

BOSNIA'S FUTURE UNDER THE
DAYTON AGREEMENT

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COMMISSION ON SECURITY AND
COOPERATION IN EUROPE
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BOSNIA'S FUTURE UNDER THE DAYTON AGREEMENT

TUESDAY, JUNE 13, 2000

COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WASHINGTON, DC.

The Commission met at 2:00 p.m., in room B-318, Cannon House Office Building, the Honorable Christopher H. Smith, Chairman, presiding.

Commissioners present: Hon. Christopher H. Smith, Chairman; Hon. Steny H. Hoyer, Ranking Member; Hon. Benjamin L. Cardin; Hon. Joseph R. Pitts; and Hon. Frank R. Wolf.

Members present: Hon. Eliot L. Engel.

Witnesses present: Ambassador Robert L. Barry, head of the OSCE Mission in Bosnia; Mr. Selim Beslagic, Mayor of Tuzla; U.S. Army General Wesley Clark, Former Supreme Allied Commander, Europe; Ambassador James Pardew, Principal Deputy Special Advisor to the President and Secretary of State for Kosovo and Dayton Implementation; Dr. Haris Silajdzic, former Prime Minister of Bosnia; and Mr. Milan Trbojevic, advisor to Republika Srpska Prime Minister Milorad Dodik.

OPENING STATEMENT OF HON. CHRISTOPHER H. SMITH, CHAIRMAN

Mr. SMITH. The Commission will come to order.

Good afternoon everybody. Today's hearing is on Bosnia's future under the Dayton Agreement. Five years ago, Bosnia, as we all know, was still at war. Bihac was still under siege. Srebrenica was about to be taken. Serb militants were confident in their holdings of more than 70 percent of the country. Soon, however, a joint Bosnian-Croatian offensive would combine with robust NATO air intervention to end the fighting. By the end of 1995, the political agreement formally ending the conflict was reached in Dayton and signed in Paris.

The end of almost 4 years of hostilities was certainly a reason for relief. But, for many of us, and I am sure for many Bosnians, there was no sense of triumph. Dayton involved compromises, including the division of the country into two entities, which reflected the horrific realities caused by aggression and ethnic cleansing. Dayton involved negotiating directly with Slobodan Milosevic, the person most responsible for instigating the conflict in the first place, elevating his status in the process.

Most of all, Dayton was late. The international community, led by the United States, could have and should have intervened decisively in the first year of the conflict. Instead, the world watched people lose their homes, lose their friends and relatives, and lose their lives, while political leaders abroad accepted efforts to blame the horror on history

and not on the thugs behind the guns. Instead, the world waited until Bosnia became more expensive to clean up and put peacekeeping forces in a more precarious position than they otherwise would have found.

Fortunately, however, Dayton maintained Bosnia-Herzegovina in a single state, in principle. Dayton foresaw this state as democratic, in principle. People would be allowed to return to their original homes, at least in principle. In short, just as the Helsinki Final Act, and so many other international documents, Dayton is what you make of it. It is a struggle to turn words into deeds.

The international community can rightfully point to successes, although in incremental steps. Many leading extremists have been marginalized, although some of them indicted for war crimes and genocide, remain at large. There are increasing signs of support for moderate political opinions, although ethnically-based parties remain entrenched in power and their own corruption. Recently, there has been an upswing in returns, although minority returns have traditionally been so low that an upswing isn't saying all that much.

In my view, these successes are reason for hope, but not for satisfaction. Moreover, these successes only provide hope that Bosnia will not disintegrate as a state under the international community's continued care. They do not guarantee that Bosnia will strengthen as a state emerging independent from that care. That should be our goal.

At this hearing of the Helsinki Commission, we hope to hear whether such a goal can be reached under the Dayton Agreement, with all of its contradictions and compromises. We hope to learn more about the Bosnians themselves and what they are doing. Are they slowly but surely accepting the realities of ethnic division? Are they slowly but surely reestablishing those ties which once made Bosnia the home of a successful multi-ethnic society before the conflict was imported? We also hope to learn more about what the international community is doing and what differences its actions are really making.

Our first panel is composed of various representatives of the international community. First, we have Ambassador James Pardew, the Principal Deputy Special Advisor to the President and Secretary of State for Kosovo and Dayton Implementation. The Ambassador will present the views of the administration on U.S. policy to Bosnia and Dayton implementation.

Next, we will have U.S. Army General Wesley Clark, who, until recently, served as Supreme Allied Commander Europe.

General, you are distinguished not only by your rank, but also by your extraordinary work and by your expertise. You have had the Balkans as your portfolio since the Bosnian conflict, as well as before Dayton was even envisaged, so your insights into the region will be most welcome.

Our final panel member concludes Ambassador Robert Barry, who is in his third year as head of the OSCE Mission to Bosnia. While the mission has many tasks, its leading ones are human rights, democracy-building, and elections, all of which are crucial to Bosnia's future. We look forward to your views as well.

I'd like to yield to my good friend and colleague, the ranking member, Mr. Hoyer, the gentleman from Maryland.

**OPENING STATEMENT OF
HON STENY H. HOYER, RANKING MEMBER**

Mr. HOYER. Thank you very much, Mr. Chairman, and I want to join with you in welcoming Ambassador Pardew, General Clark, and Ambassador Barry to our hearing. Each will have, I know, a great deal of substance to offer this Commission.

Mr. Chairman, as you know, it has been 15 years that I've served on the Helsinki Commission, 10 of those years as chair, and during that time no single foreign policy issue has consumed my attention, or, frankly, the attention of this Commission, as the struggle to save not only Bosnia but the very Helsinki principles which were threatened by the aggression against the country.

In the early years, the international response could only be described as feckless, in my opinion. Once the United States decided to get involved, however, much has been accomplished. Our forces on the ground, our people in the field, and our policymakers who have developed the strategy for isolating and marginalizing nationalist extremists, and, if indicted, apprehending them as well deserve recognition and support.

I congratulate all of those who, once our policies were decided, acted to implement those policies effectively. I hope, however, that no one is satisfied with what has been achieved, because it is far too little. Indeed, we should have a zero option for Bosnia, which would mean zero displaced persons, zero barriers to safe internal movement for each citizen throughout the country, zero indicted persons at large, zero tolerance of discrimination based upon ethnicity and nationality.

All of the money and all of the people we devote to Bosnia become meaningless if our policy falls short of doing the right thing.

The biggest obstacle to Dayton implementation, in my view, remains the continued presence of Slobodan Milosevic and his regime in Belgrade. This year, we have seen the enormous benefits of positive change in Croatia. There was a story on the front page of today's *Washington Post* which showed how Mr. Tudjman, like so many venal leaders, robbed his citizens blind.

Democratic change in Serbia is even more critical. Whether one has fallen to his propaganda machine, or to the weaponry of his murderous minions, all the people of Bosnia have been victims of Milosevic and his politics of genocide.

Today, the Serbian media and Serbian students are stopped for speaking the truth about this self-proclaimed defender of Serb interests. I would say, as an aside, I had the opportunity of meeting with some Serbian-Americans. Congressman Rod Blagojevich from Chicago arranged the meeting.

I made it clear to them that although I was a very great opponent of Milosevic, and of those who are associated with Milosevic and support his continuing in power, I was not an opponent of the Serbian people. I think we need to make that clear.

It was their sentiment as well that the United States was not doing enough to rid Serbia of Milosevic. I think I share that view, aside my recognition of the difficulty of accomplishing that task in the context in which we operate.

Of course, change in Serbia will not make all of the problems in the region simply disappear, but it will allow us, for the first time, to talk about the prospects for long-term stability and true recovery in south-eastern Europe.

I look forward, Mr. Chairman, to the detailed presentations of our two panels, and their thoughts on Bosnia's future under the Dayton Agreement.

Before I close, I want to welcome my friend, Dr. Haris Silajdzic, to the room as well.

I think Dr. Silajdzic, Mr. Chairman, has spoken before this Commission—

Mr. SMITH. Twice.

Mr. HOYER. Oh, no, he has spoken before this Commission much more than twice. I can't count the times he has spoken, but he has done so in a compelling, focused way. He obviously, as all of us, has his particular perspective. Nevertheless, he has raised high the banner on a continuing basis for U.S. and Western action to stop the genocide.

While we were too late in doing so, I think all of us agree it is never too late to do the right thing. United States leadership, and, General Clark, your leadership, Ambassador Barry, Ambassador Pardew, and so many others, your leadership ultimately, in both Bosnia and in Kosovo, at least stopped the carnage. We are moving toward a solution, a restoration of civil order and civil society in those two areas.

Thank you very much, Mr. Chairman, for that opportunity.

Mr. SMITH. I know one of those times was when you were offering the amendment to lift the arms embargo, and Dr. Silajdzic was our key witness at that hearing, and at the conclusion of that hearing went to the galleries to watch that debate unfold. So I welcome you as well.

I'd like to yield to —

Mr. HOYER. Mr. Chairman, if I could make a comment. We all remember that. In my opinion, the lifting of the arms embargo—Senator Dole, of course, was such a hero on that effort, Frank participated, others. When we passed that through the House, and it lay over for the August break, in my opinion, that was the genesis of the Europeans becoming focused on the Dayton accords, because they believed that the Congress was, in fact, about to lift the arms embargo.

Although we never passed the legislation, because we concluded the Dayton Agreement and went on from there, I think it was a key factor in getting us to Dayton. The President was able to say to our European allies, "If we don't act, the United States Congress is going to act unilaterally to lift the embargo, so the Bosnian people can defend themselves properly."

Thank you, Mr. Chairman. Thank you for your leadership on that.

Mr. SMITH. Thank you very much, Mr. Hoyer.

Commissioner Pitts?

OPENING STATEMENT OF HON. JOSEPH R. PITTS

Mr. PITTS. Thank you, Mr. Smith, for scheduling this important hearing on Bosnia's future under the Dayton Agreement.

I would like also to welcome our distinguished panelists. I'm looking forward to hearing their testimony.

Mr. SMITH. Thank you very much, Commissioner Pitts.

Mr. Wolf?

Mr. WOLF. Welcome. Look forward to hearing your comments.

Thank you, Mr. Chairman

Mr. SMITH. Ambassador Pardew, if you'd begin?

**TESTIMONY OF AMBASSADOR JAMES PARDEW,
PRINCIPAL DEPUTY SPECIAL ADVISOR TO THE PRESIDENT
AND SECRETARY OF STATE FOR KOSOVO AND
DAYTON IMPLEMENTATION**

Amb. PARDEW. Thank you. Mr. Chairman, I'm pleased to have this opportunity to speak to you today about our continuing efforts to assist the people of Bosnia and Herzegovina to achieve lasting peace, democracy, and prosperity.

Our focus today is the Dayton Agreement, and I have to admit that you don't have an unbiased observer here, since General Clark and I were both involved in the subtle diplomacy prior to the agreement and the 21 days at Dayton. So we are personally associated with that.

I will provide my perspective on what is—what Dayton is, what it's not, and what I see as the key political and economic keys to political and economic progress in Bosnia.

In any discussion of the Dayton Agreement, it is important to understand both what Dayton is and what it's not. First, Dayton is a cease-fire agreement. Throughout the war, the international community made continuous, exhaustive, but ultimately fruitless efforts to end the war, fruitless until the Dayton Agreement finally ended it.

The agreement ended the fighting and separated and controlled the constituent military forces, but it did not identify a winner. The war-time power structure remained in place. If Bosnia is to become a viable state, it must begin to develop one integrated armed force, free of external influences, oriented toward NATO and subordinate to national civil authorities.

To achieve that goal, Croatia and Serbia must end their military support to national forces in Bosnia. Croatia has just done so. However, the Serb forces in Bosnia remain largely supported and directed from Belgrade.

Secondly, the Dayton Agreement is the basic framework for participatory democracy. It is a precise diagram, a schematic, for the institutions, political structures, and interrelationships required to begin the process of recovery and transition for the people of Bosnia.

It is, however, a document of negotiated compromises, which decentralized political and economic and military institutions below the state level to the entities. All of the parties at Dayton agreed that Bosnia and Herzegovina would be one state with two entities and three constituent peoples.

All agreed that Dayton described two entities, the Federation and the Republika Srpska, which would have strong powers, as well as a central government which would have strictly limited powers.

Despite the lack of strong central governing institutions, the Dayton Agreement has produced important achievements. Let me enumerate just a few—a stable security environment; restoration of freedom of movement across the entire country; completion of major infrastructure reconstruction programs; a single, stable currency; a series of internationally-supervised elections; democratic institutions of government at all levels; and thousands of refugees who have returned.

These and other achievements point to the success of the agreement. However, it is also clearly a work in progress.

Just as the Dayton Agreement is a sound and practical blueprint for a peaceful, democratic, and prosperous Bosnia, it does not resolve every issue, nor does it promise that the international community will solve

every problem between competing interest groups in the country. That is for the people to resolve, in time, through democratic processes and elections.

While Dayton does outline the key institutions and responsibilities of a stable, democratic state, it is up to the people of Bosnia and the leaders they choose to use the Dayton blueprint to build their new country with its new institutions, to take its new place in Europe.

A fundamental problem with Dayton implementation is that many political leaders in Bosnia have not fully accepted the concept of Bosnia as a state. The leadership simply lacks the will to implement the various elements of Dayton, then go beyond Dayton on important issues.

In fact, nationalists on all sides, clinging to their narrow slice of power, never bought on to the promise and potential of the Dayton Agreement. It is this serious lack of vision, intolerance, failure to compromise, and, most of all, an unwillingness of many of these leaders to wholeheartedly embrace democracy and a market-oriented economy that have so badly slowed progress in Bosnia.

After 5 years, Dayton is only a partial success, but progress does continue. Certainly, the pace of implementation is frustratingly slow to many of us, but it must overcome—Bosnia must overcome three significant obstacles.

The first is the war itself. The brutal and lengthy conflict scarred everyone in Bosnia, and the people on all sides have only slowly gained the confidence that war is indeed over. The people of Bosnia are not inherently hostile to each other, nor is future conflict there inevitable. The security of knowing that armed conflict will not begin again is critical for Dayton implementation, and we must ensure that we do nothing to shake that confidence.

The second obstacle is nationalism and intolerance. The sooner the people remove political leaders who inflame ethnic tensions for political gain and replace them with leaders who promote economic and political change, the better we will all be. The nationalists are gradually losing power, but the transition is very slow. Milosevic, as Mr. Hoyer mentioned, continues to cast a dark, evil, and disruptive shadow over Serbs in Bosnia.

However, the defeat of Radovan Karadzic's SDS party at the entity level in the Republika Srpska in 1997, and the significant erosion of support for nationalist parties in the Federation in this April's election, are evidence that people are turning away from the nationalists and their message of ethnic supremacy and division.

The recent collapse of the ruling nationalist HDZ party in the neighboring Croatia has accelerated this process, and provides an example for other countries in the region of the benefits that can be achieved by embracing democracy and moving toward the Euro-Atlantic mainstream.

This message was not lost on the electorate in Bosnia, and we hope that the people in Bosnia will participate fully and actively in all aspects of the democratic process, including elections, to choose the future they want for their country.

The third obstacle to overcome is the legacy of decades of communism in the former Yugoslavia. This legacy continues to hinder our efforts to assist the people to implement the Dayton Agreement. Clearly, even when people of Bosnia fully overcome both war and nationalism, the struggle toward a market-oriented democracy will continue.

They lived and were educated for years in a flawed system. Acceptance of authoritarian leadership and party control of the media and economy are hard habits to break. For more than a decade, we have seen other European countries struggle to make progress in creating democratic institutions. Elsewhere in Eastern Europe, corruption and cronyism slowed the already-difficult transition from communism to a market economy.

Mr. Chairman, I do not believe that renegotiating the Dayton Agreement is in our interest, as some have suggested. Some want to reopen Dayton as a way to speed up the transition in Bosnia. The agreement is more than adequate to build on as it stands, and reopening it would not address the basic problems I just described.

In fact, renegotiating Dayton with the current political, economic, and military leadership would only set back existing achievements.

Others wish to end our presence in Bosnia and see reopening Dayton as a means to that end. Instead, reopening the agreement could in fact, reignite old issues, set the clock back, and require the international presence for a much longer time in the Balkans.

In closing, I would like to say that the United States strongly supports the conclusion of the recent Peace Implementation Council meeting in Brussels, which called on the parties in Bosnia to accelerate implementation of the agreement. We strongly support the three primary objectives the international community laid out in that meeting.

First, economic reform to eliminate interference in the economy by the nationalist political parties. Second, accelerate the return of displaced persons and refugees. Third, strengthen state institutions, including integrated defense, plus independent media.

New political leadership and more pluralism in the fall elections, economic reform, refugee returns, and stronger state institutions are far more valuable to stability and progress in Bosnia than debates over the Dayton Agreement.

Working together, the international community and the people of Bosnia have made significant progress in achieving the goals to which the signers of the Dayton Agreement committed themselves. While there is still much to be done, Mr. Chairman, the United States is proud to have been a part of this effort.

Thank you.

Mr. SMITH. Ambassador Pardew, thank you very much for your testimony.

General Clark?

**TESTIMONY OF U.S. ARMY GENERAL WESLEY CLARK,
FORMER SUPREME ALLIED COMMANDER, EUROPE**

Gen. CLARK. Mr. Chairman, members of the Commission, thank you very much for the opportunity to be here, and I'd like to take this opportunity also to thank the members of the United States Congress for their continuing support of our troops there on the ground and our mission there in the Balkans.

I'd like to say that I'm up here today—I'm not representing the specific policies. I'm out of my position right now, so what you asked me to do is talk about my experience and my personal judgment, as I understand it, and that's what I'm going to give you in this.

I think that any—

Mr. HOYER. Mr. Chairman, if I might interrupt, as one member of the Congress who had an opportunity to be briefed in Brussels and in other places by General Clark, and who had an opportunity to work with and talk to General Clark prior to his going to NATO, I think he is one of America's finest soldiers. I want to thank him for his leadership and commitment and candor in a very difficult context in which he found himself.

The country owes you a debt of gratitude, General, and I appreciate it.

Gen. CLARK. Thank you very much, sir.

What I'd like to say is that in terms of the work under the Dayton Agreement, of course, the military tasks are largely done that were laid out in the agreement. We still have to participate in maintaining—helping to maintain security there. But the military tasks have been largely done.

We've taken down the NATO force from 60,000 to just over 20,000. The American contribution to that force has gone from more than 20,000 to less than 4,000, and a few hundred in the headquarters. So I think there have been substantial reductions, and we know that's been the wish of the Congress, and that's been the policy of this administration.

But the work for political and economic transformation cannot be done in Bosnia without continued military support. There may be future reductions, but the military presence is today essentially to enable continuing transformation to take place, to head off any threats, to head off any intimidation of the international community, and to ensure that none of the defeated dreams of ethnic separatism should reemerge in light of a NATO departure. So I think the continued presence of those forces is very important today.

That having been said, and a lot of work has been done, as Ambassador Pardew pointed out, I think there are some big challenges ahead. We need to see full return of refugees to places like Srebrenica, as well as to places like Sarajevo.

This is an important means of promoting reconciliation. It's an important means of preventing ethnic partition, and nothing more strongly rebukes the hardline criminal leadership than the return—the peaceful return of these refugees.

It should be done as a matter of continuing priority, and it is being done with the support of the NATO forces over there within their means and capabilities. I think we're going to see better refugee returns this year than we've ever seen before. But we must continue to emphasize this and work for it.

Secondly, vigorous efforts must be taken to define and combat corruption in Bosnia. Bosnia runs, like every other society, on money. Much of it changes hands behind the scenes in Bosnia in ways that Americans would find unimaginable.

It's a for-profit culture. The money eases the designs and dreams of the hard-liners, through illegal institutions, through intimidation, through many other techniques. A systematic campaign to define and eliminate corruption in Bosnia is essential to being able to move ahead with the political transformation of that society.

Third, I agree that state institutions need to be strengthened, and the factionalization there needs to be combated. In so doing, I hope we'll be willing to take greater risks than we've been willing to take in the past.

Step by step, over the period of the international communities' commitment there, we have recognized that we have historically overstated, in our own minds, the degree of risk that was involved in helping the transformation of this country.

As we've seen when we take the indicted war criminals, despite the fears that accompanied the seizures at the outset, we can easily deal with what scattered opposition there has been. Before we made the decision Brcko arbitration, there were those who predicted this couldn't possibly be done successfully.

There were those who counseled against the removal of Mr. Poplasen when he was the President of Republika Srpska for the same reason. But we went ahead and we took those decisions, and we moved forward. The risks are manageable.

There is substantial authority available to the High Representative to promote the changes in leadership, particularly at municipal and local levels, to promote the fine-tuning of the election laws, the media problems in that country, and any other elements dealing with corruption.

He has that authority. He must take the risks, make the bold decisions, and further accelerate the transformation process.

That having been said, there is no solution to Bosnia in Bosnia alone. Any solution requires a fundamental change in Belgrade. Milosevic needs to go to The Hague and stand trial. There must be democracy in Belgrade, and then international institutions are going to have to work to convert an entire people that's been kept in the dark and misled for over a decade and fed on old 19th century dreams.

We're going to have to work together to bring the Serb people forward into the 21st century, so they can take their rightful place in the Euro-Atlantic culture as members of the West. But until Milosevic departs, I don't see much hope in that.

So I would suggest that one of the highest priority items on the agenda for the Balkans is a concerted international effort to promote democracy in Belgrade and to see that justice is done.

Thank you, Mr. Chairman.

Mr. SMITH. General Clark, thank you very much for your testimony. I want to add my comments in addition to what I said in opening comments to what my friend and colleague Mr. Hoyer said.

I, too, was with the delegation that you briefed in Brussels, and in a bipartisan way we were very glad that you were at the helm, and we did appreciate your candor as well. I mean, you answered the questions very openly and transparently, and we do—we look forward—we like that. We need that to make informed decisions over on this end. So thank you.

Ambassador Barry?

**TESTIMONY OF AMBASSADOR ROBERT L. BARRY,
HEAD OF THE OSCE MISSION IN BOSNIA**

Amb. BARRY. Thank you, Mr. Chairman, members of the Commission. I don't want to imply that I'm in any way satisfied with the progress that has taken place in Bosnia. But I would say that the ice is breaking, and that this is not the time to give up on Dayton implementation or to decide that the path ahead leads through revision of the Dayton Agreement.

Let me just mention a few ways in which I believe the ice is breaking. It has already been mentioned that return is taking place at a level four to five times what it was in the first quarter of 1999. These are returns to minority areas, and these returns, the 12,000 of them that have been listed so far, are registered returns.

Now, registered returns are the tip of the iceberg because most of the people who go back do not register with the High Commissioner for Refugees, because if they did they would lose some of their benefits. So, typically, this is simply a fraction of people who are actually returning, and, indeed, the continued presence of SFOR is essential to allow this return to go forward.

For the first time now, we see enforcement of housing laws and the evictions of people illegally in other people's apartments taking place around the country. It's taking place in Foca. It's taking place in Srebrenica.

It's taking place in Stolac, in places where it has never happened before, because these people are under intense pressure from the international community, and they realize if they don't proceed with this we will remove them from office, as we did last November when we removed 22 obstructionist officials at all levels from office.

It's often said that the nationalist won the April elections. That is simply not true. Overall, nationalist parties lost power, lost the mayorship, in 50 municipalities where they had it before. So that means that half the municipalities in Bosnia and Herzegovina are now controlled by parties whom we would not describe as nationalist.

Social democrats, of course, moved from controlling one municipality in the 1997 elections to 20 municipalities in the April elections, and those municipalities are some of the largest in the country. This has resulted in things like having a Bosnian Serb and a Bosnian Croat, the mayors of the two largest municipalities in Sarajevo with a predominantly Muslim population. It has resulted in, for example, a Serb deputy speaker in the Parliament in Mostar.

Even the HDZ got a clear message, I believe, from the electorate during this last time around. In the absolute stronghold of the HDZ, the Siroki Brijeg, the turnout of voters was 35 percent. That is one-half of the turnout around the rest of the country. That was a message to the leadership of the HDZ that they were not any longer capturing the will or the imagination of the voters.

In Republika Srpska, the most significant thing in my mind was the sudden growth of Mladen Ivanic's Party for Democratic Progress, a moderate party which started 6 months before the election, and then came in third in the overall election—evidence, in my mind at least, that Bosnian Serbs are looking for new answers as well.

