wishing to vote in the municipality in which they were currently living and not where they lived in 1991 had to apply to the local electoral commissions and fill out a so-called form II.

Had displaced Serbs chosen of their own free will to switch their vote from their previous homes in the Federation to their new place of residence in Republika Srpska, this might have been acceptable. However, the Bosnian Serb authorities systematically pressured them into registering to vote in Republika Srpska and not in the municipalities in which they were living in 1991. In the former frontline town of Doboje, for example, the official SDS-controlled Commission for Refugees and Displaced Persons decreed that displaced persons would only receive housing and food benefits on presentation of a special certificate which they could only acquire by showing voter registration form II.<sup>20</sup> Serb radio in Prijedor announced that those Serb displaced persons who voted in absentia in their previous places of residence were “directly attacking the Serbian nation.”

These tactics were subsequently extended to many other regions of Republika Srpska with the result that by the end of the registration process more than 240,000 displaced Bosnian Serbs had registered to vote where they live today. Thus, what was supposed to be the exception has in practice become the rule, distorting the spirit if not the letter of the DPA. Moreover, the votes of displaced Serbs are clearly being used to boost the Bosnian Serb vote in key areas such as Srebrenica to prevent the return of Bosniacs. Republika Srpska Radio now uses the voter figures to boast, “none of the refugees expressed a wish to vote in the Muslim-Croat entity proving once again that any living together is impossible.”

At a press conference in Sarajevo on 9 August 1996, the OSCE Coordinator for International Monitors (CIM) Edward van Thijn described this voter registration fraud, painting a dismal picture of the political environment in the country. “It is not fraud in favor of a

<sup>19</sup> DPA, Annex 3, Article IV, emphasis added.

<sup>20</sup> OSCE Human Rights Periodic Report, 18 July 1996, paragraph 14.

political candidate but it is fraud in favor of solving territorial problems,” he said, “It’s very sinister. Displaced persons ... are moved around against their will in order to fulfill all sorts of political aims. I think it’s a serious violation of human rights.” He said attempts to coerce displaced persons into voting in “strategic municipalities” was a blatant example of “electoral engineering,” and he cited in particular the fact that Bosnian Serb refugees in the Federal Republic of Yugoslavia had been directed to cast ballots in under-populated areas of Republika Srpska, including Brcko, Srebrenica and Zvornik, while Bosnian Croat leaders were trying to force as many displaced Croats as possible to vote in “Herzeg-Bosna”.

Until the complete breakdown of voter registration is available, it is impossible to say exactly what has been taking place among Bosnia and Herzegovina’s Croats. However, there is considerable anecdotal evidence that, as van Thijn noted, the Croat vote is also being manipulated and Croats too are attempting to continue the war by other means. Since pockets of Croats, such as Kiseljak and Vitez, are at present isolated in Central Bosnia, the Croat authorities appear to be attempting to use the election to build a corridor joining them to Croat-controlled western Herzegovina. They also hope to achieve this by using the right to vote where one intends to live (Form III) to boost the Croat vote in Bosniac-held towns such as Gornji Vakuf and Fojnica.<sup>21</sup>

#### B. Absence of OSCE response to abuses

While the OSCE has established a range of commissions to deal with electoral abuses—in particular the Election Appeals Sub-Commission and the Media Experts Commission (both staffed with Serb, Croat and Bosniac representatives and internationals)—these bodies have failed to take resolute remedial measures.

The Election Appeals Sub-Commission is theoretically the most powerful weapon in the OSCE’s arsenal. It is able, for example, to strike candidates from party lists and even ban political parties which refuse to abide by the electoral rules and regulations drawn up by the Provisional Election Commission. However, despite a plethora of abuses, it has only taken real action on one occasion when it struck the first seven candidates from the SDA’s list in Bihac after members of that party were responsible for attacking Haris Silajdzic, leader of

---

<sup>21</sup> OMRI, 9 August 1996.

the opposition Party for Bosnia and Herzegovina, while he visited the area.

