

Report to the European Parliament by the OHR and EU Special Representative for BiH, January-June 2005

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Summary

In the first half of 2005 Bosnia and Herzegovina moved closer both to opening negotiations with the EU on a Stabilisation and Association Agreement (SAA) and becoming a member of NATO's Partnership for Peace (PfP) programme. But it failed to attain either target. The arrest of Radovan Karadzic and Ratko Mladic, the adoption of legislation on public broadcasting and agreement on police restructuring in line with European Commission principles were conditions that remained unmet by the end of June.

The attainment of formal relationships with the EU and NATO would permit the international community to phase out its executive role in civilian peace implementation and basic state building in BiH. As a consequence, OHR sought to accelerate its transition into a EUSR office during 2005, transferring an increasing number of its Dayton competencies to domestic institutions. By focussing on supporting the fulfilment of the conditions set by the EC's Feasibility Study, on NATO's benchmarks for PfP membership and on its own Mission Implementation Plan, which aims to enhance the operational capacity and effectiveness of domestic institutions, OHR has sought to support the efforts of BiH institutions to take on ever greater ownership and responsibility.

The Feasibility Study conditions for opening negotiations on a SAA continued to dictate the main political agenda during the reporting period. Although the BiH authorities made progress in meeting legislative requirements, public broadcasting and police reform remained in the balance throughout. PfP membership, meanwhile, eluded BiH, despite fulfilment of NATO's military/technical criteria by the end of 2004, much improved co-operation with the ICTY during the first half of 2005, and the removal of certain systemic weaknesses in the country's law-enforcement and security structures. NATO took the view that co-operation with The Hague could not be deemed satisfactory until the most wanted fugitives, Mladic and Karadzic, were in The Hague .

As a consequence of these blockages, BiH is falling behind its neighbours in its efforts to participate in Euro-Atlantic integration. Unresolved border issues and the question marks hanging over Kosovo's final status and the future of the state union of Serbia and Montenegro also complicate matters.

EUFOR got off to an excellent start in 2005, building a credible reputation from the outset, and becoming a key partner in support of the EU's political objectives and the OHR's MIP. A pre-deployment public information campaign, the early launch of robust operations, active field patrolling, Local Observation Team (LOT) activities, weapons collections, and other operations to ensure compliance with the GFAP and to prevent anti-Dayton activities have ensured a seamless transition from SFOR to EUFOR.

EUPM began preparing for the end of its current mandate and planning for a follow-on mission during this period. EUPM continued to support the local police in developing management hierarchies designed to improve command and control, while also assisting the state-level Ministry of Security, the State Investigation and Protection Agency (SIPA) and the State Border Service (SBS) to boost their management and operational effectiveness.

On the economic front, reforms designed to improve the business environment and to regulate the fiscal system took precedence, largely because of the benefits they stand to bring to the process of post-socialist economic transition. These reforms aimed to put the country on a more secure macroeconomic footing and to pave the way for eventual EU accession. Increasing economic stability was indeed achieved during the reporting period, with the BiH authorities assuming ever-greater ownership of the process. The PIC Steering Board welcomed, in particular, the establishment of the Fiscal Council of BiH on 14 May and the extension of the mandate of the Fiscal Sustainability Working Group. BiH moved closer to having a single economic (and fiscal) space.

The drafting of a Law on Salaries to provide a single system covering all state-level employees was completed in this period. The RS continued, however, to obstruct the appointment of members to the State Property Commission, so delaying the identification, distribution and regulation of public assets.

The Police Restructuring Commission (PRC) completed its deliberations on 15 December 2004. PRC Chairman Wilfried Martens, Prime Minister Adnan Terzic and the High Representative formally presented its report on 14 January. The report stressed the three EC-endorsed principles upon which the proposed reform is based: budgetary and legislative authority for policing lodged at state level; policing operations free of all political influence; and policing districts based on operational and technical criteria, to ensure police functionality. After intensive lobbying, public campaigning and top-level political negotiations in the winter and spring, RS representatives refused in May to agree that policing areas could or should cross the Inter-Entity Boundary Line. Both OHR and the EC have insisted throughout that the three EC principles were not negotiable, and that the consequences for the RS would be severe if the entity's government, led by the Serb Democratic Party (SDS), were to continue to choose isolation over integration.

Defence reform, on the other hand, proceeded apace. Against the odds, a general consensus was built and maintained that encompassed the elimination of entity competencies, the transfer of all defence responsibilities and personnel to the state, the abolition of conscription, and the establishment of a restructured and small reserve force to back-up the downsized professional army.