As we prepare for the November elections, I believe the pressure for change is continuing, and this is a catalyst for change.

Yes, progress is too slow. Nevertheless, you only have to talk to the people who live there, and most of you have, to realize that the scars of the war are still very deeply felt. There is also the problem of politicians who led the country in wartime, who are struggling to fan the flames of fear to consolidate their political base.

I think people are not listening to these politicians anymore. I think that's true because people are now more interested in the future of jobs, employment, and education, and less interested in stories about Cetniks and Ustasha, but definitely I think this is causing people to change the way they approach these questions.

The Croatian election, indeed, had a spillover effect in Bosnia and Herzegovina. It has caused the HDZ in Bosnia and Herzegovina to abandon any thought that their future lies in separation from Bosnia and Herzegovina and joining to Croatia. If the international community and every voter in Bosnia and Herzegovina said that would be all right, the Croatians still would not accept their Herzegovinian relatives into the fold. So that possibility has been decisively ruled out.

The HDZ has purged its hardline leaders in many municipalities around the country, in preparation for the next election. We see now in Mostar that the HDZ has removed the hard-line deputy mayor Prskalal, replaced him with Neven Tomic, who had gone there committed to reunify Mostar and committed to a program of cooperation with the Bosniac—this Bosniac opposite number Orucevic.

Within the Bosniac electorate, obviously the decision of President Izetbegovic to step down on October 12 is linked to shifts in the fortunes of the SDA. Again, because the SDA did very poorly during this last election, there has been a purge of the senior leadership. There has been infighting within the top leadership of the party. And one has only these days to read the newspapers, the one-time spokesman of the SDA, Nebna Yahvas, in its feuds with SDA leadership chose. I think that things are changing there as well.

The SDS did well in Republika Srpska, but not as well as the SDS and the SRS did in 1997. And it is I think quite apparent that depending on what happens in the next few months, you could still see an assembly in Republika Srpska and a government dominated by Dodik's SMSD and Ivanic's Party for Democratic Progress. And this could be a core of a new government there.

The Serbian member of the Presidency, Zhivko Radisic, has obviously thrown his lot in with Milosevic and is calling for the idea of putting primary emphasis on improving relations with Serbia. It remains to be seen, but I don't think this will necessarily be the dream of the Bosnian Serb voter. That is, to follow a path which leads away from Europe.

So why have we decided to go ahead with elections in November? In the first place, this is not a decision of the OSCE. It was a decision taken by the Peace Implementation Council unanimously, and then seconded by the 54-nation OSCE Permanent Council.

Many, if not all, political leaders are for it, and it may not be a coincidence that some political leaders who are most outspokenly against it are members of parties or coalitions which lost traction in the last election.

I think it is clear also that the reforms we have introduced into the OSCE's rules and regulations under which these elections will be carried out will promote reform.

We have taken the elements of the draft election law, which was never acted on by the Bosnian Parliament, and put them into our rules and regulations, so that we will have things like preferential voting, which is designed to produce more moderate outcomes; multi-member constituencies—in the past, voting in Bosnia was always in a single

constituency for each entity; open lists, which allow people to go in and select individual candidates, not simply vote for a party list; and reforms on campaign financing, which will enable us to trace where the money is coming from and where it is going to. And I think this will be an important element in trying to fight corruption.

And the use of cash cows such as the electricity generating companies, and the post and telegraph and telecommunications, which have been used by the nationalist ruling parties to feather their own nests and provide funding for their own elections, this is now forbidden.

Of course, elections by themselves do not make institutions work. The people who are elected must want to have them work. Regrettably, the Council of Ministers was a model of deadlock before it was dissolved, and the choice by the joint Presidency of an unknown candidate from Belgrade to be minister of the new Council of Ministers suggests that even those party leaders who call for stronger central institutions do not really want to make them work.

Some argue that the only way forward is to revise the Dayton Agreement. I agree that some revisions are desirable. But to change Dayton you have to implement it first, and, through consistent implementation, create the kind of consensus needed to make constitutional amendments possible. The right place to argue for revision is in Sarajevo and Mostar and Banja Luka, not in Washington.

There is a growing sense in Bosnia and Herzegovina that the structures of government need to be simplified, that integration of the three armies of—on territory of Bosnia and Herzegovina is needed, that economic reform is essential, and that it is time to end dependence on foreign aid and decisionmaking by the international community.

What is needed at this point are politicians who are willing to build this consensus patiently and persistently at home.

Dayton was, of course, a compromise agreement and a difficult one at that. Very few Bosnian politicians would claim to be wholly satisfied with its provisions. They tend, in criticizing it, to highlight the parts that suit them and ignore those aspects that do not.

Therefore, obstruction of the implementation of the agreements, and calls for its revision, are two sides of the same coin. Both are attempts to modify what was agreed to the favor of one side than the other, in full knowledge that these changes will not be acceptable to the other side.

The international community must not be party to these sorts of deadly games. Instead, we must continue to insist on implementation of what was signed, focusing on the elements that are crucial to ensure a sovereign and multi-ethnic Bosnia and Herzegovina—the return of refugees and displaced persons, economic reform, rule of law, and strengthening of state institutions.

Last month's Brussels Peace Implementation Council meeting produced a blueprint for the future. It calls for state-building, economic reform, and accelerated return—all intimately interconnected. The political leadership of the country was consulted on this program and they agreed to it. Now it is time to see if they meant what they said.

Bosnia and Herzegovina are at a political crossroads. In order to have a united Bosnia and Herzegovina within European structures, at peace with itself and its neighbors, its leaders have to go down the path of cooperation, accountability, and political transparency. The best way to accomplish this is to implement the plan agreed upon in Brussels.

The Dayton Agreement is only as good as the politicians in power allow it to be. Changing the agreement is not the answer. Changing the political scene to a more moderate one that is accountable to the people of Bosnia and Herzegovina is.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Ambassador.

Let me just begin on the refugee issue, if I could. The ICG Balkans report pointed out that as of August 31, 1999, the minority returns throughout Bosnia numbered a mere—less than 5 percent, about 100,000. And it has been pointed out that that number has ratcheted upwards, and this report suggests that that is the case.

But that's still obviously a very low number, and I know, General Clark, all of you have talked about the importance of full return of all refugees.

Now, since the number has gone up, and it is cause for, I think, encouragement, is it likely that that number will be sustained or accelerated? Ambassador Barry?

Amb. BARRY. I think that throughout 2000 it will continue to go up through—because the return season has just begun. But as that ICG report points out, it is crucial that the resources be mobilized to support that return.

These people are returning to villages that were razed to the ground during the war—during the war and after the war. So they're coming back to places where all they have is their foundations. They don't have water. They don't have electricity.

So mobilizing international assistance for this is crucial. I'm very pleased to note that USAID has made a major step in that direction. We've just announced that most of our aid to Bosnia and Herzegovina, some \$65 million, will go in that direction.

Unfortunately, the European Commission has not proven so flexible, and getting that Commission money focused, getting it flowing, and having it come early in the return season instead of at the end of that season, is very important. Also, it's important that the emphasis be shifted from contracting with general contractors to build these houses to providing the materials and letting the people return and fix them themselves, which is the way which would save a lot of money and a lot of time.

Mr. SMITH. Ambassador Pardew?

Amb. PARDEW. Yes. I would consider the return of refugees, the increase in return of refugees over the past 3 months, to be one of the more significant breakthroughs in Bosnia. I would combine that with recent elections in Croatia as two really breathtaking events that have occurred.

Let me just give you some data here. There has been nearly a fourfold increase in the number of minority returns, and that's the really tough one to deal with, in the first 4 months of 2000.

So 11,445 ethnic minority returnees have registered—there may be others who have not registered—compared to only 3,442 in the first quarter of last year. Of the estimated 2.15 million refugees created in the war, refugees and displaced persons, up to now about 660,000 have returned.

Let me just talk about—just briefly about the Republika Srpska where this has been a particularly difficult area. One-third of the returnees this quarter, or about 3,800, have gone back to the Republika Srpska.

Eight-hundred fifty of those have returned to the Praedor area, and, as someone earlier mentioned, we have refugees going back to Srebrenica and Foca municipalities—two areas particularly notorious during the war.

So we do have a significant momentum building on refugee returns. We hope that they can be sustained. There's no guarantee. The Department of State just is notified in the last 24 hours—an additional \$5 million to the Congress specifically for the purpose of reinforcing our efforts to help with these refugees.

So we think this is a tremendous development. We want to put our resources to promote that activity, and we will work with the Congress to do so.

Mr. SMITH. Are the Europeans behind the ball on this, as suggested by Ambassador Barry? They have not been forthcoming?

Amb. PARDEW. My experience in Bosnia, and also Kosovo, indicates that the United States is lighter on our feet in the ability to move resources. The European Commission, the European Union gets there, but they get there more slowly than we do.

So I think everyone recognizes that return of refugees is fundamental to the Bosnian problem. And I'm confident that the Europeans will do their part in supporting this effort.

Mr. SMITH. Do the Europeans have money allocated? Is it money that's in the pipeline, or is it something—

Amb. PARDEW. There is money. They do have funding in the pipeline for refugee returns. But like us, they need to identify additional resources because we want this momentum to grow. And they're going to need to identify additional—

Mr. SMITH. What would be the total cost—European and American money combined—that would make the difference to ensure that this happens sooner rather than later, and that it happens at all? I mean, is the money that we've allocated enough, or is it just an attempt to try to mitigate—

Amb. PARDEW. The money that we've allocated is enough to get us started. If this momentum continues, and these numbers grow to the levels that we hope, I'm sure that we would need additional resources. I can't give you a number, sir, at this point.

Mr. SMITH. I think as soon as that can be received, if we're to keep this momentum going, that would be helpful, especially because we're going through the cycle right now of appropriations. And I do Chair the subcommittee with authorizing jurisdiction, the International Office of Human Rights, and we would—while our bill is already passed and signed, the hope would be that, you know, we could weigh in with our appropriations friends, and which we have some members here.

Let me ask very briefly, General, if I could, we had a hearing earlier this year on Montenegro and southern Kosovo, about the—Southern Serbia I should say, about the concern of perhaps escalating fighting, a migration of rabblers that we at least heard testimony about. What is your assessment of the fear of hostilities, low grade or of any other grade, breaking out in Montenegro?

Gen. CLARK. I think Montenegro, Mr. Chairman, is still a potential problem for us. I think Milosevic is deterred by several factors; first, uncertainty about NATO's intentions; and, secondly, uncertainty about how quickly he could overwhelm Mr. Djukanovic and third, what Russia's reaction to this might be.

It's my sense that he is restrained, waiting on the outcome of events in the autumn, waiting on the outcome of larger forces, to see how much support he'll get when he tries to take more dramatic action.

I think he'll shake the tree. If the apple falls, then he'll take it. But I don't think he's preparing to cut down the tree. I don't think he has the intention of cutting down the tree at this point. He will, from time to time, shake it and see if Djukanovic drops out of it.

Mr. SMITH. Let me just ask on an issue that this Commission and I have been very active in, and that is the whole issue of sexual trafficking. A couple of weeks ago, we passed a bill on the floor, a comprehensive bill, we have been working on it for well over a year, that literally throws the book at traffickers, gives them up to life imprisonment, provides protection for women escaping that.

And we know that trafficking is exploding. Some say it may be number two after drugs in terms of its ability to generate profits for the mafia and others.

You mentioned Mr. Djukanovic from Montenegro, and our Commission wrote him, and we discovered through a Ukrainian NGO that there were some Ukrainians that had been trafficked into Montenegro, were being used as sexual slaves for a host of different types of customers. What kind of guidance do we give our military and other personnel, U.N. and otherwise, as to the inadvisability of extending that exploitation?

Because we know that many of these young girls and women are not prostitutes by choice or design. They are there having been forced, compelled into that kind of degradation.

Gen. CLARK. Well, for the United States military, we don't permit that, our soldiers involvement in that kind of activity while they're there. Period. The period of time—about 2 months—that we were going into Macedonia for short leaves for people who were in Kosovo, resulted in a couple of fights outside a bar, and because that and the possibility of our being implicated in sexual trafficking, we stopped the R&R into Skopje. I didn't want any of our troops involved in the possibility of sexual trafficking.

Mr. SMITH. I commend you for that, General.
Ambassador?

Amb. BARRY. I'd just like to add that one problem about trafficking in this part of the world is it is not against the laws of these countries. Prostitution is, but trafficking is not. And so OSCE, and the international community, the U.N. in particular, are working hard to try to get laws passed in this country that make trafficking a crime. It's really unfair to punish the women who are being trafficked and not the traffickers.

Mr. SMITH. Thank you, Ambassador.

Mr. Hoyer?

Mr. HOYER. Thank you, Mr. Chairman.

General, as you know, we have had some discussion and debate with reference to the level of forces that we maintain in Bosnia and in Kosovo. As I understand your testimony, your belief is that they are absolutely essential if we're going to continue to make progress in Bosnia. Is that correct?

Gen. CLARK. That's correct.

Mr. HOYER. If we withdrew the troops, both from Bosnia—and how many troops do we have in Bosnia at this point in time?

Gen. CLARK. We have 3,900 approximately troops, plus another 550, 600 people in the headquarters in Sarajevo.

Mr. HOYER. If we withdrew those troops, and withdrew the troops from Kosovo, what would be the ramifications, a) in country, that is in Bosnia and in Kosovo, and, b) in Belgrade?

Gen. CLARK. Well, if the United States were to withdraw its forces unilaterally, breaking its commitments with its NATO partners on the ground, what you'd have on the ground in Bosnia is an enormous security vacuum in one of the most sensitive regions of Bosnia, the Posivina corridor, and going all the way over to that part of Serbia that borders on Bosnia, around Bueljina.

I think that you can imagine that immediately the refugee returns would stop. Forces on the ground would rearm and prepare for a resumption of hostilities. Any thought of economic progress would be halted, pending an outcome of what was going on. Implementation of the final details of the Brcko transition would probably be destroyed, including the multi-ethnic police force and other things up there.

It would be viewed as a victory for the hard-line Serb faction led by Mr. Karalovic and General Mladic from his time in the war. It would be viewed as the limited staying power of a nation which articulates a commitment to high values, human rights, and high principles, but doesn't want to stay and see through the real world problems of trying to help participate in the political redevelopment and reengineering of a war-torn society. I think it would be very, very destructive.

In Kosovo, I think the ramifications would also be profound of a U.S. pull out. There are not sufficient troops to cover that sector in Kosovo, other than the American troops. Perhaps it could be found, but there's no assurance of that.

They certainly wouldn't be available in the kinds of quality with the kind of assets and professionalism that the United States troops have brought to bear. It's a very sensitive part of Kosovo, because it borders on the Presevo Valley, where there has been some effort by Albanian extremists to instigate an insurgency.

And, also, it's an area which is used by the—or potentially used by the Serb forces to reinfiltate their capabilities back inside Kosovo. So leading a security vacuum there is a guarantee for a virtually spontaneous recombustion in that part—that very sensitive part of Kosovo. It would be my strongest advice that we not contemplate such an activity.

Outside the country, it would be a breach of faith with our NATO allies. It would be seen as encouragement to Mr. Milosevic in Belgrade, and it would be seen by the neighboring countries as confirmation that the Operation Kosovo was, should we say, the high water mark of American influence in Europe, that with the receding of the American presence under such circumstances in the Balkans, the way would be safe for the forces of corruption and subversion and instability to reemerge in neighboring countries. And I'd rather not name those countries in open session.

But the chilling impact on the democratization, the Westernization, the economic development, throughout Eastern Europe would be profound.

Mr. HOYER. Thank you, General.

Mr. Ambassador, either Ambassador, would you like to comment on that question?

Amb. PARDEW. I have long said that our military presence there, our presence in the Balkans, relates directly to our national security interest. This is not just an act of goodwill.

General Clark just mentioned one aspect of that, and that is we have an interest in our alliances in Europe, and we need to be a partner in those alliances. Those alliances are involved in Bosnia, Kosovo, and the Balkans, and we should be an appropriate part of that. Our participation in those alliances are in our national interest.

Secondly, stability in the region is in our national interest. Our presence there relates to the stability of southeastern Europe. The stability of southeastern Europe relates to stability in Europe. And we just celebrated an anniversary of the D-Day invasion. We know what instability in Europe can cost the United States.

So I think it's critical that we maintain an appropriate presence there, with our European partners, that that directly supports the security interest of the United States.

Mr. HOYER. Mr. Ambassador, you use a word of art, I suppose, the appropriate presence. Of course, that is part of the debate that has occurred here in Congress over the last few months. Could you comment a little more specifically on the appropriate presence—perhaps General Clark, and Ambassador Barry might want to refer to that as well—because the assertion is that the Europeans are not bearing an appropriate burden themselves as part and parcel of the peacekeeping, democracy-enhancing forces present in those two jurisdictions?

Amb. PARDEW. I use the term “appropriate” in two ways. The first is, what is the sufficient force to ensure stability? And as General Clark mentioned, we started out with 60,000 people, that we're down now to around 20,000. As the political situation improves, and the locals take on more responsibility, you know, we can probably reduce that. But it's a military and—a serious military and political judgment about how high the overall force needs to be.

And, secondly, is the question of the United States participation. Quite frankly, Europeans have taken a lot of criticism, but our participation in Bosnia and Kosovo is relatively modest. I think in Kosovo it's about 15 percent of the overall force. In Bosnia—I'll let the General answer, but I believe it's something in that same order.

So I don't believe that 15, or 20 percent even, for the United States to participate to that level is too much to ask when others are sharing the burden of the commitment.

Mr. HOYER. Thank you.

Ambassador Barry, did you want to comment, either on the question that I gave to General Clark or —

Amb. BARRY. Well, let me just say that I know the consensus view in the international community, and that includes the High Representative, ourselves, SFOR, and the U.N., is that we need force presence in Bosnia and Herzegovina at the present level for a considerable time ahead.

As long as Milosevic is hanging in there in Belgrade, and as long as he is a potential threat to Bosnia and Herzegovina, the only other alternative to having a substantial security force from NATO there is to have the armed forces of Bosnia and Herzegovina grow in size.

Now, they can't afford the armed forces they have. Far from it. And one of our goals is to try to shrink that armed force and integrate it, because now it is such an economic burden that it is standing in the way of economic reform and growth and jobs.

So from that point of view, there has to be a cooperative security arrangement in the area underpinned by NATO.

Mr. HOYER. And do you agree with Ambassador Pardew—and this is the last question I'll ask, Mr. Chairman—that the level of U.S. participation is a fair participation as it relates to our European allies —

Amb. PARDEW. Absolutely.

Mr. HOYER.—carrying of the burden?

Amb. PARDEW. Yes, I do.

Mr. HOYER. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Hoyer.

Mr. PITTS?

Mr. PITTS. Thank you, Mr. Chairman.

General, several individuals who have been indicted for war crimes by the International Tribunal have been apprehended. Several remain at large. Can you tell us how much risk these operations have involved, how much greater the risk might be to apprehend people like Karadzic or Mladic? And can you tell us as well the degree to which those risks have been worth taking?

Gen. CLARK. I think that there has been a consistent tendency on the part of the intelligence community to overstate the risks involved in actions on the ground in Bosnia. There has obviously been some risk involved in the detention of the indicted war criminal suspects.

But we've had no U.S. troops injured in this process. And we've been successful in mitigating those risks. I'm convinced that further operations are feasible and desirable, should the circumstances permit.

Mr. PITTS. Those risks are worth taking?

Gen. CLARK. I think the detention of the indicted war criminal suspects is absolutely essential in moving forward with the process of political redevelopment in Bosnia.

Mr. PITTS. Thank you.

Ambassador Pardew, the Commission, in its work in Kosovo, has strongly condemned the damage and destruction done to Serbian Orthodox churches, monasteries, calling for this to stop. The same applies to the mosque destroyed by the Serbs. Rebuilding the mosque would have an enormous symbolic and spiritual value. Have any been rebuilt? Are the local officials committed to rebuilding them? Is the United States pressing them on this issue?

Amb. PARDEW. There have been a number of mosques rebuilt, but most of them in the Federation area. We continue to raise this issue with the Republika Srpska authorities any time we meet with them. The historic mosque in Banja Luka is one structure that we've been—we particularly would like to see rebuilt.

But, quite frankly, the Bosnian Serb authorities have not given us satisfactory answers in building the—rebuilding the Banja Luka mosque or other mosques. This is a problem that we will continue to work on. We think that with the return of refugees and the change of political leadership that it will be—that would be helpful in this regard.

But the answer right now, sir, is that this development is not satisfactory.

Amb. BARRY. If I may just add to that, sir. One of the steps we took prior to the last election was to insist that a party based on Banja Luka that had refused to acknowledge the decisions of the Human Rights Commission to proceed with the rebuilding of the Banja Luka mosque be banned from participating in the elections because they had failed to acknowledge a decision of the Human Rights Commission.

Mr. PITTS. Ambassador, could you comment on the situation in both the Federation and the Republika about press/media developments? Is there sufficient media freedom? Is it increasing? What's the status of that?

Amb. BARRY. The progress has been fairly good. In fact, before the last election, based upon the regulations that the international community put into place, the media abandoned some of their earlier efforts to slant all their coverage towards one party.

Now, as a result of that, there have been a number of charges by politicians and ruling parties that they have been abandoned or stabbed in the back by journalists or television stations or media outlets that were supposed to support them. Now, of course, this is evidently—

Mr. HOYER. That's a common trait of politicians.

(Laughter.)

Amb. BARRY. So we have been active in trying to make sure that these steps don't go further, that efforts to prosecute journalists for coverage that is critical of politicians do not proceed, and we are on the verge of introducing a new law on Freedom of Information that makes it clear that the journalists deserve the protection of the system of justice.

I think coming up to the November elections, because the ruling party is I think threatened, there will be another outbreak of threats and attacks against journalists.

In one case, for example, the driver for the Prime Minister of the Federation, Mr. Bicackcic, attacked a journalist who had been writing critical articles about Mr. Bicackcic. And the courts wouldn't take the case up. Finally, his salary was reduced by 30 percent by the Prime Minister.

Mr. PITTS. Thank you.

Thank you, Mr. Chairman.

Mr. SMITH. Mr. Cardin?

Amb. CARDIN. Thank you, Mr. Chairman.

General Clark, let me just compliment you on your statement in regards to the war criminals. I think many of us share your belief that that's an extremely important part of the accords and a very important part of bringing closure to what has happened in that part of the world.

I think you enjoy very strong support in Congress on this issue, and I guess the observation you made that some will claim that the military risks are much higher than you see it may very well be involved in some of the diplomatic problems more so than the military problems surrounding war criminals.

So I would just make an offer that this Congress really wants to support you. It really wants to help you. And if there are other steps that we can take to show our resolve in this area, please let us know, because I think we want to be active partners in that regard.

Gen. CLARK. Thank you, sir.

Amb. CARDIN. The second point I would like just to ask about is that Mr. Hoyer raised the issue that if the United States were not to be part of SFOR—and all of you have responded that that would have a horrible consequence. I strongly support our mission there.

But there are some who argue that over time we could negotiate with our NATO allies and work out a way in which our presence would evaporate, and there would still be an SFOR presence there, but it would not include the United States. It would not be overnight, but it would be in a more orderly way.

I believe I'm hearing from all three of you that the presence of the United States in this mission is absolutely essential towards the credibility of the mission and the success of the mission. Is that—it's not just the fact that we—it's our people there. It's the fact that the United States is participating itself.

Gen. CLARK. That's correct.

Amb. CARDIN. You all share that view.

Amb. BARRY. Yes, sir.

Amb. PARDEW. The Balkans are an important European security issue being handled by the premier European security institution, NATO. And for NATO to be involved in a serious European security issue without the United States to me is unthinkable, if we are to continue to participate in that institution.

Amb. CARDIN. I thank you for that reply.

Let me just ask one final point, and that is, in Bosnia, we tend to group people by the three major ethnic groups. And there are people—Bosnia was a wonderful multi-ethnic community, where you have people of mixed marriages, you have people of mixed ethnic backgrounds.

I'm just curious as to what your observation, in regards to people who are not identified as one of the ethnic groups, how they are dealing with such a division that has been created under the accords with the different ethnic sectors and communities. How are the multi-ethnics doing?

Amb. BARRY. Well, they're not doing as well as we would like them to. In fact, many of the people classified as others—that is, not of the three major groups or people who were of mixed marriages—in fact were some of the people who left the country early on. And we certainly hope that it will be possible eventually for them to come back.

