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## **Crisis of the Croatian *Second Republic* (1990-1999): Transition to Totalitarianism or to Democracy?\***

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### Summary

Three sets of problems are set forth in detail. These sets outline the most significant totalitarian features of Croatian political and social life between 1990-1999. The first set is the ideological project of national sovereignty, defined by the political program of the Croatian Democratic Union (HDZ). The second set relates to the systemic position of the HDZ's president as head of state. The third deals with the HDZ's policy towards the neighbouring state of Bosnia and Herzegovina.

This analysis shows that the central problem of Croatian political circumstances lay in the inability of HDZ to structure the public and political space as a state, and the social field as a civil society. Thus, the HDZ is the source of totalitarian tendencies in the Croatian state. However, these were not the dominant features of the Croatian political and social order, since HDZ was not ideologically and politically powerful enough to shape the Croatian state and society in its own image. The Croatian *Second Republic* did not become a totalitarian community, but an authoritarian state with marked totalitarian features, but also with an increasingly more pronounced democratic and liberal potential.

The Croatian First Republic existed within the Yugoslav federation until the first competitive multiparty elections (that is from 1944 to 1990). The Croatian Second Republic was normatively institutionalized with a liberal democratic constitution (end of 1990) while Croatia was still within the old state frame. Nevertheless, partly eschewing that constitution and partly counter to it, the Croatian political order was until the end of 1999 decisively determined by the historical context of the emergence of the Croatian state, that is primarily by the character of the Yugoslav, and therefore also Croatian “ancien régime”, and then by the violent disintegration of the Yugoslav federal state which collapsed under the force of the Serbian hegemonic national project. It is within that context that the political program and the type of action of the Croatian national popular movement were set up (as “the movement to defend Croatia”).

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### 1. *Fundamental Dilemma: an Authoritarian and/or Totalitarian State?*

This analysis of the political order in Croatia (between 1990-1999) is based on the categories of the standard comparatist typology of contemporary states<sup>1</sup>. The conclusion ought to prove the validity of two key theses: first, that the state of Croatia was for the most part an authoritarian state with distinct and strong totalitarian features and rudimentary democratic characteristics; second, that the main problem of Croatia's political situation lies in the inability to constitute the politico-public space as a state, and to constitute the social field as a modern (and above all, a civil and civilized) society.

My intention is to focus on the fundamental assumption about the authoritarian character of the state of Croatia by means of an analytical confrontation with the theoretical diagnoses of its essentially totalitarian character. It would be superfluous to view it in opposition to the ideological apologiae which non-critically ramble about the "miracles" of Croatian democracy.

The best analysis of Croatian totalitarianism so far was provided by D. Hlad in 1994. According to Hlad, in Croatia, a total permeating of society by the political authority is at work. The process is effectuated by terror, the "true essence of totalitarian government". The terror in question is the "permanently looming danger of war", in the sense of the constant ideological production of enemies (both external and internal), inciting the nationally aware masses to a holy war as the ultimate confrontation with Evil. The political regime in Croatia founded upon an ideological project of the sort, upon Croatian nationalism as the ideology of the state ("Croatian Nazism"), must undoubtedly be recognized as totalitarian<sup>2</sup>.

Are the described tendencies really as predominant as the preceding analysis unambiguously suggests? In my opinion, in order to solve the dilemma we must inevitably consult the theoretically precise critical diagnosis by I. Padjen and M. Matulović. The authors claim that neither the Croatian state nor the Croatian society can be viewed as "predominantly fascist". Indeed, they "believe that the present Croatian regime, which was installed in 1990, can be characterized most appropriately as a rudimentary democracy with strong authoritarian and dictatorial elements" (italics added). The most distinct "fascist tendencies" are cleverly outlined. The following insight should be highlighted: the ruling party – Hrvatska Demokratska Zajednica (HDZ, Croatian De-

<sup>1</sup> As exposed, for example, in the famous work *Traité de science politique* (sous la direction de Madelaine Grawitz et Jean Leca), tome II: Les régimes politiques contemporains, Paris: PUF, 1985; in particular part one: *Les types de régimes* (ch.: La démocratie, pp. 29-114; ch.: Le totalitarisme, pp. 115-268; ch.: L'Autoritarisme, pp. 269-312). I shall rely upon this typology, although it is heuristically questionable. This is clearly shown by the theoretical vagueness of the very notion of the "State". I intentionally set aside the essential insight of Foucault's decisive analysis of the formative function of the political power and its potential of normalization in *a modern State as such*. If, in the so-called "disciplinary societies", *the political* shapes and permeates an individual's life in its entirety, then *totalitarianism* is immanent in all states i.e. in all political bodies whose soul is the political power.

<sup>2</sup> See Dragutin Hlad, *Zov divljine. HND versus HDZ*, Zagreb: Misl, 1995, pp. 54-56. It is important to note that Hlad's critical approach is based upon Franz L. Neumann's analytical matrix and his notion of "totalitarian dictatorship". Comp. *The Democratic and Authoritarian State*, Glencoe, Illinois: The Free Press, 1957, in particular ch.: On the Theory of Dictatorship, pp. 243-245.

mocratic Union) – is totally intertwined with the state, as the monopolistic party with the complete control over the military and the police, the national media and the key economic resources. The study ends with the assertion that the mentioned fascist tendencies markedly weakened after the end of the war in 1995, with the key role performed by the international environment<sup>3</sup>.

With all due respect for this analysis of the “fascist tendencies” in Croatia today, I must express certain doubts regarding the adequacy of the notions of “fascism” and “fascist tendencies”. The problem is terminological: however precisely stated, the term retains a politico-symbolical meaning of the magnum crimen. It blurs and conceals even the most subtle notional determination of fascism as an ideology, a movement and a regime. Moreover, in such a notional determination of fascism it is impossible to discern with sufficient clarity the difference between fascism as an authoritarian state and Nazism as a “non-state”<sup>4</sup> or a “so-called totalitarian state”<sup>5</sup>. For this reason, I wish to point out that the present work deals with totalitarianism as a Behemoth, as the anti-state and antisocial state of chaos and anarchy, in which “the Party has become the State” (Hitler)<sup>6</sup>.

