

## 9 Persuasion and norm promotion

### International institutions in the western Balkans

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What we are talking about here are values and standards, values and standards which underpin the European Union, and which Bosnia and Herzegovina must honour if it wishes to move forward in its relations with the EU.

(Ashdown: 2004b)

#### Introduction

The extent to which international institutions bring about change in the domestic systems of states has long been a matter of inquiry. The academic literature has burgeoned since the end of the Cold War to match and even overtake the examples of multilateral involvement and intervention. It has ranged from the general to the particular, with the role of the EU a frequent focus of study (see for example the issue of *International Organization*, Fall 2005). Yet while there is widespread agreement that institutions such as the EU can and do play a role, the weight and importance to be attached to them varies. On the one hand, much, inevitably, depends on the international context itself as well as the nature of the international institution. On the other hand, central, too, are the circumstances of the target state – whether it is failing, frail, rogue-ish, or post-conflict – and the obduracy or responsiveness of its authorities, the strength and capacities of its domestic institutions, its economy, its geo-strategic position and its conceptions of itself. Moreover, the debate has taken place at a variety of different levels, pitching, for example, positivists against constructivists. Whereas the former might focus on the strategic assessment of costs and benefits and whether incentives outweigh the costs of standing out or defecting, the latter have explored less tangible issues such as identities, norms and cultural practices. There have also been further divisions between enforcement theorists and management theorists, the former focusing more on coercive strategies undertaken by the international institution, the latter on social learning and capacity building (Tallberg 2002). For their part, Finnemore and Sikkink (1998) have pointed to the diverse roles of norm entrepreneurs in bringing about change – not least in holding actors responsible for their violations.

This chapter, taking its lead from the quotation from Paddy Ashdown above, focuses more on norms and on the ability of international institutions to bring about changes in the values and standards of the political actors in Bosnia and Herzegovina (BiH).<sup>1</sup> This is because the preoccupations in the Office of the High Representative (OHR) and generally in the EU–BiH relationship so intimately concern normative structures relating to the rule of law, democracy, human rights and fundamental freedoms. They touch so closely on issues of identity that they both construct and circumscribe the behavior of the various parties and groups in BiH. They also, as Wiener and others have argued, relate closely with the institutional context since strategies and the policies they give rise to are inevitably constructed within such frameworks (Wiener 2004).

In the case of BiH, the institutional framework is particularly complicated because it involves both the basic constitutional structure as well as the inter-related legal and economic elements laid out in Dayton in 1995, together with an overarching framing of the issues through the prospect of EU membership, institutionalized since November 2005 in the negotiations of the Stabilization and Association Agreement (SAA) but in prospect since 1999. To reach the goal of EU accession, BiH is being called on to go through a double transition: firstly, to overcome the legacy of Tito, that is, the legacy of a socialist self-management economy and a single party political system; and, secondly, to vanquish the horrors of war that have dispersed populations through ethnic cleansing and massive population upheaval, deepened the already formalized corruption that existed at all levels of society, and left political power in the hands of nationalist parties seemingly determined to continue the war by political means. This, especially in the case of those in the Republika Srpska (RS), has led to a fierce insistence on maintaining the constitutional position laid down in the Dayton Agreement of 1995. Even if the transition from Titoism to economic liberalism can be comparable, war and its consequences put BiH in a very different position in their development from the countries of central and eastern Europe (CEECs), different as they were from each other (see, for example, Pridham et al. 1997; Henderson 1999; Zielonka and Pravda 2001; Vachudova 2003). The CEECs have not only avoided the experience of war and ethnic cleansing, but they have not had a military presence – whether in the form of the Peace Implementation Force (IFOR), the Stabilization Force (SFOR), both led by NATO, or finally EUFOR, led by the EU – to ensure the implementation and continuation of the peace, or a representative of the international community with such powers as those of the Office of High Representative.

Nonetheless, despite these vital differences, the EU's enlargement to take in the CEECs has been of critical relevance to BiH and the western Balkans for two reasons. Firstly, the success in bringing the CEECs into the EU on the basis of the so-called "Copenhagen criteria" of 1993<sup>2</sup> inspired member states, as Noutcheva put it, "to replicate the model in a region that has been a security concern for the EU for over a decade. The recipe worked once, it was

believed it would work a second time" (Noutcheva 2004: 1). This was despite the fact that in the CEECs, as Batt has noted, "the phases of stabilization, transition and integration indeed overlapped, they did basically follow one another. In the western Balkans, EU integration is a *condition* of stabilization, rather than the other way round" (Batt 2004: 19). Insofar as it suggests that all the elements need to be pursued simultaneously, it inevitably creates confusion between Dayton-derived and integration-inspired reform which has been difficult to accept. Secondly, the EU's role has to be put in the whole context of the Union's past relations with the Balkans. The failure of the EU to prevent or to resolve the conflict in the former Yugoslavia, especially in BiH and later in Kosovo, has meant that the EU has now every incentive to prove itself to be a credible foreign policy actor, able to play an active and constructive role in establishing and maintaining peace and stability in Europe – to the extent of using all available foreign and external policy instruments, with membership as the ultimate prospect.

The Copenhagen criteria call not only for the adoption of democratic norms and a liberal economy but also for the administrative capacity actually to implement the *acquis communautaire*. The criteria may have gradually gained substance with the enlargement to the CEECs but they leave, nonetheless, a great deal open for interpretation by the European Commission and the member states at a point when there have been expressions of "enlargement fatigue" if not skepticism about further enlargement as an intermediate necessity. Moreover, the extent to which governments, parties and people in BiH are already clear as to what such a remote goal might mean also remains an open question. Nonetheless, while raising questions of consistency and co-ordination, among others, the "return to Europe" and future membership have been policy goals pursued with determination and ingenuity by both the OHR and the EU, especially in the shape of the European Commission. They have therefore constituted powerful norm entrepreneurs even if not quite in the same way as the non-governmental issue, policy or advocacy networks suggested by, say, Keck and Sikkink (1998). They have, nonetheless, been a vital factor in seeking to mobilize change both through their own actions and by attempting to co-ordinate those of others.

