

Boundary Issues and Solutions Following the Breakdown of Yugoslavia.

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Introduction

The period of the end of the eighties and the beginning of the nineties has witnessed great geopolitical changes in Europe. The unification of the two German states and the breakdown of the Soviet Union, Yugoslavia and Czechoslovakia are historical events after which the political map of Europe looks essentially different. A great number of new relations and issues have been opened. Among them the issue of boundaries is one of the most important and frequently raised.

Delimitation in former Yugoslavia

While former Yugoslavia was still collapsing, two counter options considering the future boundaries became clear:

- a new delimitation between republics, and
- recognition of the former republics within their existing boundaries.

The existing boundaries were questioned by Serbia. For Serbia only the outer Yugoslav boundaries were legitimate. All internal ones, i.e. republican boundaries were repeatedly referred to as "administrative" and "invented by the communist regime". The sovereignty of republics was, thus, denied. When Croatia and Slovenia proclaimed independence on the basis of referendums to which all the citizens of respective Republics were called to participate, Serbia accused the two republics of "secession". Since "secession" was illegal, boundaries of "secessionist" republics should be proposed by the rest of Yugoslavia. As the basis for "new" delimitation a principle of self-determination of peoples who wanted to stay in Yugoslavia should be applied to. Since Serbs were the only people advocating preservation of Yugoslavia, in reality this meant that they would fix boundaries of all the others. Here is what Milhailo Markovic, academician and vice-president of Serbian Socialist Party, the party in power in Serbia, said in April 1991 concerning boundaries:

*"The right to secession belongs to people not to republics, which boundaries were self-willingly defined between 1943 and 1945. It means that part of people living in republics whose majority wants to secede, do have the rights to stay. In that case we have to be ready to defend, with all disposable means, the right of all parts of Serbian people to determine for staying if others decide to leave Yugoslavia."*²

Recognition of existing boundaries was accepted by the other republics, but the main "boundary defender" was Croatia. The Croatian thesis was based on both constitutional provisions and historical background. According to provisions of the Federal Constitution, boundaries of republics were inviolable and since republics were defined as states themselves, their boundaries should be internationally protected as well.

Calling on the historical background of delimitations, Croatia pointed out that boundaries had deep and long-standing roots. Croatia's boundaries, for example, were defined after the anti-Ottoman liberation wars in the 18th century. Thus, they are much older than the Yugoslav state. In spite

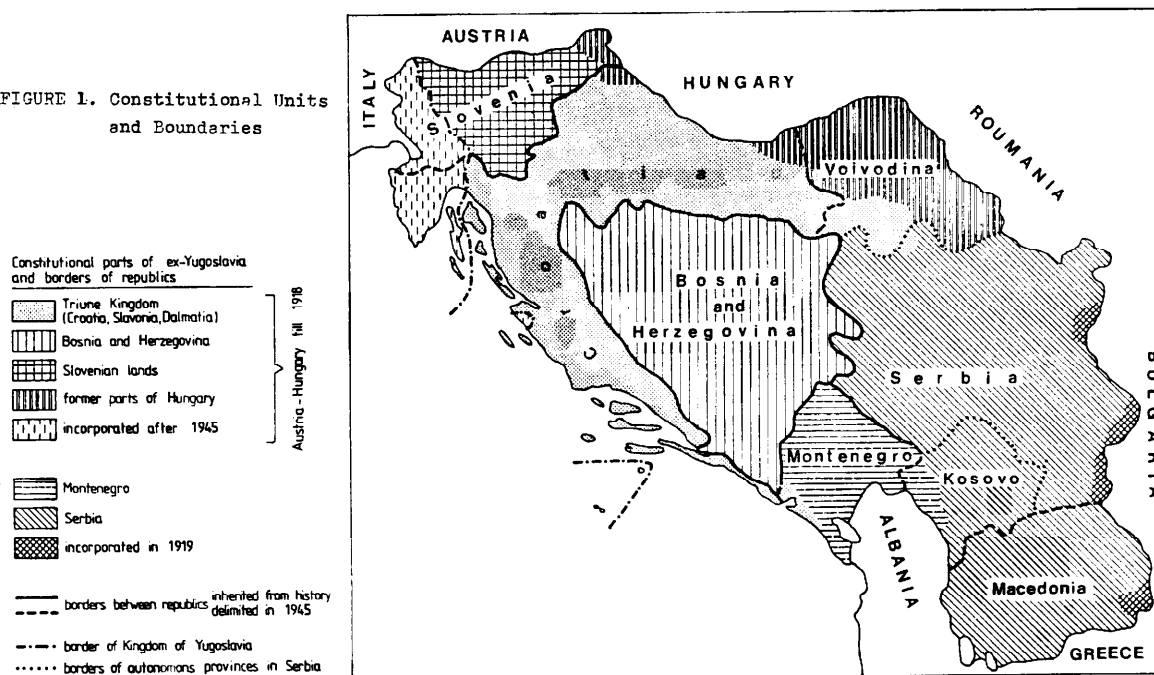
of the fact that delimitation in 1945 was carried out at its expense, Croatia had no territorial claims after the breakdown of Yugoslavia and was ready to recognize other republics within the existing boundaries. Quite similar were the standpoints of Slovenia, Macedonia and Bosnia-Herzegovina.

