

33rd Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations



*Thirty-Third Report of the High Representative for
Implementation of the Peace Agreement on Bosnia and
Herzegovina to the
Secretary-General of the United Nations*

1 October 2007 – 31 March 2008

SUMMARY

This report covers the period from October 2007 through March of this year. During these six months Bosnia and Herzegovina (BiH) made important progress on the reforms required for it to integrate in Euro-Atlantic institutions. Although a political agreement among the ruling parties on police reforms proved sufficient to permit the European Union to initial a Stabilisation and Association Agreement (SAA) with BiH in December – and so to defuse a looming crisis of government at state level – the same parties proved unable to translate their agreement into the legislation required for the country

actually to sign a SAA until 16 April, when they finally adopted the two police-reform laws. These delays disappointed the vast majority of BiH citizens who wish to see real movement towards EU accession. It also illustrated the extent to which the country's politics remain divisive, confrontational and self-defeating. Elsewhere, an agreement in late March among the state and entity governments on moveable defence property resulted in BiH securing "intensified dialogue" towards a Membership Action Plan at the NATO summit in Bucharest in early April.

The conjunction of continuing domestic political stalemate with mounting regional uncertainty in the run-up to and immediate aftermath of Kosovo's declaration of independence made it impossible for the Steering Board of the Peace Implementation Council (PIC) to confirm the closure of my office in June 2008. The PIC thus decided in late February that OHR should continue until such time as the domestic authorities deliver on five longstanding objectives and two conditions are met. These preconditions are that BiH should have signed a SAA and that the political and security situation in the country and neighbourhood should be stable.

The PIC Steering Board's declaration of 27 February is attached as an annex to this report. It makes the point once more that I must continue to exercise my mandate and powers as High Representative in order to ensure full respect for the Dayton Peace Agreement. I will also continue to do my utmost to help overcome the challenges still facing BiH and to facilitate steps that can contribute to the country's peace, progress and stability.

I Introduction

1. This is my second report to the Secretary-General since assuming the office of High Representative for Bosnia and

Herzegovina and European Union Special Representative on 2 July 2007. It is the first to deal solely with my own time in office. As has been the norm, the report assesses progress made towards attaining the goals outlined in previous reports, reviews developments during the reporting period, and provides my assessment of mandate implementation in the more important areas. However, the PIC Steering Board's decision in February to set five objectives and two conditions that must be achieved or met before OHR can transition into an Office of a European Union Special Representative implies a focused approach. While the Work Plan of my predecessor will continue to inform the work of my office, our priority will now be to attain the objectives and to ensure the conditions identified by the PIC are met. As a consequence, I have deleted the section of this report normally devoted to assessing progress on the Work Plan.

II Political Update

General Political Environment

2. October and November 2007 saw a period of political turbulence, when politicians from Republika Srpska sought to defy and overturn decisions I had made on 19 October that aimed to streamline decision-making procedures in the state-level Council of Ministers and Parliamentary Assembly. The situation was only resolved after intense negotiations between myself and party leaders, which led to agreed amendments to voting procedures in the BiH Parliament and Council of Ministers.

3. Despite the negative political atmosphere, the leaders of BiH's six governing parties were nonetheless able to strike agreements on police reforms to be conducted in two stages. These agreements opened the way for the initialling of the SAA with the EU on 4 December.

4. In the meantime, however, the resignation of the Chairman

of the Council of Ministers (CoM) on 1 November, which turned his government into a caretaker administration until it was reconfirmed by parliament in late February, meant that there was little progress on other elements of the reform agenda. In fact, stagnation prevailed through March 2008.

5. Early 2008 saw the adoption of conclusions by the leadership of Republika Srpska's ruling party, the Alliance of Independent Social Democrats (SNSD), on 26 January that called for the transformation of BiH into an asymmetric federation (or confederation) and claimed the right, supposedly based on the UN Charter, to self-determination up to and including secession for the entity. This was clearly a warning shot fired in anticipation of Kosovo's unilateral declaration of independence on 17 February. The RS National Assembly duly confirmed this link when it passed a resolution on 21 February condemning the illegality of Kosovo's UDI, demanding that BiH not recognise it, and excoriating those countries that had done so. It went on to state that the RS ... "would consider that it too possessed the right to establish its future legal status by means of a referendum".

6. I immediately reacted to this in a public statement, noting that I was "deeply concerned by the adoption of this resolution by the RSNA" and stressing that Bosnia and Herzegovina is an internationally recognised state whose sovereignty and territorial integrity is guaranteed by the Dayton Peace Agreement. Entities of Bosnia and Herzegovina have no right to secede. In its 27 February declaration, the PIC made clear its position when it expressed "deep concern with regard to official calls for secession. The PIC SB strongly emphasises that under the Dayton Peace Agreement one entity has no right to secede from Bosnia and Herzegovina."

7. In a separate development, the largest Bosniak party, the Party of Democratic Action (SDA), repudiated its previous acceptance of the inter-party agreements envisaging a two-stage reform of the country's police. The SDA representative on the working group established by the CoM to draft the requisite legislation sought throughout to change its terms of reference. When this failed, the party president, Sulejman Tihic, announced in early February that the SDA would not support the legislation emerging from the working group. It became clear in subsequent discussions with the SDA that Mr Tihic had reneged on his commitments under the Mostar Declaration because he feared that agreement implied an implicit recognition of the RS, something he and his party seem unwilling to do ahead of any constitutional-reform negotiations. The police-reform laws were thus destined to have a difficult passage through parliament; and so it proved, with a number of failures before the breakthrough on 16 April.

