

# **32nd Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the**

***Thirty-Second Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the***

***Secretary-General of the United Nations***

**1 April - 30 September 2007**

## **SUMMARY**

This report covers the period from April through September of this year. During this time, there has been almost no progress in addressing the reform agenda and Bosnia and Herzegovina (BiH) has moved no closer to initialing a Stabilisation and Association Agreement (SAA) with the European Union. This is despite the fact that the overwhelming majority of citizens of BiH wish to see progress with regard to the relationship with the EU.

While tensions over Srebrenica in the wake of the judgment of the International Court of Justice (ICJ) have lessened, overall, we have witnessed a deterioration of the political situation.

There have been important developments during the month of October which will be of interest to the Security Council. These are reflected in the Declaration of the Peace Implementation Council Steering Board of 31 October, which I attach at annex.

I will continue to exercise my mandate as High Representative in order to ensure full respect of the Dayton Peace Agreement. I will also continue to do my utmost to help overcome the challenges facing BiH at this moment and to facilitate steps that can

contribute to stability and progress.

## **I Introduction**

1. This is my first 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 also covers the final three months of the mandate of my predecessor, Dr Christian Schwarz-Schilling. 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 spheres.

## **II Political Update**

### *General Political Environment*

2. The fallout from the February 2007 ruling by the International Court of Justice (ICJ) in the suit filed in 1993 by the former Republic of Bosnia and Herzegovina against the former Federal Republic of Yugoslavia continued to define domestic politics during the first half of the reporting period. Bosniak demands that Srebrenica should have a special status outside Republika Srpska (RS), failing which returnees would abandon this onetime UN 'safe area' on the twelfth anniversary of its fall to Serb forces on 11 July, led to the establishment in April of a tent camp in

Sarajevo. The camp lasted for some three months, during which time certain Bosniak political leaders sought to use the Srebrenica genocide as a means of attacking both the constitutional order and the legitimacy of the RS.

3. The contention over Srebrenica impacted upon the BiH Presidency in mid-April when its then Serb chairman, Nebojša Radmanović, invoked a 'vital entity interest' objection to a decision by his two colleagues to demand that Serbia should fulfil its obligations under the ICJ verdict. The RS National Assembly (RSNA) duly upheld Radmanović's veto.

4. The RS Government acted responsibly on a practical level in defusing tensions over Srebrenica and other towns in the eastern RS. It appropriated development funding for the Srebrenica region. This contributed to an overall effort identifying the economic, social, security and juridical improvements that could be made benefiting all Srebrenica-area residents. These efforts were led by Ambassador Clifford Bond, whom Dr Schwarz-Schilling appointed as the High Representative's Envoy to the Srebrenica Region in early May. Such efforts set the scene both for the dismantling of the tent camp in Sarajevo and the peaceful commemoration of the Srebrenica anniversary, accompanied by the funerals of several hundred recently identified victims of the 1995 massacres.

5. Unfortunately, August and September again saw a deterioration of the political atmosphere due to negative rhetoric coming from both Serb and Bosniak parties.

6. Despite repeated calls by RS political leaders to recover the entity's former powers, no such initiative was launched during the reporting period. Council of Ministers Chairman Nikola Špirić's acknowledged that the consent of both entity parliaments and the BiH Parliamentary Assembly would be required for any formally transferred competencies to be retrieved.

7. As is described in detail below, late August and all of September were dominated by efforts to forge a political agreement on police reform sufficient to unlock a Stabilisation and Association Agreement with the EU during 2007.

### *Constitutional Reform*

8. There is a broad consensus among BiH parties and civil society that the constitution provided by Annex IV of the Dayton Peace Agreement can provide neither functional and efficient state institutions nor a system capable of satisfying the demands of Euro-Atlantic integration. Although constitutional reform remained a high-profile and much debated issue during the reporting period, little concrete progress was recorded, owing both to the domestic authorities' concentration on police reform, which became a surrogate arena for debating constitutional matters, and to the contradictory views on what the substance of any constitutional reform should be.

