

# Affirmation of Statehood and Territorial Integrity of Croatia (2)

Hrvoje Kačić

## The Diplomatic Recognition of Croatia

The disintegration or collapse of Yugoslavia was well underway. With the August 27, 1991 resolution by the European Twelve (with the agreement of all the republics and the federal government of the former Yugoslavia who were participating in the conference), Yugoslavia *de facto* became a state under international trusteeship. Yugoslavia thereby achieved a unique distinction in the history of international relations, since normally the states that are emerging as independent entities are placed under the tutorship of international organizations, while in the case of Yugoslavia it was the latter's passing away which was occurring when Yugoslavia became under an international protectorate. This situation was confirmed by United Nations Security Council Resolution 713.

In tandem with this, Croatia's international legal identity was also developing apace, beginning on June 25, 1991. By the very act of passing its Declaration of Independence that day, Croatia achieved its *de facto* recognition, followed quickly by political recognition when the European Community sent its delegation on June 28, 1991 to Zagreb to meet with the leaders of Croatia and Slovenia. Final diplomatic recognition was only of a declamatory nature.

The mutual recognition between Croatia and Slovenia as soon as they had proclaimed their independence marked the beginning of this process of diplomatic recognition. Soon thereafter, Latvia, the Ukraine, and Lithuania were to recognize Croatia, to be followed by Iceland. Nevertheless, the diplomatic recognition extended by the European Community on January 15,

1992 must be seen as the keystone to the recognition of Croatia. The subsequent recognition by other states was only a logical consequence of the European Twelve's consensus-based decision.

The United States, it should be noted, had already announced officially that it would stand by any decision by the European Community with regard to recognizing Croatia – and thus on the fate of Yugoslavia's unity – no matter what that decision might be. Actually, the United States decided to recognize Croatia only on April 7, 1992, that is after considerable delay, and just one day before Croatia, Slovenia, and Bosnia-Herzegovina were to be accepted as full-fledged members in the United Nations.

As noted already, with the establishment of the Conference on Yugoslavia under the aegis of the European Community, it was understood that the final result of the Conference would be to grant diplomatic

The article gives a historical overview of the political developments leading to the break-up of Yugoslavia and, subsequently, affirmation of the Croatian state and its territorial integrity. The initial international situation was not in favour of Croatian independence since the international community intended to preserve the common Yugoslav state. After the Croatian (and Slovenian) declaration of independence (1991) the EC and UN began to see the impossibility of a Yugoslav state, a fact soon highlighted by the aggressive Belgrade's military intervention. Further, particular role of Germany and diplomatic recognition of Croatian state are discussed including an overview of the developments concerning the final recognition of Croatian territorial integrity.

Key words: Croatia, Yugoslavia

recognition to those republics of the former SFRY which desired it. The course of events, however, was to proceed in a different and unplanned manner, due to the onslaught by the Yugoslav Army (that is by Serbia and Montenegro) against Croatia, which involved the use of tanks, aircraft, warships, and surface-to-surface missiles, despite the repeated cease-fires on which the European Community insisted as expressed through its mission in Croatia.

The world, and especially Europe, was shocked by the brutality of the aggression against Croatia, and Germany now took the lead in promoting the position that recognizing Croatia could reduce the level of violence of those attacks and put a stop to the aggression. In addition to the factors already mentioned which en-

abled Germany – along with Austria and the Vatican – to take a positive stand before others did on recognizing Croatia, there were also other even more important factors:

1. The world was impressed by the willingness of the Croatians, and especially of the younger generation, to take up arms and to stand up to a militarily much stronger adversary.

2. The world was shocked by the brutality with which the aggressor attacked and destroyed Croatia's cities and villages, killing and expelling the civilian population, and plundering.

3. Initially, Germany sought to gain the support of the rest of the European Community through informal contacts at a time when consultations among the European Community's foreign ministers were especially intensive in preparation for the Maastricht Conference. To be clear, the Maastricht Conference held on December 9-10, 1991, turned out to be a major disappointment for Croatian public opinion, since the Croatian issue was not even mentioned on the conference's official agenda. However, what the conference did establish was in fact that the member states should adopt a common position on matters of defence and foreign policy. This was to be a decisive factor in the European Community meeting held a week later in Brussels.