8. With the police reform laws adopted and the SAA due to be signed in fairly short order, a key factor will be the degree to which the SAA will improve the political atmosphere and restart reforms. But inter-party and inter-communal tensions remain fraught, especially as 2008 is an election year. The run-up to the municipal elections in October will spotlight the extent to which the effects of wartime "ethnic cleansing" endure. The likelihood that ever fewer voters will choose to cast their ballots in the towns and villages in which they lived before the war also means that fewer members of "minority" communities will win seats on municipal councils. Given its moral and symbolic significance for Bosniaks, Srebrenica will be a particular flashpoint. Demands are already being heard that the town should have a special electoral regime that would guarantee seats and a share in power for Bosniak councillors.

9. OHR continued to work towards its earliest possible closure. The PIC Steering Board discussed the future policy of the international community towards BiH and the deteriorating political situation in the country at its 26-27 February meeting. It was a major achievement that all members were able to agree on a transition strategy. This preserved international community unity around a transition strategy based on five objectives and two conditions that have to be achieved by the BiH authorities before transition from OHR to EUSR can take place.

The five objectives are:

- Resolution of State Property
- Resolution of Defence Property
- Completion of the Brčko Final Award
- Fiscal Sustainability of the State
- Entrenchment of the Rule of Law

In addition, the two conditions are that:

- The SAA must be signed
- There must be a positive assessment of the situation in BiH by the PIC.

Constitutional Reform

10. Many of the country's political parties have been busy developing their constitutional-reform platforms and proposals. The initialling of the SAA with the EU on 4 December, based on the assumption that both police-reform legislation and a full SAA would quickly follow, stimulated Croat and Serb party leaders, in particular, also to assume that the political focus would now shift to tackling the issue of constitutional reform. Not only did neither happen during the reporting period, but the constitutional models that were published or sketched out were at such wide variance with one another that the entire issue became a renewed battleground among the ruling coalition. The party leaders therefore decided at a meeting in Siroki Brijeg on 2 February to concentrate on police reform and to postpone any discussions on the process or scope of constitutional reform until after the signing of the SAA.

11. Despite continuing efforts to coordinate and articulate a single position on the basis of the principles outlined in their Kresevo Declaration of September 2007, the Croat-dominated parties have not achieved a unified stance on constitutional reform. The two incarnations of the Croat Democratic Union (the HDZ BiH and the HDZ 1990) have been most proactive in developing and presenting their proposals. The HDZ 1990 came forward on 10 November, advocating a federal model for BiH that would have "at least three units" with legislative, executive and judicial powers. Each would be multinational in population, but each would also provide one constituent people with a majority. The HDZ BiH's platform of 11 December endorsed the same model, but with four federal units, one being the greater Sarajevo metropolitan area. The smaller Croat parties, including the HSS-NHI and the HSP, opted instead for more mid-level units, which should not be formed according to exclusively national criteria. What

remains unclear within the Croat camp is whether the internal re-organization of BiH should be limited to adjusting the territorial setup within the Federation or should also include – and change – the current boundaries of the RS. RS leaders have, of course, rejected the second option out of hand.

12. This stumbling block, combined with statements by the leader of the HDZ BiH that were seen as accepting the territorial inviolability of the RS, produced a change of tack by some of the Croat parties as regards both substance and process. Meeting on 14 March at the initiative of the HDZ 1990, most leaders present agreed and signed a statement calling for immediate changes to the entity constitutions and laws in order to ensure the equality of all three constituent peoples in each. The HDZ BiH and the People's Party "Radom za Boljitak" did not sign this statement. Although the former assessed the statement as positive, it regretted the timing, which had caused the predominantly Bosniak and Serb parties immediately to reject any plan to start reforms with the entities rather than the state as a whole.

13. The RS-based parties have made clear throughout that they are only prepared to consider constitutional changes that do not diminish the territorial integrity and competencies of the RS as established at Dayton. Their preference is for an explicitly federal or confederal order in which the RS, in its existing confines, would become one of the units. The PDP argued in its 19 January proposal that no reforms beyond those envisaged by the so-called April Package of 2006 would be acceptable to them; and that any territorial reorganisation of BiH should apply only to the Federation. For its part, the SNSD Main Board concluded on 26 January that future federal (or, in fact) confederal units should have the explicit right to self-determination, up to and including secession, as well

as more state-like powers than the current entities.

14. Bosniak political leaders proved reluctant to discuss constitutional-reform models in any detail. S BiH President Haris Silajdzic argued that this would be pointless until such time as Kosovo's final status was settled. Arguments over the scope of police reform have, in fact, become surrogates for the discussion of constitutional matters as far as they are concerned. Thus the common SDA-S BiH platform on constitutional reform that had been expected last year did not materialise. The two parties do, however, share a preference for a "civic" BiH composed of at least five multinational regions based on functional, economic, geographical, transport, historical, and national (or ethnic) criteria.

15. Although constitutional reform remains essential if BiH is to be a functional and sustainable state with real hopes of joining the EU any time soon, reaching any domestic consensus on the matter will prove extremely difficult so long as the domestic parties' conceptions remain both antithetical and non-negotiable. When a readiness to compromise emerges, it will still be necessary for the international community to help facilitate any potentially successful process.

III European Partnership Requirements

16. Hopes rose during the reporting period when new political agreements on police reform – the long-running and single most important precondition to signing a Stabilisation and Association Agreement (SAA) with the EU – were deemed sufficient by Brussels in early December to permit at least the initialling of the SAA. However, it was not until 16 April that the requisite legislation was finally adopted.

Police Restructuring

17. The leaders of the six parties comprising the ruling coalition at state level met in Mostar on 28 October 2007 and signed a "Declaration on honouring the commitments for implementation of the police reform with the aim of initialling and signing the Stabilisation and Association Agreement" (Mostar Declaration). A month later they agreed to a two-phase "Action Plan" for its implementation. On 4 December, following the adoption of these documents by the Council of Ministers, the European Commission initialled a SAA with Bosnia and Herzegovina. Actual signature, however, would depend upon the passage of the requisite legislation.