This chapter unfolds in three sections, beginning with an examination of the role of international institutions as norm entrepreneurs and their ability to persuade domestic actors. The second section assesses the contextual framework in which these find themselves in BiH, while the third focuses on the role of the two most prominent international institutions active in BiH, the OHR and the EU, and the impact of the prospect of EU membership. The conclusion points to the dilemma facing international institutions seeking to bring about changes in the values and standards of political actors derived from the experience in BiH.



### Entrepreneurs and powers of persuasion

Different paradigms inevitably evoke different approaches to their role. The key issues here are the processes by which the institutions have brought about the transformation that has so far occurred, the "transformative dynamics" as Checkel has termed them (2005). Much of the literature, whether positivist or constructivist, has focused on conditionality – constructivists thereby earning the criticism of Payne for using such material incentives and levers (Payne 2001: 41). But for conditionality to work effectively, the overall objectives and goals have to be clear and acceptable to those targeted and the incentives have to be regarded as credible and valuable, in both the longer and shorter term, not just at governmental level but also more widely among the people. In addition, they have to be seen as being consistently applied both over time within the targeted state and when compared to others. As Schimmelfennig put it, "if international organizations were perceived to subordinate conditionality to other political, strategic or economic considerations, the target state might either hope to receive the benefits without fulfilling the conditions or conclude that it will not receive the rewards in any case" (Schimmelfennig 2005: 5). In the BiH case – as in other instances – not only have there been questions raised about the consistency of EU policies, but there have been doubts as to the credibility of eventual membership and whether all member states are actually committed to western Balkan accession, which inevitably have had an impact on the situation in BiH.

In such conditions of uncertainty, persuasion through the provision or denial of rewards becomes a particularly sensitive issue. Much depends on considerations such as "the depth of cooperation," when the key condition is that the "shadow of the future is long enough that states have to care sufficiently about future payoffs" (Fearon 1998: 270). Or, from a less game-theoretic perspective, the question of the "goodness of fit" has relevance whereby *"the lower the compatibility between European and domestic processes, policies, and institutions, the higher the adaptational pressure"* (Börzel and Risse 2000: 5, emphasis in original). When domestic and European "norms, rules, and the collective understandings attached to them are largely compatible," the pressures are less and compliance and implementation less contested. Both approaches assume states are not ultimately opposed to change. In the BiH case, however, some elements have most certainly been against basic change and participate in the process only with the greatest reluctance and in the absence of alternatives. Others have been against particular policies and norms of behavior.

There has thus been a cycle from which it has proved extremely difficult to break: the greater the pressures for change, the more reluctance has been displayed in embracing it; that has then engendered the greater need for enforcement mechanisms, which in turn has often inhibited policy compliance and acceptance of the desired norms. In the absence of agreement on reforms, the HR has had recourse to more coercive measures. The failure to

comply actively with the International Criminal Tribunal for the former Yugoslavia at the Hague (ICTY), for example, as well as continued resistance to policing and defense reforms which had led NATO to reject BiH's application for a Partnership for Peace agreement (PfP), caused the HR to dismiss some 60 party officials and police from their offices in June 2004, including the President of the Serb Democrat Party (SDS) and the Chairman of the RS National Assembly.<sup>3</sup> Nationalist parties resistant to change and hostile to incursions into areas of control have, therefore, been able to exploit such actions with their electorates to reinforce opposition to further change.

Such a spiral of coercive activity, of intervention and sanction in BiH, has been largely tied up in the role of the High Representative and his office (OHR) – with which the EU in its various guises are linked if separate. But implementing Dayton which reflected above all a “logic of consequentialism,” while promoting European norms that are a part of “logics of appropriateness” (March and Olsen 2004) in the face of continued resistance, there has been inevitable tension. It has meant behavior by the HR that has often been “explicitly inappropriate” (Finnemore and Sikkink 1998: 897). That raises not only questions about norms and practices but also the likely effectiveness of persuading or inducing local actors to accept different, democratic, liberal norms when the entrepreneurs may have international support but their actions allow for little sense of any local accountability.

What therefore remain important, even for constructivists, are the incentives and a rational assessment of future benefits set against sanctions through imposed conditionality (see, for example, Schimmelfennig and Seidelmeier 2004: 664). The problem for the HR and the EU has been the creation of incentive structures that would encourage such socialization. On the one hand, as Caplan has argued, while outside experts can “encourage ‘ownership’ of ‘best policies’ through persuasion”, the degree of ownership likely to be achieved will be “much greater if those who must carry out the policies are actively involved in the process of shaping and adapting, if not reinventing these policies in the country itself” (Caplan 2005: 472). It is when, however, local actors reject ownership, and measures have been imposed, that a “dependency syndrome” builds up. As one former HR put it, “every piece of legislation that I impose with my authority as the High Representative, gives politicians in BiH a perfect excuse not to do their job properly” (Petritsch 1999). It may mean that, if the measures are then implemented (which does not necessarily follow), local actors are perforce acting in ways that raise questions about the level or genuineness of any socialization that the institutions might have been hoping for.

The alternative – and key to the EU's approach – has been the emphasis on rewards (especially long-term rewards) if criteria are met. It may be that, as Joseph Stiglitz has declared, “good policies cannot be bought” (quoted in Checkel 2000: 3), but such conditionality remains the favored policy of most international institutions, including the EU. Since all Bosnian actors have signed up to the idea of eventual EU membership, at least in principle, and



despite the confusion of Dayton and EU criteria, it is not surprising that there has been frustration on the institutions' part when the Bosnians do not accept EU-generated rules and processes and seem almost to prefer the tougher tactics of persuasion used by the HR.

The confusion of EU and HR criteria raises the possibility that it is less the deliberate refusal of actors to comply than their inability to do so. Tallberg in his 2002 article looks back to theorists such as Oran Young (1992) or Chayes and Chayes (1993) who saw a general propensity to comply (whether through considerations of efficiency, interests or norms) countered or undermined by factors such as the ambiguity of the rules, their lack of transparency which made them difficult to monitor, and the limited capacity to implement them. These, Young described as factors endogenous to the institutional arrangements themselves (as opposed, that is, to exogenous or contextual factors) (Young 1992: 176). In such circumstances, coercive action might be misguided since the emphasis might be better placed on management-orientated measures such as economic and administrative aid and training, with, for Young, considerable importance attached to the institutional design and the arrangements laid out. In the BiH case, it may not only be the political and economic consequences of war that have inhibited political and administrative capacity, but also popular opposition to change.

