

48th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations

Summary

This report covers the period from 21 April 2015 to 21 October 2015. The reporting period has been dominated by several notable developments: the decision of the Republika Srpska (RS) authorities to hold a referendum that directly challenges the General Framework Agreement for Peace (GFAP) and the threat of the RS-based Alliance of Independent Social Democrats (SNSD) to hold an independence referendum in 2018, the entry into force of the Stabilisation and Association Agreement (SAA), other steps to advance the EU reform agenda such as the adoption of a new Federation Labor Law, and a number of notable security incidents.

The decision of the RS authorities to hold a referendum that directly challenges the GFAP and the threat of the SNSD to hold an independence referendum in 2018 represent an escalation of the SNSD's policy to challenge the fundamentals of the GFAP and the steps taken to implement it. I refer you to my special report of 4 September for details on what is one of the most serious challenges to the GFAP since its signing in 1995. In addition, the reporting period was marked by a number of fresh statements by officials from the RS calling for that entity's secession from Bosnia and Herzegovina (BiH). Under the authority vested in me, I use this report to once again make clear that the entities have no right to secede from BiH under the GFAP and that the sovereignty and territorial integrity of BiH are guaranteed by the GFAP, the BiH Constitution and international law.

The signing and adoption of BiH's written commitment to the European Union (EU) integration process opened the way for the EU to take a decision for the SAA with BiH to enter into force on 1 June. The subsequent adoption of the

reform agenda by State and Entity authorities and the delivery of concrete steps, such the Federation's adoption of a new Labor Law, offer hope that the authorities may finally start to focus on delivering the reforms that would enable BiH to apply for EU candidate country status and to unlock the activation of the North Atlantic Treaty Organization (NATO) Membership Action Plan (MAP). As noted in previous reports, BiH needs to make a decisive break with the past by doing politics in a new way, one that puts the interests of citizens and the country as a whole first.

Regarding NATO MAP, I warmly welcome the registration of defense property in the name of the state of BiH that has taken place in the Federation, and now look for similar progress to be made in the RS. It should be noted that the decision to send Bosnia and Herzegovina's formal application for NATO MAP was taken unanimously by the Serb, Bosniak and Croat Members of the Presidency in 2010 and transmitted with the signature of the Presiding Serb Member of the Presidency coming from the SNSD party.

The reporting period also saw several security incidents that run the risk of having a wider impact on the situation in BiH. The shooting at a police station in Zvornik on 27 April, several attacks on returnees which appear to have been ethnically motivated, and the attack on Serbia's Prime Minister at the twentieth anniversary commemoration for the genocide committed in Srebrenica, confirmed the potential for security incidents to occur at any time. The rise in such security incidents is something the international community should be concerned about.

Given the complex environment that continues to prevail in the country, the presence of the EU military mission in BiH (EUFOR) with an executive mandate remains of vital importance, enabling my Office and others in the international community to fulfill our respective mandates as well as reassuring citizens from all ethnic groups throughout the country of a safe and secure environment.

I. Introduction

1. This is my fourteenth report to the UN Secretary-General since assuming the post of High Representative for BiH. It provides a narrative description of progress made toward attaining the goals outlined in previous reports, registers factual developments, logs relevant citations relating to the reporting period, and provides my assessment of the implementation of key areas falling under my mandate. I have focused my efforts on addressing these areas, in line with my primary responsibility to uphold the civilian aspects of the GFAP, while also encouraging progress on the five objectives and two conditions necessary for the closure of the Office of the High Representative (OHR) and working to preserve steps that have been undertaken previously to implement the GFAP.

2. My energies continue to be directed towards meeting my mandate as defined under Annex 10 of the GFAP and relevant Resolutions of the UN Security Council. My Office fully supports the efforts of the EU and the NATO to help BiH move along the path toward closer integration with those organizations.

II. Political Update

A. General Political Environment

3. I regret that challenges to the GFAP have increased during the reporting period. Most seriously on 15 July 2015, the RS National Assembly (RSNA) adopted a decision to hold a referendum in the RS on the validity of the legislation on the Court and Prosecutor's Office of BiH, and the applicability of these institutions' decisions on the territory of that entity, as well as on the authorities and decisions of the High Representative. In other words, the referendum question proposes that the RS leave the common judicial space of BiH. The RSNA took this step despite a clear prior warning on 14 July from the Steering Board Ambassadors of the Peace Implementation Council (PIC) minus the Russian Federation, which did not join the PIC statement.

4. These actions have cast a shadow over positive efforts by political actors in BiH to advance economic and social reforms that would address the problems facing the country and potentially unlock further progress toward the European Union, following the entry into force of the SAA on 1 June. The readiness of the authorities to advance the reform agenda has been the bright spot of the reporting period and it is now imperative that these efforts are accelerated, while the RS referendum is put aside and future actions remain in full compliance with the GFAP.

5. The reporting period has also been marked by several security incidents that raise concern about the overall atmosphere in the country and the ongoing need for reconciliation to be advanced in local communities, and in the

country as a whole.

