

# **5th Report of the High Representative for Implementation of the Bosnian Peace Agreement to the Secretary-General of the United Nations**

## **I. Introduction**

1. Pursuant to the Security Council Resolution 1031 of December 15, 1995, which endorsed my appointment as High Representative to *“monitor the implementation of the Peace Agreement and mobilize and, as appropriate, give guidance to, and coordinate the activities of, the civilian organizations and agencies involved”* in the implementation of the Peace Agreement on Bosnia and Herzegovina, I submit hereby my fifth report envisaged by Annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of December 8-9, 1995.
2. This report covers developments in the areas listed below during the period from the beginning of December 1996 to the end of March 1997.

## **II. INSTITUTIONAL ASPECTS**

### ***Office of the High Representative***

3. My Headquarters in Sarajevo and the Secretariat in Brussels have, in the period described, continued to maintain operational coordination of civilian implementation activities inside Bosnia and Herzegovina, as well as contacts with the Headquarters of the respective implementation organizations and agencies, closely following, so far as possible, the various international fora dealing with the Bosnian peace implementation.
4. During the reporting period, the peace process in Bosnia and Herzegovina, despite numerous difficulties, has been moving in a defined direction and there have been a number of positive developments. The emphasis has been placed on the implementation of the civilian aspects of the operation, these being essential for the normalisation of life in Bosnia and Herzegovina. Specific attention has been given to two priority tasks: economic reconstruction on the territory of Bosnia and Herzegovina and the establishment of functioning common institutions. It is vital that the authorities start to assume joint responsibility for the implementation of the peace process and I have proceeded on this assumption.
5. The Award of the Arbitration Tribunal for Brcko on 14 February, regarding arrangements for the supervision of full implementation of the Peace Agreement in the Brcko area, represent a major challenge for my Office in 1997. A Deputy High Representative was appointed on 7 March at the Brcko implementation conference in Vienna, to serve as Supervisor for Brcko operating within the existing OHR structure in accordance with my mandate under Annex 10 of the Peace Agreement. The period of supervision started in early April. Concrete implementation measures will follow when the Supervisor decides that essential elements of the supervision structure are in place.
6. Regional coordination and monitoring the situation on the ground, in parallel with supporting the new common institutions, has been a priority. A regional Office in Mostar was established in early January to cover southern Bosnia and Herzegovina following the end of the mandate of the Special Envoy of the European Union. This will complement the existing regional Office in Banja Luka. The regional reach provided by the two Offices will be crucial during the consolidation period and will compensate for the cessation of the

regional Joint Civilian Commissions whose mandates have been superseded by the new common institutions of Bosnia and Herzegovina. These Offices will continue to facilitate contacts at a local level, promoting inter-entity co-operation in a variety of fields.

7. My office in Sarajevo has developed the capacity to conduct preventative, pro-active and follow-up action, and to structure diplomatic efforts in a concerted manner. As the peace implementation process moves into the consolidation period, these progressive achievements need to be both preserved and developed. Conditions for such continuity require countries that contribute personnel to maintain their current level of commitment. Many of the seconded staff who left at the end of 1996 have now been replaced; in response to the London Conference Conclusions I have received seconded staff from the European Commission and the World Bank. However, in light of the size of the tasks for 1997 and 1998, and the need to establish an effective office in Brcko, further secondments may be necessary.

#### ***Peace Implementation Council***

8. The Steering Board of the Peace Implementation Council met monthly at the level of Political Directors.
9. The discussion at the meeting in Brussels on 21 January focused on the preparations for municipal elections, with representatives of the OSCE participating in the discussion. Financial issues were also discussed and it was decided to extend the 1996 financial period until the end of May 1997.
10. The 19 February meeting in Brussels dealt primarily with the implementation of the Brcko Arbitration and preparations for an extraordinary Steering Board with the parties. The UN Mission in Bosnia, including IPTF, was represented by the Special Representative of the Secretary General. The Steering Board also discussed regional stabilisation issues with the Personal Representative of the OSCE Chairman in Office.
11. Following this meeting, a special Steering Board session took place in Vienna on the implementation of the Brcko Arbitration. Representatives of Bosnia and Herzegovina and its Entities, of the Republic of Croatia and the Federal Republic of Yugoslavia also attended. United Nations and other Key Implementation Agencies or Organisations contributed to the Conference.

### **III. COORDINATION OF CIVILIAN IMPLEMENTATION**

#### ***Overall Co-ordination***

12. Regular meetings of the Key Implementation Agencies were held at my office in Brussels on January 23, February 20 and April 9, in order to assess the efforts undertaken by the different international agencies and organisations involved in the implementation of the Peace Agreement, and inform them of the conclusions of the meetings of the Steering Board.
13. I have continued extensive consultations with representatives of governments and organisations. Since the beginning of the year, I have met, inter alia, with the OSCE Chairman in Office and the authorities of NATO.
14. In Sarajevo, I have continued to convene, on a regular basis, Principals' meetings with the participation of the Special Representative of the UN Secretary General, the UN IPTF Commissioner, the UNHCR Special Envoy, COMSFOR and the OSCE Head of Mission. These meetings have proved helpful and effective in co-ordinating efforts of the key implementation structures on the ground, particularly in facilitating the work of the new common institutions and in defusing potentially dangerous situations in the Zone of Separation. I expect that this format will be maintained through the consolidation period.
15. The Economic Task Force, which meets on a regular basis in Sarajevo, is now operational

and proves to be a useful tool to ensure co-ordination of principles and priorities of international reconstruction assistance.

16. At the end of January, I initiated the establishment of the Reconstruction and Return Task Force (RRTF), composed of my Office, UNHCR, EC, World Bank, IMG and the Property Rights Commission. After the first high-level session of the RRTF in Geneva, a series of meetings have been held in Sarajevo with the aim of presenting a policy paper to the international community by early April.
17. The Freedom of Movement Task Force, mandated at the London Conference and consisting of representatives of OHR, UN IPTF and SFOR and interested countries, was established on 20 December. The Task Force has met a number of times since its establishment and is exploring various implementing mechanisms to promote Freedom of Movement for people, goods and mail.

### ***Common Institutions of Bosnia and Herzegovina***

18. The Constitution of Bosnia and Herzegovina, provides for six common institutions in Annex 4 of the Peace Agreement: the Presidency; the Council of Ministers; the Parliamentary Assembly; the Constitutional Court; the Central Bank and the Standing Committee on Military Matters.
19. Following my activities in late 1996 to implement the results of the September elections, my Office worked hard to ensure that the key bodies of the common institutions – the Council of Ministers and the Parliamentary Assembly – were operational from the beginning of January. Progress has been slow; they are functioning, but have yet to become truly effective and self-sustaining.
20. The Presidency held seven regular working sessions during the reporting period. The Presidency nominated the Co-Chairs of the Council of Ministers of Bosnia and Herzegovina, signed agreements with the EBRD, UNICEF and the World Bank and agreed to establish a Standing Committee on Military Matters. The Presidency also signed the Decisions on Interim Financing of the Presidency and its Offices; on Interim Accommodation for the Members of the Presidency and their Offices and on Establishment and Internal Organisation of the Offices. The Presidency has also carried out some procedural tasks such as accepting the accreditation of several Ambassadors to Bosnia and Herzegovina, forming working groups and tasking the Council of Ministers.
21. The Presidency has a number of important outstanding issues on its current agenda. The establishment of the Central Bank of Bosnia and Herzegovina, for example, could not be finalised by the Council of Ministers. The Presidency has instructed the Ministry of Foreign Affairs to prepare a proposal for the division of posts of Ambassadors and other international representatives of Bosnia and Herzegovina abroad. This proposal has not yet been submitted. The London Conference conclusions refers to the responsibility of the Presidency for appointing Ambassadors, and urges them to appoint any new or replacement Ambassadors by the end of March 1997, however this has yet to happen.
22. Given the crucial importance of international assistance to the reconstruction of Bosnia and Herzegovina, and the key role of the Council of Ministers in helping to secure that assistance, my office organized an Economic Policy Forum (EPF) on 12 January following the appointment of the Council of Ministers. Organized in coordination with the IMF, the World Bank, the European Commission and the US Treasury, the event was used to clarify the necessary action for an agreement with the IMF, the principle pre-condition for holding the next Donor Conference. A joint short-term action plan and mid-term structural reform program were presented. My Office's efforts in the subsequent months have been centered on the passage of the emergency economic legislation within the Quick Start Package (Foreign Trade, External Debt, Central Bank, Budget, Customs Policy and Tariffs). This also enabled my Office to inject some substance into the new institutions from their

inception.