9. The package of amendments narrowly defeated in the BiH House of Representatives in April 2006 was effectively discarded, including by some of the parties that had originally supported it. Developments in the period centred instead on the major parties' articulation of guiding principles for new rounds of negotiations. Republika Srpska-based parties argued for an explicitly federal or confederal state organisation in which their entity, in its existing confines, would be one of two, three or more federal units.

10. The five Croat parties that regard constitutional reform as the most pressing issue for their constituents – and insist that it take place during my mandate – signed a joint declaration on the principles that should underlie a new constitution in late September. Their declaration foresees the elimination of the current two-entity structure and the creation of a decentralised state with three levels of authority: state, middle and local. The declaration suggests support for a federal structure, but not one that would leave the RS intact. There are indications that a 'territorially discontinuous' Croat federal unit, which would link politically separate Croat majority areas in Herzegovina and Posavina, could be a central demand of the Croat parties during any future constitutional-reform talks.

11. On the Bosniak side, a SDA-SBiH working group produced a platform in September, but its scheduled signature has been postponed as a result of both the pressures of the police-reform talks and the differences between the two parties that emerged during them. SDA and S BiH insist on the need for a wholly new constitution that would scrap an electoral system that violates the protocols of the European Convention on Human Rights and replace it with one that gives preference to individual rather than national or entity rights. Their draft platform, which has

not been agreed formally between the two parties, argues for BiH to be composed of at least five multinational regions based on functional, economic, geographical, transport, historical and national or ethnic criteria.

12. Constitutional reform remains an imperative for BiH for both political and functional reasons. Finding common ground and providing the country with a more functional, efficient, legitimate and stable constitutional order will be a major challenge, given the differences.

### **III European Partnership Requirements**

13. Although BiH successfully completed the technical negotiations on a Stabilisation and Association Agreement with the EU late in 2006, BiH has not moved forward regarding initialling and signing of the SAA because there has not been sufficient progress on the four key political requirements of the EU (police restructuring, ICTY cooperation, public administration reform, public broadcasting reform).

#### *Police Restructuring*

14. Despite signs of progress at a meeting of Serb and Bosniak leaders on 14 March, the ensuing four months saw no further movement towards a political agreement on the basis of the report of the Directorate for Police Restructuring Implementation that would enable BiH to initial and sign a Stabilisation and Association Agreement with the EU.

15. In July, following my appointment as High Representative and EU Special Representative, I met with all the major party leaders, encouraging them to move forward on police reform and the SAA in a spirit of compromise. I also set a deadline of 30 September for the parties to reach an agreement, which was the cut-off date for inputs to the European Commission's Progress Report on BiH.

16. In the absence of any domestic political initiatives, at the end of August I presented a 'Draft Protocol on Meeting the Police Reform Requirements Necessary for Initialling and Signing the Stabilization and Association Agreement'. The proposal combined essential elements of earlier documents, including the report of the Directorate and solutions discussed at the 14 March negotiations, describing the institutional features of the future policing system. The protocol also contained timelines, obliging the signatories to ensure a transfer of competencies from the cantons and entities to the state and the adoption of key legislation regulating the reform.

17. Following bilateral meetings with party chiefs at which I presented my proposal, my office succeeded in convening and chairing several rounds of technical-level negotiations among the eight major parties between 12 and 28 September. However, these failed to achieve an agreement based on the protocol. The RS-based parties, in particular, showed very little flexibility.

18. On 28 September, the leaders of the SNSD and SBiH, Milorad Dodik and Haris Silajdžić, negotiated, signed and forwarded to me a separate protocol of their own. This document lacked crucial details in several areas, so making it impossible to assess whether or not it fulfilled the three EU principles. Dodik failed to respond to repeated requests for clarification of the document's provisions. Contradictory interpretations of it offered to the media by the two party leaders suggested that there was no common understanding on key aspects.