The SDS's attempt to manipulate voter-registration in Doboj (see above) goes unpunished. Despite receiving a first report into the matter as early as 13 July, the OSCE has thus far imposed no penalty, settling instead for the dissemination of "a strongly worded radio announcement."<sup>22</sup> Meanwhile, voter registration has been completed and virtually all displaced Bosnian Serbs are registered to vote in Republika Srpska.

The Media Experts Commission is also supposedly equipped with teeth, since it can withdraw press accreditation from journalists and fine offending stations and publications up to \$US 25,000 if they break the electoral code of conduct drawn up by the PEC. However, it has generally chosen to issue warnings rather than take resolute action. The Commission's only vaguely combative move has been to order Ilija Guzina, editor of state television in Republika Srpska, to apologize on air for an inflammatory commentary on 29 June and to point out the inaccuracies contained in it. Predictably, Guzina has not even responded.

#### C. Conclusions drawn by parties

Because the local authorities are organizing the elections and the OSCE simply supervising them, the elections may be undermined at any time by the authorities in either Republika Srpska or in the Federation. The cooperation of the ruling parties is critical to the event and if any side decides that elections are no longer in its best interest, it can simply instruct the local electoral commissions to resign. The precedent has already been set in Mostar in May when the Bosniac authorities demanded concessions that the European Union Administration in Mostar (EUAM) initially refused to grant. After the local electoral commissions withdrew their labor, the EUAM was obliged to give way and the elections were postponed one month.

That the Election Appeals Sub-Commission and the Media Experts Commission have both been so ineffective is symptomatic of a general malaise within the international community concerning the

---

<sup>22</sup> Letter to the Editor written by Jeff Fischer, OSCE Director General of Elections, *Washington Post*, 12 August 1996.

elections. Given a tight time-frame and political pressure, the OSCE appears unwilling to take any serious measures against the ruling parties for fear that they will withdraw their support from the elections and thus jeopardize them altogether. The conclusion drawn by all three ruling parties, who are responsible for ensuring that the preconditions for elections have been met, is that the international community will push ahead with elections irrespective of the prevailing conditions. Consequently, they have made and are making no effort to improve those conditions. If anything, as outlined above, they have seized the opportunity to see to it that conditions deteriorate.

## V. CONSEQUENCES OF PROCEEDING WITH ELECTIONS

### A. The Day

#### 1. Voter Confusion

The Bosnian electorate has only had one multi-party election—in 1990. Yet voters on 14 September are being asked to cast ballots in five separate elections, a daunting task for any electorate in the world. This degree of complexity is in fact unnecessary, as the OSCE is not obliged to supervise so many elections at one time. The DPA states that the Parties request the OSCE to supervise: “The preparation and conduct of elections for the House of Representatives of Bosnia and Herzegovina; for the Presidency of Bosnia and Herzegovina; for the House of Representatives of the Federation of Bosnia and Herzegovina; for the National Assembly of the Republika Srpska; for the Presidency of the Republika Srpska; and, *if feasible*, for cantonal legislatures and municipal governing authorities.”<sup>23</sup>

It would have been possible to delay the cantonal and municipal elections and thus simplify what was already an exceptionally complicated ballot. Moreover, by delaying the municipal elections, it would also have been possible to extend the registration process and thus ensure that a much greater proportion of Bosnians were able to vote.

#### 2. Disenfranchised voters

---

<sup>23</sup> DPA, Annex 3, Article II.

Many Bosnians will be unable to vote in the elections. This is in part a result of the complexity of the electoral process and the fact that Bosnians are dispersed throughout the world. However, it is also a result of the severe under-funding of the OSCE's mission during the first six months of its operations in Bosnia and Herzegovina. Two top level resignations in May—those of chief-of-staff William Stuebner and director general of elections Judy Thompson—and the dispatch of former Danish foreign minister Uffe Ellemann-Jensen to OSCE member state capitals with a begging bowl were required to generate the funds and staffing necessary for the operation. The absence of information technology professionals early on delayed the start of the registration process by more than two months. Though registration was supposed to begin on 1 April, the process did not finally get under way until 10 June.