The mandate of Intelligence Reform Supervisor Kalman Kocsis was extended for a period of six months as the restructuring of the BiH Intelligence-Security Agency continued in the fields of operations, analysis and administration. Appeals by more than 200 former employees, made redundant by the review process prescribed by the reform, were processed, while continuing members of staff were assigned to new positions.

An ICTY Monitoring Group was established at the beginning of 2005, to work on the twelve tasks set for the BiH authorities by the ICTY. The RS attitude towards co-operation with the Tribunal appeared to improve as a result. For the first time since the war, the RS government arranged the surrender and transfer of several indictees to The Hague, as well as working with Belgrade to facilitate other 'voluntary' surrenders. It also mounted an advertising campaign urging the public to collaborate in ridding the RS of this burden. But it did not make any actual arrests. By end-September, only 5 ICTY fugitives from BiH remained at large – regrettably including Karadzic and Mladic.

The Office of the Registry for Sections I and II of the Court of BiH and the Special Departments of the Prosecutor for War Crimes and Organised Crime and Corruption became fully operational on 1 January. The High Representative appointed the first group of judges and prosecutors and trials of organised crime cases commenced.

As part of his effort to normalise BiH and to hand over responsibility to domestic institutions, the High Representative decided in the spring to initiate a process of reviewing past decisions banning specified persons from holding public office. He 'rehabilitated' five such persons in May and June.

The unification of Mostar continued to progress in the first half of 2005. Cooperation between the moderate majorities of the main political parties started to show its effects as ethnically divided institutions were unified, civil service appointments in line with the new Civil Service Law were made, and a unified city budget was passed in June.

Efforts to ensure that Brcko District's multiethnic and democratic institutions were functioning effectively and permanently – and that the entities and state institutions respected the District's status as a self-governing administrative unit in consonance with the Final Arbitral Award – continued during the period. In June, the PIC Steering Board welcomed plans to conclude an agreement between the Council of Ministers and the District government that would afford the District appropriate representation at state level.

Political developments

Despite considerable volatility on the domestic political scene, the international agenda in BiH remained consistent over the first half of 2005. The overriding aim of the BiH authorities and the international community and was to equip the country to engage in Euro-Atlantic integration and, in particular, to establish its first contractual relationships with both the European Union and NATO.

This transition depended, first of all, on meeting two outstanding criteria from the EC's November 2003 Feasibility Study: (1) Police reform that lodged budgetary and legislative authority with the state, insulated the police from political interference and created local policing districts based on operational criteria rather than entity and cantonal boundaries was one; (2) passage of public broadcasting legislation in line with European standards. Croat demands for a separate exclusively Croatian-language television channel, duplicating existing capabilities at considerable costs, delayed adoption of public broadcasting laws, while it has been Serb resistance to the EC's police reform principles that produced a stalemate which, until early October, ruled out SAA talks.

The other main political objective was to meet the benchmarks set by NATO for BiH to join the Partnership for Peace. The key to PfP membership remained adequate co-operation with the Hague Tribunal by Republika Srpska. The military/technical requirements for PfP had been met. Thanks to a new policy of negotiating 'voluntary' (and lucrative) surrenders by ICTY indictees based mostly in Serbia, the RS interior ministry was able to claim partial credit for nine transfers to The Hague this year, but not for any actual arrests. While commending this progress, NATO took the view that co-operation would not be deemed satisfactory until the most wanted fugitives, Mladić and Karadžić, had been apprehended. Since both men were assumed to be spending much of their time in Serbia and Montenegro, security sector reform efforts in BiH broadened from attaining early PfP membership, which was deemed beyond the capacity of BiH to achieve on its own, towards completing the full range defence reforms necessary to make BiH a credible candidate for full NATO membership, in the medium-term – once the ICTY hurdle had been cleared.

Progress in the field of defence reform was impressive. The Defence Reform Commission (DRC) continued to operate on the basis of consensus, to achieve the ambitious goals set last December. During the summer, the entities agreed to abolish their armies and defence ministries and to adopt the requisite constitutional amendments. It will take a couple of years before the new structure agreed by the DRC is fully realised, but the result will be a NATO-compatible army far sooner than might have been expected.

The political volatility referred to earlier stemmed both from the measures OHR, the United States and EUFOR announced following NATO's refusal in December 2004 to admit BiH to PfP and proceeding of the criminal justice system.