19. Having consulted with EU institutions, I therefore issued a statement on 4 October noting that the Dodik-Silajdžić proposal neither fulfilled the three EU principles nor enjoyed the support of the majority of parties. On the other hand, the fact that they had belatedly sought to engage with the issue was sufficiently encouraging to cause me to extend the deadline for a general agreement by a few days. I subsequently announced that the final deadline would be 15 October, on which day I would be obliged to report to the EU on whether or not BiH could possibly qualify for a SAA.

20. On 10 October, the two main Croat parties produced a new proposal that appeared to be in line with the EU principles and incorporated elements from both my protocol and the Dodik-Silajdžić document. Sadly, the meeting of party leaders called in Sarajevo on 11 October to discuss the Croats' draft failed to reach any agreement.

21. On 28 October, the leaders of the six government coalition parties met in Mostar and agreed a declaration on

police reform. As the PIC Steering Board has pointed out, the declaration can serve as the starting point, but concrete steps are needed to demonstrate that this is a serious effort and to allow for progress towards conclusion of an SAA.

#### **IV Entrenching the Rule of Law**

22. In addition to police reform, my office has continued to focus on facilitating and consolidating the implementation of other rule of law reforms, especially those that aim to build the capacity of the justice sector.

23. In close coordinate with other IC actors, OHR has worked over the reporting period with the BiH Ministry of Security, the State Investigation and Protection Agency (SIPA), the Border Police and the entity and cantonal interior ministries and police forces to enhance their effectiveness, particularly in the fight against organised crime. We have also worked to improve the capacity of the recently formed BiH Service for Foreigners' Affairs.

24. OHR convened two brainstorming sessions on justice-sector reforms that had been identified as necessary by the domestic authorities. Thanks to donor support pledged at the first, partial funding for the building of a state prison has been secured. A high-security facility is necessary to ensure appropriate accommodation for persons convicted of war crimes and other serious crimes. The escape of convicted war criminal Radovan Stanković from a Republika Srpska prison in May highlighted the urgency of this need. Additional funds are still required, however, and I will support the Ministry of Justice in its attempts to secure the requisite funding from international and domestic sources.

25. Several items on the reform agenda concern the processing of war crimes. The Ministry of Justice has created a working group tasked with drafting a state war crimes strategy, which is necessary if all war crimes are to be prioritised and processed.

26. The brainstorming sessions also considered several proposals for the reorganisation of the current system that aim to ensure the uniform application of criminal legislation and jurisprudence throughout the country. OHR will assist the domestic authorities in examining and applying these proposals.

27. OHR continues to monitor the successful transition by the Registry of the State Court to full domestic ownership, anticipated by the end of 2009.

#### **V Cooperation with the ICTY**

28. Cooperation with ICTY has been a priority for me. There was some progress during the reporting period. On 31 May the RS police, acting in coordination with their Serbian counterparts, arrested ICTY fugitive Zdravko Tolimir near the Serbian border. He was soon transferred to The Hague. With the arrest in Montenegro of Vlastimir Djordjević in June the number of ICTY fugitives was reduced to four.

29. In July, I ordered the seizure of passports and travel documents of 93 persons being investigated for war crimes committed in and around Srebrenica in 1995, 35 of whom were subsequently suspended from their posts in the RS police. Following consultation with ICTY, I also removed a former RS police director, Dragomir Andan, from his position as the head of training for the RS police.

30. Several complex war crimes trials are proceeding in the State Court. There have also been clear signs that progress is being made in improving coordination between state and entity agencies in targeting fugitives' support networks.

31. With the aim of reinforcing the team from the State Prosecutor's Office that is investigating persons who may have participated in the Srebrenica genocide, OHR successfully lobbied potential donors for contributions towards hiring former ICTY investigators. Funding for two investigators was secured and two individuals have been hired. Further funding appears to be available to continue reinforcing this effort.

32. I will continue to monitor the work of the BiH authorities, particularly those of the RS, to ensure that both cooperation with the ICTY and the pursuit of war criminals generally are intensified.