A rather different dimension to institutional design and capacity building to consider, emphasized by constructivists, is the importance of social learning in bringing about compliance. Social learning, whether by persuasion, argumentation, monitoring and ultimately exposing those who resist the process, emphasizes both the rules by which bargaining should take place and the alternative outcomes possible, including their costs and consequences. It presupposes a degree of acceptance of the parameters of the possible outcomes. But while socialization and even a growing element of Europeanization may be brought about by continuous interaction of the parties involved, it does not necessarily imply more than a strategic calculation of advantage and benefits. The ideas and norms being circulated may resonate with the target audience, but not always in the sense of them becoming more than a part of the political intercourse. That may give them a credibility and an element of legitimacy; it may not guarantee any permanent switch of logic or internalization.

The problem in such approaches is, of course, when non-compliance is actually the preference – even if that may be complicated by a lack of capacity. It is here that Tallberg sees the need for both enforcement and management measures to build capacity, to monitor compliance in order to enhance transparency and expose violations, and to ensure that the legal system can deal with the violators. Transparency also at least invites accountability to a wider audience, both domestic as well as international. At the intra-state level, it allows the various actors to see whether practice and implementation match agreement; at the international level it also encourages greater co-ordination of effort (Tallberg 2002: 612–13). In the tangled web of the BiH,

however, issues of ownership of the reform process are entwined with competing legal systems and principles. Issues of accountability have, too, become blurred given the number of international institutions (the OHR, the EU, the Council of Europe and the OSCE) that are responsible for, or involved in, not just reconstruction but state and democracy building.

### **Contextual framework**

The intimate and complex inter-relationship between the conditions laid down for EU membership and the Dayton Agreement have been of fundamental importance in the BiH's history since the late 1990s. Dayton, after all, set out the constitutional structure for BiH. Opinion as to the compatibility of that structure with continued stability as well as possible membership of the EU has been divided. Cox, for example, has pointed out that there has been "the tendency of peace negotiations to produce highly decentralized constitutional structures, which provide a poor foundation for a state" (Cox 2001: 6). On the other hand, Bose in 2005 argued that "the notion that a (con)federal, consociational structure of government is an inherent obstacle to Bosnia's journey to Europe . . . is sadly misguided" (Bose 2005: 329). The problem was well expressed by the former President of the RS and of BiH's tripartite presidency, Mirko Šarović, who declared in 2003:

Let's not play games with each other. We had a war here. We wanted to secede and join with Serbia, while people in the Federation wanted an independent Bosnia. We got peace in Dayton that we all accepted. Now, we are not going to give up any bit of our sovereignty that we got at Dayton.

(International Crisis Group 2003: 21)

And yet, while not seeking to revise Dayton as such, both the HR and the EU have sought to change key powers or competences in the interests of an effective and efficient BiH.

Uncertainty and confusion as to how far such reforms might go in undermining key constitutional and institutional norms and the role of the entities has been at the heart of the opposition. Ahmet Hadžipašić, the Federation Prime Minister, remarked on the inevitability of further centralization of BiH governance, because

when you make new police regions, you will have to make the same regions for the judiciary. So, once you have made this rationalization in the area of finance, security, and the judiciary, then what is left for us as the entities? We can clean parks and that's about it.<sup>4</sup>

For its part, the RS position was summed up by Mladen Ivanić when he commented that there needed to be a dual-track process, one that kept a

decentralised structure "since this is the reflection of reality in BiH." But he recognised, too that "the institutions of BiH must have the authority to fulfil European conditions." The question for him, therefore, was "not a choice between the state or the entities, but to have the state *and* the entities . . . A balance can be found, such as it exists in every federal state."<sup>5</sup>

It not simply a question of constitutional structures, therefore, but also a matter of the practices to which they give rise and which embed them further. Nearly four years of war had concentrated wealth and power structures within the military and political elites in each of the ethnic groupings with the result that there were strong vested interests that were opposed to a strong functioning state, whether decentralized or not. Democratic control and economic liberalization have simply not been in the interests of many of the hard-line nationalist parties and/or those determined to perpetuate a vicious cycle of corruption. Pugh, for example, while seeking to explain how the criminal and shadow economy flourished in Milošević's Yugoslavia and its successor states saw it as a way of enabling people to cope – which was not to excuse "the ruthless, predatory and socially destabilizing role of mafia-networks, or the political grip of rent-seeking, patron-client ties, or nepotism among newly enriched war elites." But, he went on, "such networks and elites retain their power partly because of the services they perform for their followers and dependants" (Pugh 2004: 54).

Control of socially-owned assets provided revenues for nationalist parties and those dependent on them. But the situation was made worse by the, certainly unintended, consequences of the privatization policies urged on BiH by the international community, which reinforced the position of the former war elites, and allowed them to extend their networks beyond their political protectors to those responsible for tackling crime. As Hadžipašić expressed it:

The people who led the war had status that they wanted to transfer into capital. In order to hold onto this capital they then had to hold onto political power after the war and so we still have local sheriffs who are dominant in politics. Transition is the perfect opportunity for all this. In any system it would be a difficult task. But, during transition it is possible to make and break laws. According to these people the process of transition needs to be as long as possible.<sup>6</sup>

Bureaucracies swollen, even while underpaid, by corrupt networks did not or could not collect taxes; poor services undermined the state and reinforced the need for continuing the services performed by corrupt networks. The vicious circle was made worse by a weak judiciary that could not enforce the law and contracts, thereby making any incoming investment an unattractive proposition. The very institutional incapacity of the state became, as Cox put it "a major obstacle to the peace process in its own right, fostering the conditions of economic and social instability which make a return to open conflict more likely" (Cox 2001: 10).



There was therefore both an unwillingness and a lack of ability to respond to the challenges of post-war reconstruction and transition to an open economy. The international institutions, particularly the OHR and the EU, were thereby able to exercise only limited leverage to bring about voluntary compliance, despite Bosnia's still heavy dependence on external support. But it was no surprise that the EU *qua* Commission in its Report on the preparedness of BiH to negotiate an SAA pointed to the pressing need for more effective governance, a more effective public administration, and an effective judiciary among its 16 points – as well as an independent public broadcasting system (European Commission 2003).