Both the RS government and two of the four Serb members of the Council of Ministers resigned in protest at the punishments inflicted upon the RS because of its failure to co-operate with the Hague Tribunal. By mid-February a new government had been formed in Banja Luka – by the same governing parties – and by the end of that month it seemed that all the state-level ministers had agreed to stay.

Then, indictments of both the Croat member of the State Presidency, Dragan Čović, and the state transport minister, Branko Dokić, for financial crimes allegedly committed in previous jobs created new crises. OHR insisted that both men resign. Dokić eventually complied, but Čović refused. The High Representative thus had to remove him from office at the end of March. The Croat Presidency seat remained vacant until 9 May, when the HDZ appointed Ivo Miro Jović for the post. Čović was subsequently elected president of the principal Croat nationalist party, the Croat National Union (HDZ). International officials have limited their dealings with him.

The next bout of political instability was set off on the state level. Having complained for some time that the Council of Ministers was blocking reform and considered the idea of early elections, Prime Minister Terzić suddenly decided on 7 June to accept the resignation that Foreign Minister Mladen Ivanić had submitted in December 2004, but informally withdrawn in February. The immediate occasion was the long-running failure of the Council of Ministers to agree on whom to appoint as the head of the State Investigation and Protection Agency. Terzić then asked the High Representative to make the appointment.

When OHR named the best-qualified candidate – who happened to be the Serb applicant that Ivanić had supported rather than the Croat backed by most other ministers – Terzić responded by 'sacking' Ivanić. The latter, however, refused to accept that his old letter of resignation had any validity, let alone that Terzić had the authority to dismiss him. Since OHR took the view that both Ivanić and Dokić should retain their portfolios until replacements could be agreed – and since Terzić could muster no consensus among the parties comprising the coalition for doing so – the Council of Ministers continued to function with its composition unchanged.

BiH in the region

While BiH's relations with its neighbours remained positive overall, some key peace implementation issues remained unresolved. The country's borders with both Croatia and Serbia and Montenegro were still undefined by treaty, ten years after Dayton. In addition, BiH's access to Croatia's Adriatic port of Ploče remained unsettled. The High Representative intended to ask the PIC Steering Board for permission to remove these issues from his Mission Implementation Plan and suggest, instead, that member states followed them up in their bilateral relations with Croatia and Serbia and Montenegro. International leverage still appeared necessary to clear the deadlocks, which were not primarily of BiH's making. International pressure would also remain critical to ensure that ICTY fugitives from BiH still at large in neighbouring or distant states were apprehended and brought to justice. Their liberty continued to have profoundly negative effects in BiH.

Finally, developments in the wider region continued to impact upon BiH. The issue of Kosovo's final status has already had an effect in the country, as illustrated by Serbia and Montenegro Foreign Minister Vuk Drašković's statement in June that independence for Kosovo would inevitably raise questions about the status of Republika Srpska. Javier Solana and US Undersecretary of State Nicholas joined the High Representative in condemning this attempt to question BiH's territorial integrity, especially coming from a statesman representing a signatory of the Dayton Accords. It is likely, however, that as the issues of Kosovo and the future of the state union of Serbia and Montenegro move to the forefront of regional politics, supposed links between these questions and the future of BiH could be suggested again in Belgrade, Banja Luka and beyond. They should be strongly rebuffed.

Mission Implementation Plan

Since the first MIP in 2003, two core tasks had been declared completed, leaving four: Entrenching the Rule of Law, Reforming the Economy, Institution Building and Defence Reform. Significant progress was made on all fronts this year, but the June 2004 PIC noted some slackening in the completion of tasks. The primary causes were RS obstruction of police restructuring, and the dysfunctionality of the Council of Ministers described above, slowing the pace of legislative work.

To address this slowdown, OHR instituted a new system to promote progress on the MIP. For each outstanding MIP item, OHR commissioned a detailed Action Plan containing a critical path to the item's completion, including who would be responsible for action on the item, and when. The Action Plans would allow better calibrated monitoring of the items in real time, and alert the High Representative and his deputies to any blockages that might arise, enhancing their ability to engage proactively to overcome them.

As noted above, the High Representative also planned to ask the PIC to remove four MIP sub-programmes related to regional stability and co-operation, deferring to PIC members for further follow-up instead.

At the time of writing, there were 70 MIP items outstanding. These were spread throughout OHR's Core Tasks: Entrenching the Rule of Law (19); Reforming the Economy (18); Institution Building (31); and Defence Reform (2). While a number of MIP items had fallen behind schedule, most of the target dates in the approved Action Plans remained within the current calendar year. There were only eight plans where completion targets were moved from 2005 into 2006.