But as long as the economic situation is as grim as it is, it's unlikely to happen. So it concerns me not only that the multi-ethnic population is departing, but that the children of multi-ethnic families tend to be looking abroad as well.

Now, one of the things that we have introduced in our voting system is a method of being allowed to vote for people outside of simply the list that the party puts forward. And one of the interesting things we found in the April elections is that people expressed a preference for people from another ethnic group, at least on the list of the social democratic party.

That is, people who were down on the list who were Serbs in a party that is predominantly Bosniac were moved to the top of the list because people voted for them and showed tolerance for them. And having a Serb and a Croat as mayors of the two largest Sarajevo municipalities I think shows that the possibility of a return to the value of multi-ethnicity is a possibility that we need to strongly support.

Amb. CARDIN. Thank you, Mr. Chairman.

Mr. SMITH. Thank you.

Mr. Wolf?

OPENING STATEMENT OF HON. FRANK R. WOLF

Mr. WOLF. Thank you, Mr. Chairman.

Well, I want to thank the three of you for your testimony. It would have been good if the whole Congress could have listened for the last hour and 15 minutes, because I thought you made a very compelling case. It may be because, you know, I share your views.

I agreed with what Mr. Hoyer said at the outset, that I think the Bush administration was negligent for giving the signal that these activities could have taken place in Bosnia, and the Clinton administration was equally guilty for moving so slowly.

Had it not been for maybe that Saturday where the shell went off in the marketplace, and then what Mr. Hoyer talked about, this activity could have still gone on. But I think your comments have been very good, and I just wanted to make that clear. That, one, I want to thank Mr. Smith for the hearing, and I think, you know, your comments have been very good, too.

General Clark, I want to commend you. You know, I thought you have not been treated as well as you could have been treated, frankly. And I think that I want to be on record as saying I thought you've done an outstanding job and made a tremendous difference.

I also agree with Mr. Cardin on the issue of the Karadzic and Mladic. And I don't know how much support there is in the Congress, but I think there would be a lot.

But it seems to me that until you deal with the issue of Mladic and Karadzic, then, obviously, Milosevic, you really can never completely bring this to a close. And as long as they are out roaming wherever they roam, whether it be in Belgrade or back in the valley, or wherever they go, it seems that you can never completely end the chapter.

I also think your comments have been well taken, and I think more people should focus. The fact that you've had new elections and a more honest group of people in Croatia—if you read today's Washington Post of how the Tudjman, which I believe he was a fascist, literally raided the government and raided their economy and stripped it, and so you have Tudjman on one side, who I know is talking daily to Milosevic on the other side. The fact that one is gone and the other could be gone could go a long way to kind of deal with the issue.

So I think the administration, and, hopefully, the next administration, will make the case in a compelling way. I think in Luke it says, "To whom much is given, much is expected." And America has been blessed so much.

And I want to—as I congratulate you, General, I also want to thank the men and women who served under you. One of the concerns every time you get there, you talk to a young soldier, and he'd say, "Well, you know, I was in Haiti, and then I was in Desert Storm, and then I was in Bosnia, and now I'm in Kosovo, and this is my second"—I mean, I really worry about the impact that it's having on the men and women who serve in the military.

And I think, so the administration knows how serious this is, and how maybe out of touch the Congress could be, we had a vote in the House last year on whether or not we should abolish the Selective Service, and there was a majority of the members of the House to abolish the Selective Service. Just the indication of what is taking place, and there were a lot of Democrats as well as Republicans.

So thank you for your service. Thank you for your comments. The quicker we deal with the issue of the war criminals, I think the better, and we can wrap this thing up. And I think for America not to be participating, not to participate at the outset when you had the stories of all the things that went on—because the best export that we have are not our computers, it's our values, and I think by doing this.

So I just wanted to thank all of you for your testimony; thank Mr. Smith for holding this hearing.

The only difference that I would have is that while you've got a good group of people here, it would have been nice if you could have had the entire Congress, because when I listened to the debate on whether we should pull out—and I was one of the 31 Republicans that voted to bomb Kosovo—I think there are good men and women in this Congress, and they'll do the right thing, if given the information. They just haven't been given the information in such a quiet and reasoned way as maybe you did today.

The last comment I would —

Mr. HOYER. Would the gentleman yield on that issue?

Mr. WOLF. Sure.

Mr. HOYER. Because I think you're absolutely right.

Mr. Chairman, I would join Mr. Wolf and request that we transcribe the testimony and then perhaps, in a bipartisan letter, send it out to all of the members of Congress.

I know, for instance, in Kosovo, I listened to a speech by John McCain at the Fire Service Caucus dinner which I thought was the most compelling statement with reference to why we were in Kosovo, why we needed to be in Kosovo. And I sent that to all the members of the Democratic Caucus, because I thought it was the best statement that had been made.

I agree with you, Frank that we ought to transcribe the testimony, or portions of the testimony, maybe not all of it, and send it out in a bipartisan letter signed by all of us. I think that would be a great idea.

Mr. WOLF. The last comment—and it's a question or a comment—whatever way you want to treat it. It seems to me that one missing ingredient from all of the package is that there needs to be a greater effort, Kosovo particularly, but even Bosnia, a true reconciliation in the sense of—just in a different way than we've actually dealt—I mean, economics are important. Marketplaces are important.

But there needs to be a major effort to bring people of the different backgrounds who have suffered together together. And I believe that when you sit down and break bread together and get to know each other, there's things that can happen.

But I think the missing ingredient for the long-term basis, because obviously Americans and Germans and Brits aren't going to want to keep their people here as long as we were in the Berlin Brigade in Berlin, is to sort of bring the people in a—we met one time when we were in Sarajevo with the religious leaders. And I sensed they didn't even like each other.

And I think they were not exactly a model that you would show. And if we could somehow model how you bring people together—and America is the best model because we bring—I don't know, if you ask everybody here to step up and say where they're from, we would all be from different places. And maybe back in those places we may hate each other, but here we're best of friends and don't even think of where we came from.

But somehow there has to be a greater effort with regard to true reconciliation that maybe the government can't actually do in both Bosnia, but also in Kosovo, so that the good work that you all have done and your efforts aren't thrown out 20 or 30 years from now.

Thank you very much. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Wolf.

Let me just ask a couple of final questions. At the end of March, Mr. Kasich offered an amendment to an emergency supplemental appropriations bill that would have conditioned funding. I'm a great believer in burden-sharing, but I felt—and I believe, thankfully, our side prevailed, that by imposing a stipulation on the European community—and you heard Ambassador Pardew—I'm concerned that they—"they" being the European members—come forward with more money for refugees, and hopefully more money in other areas as well.

But would it have sent the wrong message and been counterproductive had the Kasich amendment passed? Because I suspect, as we go forward, there will be other attempts to try to take a noble concept of burden-sharing, but apply it here, which it might have a bad outcome.

Amb. PARDEW. The administration very much opposed those efforts—I mean, the proposals on limiting our commitments. And we did that for any number of reasons.

But let me say, first, the Congress has made itself very—has said very loud and clear that there should be burden-sharing, that the Europeans have to carry the lion's share, that that message has been received on both sides of the Atlantic.

We're talking to our European partners about that constantly, to ensure that they understand the seriousness of the Congressional intent here. And they accept that responsibility.

We've looked hard at the numbers, and I didn't come over here to go into that, so I—forgive me if I get them wrong, but I'll be generally in the ballpark. On the reconstruction effort in Kosovo, we are paying about 13 percent. The Europeans are paying the lion's share, 80 something percent, of those bills.

There were procedural problems in that our fiscal year starts in October; theirs starts in January. There was a winter problem, and so we could move money faster than they could. And so there was a perception built around the process.

But we think it would be destructive to our policy to set arbitrary limits and to restrict us, and we think that by doing the principal—and the precedent established by doing so would limit their contributions and we would get some blowback and reciprocity in some other areas when we would need their contributions in our hemisphere.

So it limits our flexibility. It endangers—creates the potential that there would be reciprocity. And it would be—it was sort of arbitrary, and so we did not think it was a good idea.

Gen. CLARK. I'd just like to say, Mr. Chairman, if I could, that the Europeans very well understand that it's the sentiment of the American Congress. But they also recognize that NATO is very much in the United States' interest, and that the United States' political leaders have many interests in the outcome of the situation on the ground in the Balkans.

And they consider that it's only fair that the United States do what it's doing now, which at 15 percent of the forces on the ground in Bosnia, and 20 percent—excuse me, 15 percent in Kosovo and 20 percent in

Bosnia, is not at all excessive when compared to the overall economic strength and military strength of the United States and its preponderance in the alliance.

It's less than the historic leadership role that the United States has traditionally played in NATO.

Mr. SMITH. Let me just ask you, if you could, Ambassador Pardew, to provide us for the record the best estimate of total cost needed to accomplish the return of refugees and the reintegration of the IDPs, and over how many years. So we have a sense of what kind of obligation we should be dealing with rather than, you know, an annual request. It just would be very helpful.

And I would just like to ask you, because I know you met with the Kosovo-Serb delegation led by Bishop Artemije, which visited the United Nations in New York, in light of the recent outrageous attacks of Serbs in Kosovo. Can you tell us anything as to what measures are being taken to increase the protection in Kosovo for the Serbs?

Amb. Pardew. Well, we've had a series of meetings with Bishop Artemije. I met with him Thursday night in New York. He met with Ambassador Holbrook before going into—observing the Security Council meeting. Secretary Albright saw him yesterday, and Deputy Secretary Talbot saw him today.

We have condemned these attacks on the Serbs, or any minority, as strongly as we condemned the attacks by the Serbs on the Kosovo population. Violence is not a way to solve the problems in the Balkans, and we are very much interested in Kosovo being a tolerant state with secure minorities participating in the future.

We have urged both UNMIK and KFOR to take additional measures to assist in the security. They are doing that. They are increasing the police presence. They are focusing investigative capabilities in the Serb areas. They were already doing a number of things to protect churches and populations, but you can't be everywhere all the time.

We also are doing some things to improve the condition of the Serbian population in Kosovo to make their life there better. And we're looking at ways that we can return Serb refugees back.

But we also encouraged the Bishop to return to the joint institutions to work with the international community, because if they plan to be a part of Kosovo in the future, they need to participate in elections, in voter registration, and with UNMIK in these governance institutions that they're trying to establish.

So we are working very closely with them. We are very concerned about this. And we are providing the resources that we can to assist.

Mr. SMITH. Let me just ask one quick question to Ambassador Barry.

With the arrest of Karajnik, there were expectations that there would be a negative fallout from that. Did that happen?

Amb. BARRY. Not really. It hardly went noticed. In the public, there were no demonstrations. Whether it had any effect on how people voted, I really can't say. But let me just say that as far as OSCE and the civilian community was concerned, we were very glad to see them arrested. And we fully support what General Clark has said about the need to round up the rest of them as soon as possible and send them off to The Hague.

Mr. SMITH. Thank you very much. This has been an outstanding panel, and we look forward to working with you in the future. Thank you very much.

I'd like to invite our second panel of leading Bosnian figures, who will present their views of Dayton implementation and the future of their country.

First, we have Dr. Haris Silajdzic, formerly the Bosnian Prime Minister, whom many of us have known since the early days of the conflict, and some of us knew him before he became who he was, as Prime Minister. And he was outspoken in his efforts to bring peace to that war-torn area.

Next, we have Selim Beslagic, who as mayor, kept the city of Tuzla as a bastion of ethnic tolerance during the conflict, even as it was shelled and the displaced crammed into the streets.

And, finally, we have Milan Trbojevic, who is the Advisor to the Republika Srpska, the Prime Minister for Judicial and Legal Issues. He will give us the view of Dayton implementation as seen from the Srpska point of view, and what challenges lie ahead.

Let me also note the presence of Bosnia's Ambassador, Igor Davidovic, who recently arrived here in Washington—as this hearing shows, Mr. Ambassador, we are deeply interested in Bosnians' future, and we look forward to working with you on matters of common interest.

I'd also like to acknowledge Ambassador Sven Alkalaj, who is also here today, who has served this country well representing Bosnia for so long. So it's good to see him here as well.

Dr. Silajdzic?

TESTIMONY OF DR. HARIS SILAJDZIC, FORMER PRIME MINISTER OF BOSNIA

Dr. SILAJDZIC. Thank you very much, Mr. Chairman, members of the Commission, ladies and gentlemen.

I am privileged, Mr. Chairman, to be here, honored and privileged. And I'm not here only to discuss the problems of my country, but also to thank you personally, and members of the Commission, for whatever you have done to promote peace and stability in my country. You have been at the forefront of efforts to find solutions to the very difficult problems that still plague Bosnia-Herzegovina.

In addition to my brief remarks, Mr. Chairman, I have also written analyses that I ask be entered into the record.

Mr. SMITH. Without objection, all of your prepared remarks, and those of the other witnesses, will be made a part of the record.

Dr. SILAJDZIC. Okay. Allow me, Mr. Chairman, now to read my brief remarks in order to save time.

I would like to speak specifically about the most important subject regarding my country's current and future development—the implementation of the Dayton Accords. The accords have succeeded in halting the fighting in Bosnia, but they have failed to provide for a civil society.

Militarily, the accords have been largely implemented. On the civilian front, however, major provisions of the accords remain unfulfilled. Today, Bosnia is too strong to die, yet too weak to function as a normal sovereign state.

Mr. Chairman, the key failure has been to create conditions for return of refugees. Virtually every problem in Bosnia today stems from this core issue. Solve it, and a whole conundrum of problems will be solved. Leave it unsolved, and Bosnia's political and economic development will remain paralyzed.

Five years after Dayton, 1.5 million Bosnians remain unable to return to their people's homes. I repeat, 1.5 million people cannot return to their homes according to the Helsinki watch.

Only 4 percent—I repeat, 4 percent—of refugees have been returned to ethnically cleansed areas. This year, the number of Bosniac voters participating in Republika Srpska elections was down by 50 percent compared to previous elections. The time for return is quickly running out.

Beyond the fact that refugee returns have been relatively few number, it is also important to note that they have been largely to rural areas. The international community is not putting sufficient pressure on officials, especially in the Republika Srpska, to allow return to the cities.

Throughout our history, Mr. Chairman, urban areas have been the real generators of multi-ethnic cohabitation and cooperation. If returns to these areas continue at their current rates, it will take another 30 years before all refugees were back in their original home.

The example of Sarajevo, our capital, shows that large-scale returns are possible. Approximately 25,000 refugees have returned there, while only a few families have returned to other major cities such as Banja Luka and Mostar.

A second major problem concerns elections. For 5 years, the West has insisted on holding elections in Bosnia, but it has not insisted on creating conditions essential for making the elections free and fair, Mr. Chairman.

This blind faith in the power of the ballot box has had a devastating effect on Bosnia's political development. The nationalist grip on two-thirds of Bosnia is stronger today than in 1996, when, for example, Bosniac parties held the majority on 11 local councils in the Serbian entity. And today these parties hold none, despite the fact that nationalist parties politically dominate two-thirds of Bosnia, including Karadich's party, Mr. Chairman, as the SDS party.

General elections will probably still be held in November. Inevitably, these elections will more or less confirm the status quo. This process is tantamount to legalizing ethnic cleansing, with the active participation of international organizations.

Now, I've been asking, Mr. Chairman, for the postponement of elections, since 1996. So everything that has been said here about the elections, whatever the speculation was, does not apply to me, since 1996, because I do not think that we can have elections, Mr. Chairman, with people absent from their homes.

How do we break the grip of nationalism in Bosnia? To begin with, we must address the core problems in my country, not just the symptoms. First, we must ensure that international troop deployment in Bosnia not only continues but also is sustained at or near its current levels. And I fully support the gentleman that spoke before me, and especially Mr. Clark, who gave some detail there.

Equally importantly, we must ensure that the United States continues to play a leading role in this deployment. Without a strong presence, a strong view as competent in that presence, and more robust rules of engagement, with regard to the security of returnees, no substantial positive change is possible.

Within Bosnia—and it is also vital that a single armed force be established in Bosnia and Herzegovina, and that Bosnia and Herzegovina join NATO's Partnership for Peace Program.

Second, we must begin to return refugees in large numbers to our cities. Bosnian officials, who obstruct this process, should be removed from power, just as the High Representative in Bosnia has removed a small number of obstructionist officials in the past.

To put it simply, abandoning the line of least resistance and firmly—firmly rejecting all obstruction to implementation of the Dayton Accords is the key to the resolution to our problems. And I agree with General Clark that the risks, I think, were aberrated in Bosnia. I think that obstructionists must be met with greater resolve.

Third, we must create conditions for free and fair elections throughout Bosnia. When those conditions do not exist, we must postpone the elections. Again, we have to solve the problem, not simply treat the symptoms.

It is not acceptable to conduct elections in the Republika Srpska entity in the absence of 750,000 people that live there. Nor can the process of privatization be considered legal under these conditions. More than 50 percent of the refugees from this entity did not register for the privatization process.

In the wake of a successful ethnic cleansing campaign, property cleansing is now under way. Clearly, this was not the intention of the Dayton Agreement. Yet so far the regime in Belgrade is succeeding in its cleansing project. This strengthens Slobodan Milosevic, whereas establishing the sovereign state of Bosnia and Herzegovina can weaken his grip on power.

Fourth, we must update the Dayton Accords to reflect current conditions. It is counterproductive to treat the accords as though they were written in stone. The accords must be harmonized with the stability pact for southeastern Europe and with international conventions on human rights in order to avoid blatant discrimination—blatant discrimination.

This would, at the same time, bring the Dayton Accords into harmony with the political and economic dynamics of the region as a whole. The accords' ethnic quotas and vetoes that continually paralyze the state in the conduct of its normal business must be abolished. Otherwise, the Parliament, presidency, and Consul of Ministers will continue to be dysfunctional.

At the same time, Bosnia is long overdue, and a modern legal system must become a reality. This will combat corruption and make the country more attractive for foreign investment.

I may say here, Mr. Chairman, that the legal system proposed by my party and myself, confirmed at the Madrid Conference, December '98, were simply ignored. How can we combat corruption without a law? If there is no law, there is rule over law. Why was it ignored? I do not know, but that is the case.

We can fight corruption only if we have mechanisms to fight corruption. That's how corruption is battled all over the world.

Lastly, we must seize the moment to act. I have outlined a number of major problems. But I appear before you today with hope and optimism, because the time is ripe for major action. Croatia has abandoned its irredentism, and the agenda of its ultra-nationalist proxies in Bosnia will soon wither and die.

So now is the time to allow the people of Mostar to return to their pre-war homes. And now is the time to address the problems of Bosnia's increasingly isolated entity of Republika Srpska.

The regime in Belgrade continues to exert improper influence there. And the so-called Serbian opposition is not opposed to Belgrade's interventionist, expansionist policies in half of Bosnia's territory. We must end this influence and remove the threat to the stability in the region.

Again, the return of refugees and stronger central institutions are the key strategic goals.

Mr. Chairman, Bosnians want for their country what every other European and American wants—democratic institutions, the rule of law, respect for human rights, a market economy, and a multi-ethnic society. These goals can be achieved if every part of the Dayton Accords that promote reintegration is fully implemented, and if every part that does not is revised.

In short, the best strategy for the West is for Bosnia and Herzegovina to enter into European political, economic, and military institutions. In order to achieve this, we must act immediately. We must do more in a shorter period of time. Five years after Dayton, Bosnia and Herzegovina, Mr. Chairman, needs a shock therapy.

If these things happen, Bosnia can take its rightful place among the democracies of Europe, and tens of thousands of U.S. and European troops, and thousands of U.N. and other officials, can go home. If they do not, if these things do not happen, Bosnia will remain in a quagmire, too strong to die and too weak to function.

Thank you, Mr. Chairman.

Mr. SMITH. Mr. Silajdzic, thank you very much for your excellent testimony.

And before we go to questions, obviously, we want to hear from our very distinguished witnesses.

Mayor Beslagic from Tuzla?

TESTIMONY OF SELIM BESLAGIC, MAYOR OF TUZLA

Mr. BESLAGIC. Thank you very much for the invitation, but I must speak in Bosnian language because I have an interpreter.

Mr. SMITH. That's fine.

Mr. BESLAGIC. (spoken through interpreter) I'll say a little bit about history, and then I'll talk specifically about the present situation—

Mr. SMITH. Could you pull the microphone just a little bit closer, please?

Mr. BESLAGIC. (spoken through interpreter) The most recent war in Bosnia-Herzegovina took place and was started outside of Bosnia-Herzegovina. Everything was thought up in the circles of Milosevic and Tudjman. The believers in two opposing great power concepts found common cause at the expense of Bosnia-Herzegovina.

From the beginning, they wanted to divide Bosnia-Herzegovina into a Serbian republic and a Herdzeg Bosna. For the Bosniacs, they proposed leaving the land immediately around Sarajevo, Tuzla, as well as the isolated enclave around Bihac.

The Dayton Accords were a wonderful means to stop the war. Much has changed since then. But as much as the Dayton Accords were effective against the war, they are problematic for further development and reintegration of Bosnia-Herzegovina. Why?

As is well known, the Dayton Accords respected, to a certain extent, the results of ethnic cleansing. Serbia, as Ambassador Victor Jakovic once said, conducted an invasion of Bosnia-Herzegovina. To understand this point fully, it is sufficient to take a look at the national composition of the cities that are now part of the Republika Srpska.

Karadzic's SDS party won the most recent local elections because in their campaign they insisted that they had achieved the goals they had outlined in 1991. In many respects, this is precisely the case.

Secondly, the Dayton Accords insisted on a strange and almost unbelievable combination of one federation and one republic, which is officially called the country of Bosnia and Herzegovina. Those two entities have two completely different legal systems.

But the fact that Bosniacs and Croats form a minority in the Republika Srpska, and that Serbs form a minority in the Federation, shows that no single nation is fully represented by its territory. This legal situation is to the liking of the nationalists who have still not given up on the idea of dismembering Bosnia-Herzegovina.

Bosnia-Herzegovina should be a treasure house of differences, but today's situation has turned it into a house of horrors. In the meantime, however, Tudjman's forces have suffered a definitive defeat. Croatia is no longer a factor for disintegration but has become a strong factor for the reintegration of Bosnia-Herzegovina.

Milosevic, the one-time signer of the Dayton Accords, has now definitely been declared outside the law, and Serbia is in the midst of a terrible crisis. The only hope for the nationalists is for obstruction backed up by the Dayton Accords. It is very important that the Croats have turned their backs on the HDZ.

This invitation has been taken up by the Bosniacs in Bosnia-Herzegovina. In those areas with a Bosniac majority, the SDA has been defeated. Bosniacs, thus, are also turning their back on the ethno-national option. One can expect to see a similar development among the Serbs and Croats of Bosnia-Herzegovina.

The social democratic party, the strongest opposition party in Bosnia-Herzegovina, now controls some 20 communities. They need economic help to speed the return of refugees and to build new administrations. This would show that democratic change brings concrete rewards.

One-third of the votes for the social democratic party in the last elections came from non-Bosniacs. This indicates that Serbs and Croats have begun to turn away from the nationalist option. In 1996, the SDP garnered only 3 percent of the vote; in 1998, 11 percent; and, in 2000, 20 percent.

The November elections will be a great opportunity for the SDP and for civil society in general. The defeat of the HDZ in local elections opens the door for a similar defeat of nationalism in the Republika Srpska. Everything would be much easier if a single legal system governed Bosnia-Herzegovina, along with a respect for decentralization.

The only solution is the cantonization of the entire territory of Bosnia-Herzegovina on the lines of what has already occurred inside the Federation. Eventual changes in the legal system of Bosnia-Herzegovina should be carried out with an eye toward integration, harmonization, and the creation of a system in tune with a European orientation.

It's impossible for our constitutional system, based on ethno-nationalist principles, to coexist with European and regional integration.

The return of refugees is going too slowly. Relatively recently, the return of property has been speeded up. But a big problem is that a majority of people sell the property they get back and do not return to their homes. The reason for this is, again, the Dayton Accords, which do not guarantee the same rates to all citizens.

In addition, many war criminals are still at large. People are afraid to return.

The role of international forces is crucial, now and in the future, for Bosnia-Herzegovina. People are thankful for the end of the war. It is well known that the presence of 20,000 SFOR soldiers is the only guarantee of peace. As long as they are in place, there is no fear that remaining structures could plan for new conflicts.