23. The Council of Ministers met for its first session on 3 January 1997 following its appointment at the inaugural meeting of the Bosnia and Herzegovina House of Peoples. From January to the end of March the Council met in formal session on fourteen occasions, and informally, or for "extraordinary" sessions, three times. Despite an increasingly cooperative atmosphere between the Council members, few decisions have been forthcoming. However, its work is improving with each session and progress, although slow, is evident.
24. One of the more difficult issues in the first two months was the adoption of the Council's provisional Rules of Procedure, which were eventually signed on 20 February 1997. The main point of contention concerned the role of the Deputy Ministers and whether they should be full members of the Council, with the accompanying decision making powers. A compromise was reached through provision for consensual decision-making within each Ministry, with differences of opinion forwarded to the full Council. While cumbersome, these procedures should assist in overcoming residual mistrust and suspicion, and are designed to ensure fully participatory decision-making.
25. The Quick Start Package was formally presented to the Council on 16 January and working groups were established to study the various laws. These working groups met at my office, assisted by my staff, throughout the remainder of January, February and into March. Status reports, and eventually the laws themselves, were brought to the Council at the weekly sessions. Either I or my Principal Deputy have attended most of the Council sessions, and we have often been able to assist in clarifying or arbitrating in disputes, usually involving questions regarding the extent of the state authority provided in the Constitution. Currently, the Council has concluded work on two of the laws, and work continues on the remainder.
26. Little has been accomplished with regard to the common staff, structures, or organization of the Ministries. While each of the Council members now have offices in their respective entities, and a few personal assistants, neither the "services" envisioned in the Rules of Procedure nor the individual Ministries have been established. The question of a permanent location for the common institutions must also be resolved. To address these issues, and in keeping with former practices, a "Law on the Council of Ministers and Ministries", based on a draft produced by my Office, will be presented. It will undoubtedly prove contentious, as it will have to address issues regarding the competencies of the Ministries, their location, and the status of the extant state structures of the Republic of Bosnia and Herzegovina. These issues must take priority in the coming months, concurrent with efforts to wean the common institutions from the support provided by my Office.
27. The House of Representatives held its constitutive session in Sarajevo on 3 January. At this session the Verification Committee verified the mandates of all Members elected in the September elections. The House of Representatives also adopted its Provisional Rules of Procedure and selected from its Members one Serb, one Bosniak and one Croat to serve as its Chair and two Deputy-Chairs. According to the Rules and Regulations the post of the Chair will rotate every eight months between them. At the same session, the House of Representatives approved a nomination of two Co-Chairs and the composition of the Council of Ministers of Bosnia and Herzegovina.
28. The House of Peoples was constituted on January 3, 1997 in Sarajevo. At this first session, the Verification Committee verified the mandates of all its Members. The House of Peoples has also adopted its Provisional Rules of Procedure and selected from its Members the Chair and two Co-Chairs of the House.
29. As progress with the QSP has been slow, the Houses have not met since their first session. My Office is currently facilitating meetings between the Collegiums of Chair and

Deputy-Chairs of both Houses to prepare for the next session. Disagreements on the contents of the Agenda have resulted in the session being postponed a number of times, at present it is scheduled for 30 April 1997. The Agenda should include the formation of the Committees of both Houses, the adoption of the QSP Draft Laws submitted by the Council of Ministers and the ratification of International Agreements signed by the Presidency of Bosnia and Herzegovina. The Collegiums are also discussing the organisation of a Secretariat for the Parliamentary Assembly.

30. All judges of the Constitutional Court have now been appointed. The judges from Republika Srpska were appointed at the session of the National Assembly of Republika Srpska on March 16. The House of Representatives of the Federation elected two Bosniak judges on January 24 and two Croat judges on March 18.
31. The Board of Governors of the Central Bank has been appointed and is meeting regularly and frequently, chaired by the international Governor, Mr. Serge Robert. The Board has worked intensively on a draft law on the new Central Bank of Bosnia and Herzegovina and has resolved most technical problems related to the establishment of the Central Bank. Disagreement still exists with respect to the number of branches, the name of the currency, the design of the bank notes and the duration of the interim period until a new currency can be established.
32. The Presidency has taken the first step in establishing a Standing Committee for Military Matters, and endorsed its adoption at a recent Presidency session. Work must now proceed to ensure that the Committee meets and begins to function as a means of creating a confidence building mechanism that promotes stability in Bosnia and Herzegovina and in its relations with neighbouring countries. Initially, this should involve the exchange of information and strengthening of links between entity Defence and Military staffs. Thereafter, greater transparency will be needed to define the Committee's civilian command authority and its responsibilities within Bosnia and Herzegovina's constitutional framework, and to correlate this with the Entities Defence Laws. In due time, and before SFOR withdraws, the Committee should assume a number of the functions of the Joint Military Commission.

### ***Essential legislation***

33. Of the non-economic laws included in the Quick Start Package, the Law on Citizenship of Bosnia and Herzegovina is one of the most sensitive. The Constitution of Bosnia and Herzegovina states that there is a Citizenship of Bosnia and Herzegovina, to be regulated by the Parliamentary Assembly, as well as a Citizenship of each of the Entities to be regulated by each Entity, provided that all Citizens of either Entity are thereby Citizens of Bosnia and Herzegovina. It is therefore essential that the Entity laws are identical to the largest extent possible and are fully in line with the Bosnia and Herzegovina Law on Citizenship.
34. One of the working groups appointed by the Council of Ministers has considered the draft in close co-operation with my Office. At a recent meeting at the Council of Europe in Strasbourg the members of the working group, representatives of the Legal Department of my Office and the experts of the Council of Europe, were able to find some solutions however a number of disputed issues remain. Of particular concern, is the Republika Srpska's decision to extend citizenship of the Republika Srpska to residents of the former Yugoslavia, provided they register residence by the end of June 1998.
35. Closely related to citizenship is the issuing of passports and other travel documents. It is essential that all citizens of Bosnia and Herzegovina, in both Entities, have access to internationally recognised passports. The draft Law on Passports, which is included in the Quick Start Package, regulates the form of the passports and the way they are issued. The draft is currently being discussed by the working group.

36. Included in the Quick Start Package is also a draft Law on Immunity. The draft has recently been agreed upon by the Council of Ministers and will shortly be submitted to the Parliamentary Assembly. Members of the Presidency, the Parliamentary Assembly, the Council of Ministers, the judges of the Constitutional Court, and the Governor and members of the Governing Board of the Central Bank are granted immunity for acts performed within the scope of their duties.