18. According to the Action Plan, the first phase of the reform requires that the BiH Parliamentary Assembly enact laws establishing seven police-related bodies at state level by June 2008. The second phase, which will regulate subordinate policing levels as part of a single structure in line with the three EU principles, is to be deferred until after constitutional reforms are in place. The Action Plan envisages that implementation of the second phase – the enactment of the relevant policing legislation – should take place within one year of the adoption of constitutional amendments defining the relative powers of the various units of government.

19. In December the Council of Ministers established a working group charged with drafting the laws required by the Mostar Agreement and Action Plan for the first phase of police reform. The working group met six times between 18 December 2007 and 7 February 2008. The members could not achieve a consensus on a number of issues, principally because of the insistence by the SDA representative that the laws should give the state a degree of authority over the entity, cantonal and Brcko police forces. The majority of working group members

contended that the relationship between the state and local levels of policing should be determined in the second phase, after constitutional reform.

20. The working group submitted two draft laws to the Council of Ministers in February 2008: the first providing for the establishment of a Directorate for Police Coordination and various police support agencies, and the second creating independent and oversight bodies. Because of the disagreements within the working group on the texts of these laws, written alternatives for – and tallies of the members' votes on – the disputed provisions were included. On 14 February, the Council of Ministers adopted, by majority vote, versions of the laws that did not contain the provisions backed by the SDA and forwarded them to the Parliamentary Assembly.

21. Because of opposition by the SDA, SDP and SDS, the Parliamentary Assembly's Joint Committee on Defence and Security twice failed in March to produce positive reports on the laws. On the second occasion, on 20 March, the Collegium of the House of Representatives tried and failed to bypass the committee stage by putting the laws into urgent procedure because the SNSD and S BiH could not agree on single texts embodying amendments demanded by the latter. The laws were not dead, but no harmonisation of the texts that met the requirements of the five parties still favouring the laws was possible during the remainder of the month. However, on 11 April a compromise between the SNSD and S BiH was reached that enabled the laws to be adopted on 16 April.

IV Entrenching the Rule of Law

22. The principal development during the reporting period was the February decision of the PIC Steering Board's Political

Directors to single out “entrenchment of the rule of law” as one of the objectives to be delivered by the BiH authorities before OHR’s transition could take place. In particular, the PIC cited the need to demonstrate this entrenchment through the adoption of a National War Crimes Strategy, the passage of the Law on Aliens and Asylum, and the adoption of a National Justice-Sector Reform Strategy.

War Crimes Prosecution Strategy

23. The working group led by the country’s chief prosecutor held four meetings during the reporting period that aimed to determine the scope and contents of a national strategy on the prosecution of war crimes. A draft is expected by the end of April. The strategy should confirm current practice on case selection and prioritisation. It could also put an end to the endless public discussions in BiH of the number of war crime cases that remain to be tried. The agreement of a robust strategy should also serve to address public concerns over the efficacy of domestic judicial processes dealing with war crimes. The chief prosecutor’s absence on sick leave has lately delayed the emergence of the draft strategy, but the recent appointment of a replacement to chair the working group indicates that the process is back on track towards producing a document on which concrete discussions and recommendations can be based. Given the PIC decision that the adoption of a war-crimes strategy is one of the benchmarks for OHR closure, my office will be closely involved in helping ensure that BiH has a relevant and effective plan.

Passage of the law on the Stay and Movement of Aliens and Asylum

24. OHR has closely monitored the progress of the draft Law on the Stay and Movement of Aliens in the BiH Parliamentary Assembly. It adopted the law on 16 April. OHR has also participated in the drafting of amendments to the Law on the Service for Foreigners’ Affairs, worked on the establishment

of an information system to control legal migration, monitored preparations for the opening of a detention centre for illegal migrants, and worked on the development of rules regulating the deportation of illegal migrants from BiH.

National Justice-Sector Reform Strategy

25. By January 2008, the National Justice-Sector Reform Strategy was ready for submission to and adoption by the Council of Ministers. At that point, however, the RS Ministry of Justice sent in comments of a largely technical nature, but which served, collectively, to undermine the previously achieved agreement and, in effect, to degrade the strategy's state-wide scope. The RS comments pointed to the maintenance of exclusive entity competency over judicial reform, denying the state's interest and depriving it of any harmonising or coordinating role among the entities and Brcko District. Both the long and relatively successful engagement of the international community in justice-sector reform, as well as the more recent PIC commitment to push this issue forward, mean that OHR will need to work with other interested parties, particularly the BiH Ministry of Justice, the OSCE and the UK Department for International Development, to forge a compromise that will ensure an acceptable and substantive strategy is adopted.

Other Rule of Law Issues

26. As I noted in my previous report, OHR remains involved in supporting other aspects of justice-sector reform. My office worked with international partners to draft amendments to the laws on the Border Police and SIPA, as well as new laws on police officials at the state, entity, cantonal and Brcko

District levels. OHR assisted the BiH Security Ministry to review its internal organisational rulebook. Two national working groups, established following the brainstorming sessions OHR chaired last year, have now produced their recommendations. These propose the establishment of an Appellate Court of BiH, but not the formation of satellite branches of the State Court to try war crimes cases. Rather, they argue for the reinforcement of the human capacity of the State Court's War Crimes Chamber. The project to build a state prison has also progressed. Sufficient funding was secured to allow construction to commence; and the Council of Europe Development Bank has committed to provide a loan to cover the shortfall. Finally, OHR continues to monitor other ongoing processes, including the transition by the State Court Registry to full domestic ownership. This is still anticipated to be complete by the end of 2009.