Mostar

The programme to unify the city of Mostar made significant progress, despite the complexity of the project and continued obstruction by hardliners on both sides. The newly elected mayor pressed on with making civil service appointments according to the EU standards enshrined in the Federation's new Civil Service Law. The aim was to create the core of a genuinely multi-ethnic, professional city administration, appointed without political interference – a first for BiH. Several city institutions were structurally unified and, where delays persisted, they tended to reflect legal or technical problems rather than political disagreements. In face of severe financial pressures, a city budget was finally passed in June and a major effort commenced to recover several million Euro worth of uncollected revenues inherited from the former city municipalities.

Economic and infrastructure development was also significant, with an upsurge in tourism. The airport was at last functioning, with both scheduled and charter flights, while hotel redevelopment got underway. A Federation-level

agreement on the long-disputed ownership of the nationally vital firm 'Aluminium Mostar' opened the way for its major expansion. The forthcoming (and also long-disputed) move of several Federation ministries from Sarajevo to Mostar should provide a further boost to the city and its economy. Major works on public and commercial buildings, accommodation for returning displaced persons and improvements to transport infrastructure also progressed.

Several major tasks remained, particularly the politically sensitive reunification of the city's cultural institutions. However, substantial completion of the main phase of implementing this project should be achieved before year's end. The Mostar Implementation Unit would accordingly close on 30 November, with the OHR regional office assuming an oversight role that would also involve active support of the mayor and city council in finalizing any uncompleted elements of the unification programme.

Brcko

Brcko District of Bosnia and Herzegovina celebrated its fifth birthday in March. It did so with its first popularly elected assembly and government in place, with a well-deserved reputation for having one of the most effective, multinational and business-friendly administrations in BiH, and with OHR's thoughts turning increasingly towards completion and closure.

Only a few items stemming from the Arbitral Tribunal's 1999 Final Award remained to be completed. The most important of these concerned the elimination of the remaining legal traces of the former Inter-Entity Boundary Line in the District. This meant, in effect, the harmonisation of laws and regulations inherited from the two entities and three former municipalities. Once this and a handful of other tasks had been accomplished, the international Supervisor should be able to report fulfilment of the Final Arbitral Award to the Tribunal and recommend closure of the Brcko Final Award Office to the PIC.

Before doing so, however, the Supervisor and the District government sought both to clarify the District's relationship with the State, including to establish a relationship with the Council of Ministers that would ensure the permanence of Brcko's self-governing status under the terms of the Final Award when the supervisory regime was terminated. In particular, the District wished to establish whether or not it possessed the same rights as the entities to accept or reject transfers of competency to state institutions. The Arbitral Tribunal decided in April to consider the matter, although the entities, the Council of Ministers and OHR assessed that the Tribunal was not competent to address the constitutional architecture of BiH, especially in the absence of any dispute between the two original parties to the arbitration. Legal clarity on this point had still not been achieved at the time of writing this report.

Meanwhile, efforts were continuing to put relations between the State and Brcko District on a firm footing. This included establishing a Brcko District office within the BiH Council of Ministers and securing access by the District authorities to the BiH Parliamentary Assembly and Constitutional Court. The first of these objectives was within sight, whereas the latter two could take significantly longer to achieve. OHR hoped that a political agreement between the Council of Ministers and Brcko District might render the legal process before the Tribunal largely irrelevant, providing the District with guarantees that its views would be considered and its legitimate interests protected by the state-level executive.

Entrenching the Rule of Law

OHR continued to work to strengthen the capacity of the Court of Bosnia and Herzegovina by recruiting and appointing international judges and prosecutors for the special panels on Organised Crime and War Crimes. More significantly, OHR oversaw the transfer of almost all domestic legal staff from the Rule of Law Department to the Court. They joined the Prosecutor's Office and the Registry, both of which would be entirely nationalised on an accelerated basis.

In parallel, great emphasis has been placed upon strengthening the capacity of local prosecutors working at the district and cantonal levels. OHR provided technical support to link prosecutors throughout the country, so enabling them to share experiences and strategies in dealing with the most difficult cases involving organised

crime and corruption.

OHR continued participating, along with EUPM, in a working group on project management formed to enhance state-level law enforcement capacity by assisting the development of the Ministry of Security, the State Investigation and Protection Agency (SIPA), the State Border Service and BiH Interpol. OHR also completed a survey of criminal and civil asset forfeiture laws in order to support efforts by the Ministry of Justice to find the practicable solutions for how to deal with the proceeds from crime.