The decision to press ahead with cantonal and municipal elections made the deadline for voter registration extremely tight, and the logistical task much greater, since applications for absentee ballots had to be broken down into municipalities. As a result, unless they return to vote in person in the municipalities in which they were living in 1991, more than 300,000 Bosnian refugees will be effectively disenfranchised on election day.

### **3. Violence**

As many as 300,000 displaced persons and refugees may attempt to cross the inter-entity boundary line (IEBL) and the former Bosniac-Croat frontlines to vote in the municipalities from which they were expelled. These are persons who have not registered to vote by absentee ballot and are thus obliged to return to the municipality in which they were living at the time of the 1991 census to take part in the election.

Given that organized crossings of the former confrontation lines have frequently ended in clashes between rival ethnic groups, violence must be expected on election day. Indeed, the Bosnian Serb who presides over the Brcko Municipal Assembly has said he will regard the presence of any Bosniac voters in Brcko on election day as a "provocation". In interviews Aleksa Buha, foreign minister of Republika Srpska and president of the SDS, has said that Bosnian Serb police will turn back Bosniacs heading for areas where they constituted a pre-war majority. Buha has also stated on many occasions that he considers the IEBL to be an international border.

### **4. Irregularities**

Given the complexity of the election and the inadequate preparations, the potential for irregularities is great. Because of its tight time-frame, the OSCE has not been able to produce precise voting lists for each polling station. Instead, voters are able to cast their ballots in any polling station in their municipality, and every single polling station has the entire list of eligible voters. To prevent multiple voting, voters will have their fingers marked with an invisible dye that shows up under infrared light. Before casting their ballot, they will have to pass their hand under the light to prove that they have not already voted. However, since the number of voters using a particular polling station has not been determined in advance, the crush at certain polling stations may be so great that mistakes are made and a second ballot is required.

In addition, because an estimated 100,000 deceased persons have not been taken off the voter registration list, there is further potential for fraud. OSCE officials fear that Serb refugees from Krajina or Muslims from the Sandzak region in Serbia may assume the voting credentials of the deceased. As one OSCE official quipped, “At the end, we can say that we have made sure that even the dead—if they come to vote—will do so only once.”

## B. The Aftermath

Even if events were to proceed smoothly on election day, the aftermath could prove fatal to the integrated Bosnian state structure envisaged by the Dayton Agreement, to the hopes of refugees and displaced persons who would like to return to their homes, and perhaps even to the year-long cessation of hostilities.

### 1. Repercussions on the ground

There are several possible repercussions of holding elections now, each of which will likely play out in different parts of the country and at different levels in the election.

*\* The ruling Croat HDZ, Bosniac SDA and Serb SDS parties are likely to dominate at the polls in the areas they control.*

To varying degrees, the three ruling parties will be able to exploit the feelings of patriotism and fear brought on by the war. The SDA will no doubt be credited by Bosniac voters for leading Bosnia to independence from Yugoslavia; the SDS and HDZ will be credited for providing Serbs and Croats respectively with enormous autonomy and, in the case of the Serbs, international recognition of their



“republic”. The fear of voters has been heightened by complicated voting rules that afford the “other” with the possibility to make electoral inroads in areas currently outside “their” control (such as Croats in Brcko, Bosniacs in Srebrenica and Trnovo).

If, for instance, those who might vote for the opposition in Republika Srpska are told such a vote will only reduce the Serb chances and contribute to the election of Bosniacs, they will likely set their political instincts aside and, for the sake of the nation, close ranks (as in 1990) behind the ruling party which stands the best chance of winning and representing their interests. Each of the ruling parties profits from the strength, and the radical propaganda, of the other two. The more likely it is that SDS will win in Republika Srpska, for example, the more likely it is that Bosniac displaced persons, fearing that they will not be able to return home peacefully, will vote for the army-backed SDA.