V Cooperation with the ICTY

27. I continue to place a high priority on cooperation with the ICTY. Since my last report, international forces and domestic law enforcement agencies have applied continuous pressure on and scrutiny over persons and networks suspected of supporting ICTY fugitives. My office cooperates with and supports the activities conducted by ICTY, NATO, EUFOR, the RS police, the BiH Intelligence and Security Agency (OSA), and others involved in efforts to bring the four remaining fugitives to justice. This has resulted in greatly improved coordination and unity of effort, as well as more efficient use of our limited resources.

28. For its part, the BiH Prosecutor's Office remains vigilant in its investigation of the support networks' financial assets; and OHR will continue to back efforts to freeze the assets and to co-ordinate travel bans on individuals known to be part of these networks.

29. The arrest of the remaining fugitives – and of Mladić and Karadžić above all – would greatly improve the situation in BiH. Not only would their arrests help bring closure for the families of victims, but it would also do much to remove the stigma attached to Republika Srpska and to improve inter-ethnic relations in the country. It would therefore be helpful if the relevant organs of the United Nations could find a way to ensure that Serbia meets its legal obligations under both international and domestic law to arrest these fugitives and to close this sorry chapter of Balkan history.

30. Although OHR continues to press for progress on the Human Rights Chamber case related to the disappearance of Colonel Avdo Palić in 1995, the RS authorities have made no progress in locating his remains or in bringing his murderers to justice, as required by the chamber's rulings. There has been a lack of cooperation by Serbia, where the putative perpetrators and/or witnesses reside. OHR will continue to press for action on the Palić case, which, despite its longevity, remains under active investigation.

31. Our efforts to secure funding for hiring experienced staff to assist the BiH Prosecutor's Office in the investigation of Srebrenica-related war crimes has resulted in an exceptionally generous response from international donors. Sufficient funds were pledged to permit four investigators and two legal assistants to be hired. Combined with the establishment of a field office in Srebrenica by the BiH Prosecutor, I am confident we will begin to see progress in assuring Srebrenica survivors that their concerns for justice and, in some cases, their own security are being addressed.

32. I will continue to monitor all aspects of ICTY-related activity in BiH to ensure our joint efforts contribute to the apprehension of key fugitives.

VI Reforming the Economy

33. Accelerating inflation represented one of the biggest economic developments in BiH during the fourth quarter of 2007. Prices rose by 2.1 per cent in October and by 1.1 per cent in both November and December. This rather sharp monthly price movement produced an annualised inflation rate of 4.9 per cent in December. Inflation was mainly caused by higher food prices and transport costs, the latter reflecting the rising price of imported oil derivatives. There is reason to believe, however, that the existing monetary regime, along with sound economic policy mechanisms, will help limit inflationary trends. Nonetheless, the current account deficit continues to impede the BiH economy. The trade deficit amounted to KM 2.1 billion in the third quarter of 2007, which was up by 16.2 per cent compared to the same period in 2006. Exports have increased by 12.6 per cent and imports by 15 per cent compared to 2006.

34. The fiscal position of BiH in 2008 is likely to be positive, as the general government budget is expected to post a surplus thanks to strong revenue growth and delays in project implementation, particularly in the Federation and at state level. While both entities adopted their 2008 budgets in December 2007, the state budget was only approved in March 2008 – and after intense political disputes among the coalition parties about how much it could be increased and where any extra spending should go. This wrangling underlined once again the need for better fiscal coordination through the establishment of the National Fiscal Council.

35. On 16 October 2007, OHR organised an economic conference

which, apart from reinitiating debate on BiH's economic problems and needs, resulted in written commitments from the state and entity prime ministers and the mayor of Brcko District to work on key reforms that have long been identified as central to the country's economic development and promotion as a potentially attractive destination for foreign investments. By signing a so-called *Platform for Action*, the prime ministers and mayor pledged to pursue a number of reforms aimed at (1) improving fiscal coordination and stability; (2) creating a better business environment; and (3) promoting other reforms ensuring sustainable development. This document will serve as a basis for OHR – as well as for the international and business communities – to restart negotiations on a series of longstanding economic-reform priorities, most of which are also venerable OHR Mission Implementation Plan and Work Plan items. The platform will also provide the basis for BiH's own Country Development Strategy for 2008-2013. Of course, it remains to be seen if the action plan will help deliver the political breakthroughs required to de-block laws on banking supervision, obligations and the National Fiscal Council.

36. Some progress has already been recorded. The Council of Ministers adopted the state-level Law on Pharmaceuticals and Medical Devices on 14 February. This law aims to create a single, regulated pharmaceutical market. It is now in parliamentary procedure. The Federation, for its part, has enacted both a Law on Profit Tax, which is in harmony with its RS equivalent and will prevent double taxation, and a new Law on Income Tax, which should apply as of 1 January 2009. Finally, the Council of Ministers has lately endorsed and forwarded to parliament a draft Law on the National Fiscal Council. Once established, this body should ensure proper fiscal coordination and macroeconomic stability. Its formation is also one of the objectives set in February by the PIC Steering Board as necessary before OHR transition. There had been no progress by the end of March on the other fiscal-

sustainability benchmark identified by the PIC: agreement of a permanent methodology for establishing the coefficients by which the Indirect Taxation Authority would distribute revenues.

VII Public Administration Reform (PAR)

37. I reported last autumn on positive developments regarding PAR, including the appointment of a new state-level PAR coordinator and the signature of a memorandum of understanding on the PAR Fund. Progress since then has been limited and uneven, and dogged by persistent political disagreements. Lack of progress on fundamental issues such as constitutional reform continues to slow down related reforms such as PAR, as do ongoing debates between local partners and international donors about the role of political appointees in senior civil service positions and the relationship between the state and entity-level PAR processes.

38. My office is cooperating closely with the EC Delegation and will continue to advise and assist the relevant authorities whenever possible to ensure that the PAR process can continue and that what has been achieved so far will not be undermined.