## 2. Totalitarian traits of the Croatian State (between 1990-1999)

I will investigate in detail the three issues in which I recognize the most important totalitarian traits of the political and social order in Croatia. The first is the ideological project of national sovereignty which used to determine the programme profile of the HDZ. The second refers to the systemic position of HDZ’s president as head of state. The third and the last deals with HDZ’s policy towards the neighbouring state of Bosnia and Herzegovina (BiH).

<sup>3</sup> See Ivan L. Padjen and Miomir M. Matulović, Cleansing the Law of Legal Theory: A View from Croatia (editorial), *Croatian Critical Law Review*, vol 1, no. 1, pp. 1-122 (in particular ch. 3.2.: Building the State *contra legem*, pp. 62-67, from which the quotation is taken). I. Padjen’s text *Fašističke tendencije u današnjoj Hrvatskoj* offers a more complete and precise definition of fascism and “fascist tendencies” in Croatia. The text was read at the conference *Nove demokracije u poslijeratnoj tranziciji* (New democracies in the post-war transition), Zagreb, 13-14 December 1996.

<sup>4</sup> See Franz L. Neumann, *Behemoth. The Structure and Practice of National Socialism 1933-1944*, New York, Octagon Books, inc. 1963; reprint of the second, enlarged edition from 1944.

<sup>5</sup> See Hannah Arendt, *The Origins of Totalitarianism*, vol III: *Totalitarianism*, ch. 2, New York, Harcourt, Brace & World, 1966; third edition.

<sup>6</sup> The works of Pierre Bimbaum are indispensable in this respect, especially: *Dimensions du pouvoir* (Paris: PUF, 1984); ch. VII: La mobilisation contre l’Etat, at 149-156 and ch. IX: L’introuvable Etat totalitaire: l’exemple du pouvoir hitlerien, at 167-190; see also Id., Critiques du “totalitarisme”, in the book P. Ory and others, *Nouvelle histoire des idées politiques* (Paris: Hachette, 1987); ch. V, 5.3.1, at 722-733; Id., L’action de l’Etat, differentiation et dédifférentiation, in *Traité de science politique*, vol. 3: *L’action politique*, ch. X, at 645-682.

### 2.1. National sovereignty as an ideological project

First of all, I must deal with the political programme and the mode of action of the dominant political formation in Croatia, which refused to view itself as one of the parties in Croatia's political life. I am talking about the HDZ (Croatian Democratic Union), once a massive political movement, whose programme identity found its unambiguous expression in the advocacy of Croatian sovereignty. Ever since its foundation in 1989, the HDZ asserted it was the central, if not the only party to support such a political programme. Being a popular movement with hegemonic ambitions, its mode of action after the state of Croatia has become independent and internationally recognized quite obviously demonstrated HDZ's essentially ambivalent character as a political formation. On the level of its programme the HDZ was contradiction incarnated, since it ideologically projected and politically imposed the national (ethnic) sovereignty as different from the national (legal) sovereignty. Or, more precisely, an essentially totalitarian aspect of the HDZ as a political formation is manifest in the advocacy of national sovereignty primarily as a constitutive principle of the Croatian (despotic) state (Nation-Etat)<sup>7</sup>, and then only as a principle of legitimization of a democratic national state (Etat-Nation)<sup>8</sup>. With an ideological project of the sort, the HDZ practically made it impossible to constitute Croatia as a sovereign (legal) state. Namely, after Croatia had become independent and the state of war ended, this national (ethnic) political project proved to be the chief obstacle to the constitution of the sovereign state of Croatia. The very logic of constituting the Croatian state as a democratic political community effaced all the reasons for and the possible existence of a movement or a party which, by its very programme, would bring about the project in question. In this way, the national movement for the independence of Croatia underwent an essential and necessary political reduction. It was transformed into a nationalist movement which reduced the state of Croatia to a mere tool for the realization of its ideological project of national sovereignty.

The ideological project of national sovereignty as a constitutional principle gradually transformed the HDZ into an anti-state political formation, which questioned the very possibility of a democratic formation of the general political will as the will of all citizens of the state of Croatia. For example, if the fundamental characteristic of a state

<sup>7</sup> Cf. Alfred Cobban, *Dictatorship. Its History and Theory* (New York: Haskel House Publishers, 1971); first published in 1939, ch. VI: The Development of the Totalitarian State, par. 2: The Totalitarian Conception of the State, at 174-188.

<sup>8</sup> According to B. Barret-Kriegel's fundamental distinction between the two types of modern states, namely the *legal (sovereign)* and the *despotic states*. A *legal (sovereign)* state is a particular historical type of state, which assumed its final form in Western Europe during the 17th and 18th century, especially in England, France and Holland (in historiography it is referred to as the national State: *Etat-Nation*). There the organization of sovereign authority submits the political power to law, thus making the political power a guarantor of the legal peace and security of the citizens. The other, much more widespread type of modern state is the *despotic* state. It is institutionalized in the form of a national state (*Nation-Etat*) and a single-party, totalitarian state (*Parti-Etat*). In the present-day despotic state, although the fundamental freedoms and certain social rights are formally guaranteed by the Constitution, the political power is above the law and right, and basically dominates all spheres of social life. Comp. Blandine Barret-Kriegel, *L'Etat et les esclaves. Réflexions pour l'histoire des Etats* (Paris: Payot, 1986); 1st ed. 1979; pp. 39-112, 179-221, 236-37. See also Blandine Kriegel, *Démocratie et Etat de droit*, ch. in the book: *Les paradigmes de la démocratie* (Paris: PUF, 1994); edited by Jacques Bidet, at 103-112.