The profitability of the nationalist tactics and the strength of the ruling parties has been evidenced already by the results of the June 30 Mostar municipal poll, where, of more than 58,000 votes casts, all but 1,937 went to either the ruling HDZ party or the coalition headed by the ruling SDA. And the authorities in Republika Srpska have not hesitated in capitalizing on those results, pointing to their rivals’ strong showing as proof of the nationalistic climate in the federation, the radical agenda of Bosniac and Croat voters and the necessity of defending the Serb homeland.

*\* The election results will undermine—possibly fatally—the chances of somehow keeping the Bosnian State intact:*

1. The election results will give previously “self-appointed” leaders of personal fiefdoms a fresh mandate and democratic (and unprecedented) *legitimacy*. They give the various “national projects” that same veneer of international legitimacy. If the SDS, in particular, won, it would bolster the party’s claim that Republika Srpska is a community seeking to exercise the right of national self-determination on a recognized territory.

It would, by contrast, also deprive the Sarajevo-based authorities of their claim to be the legitimate governors of the entire country. The elections will in fact spread this sovereignty between the three nations and the two entities. The Bosnian Serbs hope that, by obstructing these new structures, they can make the sovereignty of a united Bosnia and Herzegovina disappear altogether, further strengthening their claim to independence. Though the opposition parties hope to

make a better showing in two years' time, and hope then to facilitate the reintegration of Bosnia, there is no guarantee either that this election will take place or that Bosnia will not already be divided.

2. The election results will *ratify the ethnic cleansing* carried out in the war. Thanks to the electoral engineering being perpetrated, it will accomplish with the ballot that cleansing which was not completed with the bullet. These elections will solidify war gains and expand peace gains. It will also increase—rather than decrease—the momentum for partition.

By padding its Republika Srpska electoral lists with an additional 240,000 displaced Bosnian Serbs, the SDS will likely be able to confirm the results of ethnic cleansing and secure majorities in large territories that once had substantial Bosniac majorities. Thus, the cleansing of Brcko, Bratunac, Doboj, Foca, Prijedor, Rogatica, Visegrad, Vlasenica and Zvornik would be recognized *de jure* by a vote characterized more by election engineering than by democracy.

3. The election results will ensure *infighting* among the parties and eliminate chances for cooperation. The nationalists are the very individuals who oppose the implementation of the DPA. If their power base is fortified, they will do their utmost to torpedo the peace process. SDS presidential candidate Momcilo Krajsnik best illustrates this point. Due to the fact that the Bosniac vote for the Bosnian Presidency is likely to be split between Izetbegovic and Silajdzic, Krajsnik, a hard-line advocate of ethnic separation, may well win the most votes, entitling him to become chairman of the Presidency of Bosnia and Herzegovina, a country he detests. He has already revealed his conception of the future by proposing that the new joint institutions be located in buildings situated on the IEHL that have separate entrances in each entity.

An overwhelming victory for the nationalists will greatly stall the repatriation of refugees. In the case at least of the SDS and the HDZ, it must be said that the creation of refugees was not an incidental by-product of the war; it was the war's aim.

*\* If the ruling parties do not win, they will likely protest the results and further obstruct the joint institutions.*