With the help of NATO, we should be integrating the national armies in Bosnia-Herzegovina into a multi-ethnic army of Bosnia-Herzegovina as a guarantor of continued security and to enter the Partnership for Peace.

The belief in the High Representative grows with the promulgation of every measure that guarantees equality. It is a fact that the country could not function without the High Representative to cut the various Gordian knots that exist.

This is the strongest proof that we must revise Dayton. Bosnia-Herzegovina needs strong, central organs; that is, a single legislature, a single executive branch, and a single judiciary. Until they exist, the role of the High Representative is necessary.

The single greatest danger for the re-creation of the multi-ethnic society is the continued existence of ethno-nationalist political parties. The international community should impose the requirement that local election slates contain a reasonable proportion of people from various ethnic groups, perhaps as they were represented in the population in 1991.

Some changes in the Dayton Accords and in the election laws would very quickly neutralize the main dangers facing Bosnia-Herzegovina. To now, the Brussels Declaration has been the basis for the stabilization of the situation in Bosnia-Herzegovina. The World Bank and the IMF should provide transparent help in the form of credits to strengthen the state.

The two things that will lead to a better future for Bosnia-Herzegovina are changes in the constitutional system of Bosnia-Herzegovina to bring it in line with European standards, and the election victories of multi-ethnic and pro-European political forces. So I'd like to talk about what needs to be implemented actually in the Dayton Accords.

The constitutiveness of all of the people in all of the territory of Bosnia-Herzegovina, so use the Dayton Accords as the basis for that. The return of all refugees must be sped up and completed, the formation of unified institutions. And I'd like to note that in terms of the return of refugees, it has been speeded up into the various areas, but it's mostly into rural areas.

There is a great desire of people to return, but they really need a lot of help. In this regard, the Republika Srpska has really been quite helpful, actually. But the hard part is to get people to return back to civil society, in particular into the cities. And this is a very slow process.

I'd like to also say that we need an electoral system in Bosnia-Herzegovina that would be in accord with civil society, and that would allow the citizens of Bosnia-Herzegovina to integrate with Europe.

Mr. SMITH. Thank you, Mayor. We appreciate your testimony.

And I'd like to ask Mr. Eliot Engel, the gentleman from New York, if he has anything he'd like to—

Mr. ENGEL. Thank you, Mr. Chairman. I just—unfortunately, I have a hearing, and I have to go back to it. But I just wanted to come and listen.

Just very, very briefly—I don't have a question. But I just want to say that I think that it is a tragedy compounded with further tragedies that the world seems to have forgotten or abandoned Bosnia. The fact that a lid was put and ended—put on top of a country and ended the war, everyone is just walking away and just kind of hoping that things stay in place.

But I look at it as an open wound. It's not complete, and it won't be complete. And I regard a lot of the Dayton provisions as really just being stop-gap, and it is not something that I think where we should be proud. I think we need to go after war criminals, and we need to try to do what we can to ensure that Bosnia-Herzegovina is one country. And the way it is now, of course, it's certainly not.

So I think all the gentlemen that are here are very courageous to come. I want you to know that there are a number of us in the U.S. Congress, and certainly the Chairman is in the forefront of that, caring about human rights and the rights of the people in your country.

And there are many of us on both sides of the aisle in the United States Congress that want to do right by Bosnia-Herzegovina, and we're not going to forget you, and we will continue to be engaged.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you. Thank you for joining us, too.

I'd like to now extend a very warm welcome to Mr. Trbojevic, and ask him if he would proceed with his testimony.

**TESTIMONY OF MILAN TRBOJEVIC, ADVISOR TO
REPUBLIKA SRPSKA PRIME MINISTER MILORAD DODIK**

Mr. TRBOJEVIC. (spoken through interpreter) Mr. Chairman, distinguished members of Congress, ladies and gentlemen, I want to thank you for this opportunity and this honor given to me to present the views from the Replika Srpska in the name of Prime Minister Dodik.

And I apologize for not being able to talk to you in your language. I will ask my interpreter to read my statement.

I want to express my gratitude for your kind invitation, which gives me an opportunity to present to you the situation, problems, efforts, and goals which the government of the Replika Srpska faces and foresees in regards to its rights and obligations embodied in the General Framework Agreement for Peace in Bosnia and Herzegovina, or the Dayton Peace Agreement.

This will certainly be a quick overview due to our respect for your time, and due to a general inability to document innumerable facts which should be considered during one short hearing.

I address you as a representative of the government of the Replika Srpska, which is one of the two entities of Bosnia-Herzegovina. The Prime Minister, Mr. Milorad Dodik, authorized me to address this esteemed gathering.

I am personally aware of the fact that Mr. Dodik, as a politician, had been dedicated to peace throughout the years of hostilities which took place in the territory of the former Yugoslavia. Following the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina,

Mr. Dodik did everything within his ability and through his personal engagement to influence the political mosaic in Bosnia-Herzegovina and to steer the situation towards a lasting peace.

The Dayton Peace Agreement was, and has remained, the foundation for Mr. Dodik's political activity. The government that he leads—all of us who are his aids, and all democratic forces in the Replika Srpska—have the Dayton Peace Agreement as a fundamental starting point.

The citizens of the Replika Srpska, its government, Prime Minister Dodik personally, and I myself express gratitude to the people of the United States and to its government for the decisive aid in ceasing war-time hostilities and organizing the peace conference which was finalized by the signing of the General Framework Agreement for Peace in Bosnia-Herzegovina. I am convinced that the citizens of the Federation of Bosnia-Herzegovina and the District of Brcko share the same feeling of gratitude.

We are fully aware that it was the Dayton Peace Agreement which put a stop, first of all, to the hostilities of war, deaths of forcibly drafted youth, civilian suffering, and further destruction of the means of production and private property.

We hoped that the Dayton Peace Agreement also signaled the end of the policies based on nationalistic supremacy and intolerance, which produce results only if imposed by force. Yet lately there is plentiful evidence which signals that such policies are resurrecting, as well as are the politicians who represented them.

The Dayton Peace Agreement provided for the establishment of government institutions and bodies of the country of Bosnia-Herzegovina, as well as in both entities—the Replika Srpska and the Federation of Bosnia-Herzegovina.

We are convinced that through development and perfecting of both the entity-level and country-level institutions and bodies, and through their activities within their jurisdiction, freedom and civil rights of all citizens will be developed and perfected, and the overall relationships between the entities, and between the entities and the country-level government of Bosnia-Herzegovina, will be improved.

All of this will provide a basis for the fulfillment of the conditions necessary for inclusion of Bosnia-Herzegovina into the international community as a full-fledged member.

Unfortunately, there are many problems in the realization of the peace agreement and in the development of democracy. First of all, in this respect, we want to emphasize the debilitating influence of the nationalistic parties—SDS, SDA, and HDZ.

Their coalition and activities after the first multi-party elections in Bosnia-Herzegovina in 1990 undoubtedly had significance in the development of the political situation that finalized in war. Today these parties and their leaders are repeating the policies that in one case led to unitarization and centralization of Bosnia-Herzegovina, and in the other to its separatism and division.

Consequences of such policies, among other matters, have further increased mistrust among citizens. These politicians propagate that the peace process isn't finished yet; they threaten to revise the peace agreement, and many other things. All of this, logically, produces a feeling of insecurity among the citizens and negatively influences the process of refugee return.

We understand the refugee return to be, in its essence, the most important aspect of the peace agreement. In spite of total and sincere dedication of the government of the Replika Srpska to do all in its ability in this respect, the return of the refugees is, objectively, very difficult.

To illustrate this I must mention that for tens of thousands of refugees and displaced families it is still impossible to return to the Republic of Croatia or to the Federation of Bosnia-Herzegovina, because their property has been either totally or partially destroyed, or is still in the administrative process of rightful return, which has been taking a very long time.

Many of these people currently reside in the homes of the refugees or displaced persons originally from the Replika Srpska, and who thus has signed an agreement on mutual efforts to provide conditions for the simultaneous return of refugees. This agreement is being implemented successfully.

The current Kosovo situation is adding additional difficulties to refugee return and poses a threat of escalating into yet another war. The political situation in the Federal Republic of Yugoslavia is also contributing negatively to refugee return. It is manifesting itself in very sharp political clashes with no visible possibilities for a democratic solution.

Another important factor that makes the return of refugees and displaced people difficult is Bosnia-Herzegovina's slow economic recovery; also, the unfinished process of privatization that often forecasts abolishment of the few jobs which still exist in various enterprises.

I am very proud to announce, at this point, that the Parliament of the Replika Srpska passed the new law on privatization of apartments previously owned by the state. Also, all necessary legislation has been passed for the privatization of property previously owned by the state, as well as the legislation on restitution of illegally confiscated property.

I wish to inform you also about the corrections to the constitution of the Replika Srpska, based on the Peace Treaty, which provided for elimination of all discriminatory clauses, and which placed the constitution in accordance with the constitution of the country of Bosnia-Herzegovina.

During the last 2 years, the government of the Replika Srpska has, under the leadership of Prime Minister Dodik, concluded many other important legislative tasks, which secured protection from discrimination based on sex, race, religion, or ethnicity.

Working in cooperation with the experts from the international community, all legislation of the Replika Srpska has been harmonized with the equivalent legislation in the Federation of Bosnia-Herzegovina and the country of Bosnia-Herzegovina. This work has been accomplished on the whole system, as well as in the areas of foreign relations, customs regulations, border patrol, and most of the taxation policy.

We are aware that it will be difficult to harmonize all points in regard to the contribution by the entities to the armed services, which would have a unitary character, mostly because of the painful war memories and the emotional burden such recent events carry. In this respect, we are of the opinion that demilitarization would be a more worthwhile course of action.

We wish to point out the many positive examples of inter-entity cooperation, such as the formation of a multi-ethnic government and police in the Brcko District, as well as the cooperation between the police and judicial bodies of the entities in curbing corruption.

What do we foresee for the future? We all need time to adjust to the new relationships that we are establishing in accordance with the Dayton Peace Agreement. We are approaching the necessary level of trust and confidence in the rights and liberties guaranteed to the citizens of the other entity, or from a different level of administrative government.

For yet another period of time, we will require the presence of international military and police forces, which will ensure that wrong and malicious policies and activities never develop sufficiently.

We need involvement of international experts for education of our human resources, so that we can continue and successfully complete the reforms we had started in the economy, primarily in privatization, in the legal code, judiciary, administration, local self-rule, and especially in the field of voting or electoral regulations, which should enable us to conduct elections on all levels in a free and democratic manner by ourselves.

We need financial support, without which all of these plans couldn't be accomplished in any foreseeable future.

I hope that this short expose clearly shows that the government of the Replika Srpska, led by Prime Minister Milorad Dodik, seeks to secure a place in the modern world for Bosnia-Herzegovina and its citizens. It is a policy contrary to ethnic particularity, closed-mindedness, and isolation.

I ensure you that the government of the Replika Srpska is dedicated to steady, principal, long-term, and complete implementation of the General Framework Agreement for Peace in Bosnia-Herzegovina. We consider such dedication our contribution to the struggle for a democratic and free society, and incorporation of Bosnia-Herzegovina into the economic and political currents of Europe and the world.

We also consider it our duty and legacy to future generations. I hope that our policies and our goals are worthy of your support.

Once again, Mr. Chairman, distinguished members of Congress, ladies and gentlemen, I thank you kindly for your attention and support.

I am at your disposal for any questions.

Mr. SMITH. Mr. Trbojevic, thank you very much for your testimony.

Let me just ask a few opening questions. First of all, Dr. Silajdzic, you heard earlier Ambassador Pardew when he testified, and he said, and I quote, "That reopening the agreement"—obviously, Dayton—"in fact could reignite old issues, set the clock back, and require the international presence for longer in the Balkans."

He pointed out that the recent Peace Implementation Council meeting in Brussels called on the parties in Bosnia to accelerate implementation of the Dayton Agreement and then pointed out that the importance of economic reform accelerate return of displaced persons and strengthen the state institutions, including integrated defense, plus independent media.

If I heard correctly, Mayor, you also have some grave misgivings. Even Ambassador Barry, in his testimony, talked about, "I agree that some revisions are desirable," but then pointed out that it's a change state and you have to implement it first.

Given the makeup and the fact that the elections have produced some who are very nationalistic in their perspective, why would—or how can we have any realistic expectation that a new Dayton Agreement might produce something that is worthy of the name "reform" and "progress"?

Dr. SILAJDZIC. Thank you, Mr. Chairman.

Mr. SMITH. And as you pointed out, I think the word “shock therapy” was what you are calling for.

Dr. SILAJDZIC. Thank you, Mr. Chairman. I hope you won’t mind if I extend a little bit my answer here, and link it with what Mr. Cardin, who is not here now, and Mr. Wolf, asked.

I believe that the society is judged by its attitude towards minority, not majority. Mr. Cardin asked, what is the position of the minorities of those who are neither Serb, nor Croat, nor Bosniac, in Bosnia-Herzegovina? Their position is one of total discrimination.

They don’t have the universal right to vote and to be elected. That is something that I think must be changed. How can we enter the family of democratic nations if we have a discriminatory provision in our constitution? That may have been a concession at the time, but that must change. That is one small—not so small—it’s a very symbolic, I think, task ahead of us.

Now, we have been trying, and I’m sorry that the previous gentleman from the previous panel did not recognize the fact of what my party did, and that it was the first—the first multi-ethnic party in Bosnia-Herzegovina, the first that actually introduced the multi-ethnicity, not only the party structures but also the state affairs.

Ambassador Alkalaj, who is sitting right here now, is the best example of our efforts at the time when it counted, in ’93 and ’94, not now, but when it counted. It was very difficult to introduce whatever I believe is the principle of citizens’ rights and citizen state in Bosnia-Herzegovina, people’s rights.

I think, in the end, we shall have a citizen state one day in Bosnia-Herzegovina, one law for all of us.

And that is why also what Mr. Wolf said about the reconciliation—the reconciliation of multi-culturalism, which is the case in Bosnia. Strictly speaking, we don’t have a multi-ethnicity there. It’s multi-culturalism, based on different religious and other traditions.

That grows in the cities and urban areas. The multi-ethnicity that comes natural to Bosnia, as if our natural state of affairs, it’s nothing new. It is taken away from us by this aggression and genocide. Now, that is within the large urban areas. Now, that is why I believe that the return to the cities is very important. That’s why I highlighted this problem there.

Now, in order to do something about the discrimination that exists in Bosnia-Herzegovina, I tried to introduce a Consul of Ministers of seven people instead of six, to have the others there, although the Dayton Agreement is what it is.

And there were other attempts to break this three-partied division of Bosnia-Herzegovina, to neutralize it. Well, it didn’t work. That is why I think that those provisions within the Dayton Agreement that open the way for discrimination and segregation in Bosnia-Herzegovina must simply be deleted.

We must have an election law in Bosnia-Herzegovina, for example, that is harmonized with the normal European standards, if we want to become a member of the democratic European family. And all our citizens, almost all of them, are for that.

So this is one of the examples that we must change, and there are other examples, of course, but I will not take more of your time. But it is necessary to change things within Dayton to harmonize it with the new dynamics, new times. For example, special relations with one of the other countries, and so on.

And I also call for all those positive and integrity elements of the Dayton Agreement to be fully implemented, and I think that we have shown in the past 4 years the example of how to do that. Well, I don't think I was always supported there in implementing the positive and integrative elements of the Dayton Agreement. And I am on the record doing so.

Thank you.

Mr. SMITH. Would the other witnesses want to respond to that?

Mr. BESLAGIC. (spoken through interpreter) I'd just like to say here is the Dayton Accords. I carry it around like a Bible. It has its 12 parts. In the beginning, in the preamble, it says that all three groups, Serbians, Croats, and Bosniacs, are constituent nations of Bosnia-Herzegovina. We want that implemented. We can implement it tomorrow. But it needs to be implemented.

In the part about human rights, there's a right to full freedom. In the section about refugees, it says that every refugee has the right to return home. So, in Article 3, it talks about the need for integrated things of various varieties in the state. I think what needs to be done is that Dayton needs to be implemented.

If it is fully implemented, the nationalist parties won't be able to destroy it. So it does have to be revised in certain ways, as Haris Silajdzic and Mr. Trbojevic pointed out. But mainly it has to be implemented. First, it has to be implemented before it can be perfected.

Mr. TRBOJEVIC. (spoken through interpreter) First, I would like to thank Mr. Beslagic for emphasizing this, the same belief we have in the Replika Srpska, that first we have to implement the Dayton Peace Agreement fully and completely, and then we can talk about perfecting it.

First of all, I would like to say that Mr. Silajdzic mentioned a couple of things that—or stated a couple of untruths here. First of all, there is nothing in the constitution of the country of Bosnia-Herzegovina, or the constitution of the Replika Srpska, where it states that any of citizens of these countries or entities have no right to be elected, or to vote.

It seems to me that Mr. Silajdzic's belief is that Bosnia-Herzegovina can improve its position only as a strongly centralized unit, centralized country. I think that there is—that no effort should be used to emphasize that countries that are not centralized also can exist well.

First of all, we don't have to remind anyone here that we are in the United States.

Mr. SMITH. Let me just ask one other question. Obviously, impeding the right to return effectively prevents large numbers of people from voting. How much of that inhibitor comes from the policies? How much comes from lack of financial support and facilitation by the international community? And is the United States and are European partners doing enough financially and politically to get people back to their own homes?

And one additional question. Why aren't the people going back to the cities? What's the inhibitor there?

Mr. TRBOJEVIC. (spoken through interpreter) I want to emphasize that absolutely no one denies a right to any of the people to vote in the place where they lived before the war. According to the very rules of this organization, this institution, it was provided—the right to vote was provided for the people in the place of their residence before the war.

The best example is the fact that in the Parliament of the Republika Srpska there is a large group of representatives who belong to the party for unitary Bosnia-Herzegovina.

Regarding the second part of your question about the international community and its financial contribution, I cannot specifically, at this point, give any firm opinion. Of course, I do agree that economic situation and financial resources are a key to all of these matters.

Thank you.

Mr. SMITH. Thank you.

Dr. SILAJDZIC. Mr. Chairman, this is probably due to the problems of translation, because I don't stand for the centralistic, unitary state. Had I been for that, I would not have been a dissident during the communist regime. I would have been a communist. So there is something very wrong there.

But, in any way, it might be a little confusing for you here, but these are the details, now problems.

If a refugee returns to whatever is called—if he's a minority—for example, if a Bosniac or Croat returns to Republika Srpska, he does not have the full, equal, citizens' rights. Because he is not considered—and Mr. Beslagic explained that. He is not so-called constituent people. He cannot be the President. He cannot be voted into the upper house of the Parliament. He cannot be a member of the entity government. He cannot be whatever, you know.

So, and it's not for the voting rights elected. He cannot be elected there. And there is a difference between the Federation and the Republic. It's all one.

So this is the problem with the constituent peoples. It's not equal rights. Must be—so the two constitutions in Bosnia, the entity constitution must recognize that one constitution, and that is a problem right now. The constituent court in Sarajevo—and I don't think we should lose more time about this—but the question is whether there is enough support for—well, there is and there isn't.

I think that the support that—that the financial support should be focused on what has been previously set, buying the building materials, and it should be earmarked for return. People want building materials and they can do that themselves. That's what they—that's what I have been doing for the last 2 years, helping them do just that.

So if the—and I understand that, through the activities of Mr. Miller, the Ambassador, the U.S. Ambassador in Sarajevo, we have now \$67 million, I understand from the U.S. side there. That is a lot of money. And if this money is earmarked for return, buying building materials, that will be a great help then.

But if it is disbursed in—for different purposes, then, of course, there is a lack of it. And the truth is also what has been previously said, that while the financial aid from the European Union comes usually after the season, and that presents a problem within Bosnia to governize. There is a season, which is summer season. That's a building season. Once it has passed, it is —

Mr. SMITH. All right.

Dr. SILAJDZIC. May I ask while I'm saying this, respectfully, for this Commission to do the following. That is, to visit Sarajevo, please, and Bosnia-Herzegovina, and see for yourself. We have a lot—some diverging views here.

I can name 10 towns now to which not one single person returned, and you can see for yourself. Talk to the refugees, please, and see what they say about that, and they should have been here today instead of me sitting here—the refugees. But they are 1-1/2 million, so it's very difficult to accommodate.

So the best thing would be—and I would like to see that very much—that in a couple of months or 3 or 4 months you check the progress there. You know, if there is progress or not, because we all say that there is progress, there is some progress. But that is far below required. That is what I believe.

But I also say that this is the time now to act. There is some opening now. And if we act decisively, with some financial aid, I think we can solve some problems connected to the refugee problem, which is the main problem in Bosnia-Herzegovina, as you know.

Thank you.

Mr. SMITH. Thank you.

Mr. Beslagic?

Mr. BESLAGIC. (spoken through interpreter) Mr. Chairman, I'd like to give you a few pieces of data about the desire of refugees to return. We have a lot of desire of refugees to return from the Federation to the Republika Srpska. We have about 37,000 refugees from that area in Tuzla, the Podrinje area.

Some 70 percent of the people want to return home. Generally, they are people from rural areas. So they say that the Republika Srpska is not being quite as cooperative as it might be in that area. These people need help in repatriation. Authorities have been helpful, but they still need help in repatriating.

But the main problem is there is no return to the cities. Some 4,700 families want to return—these are families, so about 12,000 people. We've been able to satisfy about 30 percent of those desires in the city of Tuzla with our own resources, our own. It's a very difficult job.

But we don't have the same response from other cities that people want to go to. We have good cooperation with the people who are working to help these people in these other cities. So we have good work with international organizations that do this, too, but time is passing and it's not going as fast as it should.

So we've been asking international organizations to finance projects and not to give the money out. Someone else finances things there.

Mr. TRBOJEVIC. Mr. Chairman, if you would permit me to follow —

Mr. SMITH. Sure.

Mr. TRBOJEVIC.—Dr. Silajdzic's wonderful example of correcting misinterpretation, so I just want to say that the Mayor said that the Replika Srpska has been very cooperative.

Mr. BESLAGIC. (spoken through interpreter) Yes. Very cooperative, yes. My mistake.

Mr. SMITH. Mr. Hoyer?

Thank you.

Mr. HOYER. Thank you, all of you, for your testimony.

As I understand the basic difference here between two of you, and Mr. Trbojevic, is that two of you have pretty consistently—I know Dr. Silajdzic has pretty consistently believed that Dayton essentially formalized the spoils of war, while, obviously, Mr. Trbojevic believes that Dayton simply needs to be implemented.

Mr. Trbojevic, let me ask you something with respect to that. I am not sure I understand Dr. Silajdzic's answer, or clarification. I think the mayor's position is that Bosnia-Herzegovina ought to be one country. It is technically one country under Dayton, but their position is that in operation it is not one country.

There is not a unified armed forces at this point in time, unified financial system, unified system of law and courts, which both of them believe ought to happen.

Now, let me ask you something. Is Mr. Dodik's position that ultimately that such unification ought to be the case? Anybody?

Mr. TRBOJEVIC. (spoken through interpreter) I believe that such a large number of people who desire to return to the Replika Srpska, that fact tells, in itself, about the conditions which are awaiting them in the Replika Srpska.

For us lawyers, it's an absurd statement or desire to have every law, every sentence, and every word in every law, all over the country, totally identical. Two entities in one country can, in a harmonized way, coexist. Their legal systems do not have to be identical completely. They should be harmonized, and they will exist.

But I want to say something about the remark Dr. Silajdzic said earlier about the way the presidency of Bosnia-Herzegovina—or the country of Bosnia-Herzegovina and the Council of Nations—I believe is the correct translation—the way they are elected is in such a manner, but it's prescribed like that by the constitution.

It was put in the constitution as one kind of a guarantee of ethnic or national rights. I hate to take too much of your valuable time, but I would like to bring to your attention the fact that, in the Federation of Bosnia-Herzegovina, there are 10 cantons that exist, and half of them do not have harmonized legislation and do not recognize the supreme court of Bosnia-Herzegovina.

If we follow that example in the Serb—in the Replika Srpska, then it would mean multiplying administrative units and administration in the country.

Unless you have any further requests, I would not bother you anymore.

Mr. HOYER. Well, I'd like Dr. Silajdzic to perhaps comment on that. Yes, please.