### The European Community Makes A Decision

Despite the request which de Cuellar and Baker sent in writing to Genscher and the one Bush sent to Kohl on December 15, 1991 for Germany not to rush unilaterally into recognizing Croatia and Slovenia – a request intended to moderate Germany's known intention to do so – these demarches by the Secretary General of the United Nations and by the President of the United States did not have any effect, since Genscher was able to deflect such warnings and approaches skilfully.

At Genscher's initiative, a discussion of a "list of conditions" for the recognition of new states – or more exactly a declaration of procedures for the recognition of new states in Eastern Europe and the Soviet Union – was placed on the agenda of the Conference on Yugoslavia. The draft of this document had been worked out already by France and Germany, and contained the criteria which individual countries would have to fulfil in order to meet the preconditions for diplomatic recognition. The foreign ministers quickly reached agreement on these criteria, based on the text of the above-mentioned declaration, a decision which followed naturally from the reports of the Arbitration Commission of the European Community's Conference on Yugoslavia. Slovenia and

Croatia already met those criteria and following small adjustments the only question that remained was when diplomatic recognition would follow.

Lord Carrington, however, was strongly opposed to an early recognition, and firmly believed that at that moment conditions were not ripe yet and that the necessary preconditions for the recognition of Slovenia and Croatia had not been met yet i.e. in December 1991. In other words, he still adhered to the European Community's earlier position that recognition for Slovenia and Croatia should be coordinated with the outcome of the Conference on Yugoslavia. Great Britain's Foreign Minister, Douglas Hurd, was somewhat less adamant, but he was also convinced that recognition was still premature. Allied to Genscher on this question were Denmark's Foreign Minister Ellemann-Jensen and Belgium's Eyskens. France's Foreign Minister Roland Dumas did not take an openly opposing stand, but emphasized instead the need to understand Germany's position. At that meeting, Italy's de Michelis, who up to then routinely had taken a favourable stand toward Belgrade, warned (possibly influence by Cossiga and by Andreotti's rethinking) that the European Community's credibility was being undermined by the Serbs' ignoring of its positions and warnings. De Michelis took the position that an end had to be put to this situation, and that this could be accomplished by granting recognition to Croatia and Slovenia. In particular, de Michelis stressed that all the European Community members had to agree unanimously on a decision on recognition. Van den Broek (as the President of the European Community's Council of Ministers – a position which rotated every six months) – also accepted this position, as he was especially irritated by Belgrade's duplicity. Specifically, the Serbian-dominated Yugoslav Army on several occasions had signed cease-fire agreements and had promised not to shell civilian targets. Contrary to the commitments already undertaken the Yugoslav Army continued its attacks and seizure of territory undeterred. The attacks on Vukovar, Slunj, Drniš, Zadar, Karlovac, Osijek, and Dubrovnik revealed the true nature of the Yugoslav Army's out-of-control leadership and had a profound impact on Van den Broek's views.

Thanks to the principles announced in Maastricht mandating a united approach on foreign policy matters for members of the European Community a consensus was achieved on December 17, 1991 on diplomatic recognition of Croatia and Slovenia. It is natural and to be expected that differences could arise in the assessments and positions of twelve independent countries, especially when the focus of such differences was only on the appropriate moment to provide Croatia and Slovenia with protection and the satisfaction of a diplomatic recognition from such a

respected group of countries. Indeed, it would be more surprising if such differences did not exist, especially given the different experience, level of knowledge, and interpretation of the nature and cause of the conflicts which appeared generally as the tyranny of Communism collapsed in Europe.

However, it is more difficult to understand how countries such as Great Britain and France, with a wealth of experience in foreign affairs, left room for speculation, doubt and criticism surrounding the diplomatic recognition of Croatia. That is, after having weighed all the pros and cons, France and Great Britain agreed to recognize Croatia, but it seems that they should not have allowed the impression to develop in European public opinion that the decision had been taken against their advice and even their will, and that they had agreed only under German pressure.