VIII Defence Reform

39. After lengthy debates, senior state and entity ministers signed an agreement on the final disposal of all rights and obligations over movable defence property that will continue to serve defence purposes in Doboj on 27 March. The minister of defence also signed a list enumerating such moveable military property, breaking it down into categories (i.e., ammunition, weapons and explosives – or AWE) for disposal. UNDP is to determine the total time that will be required and estimate the costs for disposing of those AWE categories that will not be sold or donated.

40. Resolution of the issue of immovable defence property (i.e., real estate) seems unlikely before there is a settlement of the overall dispute over the ownership of state property. Both issues figure among the core objectives that need to be achieved before OHR can transition into an Office of a EUSR.

41. The agreement on moveable defence property was sufficient, however, to win BiH the status of “intensified dialogue” at NATO’s summit in Bucharest in early April. *Intensified dialogue means that contacts between BiH, NATO, and NATO’s member states will be stepped up to prepare the country for a***Membership Action Plan leading to eventual accession.**

IX Intelligence Reform

42. The state Intelligence-Security Agency (OSA) retained its multi-ethnic cohesion despite the political turbulence in BiH and the region during the reporting period. Operational work continued without interruption in the fields of organised crime, counter-terrorism and war crimes. OSA’s cooperation with global and regional partners also continued to grow in scope and depth. The committee responsible for parliamentary oversight of OSA made significant progress, commencing both announced and unannounced inspections. A parliamentary working group established to review the law on OSA was due to complete its report shortly.

X The European Union Military Mission in BiH (EUFOR)

43. EUFOR continued to provide a credible military force of some 2,500 personnel and retained the capability to bring in over-the-horizon reserves. EUFOR is headquartered in

Sarajevo but has Liaison and Observation Teams throughout the country. It should be noted that the presence of EUFOR on the ground provides the crucial reassurance that many in the country still feel is necessary. Given the current political environment, I welcome the fact that EUFOR retains the capacity to deploy troops throughout BiH at short notice.

XI Refugee and Displaced-Person Return

44. The BiH Ministry for Refugees and Human Rights has completed its consultations on a revision of the current strategy for the implementation of Annex VII of the DPA, the annex that guarantees to refugees and displaced persons the right to return home.

45. According to the latest figures from that ministry, there are still 130,000 displaced persons in BiH who aim to return to their pre-war homes. This does not mean that all these people will indeed be able to return, as there are likely to be several objective reasons that rule this option out for many people, including the absence of employment opportunities, inadequate funds for rebuilding, and difficulties in accessing health and social services in their former places of residence.

46. Although the current draft strategy, to be finalised and adopted later in the year by the Council of Ministers, still focuses on facilitating people's return to their original homes, it will also emphasise the need to sustain those people who have already returned and to pay more attention than in the past to vulnerable groups who have not been able to take advantage of any return-assistance projects. Unable to return, such persons often still remain living in deplorable circumstances in collective centres. The strategy will make it a priority to offer them dignified and long-term living

conditions. The UNHCR, my office, and other international and domestic stakeholders have been actively involved in the drafting of the new strategy.

XII Mostar

47. The Mostar City Council adopted its 2008 budget in December 2007: the first time since unification in 2004 that a budget has been passed on time. Previous years saw budgets enacted as late as June, with various political disputes blocking the process. OHR intervention was required in 2005 and 2006. The timely adoption of this year's budget reflects not only the maturity of the political parties in Mostar, but also the success of the unification process in overcoming many longstanding quarrels. The city has also made progress in establishing a unified public utility company, finally qualifying for a World Bank waste-management programme.

48. Despite this progress, all signs point to a divisive electoral campaign in advance of the October municipal elections, which will be only the second local elections since unification. All regular city business, including outstanding items on the unification agenda, will be on hold from June. This is likely to preclude the adoption of the Mostar Statute this year, a key goal in the unification process.

49. As part of the already-incipient electoral campaign, repeated calls by the main Croat parties for the constitutional reorganisation of BiH along federal (and explicitly ethnic) lines, which started with the HDZ 1990 party congress in November, have raised concerns among Bosniaks in Mostar that the Croats aim either to repartition the city or to claim it as their own.

50. At the level of the Herzegovina-Neretva Canton, seated in Mostar, no budget for the current year had been enacted by the end of March. Nor, after the passage of 18 months, had a replacement police commissioner been appointed. Bosniaks and Croats politicians both aim to secure this key position for one of their own.

XIII Brcko District

51. Politics in Brcko District remained relatively stable over the reporting period. The District, however, cannot but be affected by the troubled political situation prevailing in the country as a whole. The District Statute, as amended in February 2007, smoothed the functioning of government institutions and has led to improved performance by and greater responsibility from the government. However, coordination between the government and the majority coalition in the District Assembly remains unsatisfactory, and has not been improved by the prospect of elections in October. The economy is healthy and it keeps on attracting private businesses, including investments from both outside the District and country.

52. Efforts continued apace to ensure the District will be able to “function effectively and apparently permanently” after the end of supervision. In order to provide for high quality, efficient, and safe utility services to Brcko District residences and businesses, the government completed the transfer of electricity, water, and waste water supply services from government departments to a new Public Utility Company (PUC). The company commenced work on 1 January 2008. The Supervisor’s office closely monitored and guided the transformation process. The PUC has operated efficiently and transparently during its first three months.

53. A new customs terminal was opened in Brcko Port on 7 March. The terminal conforms to European Union standards and represents an investment of approximately KM 3 million. It provides modern facilities within the port area that are of great significance for customs operations for businesses both within the District and the entire region.

54. On 7 December 2007, the Brcko District Assembly adopted, for the first time in four years, a budget for the next year within the timeline stipulated by the Statute. The 2008 budget is once again balanced and financed from revenues collected within the District and allocations from the Indirect Tax Administration. Another first, however, is that it includes a three-year capital development line.