Dr. SILAJDZIC. Yes. I think that we have to say that basic requirements in Bosnia-Herzegovina, according to the Dayton Agreement, are not being fulfilled at the state level. The legal system does not exist, actually. There is a dozen of legal systems that overlap and contradict.

Now, for 3 years, I have been asking for the court of Bosnia-Herzegovina prosecution of the criminal code, etcetera. In December, in Madrid, the Madrid Declaration actually endorsed this as a requirement by the Office of the High Representative. It never happened. So this is the bare minimum.

We do not have a court in Bosnia-Herzegovina. We do not have prosecution of public—of the state in Bosnia-Herzegovina. There is one example, and it has been refused by the Parliament of Bosnia-Herzegovina.

We tried to introduce the law on the application of international conventions on human rights, which has the clear backing of the Dayton Agreement because it said at the international convention, said priority about domestic law.

The Parliament refused it and some other 35 laws, basic laws. And I can tell you that right now the credit by the World Bank—\$235 million—very easy, soft, and cheap money, offered to us by The World Bank, is in question, because those same that refused all these laws also refused to have one energy law in the country, and that's the requirement by The World Bank. Mr. Dodik refuses that. For Bosnia-Herzegovina, it's a lot of money, and it's very, very good credit.

Now, this is all very well-known to whoever deals with Bosnia, and that is why I think that what we need is a shock therapy, including suspension of our Parliament and presidency and the Consul of Ministers, for the good of the citizens of Bosnia-Herzegovina.

If we cannot have a law to get good credit, that means that we are unable to serve our citizens. So, again, I have submitted to you my presentation, and the details on it—how many laws, the drafts presented, and how they were refused, and by whom they were refused.

So this vicious circle must stop for the good of the citizens of Bosnia-Herzegovina.

Mr. HOYER. Doctor, let me ask all three of you a practical question in terms of everybody has agreed that one of the principal objectives is to effect the right of return, the restoration to refugees of the home from which they were driven.

I think everybody agrees on that as a principal objective. Am I correct?

Mr. BESLAGIC. (spoken through interpreter) Yes.

Mr. TRBOJEVIC. (spoken through interpreter) Yes.

Mr. HOYER. Now, I have visited the Republika Srpska, and Bosnia-Herzegovina, Sarajevo, not recently, not within the last I think 2 years—May of '98 was the last time I was there. The practical process for restoration of one's home—I'd like you to speak to that briefly. I am a refugee. I claim that Number 10 Fifth Street is my residence. And there is somebody living there.

The practical problem is, the person living there may also be a refugee from someplace else who cannot have their home restored. They, therefore, say, "I have no place to go."

Is there a legal process whereby I can claim a legal right to have restored to me Number 10 Fifth Street in the Republika Srpska, and in Bosnia-Herzegovina?

Mr. Beslagic? If that happens to me in Tuzla, what happens?

Mr. BESLAGIC. (spoken through interpreter) Insofar as the Dayton Accord has not been put into effect, it has left in place the ethnic cleansing that took place beginning in 1991. That's just an imperfection.

So you can today go into the court in the town, and you can get a decision saying that you should have your apartment returned to you. There is no administrative problem to get a piece of paper that says this, but the problem is in the practice, how to realize your right to move back in.

Mr. HOYER. Enforcement of the order.

Mr. BESLAGIC. (spoken through interpreter) Yes.

Mr. HOYER. So that I cannot take that to the local police and say, "I have a right to have this apartment restored to me." They will take no action to implement that and to, in effect, evict the resident that does not belong there?

Mr. BESLAGIC. (spoken through interpreter) The local police will help to fulfill orders of the local authorities. But you can't walk up to the police and say, "Get these people out of my apartment."

Mr. HOYER. What can you do?

Mr. BESLAGIC. (spoken through interpreter) The local authorities are supposed to help in getting people out. It's a very difficult process, though, to get people moved from one place to another and get the local authorities to help you to move them from one place to another.

We don't have any funds to help us move people. But we sometimes can get help from various humanitarian organizations to realize a certain project. But in the course of this year, we're going to return a very high percentage—30 percent—of apartments. And we hope to speed this process up in the course of the next year.

Mr. HOYER. We have a vote. Let me ask you to comment on that. If I could ask you one question specifically.

In Banja Luka, there was a mosque destroyed. I'm wondering what the Dodik administration has done to rebuild the mosque, if anything, or the 20 other mosques that may have been destroyed in the Replika Srpska.

Mr. TRBOJEVIC. (spoken through interpreter) Nothing specific has been done. We shall preserve the location, the piece of land, the real estate, so that no one takes over it. And the building of these mosques, and the specific mosque in Banja Luka, will start in accordance to the amount of funds provided by the investors who want to rebuild it, funds donated.

Human rights has passed this decision, or made its decision, and we are obliged to fulfill it.

Mr. HOYER. Is there any liability for those who destroyed it?

Mr. TRBOJEVIC. (spoken through interpreter) Just to finish his statement—the administration has an obligation to fulfill its task, and it will be done whenever the time comes.

Dr. SILAJDZIC. And can you repeat the question?

Mr. HOYER. Has there been any assessment of liability, and, therefore, financial obligation to those who may have destroyed the mosques?

Mr. TRBOJEVIC. (spoken through interpreter) No, that has not been done. That has not been done, and we don't know who specifically did it.

Dr. SILAJDZIC. Just before you go, on the same question, the church is damaged, of course, during the war—not only mosques, different, you know, sacred objects.

In Sarajevo, the government of the Republic of Bosnia-Herzegovina, at that time of which I was President, did their job during 1994, during the war, referring of the damaged churches and mosques in Sarajevo, at the expense of the government. And I think that we should—when it comes to the return, allow me, Mr. President, just to say a few words.

Let us talk about basic things here. To Sarajevo, 25,000 people returned; to BanjaLuka, 20—I think 58 families; and to the town of Mostar, not even that. These are the basic things that we have to talk about. Four percent of the refugees returned to the ethnically cleansed areas. So the project of Mr. Milosevic is working.

Unless we do something now, when there is this chance to do now, it takes some more presence of the SFOR forces in several areas, the areas targeted for return. It takes sanctions, meaning firing the responsible people who obstruct 5 years now. It takes, of course, some financial aid, and whatever the financial aid there is, it should be earmarked and proposed on the return.

And, of course, it takes goodwill, and I hope it will—

Mr. HOYER. Doctor, let me interrupt, because it occurs to me, Mr. Chairman, that one of the things that obviously is critical for this—and I guess I'm asking Ambassador Barry whether this has been accomplished—is a compilation of those who have been displaced, from where they've been displaced, and, therefore, where they would want to return.

It seems to me that in the example I gave, I don't necessarily presume that the occupier of the non-owned apartment is necessarily a wrongdoer. They may have been displaced from someplace else. We've had a lot of movement around the country, and this is a very practical problem, as well as political problem.

First of all, you have to have an inventory of who, what, and where, so you can move these people around. Has that been accomplished, Mr. Ambassador?

Amb. BARRY. It has been partly accomplished. There is a Commission on Real Property Claims, which has accumulated 90,000 cases of people where there has not been a court decision, but where a claim has been filed, and they have gone back into the property records and made decisions on these 90,000 cases.

Now, in many of those cases now, we are moving against the people who are in there, even in the absence of a decision by the Housing Administrative Authorities. And this particularly relates to ranking politicians, because many of the people who are in violation of the law are senior people in Sarajevo, in Mostar, in Banja Luka, and we are telling those people that are there in violation of the decision, they are setting a very bad example, and they cannot run for office, or they cannot take up the office they had run for.

Now, the question of, who is entitled to alternative accommodation is quite limited under the law. Many of the people who are in these houses are people who are double or triple occupants. Many mayors that I know of are triple occupants. They live in the house that—they have the house that they had before the war, and they've taken over two other houses.

Now, something has got to be done about these people. So our rule is that—the law is quite strict on this. The law requires people to move out, and it requires the municipalities concerned to provide alternative accommodation, where the people are entitled. Somebody who makes a good salary by local standards is not entitled to alternative accommodation. He is able to go out and rent a house. He need not be living in somebody else's house.

There is a small category—well, not a small category, a considerable category of people who don't have any money and who don't have any alternative accommodation. Those are the most sensitive people, and those are the ones that we have to encourage the municipalities to find means to deal with.

Mr. SMITH. Would the gentleman yield?

Mr. HOYER. I'd be glad to yield.

Mr. SMITH. Appreciate it.

Mr. HOYER. I don't think I have any time left anyway.
(Laughter.)

Mr. SMITH. Mr. Ambassador, just a—there seems to be a built-in conflict of interest where—and, you know, Dr. Silajdzic has talked about the gross disparity between those who have gone back to Banja Luka and those who have gone back to Sarajevo, both on the political side and the economic side.

I mean, there may be a law that says, if the people come back, they're entitled, and the others have to move out. But if they never make their way into proximity of the house, nothing will ever happen, and they're frozen out. And then, politically, the demographics don't change, so you get no mix, and you don't get any difference in leadership.

Is there a quantitative and a qualitative study on how well each of the respective entities are performing under the Dayton Accords, in terms of right of return? So that we can look at it and say, "Oh, my God, look at this disparity." Or, "They're all doing a good job." Has that been done?

Amb. BARRY. Yes. The U.N. High Commissioner for Refugees has such statistics. I would encourage, however, that we not adopt the position of reciprocity because many political leaders, especially in the Federation, which does not include Dr. Silajdzic, say, "Well, we've done enough in Sarajevo. So until somebody does something in Banja Luka, we shouldn't do any more."

Our attitude is that everybody has got to implement the law, everybody has the right to return. We've got to—

Mr. SMITH. Well, what tools do you have, and what tools does the international community have, to compel or to encourage, say, Srpska or anyone else to live up to that obligation?

Amb. BARRY. We have removed many officials. We've just removed the Prime Minister and a cantonal governor for failure to do this. We have removed a number of heads of municipal housing authorities for not doing this.

And we have insisted that people who do not, in the future, implement the law will be either not allowed to run or will be removed from office. And we have particularly put pressure on politicians, mayors, presidents, things like that, who are living in somebody else's house, that they need to set an example by getting out.

Mr. HOYER. Mr. Chairman, I thank you for having this hearing. Unfortunately, we have to go vote. Unfortunately, at times of crisis, we tend to focus. When the crisis passes, at least the conflagration passes, we tend to divert our focus to some other area.

And obviously, I think, Mr. Chairman, you've been correct in having this hearing to focus our attention back on an issue which, if left unresolved, will again be at a crisis point for not just the residents of Bosnia-Herzegovina but for all of Europe and the United States as well.

So it is important that we focus on this and move ahead. My personal point of view is that we should recognize the results of what we believe was genocide and war crimes, and hold accountable those responsible, whether they be Serbs, Muslims, or Croats, and do so in an even-handed way, even though I think the perpetrators were not equally involved.

Whatever the involvement was, we must take such action as is appropriate, and try to get the people back to a better place than they once were. I think that probably is our objective.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Hoyer.

Let me just say, in conclusion, that, Dr. Silajdzic, I think your idea of an assessment trip in a few months is very worthwhile. And I think, as a delegation, we will put such a trip together of Helsinki Commissioners. So thank you for that.

And as a matter of fairness, I would just say to Mr. Trbojevic, it would be greatly regarded by the international community, and certainly by this Commission, if efforts were made to rebuild those mosques—plural. It is a government responsibility, we believe.

While you may not have the actual person who destroyed mosque X, Y, or Z, it would seem to me that there's a collective responsibility to make whole. And it would be a great confidence-builder. So I just encourage you along those lines, if you could.

I want to thank our distinguished witnesses. The hearing is adjourned. (Whereupon, at 4:56 p.m., the hearing was adjourned.)

**PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH,
CHAIRMAN**

Today's hearing is on Bosnia's future under the Dayton Agreement. Five years ago, Bosnia was still at war. Bihac was still under siege. Srebrenica was about to be taken. Serb militants were confident in their holding of over 70 percent of the country. Soon, however, a joint Bosnian-Croatian offensive would combine with robust NATO air intervention to end the fighting, and, by the end of 1995, the political agreement formally ending the conflict was reached in Dayton and signed in Paris.

The end of almost four years of hostilities was certainly a reason for relief, but, for many of us and—I am sure—for many Bosnians, there was no sense of triumph. Dayton involved compromises, including the division of the country into two entities, which reflected the horrific realities caused by aggression and ethnic cleansing. Dayton involved negotiating directly with Slobodan Milosevic, the person most responsible for instigating the conflict in the first place, elevating his status in the process. Most of all, Dayton was late. The international community, led by the United States, could have and should have intervened decisively in the first year of the conflict. Instead, the world watched people lose their homes, lose their friends and relatives, and lose their lives, while political leaders abroad accepted efforts to blame the horror on history and not the thugs behind the guns. Instead, the world waited until Bosnia became more expensive to clean up and put peacekeeping forces in a more precarious position than they otherwise would have found.

Fortunately, however, Dayton maintained Bosnia-Herzegovina as a single state, in principle. Dayton foresaw this state as democratic, in principle. People would be allowed to return to their original homes, in principle. In short, just as the like the Helsinki Final Act and so many other international documents, Dayton is what you make of it. It is a struggle to turn words into deeds.

The international community can rightfully point to successes, albeit in incremental steps. Many of the leading extremists have been marginalized, although some of them indicted for war crimes and genocide remain at large. There are increasing signs of support for moderate political options, even though ethnically-based parties remain entrenched in power and their own corruption. Recently, there has been an upswing in returns, although minority returns have traditionally been so low that an upswing isn't saying much.

In my view, these successes are reason for hope, not for satisfaction. Moreover, these successes only provide hope that Bosnia will not disintegrate as a state under the international community's continued care; they do not guarantee that Bosnia will strengthen as a state emerging independent from that care. That should be our goal.

At this hearing of the Helsinki Commission, we hope to hear whether such a goal can even be reached under the Dayton Agreement, with all of its contradictions and compromises. We hope to learn more about what Bosnians themselves are doing. Are they slowly but surely accepting the realities of ethnic division? Are they slowly but surely reestablishing those ties which once made Bosnia-Herzegovina the home of a successful multi-ethnic society before conflict was imported? We also hope to learn more about what the international community is doing, and what differences its actions are really making.

Our first panel is composed of various representatives of the international community. First, we have Ambassador James Pardew, Principal Deputy Special Advisor to the President and Secretary of State for Kosovo and Dayton Implementation. The Ambassador will present the views of the Administration on U.S. policy to Bosnia and Dayton implementation.

Next, we have U.S. Army General Wesley Clark, who, until recently, served as Supreme Allied Commander Europe. General, you are distinguished not only by your rank but also by your expertise. You have had the Balkans as your portfolio since the Bosnian conflict and well before Dayton was even envisaged, so your insights into the region will be most welcome.

Our first panel concludes with Ambassador Robert Barry, who is in his third year as head of the OSCE Mission to Bosnia-Herzegovina. While the Mission has many tasks, its leading ones are human rights, democracy-building and elections, all of which are crucial to Bosnia's future. We look forward to your views as seen from Sarajevo.

Our second panel is composed of leading Bosnian figures, who will present their views on Dayton implementation and the future of their country. First, we have Dr. Haris Šilajdzic, formerly the Bosnian Prime Minister, whom many of us have known since the early days of the conflict if not before and who has consistently told the international community not what it wants to hear but what he believes needs to be done for Bosnia to survive. Next, we have Selim Beslagic, who as mayor, kept the city of Tuzla as a bastion of ethnic tolerance during the conflict, even as it was shelled and as the displaced crammed its streets. Finally, we have Milan Trbojevic, who is the Advisor to the Republika Srpska Prime Minister for Judicial and Legal Issues. He will give us the view of Dayton implementation as seen from Republika Srpska, and the challenges which lie ahead.

**PREPARED STATEMENT OF
HON. BEN NIGHTHORSE CAMPBELL, CO-CHAIRMAN**

Mr. Chairman, today's hearing provides an important opportunity to take stock nearly five years after the conclusion of the General Framework Agreement for Peace in Bosnia and Herzegovina, commonly known as the Dayton Agreement. We can each recall the vivid images of human tragedy that unfolded in Bosnia during the early 1990s. Those scenes prompted a spirited debate in Congress over the proper course of action to pursue. President Clinton, over considerable congressional opposition, including my own, chose to deploy thousands of American ground troops in Bosnia. No amount of hand wringing is going to change that fact. I supported the men and women of our Armed Forces deployed in support of that mission at the time, and I support them today, including scores of Coloradans who have served with distinction.

Nearly five years after Dayton and the investment of billions of dollars by the United States, thousands of American troops remain in Bosnia. Despite initial indications, the deployment to Bosnia has turned into the very kind of open-ended commitment that some had suspected at the outset. While designations changed—IFOR became SFOR—the deployment in Bosnia continued. Taken together with the latest iteration, KFOR, such deployments represent a substantial drain on military readiness and, as should have been learned from Bosnia, typically entail higher costs and longer durations than initially foreseen.

As the attention of the international community has shifted to hot spots elsewhere in the Balkans, those remaining on the ground in Bosnia have attempted to move forward. According to some of those experts, corruption—an issue of keen interest to me—has been singled out as perhaps the greatest obstacle to Dayton implementation. I look forward to hearing more on that point from our experts.

The reality five years after Dayton is that the leaders of Bosnia have yet to take full ownership for the future of their country. This status quo is neither in the interest of the United States nor the Bosnian people.

Mr. Chairman, I hope to come away from this hearing with a clear, concise understanding of exactly what has been accomplished in Bosnia, what is left to reasonably be achieved, and what needs to be done to make it happen.

**PREPARED STATEMENT OF
HON. STENY H. HOYER, RANKING MEMBER**

Mr. Chairman, it has been 15 years that I have served on the Helsinki Commission. During that time, no single foreign policy issue has consumed my attention as the struggle to save not only Bosnia, but the very Helsinki principles which were threatened by the aggression against that country.

In the early years, the international response could only be described as feckless. Once the United States decided to get involved, however, much has been accomplished. Our forces on the ground, our people in the field and our policy-makers who have developed the strategy for isolating and marginalizing nationalist extremists and, if indicted, apprehending them as well deserve recognition and support.

I hope, however, that no one is satisfied with what has been achieved, because it is far too little. Indeed, we should have a zero-option for Bosnia, which would mean zero displaced persons, zero barriers to safe internal movement for each citizen throughout the country, zero indicted persons at large, zero tolerance to discrimination based on ethnicity. All the money and all the people we devote to Bosnia become meaningless if our policy falls short of doing the right thing.

The biggest obstacle to Dayton implementation, in my view, remains the continued presence of Slobodan Milosevic and his regime in Belgrade. This year, we have seen the enormous benefits of positive change in Croatia. Democratic change in Serbia is even more crucial. Whether one has fallen to his propaganda machine, or to the weaponry of his murderous minions, all the people of Bosnia have been victims of Milosevic and his policies of genocide. Today, the Serbian media and Serbian students are stopped for speaking the truth about this self-proclaimed defender of Serb interests. Of course, change in Serbia will not make all of the problems in the region simply disappear, but it will allow us, for the first time, to talk about the prospects for long-term stability and true recovery in southeastern Europe.

I look forward to the detailed presentations of our two panels, and their thoughts on Bosnia's future under the Dayton Agreement.

Thank you, Mr. Chairman.

PREPARED SUBMISSION OF AMBASSADOR JAMES W. PARDEW

Mr. Chairman, I am pleased to have the opportunity to speak to you today about our continuing efforts to assist the people of Bosnia and Herzegovina to achieve a lasting peace, democracy and prosperity.

Our focus today is the Dayton Agreement. I will provide my perspective on what it is, what it is not and what I see as the keys to political and economic progress in Bosnia.

In any discussion of the Dayton Peace Agreement, it is important to understand both what Dayton is and what it is not. First, Dayton is a cease-fire agreement. Throughout the war the international community made continuous, exhaustive, but ultimately fruitless efforts to end the war, fruitless until the Dayton Agreement finally ended it. The agreement ended the fighting and separated and controlled the constituent military forces, but it did not identify a winner. The wartime power structure remained in place. If Bosnia is to become a viable state, it must begin to develop one integrated armed force, free of external influence, oriented towards NATO and subordinate to national civilian authorities. To achieve that goal, Croatia and Serbia must end their military support to national forces in Bosnia. Croatia has just done so, however, the Serb forces in Bosnia remain largely supported and directed from Belgrade.

Secondly, the Dayton Agreement is the basic framework for participatory democracy. It is a fairly precise diagram, a schematic for the institutions, political structures and interrelationships required to begin the process of recovery and transition for the people of Bosnia. It is, however, a document of negotiated compromises, which decentralize political, economic and military institutions below the state level to the entities. All of the parties at Dayton agreed that Bosnia and Herzegovina would be one state with two entities and three constituent peoples. All agreed that Dayton described two entities, the Federation and the Republika Srpska, which would have strong powers, as well as a central government, which would have strictly limited powers.

Despite the lack of strong central governing institutions, the Dayton Agreement has produced important achievements. These achievements include:

- A stable security environment;
- The restoration of freedom of movement across the entire country;
- Completion of major infrastructure reconstruction programs;
- A single, stable Bosnian currency in overwhelming use;
- A series of internationally-supervised elections which have seriously eroded the grip of the nationalists on power and led to increased democratic pluralism;
- Democratic institutions of government at all levels which are slowly growing in strength and effectiveness; and
- Thousands of refugees who have returned to all areas of the country, and a rate of refugee return which is accelerating in inverse proportion to the declining power of the nationalists.

These and many other achievements point to the success of the Agreement. However, it is also clearly a work in progress.

Just as the Dayton Agreement is a sound and practical blueprint for a peaceful, democratic and prosperous Bosnia and Herzegovina, it does not resolve every issue, nor does it promise that the international com-

munity will solve every problem between the competing interest groups in the country. That is for them to resolve, in the course of time, through the democratic process and through elections. While Dayton does outline the key institutions and responsibilities of a stable and democratic state, it is up to the people of Bosnia, and the leaders they choose, to use the Dayton blueprint to build their new country, with its new institutions, to take its new place in Europe.

A fundamental problem with Dayton implementation is that many political leaders in Bosnia have not fully accepted the concept of Bosnia as a state. The leadership simply lacks the will to implement the various elements of Dayton, then go beyond Dayton in important areas. In fact, the nationalists on all sides, clinging to their narrow slice of power, never bought on to the promise and potential of the Dayton Agreement. It is this serious lack of vision, intolerance, failure to compromise, and most of all the unwillingness of these leaders to wholeheartedly embrace democracy and a market-oriented economy that have so badly slowed progress in Bosnia.

After five years Dayton is only a partial success, but progress continues. Certainly the pace of implementation is too slow, but Bosnia, and Dayton, must overcome three significant obstacles.

The first is the war. The brutal and lengthy conflict scarred everyone in Bosnia, and the people on all sides have only slowly gained the confidence that the war is indeed over. The people of Bosnia are not inherently hostile to each other, nor is future conflict inevitable. The security of knowing that armed conflict will not begin again is critical for Dayton implementation, and we must ensure that we do nothing to shake that confidence.

The second obstacle is nationalism and intolerance. The sooner the people remove political leaders who inflame ethnic tensions for political gain and replace them with leaders who promote economic and political change, the better. The nationalists are gradually losing power, but the transition is very slow. Milosevic continues to cast a dark and disruptive shadow over Serbs in Bosnia.

However, the defeat of Radovan Karadzic's SDS party at the entity level in Republika Srpska in 1997, and the significant erosion of support for nationalist parties in the Federation in this April's elections, are evidence that the people are turning away from the nationalists and their messages of ethnic supremacy and division. The recent collapse of the ruling nationalist HDZ party in neighboring Croatia has accelerated this process, and provided an example for other countries in the region of the benefits that can be achieved by embracing democracy and moving toward the Euro-Atlantic mainstream. This message was not lost on the electorate in Bosnia, and we are hopeful that people in Bosnia will participate fully and actively in all aspects of the democratic process, including elections, to choose the future they want for their country.

There is a third obstacle to overcome. The legacy of decades of communism in the former Yugoslavia continues to hinder our efforts to assist the people to implement Dayton. It is clear that even when the people of Bosnia fully overcome both the war and nationalism, the struggle towards a market-oriented democracy will continue. They lived and were educated in a flawed system. Acceptance of authoritarian leadership and party control of the media and economy are hard habits to break. For more than a decade we have seen other Eastern European

countries struggle to make progress in creating democratic institutions. Elsewhere in Eastern Europe, corruption and cronyism slowed the already-difficult transition from communism to a free-market economy, so we should not minimize the progress already achieved in Bosnia.