6. Following the withdrawal of the Democratic Front (DF) party from the ruling coalition in the Federation, the Federation Parliament has been without a stable majority. On a more positive note, the government formation process following the October 2014 general elections was completed during the reporting period, with new cantonal governments finally elected in Canton 10 on 5 May, Central Bosnia Canton on 9 June and Herzegovina-Neretva Canton on 23 September.

B. Decisions of the High Representative during the Reporting Period

7. During the reporting period, I refrained from using my executive powers in line with the PIC Steering Board's policy of emphasizing "local ownership" over international decision-making.

C. Five Objectives and Two Conditions for Closure of the OHR

Progress on Objectives

8. During the reporting period, the authorities in BiH made limited progress toward meeting the outstanding objectives (5+2 agenda) set by the PIC Steering Board necessary for the closure of the OHR.

State and Defense Property

9. The process of registering so-called 'prospective defense property' under the ownership of the state of BiH, which the BiH Ministry of Defense (BiH MoD) initiated in December 2014, is progressing well, albeit only in the Federation. Due to the efforts of the BiH MoD and the BiH Public Attorney's Office, 18 prospective defense locations have been successfully registered under the ownership of the state of BiH so far, while several others are in various phases of the registration process.

10. In the RS, obstacles to the registration of prospective defense properties have been encountered. On 19 August 2015, the Bijeljina Field Office of the RS Administration for Geodetic and Property-Related Affairs issued a first-instance decision rejecting the request for the registration of a defense location due to what the Office claimed to be the 'non-existence of a valid legal basis', despite there being a clear basis provided by the BiH Law on Defense and relevant decisions of the BiH Presidency. This first-instance decision is currently under review in an appeals procedure before the RS Geodetic Administration in Banja Luka.

11. In addition to this rejection of a registration request in the RS, there is also an ongoing property dispute before the Court of BiH regarding the "Veliki Žep" defense location in the Han Pijesak municipality in the RS. On 3 July 2015, the Court of BiH rendered a first-instance judgement in the property dispute, in which it accepted the litigation claim of the state of BiH and explicitly determined that the state of BiH has ownership rights over this particular defense location. I welcome this court ruling. In the explanation of the judgement, the Court of BiH established that the State Property of the former Socialist Federal Republic of Yugoslavia located on the territory of BiH (including defense property) had been transferred into the ownership of the state of BiH on 1 March 1992, on the basis of and pursuant to the Agreement on Succession Issues of the former Socialist Federal Republic of Yugoslavia. Additionally, the Court acknowledged other legal arguments put forward by the State of BiH, including the relevant Decision of the BiH Constitutional Court from July 2012, the BiH Law on Defense, the relevant Decisions of the BiH Presidency and the High Representative's Law on the Temporary Prohibition of Disposal of State Property of BiH. The Appellate Division of the Court of BiH is currently processing the RS's appeal against this first-instance judgement. The second-instance judgement is expected in the next several weeks.

Fiscal Sustainability

12. The OHR continued to follow, analyze and inform its international partners on developments related to fiscal sustainability, including developments in the BiH Fiscal Council and the BiH Indirect Taxation Authority (ITA) Governing Board. During the reporting period, the BiH Fiscal Council met twice, adopting the Global Framework of Fiscal Balance and Policies for 2016-2018, which will provide a basis for the preparation of 2016 budgets.

13. The ITA Governing Board met four times in the reporting period, and among other acts, approved the *Decision on Criteria for Determining Large Tax Payers* as proposed by the ITA, designed to improve tax oversight. A session held on 29 July was significant as the Board agreed on the allocation of accumulated road toll revenues as well as on the indirect tax revenue allocation coefficients for the third quarter of the year. Due to past RS opposition, this

was the first time in over a year that the ITA Governing Board adjusted entity coefficients. Delaying these adjustments calls into question compliance with ITA Governing Board regulations and results in unsettled debts between the entities. This practice has been misused to challenge the indirect tax system, which provides most of budget revenue at all levels of government in BiH.

14. An illustration of this was the recent RS lawsuit against the ITA, which may have serious implications on the future functioning of the indirect tax system. On 7 May, the BiH Court issued a final ruling in the civil case *Republika Srpska vs. the BiH Indirect Taxation Authority*, in which the RS sued the ITA for compensation in relation to indirect tax revenue incorrectly allocated to the Federation in 2009 and 2010. As mentioned above, regular delays by the ITA Governing Board in adjusting coefficients and rebalancing revenues within the legal deadlines primarily due to challenges from the RS are the source of regular debts between the entities. In this particular case, the capital debt of BAM 52 million (approximately EURO 26 million) was already settled by the Federation in 2011, but the RS sued the Tax Authority for interest on this debt. The BiH Court ruled in favor of the RS, obliging the ITA to pay to the RS over BAM 15 million within 30 days. The ITA has appealed the case to the BiH Constitutional Court.