### ***Joint Commissions***

37. Activities of the Provisional Election Commission (Annex 3), chaired by the OSCE, are referred to in the elections section of this report.
38. The Commission on Human Rights (Annex 6), composed of the Human Rights Chamber and the Ombudsperson, continued its work. To date, the Ombudsperson's Office has opened approximately 1200 provisional files, registered nearly 500 cases and referred 29 cases to the Human Rights Chamber. More than 55 requests for interim measures (under which the relevant Government is asked to refrain from taking certain actions pending review by the Ombudsperson) have been issued. The Human Rights Chamber began its first public hearing on 6 February 1997 and has now issued its Rules of Procedure.
39. The Human Rights Ombudsperson has recently issued final reports in several cases, finding human rights violations by both the Federation and the Republika Srpska, and has prepared a special report relating to violations of freedom of expression within the Republika Srpska. The authorities have been given until late April to respond to these findings. My Office will monitor the response of the authorities closely, and will intervene as necessary to support the findings of the Ombudsperson.
40. The response of the authorities in Bosnia and Herzegovina to these new institutions remains substantially inadequate. Neither Entity has taken the concrete steps necessary to: establish the Commission as an integral part of the legal framework of Bosnia and Herzegovina; ensure full cooperation with the Ombudsperson and Human Rights Chamber by authorities at all levels; establish procedures for assisting with human rights investigations and responding to requests or reports from the Ombudsperson and the Chamber, or adopt legislation providing for the implementation and enforcement of their decisions.
41. Both institutions require additional support from the international community. On 25 February, the Presidency of Bosnia and Herzegovina expressed its support for the Commission and its commitment to fulfill its obligation under the Peace Agreement to provide sufficient funding. Given current economic constraints, the government of Bosnia and Herzegovina has asked the international community to support a funding appeal by the OSCE and the Council of Europe on behalf of the Commission.
42. Many victims of human rights violations in Bosnia and Herzegovina remain unaware of either their legal rights or the possible remedies available to them. Human rights organizations are encouraging the referral of cases to domestic human rights institutions and are assisting in publicising their work. It is essential that the Commission on Human Rights have an impact throughout Bosnia and Herzegovina. To that end, additional steps should be taken to distribute information concerning the Commission (particularly the Human Rights Chamber) beyond Sarajevo, especially in the Republika Srpska.
43. The Commission to Preserve National Monuments (Annex 8), coordinated by UNESCO, has established its Working Secretariat in Sarajevo as well as a back-up Secretariat in Paris. Both are currently financed by UNESCO; proper funding through the Entities' budgets has yet to be established. The Commission is studying the lists of national monuments submitted by the parties, with the intention of producing a consolidated list of designated national heritage sites. The Commission intends to establish a mechanism for the preservation of the designated cultural heritage of BiH and, ultimately, to hand-over to a

state level institution. The Commission held its third session on 31 January and intends to re-convene in April.

44. Despite numerous meetings and proposals from its international members on possible institutional structures for joint public facilities, the Commission on Public Corporations (Annex 9) has not reached any agreement. Moreover, the Commission has refused to give any guidance to the technical working groups which have been created to examine specific operational problems in some areas. The situation is particularly acute in the power and railway sectors and an agreement to establish a Transportation Corporation has remained a dead paper. I am, therefore, convening a meeting of the two Prime Ministers of the Entities to examine the overall problem of public corporations and try to resolve the evident political impasse.

### **Elections**

45. The municipal elections this year will be of critical importance to the future development of Bosnia and Herzegovina. Their preparation must be closely correlated with the overall implementation of the Peace Agreement. Considerable resources, both financial and in terms of experienced elections personnel, will be required to supervise the preparation and conduct of these elections and to ensure that the results are fully implemented.
46. The overall approach to the preparation of the elections should continue to be as prescribed by the PIC Steering Board in October 1996, namely: higher quality for the municipal elections than that which prevailed for the General Elections in September 1996; complete international supervision of all of the polling stations and of every stage of the election process; and that the OSCE should have the structures for the likely re-runs as well as for the installation of the elected officials.
47. At the London Peace Implementation Conference in December 1996 it was agreed that the elections would be held by the summer of 1997. In its 21 January "Election Plan for Municipal Elections", the OSCE Mission in Bosnia and Herzegovina announced a target date of 12/13 July, which proved to be untenable. Planning proceeded accordingly until the end of February. On 6 March the OSCE Chairman-in-Office announced that, given the need for high quality elections and firmness after these elections, he had decided that the elections should take place on 13/14 September. The decision to defer the municipal elections has provided a realistic time-frame in which the elections can be thoroughly prepared.
48. The Provisional Election Commission (PEC) began its regulatory work in mid-January, somewhat later than had been anticipated. It has adopted a number of significant Rules, particularly those which were necessary to accommodate the November 1996 Memorandum of Understanding between the OSCE and the Republika Srpska, in which it was agreed that refugees may vote in an intended place of residence. Given the gross manipulation which took place in the registration process for the 1996 General Elections, the PEC adopted specific rules stipulating the requirements should refugees decide to vote in an intended place of residence.
49. A new affirmative voter registration has also been agreed by the PEC. If well prepared and properly executed under close international supervision, this registration should lead to a clearly defined electorate, thus avoiding the confusion and disputes which arose in September, 1996. But the challenges in registering voters remain considerable. For registration to succeed:
  - the Local Election Commissions must be trained and fully functioning well before the beginning of the registration process on 5 May;
  - all those who are eligible to register must be able to do so in conveniently-located registration centres. The PEC's 11 February decision to ensure international supervision of all of these centres is a significant measure by which the potential for

- fraud can be curtailed;
  - the number and location of the polling stations must be carefully correlated with the specific requirements of each municipality. There should also be confidence that the number of polling stations currently envisaged, 2,300, is sufficient;
  - a massive and effective voter education campaign will be required because an active voter registration process is not part of local political tradition.
50. The PEC has also adopted a number of other Rules, including those which provide for the participation of Political Parties in the work of the Local Election Commissions. It has also strengthened its provisions regarding the media. The PEC should complete its regulatory work soon and try to avoid preparing Rules late in the electoral process, as happened in 1996.
51. The municipal basis for the elections in the Federation needs to be resolved, both with regard to those municipalities which were divided by the Inter-Entity Boundary Line (IEBL), and from the perspective of the calls for the establishment of some new municipalities within the Federation. An Advisory Commission, which worked under the auspices of the Council of Europe, was established by the Federation Forum on 3 February to examine these issues. Its opinion – in the form of a Draft Law – prepared by my Legal Department and experts of the Council of Europe, was communicated to the Federation Government on 3 March. The Federation Ministries of Justice and Urban Planning are currently preparing a final text which will be submitted shortly to the Federation Parliamentary Assembly. An early decision is required to enable the OSCE to proceed in its planning with a clear vision of the Federation's municipal structure.
52. The London Conference Conclusions stressed the importance of tackling the crucial post-elections issues. Recent events in Serbia have underlined that the electoral process does not stop on polling day; officials must be able to take office and perform their duties. As the London Conference had requested close coordination on the planning of the election process and the management of the post-elections period, my Office prepared a preliminary paper on these issues for the 21 January meeting of the Steering Board of the PIC. Considerable problems can be expected with the implementation of the election results; the OSCE has, therefore, recently established a Post-Elections Planning Group, in which the OHR, IPTF, SFOR, UNHCR, ECMM and the Council of Europe participate.
53. A sound electoral process is the essential ingredient in the peace implementation process in 1997. Quality, determination and complete implementation of the election results will be essential for the advancement of the democratic process in Bosnia and Herzegovina.

### **Federation issues**

54. The implementation of the Federation remains one of the major fields of activity of my Office. The first months of this year were characterized by continuing mistrust between the Federation partners. In January, the Prime Minister called publicly for the resignation of his Deputy because of some alleged customs irregularities. At the end of the same month, the HDZ froze its participation in the Federation Government and the Federation Assembly until some unsettled issues were resolved, in particular the formation of new municipalities.
55. At a Federation Forum on 3 February, my Office, in cooperation with the US Government, tried to bridge some of the most urgent differences. Agreement was reached on the establishment of an Advisory Commission, led by the European Council, to address the question of municipalities. In addition, the next steps on organizational questions regarding Sarajevo and Mostar, as well as the new dates for the formation of the Federation police, were agreed.
56. However, none of the deadlines could be kept due to an eruption of violence in Mostar on 10 February, when West Mostar police officers shot at the backs of Bosniak cemetery



visitors. This was followed by a series of assaults on travellers in the Mostar area and a wave of evictions in West Mostar. In response, my Principal Deputy, together with COMSFOR and the UN IPTF Commissioner, assembled Federation leaders on 12 February, and reached agreement on the 'Decisions on Mostar' in which the UN IPTF was requested to submit a report on the 10 February events. In this Report of 24 February, 3 police officers were clearly identified as perpetrators of the shooting. The conclusions from the Report, in particular the arrest and punishment of the perpetrators, were endorsed by the UN Security Council on 11 March. As yet, there has not been compliance. On 25 March, the UN IPTF and my Office submitted a second Report on the situation in Mostar, from 1 January to 15 February, which graphically illustrated that neither the political authorities, nor the police of Mostar, have reacted appropriately to the human rights and security situation in the city. It further outlined the consistent police failure to respond to incidents involving victims of an ethnicity other than their own.