55. The Supervisor issued an order on 31 January completing the process of harmonising District legislation with the amended Statute. This entailed the enactment of a final set of 31 amendments on top of the nearly 70 laws and amendments he passed in June 2007.

56. One of the most important achievements of the District during the period was the Assembly's adoption on 27 March of the Law on Primary and Secondary Education. Brcko District has had the only truly multiethnic education system in BiH since the Supervisor enacted the first education law in 2001, so fulfilling a requirement of the Final Award. After seven years in force, the law required modernisation and harmonisation in line with the European Partnership Program, which will necessitate the rationalisation of the school network by 2009 and higher standards of education for teachers by 2015. The development and passage of the new law was difficult and time-consuming, but the fact that a wide array

of governing and opposition parties voted for it testifies to the acceptance of an integrated educational system in the District that is often and rightly held up as a model for the rest of BiH.

57. Brcko registered several other legislative achievements in the period, including the introduction of BiH's first modern real-estate tax law. A new concept for land ownership has been developed for consideration, while a new Law on Police Officials that supports systematic police reform throughout BiH was adopted without difficulty. Filling a potentially dangerous legal gap, the Supervisor also provided for regulation of the insurance industry in the District and resolved a simmering problem of land conveyance for displaced persons in the Ilička settlement.

58. On 15 February the Supervisor dismissed two policemen from positions in the Brcko District Police. The Supervisor acted after receiving multiple and substantiated reports of the two officers' official misconduct, serious breaches of duty, unprofessional behaviour, inadequate performance, and other actions that seriously undermined the effectiveness of the service. He was compelled to intervene when it became clear that the dismissals ordered by the police disciplinary boards could not be implemented soon enough to spare the District Police further harm.

59. In line with the objective set for Brcko by the Peace Implementation Council Steering Board, the Supervisor commenced exploratory discussions with political leaders about additions to the BiH Constitution and a state law that would regulate relations among the District, state and entities in accordance with the Awards of the Arbitral Tribunal. As of

this writing, the discussions are ongoing, but remain subject to the broader political situation in BiH.

XIV Bosnia and Herzegovina and the Region

60. Bosnia and Herzegovina is uniquely vulnerable to political instability in the region. Not only does the domestic politics of Croatia, Montenegro and Serbia occasionally impact upon it, but Serbs, Croats and Bosniaks in BiH all frequently identify with the aims and achievements, struggles and defeats, of their co-nationals across its borders.

61. The issue of Kosovo's future status continued to feature prominently in the country's political discourse during the period. The failure of the Troika process in December and the countdown to a unilateral declaration of independence in February led to a ratcheting up of rhetoric and concern on the part of BiH Serbs, who share the general Serb identification of Kosovo with their faith, culture and nationhood, albeit to a lesser degree than in Serbia proper. Republika Srpska Prime Minister Dodik took part in many manifestations of Serb solidarity over Kosovo, but also usually argued that Kosovo's fate should not and need not have implications for – or produce disturbances in – BiH. Although, as reported above, both his party and parliament ultimately sought to play the card of the alleged Kosovo "precedent", he maintained public order and did not support the more extreme manifestations of Serb anger over Kosovo's eventual declaration of independence and its recognition by many countries. Public demonstrations against Kosovo's independence in the RS were relatively small in scale and the entity's police contained the violent impulses of young hooligans relatively easily, although minor damage was inflicted on some diplomatic offices in Banja Luka.

62. What did afflict non-Serbs in BiH were the efforts of the EU to placate Serbia for its impending "loss" of Kosovo by offers of a SAA and/or a political treaty in the run-up to both the Serbian presidential elections in January and

Kosovo's declaration of independence in February. Accusations of double standards on the part of Brussels were frequent, especially in view of the difficulties BiH was experiencing in its own efforts to fulfil the EU's terms in regard to police reform.

63. BiH's niggling border-definition issues with Croatia and Serbia remain unresolved, as does the problem of Croatia's plan to build a bridge, bypassing BiH's small slice of Adriatic coastline, between the mainland and the Pelješac peninsula. The risk in this case is that BiH's access to the open sea might be impaired. Inadequacies in judicial cooperation among Serbia, Croatia, Montenegro and BiH, particularly over war-crimes prosecutions, also remain. As noted above, however, the main BiH complaint is that Serbia has done nothing to implement the February 2007 verdict of the International Court of Justice in regard to indicted war criminals.

XV The European Union Police Mission (EUPM)

64. Based on an invitation by the BiH Presidency, the European Council decided on 19 November 2007 to extend the EUPM's mandate for another two years. It will now run until 31 December 2009. The mandate stays roughly unchanged, as does EUPM's size. Having worked closely with the mission, I strongly supported its extension. Although the EUPM chain of command had been previously amended to reflect the establishment of a new Civilian Planning and Conduct Capability at the Brussels level (Council Secretariat General), I continue to provide political guidance to the mission.

65. As foreseen in its re-confirmed mandate, the EUPM's strategic priorities remain the fight against organised crime and corruption, the attainment of police reform, and the

improvement of police accountability. As for the first of these, the mission took the lead in coordinating the policing aspects of international efforts and ensured, in particular, closely targeted EU attention to major crime cases across BiH through the EU Coordination Board. Through its Criminal Justice Unit and in close coordination with my office, EUPM promoted better relations between police and prosecutors and hosted the third National Police and Prosecutors Conference.

66. The EUPM also monitored police accountability and supported the development of best practices. For example, protest demonstrations in Republika Srpska in February against Kosovo's declaration of independence provided the EUPM with an opportunity to evaluate police handling of highly sensitive public events. (In this case, positively) The mission likewise supported the strengthening of state-level law enforcement agencies (the Border Police and the State Investigation and Protection Agency, SIPA), particularly through co-location. The EUPM continued to support efforts to broker a political agreement on police reform and later participated, together with OHR colleagues, as an observer on the working group tasked with drafting the new policing laws. On the basis of the Common Operational Guidelines, it continued its close cooperation with EUFOR.