as a sovereign political body is its capability to limit its political power to its territory and its citizens, then the amendment to the Croatian electoral law enacted on the eve of the parliamentary elections in the autumn of 1995 basically made it impossible to constitute a sovereign state. This amendment (which is still operative) established the electoral right for the nationals of Bosnia and Herzegovina of Croatian descent (Croatian citizens in the ethnic sense of the word) to elect 12 (out of 127) representatives to the House of Representatives of the Croatian Parliament (Sabor)<sup>9</sup>. Such a heteronomous element in the construction of the Croatian representative authority fitted perfectly in with the logic of the national sovereignty project as a constitutional principle, since the legislative will was co-formed by nationals of another sovereign state. But, on the other hand, it is quite contrary to the logic of the legal sovereignty of the state, because it makes it impossible for Croatia to be constituted as a democratic republic. And what is more, the fact that all the representatives elected in this manner were HDZ members institutionalizes the political formation called the Croatian Democratic Union as a political community which is above the state. Further still, it was the Croatian Parliament organized in the described fashion (and no longer the Parliament of the Republic of Croatia in the strict sense) which was renamed into the Parliament of the State of Croatia (autumn 1997)<sup>10</sup>. The Croatian Parliament by definition is no longer – nor can it possibly be – the Parliament of the state of Croatia, unless we should assume that it anticipates a future national state (Nation-Etat) on a larger territory, which would comprise the Croatian national (ethnic) body of the neighbouring BiH, together with the corresponding territory<sup>11</sup>.

<sup>9</sup> Comp. Zakon o izmjenama i dopunama zakona o izborima zastupnika u Sabor Republike Hrvatske, *Narodne novine*, no. 68, arts 1 and 24a: “Twelve representatives are elected to the House of Representatives by voters who are not residents of the Republic of Croatia, based on special lists”. In Croatia proper the mixed electoral model is applied (80 seats from the party state-lists, 32 seats in the electoral units according to the majority system), and the “members of ethnic and national communities or minorities have the right to elect 8 representatives to the House of Representatives.” Apart from that, the “members of the Serbian ethnic community or minority elect 3 representatives in the electoral unit which encompasses the entire territory of the Croatian Republic” (art. 58a).

<sup>10</sup> See Ustavni zakon o izmjenama i dopunama Ustava Republike Hrvatske (The Constitutional Law on the Amendments to the Constitution of the Republic of Croatia), *Narodne novine*, No. 135 (1997), art. 2. The constitutional law adopted on 12 December 1997 includes the following major amendment: in the first sentence of Art. 45: “All citizens of the Republic (of Croatia) /.../ shall have universal suffrage”, the words “All citizens of the Republic” are replaced by “All Croatian citizens” (art. 7 of the constitutional law; italics added).

<sup>11</sup> In the first parliamentary elections (for the House of Representatives), organized according to this electoral model, the *special list* of the HDZ (for the Diaspora) won exactly 90.02% (i.e. all 12 mandates), from a total of 97,102 Croatian citizens living outside Croatia. The official paper reported: “Exactly 82,914 Croatian citizens who are permanent residents of BiH have taken part in the elections for the Croatian Parliament. They have for the most part voted for the HDZ’s special list candidates for the Diaspora. According to the information from the Croatian embassy in Sarajevo, HDZ’s candidates on the special list won 91.58% of the votes in BiH, followed by HSP with 2.66%, HSP 1861 with 1.15%.” See *Vjesnik*, 7 November 1995, p. 2.

One must inevitably agree with the following comment: “When HDZ made it possible for several members of the party’s BiH branch to obtain seats in the Croatian Parliament, it once more exposed the rest of the Croatian people in that country to unpredictable trials /.../ Isn’t such a move some sort of a political “annexation” of one part of the territory and the citizens of the neighbouring and allegedly friendly state?” See M. Kasapović, *Kako se mo-*

It was therefore logical that even the top state officials with legislative authority in the state would have had to oppose the totalitarian dissipation of the state as a politico-public space and its mechanisms of regulation. They also had to counter the anti-constitutional strengthening of the Party's practice of repression and control which tended to permeate the entire society. Although those officials were at the same time members of the Party's presidency, the logic of their state functions impelled them to advocate the autonomy of the Parliament and to respect the democratic procedure in the Parliament when deliberating on Croatia's strategic problems. Through politically extorted statesmen activity, they strongly publicly opposed the autocratic governing methods of the Party apparatus led by its charismatic leader (and at the same time the Republic's President). The conflict first arose in the HDZ, at its second convention in October 1993. The result was the so-called parliamentary crisis which lasted from March till June of 1994. Forced to quit their state functions were Chairman of the Croatian Parliament (and the House of Representatives) and Chairman of the House of Counties. They later formed a new political party – the Croatian Independent Democrats (HND). It found its *raison d'être* in the opposition to the "totalitarian, authoritarian and anti-democratic methods and political forces which lead us to a single-party system and to onemindedness"<sup>12</sup>. Although the direct consequences of the solution to the crisis were the solidification of the authoritarian methods of government in the party and the state, as well as further marginalization of HDZ's parliamentary fraction, still the new party (through non-electoral parliamentarization) did at least for a time strengthen the political ambitions and control the capacities of the Croatian opposition.

glo dopustiti da general Mladen Markač u uniformi i naoružan, govori u predizbornoj kampanji HDZ-a na otvaranju jedne crkve? (How could General Mladen Markač have been allowed to speak in HDZ's election campaign on the occasion of opening of a church in full uniform and armed?), *Globus*, No. 256, 3 November 1995, p. 4.

<sup>12</sup> This is how the Initiative Circle of the party of Croatian Independent Democrats warned the Croatian public of the necessity to prevent that "fear and ominous silence should reign in Croatia, essential for the current HDZ's Presidency in order to impose an authoritarian personal regime on Croatia" (signed by Stjepan Mesić and Josip Manolić, while they were still in the Parliament). They stress that the parliamentary system and the legal state mechanisms in Croatia (concerning the protection of human rights) do not function because of the anti-democratic policy of the "state" Party and that the "President of the Republic rules in an authoritarian way, extending his already broad constitutional powers". With a rhetorical questions: "Who made the decision to wage the war in BiH, who sent the Croatian army there, who and on what grounds financed that war, who presently interferes without the Parliament's approval in the internal affairs of a foreign state, who illegally appoints the State's Judicial Council?", they quite unambiguously pointed out the extraordinary state of suspension of parliamentary democracy, as well as the total and politically fatal concentration of political power in the hands of the Republic's President. Comp. Razlika između stranačke politike i države, *Vjesnik*, 29 April 1994, p. 2. This daring and democratic step of a part of HDZ's Presidency against the dominant totalitarian policy of the Party was a very important stage in the democratization of Croatian political life. The texts and interviews of the principal figure in the HDZ party schism, Josip Manolić, testify quite convincingly to the fact, particularly his resolute reply to the political imputations by the HDZ's president (in Tuđman's speech at the assembly of the Club of the HDZ Representatives, held on 7 April 1994; the stenograph was published in the *Nedjeljni Vjesnik*, 10 April 1994, pp. 6-7). Manolić's reply was published in the *Nedjeljni Vjesnik* on 17 April 1994, pp. 4-5. He concludes that Croatia is being called into question by "Your policy so far, which has brought us to the edge of the abyss" (l.c.). The interested reader can find information on this episode in the following books: Josip Manolić, *Javni intervjui i javni nastupi 1989.-1995.* Zagreb: Misl, 1995, edited by D. Hlad; and D. Hlad, *Zov divljine* (see Note 2).