Historical background

The first Yugoslav state was created after World War I. It consisted of the former Austro-Hungarian provinces settled predominantly by South Slavonian peoples (which already proclaimed independence as a State of Slovenes, Croats and Serbs) and the independent Kingdoms of Serbia and Montenegro (internationally recognized since the Berlin Congress in 1878). The new state was named Kingdom of Serbs, Croats and Slovenes and in 1929 it was renamed Kingdom of Yugoslavia. Since the national question was not solved and subjectivity of constitutive units was not recognized, the Kingdoms of Yugoslavia split in 1941. Although split following invasion in 1941, Yugoslavia was re-established after the war under the communist regime as a federal state consisting of six republics. The main basis for the delimitation between republics, which was carried out in 1945 and shortly after, were historical boundaries (Figure 1). The point is that Yugoslav federal republics were successors of very old European political and territorial entities. Croatia, Serbia or even Bosnia can be found on the majority of the maps of pre-Turkish Europe. Most of the republics thus had clearly defined boundaries that were in existence long before the common state was created. Some of those boundaries had been important as they were drawn between empires such as Croatia's which divided the Austrian from Ottoman empires.

There were also some newly defined boundary sectors. For example, the boundary between Croatia and Serbia was drawn as a combination of historical and ethnic principles. So, the old boundary between Croatia and Hungary was taken as the basis for delimitation on one side and on the other side the majority of Croats or Serbs in the area was taken into account for other newly delimited sectors. The result was that the formerly Croatian region of Srijem was divided and

FIGURE 1. Constitutional Units and Boundaries



partially ceded to Serbia.

Ethnic cross-section of the republics

In former Yugoslavia none of the peoples constituted a majority. The share of Serbs as the most numerous people was not higher than 36 per cent. The situation in the republics is quite different. In each of the Republics one of the South Slavonic people forms a majority (Figure 2). The only exception to it is the trilaterally defined Bosnia-Herzegovina with Muslims, Serbs and Croats as its constitutive peoples.

The share of constitutive people in the total of the population is the largest in Slovenia, then in Croatia while in Macedonia, Montenegro and Serbia it is lower. As elsewhere in Europe, state boundaries are not at the same time the ideal ethnic boundaries. Each republic has a certain share of other peoples which, consequently, after the breakdown of Yugoslavia became minorities. This relative ethnic complexity is a consequence of migrations forced largely by the expansion of the Ottoman Empire on the Balkans since 15th century. In some areas there are bigger minority concentrations. Such areas exist in all republics except in Slovenia. Although less or equally homogenous than the other republics, Serbia claimed that a large number of Serbs lived outside its boundaries and therefore asked for a revision of boundaries on so-called ethnic criterion. The Serbian claim for "all the Serbs in one state" territorially meant annexation of Bosnia-Herzegovina and also a third to a half of Croatia including areas with the Croatian majority. Paradoxical as it is, statistics show that in such a state Serbs would make less than 50 per cent of total population.