Mr. Chairman, I do not believe that renegotiating the Dayton Agreement is in our interest. Some want to reopen the Dayton Agreement as a way to speed up the transition in Bosnia. The agreement is more than adequate to build on as it stands, and reopening it would not address the basic problems I just described. In fact, renegotiating Dayton with the current political, economic and military leadership would only set back existing achievements.

Others wish to end our presence in Bosnia and see reopening Dayton as a means to that end. Instead, reopening the agreement could, in fact, reignite old issues, set the clock back and require the international presence for longer in the Balkans.

In closing, I would like to say that the United States strongly supports the conclusions of the recent Peace Implementation Council meeting in Brussels, which called on the parties in Bosnia to accelerate implementation of the Dayton Agreement. We also strongly support the three primary objectives of the international community stated in May to assist the people of Bosnia:

- Economic reforms to eliminate interference in the economy by nationalist political parties;
- Accelerate the return of displaced persons and refugees; and
- Strengthen State institutions, including integrated defense, plus independent media.
- New political leadership and more pluralism in the fall elections, economic reform, refugee returns and stronger state institutions are far more valuable to stability and progress in Bosnia than debates over renegotiating the Dayton Agreement..

Working together, the international community and the people of Bosnia and Herzegovina have made significant progress in achieving the goals to which the signers of the Dayton Agreement committed themselves. While there is still much to be done, the United States is proud to be a part of this effort.

PREPARED SUBMISSION OF AMBASSADOR ROBERT BARRY

The ice is breaking in Bosnia and Herzegovina.

Return is taking place at an unprecedented pace. In the first quarter of 2000, some 12,000 individuals have returned to their pre-war homes in communities dominated by another nationality. This is four times more than returned in the first quarter of last year. And this is only the tip of the iceberg, since only registered returnees are counted, and typically the number which does not register is larger.

Under intense pressure from the international community, local authorities are beginning to implement the property law and evict illegal occupants from homes belonging to others.

At the April municipal elections the message was clear—voters wanted change, and they got it.

- The two largest municipalities in predominately Muslim Sarajevo now have a Bosnian Serb and a Bosnian Croat Mayor respectively—both are Social Democrats.
- A Bosnian Serb was elected deputy speaker of Bosniac/Croat dominated Mostar
- The multi-ethnic Social Democrats increased their share of the vote from 187,000 votes in 1997 to 280,000 this year, and, with two thirds of municipalities having elected mayors, they have the mayorship in twenty as opposed to one before the election.
- The ruling Bosniac SDA and Croat HDZ have both purged their leadership because of their poor showing.
- While the nationalist SDS remained the largest party in Republika Srpska, the surprising showing of Mladen Ivanic's Party for Democratic Progress showed that Bosnian Serb voters are looking for change as well.

We fully expect these trends to continue when the general elections are held on November 11, 2000.

This is not the time to give up on Bosnia and Herzegovina.

It is not the time to revise Dayton.

It is not the time to declare a protectorate and abandon our efforts to get elected leaders to take responsibility for their own country.

It is not the time to stop having elections, because the elections are making a difference.

We must stay the course, because we can't solve the problems of Kosovo or the Balkans in general against a background of failure in Bosnia and Herzegovina.

Yes, progress is slow. Yes, we underestimated the difficulties of civilian implementation of Dayton in 1996. You have only to talk to someone who lived through the war to understand how deep the scars are. And, sadly, the very leaders who led the country in wartime fan the flames of fear and hatred today in order to maintain their political base. But the voters are getting fed up with this message, and are insisting instead on performance on issues of concern to them—jobs, education, an end to corruption.

We cannot expect the kind of sweeping change that took place in Croatia, in part because the opposition parties in Bosnia and Herzegovina have been unable to form a centrist coalition. But the effects of the Croatian election are being felt here. First, voters here realize that their votes can produce change. Second, Bosnian Croats now realize that the

idea of unity with Croatia is dead, and that they must make their future within Bosnia and Herzegovina. Third, the leadership of the HDZ BiH has seen the signs of voter discontent in the very low turnout— 35 percent in the HDZ stronghold of Canton 8, half the national average. Following the election they have purged hard line party leaders and placed a moderate, Neven Tomic, in the key position of Deputy Mayor of Mostar. Tomic and his Bosniac opposite number, Safet Orucevic, have pledged to cooperate to reunify Mostar at last. Disappointed hard liners are talking about splitting away and starting a new party.

President Izetbegovic's announcement that he will leave the joint Presidency on October 12 underlines that changes are also taking place in the SDA. Following their poor election results there are signs of a split developing here as well. The fact that two of the three candidates named by Izetbegovic as potential successors are not from the leadership of the SDA is indicative that change is the order of the day among Bosniac voters as well.

In Republika Srpska Karadzic's party, the SDS, did well, but not as well as the SDS and Radicals did together in the 1997 elections. The ban on Radical participation was successful and they proved unable to orchestrate a boycott or action to disrupt the election. They are disappearing as a force in RS. At the same time Prime Minister Dodik's SNSD has established itself as a force throughout the RS, winning at least one mandate in every place it ran candidates. And the fact that Mladen Ivanic's PDP got the third highest number of votes indicates that Bosnian Serbs are looking for new answers as well.

At the same time, Milosevic continues to maneuver to destabilize the Dodik government and split the parties which formed the SLOGA coalition. The Bosnian Serb member of the Presidency, Zivko Radisic, has described his priority as improving relations with Milosevic's Serbia. But it remains to be seen if the voters share the view that they should go down a path that leads away from Europe.

We believe that general elections in November will accelerate the process of change, particularly since they will be held under rules which incorporate the reforms contained in the draft election law prepared by domestic and international experts. The decision to hold elections was made based on the unanimous recommendation of the Peace Implementation Council and the 54 nation OSCE Permanent Council. Opposition party leaders, such as the SDP's Zlatko Lagumdžija, have insisted that general elections be held this fall. It is possibly no accident that leaders of parties and coalitions which lost ground now argue that elections change nothing.

Of course, elections by themselves do not make institutions work—the people elected must want to make them work. Regrettably, the Council of Ministers was a model of deadlock before it was dissolved, and the choice by the joint Presidency of an unknown candidate from Belgrade suggests that even those party leaders who call for stronger central institutions do not really want to make them work.

Some argue that the only way forward is to revise the Dayton agreement. I agree that some revisions are desirable. But to change Dayton you have to implement it first, and through consistent implementation create the kind of consensus needed to make constitutional amendment possible. The right place to argue for revision is in the Parliament of BiH, not the US Congress. There is a growing sense in BiH that the structures of government need to be simplified, that integration of the

three armies on BiH territory is needed, that economic reform is essential, and that it is time to end dependence on foreign aid and decision making by the international community. What is needed are politicians who are willing to build this consensus patiently and persistently.

Dayton was a compromise agreement and a difficult one at that. Very few Bosnian politicians would claim to be wholly satisfied with its provisions—they tend to highlight the parts that suit them and ignore those aspects that do not. Therefore, obstruction of the implementation of the agreement and calls for its revision are two sides of the same coin—both are attempts to modify what was agreed, to the favor of one side or another, in full knowledge that the changes will not be acceptable to anyone else. The international community must not be party to these sorts of deadly games. Instead, we must continue to insist on implementation of what was signed, focusing on elements that are crucial to ensure a sovereign and multi-ethnic BiH: return of refugees and displaced persons, economic reform, rule of law, and strengthening of state institutions.

It is true that the BiH parliament is dysfunctional, but this cannot be blamed on Dayton. The politicians who decry the failure to pass legislation which will promote return and create the institutions of a state are often the same ones who fail to attend the meetings or throw gasoline on smoldering embers when they do.

It is true that there has been too little return, though we see that there is real movement this year. But without jobs, return is not sustainable, and new investment will not come as long as the parties which have ruled for the last 10 years treat the economy as their private property. They must be forced to disgorge cash cows like the PTT which provide funds and employment for the party faithful. They must be willing to expose theft and corruption in their ranks, rather than covering it up. Only elections will produce a new generation of leaders who are willing to talk about economic reform rather than the need for more donors conferences.

Last month's Brussels Peace Implementation Council meeting produced a blueprint for the future. It calls for state-building, economic reform and accelerated return—all intimately interconnected. The political leadership of the country was consulted on this program and agreed to it. Now it is time to see if they meant what they said.

BiH is at a political crossroads. In order to have a united BiH within European structures, at peace with itself and its neighbors, its leaders have to go down the road of cooperation, accountability, and political transparency. The best way to accomplish this is to implement the plan agreed in Brussels. The Dayton Agreement is only as good as the politicians in power allow it to be. Changing the agreement is not the answer; changing the political scene to a more moderate one that is accountable to the people of BiH is.

PREPARED SUBMISSION OF DR. HARIS SILAJDZIC

Thank you, Mr Chairman, members of the Commission, ladies and gentlemen. It is a privilege for me to appear once again before you today, to address the most important issue facing my country today: the implementation of the Dayton Agreement. Before I begin, I should like to pay tribute to the enormous contribution of the United States both during and since the war in Bosnia and Herzegovina. Nothing that I shall say here is intended to minimize that contribution, nor the role of the international community as a whole. Some of your soldiers and officials have lost their lives in so doing, and we shall not forget that. We believe that it commits us to working to achieve our common aim - a democratic, modern, European state of Bosnia and Herzegovina.

SUMMARY

Before responding to the fundamental question of whether the Dayton Agreement, as it has been implemented, has encouraged the restoration of a multi-ethnic Bosnian state—which is clearly the central purpose of the Agreement—it is necessary to consider in brief its structure and interpretation. I shall argue that its structure contains both integrative and disintegrative elements, and that this has allowed for conflicting interpretations. Nationalist parties and their sponsors in neighboring states have been able to emphasize the disintegrative elements, while the international community has been unduly tolerant towards such interpretations and has given too little support to indigenous forces that favor the restoration of a multi-ethnic Bosnian state. This is the fundamental reason for its unsatisfactory implementation to date.

These assertions are supported by data relating to the specific issues raised: returns (especially minority returns), election outcomes, institutional development and economic reform. I indicate both negative and positive aspects of these issues.

I comment on the performance of the international community, both military and civilian, and of local politicians and officials at all levels of government in Bosnia and Herzegovina; and conclude with a personal view of the continuing threats to the restoration of Bosnia's multi-ethnic society.

INTRODUCTION

Before considering these issues, I should like to point out that Bosnia and Herzegovina is still paying the price for the international politics that determined the fate of former Yugoslavia, and above all of Bosnia itself, in the early 1990s and during the 1992-1995 war. Although it has now been recognized by the International War Crimes Tribunal in The Hague that this was a war of aggression against a sovereign state (as was also implicitly recognized by various UN Security Council resolutions during the war itself), much international policy appears still to be dictated by the notion that this was a civil war, in which all sides were equally guilty. This has served to equate the victims (primarily the Bosniaks, victims of genocide, together with other pro-Bosnians whatever their ethnicity) with the aggressors (primarily Milosevic's Serbia, and secondarily Tudjman's Croatia).

A second obstacle to an effective resolution of Bosnia's problems is the continuing tendency by the international community to treat symptoms rather than causes. This means, in essence, that the situation brought about by war is permitted to endure, since the factors, and the actors, that gave rise to the war in the first place are still present, for the most part. As a result, too much of the international effort on our behalf has been less effective than it could and should have been. In the analysis that follows, many specific factors of this kind will be considered.

STRUCTURE

Necessary compromises were made at the time of signature of the Dayton Agreement to bring an end to the war (but note the admission, in his book *To End a War*, by chief architect of the Dayton Agreement Richard Holbrooke, that his greatest mistake was the recognition of Republika Srpska [RS]).

The Agreement includes both integrative and disintegrative elements, and is not internally consistent. Examples of disintegrative elements include not only the recognition of an Entity, RS, that was created by aggression and genocide, but also the many constitutional provisions that allow for ethnically-based governance at all levels from the Presidency down. Examples of integrative elements include the centrally important Annex 7 on returns, and clause III.5.a of the Annex 4 Constitution which provides for the formation of additional state institutions as required to fulfil the provisions of the Annexes or 'as are necessary to preserve the sovereignty, territorial integrity, political independence, and international personality of Bosnia and Herzegovina'.

Nor is the Dayton Agreement consistent in all respects with the provisions of the international conventions that form an integral part of it, nor indeed with the general principles of international law which the Annex 4 Constitution states 'shall be an integral part of the law of Bosnia and Herzegovina and the Entities' (Art. III.3.b). To give just one example, the 1965 International Covenant on the Elimination of All Forms of Racial Discrimination is an integral part of the Constitution, yet the Constitution's own provisions establish racially discriminatory government structures, including for example the impossibility of anyone other than a Serb from Republika Srpska, or a Bosniak or a Croat from the Federation, becoming a member of the joint Presidency—thereby wholly excluding Bosnia's Jews, Roma, and persons of mixed background or those who do not wish to declare themselves as belonging to a particular 'constituent people', all of whom are constitutionally classed as 'Others'.

INTERPRETATION

Its official title indicates the nature of the Dayton Agreement -it is a General Framework Agreement (GFAP). Its eleven Annexes, which include the Constitution of Bosnia and Herzegovina (Annex 4) go some way to fleshing it out, but are still far from a complete basis for its implementation. It thus requires interpretation, and its implementation requires it to be complemented and supplemented by an appropriate legislative framework.

Its interpretation should be informed by its underlying principles set out in the GFAP itself and in its Annexes, that Bosnia and Herzegovina is a sovereign state 'that shall continue its legal existence under inter-

national law as a state . . . with its present internationally recognized borders' (Annex 4 Constitution, Art. I.1.). The parties signatory express in the preamble to the Constitution their commitment to 'the sovereignty, territorial integrity, and political independence of Bosnia and Herzegovina in accordance with international law'.

Because of its inconsistencies, the Agreement allows great scope for differing and conflicting interpretations. Nationalist parties seize on the disintegrative elements, using them to block the institutions of state, and ignore the integrative. Non-nationalist, pro-Bosnian parties and individuals who try to use the integrative elements to create a legislative and political framework appropriate to a sovereign state and to the implementation of the principles and provisions of the GFAP and its Annexes are consistently prevented from doing so by the obstructive measures of the nationalist parties, and receive too little support from the international community. This latter point is examined in greater detail below.

IMPLEMENTATION

As a result of these differing interpretations, and the lack of support for integrative interpretations, implementation has been disastrously slow. The only Annex to the Dayton Agreement that has been almost wholly implemented is Annex 1 on military matters. Implementation of the remaining Annexes is running, in percentage terms, in single figures only.

Far from restoring a multi-ethnic Bosnian state, slow implementation has allowed the status quo achieved by aggression, ethnic cleansing and genocide to be maintained and consolidated. I shall show below that, though party pluralism has advanced in some areas, the outcome of the latest local government elections provides evidence of the absence of ethnic pluralism, which means the victory of ethnic cleansing.

RETURNS

The core provision of the Dayton Agreement, and the one that, more than any other, has the potential to restore Bosnia's multi-ethnic society, is the right of refugees and displaced persons to return to their homes (Annex 7). If this Annex were implemented it would go a very long way to reversing the effects of ethnic cleansing. The reality is that only a very small percentage of refugees and displaced persons have so far returned to their pre-war homes.

Such returns as are taking place, which receive extensive media publicity, are chiefly of elderly people to rural areas; the brain drain of young, skilled people from the cities is actually accelerating, and returns of people of any age to the cities (which are the generators of Bosnia's multi-ethnicity) are at derisory levels, with the sole exception of Sarajevo.

Obstacles to returns include:

- Security—there have been numerous attacks on would-be returnees and their property, while in many areas those who have returned live in constant fear for their safety.
- Discrimination—of Bosnia's three constituent peoples, as defined in the Constitution, only Serbs have constituent status in Republika Srpska and only Bosniaks and Croats in the Federation, although this is clearly contrary to the Constitution. As a result of the con-

tinuing failure to restore equal citizenship rights to all peoples throughout the country, discrimination is entrenched and systematic in what amounts to apartheid, with accompanying and extensive human rights violations.

- Property—despite the undertakings of Annex 7 on the right to their property, very large numbers of would-be returnees are unable to regain possession of their property, even where they have a decision issued by a competent body such as the Commission for Real Property Claims of Displaced Persons and Refugees. This is largely due to the failure of the authorities, above all in Serb and Croat controlled towns and cities, to evict illegal occupants of the properties from which refugees and displaced persons were forcibly expelled during the war.
- Economic issues—the lack of job prospects acts as a disincentive to returns, particularly of younger people.

MINORITY RETURNS

The first four years after signature of the Dayton Accord showed very slow progress on all returns, and in particular so-called ‘minority returns’—defined as returns to areas where a different ethnic group retains military control and a population majority (see Annex A). Yet it is these returns that are most crucial for the restoration of a multi-ethnic state. (It may be noted that would-be returnees are overwhelmingly ‘minorities’, in the sense that the areas from which they were expelled, and where they were in many cases in a relative or absolute majority prior to the war, are now almost wholly ‘ethnically pure’). According to a recent report by the International Crisis Group (30 May 2000), ‘as of 31 August 1999, minority returns throughout Bosnia numbered a mere 100,714, less than 5 per cent of all the refugees and displaced persons created by the war. As a result, by September 1999, approximately 1,189,150 people, including 836,500 internally displaced persons, were still without permanent secure access to their pre-war homes four years after the cessation of hostilities’ (figures from UNHCR, of which the total of 1,189,150 appears very conservative, considerably underestimating the numbers of refugees in third countries whose status remains unresolved). Of these 836,500 displaced persons, 58 per cent were living in the Federation (Bosniak-Croat majority areas) and 42 per cent in Republika Srpska (Serb majority areas) (31 May 1999 figures).

The ICG report notes that ‘in the first four months of 2000, the number of minority refugees returning to their pre-war homes without targeted assistance from the international community has increased nearly four-fold over 1999 levels, to 12,579’ (which still represents barely more than 1 per cent of the total number of refugees and displaced persons as of September 1999). ‘Many of these returns are occurring in the previously impenetrable hard-core Serb nationalist heartland of eastern Republika Srpska. In addition to Bosniaks, both Serbs and Croats are also returning to their pre-war homes, challenging assumptions about the political appeal of pro-partition policies and ethnic separatism.’

The ICG report also notes, however, that ‘the international community needs to improve its capability to support these long-awaited returns through reconstruction assistance and security, while the Bosnian government must focus on self-sustainability. Lack of donor support for reconstruction and other infrastructure projects would compel many returnees to de-mine and de-booby-trap their own homes, and reconstruct their homes and schools, roads, water, sewage and electrical sys-

tems from their own limited or non-existent funds. Although the security situation is improving gradually, continued attacks on minority returnees have underlined SFOR's uneven record in providing security for returnees. . . . Despite pledges of new money from the Stability Pact, available donor aid may be sufficient to support reconstruction in only 10 per cent of the spontaneous returns to date, with heavier requirements looming this summer. Just when refugee returns are beginning to increase, major donors, such as the European Union, lag far behind—in some cases years—in the expenditure of pledged aid. To date, only the U.S. and a few smaller bilateral donors, such as The Netherlands, have proven able to target aid rapidly and effectively at needed areas. As a result, some refugees who returned to their homes two years ago are still waiting for assistance to reconstruct their homes and provide electricity and running water.' (emphases added).

In the light of the above, it is encouraging that the latest Declaration of the Peace Implementation Council, meeting in Brussels on 23/24 May 2000, includes a commitment on the part of the Council to focus on three key strategic areas, including:

- Accelerating return of displaced persons and refugees with a particular emphasis on enabling citizens to exercise their property rights.

ELECTION OUTCOMES

The recent local government elections have seen, once again, the victory of nationalist parties in both Serb-majority and Croat-majority areas, albeit with a reduced number of votes for nationalist parties in Croat-majority areas, as a result of low turnout. In Bosniak-majority areas, voting patterns showed a marked swing away from the (Bosniak) Party for Democratic Action, especially in many urban areas.

That elections have served to consolidate, rather than to reverse, the effects of ethnic cleansing is most easily demonstrated in the case of Republika Srpska. The number of Bosniaks in the electorate in the latest municipal elections was 50 percent less than in the previous elections. The result is that in not a single municipality in Republika Srpska does the majority party have any Bosniak participation, although prior to these elections this was the case in eleven municipalities in RS.

As a result of a sharp fall in the number of out-of-country votes (mainly Bosniak), the percentage of Bosniaks voting in RS has actually fallen since the first post-war elections. For example, in Zvornik, where before the war the population of was 60 percent Bosniak, in the first elections Bosniaks formed 40 percent of the electorate, while in these latest elections they formed only 23.5 percent. In Bratunac, where the pre-war population was 68 percent Bosniak, they formed 44 percent of the electorate in the first elections, while in the latest elections they were only 30 percent. The position is similar in all the municipalities of Republika Srpska and in many of those of the Federation.

In 1997 there were 268,374 out-of-country voters, while in 2000 only 115,125 out-of-country voters cast their vote. This means that more than 150,000 out-of-country voters are missing, most of them Bosniaks, although it is clear from the figures on returns of refugees and displaced persons that they have not returned to their pre-war homes.

It remains unclear why the OSCE insists upon general elections being held this November when the outcome is almost certain to repeat this pattern.

Institutional Development

In a post-war state where the population balance has been dramatically altered by ethnic cleansing and genocide, the merits of decentralization as a means of empowering local communities need to be carefully weighed against the risks of devolving power to the very forces that, thanks to a combination of divisive constitutional provisions and elections conducted prior to the establishment of conditions 'for the organization of free and fair elections' (Dayton Agreement, Annex 3, Art. I.1.), remain in power at lower governmental levels (Entity, Canton, municipality) in many parts of Bosnia and Herzegovina.

The central institutions established by the Dayton Agreement, and those that are necessary to fulfil the constitutional responsibilities of the state of Bosnia and Herzegovina, remain weak and dysfunctional.

As a result necessary reforms, including appropriate legislation to create essential central institutions, continue to be blocked. This is despite the fact that such reforms have repeatedly been called for by the international community (e.g., Peace Implementation Council Madrid Declaration, 1988; Peace Implementation Council Brussels Declaration, 2000). In addition, my party and I personally, during my tenure as Co-Chair of the Council of Ministers, have sought to introduce such legislation, but have been unable to see it through the Parliamentary process because of obstruction by nationalist parties—the Serbian Democratic Party (SDS) and the Croatian Democratic Union (HDZ).

A list of 138 priority state-level laws that it is essential to pass to establish at least the fundamental legal framework for the functioning of the institutions of the state of Bosnia and Herzegovina was drawn up by me and my associates three and a half years ago. The list was submitted both to the Parliamentary Assembly and to the Office of the High Representative. This resulted in the submission of thirty-five legislative projects in the form of proposed draft laws. Only a small number of those initiatives have been accepted, such as the laws on foreign trade, foreign investment, customs policy, travel documents, the state borders and the border services. Annex B gives a selection of the most important of these legislative proposals.

It is encouraging that the Peace Implementation Council agreed, at its latest meeting in Brussels in May 2000, that one of the three key strategic areas on which it will focus in the future is:

- Fostering functional and democratically accountable common institutions supported by an effective, merit-based civil service and a sound financial basis, based on the Rule of Law.

ECONOMIC REFORM AND THE ISSUE OF CORRUPTION

Economic reform is an undoubted priority, and has also proceeded far too slowly. However, economic reform in the absence of another priority, steps to reverse the results of ethnic cleansing, risks further perpetuating divisions in society. Having said this, it is true that the conditions for self-sustaining, market-driven economic growth have yet to be created, although they are essential if Bosnia is to make a successful transition from a donor-dependent economy. This involves not only formal economic reform, but also a change in the culture, after fifty years of communist rule followed by the war years which saw a complete

economic collapse. Bosnia's people are being asked to adapt to a market economy, which carries with it levels of personal economic insecurity unknown to them under communist rule, at a time when many of them are already living at or below the poverty level. Unemployment is still running at high levels, pensions are low and are paid late.

