

Report By The High Representative On Compliance With The Peace Agreement

According to Article II of the Peace Agreement, I shall monitor the implementation of the peace settlement. In Geneva March 18, I was asked to present a comprehensive report on compliance, based on my report on peace implementation to the Secretary-General of the United Nations March 13. This report is based on the situation as it was assessed March 22.

I. Compliance Obligations Flowing From The Provisions Of The Peace Agreement And Subsequent Decisions.

- 1. Compliance With Military Provisions.** I share the assessment of the Commander of IFOR, that there has been general compliance with the military provisions of the peace agreement. The new Inter-Entity Border Line (IEBL) has been established along with the Zone of Separation (ZOS). Although numerous issues of technical non-compliance have had to be addressed, there has been a general will to comply with the military and territorial provisions of the Peace Agreement. Concern has been expressed over the continued presence of foreign forces on Federation territory. Although the establishment of the IEBL has progressed well from a military point of view, political developments in this respect have been more troubling. There has been widespread destruction in certain areas and substantial population transfers in all of them. This is of particular concern in the Sarajevo area.
- 2. Regional Stabilization.** All parties have agreed a protocol on the exchange of Liaison Officers on 5 January 1996. Negotiations on Confidence and Security Building Measures ended with an agreement on 26 January. The first inspections were conducted between 11 and 14 March with good cooperation from the Parties. Negotiations related to sub regional and regional arms control have started as agreed. In spite of a period of Republika Srpska refusal to take part in the negotiations, there have been compliance of the parties regarding regional stabilization.
- 3. Participation In Co-Ordination Commissions.** The main Commissions have been established and the parties have appointed their representatives. The Joint Interim Commission (JIC), which meets on the level of the Prime Ministers of Bosnia and Herzegovina, the Federation and Republika Srpska, met in Sarajevo on 24 January and 16 March and in Banja Luka on 27 February. The Joint Civilian Commission (JCC) meets regularly to address different civilian implementation issues, and the Joint Military Commission (JMC) meets regularly to address military implementation issues. The Joint Civilian Commission on Sarajevo (JCCS), which I established on 10 January as a body subordinate to the main JCC, has had a particular role in the transfer of territory in the Sarajevo area, and will continue to fulfill important tasks. Regional JCC's will shortly be established in different parts of the country.
- 4. Appointment Of Representatives To Implementation Commissions.** According to the Peace Agreement, nominations in other commissions created by the Agreement were to have been made before 14 March, but the Rome Agreement brought this deadline forward to 1 March. All parties have now nominated representatives to the Human Rights Chamber of the Human Rights Commission, the Commission for Property Rights of Displaced Persons and Refugees. The Federation side is still to nominate its representatives to the Commission to Preserve National Monuments. Republika Srpska has not yet designated its representative in the Commission for Public Corporations, following the resignation of a first appointee. The Parties have also appointed their

representatives in the Provisional Election Commission which was established on 30 January.

5. **Prisoners Of War.** The Parties have failed to meet their obligations in the Peace Agreement on time regarding prisoners of war, as they should all have been released by January 19. Up until today, ICRC has reported 219 prisoners held by all parties in violation of the Peace Agreement.
6. At the meeting in Geneva 18 March, the Bosnian Parties agreed to *“release all persons still detained in relation to the conflict and registered by the ICRC, with the sole exception of those whose detention the International Tribunal has requested by then”* and to do so *“before the Contact Group Ministerial on March 23”*. I have been in extensive contacts with President Izetbegovic, Acting President Ganic, President Zubak and Parliamentary President Krajsnik on this issue. I must report that neither of the Parties have complied with the provisions of the Peace Agreement or the Geneva Agreed Measures on this important point, nor has, at the time of the start of the Moscow Ministerial, any of them been in such contact with the ICRC as to imply their intention to comply in the immediate future.
7. **Cooperation With IPTF.** The parties have provided a certain amount of information according to Article VI of Annex 11 of the Peace Agreement.. However not all the information which had been requested repeatedly by IPTF has been provided. The Parties have also complied slowly and imperfectly with IPTF’s right of immediate and complete access to prisoners. For instance, it took 8 days for Federation authorities to provide access to Republika Srpska officers and others detained on suspicion of war crimes, and it took 15 days for the Republika Srpska to provide access to a Bosniac journalist being held by the military on suspicion of espionage. A number of other cases on both sides have been handled in a similarly unsatisfactory manner. Despite these difficulties, cooperation between local police forces and IPTF generally develops well.
8. **Amendment Of The Constitutions Of The Entities.** The new Constitution of Bosnia and Herzegovina entered into force on 14 December 1995, the day of the signing of the Peace Agreement in Paris. The entities undertook to amend their respective constitutions to ensure conformity with this constitution by 14 March. At the meeting of the JIC on 24 January the parties confirmed their intention to carry out the necessary changes. At the subsequent JIC on 27 February, they undertook to provide to my office by 9 March their respective proposals for amendments to their constitutions,. But they failed to meet both the 9 March and 14 March deadline. At the 16 March JIC, the parties agreed to have the necessary amendments approved by 31 March. They have both informed me that they have initiated the necessary parliamentary procedures for amendments and changes to their respective constitutions.