In the same time the issue of minorities in Serbia was proclaimed to be its "interior" one, although Serbia is less homogenous than Croatia and in spite of the fact that minorities are situated mostly alongside boundaries with their titular states: the Albanian minority along the boundary with Albania, the Hungarians along the boundary with Hungary, the Bulgarians along the boundary with Bulgaria, the Croats (not shown on the map because of more than 50 per cent criterion) along the boundary with Croatia etc.

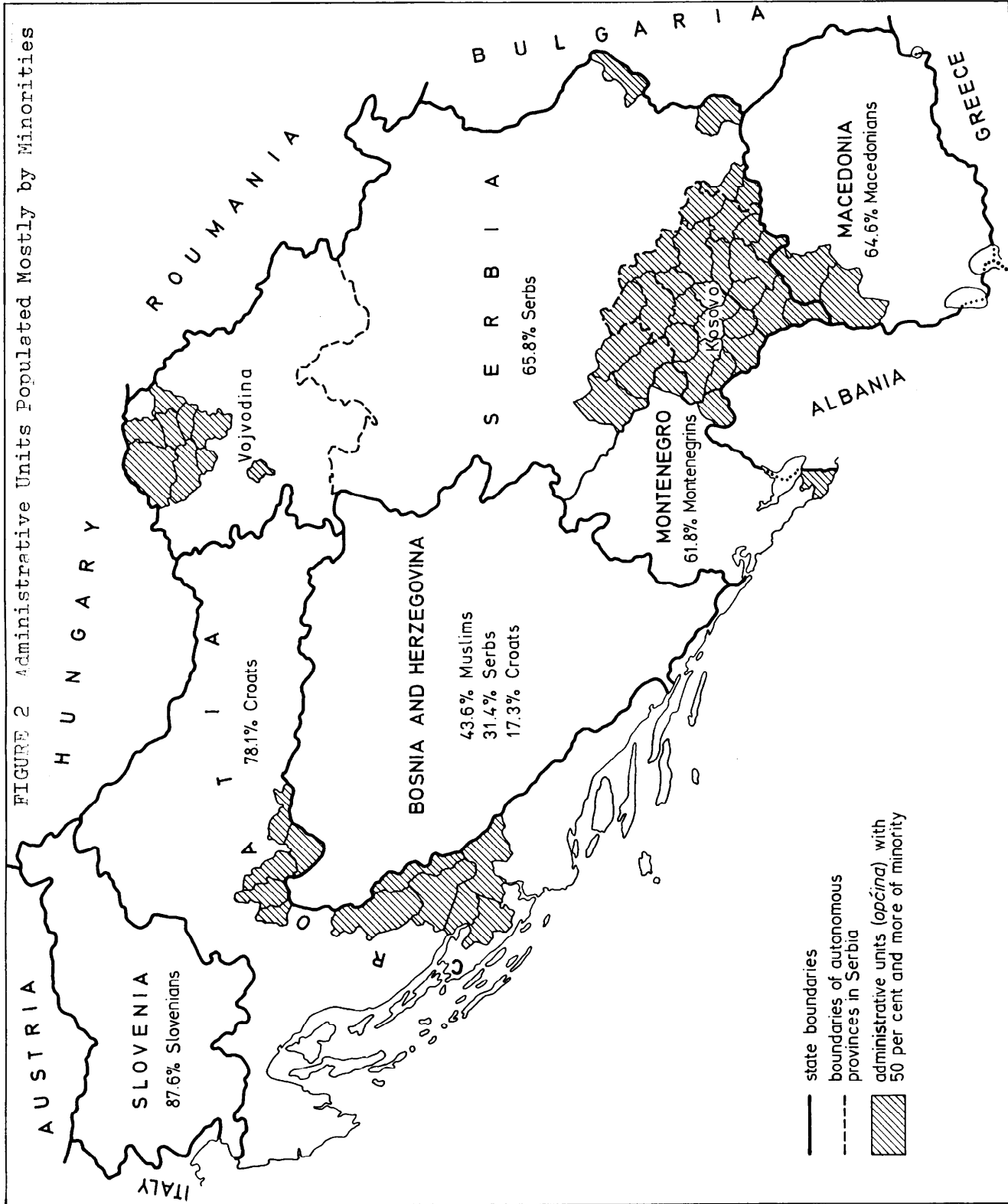
Since such claims were unacceptable for the others, Serbia tried to impose its option by force. In order to achieve it, Serbia used the Serb-dominated federal army and attacked first Croatia and later Bosnia-Herzegovina.