## **VI Reforming the Economy**

33. Despite the difficult political environment, BiH is in its fourth year of stable economic performance, with growth in GDP estimated at 6 per cent in 2007. Inflation in the first quarter of 2007 was just 1.5 per cent. The current account deficit dropped from 21.3 per cent of GDP in 2005 to 11.4 percent of GDP in 2006 and will probably shrink further once corrections for underreporting of current receipts have been made. The trade deficit fell from 49.6 per cent in 2005 to 37.1 per cent in 2006, although further improvements are unlikely for the time-being as export expansion has slowed in 2007 and imports have again increased. The total fiscal surplus was 3 per cent of GDP in 2006, which resulted mainly from a surge of revenues following the introduction of VAT.

34. The windfall represented by high collection rates of indirect taxes has not, however, facilitated either an agreement on a permanent mechanism for revenue allocation between the entities or provided a remedy for fiscal challenges that lie ahead. In particular, pre-election spending and the currently lax and uncoordinated fiscal regime could cause a sharp deterioration in the state government's balance sheet. The state government could have a deficit of up to 1.5 per cent of GDP in 2007, which highlights the urgent need to establish a National Fiscal Council that would ensure proper fiscal coordination and macroeconomic stability.

35. It is also worth noting in this context that public-sector wages in both the entities and cantons have almost reached parity with those of state institutions. If this trend continues, this would merely exacerbate the problem of a disproportionately large public-sector wage bill. A state-level law on public salaries that aims to rationalise the system is currently being drafted.

36. There has been little or no progress in reforming the business environment. Not only do relevant laws (such as those on obligations and pharmaceuticals) remain blocked for national-political and/or patronage reasons, but there also appears to be a tendency, primarily in the RS, to adopt partial and uncoordinated solutions. Examples include the recently adopted RS laws on fiscal registers and natural gas, over which there was neither consultation nor coordination with the state or Federation authorities.

37. Far from enhancing the single economic space, such isolated initiatives contribute to its disintegration. They also discourage investment and sustain high unemployment rates. The latter is estimated to total 31.1 per cent, with 20 per cent of the population living below the poverty line and another 30 per cent hovering around it. This situation impacts negatively upon economic recovery and widens the gap between BiH and other transition countries. It also imperils the country's prospects for EU integration, overshadowing such rare positive developments as BiH's ratification of the Central European Free Trade Agreement (CEFTA) treaty in September.

38. To highlight the challenges, the OHR hosted an economic conference on 16 October that brought together the international community, domestic policy-makers and business leaders. The conference successfully put economic issues back at the centre of public debate and created a platform for dialogue on the needs of the BiH economy, including measures to improve living standards in the short term. Most importantly, it resulted in a platform for action – signed by the state and entity prime ministers and the mayor of Brčko District – that singles out what needs to be done to improve fiscal coordination, create a better business environment and promote reforms ensuring sustainable economic development.

## **VII Public Administration Reform**

39. A new state-level Public Administration Reform (PAR) coordinator took office during reporting period. The BiH Presidency accepted and signed a memorandum of understanding on a PAR Fund. These were signals that the PAR process can finally commence in BiH.

40. My office will continue to advise and assist the relevant authorities in order to ensure that the process can proceed without further undue delays. Initiating the implementation of the comprehensive PAR action plan is a key short-term priority of the country's European Partnership and a condition for signing a SAA.

## **VIII Defence reform**

41. All three prime ministers signed a document entitled 'Principles on Defence Property' in July that addresses the issue of moveable and immoveable defence property. A legal working group charged with translating those principles into legal and political reality began work in September, but has made little progress.

42. Elsewhere, the business of implementing the defence reform's nuts and bolts continued. BiH hosted its first Planning and Review Process (PARP) Assessment with NATO in September. This biennial planning cycle provides an important tool for enhancing interoperability between BiH and NATO. BiH has undertaken to provide information on a wide range of subjects for each two-year cycle, including defence policy, developments with regard to the democratic control of the armed forces, state policy relating to PfP cooperation, and relevant financial and economic plans. The results of the September assessment were generally positive. BiH officials have quickly adapted to the demands and pace of the process and will improve the quality of their input as the PARP proceeds.