XVI Non-Certification of Police Officers

67. Following the April 2007 letter from the President of the UN Security Council to BiH's Permanent Representative to the UN on former police officers denied certification by the UN International Police Task Force (IPTF), OHR/EUSR and EUPM drafted model amendments to assist all jurisdictions in bringing their legislation into compliance with the terms of the UNSC President's letter.

68. As of March 2008, eight of the ten Federation cantons and Brcko District had amended their legislation to comply with the conditions set by the UNSC President. The BiH Council of Ministers and the Federation government had both adopted the necessary amendments and forwarded them to their respective parliaments. Neither Cantons 1 and 10, nor Republika Srpska, had yet begun to adopt legislation.

XVII Media Development

69. Although BiH ranks fairly high on league tables of media freedom, there was much discussion during the reporting period about alleged “blacklists” of persons critical of the RS government who should not be allowed to air their views on radio and television or to write for the press. In the Federation, meanwhile, concern centred on the extreme partisanship and intermittent irresponsibility of some newspapers and television news programmes. Both complaints reflect the fact that the media landscape is as fragmented as are the national and political scenes. Bosniaks, Croats and Serbs tend to watch, listen to and read their “own” media to the exclusion of the others. The state-level public broadcaster, BHRT, has had difficulties acquiring an audience, particularly in the RS. Croats feel particularly disadvantaged by what they regard as Bosniak domination of the Federation’s public broadcaster and Serb control of its RS equivalent. They argue that they, too, must have a state-wide public television service that would broadcast exclusively in the Croatian language.

70. This explains the failure to complete public broadcasting reform, with the enactment of the requisite legislation in the Federation being the missing element. Croat parliamentarians have twice invoked “vital national interest” to stop enactment of the law as adopted by the Federation Parliament. Their most recent objections have now been sent to the Federation Constitutional Court for adjudication.

71. Ensuring the independence of the Communications Regulatory Agency (CRA) is another European Partnership requirement. Unfortunately, the appointment of a new director has become enmeshed in the larger ethno-political game. Although the CRA Council has repeatedly sought to reappoint the current (Bosniak) director to another term, the Council of Ministers has refused to do so, demanding a re-run of the appointment process. This refusal stems from an agreement, struck by the leaders of the six coalition parties in December, that the CRA directorship should go to a Croat.

XVIII EU Special Representative (EUSR)

72. In line with my mandate as European Union Special Representative in Bosnia and Herzegovina (Council Joint Action 2007/427/CFSP), I continued to promote the priorities listed in the European Partnership document of 2006, as well as the implementation of the Dayton Accords. In my EUSR capacity, I have also continued to coordinate and ensure the coherence of the EU presence in BiH, in particular with regard to the European Union Police Mission and EUFOR.

73. In line with the EU Enlargement Strategy 2007-2008, calling for better communication by the EU, I have recently launched a EU integration campaign in coordination with the EC Delegation and ESDP missions on the ground. The objective is to create a critical mass of citizens in the country that would be empowered to speak out in favour of EU integration and gradually exert ever-greater pressure on the domestic political establishments to deliver on their commitments to EU integration. I have opened a dialogue with the public by attending the debates that continue to take place across the country. In addition, I have recently set up an interactive web page (www.reci.ba) through which I reply to citizens' questions and facilitate public debate on EU integration. The site received some 18,000 visits and 1,300 comments from citizens in its first month.

XIX Future of OHR

74. As has been reported above, the 26-27 February meeting of the Peace Implementation Council's Steering Board determined that OHR should remain in place and continue to carry out its mandate under the Dayton Peace Agreement until such time as the domestic authorities fulfil five specific objectives and two general conditions prevail. (See Annex below) This shift to an objective-driven road map towards OHR's closure should accelerate the reform process, inculcate domestic ownership, and diminish uncertainty about the future. OHR can and will close as soon as these benchmarks and conditions are met.

XX Reporting Schedule

75. In keeping with my predecessors' proposals to submit regular reports for onward transmission to the Security Council, as required by UN SC Resolution 1031 (1995), I herewith present my first regular report. Should the Secretary-General or any Security Council member require information at any other time, I should be pleased to provide an additional written update.

ANNEX

Declaration by the Steering Board of the Peace Implementation Council

27 February 2008

Political Directors of the Peace Implementation Council Steering Board met in Brussels on 26 and 27 February 2008. The Presidency of BiH, the Chairman of the Council of Ministers as well as leaders of the governing coalition were present during parts of the meeting.

The PIC SB noted that, since October, BiH has made progress with regard to the SAA. The PIC SB welcomes the initialling of

the SAA that took place on 4 December 2007. The signing of the SAA is finally in reach as soon as the necessary conditions are met.

However, important underlying problems, which gave rise to recent crises, remain in BiH. There have been attempts to weaken progressively the institutions and legitimacy of the state. There have been renewed tensions between political actors over the future constitutional make-up of the country as well as the role and competencies of the state. The limited degree of cooperation among BiH actors shown in late 2007 has deteriorated. There have also been unacceptable challenges to the Dayton Peace Agreement.

The PIC SB expresses deep concern with regard to official calls for secession. The PIC SB strongly emphasizes that under the Dayton Peace Agreement an Entity has no right to secede from Bosnia and Herzegovina.

As previously stated, the PIC SB is also concerned by statements calling the existence of Entities into question.

The Steering Board underlines once again that BiH is a recognised sovereign state whose territorial integrity is guaranteed by the Dayton Peace Agreement. The Steering Board recalls that the Constitution of Bosnia and Herzegovina recognises that Bosnia and Herzegovina consists of two entities and that Bosniaks, Croats and Serbs are constituent peoples. The Steering Board remains fully committed to the Dayton Peace Agreement.