On the contrary it is abundantly clear that both France and Great Britain had viewed the decision to recognize Croatia as both justified and appropriate. Based on that premise, these two countries' experienced diplomatic corps should have used the strength of their authority to prevent the Belgrade regime from avoiding blame for its defeat before its own people by using such false excuses. France and Great Britain had an obligation to prevent paranoia in the Serbian media from having a field day by distorting history and claiming that Croatia had achieved its independence solely thanks to German revanchism aimed against Serbia, and that this represents a new German thrust toward the East, that Serbia's traditional allies in two world wars had betrayed it and that Serbia was a victim of German economic expansion. Since such distortions have fertile ground in Serbia, Great Britain and France should not have granted to Milošević such a favour and, at the same time such a disservice to the Serbian people.

The subsequent flow of events suggests that Great Britain and France should have sent Belgrade a direct message that the diplomatic recognition of Croatia was a direct consequence of the aggression and policy of force which the JNA and Milošević's Serbia had implemented systematically against Croatia. Such a move would have put a stop to Serbia's exploitation of the "prečani" Serbs and would have ended the hold of Milošević's propaganda over the Serbian masses.

### **The Ultimate Affirmation of Statehood**

In the weeks following Croatia's recognition by the European Community, recognition also followed by many other countries, beginning with Austria, Hungary, Switzerland, Canada, the Scandinavian and Latin American countries, Australia, and New Zealand, and

included countries on all continents. With that, Croatia's legal existence as a state was confirmed irrevocably and for all times.

After the end of the Cold War, the United States remained as the sole superpower. However, the United States was to take the initiative commensurate with its role and importance only in those areas where American national interests are at stake. It sounds eminently logical when President William Clinton says that the United States does not want to be the world's policeman. However, being the sole superpower does not mean simply having more rights; it means at the same time also having more responsibilities. It is also understandable that the preconditions (were not for) the United States' sending its boys to die in some Balkan valley. Nevertheless, by the same token, the impression was created that the United States was not only tolerating but encouraging aggression. Such actions as the parading of the Sixth Fleet in the Adriatic, stationing the most modern aircraft a few minutes' flying time away from the combat zones, patrolling the air space over Bosnia-Herzegovina to monitor the "No Fly Zone" (even though the Serbian air force has violated that air space hundreds of times), as well as the reinforcement provided indirectly by its public declarations, suggest such an intent. That is, how was Serbia to interpret the statements and warnings by official spokesmen that the United States viewed that its own national interests would be at risk if violence began against Macedonia or Kosovo? In Belgrade, the conclusion to be drawn was that, therefore, Croatia and Bosnia-Herzegovina were outside the United States' defence perimeter and that "we have a free hand to use violence there and seize as much land as we can."

This state of inertia, agony violence, and war has lasted too long. Ambassador Warren Zimmerman, Secretary of State James Baker and, in particular, Under Secretary of State Lawrence Egleburger squandered valuable time before they understood that Milošević, the butcher of the Balkans, was hurtling the peoples of the former Yugoslavia, and perhaps beyond, into the maelstrom of war.

It must also be noted that the military power which Belgrade was able to build up over decades made the Yugoslav Army the third or fourth largest in Europe, and the United States cannot deny its part in creating that oversized armed force, which was supplied with an arsenal of modern weaponry. It was that armed force which swooped down on the very people it had supposedly been designed to protect, while audiences across Europe, the United States, and around the world watched in horror. Finally, the principal financial infusions enabling the Yugoslav Communist dictatorship to survive came from the other side of the Atlantic.

## USA Initiative in South-Eastern Europe

It is instructive to also remember the decisive and courageous statement that President Ronald Reagan directed to the Soviets during the first days of his first term in office, that is when the Cold War was still raging and, perhaps, was at its very zenith. That statement went something like this: "The Soviets are prepared to lie, bluff, kill, and commit any crime in order to achieve their goals," Milošević, General Ratko Mladić, and those like them who were weaned on the same Soviet ideology undoubtedly deserve the same approach as was used with the Soviets. If Reagan was so successful against the Soviets using this approach, Bush would surely have also been successful with Milošević.