Of all three parties, the HDZ is the most secure in its grip on power in the Croat-controlled part of the Federation. It is less secure in central Bosnia, where Croats suffer from numeric disadvantages in cleansed towns that they currently control. Though the SDS is secure overall, it will face a challenge from the left-center block led by the Milosevic-aligned Socialist Party of Republika Srpska, and they may lose municipal seats in the Banja Luka area. Ironically, the fact that Bosniac and Croat displaced persons are entitled to vote in person or by absentee ballot in the area in which they lived in 1991 means that the SDA will fare reasonably well in Republika Srpska, tallying up to 400,000 votes winning almost surely certain municipalities, such as Brcko, Srebrenica and Trnovo, but may suffer setbacks in the Federation. In addition, since more Serbs and Croat refugees are housed nearby in Yugoslavia and Croatia than Bosniacs, the unregistered Serb and Croat voters will be more likely to travel to Bosnia to vote on election day itself than Bosniacs who tend to be scattered outside the borders of the former Yugoslavia; the SDA may therefore suffer disproportionately on the Bosniac part of the Federation. Any of these parties who forecast defeat may stage a boycott in advance of the election, or try to spoil it on the day itself so the results be perceived as illegitimate. In the event of unexpected defeat, they will certainly protest voting irregularities.

Any losing party will have the power to protest defeat by citing such irregularities. The voter registration process has already brought the election into disrepute. Because the OSCE has imposed few sanctions on those parties who have blatantly violated the electoral rules, losing parties will have a well of ammunition to draw upon after the election for their protests. Due to the great potential for voter confusion, disenfranchisement, violence and irregularities on election day (see above), the already-existent grounds for complaint will only multiply.

Witness Mostar: When the SDA-led coalition narrowly edged out the HDZ for control of the city council, the Croats refused to accept the EU ombudsman's decision that, notwithstanding a slight irregularity (twenty-six extra ballots in one polling station), the results were final. The west Mostar Croats have now secured a "compromise" deal with the Bosniacs and the EU, but the agreement offers no guarantee that the city council will convene regularly or function properly.

Those who do not like the results of the elections, the irregularities, or the concept of the institutions themselves have it in their power to obstruct simply by refusing to meet. Neither Bosnia nor the

international community can withstand several dozen rounds of late-night negotiations, nor the constant intervention of U.S. President Clinton, as was required to secure the Mostar compromise.

## **2. The international community's loss of leverage**

One of the gravest consequences of holding the elections concerns the leverage that the international community will lose. This loss of leverage will take place at precisely the time when conditions are regressing (see above).

- Security Council Resolution 1022 (November 1995) stipulates that the economic sanctions against Yugoslavia and Republika Srpska, which were suspended in December, will be fully lifted ten days after the completion of free and fair elections in Bosnia and Herzegovina as spelled out in Annex 3 of the DPA. If in fact these sanctions are lifted, the Russian veto on the Security Council will make it difficult to re-impose them at a later date if the Bosnian Serbs should increase their obstruction.
- The election certification process provided, at least initially, a hefty incentive for working toward the fulfillment of the OSCE's twelve preconditions for free and fair elections. Though progress has slowed notably in recent weeks, proceeding with elections will remove the target needed to spur efforts.
- More generally, once the self-appointed leaders have received electoral endorsement, they will be even less receptive to meddling from outside. The new, "democratically-elected" Republika Srpska parliament, for instance, can impose visa requirements on Bosniacs, ban foreigners, or stage a referendum on independence. Though western nations will still be empowered to condemn and cajole, it will be more difficult to write off these post-election parliamentary resolutions as illegitimate.

## **3. The installation of newly-elected officials**

The attachment to Annex 3 on Elections in the General Framework Agreement reads as follows:

"7) To ensure that the will of the people serves as the basis of the authority of government, the participating States will

(7.9) ensure that candidates who obtain the necessary number of votes required by law are duly installed in office and are permitted to remain in office until their term expires or is otherwise brought to an end in a manner that is regulated by law in conformity with democratic parliamentary and constitutional procedures.”

The UN Security Council on 8 August stressed the importance of elections “which will allow for the establishment of the common institutions and which will be an important milestone for normalization in Bosnia and Herzegovina. It calls upon the Parties to ensure the prompt functioning of these institutions after the elections.”

“Calling on the parties”—especially the parties likely to be elected—will do little to expedite the functioning of the joint institutions. Recent events in Mostar, where the city council shows few signs of functioning properly, illustrate this point. The international community has not articulated any policy—beyond exhortation—to bring about the installation of the newly-elected officials. For instance, if Bosniac displaced persons make a strong showing in Republika Srpska, they are far more likely to become irredentist governments in exile than they are to take up posts in SDS-dominated Republika Srpska.