I refer to the so-called parliamentary crisis merely to illustrate the political identity of the HDZ. Namely, a more careful inspection of HDZ's character in a diachronic dimension shows with sufficient clarity that the HDZ did not succeed in becoming a hegemonic party in a non-competitive party system. Ever since 1995, or perhaps even further back, it was becoming increasingly clear that the HDZ can "only" be the predominant party in a competitive predominant-party system (with limited and polarised pluralism)<sup>13</sup>. Moreover, the results of the elections at the county and local levels from autumn 1995 till autumn 1998 testify to a gradual transformation of a strongly semi-competitive (1992-95) into a more competitive electoral system, which is characteristic of the liberal-democratic pluralistic states<sup>14</sup>.

<sup>13</sup> Comp. Giovanni Sartori, *Parties and party systems. A framework for analysis*, vol. 1, New York: Cambridge University Press, 1976. The *predominant* party, as the strongest party in the parliament (with the absolute majority of mandates, but not necessarily of votes of the electoral body as well), exercises power by itself in the conditions of party pluralism (where smaller parties are not only permitted but play a legal and legitimate role in political life, with the right and the real possibilities of public disapproval). The *hegemonic* party, on the other hand, exists solely in non-competitive party and political systems. If we accept Sartori's criterion that "three successive absolute majorities of parliamentary mandates" are sufficient proof that the system is of the predominant type, then the party system in Croatia cannot as yet be considered as predominant. Namely, in the *two* elections held so far (in 1992 and 1995 for the House of Representatives, in 1993 and 1997 for the House of Counties), the HDZ won the absolute majority of the seats in the Principal or Lower House of the Parliament (although it never got more than 45-odd percent of the vote). The distance from the second best party, though, always exceeded Sartori's 10% minimum. So, the next elections for the legislature, to be held in 1999, will finally show whether the HDZ has succeeded in stabilizing its predominant position (comp. Sartori, *op.cit.*, pp. 192-201, 214-216, 231-239). The following studies are relevant for the understanding of the Croatian party system: Nenad Zakošek, Polarizacijske strukture, obrasci političkih uvjerenja i hrvatski izbori 1990, in the book: Ivan Grdešić and others, *Hrvatska u izborima 90.*, Zagreb: Naprijed, 1990, pp. 131-187; Id. Struktura i dinamika hrvatskoga stranačkog sustava, *Revija za Sociologiju*, vol. XXV, No. 1-2, 1994, pp. 23-39; Id., Ideološki rascjepi i stranačke preferencije hrvatskih birača. in the book: M. Kasapović, I. Šiber and N. Zakošek, *Birači i demokracija*, Zagreb: Alinea, 1998, pp. 11-50; Mirjana Kasapović, *Izborni i stranački sustav Republike Hrvatske*, Zagreb: Alinea, 1992; Id., *Demokratska tranzicija i političke stranke. Razvoj političkih stranaka i stranačkih sustava u Istočnoj Europi*, Zagreb: Fakultet političkih znanosti, 1996; in part. chap. IV: Hrvatska: demokratska tranzicija, političke institucije i stranke, pp. 153-178.

<sup>14</sup> Comp. Dieter Nohlen, *Izborni pravo i stranački sustav*, Zagreb: Školska knjiga, 1992, p. 23. The Croatian elections, from 1992 till 1998 can be described as the semi-competitive type of elections, where *the power relations are not questioned*, but the power-holders still demand that they be legitimized by elections. According to Nohlen, the principal function of the elections of the type is *the stabilization of authoritarian regimes* ("neither quite Western-liberal nor absolutely repressive"). This type permits the existence of the opposition, which was proved in Croatia by the results of the elections at the county level. In that sense, the first important but temporary success of the united opposition was the electoral victory of the coalition of the opposition parties in the city of Zagreb in 1995 (see *infra* note 17). The last, subsequent county elections testified to the gradual and significant, although not yet decisive, change of relations between the political forces: the elections in the *Primorsko-goranska* County were held on 30 November 1997; in the 40-member County Assembly, the predominant coalition "family" with the social-democratic party up front won 29 mandates, whereas the coalition "Croatian reply", led by the HDZ, won only eight. See *Obitelji* 29, "Hrvatskom odgovoru" 8 i IDS-u 3 vijećnička mjesta (Family gets 29, "Croatian Reply" gets 8, and IDS 3 council seats), *Novi list*, 2 December 1997, p. 3. But, although the HDZ's electoral defeat was expected there (though not as drastic), it suffered a much more significant defeat in the *Dubrovačko-neretvljanska* County – on the elections held on 11 October 1998, the united opposition won 25, and the HDZ only 13 seats in the County Assembly (out of 40; N. Barač's independent list won two). The descending tendency of the HDZ is the main issue here (it previously had 20 seats), as well as the ascendancy of the Social-democratic party as the leader