Despite a long and consequence-laden delay, policymakers in the U.S. eventually arrived at the conclusion that Milošević and Karadžić are war criminals and that they would have to answer for war crimes committed in the former Yugoslavia. Yet, surprisingly, Croatian policy was slow to respond to this clearly positive initiative.

What is at stake, ultimately, is the credibility of the European Community, the United Nations, and of the only remaining superpower, the United States. Can their prestige be restored, in light of the fact that after many months they still have not been able to cut off oil supplies to Serbia completely? It is sad to realize that if Serbia's oil had been cut off immediately when the United Nations sanctions were imposed, the destructive war and the civilian population's suffering in this region would have ended long ago. Despite the US's international role, significance, and power, the latter has accepted in a surprisingly casual manner the fundamental principle of a sort of Manroe Doctrine as applied to the territories of the former Soviet Union. That is, other powers should not interfere in those areas that once formed part of the Soviet Union. Indeed, Russia's hegemony is tolerated and accepted even though there is no guarantee (or even likelihood) that totalitarianism, absolutism, and autocracy will disappear in Russia. For Moscow, the key concern is to promote those forces in neighbouring states which favour greater direct political, economic, and state links of dependency with Russia. Even now, many Orthodox Communists enjoy Moscow's support as they compete against democratic movements if the latter movements are seen to promote independence or autonomy from Russia. This short-sighted perspective of Russia should be of concern because it is very probable that the current economic and political crisis in Russia – which is the result of the breakdown of the Communist system – will abate and that Russia will recover in due course.

One has to remember that in Russia neither the beginnings nor the preconditions for democracy to develop have ever existed, despite the fact that society has produced many world-class philosophers, artists, and activists working for human and national rights, social justice, and tolerance. However, the Orthodox ethos and belief system incline toward absolute rule, and the opportunity to prevent the development of a new mastodon in Eastern Europe will probably be lost soon, to the detriment of the U.S. and the European Union. A giant will arise again in the East. Because of its nature and essence, this giant will always be governed by absolutists and dictators. Bolstered by revived ideologies and utopias, and exploiting misunderstandings and crimes, this giant could become the dominant superpower in the Balkans. Contrary to the U.S., Russia will always consider the entire Balkans to be a vital national interest, even without making any provocative declarations to that effect.

Ultimately, what the West and the United States have failed to understand about Milošević's Serbia is that Milošević has only changed the name of his Communist Party, while, under the new clothing the old Bolshevik structure, contents, ideology, methods, and totalitarian machinery have survived unchanged.

I am inclined to agree with Michael Kramer who, in seeking to define the Clinton Doctrine, wrote in *Time* magazine that Clinton justifies his retreats euphemistically as "pragmatism". As a result, Kramer warned, America must worry about becoming a prisoner of self induced impotence which, perhaps, will be how the "Clinton Doctrine" will be remembered in history. The United States' performance in the Yugoslav crisis up to middle of August 1995 has been less than adequate for the world's only superpower.

In view of the importance and the number of Muslim states in Africa and Asia, the Security Council and the USA Administration began to realise that the USA as the only world super power should not remain passive regarding the war horrors in Bosnia - Herzegovina. During 1993/94 USA finally took the initiative which resulted first with the Washington Agreement and then the Dayton Agreement. It has to be said that as early as 1993 Washington initiated the gathering of support among the allies in Europe, fist of all Great Britain and France, to stop the Serbian aggression by using superior military power in the air and on the sea.

The Pentagon prepared the strategy called "*lift and destroy*" which involved imposing the no-fly zone and destroying the Serbian military potential in Bosnia. However, while touring the European capitals in the attempt to gather support the US Secretary of State Warren Crhistopher failed dismally.

## The Confirmation of the Croatian Integrity

By attaching high value and respect to all relevant UN Security Council resolutions, Croatia had the right to expect that despite the years of shelling and armed conflict in the neighbouring Bosnia - Herzegovina, "the Safe Areas" as declared by the UN, would be protected and maintained. The Safe Areas included Sarajevo, Tuzla, Bihać, Srebrenica, Goražde and Žepa. The obligations and guarantees taken from the UN Security Council and the international community were not respected and the ruthless endangering of the civil population in the urban communities continued. A special envoy of the UN Secretary General, Mr. Akashi, tried in vain to stop the Serb paramilitary forces from attacking the Safe Area of Bihać from the Croatian territory, the part of which was then occupied.