## **IX Intelligence Reform**

43. The BiH Intelligence-Security Agency (OSA) continued to develop its operations in the fields of organised crime, counter-terrorism and war crimes. Cooperation with law enforcement agencies remains satisfactory, but the obvious inefficiencies of the country's policing and judicial systems limit the impact of these efforts. Cooperation with global and regional partners has become routine and continues to evolve. Although the situation is gradually improving, there are still deficiencies regarding information technology and equipment. The transfer of ownership of moveable and immoveable property from the entities to the state remains unresolved.

## **X The European Union Military Mission in BiH (EUFOR)**

44. Consonant with the prevailing security situation in BiH, EUFOR completed its transition to a reduced force structure of some 2,500 ahead of schedule. It should be noted, however, that the presence of EUFOR on the ground provides crucial reassurance which remains necessary. Given the current environment, I welcome the fact that EUFOR retains the capacity to deploy troops throughout the country at short notice as well as the capability to bring in over-the-horizon reserves.

## **XI Refugee and Displaced-Person Return**

45. OHR handed over responsibility for implementing GFAP Annex 7 on the return of refugees and displaced persons to the domestic authorities in December 2003, when property repossession was nearly complete and new legislation had been passed establishing the necessary state organs and coordination mechanisms for dealing with this issue. Property repossession has since been completed throughout the country, all municipalities having processed outstanding first-instance applications for the repossession of dwellings.

46. It is virtually impossible to offer a reliable estimate of the number of people who have returned physically or permanently to their pre-war homes. The number of potential returnees grows smaller with the passage of time. A recent re-registration exercise undertaken by the Ministry for Human Rights and Refugees indicated that there are still 130,000 displaced persons in BiH who aim to return to their pre-war homes.

47. This autumn, the Ministry of Human Rights and Refugees started to review their strategy for completing the implementation of Annex 7. My office and UNHCR support this exercise. The strategy will focus especially on sustaining the returns process.

48. Both returnees and those still seeking to return continue to need and deserve the support and attention of both international and domestic agencies. Too many in both categories remain without the basic conditions for rebuilding a dignified, sustainable and stable existence.

## **XII Mostar**

49. Although direct intervention by my predecessor was necessary to resolve several political disputes in Mostar during the previous reporting period, I am pleased to report that such high-level intervention has not been required in the city over the past six months. OHR decisions related to urban planning and the arbitration decision on Croat-controlled Hercegovačka Radio-Television (HRT) have been satisfactorily implemented by the city administration, if not yet by the cantonal government in the case of HRT.

50. At the same time, Mostar remains at the epicentre of Bosniak-Croat relations in BiH, and the two national-political elites' divergent interests retain the potential to shake the foundations of unification.

51. Finally, the future status of the Mostar Statute, with its special electoral rules aimed at preserving national-political balance and power sharing – which weathered a legal challenge mounted by the Croats before the Federation Constitutional Court in April – remains uncertain. Because it has not been adopted by the City Council, and is unlikely to be endorsed in an election year, OHR remains the primary protector of the Statute until such time as local bodies formally enact it.

52. With regard to Herzegovina-Neretva Canton, it proved necessary for me to set a deadline of 1 August to ensure formation of a new cantonal government – ten months after the general elections. This deadline was met.

### **XIII Brčko District**

53. Politics in Brčko 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.

54. In April my predecessor enacted changes to the Law on the Indirect Taxation Authority (ITA). These amendments guaranteed the district a minimum revenue share in allocations from the ITA's single account, the absence of which had led the district to lodge a formal complaint with the Arbitral Tribunal it was being short-changed. The decision had the effect of obviating the need for the Tribunal to proceed.

55. During the summer, the Supervisor enacted several amendments to District legislation, providing for a comprehensive overhaul of redundant laws. The District Assembly also passed a law on real estate tax

56. The performance of the government has improved. It has successfully attracted outside investments and seems to be beginning to appreciate the importance of marketing to foreign investors. On the other hand, alleged chaos in the healthcare and education services has been the subject of recurrent criticism. Majority decision-making in the government replaced executive decisions by the mayor after a Supervisory Order amending the District Statute in February. This new system seems to have worked well.