## 2.2. *President of the Croatian Democratic Union (HDZ) versus President of the Croatian Republic*

The additional significance of the parliamentary crisis consisted in the direct questioning of the systemic position of the President from the viewpoint of the internal logic of Croatian parliamentarism. Numerous experts provided explanations why the institutional model of the so-called semi-presidential system, in imitation of the French model, can be functional in a situation where the political body is ideologically considerably fragmented, the constitutional consensus does not exist, and the civil society is insufficiently liberalized and therefore incapable of expressing itself adequately in a pluralistic fashion by means of a pure parliamentary system<sup>15</sup>. In its politico-constitutional system, Croatia took over the institution of the head of state, which is the most powerful organ of political authority and the central figure of the entire polity. Therefore, in Croatia too the president of the Republic is conceived as the fundamental institution of a sovereign legal state; they are the democratic arbiters and the constitutional guardians of the order's political stability, and are legitimized by universal direct suffrage. It is this central institution that is the permanent focal point where the real tension of the actual Croatian republic is revealed most obviously and most intensely. It is only in so far as the President consistently operates as the state's public and above-all-parties leader of all citizens, as the Prime Citizen of the Croatian Republic, that he essentially conforms Croatia as a national State of the democratic type (a sovereign Etat-Nation). If, on the other hand, he should predominantly or primarily act as an autocrat, as the charismatic leader of a pan-national movement (of all "Croatian citizens"), or even as the providential figure of national salvation, then a national state of the despotic type would be at work (a totalitarian Nation-Etat). In Croatia too it turned out too that the President could effectively perform both political functions only for a certain period of time, in the initial state of emergency. First, he stood as the highest official of the supreme power in a republic endangered by war and rebellion (as corroborated by the formation and activity of the multiparty government of democratic unity during the most critical period from October 1991 till June 1992). Second, he was the leader of a massive national movement for whom the state was but a means of advancing "general" national goals.

Of course, the elected President of Croatia made a solemn vow to perform the duty of the President of all citizens of Croatia, which is his sole legitimate and constitutional

of the opposition (it got 10 seats instead of the previous 4). See Izbori u Dubrovačko-neretvskoj županiji. Oporba porazila HDZ, SDP-u župan, Baraču dva mjesta, *Jutarnji list*, 13 October 1998, p. 5.

<sup>15</sup> Comp. Štefica Deren-Antoljak, Položaj predsjednika Republike u političkom sustavu Pete Republike u Francuskoj, *Politička misao*, vol. XXVIII, No. 1, 1991, pp. 57-74; Arsen Bačić, Konstitucionalizam i podjela vlasti u "reaktivnim" ustavima postkomunističkog razdoblja, *Politička misao*, vol. XXIX, No. 1, 1992, pp. 42-55; Id. Izborni zakoni i polupredsjednički sistem, *Politička misao*, vol. XXIX, No. 2, 1992, pp. 39-47; Id. "Republikanska" monarhija i ustavni inženjering s kraja stoljeća, *Politička misao*, vol. XXXIV, No. 1, 1997, pp. 30-46; Smiljko Sokol, Predsjednički sustav i parlamentarizam, *Politička misao*, vol. XXIX, No. 3, 1992, pp. 4-17; M. Kasapović, Parlamentarizam i prezidencijalizam u Istočnoj Europi, *Politička misao*, vol. XXXIV, No. 1, 1997, pp. 5-20; Ivan Padjen, Uredbe iz nužde hrvatskog predsjednika: mjerodavnost francuskog javnog prava, *Politička misao*, vol. XXXIII, No. 1, 1996, pp. 149-165; N. Bulat, (Polu)predsjednički sustav i predsjednički izbori, chap. in the book *Pohod na birae. Izbori u Hrvatskoj 1990-1993.*, Srđan Vrcan and others, Split: Puls, 1995., pp. 295-316.



duty. His activities, however, showed that he nurtured strong aspirations to assume the non- and supra- constitutional role of the “President of all Croats” (in the ethnic and historical sense). Those aspirations became obvious at the time of the first post-war elections, after the Serb rebellion had been crushed by military force in August 1995. He then refused to accept the results of the elections for the Assembly of the city of Zagreb, won by the united opposition. Breaking the elementary rules of democratic procedure, the president of the HDZ refused to act as the president of the Republic, the guardian of the constitution and of the stability. In this way he triggered off the so-called Zagreb crisis which, thanks to his conduct, lasted from October 1995 to May 1997 and was not solved in a democratic fashion<sup>16</sup>. This historical episode is the best il-

<sup>16</sup> The local elections for the Assembly of the City of Zagreb were held by the mixed electoral model; out of 50 councillors, 33 were elected by the proportional system (party lists) and 17 by the majority system in uninominal electoral units. Since the united opposition appeared together in the electoral units, it won a total of 31 seats, while the HDZ won 17 mandates (plus two mandates won by the satellite right-wing party HSP). On the grounds of the post-electoral coalition of seven parties of the opposition (the strongest two were: the Croatian Social-Liberal Party with 10 mandates and the Social-Democratic Party of Croatia with 9 mandates), Goran Granić (HSLs) was proposed as city mayor, and Zdravko Tomac (SDPH) as Chairman of the City’s Assembly (*Vjesnik*, 15 November 1995, p. 6). The founding meeting of the City’s Assembly, held on 2 December 1995, attended by councillors of the opposition parties alone, unanimously voted for the previously agreed upon proposal. At a press conference, accounting for their absence from the meeting, the HDZ’s delegates entered an open political confrontation with the opposition by asserting that “HDZ cannot accept people who wrote the programme to destabilize the Sabor” (I. Pašalić’s comment on dr. Goran Granić, the HSLs candidate for city mayor; see *Večernji list*, 3 December 1995, p. 4). On the same day, president of the HSLs, Dražen Budiša, retorted that the standpoint of the HDZ “introduces political chaos and a constitutional crisis” (ibid.). This is then how the so-called *Zagreb crisis* began. However, since the HDZ (and HSP) delegates obstructed the meeting, the formal condition of constituting an assembly was not fulfilled. The Provisional rules of order for the work of the City’s Assembly state that at least two thirds of the councillors must be present (33 out of 50). For this reason the government annulled the founding meeting, and the Constitutional Court confirmed its decision. The meeting was finally held on 2 January 1996, with all 50 delegates present; the opposition once more voted for the same candidates. Although the results of the voting were totally by the book in the procedural sense, HDZ refused to accept them resorting to the legal prescript that the President of the Republic must confirm the elected mayor. The president of the HDZ and the head of state refused to confirm any of the mayoral candidates the opposition proposed from January till April 1996, with no explanation whatsoever. Every liberal politician, from dr. G. Granić, J. Radoš or I. Škrabalo, to D. Budiša (who performed the function of the Parliament’s Deputy Chairman!) were declared unfit to be the mayor of Zagreb. And on top of that, on 11 March 1996, HDZ’s President of the State appointed Marina Matulović-Dropulić as the HDZ’s mayor of Zagreb. But the opposition majority in the City’s Assembly refused to accept such a dictate, passing a vote of no confidence to the appointed mayor and electing their third candidate I. Škrabalo (at the meeting on 7 March 1996); in spite of that, Mrs. Matulović-Dropulić assumed the duty solely on the grounds of the decision of the President. Since the majority of the Assembly again passed a vote of no confidence, the HDZ’s government decided on 1 May 1996, to dissolve the City’s Assembly and to appoint a government commissioner in Zagreb, Stjepan Brečlich (till then Deputy Chairman of the City’s Assembly and Chairman of the HDZ club within the dissolved Assembly). Judging that the government’s decision is contrary to “the laws and Constitution of the Republic of Croatia and implies the automatic cancelling of the electoral results and the multiparty system, and jeopardizes the basic rights of the citizens”, the president of the dissolved Assembly Z. Tomac retorted by a constitutional appeal, demanding that “the Constitutional Court cancel the Decision on the dissolving of the Assembly of the City of Zagreb of April 30” (see *Vjesnik*, 5 May 1996, p. 5). On 10 May 1996, the Constitutional Court accepted the constitutional appeal by majority vote (with the exception of the notorious M. Vuković) and cancelled the Decision of the government of the Republic of Croatia, arguing that such “acts of the government violate the basic precepts of the Constitution of the Republic of Croatia from Article 1 Paragraph 2 and Article 5 Paragraph 2, precepts from Article 19 Paragraph 1 of the Constitution and the guarantee from Chapter VI of the Constitution – *Organization of local self-government and*