II. Compliance Obligations Of A General Nature.

1. **Active Participation In The Work Of The Joint Commissions.** Although all of the parties have – with the exception of the Republika Srpska during a period – participated in the work of the JIC, JCC and JMC structures, they have in many cases been slow in carrying through agreements reached. What is and what will be requested from the Parties is not only formal participation but quick-follow-up of all agreed measures. This must increasingly be an important criterion in assessing whether they are complying not only with the letter but also with the spirit of the Peace Agreement.
2. **To Ensure That Conditions Exist For The Organization Of Free And Fair Elections.** The Provisional Election Commission is addressing key election issues. Free and fair elections, however, require a number of conditions, including freedom of movement, freedom of association, and equitable access to financing. Equitable access to

the media especially radio and television by all registered parties both before and during the election campaign is especially important. I am very concerned by the fact that these conditions for free and fair elections do not yet exist neither in the Federation nor in the Republika Srpska, notably concerning the media situation.

3. **To Ensure The Highest Level Of Internationally Recognized Human Rights.** All competent authorities in Bosnia and Herzegovina shall cooperate with and secure unrestricted access to human rights monitoring mechanisms as well as with the International Criminal Tribunal on the Former Yugoslavia. Although there seem to have been improvements in the situation in both Entities, I cannot be satisfied with the status of human rights. A full report will be presented to the Rome Review Conference. There is still not full cooperation with the ICTY. Persons indicted by the ICTY are present on the territory of both the Federation and the Republika Srpska. Of a particularly provocative nature is the attempt by Mr Karadzic and Mr Mladic to try to continue in public office in Republika Srpska in spite of the provisions of the Peace Agreement on this point.
4. **To Ensure Freedom Of Movement.** Although freedom of movement has been established, actions by the parties have made it difficult for ordinary people to feel confident that they can move without problems across the IEHL. My office in cooperation with IFOR and IPTF has taken a firm line against any attempts to set up check-points along the IEHL, which would be in violation of the Constitution. I am increasingly concerned with the tendency to set up check-points also within the Federation. We have sought agreement under which cars with license-plates from one entity would be allowed into the other entity. It is worth noting, that there are no telephone or postal links between the entities. After transfer to Federation authorities, telephone links between the Sarajevo suburbs and Republika Srpska territory were cut. The fear of arbitrary arrests, fueled by vague threats of independent actions against alleged war criminals, is however the greatest obstacle to real freedom of movement across the IEHL.
5. **To Solve The Problem Of Missing Persons.** According to the provisions of the Agreement, all competent authorities in Bosnia and Herzegovina shall cooperate fully with the ICRC in its efforts to determine whereabouts and fate of people unaccounted for. The Working Group on the Unaccounted For, chaired by ICRC, met for the first time at the beginning of March, with the participation of the parties.
6. **To Allow The Refugees And Displaced Persons To Return.** Although there has been some movement of refugees and displaced persons back to areas under the control of their own ethnic group, return to other areas has so far been extremely limited. The parties agreed in Geneva on 18 March to instruct all local officials and governmental officers to facilitate the return of refugees and displaced persons to each individual's choice of destination. It will have to be assessed later whether there will be a change in the pattern seen so far in all of the areas of Bosnia and Herzegovina. If the present pattern were to persist, we would be faced with a major question of de facto non-compliance with the spirit as well as letter of the Peace Agreement.
7. **Implementation Of Federation Agreements.** Though not the object of the Peace Agreement, the Federation is an indispensable building block for its successful implementation. There has been some progress in the implementation of the Dayton Federation Agreement of 10 November 1995. The two separate governments for the Federation and for Bosnia and Herzegovina were established, though with a delay of ten days, at the end of January. Other parts of the Federation Agreement have not yet been implemented. With regard to the establishment of united customs and tax systems the agreed program to end internal customs boundaries and checkpoints within the Federation by 1 March did not materialize. Recent public statements by officials representing both parts of the Federation prove that a significant level of mutual mistrust is still hampering its consolidation. The Agreement at Dayton on 2 November 1995 on the

return of 600 Bosniacs and Bosnian Croat refugee families to four cities in the Federation has not yet been fully carried out. Full compliance is essential to build confidence between the Bosniac and Croat Federation partners. At the 18 March Geneva meeting the Parties committed themselves to a number of specific steps to implement the Federation, including creating a unified customs tax payment system, establishing all cantons and assuring full freedom of movement.

III. Overall Assessment

1. Although there has been formal compliance with the letter of the Peace Agreement on most points I cannot fail to note that compliance with the spirit of the Peace Agreement has been notably lacking in several important areas. I am particularly concerned with the lack of confidence in the freedom of movement, the reluctance to accept the return of refugees from another ethnic group as well as the absence of free and independent media to the extent required for a free and fair election..
2. The non-compliance with the obligation to release all prisoners is serious because it is bound to have a negative impact on the overall political climate. It is my firm opinion that Ministers must now review the measures that immediately must be taken as a result of this.
3. The specific obligations that have not been met are:
 1. release of all prisoners in accordance with the Peace Agreement
 2. the withdrawal of all foreign forces
 3. a full response to information requested by IPTF Commissioner;
 4. amendment of the constitutions of both entities
 5. adoption of an amnesty law by Republika Srpska;
 6. ending all limitations on freedom of movement between the Entities and within the Entities;
4. We are now entering a new phase of implementation, in which formal deadlines will be less important than giving substance to the structures of reconciliation and reintegration. With military implementation successful and the structures of civilian implementation in place, we must focus more on the responsibility of the Parties for the political implementation of their commitments under the Peace Agreement concerning human rights, freedom of movement, conditions for free and fair elections and full cooperation with the international community.