57. After international pressure and some intervention from Zagreb, the situation in Mostar calmed down and the security environment improved. In the aftermath of 10 February, some West Mostar gang leaders were arrested, amongst them strongmen Mladen Tuta Naletelic and Vinko Stela Martinovic, both of whom are being held in prison in Zagreb. In the medium and long term, these arrests may add to the stabilization of the situation in Mostar, but the crimes committed on 10 February remain unpunished. On 4 April, the United Police Force of Mostar started to function again, working in joint Cantonal police uniforms; an important step towards the unification of the police in the whole of the Herzegovina Neretva Canton, possibly in late April.
58. In March, the HDZ returned to the Federation Assembly and Government. On 18 March, both Federation Houses elected the new Federation President, Vladimir Soljic, and his Deputy Ejup Ganic. On 20 March, the Government adopted a draft Law on the Federation Implementation Council which will, if adopted by the Federation Assembly, facilitate the removal from office of officials who obstruct the implementation of the Federation. On the financial side, the customs system was put back on track after some danger of falling apart in January and February. On 20 March, the Government adopted the Federation budget which now awaits approval by the Assembly, scheduled for 16 April.
59. On 26 February, the Advisory Commission on municipalities finished its work on split and the first group of new municipalities, and submitted a draft law to the Government. Due to some of the proposed new municipalities being contested, in particular the Croat populated Usora, the Government has not yet agreed on the draft law, thus posing a considerable problem to the OSCE which has to proceed with its planning for the municipal elections.
60. On 27 March, leaders of the parties represented in the Sarajevo Canton Assembly signed a comprehensive agreement on the implementation of the Sarajevo Protocol. Precise steps were outlined to establish the City Council, elect a mayor of Sarajevo and his Deputies, and to amend the Federation and Canton Constitutions. Bosniaks, Croats and Serbs will have guaranteed rights in the governance of the city. If implemented, this would constitute a significant step towards ensuring the multi-ethnic character of Sarajevo, facilitating return, improving the climate in the Federation and ultimately providing the possibility for all peoples and citizens of Bosnia and Herzegovina to identify with their capital.
61. At the end of the reporting period, the recent crisis in the Federation appears to have been overcome, for the time being. It is clear that the implementation process needs further international attention and assistance, particularly regarding return of refugees and displaced persons. The relations within the Federation also depend, to a considerable degree, on the relations between the Entities and within the common institutions.

## **Republika Srpska issues**

62. The formation of the Entity structures, as well as necessary legislative framework, has continued in the Republika Srpska. The National Assembly of the Republika Srpska held three sessions during the reporting period. The deputies to the National Assembly, elected on the territory of the Federation, were allowed to participate fully in the work of the National Assembly without taking an oath. In order to facilitate their participation, the OHR and IPTF provides technical support.
63. Since my last report, the reorganization of the structure of the Government has been finalised. The National Assembly adopted at the 7 February session, the Law on the Government of Republika Srpska and the Law on the Ministries. These Laws rationalized the structure of the Government and decreased the total number of Ministries. The main pillars of the programme of the Government remain: defence of territorial integrity; organized settlement of the population to areas close to IEBL; economic reconstruction and social protection of the people.
64. There are a number of issues, however, about which I am concerned. The Republika Srpska continues the pretence of statehood; a number of its laws are filled with references and terminology to this effect. The continuation of the Ministry for Foreign Affairs is contrary to the Peace Agreement, as is the reference to crucial issues of foreign economic policy in the newly adopted Law on the Senate of the Republika Srpska. A Law on Foreign Exchange, while short on specifics, gives wide powers to the National Bank of Republika Srpska to legislate the operation of the foreign exchange market and refers to "new dinars" as the domestic currency. The recent amendments to the Law on Citizenship, will further retard the process of agreeing on the Quick Start Package.
65. An agreement between the Federal Republic of Yugoslavia and Republika Srpska, establishing a "special parallel relationship", was signed in Belgrade on 28 February 1997 and was subsequently adopted by the Assemblies of the Republika Srpska and FRY. The agreement contains similar elements as those included in the agreement concluded between Croatia, the Republic of Bosnia and Herzegovina and the Federation, in Paris on 15 December 1995. Though the Constitution of Bosnia and Herzegovina allows for "special parallel relationships" (Article III, 2 a), my Office has considered the agreements and found that both suffer from constitutional shortcomings. Negotiations are also proceeding on the formation of a virtual customs union between the Republika Srpska and FRY and I have warned that this would be contrary to the Peace Agreement. We must insist that all agreements be reviewed by the Bosnia and Herzegovina Parliamentary Assembly and brought into line with the Constitution.
66. I am also concerned about the apparent disrespect displayed by some leaders in the Republika Srpska for the provisions and procedures of the Republika Srpska constitution. This was especially evident during the conclusion of the above mentioned agreement on a "special parallel relationship" with FRY, which was signed on behalf of the Republika Srpska by Momcilo Krajisnik, the member from the territory of the Republika Srpska in the Presidency of Bosnia and Herzegovina, in violation of the Republika Srpska constitution.
67. While such legislative posturing continues, the Republika Srpska economy is slipping further into decay. The initial boost from the return to peace was short-lived and there is still large scale unemployment, low income levels and a severely limited ability to care for the elderly and poor. My Office has made strenuous efforts to redirect the flow of international aid to the Republika Srpska in order to revitalise the economy and prevent inevitable social tensions.
68. At the same time, such aid must be conditioned to co-operation with the peace process. The authorities in the Republika Srpska must be convinced that their activities could lead to a severe reduction in planned economic aid and an increase in social turmoil which

would, ultimately, be to their own disadvantage and that of the people they purport to represent.

### **Media**

69. Events elsewhere in the region underline the vital role of independent media in achieving democracy and stability. OHR is giving high priority to entrenching and consolidating independent media in all parts of Bosnia and Herzegovina.
70. The London Conference Conclusions gave a reinforced role to OHR in co-ordinating international support to independent media project; there are now regular media round-tables in Sarajevo with all major donors. A detailed database of existing and proposed projects has been set up, and an effective instrument now exists for avoiding overlap between different donors and agencies, and promoting co-operation between them.
71. My Office plays its most active role in assisting the Open Broadcast Network (OBN), as Chair of the Governing Council and its Steering Committee. The OBN is the only true cross-entity broadcaster in Bosnia and Herzegovina. It carries the programming of TV-IN to most areas of the Federation, and to much of the Republika Srpska in the area around Banja Luka. The project has had to overcome a number of institutional and technical problems. It has also had to endure much politically inspired public criticism designed to undermine what remains a fledgling but maturing TV Network. As such it continues to need the support, protection and nurture of the international community. The network is now embarking on Stage Two of its development, a \$7.4 m programme which will roughly double the audience for its programmes, set up a fully-fledged affiliate station in the Republika Srpska with its own local identity, and expand substantially the programming capacity both of the central hub in Sarajevo and of the affiliates. Stage Two will aim to consolidate the network's operations over a two-year period, after which it should be self-sustaining.
72. The Republika Srpska is a crucial target in my efforts to promote independent media. A proposal for an independent print house in Banja Luka is being finalised in conjunction with the democratisation working group in Banja Luka; funding is being made available from EU sources. As Western Herzegovina is even more closed than the RS to independent media, my Office is also seeking a pro-active strategy with other international institutions and donors to promote the independent media in that region of Bosnia and Herzegovina.
73. At present, there is no comprehensive framework for the legal regulation of media in Bosnia and Herzegovina, the Federation does not even have a media law. My Office co-chairs with the US embassy the Federation Forum Special Group on media issues, and has given the Federation partners, as a possible basis for discussion, draft laws on broadcasting prepared by the European Institute for the Media. My Office is also in close touch with the Presidency working group preparing draft legislation on telecommunications, which has some limited implications for broadcasting. Our interest in the field of media law is in ensuring basic media freedoms and protecting independent media. It will be particularly important to ensure the position of cross-entity broadcasters within this framework.

### **Return of refugees and displaced persons**

74. The beginning of 1997 has signaled a major push to repatriate refugees. Approximately 235,000 refugees and displaced persons are believed to have returned to their homes during 1996, mainly on a spontaneous and individual basis; the scene for 1997 promises to be more complex. Some host countries in Europe have started to lift temporary protection status and have begun large-scale organised repatriation. This is likely to

create further disruption; the influx of returnees in 1996 has already used up much of the housing capacity in Bosnia and Herzegovina, additionally, the homes of the refugees are, by and large, either destroyed or occupied by internally displaced people. A possible influx of Serbs from Eastern Slavonia into the Republika Srpska would merely exacerbate the problem.