The High Representative issued decisions placing two banks under the authority of a provisional administrator charged with overseeing their operations, analysing their transactions for evidence of fraud or other criminal activities and, where possible, recovering assets owed to the banks and their small depositors. The State Prosecutor indicted, tried (or is trying) and secured convictions of some persons implicated in the illicit operations of these banks.

OHR worked to facilitate contacts and co-operation both within the region and farther afield among legal assistance organisations, prosecutors and law-enforcement agencies dealing with organised crime and terrorist networks. Such organisations include SEEPAG, EUROJUST and other EU frameworks and bodies, as well as Interpol, the SECI Anti-Crime Centre and SIPA.

The first international Registrar responsible for the War Crimes and Organised Crime Chambers within the Court of BiH took up his post early in the year. During the first three months of 2005, the War Crimes Project transitioned out of OHR, and the Registrar assumed responsibility for the management and administration of the War Crimes Chamber. The Rule of Law Department convened and chaired a working group on extradition, tasked with proposing solutions to the myriad problems posed by requests to extradite citizens of neighbouring countries for war crimes trials in the Court of BiH.

ICTY co-operation

Both the RS Government and the authorities in Belgrade made notable progress in improving their co-operation with ICTY since the last report. Of the eighteen BiH-linked fugitives wanted by the ICTY at start of 2005, thirteen had been transferred – in one way or another – to The Hague by the end of June. This is a significant if long overdue step forward by the authorities in the RS and Serbia and Montenegro. On the other hand, the most-wanted indictees, Karadzic and Mladic, remained among the seven fugitives still on the ICTY's list by the end of September. Unremitting pressure on all concerned remained necessary to bring this utterly unacceptable situation to a close.

Prime Minister Terzic and the High Representative established a high-level ICTY Monitoring Group in February. The purpose was to ensure that all relevant ministries and agencies shared information and co-ordinated their activities more effectively. The momentum generated by these frequent meetings between February and April proved helpful in correcting most of the individual and structural flaws that obstructed co-operation with the Tribunal and hindered compliance with EU directives, to which BiH had signed up. Few such issues remained, but they would continue to be monitored until their completion was assured.

Reforming the economy

The EU accession agenda continued to drive BiH's economic reform programme. The gap between the expectations raised by these reforms and the benefits felt by ordinary citizens widened steadily, however. For this reason, reform fatigue has become almost palpable in BiH. While most transition countries experienced this phenomenon, BiH's transition pains were compounded by the fact that the reform process has been overshadowed, at times, by political infighting and institutional sclerosis.

Nonetheless, the BiH authorities took some significant steps towards increasing inter-governmental co-ordination on fiscal matters. On 11 February the Working Group on Fiscal Sustainability was launched. Comprising a panel of experts from government and academia, its mandate was to advise on means of achieving significant savings at all levels of government. By September this year, the Group was expected to produce concrete policy

recommendations to be taken into account during the governments' budgeting process for 2006 and beyond. Moreover, on 14 May 2005, the state and entity prime ministers and finance ministers established the BiH Fiscal Council. A major task of the Fiscal Council would be to ensure that the consolidated budget of BiH was able to accommodate the needs of those institutions crucial to the country's security needs and EU aspirations.

Efforts to reform and restructure the transport sector yielded concrete results when the Parliamentary Assembly passed the Law on Railways of BiH in June. This law was a linchpin of a larger process of transforming the sector in accordance with the relevant EC Directives and best international practice.

The reporting period also saw passage of enabling entity legislation on the registration of business enterprises. This legislation, in conjunction with the relevant state-level framework law, would provide a new business-friendly system for the registration of business enterprises in BiH.

Progress in agriculture and privatization lagged behind. BiH still lacked a coherent agricultural policy. In order to help resolve this problem, OHR recommended that a working group responsible for the implementation of EU recommendations should be established. Thus far the BiH authorities failed to act upon this recommendation.

Despite some notable privatization successes in recent months, the overall privatisation effort has been lacklustre at best. Fractured administrative responsibility for privatisation, especially in the Federation, compounded the problem.