Constitutional provisions upon boundaries

By the Constitution of 1974, which was formally still valid until its final breakdown, Yugoslavia was defined as a state composed of republics (Article 1) and a republic is verbatim "*a state based on the sovereignty of its people*" (Article 3). Boundaries were the subject of Article 5 of this Constitution:

"The territory of a republic cannot be changed without the agreement of the republic, and the territory of an autonomous province without the agreement of the autonomous province...The boundary between republics can only be changed on the basis of their mutual agreement, and in the case of autonomous provinces on the basis of its agreement."

FIGURE 2 Administrative Units Populated Mostly by Minorities



Similar provisions were included in the constitutions of all the republics, including the Republic of Serbia. Serbia confirmed its acceptance of the present boundaries in 1945 in the "Administrative division of Serbia Act" and the "Constitution and organization of Vojvodina Act" on which occasion the boundaries of the Autonomous Province of Vojvodina with Croatia were also confirmed. By 1947, the other republics of Yugoslavia brought corresponding acts concerning their own administrative-territorial structure; all of these were a formal confirmation of inter-republican boundaries as they had been established in 1945.

Solutions

EC arbitration

Since boundary issues were not solved by negotiation, the international community tried to mediate in the conflict. On the occasion of the Peace Conference on Yugoslavia which began in the Autumn of 1991 under the auspices of the EC, a special arbitration commission was formed of experts from EC countries. It was chaired by the Frenchman, Robert Badinter. On the basis of the presented requests and documentation from all the republics of former Yugoslavia, the appointed commission answered all the questions through several "Opinions". By Opinion No.1 it was proclaimed that Yugoslavia is in the process of dissolution because its four out of six republics legally expressed their desires for independence. The main principles for delimitation between former republics were explained in the Opinion No.3. Four main principles should be followed:

1. All external boundaries of former Yugoslavia "*must be respected*";
2. The boundaries between republics "*can only be changed on the basis of free and mutual agreement*";
3. In the absence of such an agreement "*the former boundaries become boundaries protected by international law*" following the principal of *uti possidetis juris*;
4. The "*alteration of existing boundaries by force is not capable of producing legal effects*".

Also of importance is Opinion No.2 in which arbitration commission answered the question put forward by Serbia about the status of Serbian ethnic community in Croatia and Bosnia-Herzegovina. The right to self-determination of Serbs outside Serbia "*must not involve changes to existing boundaries*". Serbian communities in two republics' states were therefore given directions to regulate their rights within them.

As a result of the views and opinions of the arbitration commission, in January 1992, all EC-members, as well as other countries, recognized the republics of Slovenia and Croatia, and later Bosnia-Herzegovina "*within the boundaries as existed before the beginning of confrontation in June last year*".

UN peace plan and operation in Croatia

To ensure diplomatic solutions and to re-establish negotiation between the Croats and Serbs, the UN Protective Forces (UNPROFOR) were deployed in Croatia in Spring 1992. The basis for the UN peace operation was a plan proposed by Cyrus Vance. Protective forces were deployed "*in areas in which Serbs are the majority or significant minority of the population and in which tensions between communities caused conflicts in recent past*". Those areas were called UN Protected Areas (UNPA) and were divided in four sectors (Figure 3).