lustration of the fundamental contradiction of a president who made no distinction between the common good of the Republic and the particular interests of the political group which was individually and electorally the strongest in Croatia .

The most obvious proof that he put his “democratic union” (HDZ) ahead of the Croatian Republic as a democratic political community was provided by his political interpretations of the Zagreb crisis. For example: at the Main Committee of the HDZ held in February 1996, when the crisis reached its climax, he declared the political behaviour of the united opposition to be “attacks on the HDZ”, and concluded that “everybody unites to fight the HDZ, from the left to the right”. Although he did ask himself where the root of such an “improbable union of ‘fascists and communists’ with the sole aim to bring HDZ down” lay, the very way of putting the question revealed the utter lack of the understanding of the problem. Verbally offering “cooperation to all parties in favor of... a democratic and sovereign Croatia” and then marvelling at the lack of response to such a call, he denounced the entire political opposition, i.e. the coalition of Croatian parliamentary parties, as internal “enemies” (“remnants of the old Yugoslav movement”) who conspire with the external ones. (There are “international circles opposed to Croatia”).<sup>17</sup>

But it was probably HDZ’s Presidency press-release on 30 March 30 1996, which proclaimed most explicitly the totalitarian features of his policy. In it the Party’s presidency explains to the Croatian public “the core of the problem concerning the constitution of the Zagreb Assembly”. The fact that no party of the opposition would accept “cooperation” which would leave the ruling party in charge, but wished instead to assume the political responsibility in the capital as a coalition and thus break the ruling party’s monopoly, is perceived by the HDZ’s presidency as an unprecedented act of conspiracy. The HDZ’s presidency even asserted that the coalition “falsely claims to speak for the majority of the citizens of Zagreb”, putting forth their own truth: “HDZ is the majority party in Zagreb”. Refusing to accept the results of the elections which turned the HDZ into an opposition party in Zagreb, its presidency accused the opposition of wishing to take power! As if the united opposition hadn’t already won the elections! The elementary ambition of the opposition in Croatia, a democratic state, to go further and, if possible, try to replace the HDZ “first in the capital and then, within two or three years, together with the President, in the whole of Croatia!” was publicly quali-

*administration* in Article 128 (the complete text of the Decision of the Constitutional Court of the Croatian Republic No: U-III-260/96 from May 10, 1996, was published in *Novi list*, Rijeka, 12 May 1996, pp. 2-3, and in *Vjesnik*, 13 May 1996, p. 10). The Assembly resumed its activity, but failed to oust the appointed mayor. We shall stop here; instead of a democratic resolution, in accordance with the electoral will of the citizens, the Zagreb crisis resulted in a permanent state of emergency of HDZ’s protectorate over the capital, lasting until the next local elections in April 1997.

<sup>17</sup> See the report from the first conference of the Central Committee of the HDZ held on 24 and 25 February 1996, entitled *HDZ osiguraao budućnost hrvatske države* (HDZ has secured the future of the Croatian state), *Nedjeljni Vjesnik*, 25 February 1996, pp. 3-5. Denouncing the political coalition of the opposition as totally worthless, president of the HDZ, in a manner of a *par excellence* authoritarian politician, reduced Croatia to an animal farm. He said: “Their alliance resembles a farm with 60 animals, so that you couldn’t tell which particular animal the farmer was talking about. A single pure-bred horse is worth more than the whole pack” (ibid.).

fied by the HDZ's presidency as "the epitome of a hypocrite coalition the like of which cannot be found in the democratic world"<sup>18</sup>.

This type of ideological talk full of hatred towards its democratic adversaries (the united opposition, of course, did not harbour any "fascists" or "communists") indeed "cannot be found in the democratic world". It finally and completely laid bare the totalitarian traits of the HDZ and its leader. A political party which dared to keep power illegitimately (by force), as opposed to the explicit will of the electorate, privatized the Croatian State as its property.

Following in the footsteps of its wilful and capricious "founding-father", the HDZ proved in the Zagreb crisis that it was ready to violate even the basic democratic rules of the pluralistic political process. Having assumed the characteristics of a mere "rassemblement for power", HDZ set out on its post-war path of no return. After that it was clear who the chief menace to the constitution of Croatia as a democratic and constitutional state was.