However, foremost among the EU's requirements was compliance with international obligations and especially full co-operation with the ICTY in bringing indicted war criminals before the tribunal. It was a demand that the international community in its various formations had made many times before. Awareness that one of the most wanted war-crime indictees, Ratko Mladić, had remained on the RS pay roll until 2002, suggested more than a lack of commitment on the part of the RS to meeting its obligations. As the chief prosecutor at ICTY, Carla del Ponte, remarked, "I believe there are fundamental systemic weaknesses built into the law enforcement and security structures in Bosnia and Herzegovina, and in particular the Republika Srpska . . . The Ministries of Defence and of the Interior of Republika Srpska cannot, by any reasonable standards, be judged to have helped in this regard" (International Crisis Group 2005: 2–3). The EU 2003 Feasibility Study was therefore tied closely not simply to capacity building but also to Bosnian compliance with its international obligations and the conditions already laid down.

### *Complexity and co-ordination*

The transmission of norms to BiH has been made even more difficult by two factors: the complexity of the issues that interconnected the not always easily reconcilable processes derived from Dayton and from European integration, and the multiplicity of norm entrepreneurs. The result has been manifold problems of co-ordination. As one senior EU official admitted,

The multiplicity of projects and activities, which are complemented by bilateral measures by individual EU member states, cannot hide the fact that the overall record in this field is not altogether encouraging. Not only is there a distinct deficit in co-ordination among the various actors in this field but the resources and the manpower deployed are so far no match for the well-financed and smooth international and interethnic co-operation of criminal networks.

(Lehne 2004: 118)

Whether a display of rhetoric or not, it was interesting that Ashdown, in

reporting that his dismissal of 60 officials was co-ordinated with other measures taken by the United States and EU, declared that "for the first time since Dayton we have initiated a concerted approach to hit those who support war criminals" (Ashdown 2003).

The problem was therefore of long standing and Ashdown accepted that the OHR's relationship with other agencies had not always been easy, especially since each agency had different reporting lines (as, indeed, did he, to the Peace Implementation Council (PIC), to the UN and to the EU). What he had sought to do, by chairing weekly meetings of the principal organizations present in BiH (including SFOR, UNHCR, OSCE, EU, World Bank, and IMF), was to improve co-ordination and as a result raise the quality of work of the international community in BiH (Ashdown 2003). As Solana (to whom Ashdown himself reported, insofar as he was the EU's Special Representative) declared on the tenth anniversary of Dayton:

a clear lesson from the Balkan dramas is that when the EU, the United States and NATO are united and work together, we can achieve great results . . . The opposite, as the war itself illustrated all too clearly, is also true. Linked to this point that we Europeans have to be willing and able to act ourselves to tackle security situations where we feel more strongly or differently than the United States does.

(Solana 2005)

Even if there was an element of special pleading involved, especially on the last point, the fact remains that the EU and the United States have not always seen wholly eye to eye on BiH and that has had its impact on elites in BiH and the way in which the OHR and the EU have pursued their policies.

The external actors involved in BiH have inevitably had wider, other concerns. The United States, for example, having prevaricated about its involvement when the Europeans had failed to keep the peace in the early 1990s, and again as the crisis broke over Kosovo, had expected that stabilization and reconstruction in BiH would have been achieved in a limited timeframe (Altmann and Whitlock 2004). As the process moved much more slowly than anticipated, it was also overtaken by the events of 9/11, the invasion of Afghanistan and later of Iraq. It then became increasingly difficult for the United States to justify any major presence in Bosnia. At the same time, it wished to retain an influence in the Balkans and has, indeed, taken the lead on several reform processes in BiH, as on defense and on constitutional reform.

But there have been differences of significance between the United States and the EU both towards the Balkans and BiH: Altmann and Whitlock, for example, cite differences over Kosovo with the US more in favor of rapid recognition and the EU concerned about the knock-on effects on BiH (Altmann and Whitlock 2004); Matthiesen cites differences over the United States linking support to countries' non-co-operation with the International Criminal Court in the Hague, even while holding to the policy of co-operation

with ICTY (Matthiesen 2004: 17). And it is clear that many in the BiH, especially in the Federation, have looked to the United States for support. This has broadened in the face of the growing prevarication among some EU member states on future accession. As Reljić has remarked, governments increasingly recognized that “by cozying up the United States, they implicitly put pressure on the EU, discouraging Brussels from dropping the Balkan expansion plans.” And as he points out, they have the example of successful US pressure on the EU over Turkey’s application for membership (Reljić 2005).<sup>7</sup> There are therefore tensions even if US policy has shown signs of movement in that, according to one National Security Council official in March 2002, they were now no longer so much pressing them to implement Dayton as asking them “how they are doing in preparing for a Stabilization and Association Agreement with the EU” (quoted by Vachudova 2003: 158–9).

### **The EU and the OHR as norm entrepreneurs**

A systematic approach to building up the Bosnian state had been adopted by the international community, especially through the PIC, in May 2000. The aim was to work through the OHR to build up core institutions, supported by an effective and merit-based civil service, and to remove obstacles to economic reform – responsibility for the slow pace of domestic implementation being laid “squarely with obstructionist political parties and their allies, both within and outside of BiH” (PIC 2000: 1). That meeting of PIC reaffirmed the go-ahead for the OHR to use to the full the so-called Bonn powers, from the 1997 PIC. Originally, under Dayton, the OHR’s purpose had been to facilitate indigenous BiH efforts to implement the agreement. There was growing frustration with the nationalist parties, who were held responsible for the lack of progress, together with endemic corruption, “bureaucratic sclerosis, widespread cynicism among the general public, lost opportunities and wasted international resources on a massive scale” (Ashdown 2003).

The Bonn powers were understood to allow “an unlimited authority to impose laws at any constitutional level, and to dismiss elected representatives, political party officials and public officials” (Cox 2001: 13). By the end of 2000, some 100 laws and binding decisions had been imposed and 57 officials had been dismissed (Cox 2001). Hence the PIC had concluded that any achievements had been the result of international rather than domestic efforts. Paddy Ashdown continued this interventionist policy based on his Mission Implementation Plan (agreed by the PIC in January 2003) with its six core tasks: entrenching the rule of law; ensuring that the peace implementation could not be reversed by extreme nationalists; reforming the economy; strengthening the capacity of institutions, especially at state level; establishing state-level civilian command and control over armed forces, reforming the policing and security sector, and paving the way for Euro-Atlantic integration; and promoting the sustainable return of refugees and displaced persons (International Crisis Group 2003).