Strengthening the capacity of BiH's governing institutions

The Joint Action Plan for Staffing and Premises, which Prime Minister Terzic presented to the PIC in September 2004, continued to function – with strong involvement on the part of OHR. The aim of this plan was to ensure that BiH government ministries and agencies were staffed and housed in a manner adequate to implement the reforms adopted and develop the capacity required to proceed with European integration. The plan included the following components:

1. The Commission for Premises Management, established in October 2004, identified a number of properties suitable to accommodate state institutions. It is now negotiating the use of these buildings with other levels of government. It has also reallocated offices to ministries in most urgent need of space and staff.
2. The Commission for Public Assets was charged with identifying criteria and address the distribution (or redistribution) of public property between different levels of government in accordance with their responsibilities. It had yet to commence work at the end of the reporting period. The RS government only adopted a decision in June 2005 to nominate its three representatives to the Commission. In order to facilitate the work of the Commission and to ensure that no public assets was sold off before a Law on State Property had been drafted and enacted, the High Representative imposed a temporary ban on the sale of public assets on 19 March 2005.

Public administration and civil service reform

Public Administration Reform (PAR) continued. During the reporting period all outstanding European Commission-funded reviews of BiH's public sector were fully completed and their results presented to the public. The National PAR Co-ordinator, with the support of the EC, international donors and OHR, is now following these up. In addition, PAR was incorporated in BiH's European Partnership Programme.

The BiH Civil Service Agency, in close cooperation with OHR, prepared and lobbied for a number of amendments to the Civil Service Law with the overall aim of enhancing staff quality and speeding up the recruitment process. This 'package' also included amendments addressing deficiencies in the law that were discovered during its application. In June 2005 the amendments were adopted. OHR would monitor their implementation.

The Federation Civil Service Agency, which had been established with OHR's support in 2004, has been working at full capacity since January 2005. During the reporting period it reviewed 1,214 civil service posts in 77 Federation bodies. OHR still followed the work of the agency in an effort to exclude party patronage from the hiring process and advised it, as necessary, on human resources legislation and policy.

Establishing State-level civilian command and control over the armed forces, reform of the security sector, and paving the way for integration into the Euro-Atlantic framework

Defence reform powered ahead in 2005. The Defence Reform Commission's extended mandate for 2005 tasked it with tackling the systemic weaknesses that both NATO and the ICTY had detected. The reform proposals recommended by the Defence Reform Commission, and endorsed by both entity parliaments during the summer corrected these systemic weaknesses, and affirmed BiH's commitment and readiness to participate in NATO's Partnership for Peace programme. The 2005 reforms would also enable BiH to meet the military/technical criteria for full NATO membership – a declared foreign policy goal of BiH.

Civilian control over the armed forces had been in place since 2003, with the BiH Parliamentary Assembly providing strong and determined democratic parliamentary oversight. By 1 January 2006, the entities would cede remaining defence responsibilities and institutions. Full implementation of the reforms would mean a single, state-level Ministry of Defence with one budget for the armed forces, a Joint Staff, plus Support and Operational Commands. The BiH Presidency would thus exercise supreme command over a unified, downsized and all-professional BiH army.

The phased implementation of the reforms would take up to two years to accomplish. The BiH Minister of Defence would lead a team of experts in co-ordinating this logistically challenging transition task. NATO would continue to supervise provision of the assistance and advice necessary to press forward. For its part, OHR would maintain the capacity to co-ordinate and direct the overall political and institution-building aspects. OSCE, EUFOR and UNDP would also continue to play their parts in what has been an amazingly successful joint venture, but one which still poses complex challenges if it is to be fully realised.

On the other hand, the entity agreements reached this summer – and the State legislation that must follow – signalled the country's increasing interest in and capacity to function without international oversight in this sphere. This new structure would help move BiH from the Dayton to Brussels eras, and should set the stage for eventually concluding the military aspects of the Dayton-Paris Peace Accords.

Although intelligence reform commanded less international attention – and demanded less assistance – than has defence reform, OHR considered the reform of this sector as an integral part of the process to establish the rule of law in BiH. Without it, reform of the entire security sector would have been incomplete.

Since its establishment on 1 June 2004, the Intelligence-Security Agency (OSA) focused on threats to the security of the State. The agency had no police powers, but was legally obliged to collect, analyse and disseminate intelligence on various categories of organised criminal activity. OSA therefore constituted a vital complement to the country's law enforcement agencies in the fight against terrorism, corruption and organised crime.

Thanks to competent and accountable domestic management and wise supervision by the Executive Intelligence Committee, intelligence reform progressed substantially during the period under review. OHR will continue to monitor future developments, more especially as it will take some time yet for a fully professional and mature agency to emerge. In any case, the irreversibility of the reform and consolidation now taking place in this sensitive sector will only be obvious after some years have passed. OHR remained encouraged, however, by the responsible and ambitious approach of the BiH authorities to establishing a functional and responsible intelligence agency.