According to the 1991 census results in two sectors, North and South, the Serbs make up the majority while the Croats make up 34.7 per cent in the first and 21.2 per cent in the second sector. In sector West the shares of the Serbs and the Croats are almost equal and there are smaller groups of Czechs and Hungarians while in sector East the Croats are the most numerous, followed by the Serbs and there are some Hungarians in Baranja. At the moment of UNPROFOR deployment sectors East, North and South were controlled by the Serbian irregulars, while sector West was mostly under the Croatian control. In areas under their control, local Serbs, aided by the Yugoslav Federal army, systematically carried out ethnic cleansing during the 1991 war and before UNPROFOR was deployed. Almost all the Croats, as well as members of other non-Serbian nation communities (Hungarians, Czechs, Ruthenians) were expelled or killed in order to change ethnic cross-section of the regions. Unfortunately, even after UNPROFOR took over their responsibility, there were reported cases of "ethnic cleansing".

The task of UNPROFOR is to terminate all hostilities, to supervise the withdrawal of the remaining units of the former Federal Army from Croatia, to disarm all illegal groups, to enable all the refugees to return safely to their homes, thus re-establishing the former ethnic structure. This would finally lead to the creation of favourable conditions that would facilitate the legal, communicational and economic reintegration of these regions into Croatia and implementation of the Constitutional Law of Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia that was proclaimed by the Croatian Parliament in December 1991 and by which high-scale minority rights are proposed. Up to this moment UNPROFOR has not yet secured the return of refugees, nor has the task of disarmament been completed. Croatian authorities have many times complained about the slow process of the peacekeeping operation, demanding that it be carried out consistently. It is obvious that the former plan of operation should be changed in order to ensure more authority and power to UNPROFOR.

The Actual Situation

Although the boundary issue has been formally solved, there has been little progress on the ground. The tragic situation that has developed in the region has shown that diplomatic efforts were not enough. The Serbian side has fulfilled none of the obligations taken through many diplomatic efforts. Although the UN Security Council voted for sanctions against Serbia and Montenegro (the two republics which proclaimed a new "Federal Yugoslavia") they have not stopped military support to Serbs in Croatia and Bosnia-Herzegovina. The UN peace operation in Croatia seems to be paralysed. The war that broke out in Bosnia-Herzegovina has reached unexpected dimensions and that republic, although internationally recognised, is simply vanishing. The Serbs occupied most of the territory and unilaterally proclaimed it so-called "Serbian Republic". The rest of the country is mostly under the control of local Croat forces so that Muslim controlled area has been reduced to a few enclaves. The central government in Sarajevo, in