However, the war criminals Karadžić and Mladić together with their Serb patrons in Belgrade, continued with ruthless and callous violence and ethnic (cleansing) extermination. The tragic fate of the population of the Safe Areas in Bosnia - Herzegovina at the beginning of the summer 1995 reached its culmination in genocidal violence of catastrophic proportions suffered by the whole population of Srebrenica and Žepa in July 1995 and passively observed and tolerated by the UNPROFOR and the whole of the international community. Shocking scenes of women, children and the old leaving, not of their own will, but because they were forced to do so, i.e. ethnic cleansing gained new momentum. Those examples finally proved the indecisiveness and ineffectiveness of the UNPROFOR.

At the beginning of August of 1995 it was up to the uncontrollable self-will of the war criminals Karadžić and Mladić to decide either whether to continue with their crimes in Bihać or to concentrate on Goražde or to do it all at the same time. Judging from the circumstances prevailing at the time that is precisely what would have happened hadn't Croatia militarily intervened.

Acting in accordance with its constitutional obligations and indisputable commitment of the Croatian people and all Croatian citizens in protecting the sovereignty and territorial integrity of their state, in order to start liberating the occupied parts of Banovina, Lika and northern Dalmatia, Croatia at the same time had the obligation to prevent further humanitarian tragedy developing for the population of the Cazin area and Bihać. The basic human rights of the inhabitants of these areas were critically abused and they were brought to the edge of existence by suffering from starvation, lack of water and in particular of medicine. It could and should not be passively observed any longer as it represented not only the abuse of human rights

but literally of the right to live of over one hundred thousand men, women and children.

Under such circumstances and particularly as a result of the inefficiency of UNPROFOR and Carl Bildt's wrong estimates and behaviour, the action "Storm" took place. The Croatia defenders stopped further escalation of violence and systematic ethnic cleansing of the population. Although there was support in UN resolutions in writing and spirit, Croatia reached the whole of the border line with Bosnia - Herzegovina by using its own forces. It has to be pointed out that the operation "Storm" opened the way for the NATO air strike intervention in Bosnia - Herzegovina which followed and created the conditions for Dayton. With the operation "Storm" Croatia actually saved the population of Goražde and Bihać.

Acting in accordance with the Article 51 of the UN Charter and using its own forces Croatia turned away the rebels from its territory in Banovina, north-west Lika and the northern part of Dalmatia. With the same police-military operation "Storm" Croatia saved the Bihać and Cazin area as well as Goražde. The obligations taken by Europe, the NATO and the UN regarding these areas were carried out by Croatia.

In doing so Croatia not only stopped the horrendous suffering of the already long suffering population in the neighbouring Bosnia - Herzegovina, but also saved the reputation of the UN Security Council.

Certain incidents that took place in the occupied areas of Croatia from which the terrorists were driven away deserve criticism and condemnation. Croatia has an obligation to view them as such in order to prove that it is often unjustly put in the same category as the aggressors. Perfection, however, is rarely found in this world.

Let me conclude by saying that all of this created conditions for the NATO military attack on the Serbian military targets in Bosnia - Herzegovina which soon followed. Following the UN Security Council resolutions NATO finally used the only language that Belgrade understood - the language of military force. Milošević finally agreed to halt the war terror and subsequently realized that it would be unavoidable to sit down at the negotiating table at Dayton.

## Territorial Integrity

Territory in addition to population and governing bodies is one of the three main determinants of any state. Territory of a state is defined by state borders on which the state sovereignty is extended. Borders are lines which define a state area and can also be defined as an uneven line which crosses the surface of land mass. Consequently, borders extend underground as well as into the air and also cover the area of the sea surface, the sea bed and beneath the sea bed.

As far as the border problems of Croatia are concerned, it has to be emphasised that there are not either towards Slovenia or towards Serbia or Montenegro any hamlets or villages that would be a matter of dispute. However, there is still work to be done on establishing Croatian borders with its neighbours on the sea.

The integration of the Croatian Danube region, has been accomplished.