57. In September, both houses of the BiH Parliament adopted a Law on Amendments on the Law on the Council of Ministers which establishes in law the Brcko District Coordinator's Office as a permanent body in the Council of Ministers. However, Brcko officials are looking for further measures that will secure the position of the district within BiH.

### **XIV Bosnia and Herzegovina and the Region**

58. As a state still lacking a full political consensus about how its multinational citizenry should live together BiH cannot help being affected by developments in the region. Not only does the domestic politics of Croatia, Montenegro and Serbia impact upon it to varying degrees, but Serbs, Croats and Bosniaks all identify with their co-nationals across BiH's borders.

59. Kosovo's future status has been the subject of discussion and of political statements in BiH. Until recently, there were few statements by the political parties in the RS and the Government of Serbia to link the fates of Kosovo and Republika Srpska. However, over the past weeks we have witnessed an increasing number of such statements being made.

60. In the late summer the RS government signed an updated version of its special parallel relations agreement with Serbia and announced the launch of several joint projects in the energy sector. There was some criticism of

this, especially in the Bosniak camp.

61. The Croatian Government announced that construction of a bridge from the mainland to the Pelješac peninsula (which would obviate the need for road traffic between northern and southern Dalmatia to cross BiH territory at Neum) would commence in October. The Presidency tasked the Council of Ministers with gathering full information on the matter, including with regard to BiH's access to the sea and territorial integrity.

62. Continuing inadequacies in judicial cooperation among Serbia, Croatia, Montenegro and BiH, particularly over war crimes prosecutions, was evident in the period, occasioned by the arrest and indictment in Belgrade of a BiH citizen accused of war crimes against the former Yugoslav Peoples Army in Tuzla in 1992. BiH has proved unable to secure the man's extradition for possible trial in BiH.

63. Finally, it must be noted once more that BiH's failure to secure a Stabilisation and Association Agreement with the EU has exposed it to the risk that it will fall well behind its neighbours. Croatia is engaged in negotiations on EU membership and Montenegro signed its SAA in mid-October. Serbia, for its part, has completed SAA negotiations and may initial the agreement before the end of the year.

## **XV The European Union Police Mission (EUPM)**

64. During the reporting period, EUPM concentrated on the fight against organised crime and corruption. Through its Criminal Justice Interface Unit and in close coordination with OHR/EUSR, EUPM promoted better relations between police and prosecutors. The EUPM also engaged in monitoring and supporting the development of best practices in the work of the domestic police, in particular by ensuring improved police accountability. It was also engaged on police reform matters, including providing support the High Representative in his efforts to achieve an agreement. The mission supported the strengthening of state-level law enforcement agencies (the Border Police and the State Investigation and Protection Agency), especially through co-location.

65. The current EUPM mandate expires in December 2007. However, the EU has indicated its willingness to extend the mission for another two years in roughly the same shape and size. The BiH Presidency requested such an extension on 19 September.

## **XVI Non-Certification of Police Officers**

66. Following contacts between the UN, BiH institutions and OHR/EUSR, the President of the UN Security Council wrote to BiH's Permanent Representative to the UN on 30 April informing that the Security Council had lifted the lifetime ban on employment in police agencies by persons who had been denied certification by the former UN International Police Task Force (IPTF), so permitting these onetime police officers to apply for vacant positions in the police services under the conditions of employment prescribed by BiH legislation.

67. In May the BiH Council of Ministers (CoM) annulled its earlier decision to establish a review commission for these cases, which had been contrary to provisions of UNSC resolutions, and adopted a Decision Establishing a Monitoring Team to Prepare an Action Plan for Implementation of Activities Defined in the UNSC Presidential Letter. The CoM dissolved the monitoring team on 28 June, however, because its proposed action plan was not in line with the solution foreseen in the SC president's letter.