Privatization, an essential prerequisite of economic revival, is in practice being effected almost solely on an ethnic basis, since it is taking place at the entity and not at the state level, and in ethnically cleansed areas is being carried out in the absence of the expelled population. This is no accidental error, since certain representatives of the international community (in this case the Office of the High Representative had a different opinion) rejected state-level privatization, defending this stance with the argument that privatization had to be carried out rapidly. Contesting this view, my part, the Party for Bosnia and Herzegovina, pressed for a full eighteen months for the adoption of a law at the state level. Unfortunately the law, when finally adopted, was inadequate; privatization as currently being carried out continues to represent yet another form of ethnic cleansing, in the field of ownership, with wealth increasingly being concentrated in the hands of those who are politically (and therefore ethnically) acceptable to the ruling party in each area. Insistence on speeding up the process of privatization, therefore, merely further reinforces ethnic divisions, tending towards the disintegration of the state and the fragmentation of the economic space.

When pressing for the state-level Law on Privatization, I also insisted on the formation of a Privatization Monitoring Commission. The Commission's Secretariat has just (May 2000) issued its final report, in which it recognizes many of the problems I have just referred to. The original concept 'was to transfer ownership quickly from the state to claimsholders. However, what was ignored was the effect . . . of transferring state enterprises to people without the financial and technical wherewithal to development. . . In addition, fundamental property issues, such as clear ownership title and restitution, were overlooked. Finally, in an effort to appease local politicians in the wake of Dayton, privatization was splintered/atomized among Entities, cantons, banks, the special Brcko District'. The Secretariat's Final Report recognizes that 'in the case of BiH, political and economic goals were essentially incompatible'. It adds: 'At its inception in 1995, privatization had been perceived not as a means to create viable enterprises but as a way to satisfy citizens' claims. By emphasizing redemption of claims at the expense of a dynamic, competitive economy, the BiH privatization program unwittingly reinforced all the elements Dayton was supposed to remedy: "ethnic cleansing", corruption, stultified economic progress.'

The issue of corruption is a very real one. However, the fundamental problem is the lack of an adequate legislative framework and appropriate enforcement mechanisms: corruption thrives because there are no means of controlling it. I have persistently warned of the need for this in the context of legal reform.

Although reform of the customs system has begun, very large sums are still being lost to the economy through customs fraud.

The lack of economic reform contributes to the absence of jobs; and the absence of employment prospects contributes directly to the accelerating brain-drain of Bosnia's young and best-educated potential. This in turn will have a negative impact on the future economic growth of

the country, which lacks almost an entire generation of skilled personnel as a result of the interruption to studies during the war and the postwar brain-drain.

INTERNATIONAL PRESENCE

Without the international presence things would undoubtedly be worse than they are, in particular as regards the military presence, which has successfully maintained the peace. However, as noted by the International Crisis Group in its report of 30 May 2000, much more could have been done by IFOR/SFOR within its mandate to ensure the return of refugees and displaced persons, and to arrest indicted war criminals.

The civilian international presence has been far less successful than the military. While paying lip service to the integrative elements of the Dayton Accord, the international community has shown excessive tolerance towards the obstructive tactics of nationalist parties and individuals at all levels, consistently following the line of least resistance, and a disinclination to take advantage of powers conferred upon the High Representative to overcome such obstruction by the imposition of laws, dismissal of individual functionaries, etc. Some functionaries have been dismissed, but such dismissals have been too few and too late.

Initiatives by pro-Bosnian politicians and parties to introduce even a minimal legislative framework for the effective functioning of a normal modern state receive too little support, and indeed are at times met with criticism. Calls by the international community for Bosnian politicians to 'take responsibility' have rung hollow when those who attempt to do so have too often been marginalized in this way.

When state-level laws are imposed by the High Representative, it is only after long delays, ostensibly to allow the Bosnian authorities the chance to take responsibility, even when it is manifestly clear that nationalist obstruction will continue to prevent their adoption by the Parliament without the intervention of the High Representative. It was not until some years had passed from the time the initiatives were first launched that OHR imposed individual laws such as the Framework Law on Privatization and regulations to prohibit the abuse of state property in the entities, and some of these regulations were imposed too late for the damage already caused to be reversed. In this connection the Final Report of the Secretariat of the Privatization Monitoring Commission notes that 'although lack of political will on the part of BiH politicians at the state, Entity, cantonal and municipal levels, and their cronies in line ministries or enterprises, has contributed to the failure [of the privatization process], the International Community also bears responsibility, through sponsorship of a privatization program neither well thought through nor well executed'.

The election process, overseen by the OSCE, has been conducted from the very outset in such a way as to consolidate rather than reverse war gains, and in the absence of the conditions for 'free and fair elections, in particular a politically neutral environment', that the OSCE was required to certify as existing before effective elections could be held (Annex 3 Art. 1.1 and 2.).

The Peace Implementation Council has issued some excellent Declarations, but in practice has done very little to ensure their implementation, since obstruction does not lead to sanctions. The past four and a half years of civilian implementation have been characterized above all

by the line of least resistance. It is to be hoped that more resolve will be shown in implementing the commitments set out in the most recent Declaration (Brussels, 23/24 May 2000).

PERFORMANCE OF LOCAL POLITICIANS

As noted above, nationalist politicians continue to obstruct effective governance at all levels, and are too often able to appeal to the disintegrative elements of the Dayton Accord in justification. It could be said cynically that they are highly effective in achieving their aims, which are in fact contrary to the spirit and fundamental provisions of the Dayton Accord.

The Peace Implementation Council, in its Brussels Declaration, noted its deep concern 'over ingrained corruption in BiH which undermines democratic governance, wastes public resources and hinders the development of the market economy'. This will be hard to eliminate as long as nationalist parties remain in power, for nationalist obstruction both facilitates and feeds on corrupt practices.

Economic reform is impeded both by the local and international failings outlined above, and by the lack of interest on the part of nationalist politicians and parties in carrying out economic reform, which would be an obstacle to their retaining economic power through the privatization process etc.

THREATS TO THE RESTORATION OF BOSNIA'S MULTI-ETHNIC SOCIETY

It should be clear from the above that there remain many threats to the restoration of Bosnia's multi-ethnic society, even almost five years after the signing of the Dayton Agreement. No one wishes to take responsibility for this. The international community has powers that it does not fully use, and shelters behind the mantra that local politicians must take responsibility for their own affairs; nationalist politicians are permitted to continue their war projects by political means, justify themselves by a disintegrative interpretation of the Dayton Accord, and when forced to take unpalatable decisions, shelter behind the international presence; between these two, pro-Bosnian and pro multi-ethnic forces are marginalized.

It should be equally clear by now that the Dayton Agreement as it stands is not being implemented. Calls for amendments and additions to the Agreement to enable its fundamental principles finally to be implemented are met by the international community with the circular argument that amendments and additions will be acceptable only once the Agreement as it stands is implemented.

At the same time, there appears to be the beginnings of recognition in the international community that some kind of change—often described as an 'upgrade'—is essential if implementation is ever to be carried out effectively. Annex C, Memorandum on Change, is a paper that I circulated in late January 2000, giving greater detail on the need for changes to the Agreement.

Other measures can be taken that, if adopted promptly and resolutely, will contribute greatly to implementation of the central principles of the Dayton Agreement:

1. OHR must call upon the Parliamentary Assembly of Bosnia and Herzegovina as a matter of urgency to pass laws on the judiciary (the Court of Bosnia and Herzegovina, the Public Prosecutor and Public Legal Office, criminal law, laws on judicial proceedings, laws on the bodies of state administration of Bosnia and Herzegovina); laws on the direct application of international human rights conventions; a basic law on ownership relations; basic laws on restitution, labour and employment laws and other indispensable laws without which Bosnia and Herzegovina cannot function as a normal state. The majority of these legislative projects are commitments set out in the Peace Implementation Council's Madrid Declaration of December 1998, which have still to be met. If the Parliamentary Assembly continues to obstruct and refuse to pass these laws, the High Representative should use his authority to proclaim these laws prior to October of this year.
2. All further elections must be postponed until such time as major returns of Bosniaks and Croats to the cities have taken place and until extremist political parties are removed from the political life of the country. This is the only possible decision, given the effects of the most recent elections in RS, that—as noted above—have consolidated the position of extremist parties and threaten to bring about the final legalization of ethnic cleansing of the non-Serb population.
3. The current structure of the entity governments and of the Council of Ministers, in a constant state of deadlock because of party obstruction, must be altered to a non-party structure based on expertise and competence, capable with the help and supervision of the international community during a transitional period of achieving at least a minimal programme of legal and economic reforms so as to create the fundamental conditions for emerging from the crisis into which the country has been plunged.
4. Decisive measures, including the possible application of strict sanctions against the entity parliaments, must be taken to ensure that the entity constitutions are brought into conformity with the Constitution of Bosnia and Herzegovina. The Dayton Agreement required the entities to do so within three months. In the fifth year since the Agreement was signed, that commitment has not been fulfilled. The reason is that the international community adopted the entities at the outset as partners, and emphasized the need to strengthen the entities before creating a strong central state—this fundamental error must be reversed.

The Constitutional Court of Bosnia and Herzegovina has just recently issued a decision establishing that twelve major articles in the entity constitutions are contrary to the Constitution of Bosnia and Herzegovina. After this decision was issued there was an attempt to obstruct the work of the Constitutional Court with the aim of preventing the issuing of a decision on the constituent status of Bosniaks, Serbs and Croats on the entire territory of Bosnia and Herzegovina, which would abolish the state of apartheid in Bosnia and Herzegovina.

CONCLUSION

The Dayton Agreement's less obvious inherent flaw is that in defining the status of Bosnia relative to neighbouring states, these states quickly became an anachronism. The Agreement was crafted taking undue account of the power and influence of Serbia and Croatia and their expansionist policies. Today, Croatia has decisively rejected these expansionist policies while Serbian leaders are resolutely contained through international criminal indictments and sanctions. Nevertheless, the former proxies of these regimes continue to be empowered by the old thinking of five or ten years ago. All the while, Bosnia continues to suffer from the irony that one of the Agreement's signatories, Milosevic, is now an indicted war criminal but the implementation of the Agreement continues to fulfil his programme. This must be reversed.

The citizens of Bosnia and Herzegovina want for their country what every other European and every US citizen wants—democratic institutions, the rule of law, respect for human rights, a market economy, and a multi-ethnic society. Every part of the Dayton Agreement that promotes these goals must be fully implemented, and every part that does not must be revised. If this is done, Bosnia can take its rightful place among the democracies of Europe, and tens of thousands of US and European troops and thousands of UN, OSCE and other officials can go home.

We do not doubt that you will contribute to that end in the months and years to come, as you have so generously in the past.

Thank you, Mr Chairman.

Attached:

Annex A: Minority Returns from the Dayton signing to 1 May 2000

Annex B: List of laws submitted for adoption by the State Parliament

Annex C: Memorandum on Change

Annex D: Letter to Ambassador Benita Ferrero Waldner, chairperson in office, OSCE

**ANNEX A—MINORITY RETURNS FROM THE SIGNING OF THE
DAYTON AGREEMENT TO 1 MAY 2000.**

1996-7				
Year	National Status	Federation of B-H	Republika Srpska	Overall
	Bosniaks	11,200	966	12,166
	Croats	24,647	159	24,806
	Serbs	8,551	8,551	
	TOTAL	44,398	1,125	45,523
1998				
	Bosniaks	9,177	8,044	17,221
	Croats	13,062	542	13,604
	Serbs	10,366	10,366	
	TOTAL	32,605	8,586	41,191
1999				
	Bosniaks	5,631	11,668	17,299
	Croats	8,337	1,352	9,689
	Serbs	14,019	14,019	
	TOTAL	27,987	13,020	41,007
2000				
	Bosniaks	691	1,973	2,664
	Croats	1,644	368	2,012
	Serbs	2,560	2,560	
	TOTAL	4,895	2,341	7,236
	Total Bosniaks	26,699	22,651	49,350
	Total Croats	47,690	2,421	50,111
	Total Serbs	35,496	0	35,496
OVERALL TOTAL		109,885	25,072	134,957

ANNEX B

The following is the list of essential laws repeatedly submitted by Dr Silajdzic to the Council of Ministers, and as consistently blocked. The list was first submitted in February 1997; it was extended and re-submitted on a number of occasions, in the following form in July 1999. Without this legislative framework, the central institutions necessary to fulfil the responsibilities set out in the Constitution (Annex 4 Dayton Accord) cannot function; without these central institutions, the state cannot function, and the greater strength of the two Entities of Bosnia and Herzegovina as compared with the state itself will continue to act as a disintegrative force.

**LIST OF LAWS TO BE ADOPTED
BY THE COUNCIL OF MINISTERS**

1. Law on the Protection of Human Rights set forth in International Conventions forming an integral part of the Constitution of Bosnia and Herzegovina;
2. Criminal Law of Bosnia and Herzegovina;
3. Law on the Court of Bosnia and Herzegovina;
4. Law on the Public Prosecution of Bosnia and Herzegovina;
5. Law on the Public Legal Office of Bosnia and Herzegovina;
6. Law on the Administration of Bosnia and Herzegovina;
7. Law on Administrative Litigation of Bosnia and Herzegovina;
8. Law on Formation and Registration of Institutions, Organizations and Associations of Bosnia and Herzegovina;
9. Law on Property of Bosnia and Herzegovina;
10. Law on the Basis of Real Estate Transactions in Bosnia and Herzegovina;
11. Law on the Validity of Public Documents in Bosnia and Herzegovina;
12. Law on Inter-State and Inter-Entity Road Transport;
13. Law on Contracts of Transportation in Road Transport;
14. Law on the Basis of Road Traffic Safety;
15. Law on State Roads of Bosnia and Herzegovina;
16. Law on Inter-State and Inter-Entity Rail Transport;
17. Law on Contracts of Transportation in Rail Transport;
18. Law on the Basis of Rail Transport Security;
19. Law on Internal and Maritime Waterways;
20. Law on the Chamber of Commerce of Bosnia and Herzegovina;
21. Law on Audits;
22. Law on Inter-State and Inter-Entity Communications;
23. Law on Financing of Rail Infrastructure.

MADRID DECLARATION

On the basis of a review of the obligations of Bosnia and Herzegovina deriving from the conclusions of the Madrid Conference, the following laws must be adopted:

CHAPTER 2 PARA. 3 (MADRID DECLARATION)

1. Criminal Law of B-H
2. Law on Criminal Procedures of B-H
3. Law on Executive Procedures of B-H
4. Law on the Court of B-H
5. Law on the Public Prosecution of B-H
6. Law on the Public Legal Office of B-H
7. Law on the Administration of B-H
8. Law on Administrative Litigation of B-H
9. Law on the Protection of Human Rights set forth in International Conventions forming an integral part of the Constitution of B-H

CHAPTER 2 PARA. 10 (MADRID DECLARATION)

10. Law on Associations and Foundations

CHAPTER 3 PARA. 3 (MADRID DECLARATION)

11. Law on the Civil Service

CHAPTER 4 PARA. 12 (MADRID DECLARATION)

12. Law on Commercial Enterprises
13. Employment Law

CHAPTER 4 PARA. 13 (MADRID DECLARATION)

14. Law on the Formation and Development of the Deposit Guarantee Agency

CHAPTER 4 PARA. 21 (MADRID DECLARATION)

15. Law on Civil Aviation
16. Law on Transport
17. Law on Electricity Generation
18. Law on Postal Services

CHAPTER 6 PARA. 3 (MADRID DECLARATION)

19. Permanent Elections Law

Since this list of laws required to fulfil the obligations set out in the Madrid Declaration was submitted, the Peace Implementation Council has met once again, in Brussels on 23/24 May 2000. The Brussels Declaration notes that 'the Council expresses its dissatisfaction with the slow pace of domestic peace implementation since its Madrid meeting in 1998. The responsibility for this insufficient progress lies squarely with obstructionist political parties and their allies, both within and outside of BiH. . . The Council urges the High Representative to use his authority in accordance with his mandate to ensure full and accelerated implementation in all sectors of civilian implementation.'

ANNEX C

THE DAYTON PEACE ACCORD—A TREATY THAT IS NOT BEING IMPLEMENTED

Memorandum on Change

Bosnia and Herzegovina as it is now is too strong to die,
but too weak to function as a self-supporting state

THE CURRENT SITUATION

Four years after the signing of the General Framework Agreement for peace in Bosnia and Herzegovina, certain positive results can be seen, above all the fact that it ended the war, and in the stabilization of the peace, in the investment of significant funds dedicated to making good war damage, in freedom of movement and in the implementation of the annexes relating to military aspects.

Positive results have been achieved, primarily, through the active involvement and powerful presence of the international community in Bosnia and Herzegovina, especially of leading western countries and of the European Union.

Any objective assessment, however, must also acknowledge that many treaty obligations deriving quite specifically from the Dayton Accord have not been fulfilled. This is especially true of the unsatisfactory levels of return of refugees and displaced persons. It is clear that there is strong resistance to meeting the commitments relating to returns, the purpose of which is to maintain, contrary to the Dayton Accord, ethnically clean regions. Instead of return, one of the pillars of the Dayton Accord, depopulation is continuing, since more and more refugees are seeking and obtaining asylum and citizenship in European countries or permanently emigrating to overseas countries. Without far greater returns of those who were forced from their homes, the relevance and purpose of the Dayton project as a whole is called into question. Those who obstruct returns reckon that time is on their side, and that with the passage of time crimes will be forgotten and the situation brought about by force will be accepted as the reality.

Another commitment not being fulfilled is the undertaking to protect the human rights standards enshrined in international conventions. Contrary to the Dayton Accord, human rights are being violated throughout Bosnia and Herzegovina, most commonly in the form of discrimination on national, religious or political grounds. The aim of this policy is to confirm the thesis that a multi-ethnic Bosnia and Herzegovina is no longer possible.

The institutions of Bosnia and Herzegovina, established according to the provisions of the Dayton Accord, have been in practice, and continue to be, blocked. Tens of legislative projects, already prepared and urgently needed to normalize the situation and set in motion positive changes, have for some years been prevented from going through the parliamentary procedure, and when they come before the Presidency, the Council of Ministers or the Parliamentary Assembly, their adoption is blocked on the pretext of protecting vital national interests. In fact,

the blocking of the institutions is in the interests of those political options that wish to prove that Bosnia and Herzegovina is an impossibility and that the only solution is partition and the absorption of territory into neighbouring states. For this reason the work of the state institutions of Bosnia and Herzegovina looks more like international conferences than the work of the organs of state.

Under pressure from the international community, the majority of political parties and leaders pay lip service to the Dayton Accord, but in practice are revising it, violating its provisions, and impeding its implementation.

The consequences of such conduct are also evident in the tendency to the further economic disintegration of Bosnia and Herzegovina. Privatization, as an essential prerequisite of economic revival, is in practice being effected almost solely on an ethnic basis, and represents yet another form of ethnic cleansing, in the field of ownership.

Disintegrative processes are also occurring in many other fields, and the ethnic concept of education threatens to perpetuate long-term national and religion hatreds in future generations.

The entire situation is also burdened by the fact that there are in effect three independent armies, existing for the sake of maintaining the internal equilibrium achieved by war, rather than for the defence of Bosnia and Herzegovina.

Important decisions of the Peace Implementation Council, particularly those from Sintra and Madrid, are being implemented exceedingly slowly or not at all, except to the extent that the High Representative implements them by imposition.

All this leads to the question: what is the Dayton Accord in international law, or in other words what is the place of international law in the Dayton Accord? Every treaty and constitution is subject to change, to amendment: history offers many examples from the Charter of the United Nations to the Constitution of the United States of America.

The chances of the survival of Bosnia and Herzegovina are constrained by its Dayton architecture: the disequilibrium between its integrity, from the perspective of international law, and its partition, from the perspective of internal law.

Bosnia and Herzegovina as it is now is too strong to die, but too weak to function as a self-supporting state

FACTS THAT CALL FOR A CHANGE TO THE DAYTON PEACE ACCORD

1. The primary objective of the Dayton Accord was to halt the hostilities in former Yugoslavia and in Bosnia and Herzegovina. Almost all other provisions of the Dayton Accord were subordinate to that aim. The Accord was drawn up and signed in an environment in which the greater-state politics of neighbouring states were still strongly present, and the key protagonists of those policies were signatories to the Accord. Because of compromises with the greater-state politics of neighbouring states, certain provisions that were incorporated into the Accord can now be seen to be so flawed as to call into question the entire project.

Four years after the signing of the Dayton Accord, the situation in the region has fundamentally altered. Greater-state politics in Croatia are discredited. The advocates of new political options in Croatia abjure such politics and stand for a fundamentally new attitude towards Bosnia and Herzegovina.

In Yugoslavia, or rather in Serbia, greater-state politics is in crisis. The concessions made to such politics in the Dayton Accord are seen to have been a mistake. The international community was finally compelled to repress by military means the destructive action of such politics, generating war crimes and genocide on a massive scale, and their chief protagonist has been accused of war crimes by the International Tribunal in The Hague.

It is an absurdity that elements of the greater-state projects of neighbouring states remain built in to the Dayton Accord, although those policies and their key actors have experienced their debacle and are effectively eliminated from the political stage.

It is illogical not to reconsider the special relations of Bosnia and Herzegovina with neighbouring states, when the majority of western countries, as a result of the imposition of sanctions, have suspended all relations with Yugoslavia and when the new government in Croatia has announced fundamental, positive changes in its policies towards Bosnia and Herzegovina. The Dayton framework even makes it possible, however, to establish special relations with internationally isolated neighbouring countries of Bosnia and Herzegovina.

The Stability Pact for South-Eastern Europe is another fundamentally new element. This is in large part the result, finally, of understanding that the causes of the war were not in Bosnia and Herzegovina itself, but in the greater-state projects of certain countries in the region, and that the only way to resolve the crisis is on a regional basis. That aspect was insufficiently present in Dayton. The dynamic and quality of change in neighbouring countries, and in the region as a whole, logically point to the need for some reconstruction of the Dayton Accord, with the aim of preserving and strengthening all its relevant positive elements.

2. The Dayton Accord was created with the decisive participation of the international community, and in particular of leading western countries and of the European Union, and there is no doubt that they deserve credit for all the positive results of the Accord. However, the passage of time has shown that there are also certain flaws in the structure of the Dayton project. Although it is incontestable that the ruling political parties and their leaders in Bosnia and Herzegovina are responsible for many of the violations of the provisions of and obstruction to the implementation of the Peace Accord, it is for all that not appropriate to reduce the entire problem to the personal aspect. Elections have twice been held, and new people have been elected or appointed to many positions, but this has not essentially altered the balance achieved by war. It is thus worth stating that the constellation set in place by the Dayton Accord (in particular by Annex 4) is flawed and that this constellation will remain until certain individual provisions of the Accord are amended.

Stubbornly to insist on these provisions, as favoured by extreme nationalist political options, is to insist on pointless personal changes. Individual provisions of the Dayton Accord themselves reproduce the relations and the situation achieved by force prior to the Peace Accord, and restrict the possibilities of change.

This creates a vicious circle, since the entry of new political forces on the stage, that will lead to positive changes in these relations, is expected to happen through the electoral process, but the constitutional provisions in fact favour the long-term presence of those very political factors that wish to maintain the status quo and oppose positive change.

3. The return of refugees is the most important measure of implementation of the Dayton Accord and the most important criterion for evaluating the worth of the provisions contained in the Accord. The results of returns so far are not satisfactory. Returns are not taking place equitably, but—in part at least -only in one direction, and returns to the towns and cities are especially poor. The passage of time does not favour return. On the contrary, it discourages returnees, who find themselves obliged to make a life in new surroundings. For example, there are now some 100,000 refugees from Bosnia and Herzegovina seeking citizenship in Austria alone. At the same time, only forty-eight refugees or displaced persons have so far applied to participate in privatization in Republika Srpska. There are cynical attempts to represent the compulsion to make a life in new surroundings as a matter of freedom of choice. This is to draw a veil over the fact that these people were criminally forced to leave their homes and that they are prevented from returning.

If the return of refugees does not reach satisfactory levels, the crimes by which they were forced to leave will be rewarded by the perpetuation of ethnically clean regions, and the multi-ethnic concept of Bosnia and Herzegovina, reaffirmed by the Dayton Accord, will suffer defeat.

To enable refugees to return to their homes, to protect fundamental human rights, to ensure that crime is not rewarded and that the greater-state idea of neighbouring countries has no opportunity to rear its head again, it is essential urgently and radically to reconstruct those elements of the Dayton Accord that are seen to be non-integrative, ineffective, and even partly counter-productive to the return of refugees.