### 2.3. *One Croatian Democratic Union in Two Different States*

HDZ's policy towards BiH deserves a separate study. Still, I must briefly outline the issue here because it is precisely the point where the gap between the ideological project of national sovereignty and the politico-legal project of the sovereignty of the state of Croatia manifested most drastically. It is known that the HDZ does not operate strictly within Croatia and does not recognize the electoral will of the citizens of the Republic of Croatia, but operates on the territory of the neighbouring state of Bosnia and Herzegovina as well. Indeed, it has imposed itself there as a hegemonic political formation which, in principle, encompasses the whole Croatian national (ethnic) body of BiH. But the BiH HDZ is not conceived and organized as an independent party, actively promoting the particular interests of its members (as citizens of BiH) within the framework of the state. Instead, it is merely a branch of the national movement with no personal, organizational or programme autonomy. Refusing to constitute itself as a political party within the state in both Croatia and Bosnia (for it would thus cancel its own status of a national movement), the HDZ threatened the very existence of a part of the citizens of the Croatian State (of Serbian nationality) and a part of the citizens of BiH (of Croatian nationality).

The policy of the HDZ and its president towards BiH always consisted of two contradictory options<sup>19</sup>. The first, national (state) option was, in principle, in favour of BiH as an undivided neighbouring state within the existing borders; it understood and

<sup>18</sup> See Priopćenje Predjedinštva Hrvatske demokratske zajednice. Oporba se služi demagoškim smicalicama, *Vjesnik*, 30 March 1996, pp. 4-5.

<sup>19</sup> Numerous political texts by Ivan Aralica (at that time vicepresident of the HDZ and the House of Counties in the Croatian Sabor) offer a paradigmatic testimony to the fundamental dilemmas and the intellectual range of the Croatian official policy towards BiH in general, and the Bosniak nation in particular. The texts were published in various newspapers and reprinted in books between 1991 and 1994, later to be compiled in Aralica's book *Što sam rekao o Bosni*, Zagreb: P.I.P. Pavičić, 1995. D. Hlad's political essays (*supra* note 2) provide lucid criticism of Aralica's views and of HDZ's nationalist policy towards BiH, in part. chap. 9-11, pp. 89-112.

accepted the fact that the segment of the Croatian national (ethnic) body residing there was an integral part of that state. The other, nationalist option was opposed to the concept of BiH as an undivided state, even to the point of waging a war against it to see its views prevail. It advocated the “Serbo-Croatian deal”, a division of BiH as an artificial, “non-national state”, as a “smaller version of Yugoslavia”. These imperialist views harmonized perfectly with the Serbian efforts to divide this neighbouring state.

The first option prevailed in HDZ’s policy from 1990 till 1992, at the time when Croatia had become independent of the former Yugoslav state and defended itself against aggression. It culminated when it encouraged Croats in BiH to vote in favour of a “sovereign and independent Bosnia and Herzegovina” at the referendum held on 29 February and 1 March 1992. The Republic of Croatia took part in the international recognition of the independence of the Bosnian state, a state in which every democratic and national right shall be guaranteed to all of its peoples (ethnic groups). The HDZ was one of the principal factors in the organization of this state’s defence forces against the aggression on BiH.

However, the ideological project of national sovereignty prevailed when the “Croatian Republic Herzeg-Bosnia” was formed on 28 August 1992. It was a “state within the state”, with its own territory, government and army. While it formally never ceased to recognize the “sovereignty and independence of BiH”, the Croatian policy became dominated by the nationalist option. Based on the view that BiH, as an independent state, can survive only as a confederation (a union of three national republics)<sup>20</sup>, the HDZ opted for the internal division of BiH, analogous to the already formed “Republika Srpska”. This line of action completely transformed the defensive war, fought to protect Croatia and BiH, into an annexionist intervention of two Croatian republics against BiH<sup>21</sup>.

The catastrophic effects of such an annexionist policy are very well known. The self-proclaimed Croatian Republic in BiH has proved to be quite incapable of protecting the interests of the Croatian people in Bosnia, while Croatia proper has become a hostage of its own policy of a territorial unification of the Croatian national body i.e. of two

<sup>20</sup> We find one of the many examples to corroborate this in the interview by the Croatian president published in the French paper *Liberation* on 22 July 1993. Explaining the Croatian policy towards BiH, he asserted that the “confederalization of Bosnia” is the “only chance” for BiH to survive as an “undivided state”; BiH can function as a “community of three peoples” if it can offer a satisfying solution for all of them. If not, then “three separate States” will be formed, “subsequently joining their ‘mother-States’” (Quoted according to M. Galić’s report from Paris BiH – konfederacija, *Večernji list*, 23 July 1993, p. 3.

<sup>21</sup> The irresponsible policy is precisely what motivated the head of the Catholic Church, Pope John Paul II, to issue a very precise and important warning to the Croatian President (as the one most responsible) during his first visit to Croatia. He pointed out that “the Croatian people has enjoyed permanent support from Rome throughout the centuries, encouraging them to live peacefully together with the neighbouring peoples. As you know, Croats have formed a sort of an alliance with Pope Agaton, *obliging themselves to live in peace with the neighbouring peoples*, and it is in that sense that I am addressing you, mister President...” See *Slobodna Dalmacija*, 12 September 1994, p. 6 (italics added). He is referring to a written contract put together in the year 680, in which Croats, according to Constantine VII Porphyrogenet, “vowed by their sturdy, undying faith to Peter the Holy Apostle, never to invade other countries under arms...” See Ive Livljanić, *Odnosi Svete Stolice i Hrvatske (I)*, *Vjesnik*, 4 September 1994, p. 12.

Croatian “republics” into a “larger” Croatian state<sup>22</sup>. It has become obvious that the process of the constitution of Croatia as a sovereign state, as one capable of “limiting its power to people residing on its own territory”, is at stake or even impossible if BiH is not constituted as a sovereign state<sup>23</sup>.