68. OHR presented the UNSC letter to the Police Steering Board in July and briefed its members (comprising senior managers of state, entity and Brčko District law enforcement agencies) on the need to adopt or amend legislation at all relevant levels in conformity with the UNSC letter. OHR conveyed the same message shortly afterwards to a meeting of the ten cantonal police commissioners and interior ministers chaired by the Federation minister of the interior. On 16 August the Federation ministry forwarded model amendments, drafted by OHR and EUPM, to the cantonal ministers and police commissioners.

69. One cantonal assembly (Goražde-Podrinje) has adopted the required amendments, while other jurisdictions are in the process of drafting, amending or adopting the necessary legislation. I will continue to monitor the legislative processes currently underway and work to ensure that BiH fulfils its obligations to the United Nations with regard



to police officers denied certification by IPTF.

## **XVII Media Development**

70. The Federation Parliament passed a Public Broadcasting System (PBS) law for the second time in July, amending the previous draft to take account of the Federation Constitutional Court's decision on the Croats' previous invocation of vital national interest (VNI). The Croats, however, claimed VNI once more. Following a failed effort by the parliamentary Harmonisation Commission to resolve the matter, it was returned to the entity's Constitutional Court.

71. In September, the BiH Constitutional Court finally convened to discuss the constitutionality of various provisions of the state-level PBS law, as requested in 2005 by a then member of the Presidency, Ivo Miro Jović. The court reached no decision other than to hold a public hearing, following which it would reconsider the issues at stake.

72. Ensuring the independence of the Communications Regulatory Agency (CRA) is also a European Partnership requirement. Unfortunately, the appointment of a new director has become caught up in the larger political game, with RS representatives opposing the reappointment of the current director in the face of the CRA Council's unanimous vote to reappoint him.

## **XVIII The Mission Implementation Plan and the OHR Workplan**

73. The PIC Steering Board Ambassadors approved a revised OHR Workplan at the end of April. As has been noted throughout this report, the general political situation has led to stagnation in the reform agenda. There is thus little progress to report beyond the adoption of the long-delayed BiH Law on Higher Education and the ratification of CEFTA. The commitment of some political parties and their leaders to the reform agenda remains in doubt. The stalemate on police reform, lack of progress on constitutional reform, the ICJ verdict, and regional developments all contributed to an unfavourable political environment for achieving the reforms to which OHR is committed. At the time of writing, it appears that there is every possibility that the current stalemate will continue.

74. Progress worthy of note have been made on four of the 22 items contained in the revised OHR Workplan, namely with regard to the BiH Higher Education Law, internal debt and two items related to Brčko District. OHR will continue to engage with the BiH authorities to secure the implementation of the reform agenda, but progress will not come easily.

## **XIX EU Special Representative (EUSR)**

75. 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 (GFAP). 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.

## **XX Future of OHR**

76. It will be recalled that in February the Steering Board of the Peace Implementation Council determined that OHR would remain in place and continue to carry out its mandate under the Dayton Peace Agreement, ensuring full respect of the Agreement. In June, the PIC Steering Board confirmed this determination. It expressed the view that the aim was OHR closure by June 2008. The Steering Board reviewed the situation at its meeting on 30 and 31 October without discussing the possibility of OHR closure. It agreed to review the situation at its next meeting at Political Directors' level in February (see Declaration at annex).

## **XXI Reporting Schedule**

77. 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**

#### **31 October 2007**

Political Directors of the Peace Implementation Council Steering Board met in Sarajevo on 30 and 31 October 2007. The Chairman and Ministers of the Council of Ministers as well as leaders of the governing coalition were present during parts of the meeting.

In line with the decision taken at its June meeting, the PIC Steering Board reviewed the situation in Bosnia and Herzegovina. Since then, the situation in BiH has deteriorated further. Responsibility lies with political leaders from both entities who have blocked progress and undermined the political situation with their aggressive rhetoric. The situation is now of the utmost concern to the international community. The PIC Steering Board underscores that it is time for BiH politicians to end the practice of questioning the fundamental structure of the state or its component parts.