Clearly, as the HR and others recognized, such intervention created a dilemma. On the one hand, it enabled him to push even harder against those blocking reforms. As one Council of Europe Assembly Report suggested, "the scope of the OHR is such that, to all intents and purposes, it constitutes the supreme institution vested with power in Bosnia and Herzegovina" (quoted by Caplan 2005: 467). But the Assembly in another report also regretted "that much of the progress achieved in the last two years was a result of the constant pressure by the international community, and in particular the High Representative." It went on to recall that a key objective of BiH's membership in the Council of Europe was to promote domestic ownership and responsibility for reform, adding that "before the responsibilities for running the state are completely transferred to the domestic authorities, the country's leadership will however have to demonstrate a higher degree of political maturity and improve mutual readiness for dialogue and consensus (Council of Europe 2004). Ashdown himself was well aware of the problem, declaring in 2003:

I have sought to be as sparing as possible in my use of the power to dismiss elected officials. This had come to be seen as an immediate and effective sanction in the absence of efficient courts and against the backdrop of an inadequate system of parliamentary or popular accountability. Yet each dismissal by the High Representative, it could be argued, diminishes the impetus to set in place the kinds of structures of accountability whose absence makes these dismissals necessary. By solving the problems by fiat we remove the incentive for BiH to set in place its own mechanisms for solving the problems.

(Ashdown 2003)

The problem was how to extricate himself and his office from the ensuing dilemma when "ownership" of the political process of "normalization" and "Europeanization" had clearly not passed to the BiH, whose elites remained largely obdurate in the face of the OHR's activities. That opposition and obduracy, whether determined by vested interests or because political leaders preferred not to compromise their position with their electorates, meant that ideas of partnership for further development within a European framework were continuously being found wanting.

Yet it has been a key assumption of the international institutions that the prospect of EU membership could be the critical driver for reform in BiH and elsewhere in the Balkans. What Paddy Ashdown declared he was pursuing as HR was not "an exit strategy, but rather an entry strategy for BiH into broader European structures, with EU membership as the ultimate goal" (Ashdown 2003). Ashdown's own appointment as the EU's Special Representative was an indication of the EU's commitment. It was of particular importance given the problems of moving from the emphasis on reconstruction in BiH to state-building and in the aftermath of Kosovo, that the rationalization of EU

policy towards the Balkans included the offer of EU membership once, that is, the Copenhagen criteria had been met (Glenny 2001). The "repackaging" of the various Balkan initiatives into the Stabilization and Association Process was the result. Meeting the conditions laid down by the EU has been seen as critical with all the implications of continuous monitoring to ensure compliance. What the EU sought to avoid, however, was the dilemma created by the OHR and his Bonn powers; if BiH was to show itself capable of undertaking all that European membership entailed, it had to show both capacity and the ability to adapt to European norms.

The offer of prospective membership went along with another indication of the EU's commitment, the move to replace the NATO-led SFOR with an EU-led force. This finally took place in 2004. EUFOR's mission, however, remains very largely that of SFOR yet within different parameters: it is to "provide deterrence and continued compliance" with Dayton, "to achieve core tasks in the OHR's Mission Implementation Plan *and* the Stabilisation and Association Process" (emphasis added), as well as provide support to ICTY and the security environment in BiH in which the police could act against the organized criminal network.<sup>8</sup> Despite therefore the efforts on the part of the Commission's delegation to be seen as separate from the OHR, there remains an inherent inseparability. In that sense, the EU has faced an uphill struggle in terms of its capacity to persuade and to bring about any great rapidity in the process of socialization.

### *Credibility and consistency*

While the 1999 decision was welcomed in BiH, there was a certain sense of unreality about it. It remained too distant a prospect to have any great meaning, not least given the parlous state of the economy. (By 2000, Bosnian GDP was still only 66 per cent of its pre-war levels.) And in any case, there was skepticism that, however remote membership might be, it was not actually being seriously entertained by the EU. Despite the reconfirmation of the possibility of membership at the Thessaloniki European Council of June 2003 and the subsequent EU–West Balkans Summit in the same month, such suspicions were later to be endorsed with, for example, some foreign ministers seeking to exclude wording on EU membership as the final goal for the western Balkans at their meeting in Salzburg in March 2006.<sup>9</sup> Thus although integration has remained the objective – at least in principle – and no one has been prepared to be seen to be an obstacle to it, its remoteness has meant that the EU and even the OHR had relatively little leverage on that basis.

Remoteness of membership compounds the problem of the lack of clarity about what eventual accession might mean, as well as suspicion and confusion about the means to attain it. Too few, even among the elites, really know what membership might entail – as one leader put it:



From my experience, out of 1,000 politicians we have, I think that perhaps only 50 or so know what entry into the EU means, what its consequences might be and its benefits and its costs. Even among that elite there is insufficient education about it and then, because of this, there is a need for arm-twisting on the part of the international community.<sup>10</sup>

Lack of education and sometimes deliberate miseducation about the EU means that the wider public have even less idea of what changes are required of them. Yet their knowledge and acceptance are critical if they are to deny power to the extremist elements, opposed to reform. As one commentator concluded on the 2004 round of enlargement, "it is when politicians from both sides of the political spectrum start identifying their interest with the EU-demanded changes and are willing to invest their own political capital in achieving compliance with these conditions that EU integration becomes the only game in town" (Noutcheva 200: 3). But in BiH, there has not always been either the willingness or the ability to move to compliance with EU norms and values. Without that socialization which ultimately includes the general public, it has become something of a vicious circle, of politicians unwilling to engage with the people, the people unable to understand the issues and therefore reluctant to mandate the politicians.<sup>11</sup> Even those political figures inclined to accept European values have, it is held, had to trim and temper their positions in order to survive.<sup>12</sup> That balancing act has been the primary cause for the frequent imposition of policy by the OHR, which then once again "relieves the domestic institutions of their responsibilities and inhibits the development of accountable government" (European Stability Initiative 2001: 26). And so the cycle threatens once again.