4. Individual provisions of the Dayton Constitution have been shown to be discriminatory and contrary to international standards of human rights and generally accepted democratic principles. These provisions restrict the process of democratization in Bosnia and Herzegovina, as is clearly evident in the draft Permanent Election Law. It is precisely these inadequate constitutional provisions that provide an excuse for the promoters of the Election Law, although the draft Law quite obviously includes provisions that lead to the further disintegration of Bosnia and Herzegovina and favour exclusive nationalist options.

It is very telling that the SDS—as the party that from the very start of the crisis in former Yugoslavia, through the Dayton Accord, to the international intervention against Milo{evi}, has rejected all proposals of the international community—now almost unreservedly accepts the proposed Permanent Election Law. It is certain that the SDS has not changed its policies, but has in fact seen in the proposed Law the opportunity to revitalize its position and its policies.

The international community, and in particular the leading countries, as creators and guarantors of the Dayton Accord, must not provide an alibi and legitimacy to such processes. It is for this reason that it is essential to carry out certain corrections to the Dayton Accord, in particular to Annex 4.

Since we are in a situation where the international community must impose certain measures, then it is reasonable that what should be imposed is European standards, and not a retrograde concept. This would open up the possibility of a dynamic Europeanization of Bosnia and Herzegovina, which is the final positive objective. Such an approach would mean a paradigm shift in a positive direction, on the part of western leaders, towards Bosnia and Herzegovina.

5. Taking everything into consideration, the go-slow, step-by-step policy of implementation of the Dayton Accord has reached the end of its potential. If the Dayton project is not to be transformed into its own opposite, it is essential to speed up its implementation significantly, and by reconstructing individual elements to make it relevant in essence to the current situation.

This is the way to preserve the long-term values proclaimed by the Dayton Accord—building democratic institutions, establishing the rule of law, respecting human rights, the market economy, the multi-ethnic character of Bosnian-Herzegovinian society, the full protection of the national identity and equality of her peoples, the preservation of the territorial integrity, sovereignty, political independence, and international continuity of Bosnia and Herzegovina, as well as a high degree of internal decentralization.

These values and principles of the Dayton Accord should not be called into question, as they will be by the stubborn insistence on the unchangeability of specific inadequate and flawed provisions that are in fact contrary to the positive essence of the Dayton Accord.

PROPOSALS

- I. The General Framework Agreement for Peace in Bosnia and Herzegovina is a binding treaty, so that the question of its correction and reconstruction does not diminish the commitment to apply its provisions until changes have been effected in such a way as to give them their legal and political validity.

Merely initiating a process of critical review and of upgrading individual provisions is not contrary to any single provision of the Dayton Accord. It is without foundation, and illogical, to reject and to condemn transparent and principled initiatives for the review and reconstruction.

tion of the Dayton Accord, while at the same time tolerating those who verbally support but in practice violate and obstruct the Dayton Accord.

The proposal of the Peace Implementation Council and observer countries, guarantors of the Accord, critically to evaluate individual elements of the Accord that have been shown to be inadequate and to seek and propose better and more acceptable provisions that do not call into question the fundamental principles and positive values of the Dayton Accord, is legitimate and politically justified.

II. Efforts must be directed towards solutions that will correct, upgrade or amend individual provisions of Annexes 4 and 7 with the aim of:

- bringing about rapid, mass returns of refugees and displaced persons;
- building democratic institutions on the principle of establishing the rule of law and respecting human rights;
- achieving equal status and rights for all three constituent nations throughout Bosnia and Herzegovina;
- enabling the establishment and effective operation of all those institutions of Bosnia and Herzegovina that are essential for the protection of the integrity and sovereignty of the country and its regional and European integration;
- removing national discrimination from the electoral system and eliminating elements that favour extreme and nationally exclusivist political options;
- underpinning the economic reintegration of the country and establishing a single market in Bosnia and Herzegovina, and accelerating the privatization process without discrimination on national or any other grounds;
- initiating a process of further decentralization on the cantonal model throughout Bosnia and Herzegovina;
- finding a way to integrate all military units throughout Bosnia and Herzegovina;
- ensuring relations of equality with neighbouring countries, according to generally accepted principles of international law and in accordance with the new concept of regional stability.

III. The concept of reviewing and upgrading individual provisions must be directed towards establishing the conditions for effective moves that will rapidly produce positive results in the implementation of the Dayton Accord, creating a stable situation in Bosnia and Herzegovina and enabling the military mission of the international community in Bosnia and Herzegovina to end within a reasonably short period. At the same time, a dynamic must be defined that will lead to the successful conclusion of the commitments of the international community in regard to the civilian implementation of the Dayton Accord. The final outcome, then, must be the qualitative internal transformation of Bosnia and Herzegovina and her integration into Europe.

ANNEX D

H E Dr Benita Ferrero-Waldner
Federal Minister for Foreign Affairs of
The Republic of Austria
Chairperson-in-office of the OSCE
Minoritenplatz 9
1010 Wien, Austria

17 May 2000

Excellency

It is a fact that the Dayton Accord brought an end to the hostilities against Bosnia and Herzegovina. It is a fact, too, that the international community has invested considerable efforts into achieving the stabilization and reconstruction of Bosnia and Herzegovina during the past five years. Bearing in mind that a multi-ethnic and democratic Bosnia and Herzegovina integrated into the structures of Europe is the objective both of the international community and of all patriotic forces in the country, allow me to state the following:

I. One element of the Dayton Accord on which the international community stubbornly insists (though indulgent and indecisive as regards every other aspect of the Accord) is on constantly holding elections at all levels. However, even as regards elections, the international community insists only on the formal elements—that is, on scheduling and holding elections—but does not insist on the essential aspects which are an integral part of the Dayton Accord, such as for example the creation of a democratic environment, the elimination of extremist political parties and leaders, basic protection of human rights, and in particular the return of refugees and displaced persons -although without these essential aspects, the formal holding of elections does not result in fundamental changes.

II. Although this is the fifth year since the Dayton Accord was signed, the process of disintegration of Bosnia and Herzegovina not only has not been halted, but one can speak of a reinforcement of disintegrative tendencies. This is demonstrated in particular by the following:

- a. The three ethnically pure areas that arose as a result of aggression and the expulsion of the population are still being maintained, since the key aspect of the Dayton Accord—the return of the population—is not being implemented.
- b. The longer the ethnically cleansed areas created by war are maintained, the greater the likelihood that this will become the definitive situation and that the time will come when it will be legalized as the “new reality”.
- c. With an ethnically pure ‘Serb area’ that relies both territorially and politically on Serbia, and an ethnically pure ‘Croat area’ that relies territorially and politically on Croatia, there is no prospect of the reintegration of Bosnia and Herzegovina, and this raises the question not only of the possibility, but also of the reasons for the existence of such a Bosnia and Herzegovina.

III. Certain positive results from the elections are not to be ignored, but it is also very important realistically to assess the negative effects of the insistence up to now of the international community on holding elections on the basis of a very problematic concept:

- a. The project of ethnically pure territories is gradually being legalized by means of elections. This can be demonstrated by precise data:
 1. In Republika Srpska, the number of Bosniaks in the electorate was 50 percent less in the most recent municipal elections than it was in the previous elections.
 2. There is now not a single municipality in Republika Srpska where any party of which Bosniaks form a part is in a majority, although prior to the latest elections such parties held a majority in eleven municipalities in RS.
 3. In 1997 there were 268,374 out-of-country voters, and in 2000 only 115,125 of them took part in the elections. Thus more than 150,000 out-of-country voters, most of them Bosniaks, have disappeared, although it is clear that they have not returned to their homes.
 4. Before the war the population of Zvornik was 60 percent Bosniak. In the first elections Bosniaks formed 40 percent of the electorate, while in these latest elections they formed only 23.5 percent. In Bratunac the pre-war population was 68 percent Bosniak. In the first elections they formed 44 percent of the electorate, while in the latest elections they were only 30 percent. The position is similar in all the municipalities of Republika Srpska and in many of those of the Federation.
 5. OSCE's internal evaluations are that the Serb parties will form coalitions with each other in all the municipalities in RS and thereby wholly exclude Bosniaks from participation in local government.
 6. An extreme example of the legalization of ethnic cleansing is Srebrenica, in which just four years after genocide it is now possible to form a 'legal Serb government' on the basis of the election results.
- b. The elections have not helped to make the work of the institutions of Bosnia and Herzegovina and of the entities more effective. Despite the fact that elections are constantly being held, the institutions are in a permanent state of deadlock. For example, the Council of Ministers has not even existed for several months, and the Parliamentary Assembly of Bosnia and Herzegovina rejects every legislative project. The entity governments, too, are in crisis, and so, clearly, are the lower levels of government. This situation favours disintegration.
- c. The elections have not led to fundamental changes in the balance of political power. On the contrary, in the 'Serb area', the position of the SDS was strengthened by the elections, and in the 'Croat area' the HDZ won a convincing victory. Thus two parties, exponents of the disintegration of Bosnia and Herzegovina, have strengthened their position. Changes in the 'Bosniak area' may be assessed as positive, but inadequate to prevent disintegration. Some analyses even lead to the conclusion that the current changes in the 'Bosniak area' could accelerate disintegration.

IV. If elections continue to be held on the basis of the same concept, these negative effects will be multiplied.

Some essential conditions must be established for new elections:

- a. to return the electorate to the 1991 position and abolish the negative results of the P-2 form and later provisions of the Election rules.
- b. to make it the standard that legislative bodies at all levels must maintain the same population ratios as in 1991.
- c. to make the implementation of the municipal elections just held conditional upon a significant return of refugees and displaced persons to each municipality.
- d. to issue a formal decision to eliminate extremist political parties from the election process, as well as a broad circle of extremist politicians.
- e. to postpone elections until the adoption of a decision of the Constitutional Court on the constituent status of the peoples of Bosnia and Herzegovina, since such a decision could have a profound impact on the concept of the entire political system in Bosnia and Herzegovina, as on the election concept. To press ahead with elections prior to the Constitutional Court's decision is a form of pressure on the Constitutional Court and prejudices its decision.
- f. bearing in mind the insignificant effect of returns in Republika Srpska, to call into question the holding of elections of any kind in Republika Srpska until a certain percentage of returns has taken place, in particular to the towns.
- g. to make the holding of elections conditional on the prior passing of a number of essential laws by the Parliamentary Assembly of Bosnia and Herzegovina (on the judicial system, property laws, laws on human rights) and on the implementation of laws already passed (laws on the borders, etc.).

Excellency, Bosnia and Herzegovina is at a crossroads. Which path it will take depends not only on its citizens but also on the steps taken by the international community. We hope that the international community will act urgently and resolutely on the basis of the Dayton Accord commitments and principles, on which the international order rests. Maintaining the situation brought about by mass liquidations of the civilian population, mass expulsions and concentration camps is contrary to both.

Yours truly,

Haris Silajdzic
President, Party for Bosnia and Herzegovina
Member of Parliament

Sarajevo, 25.01.2000.

PREPARED SUBMISSION OF SELIM BESLAGIC

Through the ages Bosnia and Herzegovina has been a multiethnic society. People lived together, not one group against others. Bosnia has never been composed of two or three uni-national parts. The religious monuments of the four great confessions stood side by side, and for centuries this did not bother anyone.

There has never been a war in BiH [Bosnia-Herzegovina] caused by internal factors. The First and Second World Wars came from the outside.

The experience of World War II shows that BiH, in comparison to the rest of the former Yugoslav republics, was the strongest bulwark of antifascist and anti-nationalist sentiment. Of the seven offensives that Hitler launched in Yugoslavia, six took place in BiH. And in all six the united forces of the Bosnian and Herzegovinian peoples triumphed.

Bosnia and Herzegovina contributed least to the fall of Yugoslavia.

And the most recent war was imported from outside BiH. It was all thought up in the circles surrounding Milosevic and Tudjman. The believers in two opposing great power concepts found common cause at the expense of BiH. From the beginning they wanted to divide BiH into a Serbian Republic and Herzeg-Bosna. For the Bosniaks, they proposed leaving the land immediately around Sarajevo, Zenica, and Tuzla, as well as the isolated enclave around Bihac.

As they always have, the peoples of BiH could live together even today. It is a little-known fact that during World War II the Bosnian and Herzegovinian peoples suffered a far worse blood-letting than has occurred in this war. There were massive expulsions along ethnic lines and a drastic violations of human rights. And what happened? By means of historic circumstances, in the former Yugoslavia national chauvinism was declared to be the equivalent of illegality, and a violation of human rights and freedom. Anti-nationalism was placed on the pedestal of patriotism. In that political configuration, there was a strong reaffirmation of the value of unified life and for the enthronement of compromise as the best path for both the individual and the collective.

The Dayton Accords were a wonderful means to stop the war. In the intervening years much has happened. But as much as the Dayton Accords were effective against the war, they have been problematic for the further development and reintegration of BiH. Why?

The Dayton accords, as is well known, respected the results of ethnic cleansing. As ambassador Viktor Jakovic once said, Serbia conducted an invasion of BiH. To understand this point fully, it is sufficient to take a look at the national composition of the cities that are now part of the Republika Srpska. Karadzic's SDS won the most recent local elections because in their campaign they insisted that they had achieved the goals they had outlined in 1991. In many respects this is precisely the case. The Dayton Accords insisted on a strange and almost unbelievable combination of one Federation and one Republic, which is officially called the country of Bosnia and Herzegovina. Those two entities have two completely different legal systems. But the fact that Bosniaks and Croats form a minority in the Republika Srpska and that Serbs form a minority in the Federation proves that no single nation is fully represented in its territory.

This legal situation is to the liking of the nationalists who have still not given up on the idea of dismembering BiH. BiH should be a treasure house of differences, but today's situation has turned it into a house of horrors.

In the meantime, however, Tudjman's forces have suffered a definitive defeat. Croatia is no longer a factor for disintegration, but has become a strong factor for the reintegration of BiH. Milosevic, the one-time signer of the Dayton Accords, has now definitively been declared outside the law, and Serbia is in the midst of a terrible crisis. The only hope for the nationalists is for obstruction backed up by the Dayton Accords.

It is extremely important that the Croatians have turned their backs on the HDZ. This invitation has been taken up by the Bosniaks in BiH. In those areas with a Bosniak majority, the SDA has been defeated. Thus, Bosniaks are also turning their back on the ethno-national option. One can expect to see a similar development among the Serbs and Croatians of BiH. The Social Democratic Party, as the strongest opposition party in BiH as a whole now controls some twenty communities. They need economic help to speed the return of refugees and to build new administrations; this would show that democratic change brings concrete rewards. One third of the votes for the Social Democratic party came from non-Bosniaks in the last elections. This indicates that Serbs and Croats have begun to turn away from the nationalist option. In 1996 the SDP garnered 3 percent of the vote, in 1998, 11 percent and in 2000, 20 percent. The November elections will be a great opportunity for the SDP and for civil society.

The defeat of the HDZ in local elections opens the door for a similar defeat of nationalism in the Republika Srpska. Everything would be much easier if a single legal system governed Bosnia and Herzegovina, along with a respect for decentralization. This would lead to the abolition of the two entities and to the cantonization of the entire territory of BiH on the lines of what has already occurred inside the Federation.

Eventual changes in the legal system of BiH should be carried out with an eye toward integration, harmonization and the creation of a system in tune with a European orientation. It is impossible for a constitutional system based on ethno-nationalist principles to coexist with European and regional integration.

The return of refugees is going too slowly. Relatively recently the return of property has been speeded up, however the majority of people sell this property and do not return to their homes. The reason for this is again the Dayton Accords, which do not guarantee the same rights to all citizens. In addition, many war criminals are still at large. People are afraid to return.

The role of international forces is crucial. People are thankful for the end of the war. It is well known that the presence of 20,000 SFOR soldiers is the only guarantee of peace. As long as they are in place there is no fear that remaining structures could plan for new conflicts. With the help of NATO we should be integrating the national armies in BiH into a multiethnic army of BiH as a guarantor of continued security.

The belief in the High Commissioner grows with the promulgation of every measure that guarantees equality. It is a fact that the country could not function without a higher authority to cut the various Gordian knots. This is the strongest proof that we must revise Dayton. Bosnia

and Herzegovina needs strong central organs — that is, a single legislature, a single executive branch, and a single judiciary. Until they exist, the role of the High Commissioner is necessary.

The single greatest danger for the recreation of multiethnic society is the continued existence of ethno-nationalist political parties. The international community should impose the requirement that local election slates contain a reasonable proportion of people from the various ethnic groups perhaps as they were represented in the population in 1991. Some changes in the Dayton Accords and in the election laws would very quickly neutralize the main dangers facing BiH.

Up to this point the Brussels Declaration has been the basis for the stabilization of the situation in BiH. The World Bank and the IMF should provide transparent help with credits to strengthen the state.

Two key things will lead to a better future for BiH. They are changes in the constitutional system of BiH to bring it in line with European standards, and election victories of multiethnic and pro-European political forces.

PREPARED SUBMISSION OF MILAN TRBOJEVIC

Mr. Chairman, Mr. Co-Chairman,
Ladies and Gentlemen,

I want to express my gratitude for your kind invitation, which gives me an opportunity to present to you the situation, problems, efforts and goals which the Government of the Republic of Srpska faces and foresees in regards to its rights and obligations embodied in the General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement—GFAP).

This will certainly be a quick overview due to our respect for your time, and due to a general inability to document innumerable facts, which should be considered during one short hearing.

I address you as a representative of the Government of the Republic of Srpska, which is one of the two entities of Bosnia-Herzegovina. The Prime Minister, Mr. Milorad Dodik, authorized me to address this esteemed gathering.

I am personally aware of the fact that Mr. Dodik, as a politician, had been dedicated to peace throughout the years of hostilities, which took place in the territory of the Former Yugoslavia. Following the signing of the General Framework Agreement for Peace in Bosnia and Herzegovina, Mr. Dodik did everything within his ability and through his personal engagement to influence the political mosaic in Bosnia-Herzegovina, and to steer the situation towards a lasting peace.

The Dayton Peace Agreement was, and has remained, the foundation for Mr. Milorad Dodik's political activity. The Government that he leads, all of us who are his aids, and all democratic forces in the Republic of Srpska have the Dayton Peace Agreement as a fundamental starting point.

The citizens of the Republic of Srpska, its Government, Prime Minister Dodik personally, and I myself express gratitude to the people of the United States and to its Government for the decisive aid in ceasing wartime hostilities and organizing the peace conference which was finalized by the signing of the General Framework Agreement for Peace in Bosnia-Herzegovina. I am convinced that the citizens of the Federation of Bosnia-Herzegovina and the District of Brcko share the same feeling of gratitude.

We are fully aware that it was the Dayton Peace Agreement which put a stop, first of all, to the hostilities of war, deaths of forcibly drafted youth, civilian suffering, and further destruction of the means of production and private property.

We hoped that the Dayton Peace Agreement also signaled the end of the policies based on nationalistic supremacy and intolerance, which produce results only if imposed by force. Yet, lately there is plentiful evidence which signals that such policies are resurrecting, as well as are the politicians who represented them.

The Dayton Peace Agreement provided for the establishment of government institutions and bodies of the country of Bosnia-Herzegovina, as well as in both entities, the Republic of Srpska and the Federation of Bosnia-Herzegovina. We are convinced that through development and perfecting of both the entity-level and country-level institutions and bodies, and through their activities within their jurisdiction, freedom and civil rights of all citizens will be developed and perfected, and the overall relationships between the entities, and between the entities and

the country-level government of Bosnia-Herzegovina will be improved. All of this will provide a basis for the fulfillment of the conditions necessary for inclusion of Bosnia-Herzegovina into the international community as a full-fledged member.

Unfortunately, there are many problems in the realization of the peace agreement and in the development of democracy. First of all, in this respect we want to emphasize the debilitating influence of the nationalistic parties—SDS, SDA and HDZ. Their coalition and activities after the first multi-party elections in Bosnia-Herzegovina in 1990 undoubtedly had significance in the development of the political situation that finalized in war. Today these parties and their leaders are repeating the policies that in one case lead to unitarization and centralization of Bosnia-Herzegovina, and in the other to its separatism and division. Consequences of such policies, among other matters, have further increased mistrust among citizens (these politicians propagate that the peace process isn't finished yet; they threaten to revise the peace agreement, etc.). All of this, logically, produces a feeling of insecurity among the citizens and negatively influences the process of refugee return.

We understand the refugee return to be in its essence the most important aspect of the peace agreement. In spite of total and sincere dedication of the Government of the Republic of Srpska to do all in its ability in this respect, the return of the refugees is objectively very difficult. To illustrate this I must mention that for tens of thousands of refugee and displaced families it is still impossible to return to the Republic of Croatia or to the Federation of Bosnia-Herzegovina because their property has been either totally or partially destroyed, or is still in the administrative process of rightful return, which has been taking a very long time. Many of these people currently reside in the homes of the refugees or displaced persons originally from the Republic of Srpska, and who thus have no place to which to return. The Government of the Republic of Srpska has signed an agreement on mutual efforts to provide conditions for the simultaneous return of refugees. This agreement is being implemented successfully. The current Kosovo situation is adding additional difficulties to refugee return and poses a threat of escalating into yet another war. The political situation in the Federal Republic of Yugoslavia is also contributing negatively to refugee return. It is manifesting itself in very sharp political clashes with no visible possibilities for a democratic solution.

Another important factor that makes the return of refugees and displaced people difficult is Bosnia-Herzegovina's slow economic recovery. Also, the unfinished process of privatization that often forecasts abolishment of the few jobs which still exist in various enterprises.

I am very proud to announce at this point that the Parliament of the Republic of Srpska passed the new law on privatization of apartments previously owned by the state. Also, all necessary legislation has been passed for the privatization of property previously owned by the state, as well as the legislation on restitution of illegally confiscated property.

I wish to inform you also about the corrections to the Constitution of the Republic of Srpska, based on the Peace Treaty, which provided for elimination of all discriminatory clauses, and which placed the Constitution in accordance with the Constitution of the country of Bosnia-Herzegovina. During the last two years, the Government of the Republic of Srpska has, under the leadership of Prime Minister Dodik concluded many other important legislative tasks which secured protection from

discrimination based on sex, race, religion or ethnicity. Working in cooperation with the experts from the international community, all legislation of the Republic of Srpska has been harmonized with the equivalent legislation in the Federation of Bosnia-Herzegovina and the country of Bosnia-Herzegovina. This work has been accomplished on the whole system, as well as in the areas of foreign relations, customs regulations, border patrol, and most of the taxation policy.

We are aware that it will be difficult to harmonize all points in regard to the contribution by the entities to the armed services, which would have a unitary character, mostly because of the painful war memories and the emotional burden such recent events carry. In this respect, we are of the opinion that demilitarization would be a more worthwhile course of action.

We wish to point out the many positive examples of inter-entity cooperation, such as the formation of a multi-ethnic government and police in the Brcko District, as well as the cooperation between the police and judicial bodies of the entities in curbing corruption.

What do we foresee for the future?

We all need time to adjust to the new relationships that we are establishing in accordance with the Dayton Peace Agreement. We are approaching the necessary level of trust and confidence in the rights and liberties guaranteed to the citizens of the other entity, or from a different level of administrative government.

For yet another period of time we will require the presence of international military and police forces, which will ensure that wrong and malicious policies and activities never develop sufficiently.

We need involvement of international experts for education of our human resources so that we can continue and successfully complete the reforms we had started in the economy, primarily in privatization, the legal code, judiciary, administration, local self-rule, and especially in the field of voting regulations, which should enable us to conduct elections on all levels in a free and democratic manner by ourselves.

We need financial support without which all of these plans couldn't be accomplished in any foreseeable future.

I hope that this short expose clearly shows that the Government of the Republic of Srpska, led by Prime Minister Milorad Dodik, seeks to secure a place in the modern world for Bosnia-Herzegovina and its citizens. It is a policy contrary to ethnic particularity, close-mindedness and isolation.

I ensure you that the Government of the Republic of Srpska is dedicated to steady, principal, long-term and complete implementation of the General Framework Agreement for Peace in Bosnia-Herzegovina. We consider such dedication our contribution to the struggle for a democratic and free society, and incorporation of Bosnia-Herzegovina into the economic and political currents of Europe and the world.

We also consider it our duty and legacy to future generations.

I hope that that our policies and our goals are worthy of your support.

Once again, Mr. Chairman, Mr. Co-Chairman, Ladies and Gentlemen, I thank you kindly for your attention and support.

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