75. Violent incidents such as the shootings in Mostar on 10 February and the deliberate destruction of houses and shelters in the Zone of Separation, indicate the hostile environment minority returns can encounter. Nonetheless, the process of normalisation has provided some openings to individual and low-profile minority returns. UNHCR estimates the number involved to be about 10,000, many more are signaling their wish to return to their homes across the IEBL in both directions.
76. Since my last report, my Office has concentrated its efforts in three fields: the establishment of the Reconstruction and Return Task Force; support for the Coalition for Return; the implementation of the Procedure for return and reconstruction in the Zone of Separation. Furthermore, my Office's overall efforts towards the economic reconstruction of Bosnia and Herzegovina; functioning common institutions; the improvement of the overall human rights, policing and judicial situation, can be expected to have beneficial effects for the provision of durable solutions for displaced persons and returning refugees.
77. After consultations with UNHCR and other main actors including the European Commission and the international financial institutions, I called for the inaugural meeting of the Reconstruction and Return Task Force on 4 February. The Task Force has sought to develop links between economic reconstruction and the return of refugees to maximise the impact of limited resources in supporting sustainable returns. Among the conclusions of the Task Force have been the need to focus resources in areas where there is both economic potential and expected refugee return, and the need to identify loan mechanisms to overcome the major financing gap in the housing and relevant infrastructure sectors. The Task Force will submit recommendations to the donor community.
78. The Coalition for Return, a movement of displaced persons and refugees of all nationalities and from all parts of Bosnia and Herzegovina, has continued to grow during the reporting period. A number of refugee associations in third countries have also joined. By jointly expressing their interests, those most affected by the war and manipulation by the authorities are becoming a significant political force at the grass-roots level. This was expressed by the gathering of 270 members of the Coalition in Tuzla on 22-23 February. The Coalition has promoted the creation of an information network between displaced persons by organising visits to communities throughout Bosnia and Herzegovina. Material support has been received to establish regional offices that will further improve contacts; the first is planned to open in April. My Office will continue to give technical and political support to the Coalition until such support is no longer required.
79. Returns to the Zone of Separation, on the basis of the Procedure established in October 1996, have met a mixed fate. Violence directed against the labourers and the destruction of the pre-fabricated provisional shelters in the hamlet of Gajevi has hit the headlines. However, the successful administrative integration of returned villagers by Republika Srpska authorities, and joint police patrolling of Republika Srpska police and UN IPTF in the Sapna and Doboje areas, do indicate a changing attitude in some areas. Likewise, the Federation authorities have recognised that cross-IEBL returns into the Zone of Separation have to be conducted in a civil and orderly manner.
80. Returns to the Zone of Separation have also been achieved in the Brcko municipality; reconstruction efforts have been ongoing under the adopted Procedure for approximately nine months, with only some initial incidents of destruction of property. Returns to contentious areas and the endorsement of the Procedure by the President of the

Republika Srpska and the joint Bosnia and Herzegovina delegation to the UNHCR's refugee ministers' meeting of 21-22 March, give rise to the expectation that phased and orderly return to the Zone of Separation might become a more common and less disputed element of the stabilisation process in 1997. A focused international effort will be needed to bring about the revitalisation and normalisation of this area through the return of its original inhabitants.

81. My Deputy in Brcko, acting as the Supervisor, together with two deputies, to implement the arbitration award of 14 February 1997, will soon establish and oversee the realisation of a special procedure to enable the return of original inhabitants to Brcko. Return is a core element of the arbitration award.
82. My Office will continue its task to co-ordinate the efforts of international actors to facilitate return and repatriation and to exercise contingency measures. After its recommendations to the Donor Conference, the Reconstruction and Return Task Force will remain engaged in efforts to harmonise economic reconstruction with return requirements. I will continue to press the governments in Bosnia and Herzegovina to fulfill their obligations to create conditions favourable to return, and will closely monitor other durable solutions offered to the community of displaced persons and refugees.

### ***Freedom of Movement***

83. Improvements in freedom of movement have been facilitated by the elimination of checkpoints and the establishment of inter-entity bus-lines operated by UNHCR. Under the auspices of UNHCR and UN IPTF visits to grave-yards or former homes in the other Entity have increased. However, freedom of movement is severely restricted by inappropriate policing practices and the lack of telecommunications and infrastructure.
84. The Freedom of Movement Task Force (FMTF), mandated at the London Conference and consisting of representatives of OHR, UN IPTF and SFOR and interested countries, has met a number of times to explore various implementing mechanisms to promote Freedom of Movement for people, goods and mail.
85. Police practices in both Entities are the single greatest obstacle to freedom of movement. The police engage in conduct that tends to make the IEBL a boundary, especially along the major cross-IEBL arteries. Checkpoints, the confiscation of documents and arbitrary fines, act as a deterrent to the movement of individuals. My Office fully supports the work of the UN IPTF to restructure and retrain the local police forces and I welcome the commitment to provide a further 186 UN IPTF monitors, and 11 civilians, for the Brcko region.
86. Uniform driver documentation and vehicle number plates would considerably facilitate freedom of movement. This issue has been raised within the Council of Ministers, though at present it is only being considered for those Ministers and bureaucrats who need to cross the IEBL. The FMTF will also be considering alternative methods to resolve the issue.
87. The internal transit agreement signed earlier this year, has contributed towards the free movement of foreign goods between the two Entities. The flow of domestic goods has however encountered problems similar to those experienced by private cars. Uniform number-plates and the adoption of the Customs Laws in the Quick Start Package are essential if there is to be real progress in this field.
88. The cross-IEBL bus-lines, established by the UNHCR, have become an effective tool in promoting freedom of movement between the two Entities for displaced persons, returnees and the local population. Under the auspices of the my Office, the Chambers of Commerce and bus companies of the two Entities have been meeting to discuss the registration of inter-entity bus-lines. UNHCR will be included in future talks. The implementation of locally run inter-entity passenger traffic, will be a vital step forward to the realisation of freedom of movement.

89. Inter-entity railway traffic should be established. In early February, the Commission for Public Corporations established a Railways Commission and four Working Groups to address the different aspects of the problem. Progress has however floundered on the differing concepts of the railways structure.
90. Exchange of information and regular contact between the citizens of the two Entities would contribute toward a climate conducive to movement. My Office is working with the European Commission to establish inter-entity telecommunications, but has encountered considerable reluctance from all sides to share exchanges or management. A new structural approach may have to be adopted; it is also essential that frequency control, management and telecommunications will be covered by just one of the Bosnia and Herzegovina ministries.
91. In the Brcko area, the Supervisor will promote a series of steps to ensure freedom of movement of people, goods and commerce. The announcement by Bosnia and Herzegovina and Croatia of their intention to start immediate discussions on the rapid opening of their common border, with customs procedures and controls consistent with European standards, will be of particular importance for the Brcko area.
92. As part of the economic rehabilitation of the Brcko area, the European Commission, the World Bank and US AID have agreed to make major investments to improve road and rail structures of the area. Measures are urgently needed to upgrade the East-West road through the area, as well as the key road and rail bridges over the River Sava both in the immediate Brcko area and further to the West at Orasje and Samac. This would improve North-South communications for the unhindered use of both Entities and all communities of Bosnia Herzegovina. The Supervisor will also study the river traffic in co-operation with the parties.