Similarly, in the most south-eastern part of Croatia, at the Cape Oštro, where the UN observers are still present with the mandate of the UN Security Council resolutions on Prevlaka, there are certain restrictions preventing the Croatian authorities from carrying out their duties unhindered. However, that does not essentially impinge on the territorial integrity of the Republic of Croatia which was clearly stated in the UN resolutions. The latest UN resolutions on Prevlaka explicitly state that "The Security Council confirms once again its obligation to protect the independence, sovereignty and territorial integrity of the Republic of Croatia."

Over the last years Prevlaka has received a lot of publicity in the international community, although the cape Oštro or as it is most commonly called Prevlaka, as a territory does not physically touch the land border between Croatia and the FRY within the straits leading into the Bay of Boka-Kotorska.

The land border between Croatia and Montenegro goes along the mountainous rocks on Bjelotina and Dračevica above the eastern part of Konavle, while on the shore the border comes out on "Konflin", in the area of the cape Kobila which is not part of Prevlaka. The whole 25 km land border has been bilaterally established with great precision and as such have been respected for centuries.

Despite the fact that the Agreement on the Normalisation of Relations between Croatia and Yugoslavia was signed on 23 August 1996, basic precondition for the real development of the relations in the border area of the two neighbouring countries is the establishing of the Croatia border guards on both Bjelotina and Dračevica along the border line which is the internationally recognised border.

It is important to stress that in October 1991 the Parliament of Montenegro has used the term "the existing border" for this particular border. That was in June 1991 after the NATO's Political Department in its working paper entitled "Europe's Lebanon", which referred to the areas of the SFRY, of that time had been preparing its members, recalling the principles stated in the Helsinki Final Act and the Paris Charter, that Slovenia and Croatia should be recognised, as well as any other republic that proclaims its independence within the borders established after the World War II.

Croatia shows the adherence to the peaceful cooperation with its neighbours in its determination to

build a marina for yachts within the area of the Prevlaka Bay which in addition to the tourist facilities would stretch over the whole area of the Cape Oštro. On the very top of the Cape, in the fortress built during the Austro-Hungarian Monarchy, building of memorial museum is planned in order to commemorate all the defenders of the Croatian youth killed during the Homeland War as well as the innocent victims sent to their deaths in the attacks on Risanj and Ledenice in Boka Kotorska in the autumn of 1944.

There is a real ground for hope that this initiative, which aims at creating tourist facilities in this deserted area of the Croatian most southern part of the coast, will result in a positive reaction from our eastern neighbour. The Montenegrin Government has already submitted the Plans for the Regional Development for the whole of Montenegro were submitted to the Parliament of Montenegro, but the plans did not include the Prevlaka area i.e. the Cape Oštro.

The imperatives of the economic recovery for Boka Kotorska and whole coastal area of Montenegro are to be found in tourism which has no chance of further development unless it gives up for good its territorial aspirations, i.e. unless the peaceful intentions prevail with our neighbours as well. Many of the Croatian south-eastern neighbours have realised that any concessions on the Croatian part either on the land or on the sea, would mean a reward for the aggression.

Croatia is approaching a final agreement on open questions regarding the borders with the neighbouring Slovenia. Along the whole of 670 km land border which stretches from three-border point with Hungary to the estuary of the river Dragonja in the Bay of Piran, the geodesist experts with their experience and professionalism, have done a great amount of work. In several open and unresolved areas the final solutions are gaining shape and it can be expected that they would be acceptable for both countries. A long part of the land border goes along the rivers Mura, Sutla, Kupa and Dragonja which makes the situation considerably simpler, easier. However, the change of course of these rivers over the last several decades has called for certain coordination. That job is in its final phase and that can explain the patience on the Croatian side regarding the actual situation on St. Gera, mountain.

Solution of the border disputes between Slovenia and Croatia is made easier by the Constitutional decisions both countries made upon gaining their independence. On 25<sup>th</sup> June 1991 the same view on mutual recognition and respect of borders which existed in the former SFRY was accepted. Therefore, the task of diplomatic commissions of the two countries is to establish bilaterally the factual situation which existed in June of 1991. So far the progress made in this area has been encouraging. ■