BiH and European Integration

EC Feasibility Study

The successful conclusion in April of Serbia and Montenegro's Feasibility Study caught BiH politicians by surprise. The EUSR, in close co-operation with the EC, assumed a proactive role in explaining to the BiH authorities and public that Belgrade had been required to meet tough conditions, including improved co-operation with the ICTY and respect for the Constitutional Charter, before winning the EC's positive recommendation. BiH now had to fulfil its conditions, including the contentious of police restructuring, if it too were to get the green light to start SAA negotiations.

Following the EU/BiH Consultative Task Force on 19-20 May, the EC assessed the progress made by the BiH authorities in meeting the 16 priorities identified in the Feasibility Study. While commending BiH's efforts in the areas of international obligations, human rights, energy, governance, trade and the establishment of a single economic space, the EC noted that insufficient progress had been achieved in reforming either the police or public broadcasting. The EC also underscored the need for continued progress leading to full co-operation with the ICTY.

The EC pointed out were several other fronts where further work was required. Four laws ensuring the legal and technical framework of the Indirect Taxation Authority (ITA) still needed to be in place if VAT were to be introduced on time in January 2006. Laws on customs violations, procedures for indirect taxation, the ITA itself and procedures for enforcing payments had not yet been passed by the BiH Parliament during the period under review. So, too, were laws on the merger of the state and entity Ombudsmen and the establishment of an Information Society Agency awaiting adoption by legislators.

Thirteen required agencies or institutions had not been fully established, in most cases because they lacked directors or management boards. These included the Food Safety Agency, the Public Procurement Agency, the Procurement Review Board, the Market Surveillance Agency, the Information Society Agency and the institutes for standardization, metrology and intellectual property.

On the other hand, the entities had made notable progress in harmonizing their legislation with state-level standards, particularly as regards the single economic space (laws on insurance), refugee return (entity laws on refugees and displaced persons) and multi-annual budget control. Entity laws on conscientious objections and broadcasting awaited the adoption of the state legislation.

EUFOR

Transfer of authority from SFOR to EUFOR took place on 2 December 2004. The need to prepare the BiH public and governments for this historic change was recognised from the start of planning for Operation Althea, as was the importance of ensuring a seamless transition and demonstrating from the start that EUFOR would possess a mandate as robust as that of the outgoing NATO-led force. Bosniaks in particular required reassurance on this score; while it was vital to convince everyone that EUFOR's distinct mandate and European provenance implied a step forward in the country's aspirations towards EU integration.

Pre-launch public information campaigns, designed and run by the EUSR press team in co-operation with the EU Planning Team and NATO/SFOR, helped ensure that Operation Althea was widely understood by the time the transfer took place. The emphasis placed on the EU's deepening commitment to BiH appears to have been well received.

EUFOR's early operations, starting with Operation Stable Door^[1] only a fortnight after the handover, and continuing with the three-part Operation Spring Clean, were vital in demonstrating that EUFOR was serious, capable and intent upon making a difference on the ground. While the seamless transition from SFOR sent a message of continuity, EUFOR's initial and ongoing activity in support of civilian implementation, especially in support of EU objectives, signalled a fresh approach.

EUFOR currently comprises some 6,200 troops from 22 EU member states and eleven third countries.^[2] The force is deployed throughout BiH, with three regional Multinational Task Forces and a headquarters in Sarajevo. It has continued to conduct operations in BiH in line with its mandate to ensure continued compliance with its responsibilities under Annexes 1a and 2 of the GFAP and to contribute to the maintenance of a safe and secure environment. The Multinational Task Forces conducted a variety of operations, including 'presence patrolling', Local Observation Team (LOT) activities, weapons collections, specific operations to ensure compliance with the GFAP and to prevent anti-Dayton activities, and information campaigns designed to complement all other activities.

EUFOR has also been proactive in conducting a series of co-ordinated operations to support OHR's MIP, as well as domestic authorities and law enforcement agencies. Several EUFOR operations have been targeted at organised crime and have led to prosecutions. The BiH policing agencies have latterly taken the lead in proposing and planning such operations.

EUFOR's strong start helped it quickly to build the sort of reputation required to back up the political objectives of both the EU and OHR. The EU Council of Ministers will meet in November to discuss the second EUFOR mission review and to decide on the mandate and force structure for 2006.

EUPM

The mission began planning both for the expiry of its current mandate and for a follow-on mission during the reporting period. A quality control and evaluation process was established to review progress towards the mission's four strategic priorities:

- Institution and capacity building;
- The fight against organised crime and corruption;
- Financial viability and sustainability of local police;
- Developing police independence and accountability.