Eliminating the need for such a balancing act has not been helped either by the problems of co-ordination referred to above or by the difficulties experienced by the IC and EU in maintaining clarity and consistency of purpose through different processes at different levels and over an extended time period. The piecemeal approach that characterized the period before 1999 has not wholly been rationalized in the Stabilization and Association Process (SAP) within either BiH or, indeed, the Balkan region. Within BiH, for example, police reform has been particularly problematic in terms both of the norms and standards being transmitted and the solutions proposed. The reform of the various entity police forces emerged as a requirement of the SAP so that it was, in that sense, EU-led although the OHR established the Police Restructuring Commission (PRC) with domestic and international representatives, and the former Belgian prime minister, Wilfried Martens, as Chair. The PRC's Final Report was radical, proposing that local police, hitherto closely allied with the entity structures, should be realigned in areas that would cross entity boundaries. Unlike the defense reform, driven by the OHR and the OSCE with the United States and closer relations with NATO in the background, the EU had explicitly ruled out the possibility of the HR imposing any legislation relating to the SAA conditions, including those on police



reform. The result, however, has, in effect, been only agreement to continue to try to reach substantive agreement, and this despite numerous and protracted closed-session meetings between the various domestic and international actors. Since many old and new EU member states have their local policing areas organized along federal and local administrative or community lines, the pressure to delink them in the BiH case was resented and opposed, especially by the RS leaders, even while it was regarded as vital by the EU and HR if crime and corruption were to be effectively tackled. But inconsistencies were made more apparent by the fact that existing and newly created BiH state policing institutions like the State Investigation and Protection Agency (SIPA), the Bosnian FBI, and the State Border Service (SBS), which could have expanded their policing roles in tackling organized and other serious crimes, including war crimes, were experiencing serious shortfalls in funding and staff.<sup>13</sup>

Other European norms have also been misinterpreted or regarded as misdirected. Insofar as the EU has been particularly active in terms of other dimensions of regional policy, it has inevitably sought the greater involvement of local authorities – which sits uneasily with the pressures for centralizing authority in BiH. Issues relating to minority rights are clearly critical and yet there are few models within the existing EU to cite since the principle was introduced only under the Copenhagen criteria to be applied seemingly only to new member states. More generally, Europeanization can sometimes appear at odds with the aim of promoting greater democratization, insofar as it tends to privilege elites over the general public, executives over legislatures and so on (see, for example, Pridham 2002: 954; Grabbe 2001: 1018).

The immediate post-Dayton pressure by the international community to privatize as quickly as possible has been criticized as both simplistic and misguided in conception in that it enriched the war entrepreneurs and their political and judicial networks rather than attract new capital, bring about restructuring or bring in new ideas. In part, Donais argues, this was because international officials and agencies focused on technical issues while those with political responsibilities tended to lack a consistent focus (Donais 2002: 14). The result was that, however unintentionally, nationalist elites, as Pugh has pointed out, were able to control telecommunications (including broadcasting) and energy (electricity, oil and gas) supplies, the revenues from which funded nationalist parties and their parallel structures (Pugh 2004: 56–7). These were consequences that the OHR and EU have had to go to great lengths to counter. Criticism of their efforts was still current in 2002, one group, for example, declaring them to be inadequate for the challenges emerging in the BiH and more generally in the western Balkans in that the instruments required for post-conflict reconstruction and stabilization simply did not tackle the underlying causes of instability: “The danger is no longer ethnic hatred, nationalist extremism or military conflict, but a new crisis of economic and social dislocation” (European Stability Initiative 2002: 4).

A number of other inconsistencies further weaken any commitment to

change within the BiH. Vachudova (2003: 154), among others, has pointed to shortcomings on the part of the EU in rejecting some policies which would be particularly helpful in winning and maintaining popular support, such as access to the EU market for agricultural goods and visa-free travel to the EU for Balkan citizens. While there have been improvements in opening up trade, restrictions still apply because of the difficulties such policies would create for EU governments themselves. Yet visa restrictions have meant not simply a sense of isolation – one that has built up since the collapse of the former Yugoslavia and which is likely to increase for Bosniaks and Serbs as Croatian accession talks begin – but they also both deny an important sense of reward and restrict opportunities for a new generation of Bosnian voters of becoming familiar with European values and practices.

### *Interaction and socialization?*

Such isolation has to be set against the growing involvement of many party leaders in regional and other European political groupings – even if such involvement then also highlights other inconsistencies. BiH membership (and indeed, chairmanship in 2003–4) of the South East European Co-operation Process (SEECP), for example, may not be particularly important in itself (though discussions on improved neighborly co-operation in the Balkans across a range of policy issues of close interest to the EU are of importance), but it nonetheless allows for greater familiarity with developments in other Balkan states. Pevehouse, for one, sees such regional organizations as being particularly useful enabling mechanisms in terms of socialization (Pevehouse 2002: 524) and the BiH Foreign Minister, Mladen Ivanić has endorsed such a view.<sup>14</sup> On the other hand, such meetings and exchanges provide ample opportunity for each country to compare and contrast its treatment at the hands of the international community and EU on such issues as co-operation with ICTY, signing up to the SAA, and PfP membership. However rational it might be for the EU to take account of individual state differences, for those less enamored of change, it creates opportunities to focus on what they might then describe as double standards. Insofar as conditionality is assessed on a country-by-country basis, it also threatens the principles of multilateralism and regional co-operation espoused by the EU (Smith 2003: 83).