### ***Missing persons, Mass graves***

93. The issue of missing persons remains highly volatile after a year of halting and inadequate progress. The exact number of missing persons is uncertain; the ICRC has received tracing requests for more than 19,000 persons; the Bosniak authorities estimate the number of missing to be closer to 30,000. To date, the status of approximately 1,000 missing individuals has been clarified. Due to the lack of progress, the ICRC is currently looking at new ways to move its tracing process forward.
94. Recognising that the missing are - with very few, if any, exceptions - deceased, the local authorities, my Office and other members of the international community, have focused efforts on the exhumation of mass graves and the clearing of unburied mortal remains. After the winter delay, the parties met on 31 March under the auspices of my Office and agreed to resume inter-entity exhumations on 10 April. Work will begin simultaneously at two sites on that date.
95. While frustrating for the families of the missing, the winter-imposed break in exhumations provided an opportunity for the international community to organise resources and focus activities in order to improve the conduct of joint exhumations during 1997. Under the auspices of the Expert Group on Exhumations and Missing Persons, chaired by the OHR and consisting of several international organisations, a number of efforts are underway to assist the joint exhumation and identification process. These include projects by Physicians for Human Rights to train Bosnian scientists and technicians in exhumation techniques, to provide a co-ordinator for international forensic monitoring of exhumations and to establish an antemortem data base (in conjunction with the Association for the Promotion of the Ludwig Boltzmann Institute of Human Rights). Physicians for Human Rights is also working on an identification project designed to assist in scientifically verifiable identification of mortal remains.
96. The International Commission on Missing Persons announced at its meeting on 21 March

that it had established a fund to aid family associations of missing persons. The Commission has also indicated its willingness to support aspects of the exhumation process such as the de-mining of exhumation sites and the provision of equipment for exhumations and identification. Other assistance provided by the international community includes donations from the Swiss Government and the UN Trust Fund.

97. Although beneficial, these projects cannot by themselves resolve the many issues relating to missing persons. Additional resources, security for exhumation sites, and substantial political will are required if this issue is to be addressed effectively.

### **Human Rights**

98. The Peace Agreement expects the authorities to secure the highest level of internationally recognized human rights, however there are many indications that the responsible authorities in Bosnia and Herzegovina do not view this obligation as legally binding. The authorities have yet to take a number of concrete steps to demonstrate their commitment to protecting human rights. For example, both the Federation and the Republika Srpska conceded in July 1996 that their laws relating to abandoned property were contrary to basic human rights. Eight months later, neither Entity has brought their laws into compliance with the Peace Agreement. The Republika Srpska has still to amend its amnesty law to extend coverage to persons who deserted or avoided military conscription. Such delays pose a substantial obstacle to return of refugees and displaced people and contribute to ethnic division.
99. The authorities responsible for protecting human rights, in particular the police, continue to account for a substantial portion of reported abuses. Political leaders and police in both the Federation and Republika Srpska have often implicitly condoned abuses by failing to respond appropriately. A particularly egregious example, is the failure of the Republika Srpska police to conduct proper investigations into four separate cases in which Bosniaks were murdered in Teslic, Doboje, Dubrave and Zvornik.
100. In addition, the police themselves are directly responsible for numerous abuses, most notably the 10 February incident in Mostar in which uniformed and plain clothes police fired at the backs of retreating civilians, killing one and injuring more than 20 people. Arrests have still not been made in the case of a Bosniak man who was beaten to death while in police custody in Banja Luka last summer; this month the local police proposed to the RS Ministry of Internal Affairs that the salaries of the five officers on duty be partially docked for one month. In both Entities there have been numerous reports of beatings in detention.
101. These problems graphically illustrate the need for the restructuring and training of the Entities' police forces to be accelerated. While the vetting of the Federation police forces is underway, the Republika Srpska has yet to submit the lists of officers to be vetted. The Republika Srpska must fully co-operate with the UN IPTF in the restructuring and reduction of the RS police force.
102. A precarious human rights situation, characterized by widespread discrimination and abuse on ethnic grounds, continues to reign. Harassment of minorities residing, visiting or travelling through areas where another group is in the majority continues unabated. The most severe abuses are occurring in the Republika Srpska and in Croat majority areas in western Herzegovina. A worrying development during the reporting period has been the tit-for-tat attacks on religious and cultural edifices, such as churches, mosques and cemeteries, within the Federation.
103. Inter-ethnic tensions within the Federation and between the two Entities continues to prompt forced and illegal evictions of minorities. Destruction of minority-owned homes in the zone of separation and in other towns during this period, further polluted the human rights environment in areas targeted for return of refugees and displaced persons.

Widespread discrimination against ethnic minorities and supporters of opposition political parties, in the fields of employment, education and access to services, continued particularly in the Republika Srpska.

104. My Office is working with UNHCR and the Sarajevo city authorities to ensure that housing reconstruction furthers the right of return of pre-war occupants. Efforts continue to be directed at organizing local community councils, in areas where tense relations are reported between displaced Bosniaks and remaining Serbs. My Office has organized meetings between local authorities from Sarajevo canton and adjoining areas of Republika Srpska to: initiate police cooperation against crime; encourage freedom of movement; and to discuss possibilities of inter-entity economic cooperation in the wider Sarajevo region.
105. At its final meeting of 1996, the Human Rights Task Force (HRTF) set priorities for 1997 based on its assessment of the accomplishments and shortcomings of the human rights community's efforts to date. Priorities for this year include: human rights institution building, involving both strengthening of human rights institutions and support for NGOs; development of a human rights culture through public information, education and democratisation initiatives; strengthening the rule of law through projects including incorporation of human rights standards into law and reform of legal, administrative and law enforcement institutions.
106. Given the multiplicity of organizations involved in the human rights field, the HRTF called for improved integration of activities at an operational level, as well as better coordination of responses to human rights abuses. To address these objectives, the Human Rights Coordination Centre Steering Board was established on 8 January 1997. The Steering Board, which is composed of the leading human rights/democratisation officers of the major international implementing organisations, has been working to restructure coordination efforts to address both longer-term initiatives, as well as monitoring and response to more immediate issues.
107. Failure to implement the human rights provisions of the Peace Agreement should also be addressed by introducing new techniques to sanction non-compliance and by strengthening existing mechanisms. During 1996, the actions of some individuals hampered reconciliation and damaged the peace process. As agreed, an additional sanction which my Office will employ this year will be to request that persons who engage in substantial acts of non-compliance or human rights violations be denied visas allowing them to travel abroad. This sanction has now been applied for the first time on the three policemen identified as shooting at the retreating crowd in Mostar. Other strategies are being developed, including a more co-ordinated system for joint demarches to interested Governments and intergovernmental institutions, and methods to ensure effective and thorough incorporation of human rights considerations into decision-making relating to economic assistance and reconstruction.

#### ***Cooperation with ICTY and Strengthening the Rule of Law***

108. The failure of responsible authorities, particularly in the Republika Srpska, to fulfill their legal obligation to cooperate with ICTY, continues. The Republika Srpska has refused to arrest and surrender persons indicted by the Tribunal, relying on a provision in their Constitution which is clearly superseded by the Constitution of Bosnia and Herzegovina and other Annexes of the Peace Agreement. Concurrently, Bosnian Croat authorities have failed to arrest the numerous indicted persons who reside in or visit areas of the Federation previously under the control of the HVO. The presence in Bosnia and Herzegovina of people indicted by ICTY is a continuing threat to the peace process and a serious impediment to reconciliation. The responsible authorities must take immediate steps to execute arrest warrants for persons indicted by the Tribunal, to submit all cases



- involving suspected war crimes to the Tribunal for review prior to arrest or prosecution by national courts, and to provide information to assist in Tribunal investigations.
109. The Steering Board has agreed, that my Office will compile the necessary information to implement concrete measures against municipalities, such as Prijedor and Bosanski Samac, in which indicted persons hold public office.
  110. During the reporting period, the Federation has taken some belated steps to implement the 'Rules of the Road' agreed in Rome on 18 February 1996 by identifying cases submitted for review by the Tribunal. The Republika Srpska has submitted virtually no cases for review, and continues prosecutions in both of the cases submitted in violation of the Rome agreement. In addition, both the Federation and the Republika Srpska continue to detain persons suspected of war crimes in violation of the Rome agreement.
  111. Both Entities should implement the "Rules of the Road" without further delay by: submitting files on all persons suspected of war crimes to the Hague; terminating all prosecutions of persons for whom files have not been sent to the Tribunal; releasing immediately any person detained on suspicion of war crimes should the Tribunal determine that the evidence submitted is not sufficient to warrant further detention or investigation. No arrests of war crimes suspects should occur prior to review and approval of a case by the Tribunal. It is essential that the international community provide ICTY with the resources it needs to fulfill its commitment to implement the 'Rules of the Road' procedure and to monitor prosecutions and trials by national courts.
  112. With regard to persons detained following the peace agreement, substantial human rights violations continue. Arbitrary detentions, including cases of tit-for-tat arrests, continue, as does the war-time practice of detaining people for the purposes of exchange. In late March the Federation authorities in Bihac failed to release a Serb detained without sufficient evidence, until a Bosniak held in Banja Luka was released. The risk of arrest, which is compounded by the lack of clarity on who is being sought for war crimes, substantially impedes freedom of movement.
  113. These problems demonstrate the importance of strengthening the rule of law in Bosnia and Herzegovina. The extensive list of human rights obligations which form part of the Constitution, must be brought into law through adoption of implementing legislation and by review of existing laws to determine their compatibility with international human rights standards, in particular with the European Convention on Human Rights. The Federation has now formed an expert team to reform its criminal law and criminal procedure code; the Republika Srpska should begin this process with expedition and support from international institutions, including the Council of Europe. A greater effort is also required to inform the public both of their rights and of the legal framework which has been created to protect those rights. By monitoring sensitive trials and intervening to ensure that essential rights, such as the right to legal counsel, are protected, human rights organisations can play a vital role in deterring human rights abuses and building confidence in the legal system.