The PIC Steering Board reiterates that BiH politicians must end the practice of threatening unilateral changes to the constitutional structure of the country. All parties must comply fully with the Dayton Peace Agreement. The Steering Board underlines that the International Community retains the necessary instruments to counter destructive tendencies and that it will not allow attempts to undermine the Dayton Peace

Agreement, whether from inside or outside the country. All signatories and parties are obliged under Annex 10 of the Dayton Peace Agreement to cooperate fully with the High Representative and his staff. Decisions of the High Representative must be fully respected and promptly implemented.

With regard to police reform, the PIC SB encouraged BiH actors to take forward the debate in the Parliamentary Assembly and to adopt police reform legislation in line with the Mostar Declaration and the subsequent Action Plan and consistent with EU requirements as a matter of urgency.

The PIC SB encourages the BiH Council of Ministers to continue to move forward on the reform agenda with determination, and to adopt an action plan as a response to the European Partnership.

The PIC SB welcomes the adoption of the Platform for Action and the progress made towards realising some of its objectives, including fiscal coordination. However, much more needs to be done.

The PIC SB notes that political party leaders have had initial discussions on constitutional reform and that this issue is also reflected in the Mostar Declaration and the Action Plan. The Steering Board reaffirmed its view that constitutional reform will be necessary in order to equip Bosnia and Herzegovina to meet the requirements of a modern European state.

The PIC SB underlines the importance of freedom of expression, including a free and independent media, and notes that the Dayton Peace Agreement obliges BiH including both Entities to ensure the highest level of internationally recognised human rights and fundamental freedoms. In this regard the PIC SB welcomes the visit of the OSCE Representative for Freedom of the Media to BiH.

In line with the decision taken at its October 2007 meeting, the PIC Steering Board reviewed the situation. It endorsed the following recommendations of the High Representative regarding the future of OHR.

Having assessed developments in BiH over the past months, the PIC SB reiterated that transition and ownership remain the goals. It is for BiH actors, in the first place, to create the conditions for transition to occur, which should happen in the shortest possible time. The PIC SB and the broader International Community stand ready to support BiH actors in creating the necessary conditions.

Bosnia and Herzegovina as a “peaceful, viable state irreversibly on course for European integration” has been the longstanding objective of the PIC Steering Board and achieving this objective has been the focus of OHR’s work.

The OHR Work Plan approved by the PIC Steering Board in April 2007, contains a number of longstanding objectives that the PIC Steering Board considers to be essential for the creation of such a peaceful, viable state. For this reason, the PIC Steering Board has decided that the most critical issues contained in the OHR Work Plan be considered objectives that need to be achieved by the BiH authorities prior to transition. These objectives are well established, approved by the PIC SB and have all been previously recognized by BiH authorities as obligations.

The objectives that will need to be delivered by the BiH authorities prior to transition are:

- Acceptable and Sustainable Resolution of the Issue of Apportionment of Property between State and other levels of government
- Acceptable and Sustainable Resolution of Defence Property

- Completion of the Brcko Final Award
- Fiscal Sustainability (promoted through an Agreement on a Permanent ITA Co-efficient methodology and establishment of a National Fiscal Council)
- Entrenchment of the Rule of Law (demonstrated through Adoption of National War Crimes Strategy, passage of Law on Aliens and Asylum, and adoption of National Justice Sector Reform Strategy).

In addition to the objectives listed above, the PIC Steering Board agrees that two conditions need to be fulfilled prior to transition: Signing of the SAA and a positive assessment of the situation in BiH by the PIC SB based on full compliance with the Dayton Peace Agreement.

The signing of the SAA is not part of OHR's Work Plan. However, it is an important requirement for transition and necessary to demonstrate Bosnia and Herzegovina's progress towards membership of the European Union.

The situation in BiH has previously been defined by the PIC SB as a criterion for decision-making on OHR closure and transition. It remains crucial that BiH political leaders fully comply with the Dayton Peace Agreement avoiding any rhetoric or action that would threaten or violate the Peace Agreement.

The achievement of the above mentioned objectives and fulfilment of the conditions will facilitate transition. The PIC Steering Board urges the authorities in BiH to achieve these objectives and contribute to fulfilling these conditions as soon as possible. The High Representative stands ready to advise and work with BiH institutions in this regard.

The PIC SB underscores its full support for the HR to facilitate accomplishment of these objectives in a manner consistent with the overall goal of entrenching reform and ensuring BiH meets its commitments for Euro-Atlantic

integration. The PIC SB requests the HR to undertake all appropriate measures to ensure that the above objectives are met.

OHR will remain in place and continue to carry out its mandate under the Dayton Peace Agreement, ensuring full respect of the Peace Agreement.

The PIC SB reiterated the view that a reinforced EUSR Office would constitute an important part of the EU's comprehensive engagement after OHR. The Steering Board looked forward to a renewed exchange of information on the respective planning processes.

The PIC SB calls upon Serbia, a Dayton signatory, as well as the authorities in Bosnia and Herzegovina, especially those in Republika Srpska, to abide by their obligations under international law to cooperate fully with the International Criminal Tribunal for the Former Yugoslavia (ICTY), playing a proactive role in apprehending all remaining indictees, including Radovan Karadzic and Ratko Mladić, without further delay, dismantling the networks offering support to such fugitives, and ensuring they are transferred to the ICTY.

The PIC SB reminded all authorities in BiH of the fundamental principle of the inviolability of diplomatic missions and their obligations in that regard. The PIC SB deplores the damage inflicted upon diplomatic offices in Banja Luka. It expects the authorities in BiH, in particular the RS, to live up fully to their obligations and to maintain public order.

The OHR will monitor progress against objectives and conditions and the PIC Steering Board will keep the situation under constant review. The next meeting of Political Directors will take place in Sarajevo on 24 and 25 June 2008.