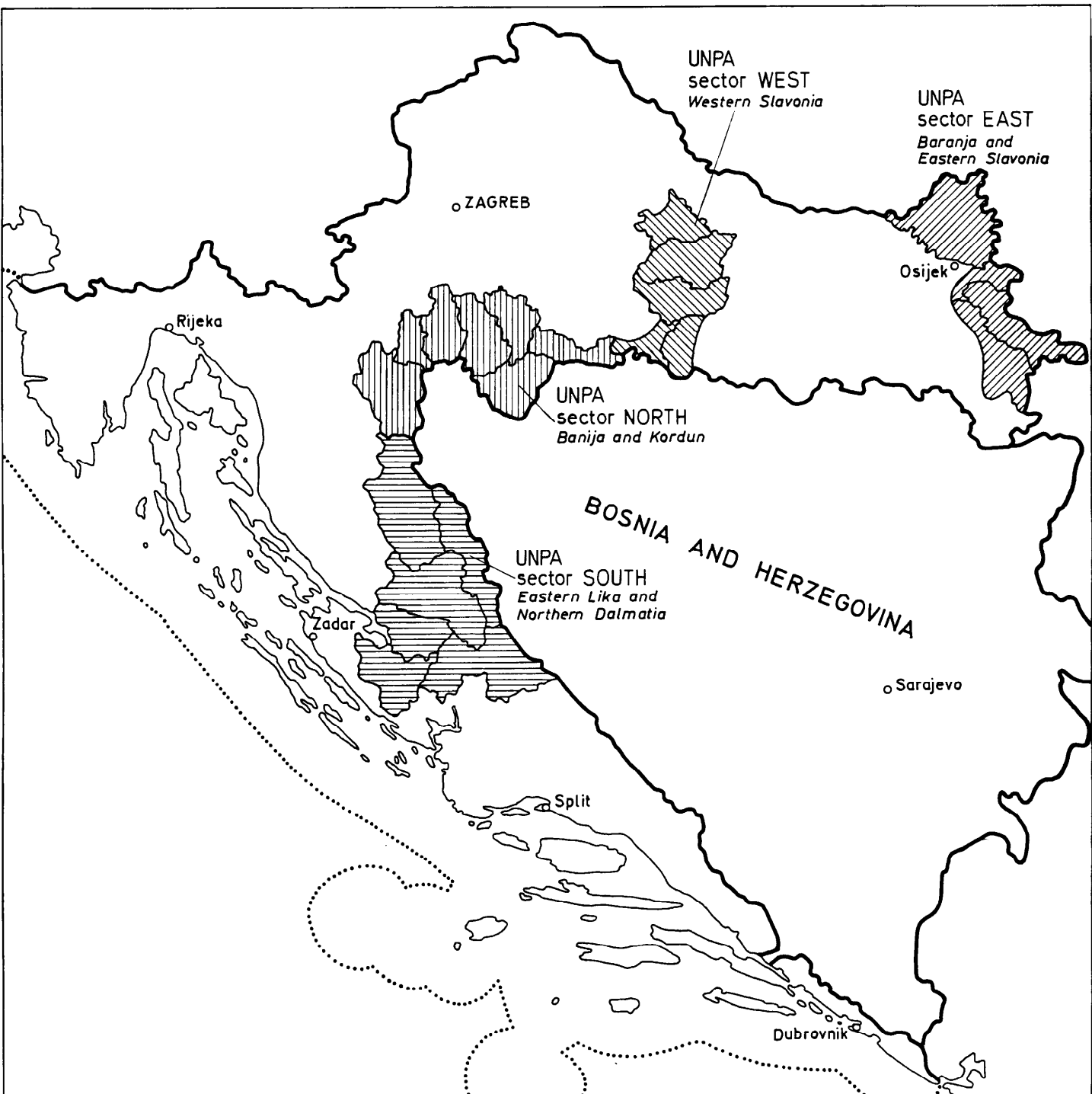


FIGURE 3 United Nation Protected Areas in Croatia

which now only Muslims and Croats participate, has no real power. War-lords on all three sides are making the situation completely confusing. The UN protective forces, which are presently in Bosnia-Hercegovina as well, has a mandate only to look after humanitarian convoys.

None of the minority issues in Serbia has been solved and there is a permanent pressure on and violence against the Croats and Hungarians in Vojvodina, the Muslims in Sanjak and the Albanians in Kosovo. All those minorities are denied any collective rights, old autonomies of Kosovo and Vojvodina are abolished. Macedonia has not yet been recognised because Greece blocked EC initiatives on account of dubious reasons which are not far from open territorial claims.

The situation is without doubt a vital test for the "New World order". All-sided observance of the international boundaries, as well as reciprocal guarantees for minority rights must be ensured by serious, not only formal, pressure against those who do not accept negotiation. The central and the key-problem is Bosnia-Hercegovina. All other solutions are very much influenced by the situation there. Can it be saved within the existing boundaries? A solution is not to be seen, especially not if searched for among local communities. International protection seems to be the only way, otherwise sooner or later existing division will be accepted. That would legalize Serbian territorial expansion reached by force and by crime.

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1. Geographer, Miroslav Krleza Lexicographic Institute, Zagreb, Croatia.
2. All the quotations are given according to original documents as they were published in Croatian in the daily newspaper "Novi Vjesnik", Zagreb, Croatia. Statistics are taken from 1991 census results for Yugoslavia and for the republics