#### ***Economic reform and reconstruction***

114. I have intensified my coordination efforts with major implementation agencies and international financing institutions, namely the World Bank, the European Commission (EC), the European Bank for Reconstruction and Development, the International Monetary Fund and the International Management Group, by creating a Secretariat attached to the Economic Task Force (ETF). This initiative has been supported by the recent secondment of two additional economists from the World Bank and the EC.
115. In the first quarter of 1997, with the exception of the extension to the USAID program for 1997 (US\$ 71 million), no other major credit or grant agreements on reconstruction projects were signed with Bosnia and Herzegovina authorities. Implementation of on-

going projects has continued however, and there is still a significant amount of project aid to be disbursed from last year. In order to adjust the imbalance of last year, when virtually all reconstruction projects were conducted in the Federation, a project for critical imports and a transport sector programme for the Republika Srpska have been prepared by the World Bank and are scheduled to be presented to the World Bank Board in May. With respect to telecommunications, the EC has recently signed a contract to finance the repair of the Republika Srpska backbone system and its eventual linkage to the Federation.

116. Significant, but slow, progress has been made with respect to agreeing the minimum legal framework necessary for the development of the macro-economy and for reaching an agreement with the IMF. After the presentation of the Draft Laws in the Quick Start Package, which were prepared by various international lead agencies in coordination with my office, substantial time was absorbed in expert working groups created by the Council of Ministers. Due to this delay, it has not yet been possible to hold the planned Donors Conference. However, most laws have now reached the stage where they can soon be presented to the Parliamentary Assembly, and my office has been working with the Chairs of both Houses in order to facilitate their swift passage.
117. Within the framework of the transition to a market economy, I have continued to stress priority sectors such as infrastructure, employment generation and the restarting of production. The number of contracts completed or signed has increased by more than 600 in the last three months and, altogether, the total number of contracts related to civil works, and the provision of goods and services now exceeds 1500. There remain, however, significant financing gaps in all major sectors in spite of my strong recommendations to the donor community in the past. Also, in certain sectors such as railways or telecommunications, political constraints on the spot still impede quick project implementation. At the Donors Information Meeting, held in Brussels at the end of January, I pointed out that unless viable sector policies are adopted in these areas, no further financial commitments could be recommended. I will press to have these issues addressed at the 1997 Donors Conference.
118. The Implementation Conference on Brcko signaled the commitment of the international community to devote significant financial and material resources towards the sustainable development of infrastructure, transportation links, repair and construction of housing, social facilities and community and business structures in the Brcko area. This targeted economic assistance will be provided only if the local authorities demonstrate sustained co-operation with my Office in Brcko.
119. A major challenge for 1997 is the expected mass return of refugees to Bosnia and Herzegovina from host countries in Western Europe. It is clear that this will place a large burden on the very fragile recovery process. The co-ordinating role of the Return and Reconstruction Task Force will be crucial to avoid the potential destabilising effect of mass return.

### **Civil Aviation**

120. There have been some positive developments in the field of civil aviation. The number of civil carriers operating into Sarajevo Airport has progressively increased, and the recent completion of work to fit an instrument landing system should further enhance the flow of civil traffic. But problems remain, not least the issue of a tunnel repair under the runway. These will have to be resolved quickly if the airport is to begin to operate to full capacity.
121. On a wider front the picture is less encouraging. Though the Parties agreed at the London Conference to work collectively and on an equal basis in a Bosnia and Herzegovina Civil Aviation Authority, this has yet to happen. Consequently, efforts to open the regional airports have been unproductive. An ICAO team has recently completed a Civil Aviation

Master Plan dealing with the transition to civil control of all Bosnia and Herzegovina's airports and airspace, but it remains to be seen whether this will stimulate progress when it is presented to the Parties.

122. There has been one significant breakthrough, brokered in an initiative by SFOR, resulting in an agreement between SFOR, Croatia and FRY to reopen airspace over Bosnia and Herzegovina above altitudes of 33,000 ft to transiting civil aviation traffic. I welcome this development, given that it will provide financial benefit to Bosnia and Herzegovina, Croatia and FRY, but more importantly because it should encourage the Parties to begin working together with the international civil aviation authorities.

### ***Mine Clearance***

123. Mine clearing has developed some momentum, but the resources available for this urgent task remain scarce and the number of mines being cleared is small. The efforts of the International Community, working with the UN sponsored Mine Action Task Force and the UN Mine Action Centre have been centered on a few well focused and effective projects conducted by local companies, Norwegian Peoples Aid and US Government sponsored teams. The UN Mine Action Centre has drawn up a comprehensive organisational structure for mine clearing activities across BH, however a Government structure has yet to be put fully in place and, until it is, proper coordination related to associated funding will not take place.
124. The key element is the establishment of a fully representative Bosnia and Herzegovina Commission for Demining capable of prioritising activities and processing projects. It must be clear that funding will be utilised sensibly. The Commission has commenced work however it has yet to function as a truly effective body. It is imperative that it becomes operative soon as urgent work is needed to take over certain project facilities and assume responsibility for the UN Mine Action Centre by the end of the year.
125. I welcome SFOR's new policy on mine-clearing by the Former Warring Factions (FWF). Linked to the US Department of State's initiative to train 450 FWF mine clearers, it will stimulate the Entities to accept greater responsibility for the long term task of demining. SFOR has been strict with the implementation, and the training should provide a sound basis for strengthening the FWF's mine-clearing capability. International supervision is likely to be required to ensure that the FWF sustain their efforts once this training is complete.

### ***Regional Stabilisation***

126. Implementation of the Agreement on Confidence and Security Building Measures in Bosnia and Hercegovina, pursuant to Article II of Annex 1B of the Peace Agreement, continues to proceed satisfactorily. Close cooperation between the Parties to the Agreement, the OSCE Mission and SFOR should contribute to the climate of trust and confidence necessary to lower military tensions over the longer term.
127. Progress with the implementation of the Agreement on Sub-Regional Arms Control (the 'Article IV' Agreement) has benefited from the renewed emphasis placed upon it at the London Conference. The Parties have revised their declarations of the equipment regulated by the Agreement, with the effect of increasing the overall number of items to be destroyed and reducing the quantity to be exempted from the reduction process. Equipment declarations, however, could be improved and the Federation partners have yet to agree on the allocation of equipment within the terms of the Agreement. The Parties must now redouble their efforts. It is likely that the full support of the international community will continue to be required to ensure that the letter and spirit of the Agreement are met on schedule. This will be a essential precursor to embarking on the

negotiations for Regional Arms Control under the Article V of Annex 1B the Peace Agreement.

#### **IV. COOPERATION WITH SFOR**

128. The presence of a credible international military force continues to ensure that the Parties pursue their goals through peaceful, political means. I envisage the need for this to continue for some considerable time to come.
129. The transition from the NATO-led Implementation Force (IFOR) to the significantly smaller Stabilisation Force (SFOR) has not impinged upon the close cooperation established between the military and civilian agencies during the course of 1996. I and my staff continue to enjoy a close working relationship with Gen Crouch, and his staff in theatre, and also with both SACEUR at SHAPE and NATO HQ in Brussels.
130. As the smaller military force does not possess the same level of capability to support civilian tasks as its predecessor, it is more important than ever to ensure that there is common agreement on priorities and well-coordinated planning. I am confident that the arrangements are in place to maintain this over the coming year, as we tackle collectively some of the most important and difficult aspects of the Peace Agreement, including the local elections and the return of refugees and displaced people to their homes.