This will have severely negative consequences for stability in Bosnia and will, as a result, necessitate a protracted international presence.

In the absence of the conditions for “free and fair” elections, candidates elected by absentee ballot to areas from which they were once expelled, will have great difficulty taking up their seats. This will spawn unrest in Federation territory among displaced persons (and displaced elected representatives), and, if these disgruntled groups force the issue, possible violence in Republika Srpska or “Herzeg-Bosna”. Though opposition politicians hope to overthrow the ruling nationalists in the next elections, two years is a very long time to wait for displaced persons whose right to return home has been reaffirmed in the election. The best-case scenario for these formerly mixed areas is a tense stalemate like that currently plaguing Mostar.

## VI. RESPONSES TO ARGUMENTS FOR PROCEEDING WITH THE ELECTIONS<sup>24</sup>

<sup>24</sup> These arguments are drawn from Cotti’s June certification statement, as well as frequent contacts and discussions with local political leaders, diplomats, and western policy-makers.

***The elections are not an end in themselves, but a step in the long process of reconciliation and democratisation, and an instrument for bringing stability to the region.***

Elections held under the current conditions may in fact have the opposite effect. Instead of furthering reconciliation, the elections advance the likelihood of violence -- either when on election day a large number of voters cross the former confrontation lines that were hitherto hermetic, or when the time comes to install newly elected leaders to areas from where they have been cleansed. Instead of taking a step in the process of democratisation, the Parties, especially Republika Srpska and "Herzeg-Bosna," have manipulated the registration process and additionally suppressed freedom of expression and association. Thus the run-up to the elections has exacerbated not reduced instability. When voters are directed to vote according to the wishes of the ruling political parties, elections cannot be described as stabilizing.

***Postponing the elections will not improve conditions.***

This concern would be justified only if the international community continues to respond as indecisively as it has to date to violations of the DPA. However, ICG is proposing that the international community take resolute actions that would convince the Parties that certain minimum standards must be met before elections are put back on reschedule.

***By not setting a firm date for the elections, the international community will heighten political uncertainty, increase the likelihood of political division, provide a stimulus to the forces of separation, and cause chaos and uncontrollable developments.***

Holding the planned elections on 14 September under the present conditions will produce precisely these undesirable results - not only will the extreme nationalist parties be elected, but their hold on power and the territories they control will be legitimized by the OSCE as well as the international community and consolidated. The leaders of the SDS and HDZ have made no secret of their goals -- creating an independent, sovereign and exclusivist state in the case of the former, and creating a separate, exclusivist "Herzeg-Bosna" entity in the case of the latter. Both have also stated that their ultimate goal is unification with their respective "mother" countries. Though the status quo without elections may also provide such a stimulus, holding the elections now, before democratisation has been given a chance to heal the wounds of war, will only expedite the partition and remove a major incentive for the ruling parties to improve conditions: the eventual acquisition of legitimacy.

---

***Thanks to the poll a political opposition in conjunction with absentee, displaced voters will have a chance to start the “reconstruction of ethnically-mixed communities.”***

Because of the manipulations of the voter registration process in Republika Srpska and “Herzeg-Bosna” as well as the Bosnian voters living in “mother” countries, the exact opposite results have been achieved. Since most Bosnian Serbs displaced from the Federation territories have been forced to register to vote in Republika Srpska, and many Bosnian Croats forced to vote in “Herzeg-Bosna”, it is not possible to discuss even symbolic reconstruction of ethnically-mixed communities.

***The parties themselves want to hold the elections.***

The ruling parties urgently seek a democratic stamp and fear that time works against them. The opposition parties, who have been repeatedly disillusioned in the last four years by the International community’s broken promises and half-hearted commitments, appreciate the sudden bout of international resolve to hold elections and fear it may be short-lived. As the date for the elections approaches, and as conditions deteriorate, a number of opposition parties are increasingly changing their view and threatening boycott.