Elite familiarity with EU norms is also increasingly apparent through the developing links with EU party foundations and parliamentary groups – which also bring with them further peer pressures. The German party foundations, especially the Konrad Adenauer Stiftung and the Friedrich Ebert Stiftung, have increased their activities in BiH. There has also been increasing co-operation with the party groups in Brussels. The Party for Democratic Progress (PDP), the Party of Democratic Action (SDA), and the Croat Democratic Union (HDZ) have all, for example, become associated as Observers with the European Peoples' Party (EPP). According to one participant this has forced the Bosnian parties "to use a different discourse and behave

differently. Every three months we go to Brussels and one is made to explain before one's colleagues what the conflicts we are having within Bosnia are about. This is having a huge impact."<sup>15</sup> It is perhaps then unfortunate that the EPP's President, Wilfried Martens, was responsible for the report on police reform. It has also been among EPP members such as Angela Merkel, the German Chancellor, that the strongest opposition to further enlargement has been expressed and the need for more constructive thinking about alternatives to full membership. Those views may have been directed largely against Turkey, but they have also included a "privileged partnership" for the western Balkans.<sup>16</sup>

The growing intensity of interaction of different levels, formal and informal, makes the actions and intentions of each of the actors significantly more transparent, even if not necessarily more acceptable. To the extent that such interaction is institutionalized, it is often regarded as the harbinger of socialization and Europeanization, and a vital part of the process of inducing actors into the norms and rules of the Union (to paraphrase Checkel 2005: 804). Bosnian elites should, then, have begun on the process – for even if formal relations within the SAP are only very new, the EU has been active in its various policy guises since 1995. According to the Deputy Head of the European Commission's Delegation, the process has begun, if slowly, with differences among the political leaders.<sup>17</sup> Such differences have themselves been welcomed and, indeed, exploited in the interests of opening up schisms that pit one set against another, both then needing to seek allies elsewhere in the system. As Ashdown declared, when discussing how to eliminate the nationalists' stranglehold:

One of the ways is to vote against their return to power. Frankly . . . this is not very likely to happen . . . There is a different way too. The HDZ in Zagreb is an example of that. This is not the same HDZ as it was under Tudjman. By forcing the nationalist parties to implement reform you get factions within the party. That is the case of Raguz vs. Covic, and you can find the very same elements in other political parties.

(Ashdown 2004a)

But the process has been a slow one. In terms of the formulation of policies consistent with the process of transition towards potential EU membership, for example, Bosnian attitudes remain ambivalent and/or suspicious. Legislation consistent with the *acquis* has invariably been drawn up by lawyers from the EU and the member states. However, rather than representing the future, the legislation is regarded in the BiH as "sometimes not compatible with our general legal framework or legal culture,"<sup>18</sup> or alien and not easily understood or accepted.<sup>19</sup> Implementing such legislation then becomes politically sensitive and enforcing it sometimes impossible.<sup>20</sup> Such reluctance to implement legislation emphasizes the importance as well as the difficulty of continuous monitoring. It, and the presumption of the political impact of



"shaming" non-implementers and violators, are critical elements both in terms of conditionality and social learning. But if the process of non-compliance simply results in action by the OHR in order to keep processes going, then the normative significance of the reforms begins to lose its impact and adaptation becomes regarded with little more than indifference, at best.

## Conclusions

Very clearly, the international community – in the form of the OHR and the EU – has brought about changes in the values and standards that prevail in BiH. Both have sought to ensure peace and stability, which has meant tackling the extreme nationalist parties and the corrupt networks that did well out of the war, and bringing BiH into line with the conditions demanded by the EU of those who seek membership. But they have been changes that have frequently been brought about by imposition on the part of the OHR. Critics have therefore argued that, while many of the statebuilding measures are necessary for effective, open and democratic governance in contemporary Europe, their imposition, in the face of opposition from elected leaders, undermines those same values. At a minimum, such an argument would claim, there are limits to the extent that "inappropriate" measures can be taken in the interests of bringing about a logic of appropriateness. On the other hand, the role and powers of the HR have, indeed, created a dilemma. It is, after all, improbable that, in the absence of the Bonn powers, those who have been manipulating the political, economic and judicial systems through corrupt networks would have quietly given up that control in the interests of adapting to the Copenhagen criteria and some future membership of the EU.

But the roles of the HR and the EU raise important questions about compliance with the demands of the international community and the nature of rewards and sanctions. However much the image has been created that "nobody does anything until the IC makes them,"<sup>21</sup> there is a commitment on the part of BiH leaders to European integration. What then becomes confusing is the fact that the HR is also the EU's Special Representative and the EU *qua* Commission has been attempting to separate out the areas covered by the SAP/integration process from that of stabilization, reconstruction and statebuilding, which remain the responsibility of the OHR with its Bonn powers. The primary instrument of both is, of course, persuasion, but for the EU it has become a matter very largely of the use of conditionality to ensure continuous progress towards the possibility of future EU membership. The rewards of compliance are continued movement in opening up the SAP process and continued assistance; sanctions in essence add up to non-movement, but not the withdrawal of aid. For the OHR, there has been the opportunity and frequent recourse to the Bonn powers and the imposition of measures, the removal of officials, party leaders, and so on. For so long as the international community sees the need for reform in the interests of state viability as well as adhesion to the norms of open democracy, sound administration

and economic liberalization in opposition to vested political and economic interests, there is likely to be continued need for those powers and the OHR. The inevitable overlap between the norms and standards both the EU and OHR (and OSCE, IMF etc.) wish to see adopted in BiH equally inevitably gives rise to confusion of roles. This, in turn, has provided opportunities for those opposed or reluctant to engage in the transfer to exploit. The clarity and credibility of the message as well as, therefore, the co-ordination of the messengers are vital factors in any successful norm promotion.

Conditionality and monitoring continue to be regarded by the EU as critical in ensuring compliance. It had, after all, worked in the case of the countries of central and eastern Europe who had sought EU membership. The continuous need for the intervention of the OHR indicated that circumstances in BiH were somewhat different and that, despite the rhetoric and lack of alternatives, not all BiH parties were wholly enthusiastic about the changes EU membership seemed to presage. The rush towards privatization and the use of "one size fits all model of economic transformation" (Donais 2002: 14) paid too little attention to the specifics of the BiH case and ignored the possible consequences. In political terms, the legacy of the past – of Tito as well as Milošević and of the war – cast a significantly longer shadow than that of any future within the EU, and skepticism whether the EU actually wanted BiH then made the shadow even darker.

Schimmelfennig and others have been particularly insistent that for conditionality to be effective in bringing about compliance, there needs to be clarity, credibility and consistency. In BiH's case, in the efforts of the HR and the EU, at least as represented by, for example, Ashdown's Mission Statement of 2002 or the European Commission's Feasibility Report of 2003, there were clear principles enunciated. The latter's 16 points, while seemingly numerous, were nonetheless sometimes couched in fairly general terms. The problem has thus been in the application of the policy prescriptions that underlay them, the degree to which they were known and understood among both elites and the wider BiH public, and were acceptable to them. Added to that have been the problems of co-ordination among EU actors, between the institutions responsible for foreign and external policy matters, or the fight against international crime or in establishing the *acquis*. Given the range of policy commitments and the complexity of the situation, such problems of consistency are probably unavoidable. But they have not always helped in winning over a skeptical public or an entrenched politico-economic elite – particularly when access to the media has often been constrained.