#### **V. LOOKING FORWARD**

131. In my last report of 1996, I noted that the first year of peace implementation was, overall, a year of success, although each step forward has demonstrated how many more are needed for the peace process to become self-sustaining and stable. The consolidation period of 1997 and 1998 should provide for this possibility.
132. During the first months of 1997, the focus of my Office's attention has been on constitutional implementation. It is, in my opinion, only by establishing and making the common institutions of Bosnia and Herzegovina operational, as is laid down in the constitution of the Peace Agreement, that there is any possibility of taking the peace process forward.
133. With the common institutions functioning, there is hope of overcoming the bitter division of the country and addressing the pressing economic and social issues which are a legacy, not only of the war, but also of the failed policies of the previous decades. Without these institutions, there is a risk that the partition of Bosnia and Herzegovina could become permanent, thus endangering peace and stability in the country and in the region in the years ahead.
134. As noted above, all the common institutions have been established and, in most cases, have started to work. While my Office had to negotiate more or less every detail of the first meetings, they are now holding their sessions as a matter of routine and with only limited logistical support from my Office.
135. But in order to be more than empty shells of little relevance, the common institutions must take decisions on the laws and other issues which will turn the state into a functioning reality. With the support of other members of the international community – most notably the European Commission, the World Bank, the International Monetary Fund and the US Treasury – my office has presented the so-called Quick Start Package of interim essential legislation to the Council of Ministers. These laws and other measures constitute what we consider the minimum for the state to start functioning in the key areas under its competence.
136. Progress on these issues has been slow. There has been controversy between those seeking to limit the functions of the state to well below what has been agreed, and those

seeking to expand state functions in the direction of a unitary state. Nevertheless, the QSP has been moving forward, and I am confident that we will have decisions on all key issues in the near future.

137. These issues are important, not only in the context of building the common state, but also to pave the way for the economic reforms essential for the future economic and social development of the country. International reconstruction assistance will not continue on present levels for long; it is vital that conditions are created for self-sustained and rapid economic growth in the years ahead. This will require fundamental reforms to liberalize the economy, to privatize assets and to open the way for foreign trade and competition.
138. If decisions are taken on the relevant parts of the QSP, there will be the possibility for an agreement with the IMF, which will pave the way for holding the next Donor's Conference. It is my hope that this will be possible towards the end of May, although the absence of an agreement with the IMF would seriously limit the possibilities of holding a successful Donor's Conference. We would aim to mobilize funds, in the order of \$ 1.4 bn, for reconstruction in 1997.
139. The economic and social issues are also important in facilitating return, not least of refugees from other countries primarily in Western Europe. We can not expect refugees to return easily if they see a country in economic and social despair. In this context, it is naturally worrying, that developments have lead to a situation in which the areas of the country from which the largest numbers of refugees originate, have been receiving the least economic assistance.
140. During 1996, I reported on the disturbing trend towards ethnic separation. I regret to say that I see no fundamental improvement in the situation. We are beginning to see some individual and discreet minority returns to certain areas but, as a rule, any attempt at major minority return is meeting fierce resistance ranging from the violent to the bureaucratic.
141. Of particular concern, in this respect, is the state of property legislation as it involves housing. Existing laws in both the Federation and the Republika Srpska make return very difficult, if not impossible. My Office has pointed out this situation repeatedly. In a recent landmark decision the Human Rights Ombudsperson for Bosnia and Herzegovina ruled that existing laws in the Federation fail to comply with the Peace Agreement; the same is true for the Republika Srpska.
142. Return is also hampered by the widely observed lack of respect for human rights. Here, the presence of the UN-IPTF is of essential importance, as is the programme to restructure and train the local police forces in the Federation and the Republika Srpska. The funding of these programmes is of great importance, and I am contemplating further initiatives, in coordination with the UN SRSG and Commander UN-IPTF, in order to ensure that these programmes can be carried forward as planned.
143. I welcome the authorization by the Security Council to lift the ceiling for UN-IPTF monitors, in order to be able to take part in the full implementation of the Brcko supervision. I regret, however, that it has taken so long to obtain approval for the UN-IPTF increases necessary to reinforce human rights supervision procedures agreed at the London Conference.
144. An issue of particular concern to me, is the question of full co-operation with the International Criminal Tribunal for Yugoslavia (ICTY). Neither the Federation nor the Republika Srpska co-operates to the extent required, and I am particularly concerned with situations where indicted persons hold public positions or exercise de facto political influence.
145. According to my information, persons indicted by ICTY hold public office or exercise public functions in the Republika Srpska municipalities of Bosanska Samac and Foca. I will recommend to international organizations that they cease all contacts with these

municipalities, other than those necessary for assembling information, organizing election matters or for helping individuals in need. In the Federation, I am worried that a number of indicted persons living and working in the municipality of Vitez, are tolerated.

146. Of further concern, are the ongoing activities of Mr. Karadzic in the Republika Srpska. In spite of his undertakings to the contrary, and those of the Republika Srpska leadership, he seeks consistently to influence the political process. He remains a force of evil and intrigue which can only taint those personalities and institutions of the Republika Srpska which continue to tolerate his activities. This applies, in my judgment, to the member of the Presidency of Bosnia and Herzegovina, Mr. Krajisnik. I would therefore recommend that contacts with him are limited to essential business related to his function as a member of the Presidency.
147. It remains my opinion that these issues must be resolved if we are to carry the political part of the peace process forward as envisaged.
148. Although we are only at the beginning of the consolidation period, it is only natural that we should look ahead in order to meet the different challenges.
149. It will take time, even under the best of circumstances, for the political institutions of Bosnia and Herzegovina, with the help of the international community, to implement all the civilian and related provisions of the Peace Agreement. The rebuilding and reintegration of Bosnia has progressed faster than any other comparable post-war situation, but it still has a very long way to go. War is an evil event in any society, the effects of which take years, decades and even generations to overcome.
150. Increasingly, we must concentrate on preventing the political development of the country from moving in a direction contrary to the Peace Agreement. In this regard, I am considering the need for us to prevent three courses of action, which might otherwise be pursued by one or the other of the political leaderships of the country or region.
151. The first of these, which needs to be blocked, is the military option. Until June 1998, the deterrent effect of the SFOR will ensure this. But it is, in my opinion, important that the message is sent that the international community will not tolerate any attempt to resort to armed force in the period thereafter.
152. It is only by removing the military option - the temptation to use military force, or the fear that military force will be used - that we can ensure the concentration, on the political, economic and social issues and challenges, so desperately required.
153. The second is the option of secession from Bosnia and Herzegovina. I am far less concerned with the dangers of overt secession - which will never be tolerated by the international community - than with the evident risks of creeping secession concerning both the Croat and the Serb areas.
154. In this context, I have called attention to the nature of the concluded agreements on special and parallel relations with the Republic of Croatia and the Federal Republic of Yugoslavia. It is, in my view, necessary to bring these into line with the provisions of the constitution of Bosnia and Herzegovina.
155. The third of these options is that of domination of the existing political institutions by one group, namely the Bosniaks, with only lip-service being paid to the concept of power-sharing.
156. Indeed, there are signs of old structures being kept alive despite the fact that they should have been disbanded as the structures of the Federation and the new common institutions of Bosnia and Herzegovina are established. The fact that not one single ambassador has been appointed or reconfirmed, regardless of the agreement that this should have been carried out before March 31, points to a similar danger of domination contrary to the spirit and letter of the Peace Agreement.
157. The challenges ahead remain large. It is easy to see what needs to be done as well as the difficulties we face. Nevertheless, if there is the right international commitment to Bosnia

and Herzegovina and the region in the years ahead, I remain convinced that peace in the country will strengthen, as the simultaneous forces of European integration and co-operation create an increasingly strong web of stability and security for the region as a whole.