***Inter-governmental organisations active in Bosnia recommend that elections take place as planned.***

These inter-governmental organisations are without exception subject to the political imperatives of various governments around the world. When exerting pressure or giving the green light to proceed with the elections, these governments were more motivated by domestic political concerns—their own electoral campaigns necessitate the staging of symbolic, tangible events that represent tangible achievement in foreign policy. In the same vein, for those countries that hope to withdraw or reduce their troop presence in Bosnia, the elections supply a useful exit benchmark. In fact many nations hold an underlying belief that partitioning Bosnia would be a simpler solution than the laborious facilitating of reintegration. This short-sighted partition approach will only guarantee another round of fighting in Bosnia, perhaps spawn further conflicts in the region, and, in the long-run, cost the international community far more than extending IFOR’s mandate for another year, implementing DPA more resolutely, and holding the elections shortly after the conditions in Bosnia have improved.

***Elections should take place while IFOR is still present in Bosnia, and, since the future of IFOR cannot be predicted, that means September.***

IFOR, like the OSCE, should tie its presence not to a calendar, but to concrete progress measured by the implementation of the DPA.

***Elections will permit the creation of the State-level joint institutions foreseen in the DPA.***

In the current politically charged environment, those joint institutions elected are bound to be paralyzed by the diametrically opposed agendas of the parties, which could precipitate the demise of Bosnia as a single country. The example of Mostar is overwhelming argument.

***Elections will permit some opposition parties and leaders to be elected, thus reducing the three ruling parties' monopolistic grip on power.***

This is a compelling argument, especially in the case of Bosniac-controlled parts of the Federation. However in Republika Srpska, the strongest challenge to the ruling party will come from the Socialist Party of Republika Srpska -- which answers to Serbian President Milosevic and which can hardly be considered a healthier alternative to SDS, given the responsibility that Milosevic shoulders for the catastrophic events in former Yugoslavia.

***The preparations for elections are too far underway to turn back now.***

In fact one major reason for postponing elections is that preparations lag so far behind. Virtually every one of the OSCE's deadlines was postponed, and even still, huge logistic hurdles will have to be scaled in the next month to ensure the elections will be able to go forth. If they do, thanks in part to the chaos inherent in an election of this scale and novelty (in a country where even the main towns have no constant power supply), in part to the enormous number of displaced and refugee voters, and in part to the OSCE's slow start, voter registration figures are so low that huge numbers of Bosnian citizens will likely be disenfranchised.

## VII. THE ALTERNATIVE: RECOMMENDATIONS ON CONDITIONS FOR A NEW ELECTORAL SCHEDULE

The Bosnian elections are planned for September 14 because, the Dayton Peace Agreement's sponsors and signatories stipulated that the poll should be held within nine months. That they also required that certain preconditions be met has been largely forgotten or ignored. Any claim by international organisations or western governments that elections are proceeding because Dayton's preconditions have been fulfilled represents an attempt to rationalize the decision made in Dayton or, more recently, in Western capitals. The decision to certify the elections is driven by the calendar, not by the climate on the ground.



ICG believes that this is a flawed approach. The stakes for the region and the consequences for the people of Bosnia and Herzegovina of holding elections are too high for a stone-fixed date to dictate their fates. Instead of rushing the elections, so as to have them completed within nine months of Dayton, the elections should proceed only when the bare minimum preconditions have in fact been met. ICG is not therefore recommending anything new; it believes, simply, that *the OSCE should heed the spirit—and indeed the letter—of the Dayton Peace Agreement.*

***ICG recommends a postponement of the elections. It recommends that the elections be held when the bare minimum preconditions have been met. Progress should be measured not with the calendar but with the concrete implementation of Dayton's civilian side.***

One of the DPA's known defects was that, while the concrete military aspects of the agreement had to be performed before the expiration of firm deadlines, the civilian provisions were left vague and difficult to measure. Though the DPA outlined the conditions needed to hold elections, and though they were elaborated upon by the OSCE, no benchmarks were made publicly available for judging when or whether the conditions had been fulfilled. As it happens, civilian implementation has stalled so manifestly that it is impossible to argue that the twelve OSCE preconditions have been met. But ICG proposes the establishment of thresholds that must be crossed in civilian implementation before elections are held.