A military and political intervention of the international community was necessary – after Croatia had suffered heavy losses of human and material resources in the war against the BiH army – to steer the Croatian policy back to the position of principle. The Washington Agreement (in March 1994) and the Dayton Agreement (in December 1995)<sup>24</sup> “imposed freedom” on HDZ in both states and on its political leader. They were forced to submit to the rules and standards of international law – in both states. The war against BiH was finally stopped and the international community, on the grounds of the peace agreements, turned BiH into a permanent and direct protectorate, turning Croatia into an indirect and temporary one as well.

### 3. Conclusion: an authoritarian state with strong totalitarian features

This analysis shows that the HDZ was the principal source of totalitarian tendencies in the state of Croatia between 1990-1999. But these tendencies were not predominant traits of the Croatian political and social order, since the HDZ did not have enough ideological and political power to reshape the Croatian state and society to its liking. In my opinion, the post-war Croatia did not become a totalitarian community, but an authoritarian state with strong and distinct totalitarian features as well as with an increasing democratic and liberal potential.

<sup>22</sup> At the time when the war between the Croats and the Bosniaks in BiH was raging, the House of Representatives of the Croatian Sabor, at the session held on 7 September 1993, basically supported the Croatian government’s current foreign policy. Although the discussion included claims that the proclamation of the Croatian Republic Herzeg-Bosnia was “the first step towards the division of BiH”, the conclusion that the “establishment of the Croatian Republic Herzeg-Bosnia... is a political act which is one of the modes of realizing the sovereign rights of the Croatian people, as one of the three constitutive peoples of BiH”, was accepted by the majority vote. In addition, the House of Representatives “expresses concern with regard to the development of the situation in BiH” and “condemns the aggression of the Serbs and Muslims against the Croatian people and its territories in BiH”. Comp. Prihvaćen amandman o porbe o Herceg-Bosni i Hrvatima u BiH, *Vjesnik*, 8 September 1993, pp. 1-3.

<sup>23</sup> The function of sovereignty is decisive in international relations: “By attributing sovereignty to the state, a formal equality is attributed to all states and a rational principle is thus introduced into an anarchic state system. As a polemical notion, state sovereignty in international politics rejects the sovereign claims of races and classes over citizens of other states, thus limiting the state’s power to people residing in a specific territory. The notion of state sovereignty is thus basically anti-imperialist”. See Franz L. Neumann (note 2), p. 182.

<sup>24</sup> First of all, there were the following documents: The Agreement on the Federation of Croats and Muslims in BiH (including a draft of the Constitution of BiH Federation) and the Framework Agreement on the Establishment of the Confederation between the BiH Federation and the Republic of Croatia; those agreements were reached in Washington on 18 March 1994. Then came the General Framework Agreement on Peace in Bosnia and Herzegovina, officially signed in Paris, on 14 December 1995. It was an agreement between the Republic of BiH, the Republic of Croatia and the Federal Republic of Yugoslavia (SRJ), previously stipulated in Dayton, USA, thanks to the American officials, in November. The “Dayton” peace agreement also contains, in annex no. IV, the text of the BiH Constitution, laying the foundation for what is “probably the most complex form of government the world has ever known”. Comp. Smiljko Sokol, Branko Smerdel, *Ustavno pravo*, Zagreb: Informator, 1998, pp. 296-299.

The peace agreements concerning BiH have put an end to the ideological project of national sovereignty on the foreign policy level. Through systematic and determined pressures of the international community, both diplomatic and military, the Croatian official policy has been directed towards the realization of the politico-legal programme of the constitution of state sovereignty. In that respect, the common view of the OESS, the European Council, the USA and the European Union on the electoral process in Croatia is most revealing. A recent document issued by those institutions of the international community contains very precise assessments: 1. giving Croatian citizenship and the right to vote to ethnic Croats in BiH and reserving places in the parliament for special representatives elected by voters residing outside the country is contrary to the essence of representative democracy: 2. “by imposing political and administrative obstacles, the Croatian government has de facto cancelled and withheld the right of citizenship, and thereby the right to participate in the 1995 and 1997 elections, from a population of 300.000 Croatian inhabitants who have lived there for a long time and are of voting age. This applies, above all, to the ethnic Serbs residing in SRJ and BiH”<sup>25</sup>. The imposition of such democratic legal standards would compel the HDZ to become a political party which operates in the democratic political process within the Croatian State.

On the internal level, the collapse of the ideological project of national sovereignty was manifest in HDZ’s incapability of constituting the Croatian state as a rational instrumentation, the necessary prerequisite for the development of a modern civil society in Croatia. Within the state of Croatia, the totalitarian project succeeded in forming some sort of a feudal-estate order. Its traits were easy to perceive: the malignant amalgam of political power and economic domination, the militarization of the social field and the mythologization of the “ideological sector”, a static economy (“a stable kuna”) instead of a dynamic market economy, the lawlessness of Behemoth instead of the rule of law. But it was precisely the success of the project that brought about its downfall. In its attempts to systemically replace the state in the regulation of social life, the HDZ fell into a deep and permanent crisis. Political scandals, mutual recriminations and embezzlement which shook its foundations testified to HDZ’s incapability of governing the Croatian society and solving a single Croatian developmental and social problem.

The Croatian Second Republic has withstood the assault of the ideological project of national sovereignty. We must keep in mind that the project was not characteristic of the HDZ alone. No, it shaped the profile of the other political parties in Croatia as well, at least until 1994/95. The temptations of the opposition activity as the one which protects the general interests of the state against the particular interests and abuses of the party in power, have by now (or so it seems) finally taught the relevant opposition parties to act together as a democratic “rassemblement in defence of the Republic” (and of the institution of the presidency of the Republic of Croatia) against the populist “rassemblement for power” in service of the HDZ’s late president’s mode of rule.

<sup>25</sup> The document was put together by an operative group of representatives of the OESS Mission and the European Council, and it was subsequently backed by the EU and the US. The document suggests that the electoral law be altered “in the sense of cancelling special mandates reserved for voters residing outside the country”. It further requests the Croatian government to “see that the right of citizenship be confirmed as soon as possible to every citizen entitled to that right, so that they should be enabled to vote on the next elections”. Comp. Od Hrvatske se traži promjena Zakona o državljanstvu i ukidanje liste za dijasporu, *Jutarnji list*, 22 October 1998, p. 5.