EUPM continued assisting in developing a hierarchy of domestic decision making, from the political level down to the local police unit. Key bodies are the re-established Ministerial Co-operation Council on Police Matters and the Police Steering Board. The mission further advised on the creation of country-wide Project Implementation Boards.

The Ministry of Security progressed during the first six months of 2005, recruiting additional personnel and establishing operational sectors. The minister took over the chairmanship of the Ministerial Co-operation Council on Police Matters during this period, the aim of which is to improve co-operation between and among different police agencies. (A follow-on mission will need to undertake more development work with the ministry to implement any eventual police reform agreement.) The Ministry is currently chairing a working group that will define the country's security policy and, in turn, produce draft legislation, strategies and plans.

The State Investigation and Protection Agency (SIPA) finally found temporary accommodation in Sarajevo during the reporting period. Planning to secure permanent facilities continued. Following a period of political disagreement within the Council of Ministers, in June the High Representative appointed Sredoje Nović as director of the agency. As of 1 July, SIPA had 613 members of staff (out of a projected complement of 1,000). BiH was invited in June to join the Egmont Group of states, a worldwide network connecting law enforcement agencies combating money laundering. EUPM transferred its 'Crime Hotline' operation to SIPA on 30 March. Like other efforts build criminal intelligence capacity, this was an example of EUPM's programmatic approach.

The State Border Service (SBS) celebrated its fifth birthday in June 2005. Concerted efforts by EUPM and the SBS have resulted in improvements in its management culture and operational effectiveness. Difficulties in identifying a suitable candidate for the long-vacant SBS directorship, combined with disagreements among the ruling parties over which constituent people should get this job, persisted over the reporting period. The SBS also suffered from tight budget constraints and staff shortages. The service has, however, registered some successes. For example, a joint SBS-EUFOR operation led in April to the seizure of 123 kilograms of heroin, the largest ever drugs bust in BiH.

BiH Interpol developed into a fully equipped and functional national office, with good contacts with both the Interpol General Secretariat in Lyon and partners throughout the region. Technical agreements between Interpol Sarajevo and entity and state-level law enforcement agencies have been signed. International community donations continue.

A significant number of former police officers, who had been denied certification by the UN's International Police Task Force (IPTF), requested EUPM to review these decisions during the first half of 2005. As no legal appeal remedy exists – and no policy for possible review of certification decisions in certain cases has been formulated to date – complaints could only be logged and lodged.

Some police officers who had been denied certification went to court during the reporting period, challenging the dismissals resulting from their decertification by IPTF. EUPM monitored the court proceedings and verdicts. In cases where the courts ruled in favour of the complainant, EUPM advised local police authorities to appeal the

decision. The Federation Supreme Court recently issued a ruling that sets precedent for similar cases when it declared negative IPTF certification decisions to be inviolable. This verdict upheld the supremacy of the certification procedure over domestic law.

Owing to efforts by OHR and EUPM, current BiH legislation covering the police now stipulates that all police officers denied certification (or whose provisional authorisation was withdrawn) must be dismissed, so providing a solid legal basis for decisions by both the local authorities and the international community.

EU Special Representative (EUSR)

As required by his mandate, the EUSR continued to work to implement both the Dayton-Paris Accords and support BiH in moving forward in European integration. Facilitating an inter-party and inter-governmental agreement on police restructuring consonant with the three basic principles framed by the EC dominated the period, but governance and public broadcasting reforms also required much effort. EUSR continued as well to relay EU advice to the BiH authorities on the necessity of full co-operation with the ICTY, to which end he and Prime Minister Terzić established the aforementioned ICTY Monitoring Group.

EUSR also provided political guidance and oversight to the EUPM, in accordance with his position in the EUPM Chain of Command. This involved close collaboration in the police restructuring effort, and in preparing an initial assessment for the Council's approval on the need to maintain a EU police mission in BiH following the expiry of the current EUPM mandate at the end of 2005. Preparation for a follow-on mission to the EUPM, including consultations with the local authorities, commenced in the reporting period.

[1] This operation inspected underground military facilities in BiH, including the bunker near Han Pijesak where Mladic was suspected of sheltering in summer 2004.

[2] Member states contributing to EUFOR: Austria, Belgium, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. Non-EU contributors: Albania , Argentina , Bulgaria , Canada , Chile , Morocco , Norway , New Zealand , Romania , Switzerland and Turkey . Cyprus and Malta also contribute to the costs of the operation.