Against this, however, to the extent that the process is to be monitored and judged by the EU, issues of "ownership" that have continuously plagued the Bosnian-OHR relationship do not arise in the same way. This is not a peace agreement imposed on warring factions. It is a process leading towards a goal on which all, ostensibly at least, are agreed. However, as we have seen, that commitment is often only partial or faint-hearted. The degree to which European norms and values have become more than superficially accepted is

debatable. As the BiH Foreign Minister Ivanić has suggested, any promotion of European values has nearly always had to be balanced by the concern of alienating political support; European values might be entering into Bosnian patterns of thought, but operationalizing them remains unattractive, at least in the short term.<sup>22</sup> So far, it would seem, there is rather more a strategic deployment of acceptable arguments than any internalisation of norms.

However, even here it may be a case for looking to the notion put forward by Elster of "the civilising force of hypocrisy" (Elster 1998: 109–12, quoted by Checkel 2001a) where, however manipulative the motive, the publicity may have a "civilizing" effect and ultimately change preferences. Schimmelfennig, too, has written of rhetorical entrapment in relation to the EU's eastward enlargement (Schimmelfennig 2001) which may work in both the case of BiH elites and the EU, even if that rhetoric may not yet extend to Turkey or even to all Balkan countries. The uncertainties on both sides cannot but perpetuate problems in any BiH socialization process. It is clear that, even if in only quantitative terms, the rate of exposure of BiH elites to European standards and practices has intensified and that has brought a growing familiarity with them. That, combined with what might still only be public lip-service to European norms, creates a momentum or dynamism that establishes its own benchmark against which to hold leaders to account and may yet drive BiH towards a less uncertain future. The problem, however, lies in the extent to which the public knows, accepts and identifies with those norms and the norm entrepreneurs. On that score, there remains rather less optimism that the international institutions have been able to persuade.

## Notes

The authors are grateful to those who consented to be interviewed: Renzo Daviddi, Deputy Head of Delegation, European Commission Delegation, BiH, Ahmet Hadžipašić, Prime Minister of the Federation of Bosnia-Herzegovina, Mladen Ivanić, Foreign Minister of Bosnia-Herzegovina, Osman Topčagić, Director of the Directorate for European Integration, BiH, OSCE Staff Member, OSCE Mission to Bosnia-Herzegovina and OHR Staff Members, OHR Sarajevo; and to Tarak Barkawi of the Centre of International Studies, University of Cambridge, for reading an earlier version of this chapter.

- 1 Lord (Paddy) Ashdown represented both the international community as High Representative from May 2002 until January 2006, when he was replaced by Christian Schwarz-Schilling, and the European Union as a Special Representative in BiH, having been appointed to that post a few months earlier (in March 2002).
- 2 The Copenhagen criteria – agreed by the Copenhagen European Council of June 1993 – include stable democratic institutions, the rule of law, protection of human and minority rights, an open and functioning economic system and the administrative capacity to implement the *acquis communautaire* and the declared aims of the Union.
- 3 "List of Removed and Conditionally Removed Officials by the High Representative," 30 June 2004, OHR Press Statement at [http://www.ohr.int/decisions/war-crimes-decs/default.asp?content\\_id=32747](http://www.ohr.int/decisions/war-crimes-decs/default.asp?content_id=32747) (accessed 27 April 2006).



- 4 Interview with Ahmet Hadžipašić, 2006.
- 5 "The question is not a choice between the state or the entities, but to have the state and the entities. There must be some balance here. The key answer is that the state must be authorised to regulate the basic principles and that the entities and the lower levels of government must be bound to behave within the given limits. A balance can be found, such as it exists in every federal state" (Ivanić, interview, February 2006).
- 6 Hadžipašić, interview, 2006.
- 7 *EU Observer*, 12 April 2006, which also reported senior US politicians attempting to press the EU to stand firm on membership.
- 8 For EUFOR's Mission Statement see <http://www.euforbih.org/mission/mission.htm> (accessed 21 April 2006).
- 9 *EU Observer*, 16 March 2006. While the Salzburg text confirmed the future of the western Balkans in the EU, it also highlighted the EU's ability to absorb further members.
- 10 Hadžipašić, interview, 2006.
- 11 As Federation Prime Minister Hadžipašić put it: "The key is when European socialisation comes down to the citizens' level. But we have a barrier here. We cannot fully develop a European strategy if our citizens do not fully understand this and we cannot discuss this with them" (Hadžipašić, interview, 2006).
- 12 BiH Foreign Minister Mladen Ivanić: "The EU thus creates a solution in Bosnia as it sees fit and . . . there are among Bosnian politicians people who accept these European values as their own. But, I cannot say that they do this fully. They are politicians and must survive. Thus they need to maintain a balance" (Ivanić, interview, 2006).
- 13 And throughout the process, the EU had its Police Mission (EUPM) offering advice and guidance on best practices at the operational level, while awaiting the political outcome – a role sometimes almost in competition with EUFOR in its role as a stabilization force.
- 14 "The SEECP leaves positive effects on the domestic scene. The language being used over the past years is far less radical, far more compromising than ever before. I believe that to a significant extent this is the result of the regional element which has become more important over the past years. Thus . . . it is very useful that BiH is a member of such regional organizations" (Ivanić, interview, 2006).
- 15 Ivanić, interview, 2006.
- 16 *EU Observer*, 17 March 2006. Mrs Merkel is reported as saying "from my side I would like to say that we should not avoid the term "privileged partnership"."
- 17 Daviddi, interview, 2006.
- 18 Ivanić, interview, 2006.
- 19 Topčagić, interview, 2006.
- 20 "The biggest problem in implementation is among the politicians. We make the necessary reforms on paper, but then we do all we can not to implement them" (Hadžipašić, interview, 2006).
- 21 To quote the BiH Director for European Integration, Topčagić (interview, 2006).
- 22 "The story about European values is a sort of pressure on us, forcing us to do something which does not seem very attractive politically in the short run. But, also, there is the parallel gradual entry of European values into our pattern of thought" (Ivanić, interview, 2006).