BiH urgently needs reform to build the kind of modern, efficient state that can take its place in Euro-Atlantic institutions and fulfill the promise of the Dayton Peace Agreement. This can only be achieved through compromise.

However, since June, BiH has moved no closer to initialling a Stabilisation and Association Agreement. Some political leaders have not honoured their previous commitments to meet EU requirements. These requirements must be fulfilled if the country is to conclude an SAA. BiH leaders should adopt a positive approach, based on full respect for the Dayton Peace Agreement and dialogue. The Mostar Declaration of 28 October can serve as the starting point for a positive reengagement of the government coalition parties. Concrete steps are now needed to demonstrate that this is a serious effort. If they follow-up, BiH would be able to progress towards conclusion of the SAA.

Given the lack of progress on key reforms, a focus on completing implementation of the Dayton Peace Agreement, including efforts to tackle the evident dysfunctionality of state institutions, is necessary. The PIC Steering Board fully supports this approach.

The Steering Board of the Peace Implementation Council also supports the High Representative's decisions and proposed actions, which are fully in line with his mandate and the Constitution of BiH. The only objective of these measures is to streamline the decision-making process in the Council of Ministers and the Parliament, and they are necessary for speeding up the reform process. Certain political leaders have overreacted to these measures in order to create a political crisis. They have also challenged the legitimacy and authority of the High Representative and Peace Implementation Council. In particular, the PIC Steering Board calls upon RS leaders to abide by their obligations<sup>[1]</sup>.

The PIC welcomes the High Representative's initiative to provide a note explaining that the measures maintain the constitutional protection of constituent peoples and Entities. We encourage RS legal experts to engage constructively with OHR legal experts on the explanatory note.

The PIC Steering Board reminds all signatories and parties of their obligation 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.

The PIC Steering Board reiterates it will not remain passive in the face of provocative statements or acts. Any BiH political leaders or institutions that challenge the High Representative and the PIC Steering Board will be subject to appropriate measures. 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.

The Steering Board underlined 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 Bosniacs, Croats and Serbs are constituent peoples. The Steering Board of the Peace Implementation Council remains committed to the principles on which the General Framework Agreement for Peace is founded and notes that the High Representative's measures in no way change these principles.

The PIC Steering Board also re-emphasises its concern regarding suggestions that certain reforms could be reversed unilaterally by entity decisions retrieving competencies previously transferred to the state. An entity cannot withdraw unilaterally from a previously agreed reform. The consolidation of state-level institutions must continue.

In this context, the Steering Board deplores the lack of progress regarding the transfer from the entities to the state of all property needed for defence purposes as required by the Defence Law. The Steering Board stresses the urgent need to resolve this issue and requests the High Representative to engage with the parties and take appropriate measures to bring this issue to a conclusion by the end of the year.

The Steering Board also deplores the fact that state and entity authorities have failed to reach an agreement apportioning the ownership and use of state property, despite the strong appeal that they do so issued by Political Directors in June of this year. It reminds the three prime ministers of the urgent need to reach an inter-governmental agreement on this question and requests the High Representative to undertake all appropriate measures to bring this issue to a conclusion.

The Steering Board 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 Mladic, without further delay, dismantling the networks offering support to such fugitives, and ensuring they are transferred to the ICTY.

Also in that regard, the Steering Board welcomes the steps taken by the High Representative to augment the capacity of the BiH authorities to investigate and prosecute war crimes suspects.

The PIC Steering Board will review the situation at its next meeting in February 2008, which will take place in Brussels on 26 and 27 February 2008.

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[1]The Russian Federation expresses its special opinion regarding the measures of the High Representative.

The Russian Federation expresses its deepest concern by the consequences of the measures taken by the High Representative that change the procedures of the adoption of decisions by the Council of Ministers and the Parliamentary Assembly of BiH.

Taking into account the lack of agreement on these measures among the BiH leaders, the Russian Federation considers that the elaboration of the measures in a more stable environment would have been more productive. It is essential that the efficiency of BiH institutions be improved not in an atmosphere of growing tensions, but in a more stable context.