**War criminals** must not simply be marginalised or shielded from view; they must be sent to the Hague. The international community can accomplish this either by arresting those criminals whose whereabouts are known, or if IFOR continues to refuse doing that, by forcing Croatian President Franjo Tudjman and Serbian President Slobodan Milosevic to hand them over. Diplomatic and economic pressure should be exerted to such an extent that it becomes impossible for local leaders to shelter or resist arresting those indictees who fall within their spheres of influence. Out of all the civilian provisions of the DPA, this is the one that is most easily measured. Priority should be placed initially on the most prominent accused war criminals - Radovan Karadzic, Dario Kordic and Ratko Mladic. Postponing the elections will remove the current excuse for not apprehending the indictees -- that doing so would increase, not decrease, support for the nationalists just before the elections.

**Repatriation**, perhaps the most difficult of all conditions to meet, must have really begun before elections proceed. This is strongly—but not exclusively—

linked to the other preconditions. The net return total—currently 20,000 at most, and the bulk of them to ethnic majority areas—must improve before citizens of Bosnia and Herzegovina are called upon to decide their fate. The benchmark for this will not be the number of returnees, but the establishment of relatively secure conditions that enable at least the start of reintegration and more substantial repatriation. This must include steps toward the creation of economic as well as physical security, at minimum meaning that the discriminatory property laws in both entities must be repealed, and amnesty laws brought into compliance with the DPA.

**Freedom of Movement** must be created. An amorphous and difficult precondition, ICG proposes the following criteria for fulfillment: when group and individual visits are possible between one entity and another, when candidates can cross the IEBL and campaign without fear of intimidation in the other entity, when phone links are established between the two entities, and when IFOR checkpoints are no longer required along the IEBL.

**Freedom of Expression and Media** must be established. Opposition politicians, not to mention ordinary citizens, must not be gagged. Throughout Bosnia, opposition parties must be free to campaign without fear of harassment or intimidation. After four years of one-party, often-repressive rule, nine months is an inadequate period of time for any semblance of a pluralistic spirit to take hold. Elections should not take place before opposition parties of all stripes are given a fair chance. Freedom of the media, especially in the Republika Srpska and in Croat-controlled part of the Federation leaves much to be desired. In Republika Srpska, the ninety minutes air-time granted to the opposition must supply them with a proper outlet; the election program must cease to be the scene for state-sponsored ridicule and slander and must not be “moderated” by members of the ruling party. The Swiss-financed alternative radio station must be publicized so that potential listeners are made aware of its frequency. Most crucially, the alternative television network, TV-IN (known as “Bildt-TV”), which will be lucky to be functioning before 14 September, must be given time to gain credibility and viewership. ICG estimates that a minimum of three months of normal operation will be required in order for TV-IN to have had any chance to open the minds of viewers.

***After four years of war, it is clear that the Parties will not satisfy the conditions spelled out in Dayton anytime soon. It is also inevitable that,***

*at some point, the Parties and the international community will have to settle for less than ideal conditions for elections. Nonetheless, ICG believes that the current conditions are not acceptable, and the international community has great power at its behest that it is not using to capacity. The elections should take place when the Parties are approaching compliance, not when they are moving away from it.*

*Elections are not a panacea. They can serve a useful purpose if they represent a meaningful expression of popular sentiment. Elections in Bosnia and Herzegovina, if they are held on 14 September, will not accomplish this end. Instead, they will speed the path to partition and deprive western States of invaluable leverage.*