Brcko District

15. In May, a dispute in the Brcko District Assembly over a proposed resolution on the Srebrenica genocide precipitated a falling-out within the ruling coalition, a three-month break in assembly sessions and a month-and-a-half break in government sessions. Several citizens associations, including unemployed youth, health care workers and farmers, participated in strikes against the authorities' inaction during this period. The crisis was defused and assembly sessions resumed in September. Both the executive and the assembly are now meeting regularly.

16. During the reporting period, my Office continued to work with the Brcko District institutions in preparing laws related to financial matters, relevant for the implementation of the *Memorandum on Institutional Cooperation and Exchange of Data* among the four tax administrations in BiH. The laws also aim to support the District in improving transparency in the business environment, fighting the grey economy and harmonizing the District legal system with the rest of the country.

17. My Office also continued to work with the District institutions to amend the 2012 Brcko District Assembly Decision on ″Protection of the Civilian Victims of War″, according to which civilian victims of sexual violence were required to produce evidence of a judicial conviction against perpetrators in order to obtain the status of a civilian victim and receive compensation and other benefits. As a consequence of the application of this decision, many civilian victims who live in the Brcko District have moved to the Federation or registered their place of residence there in order to be recognized as victims of war and to be entitled to benefits. In a welcome move, the Brcko District Assembly adopted the amended Decision on 10 June 2015 and I now look forward to the new system being implemented in a manner that ensures the rights of these civilian victims to assistance.

18. On 6 October, the Brcko District Appellate Court ruled that the 2015 Brcko District Budget was not adopted in line with requirements on ethnic quorums during voting, and therefore the previously adopted budget is no longer in force. The Brcko District Assembly scrambled to ensure continued financing in the wake of the court's decision, amending the Brcko District Law on Budget to allow temporary financing beyond the first quarter, which the Assembly subsequently approved until the end of 2015. Considering the limited scope of budget payments allowed under temporary financing, the re-adoption of a 2015 budget would be the best way to address the financing gap, in line with the Appellate Court's Decision.

D. Challenges to the General Framework Agreement for Peace

Challenges to the Sovereignty and Territorial Integrity of Bosnia and Herzegovina

19. During the reporting period, officials from the SNSD, the ruling party in the RS, continued their practice of directly challenging the GFAP and the sovereignty and territorial integrity of BiH. The RS President, who is also the President of the SNSD, continued to be the most frequent and vocal exponent of state dissolution. These statements alternated between arguing that the dissolution of the country is inevitable,[1] threating an RS secession referendum if certain demands are not met,[2] and announcing that a referendum on independence will occur.[3] He also continued to claim, incorrectly, that the RS is already a state and that the state of BiH does not enjoy competencies or sovereignty except as they derive from the entities.[4] In addition, under his initiative, the RSNA and his party, the SNSD, took concrete steps that threaten to violate the GFAP.

RSNA Decision on Holding a Referendum

20. On 15 July, the RSNA adopted a decision to hold a referendum in the RS on the validity of the legislation of the Court and Prosecutor's Office of BiH, and the applicability of these institutions' decisions on the territory on that entity, as well as on the authorities and decisions of the High Representative. The referendum question provided in the *RSNA Decision on Calling the RS Entity-Wide Referendum* is as follows:

> *"Do you support the unconstitutional and unauthorized imposition of laws by the High Representative of the International Community in Bosnia and Herzegovina, particularly the imposed laws on the Court and Prosecutor's Office of BiH and the implementation of their decisions on the territory of Republika Srpska."[sic]*

21. With the referendum at hand, the RS authorities are acting unilaterally in an area where the state of BiH, not the entity, has constitutional authority. They would effectively ask citizens of the RS whether the entity should "opt out" of its requirement to comply with the laws establishing the state judicial authorities as well as the decisions taken by these authorities. As such, the referendum constitutes an open challenge to the sovereignty of BiH and a violation of the RS's commitments and obligations arising under the BiH Constitution as set forth in Annex 4 to the GFAP.

22. The referendum also seeks to determine whether the authorities of the High Representative, in particular legislation enacted by the High Representative, should be recognized by the entity. As with the state judiciary, the entity does not have the authority to make this determination, since the authorities of the High Representative arise under international law.

23. This act by the RSNA should also be seen in the context of the longstanding policy of officials from the SNSD to challenge the sovereignty and territorial integrity of BiH, including through open advocacy for the secession of the RS and the dissolution of the country. In this regard, it is worth highlighting that, in April 2015, the leading party in the RS, the SNSD, adopted as part of its official party platform the goal of pursuing the RS as an "independent State within its current borders" and called for a referendum on secession in 2018 if the party's demands with regard to redistributing competencies between levels of government are not met.

24. Having these considerations in mind, I consider that the adoption of this decision by the RSNA, together with the official positions expressed by the RS President before and after its adoption, represents one of the most serious violations of the GFAP since its signing in 1995 and puts under serious threat peace implementation since then.

25. Given that this constitutes a clear breach of the GFAP, on 4 September I sent the UN Security Council a detailed Special Report on this matter.

26. Since I submitted my 4 September report there have been no major developments on this issue, as at the time of writing the decision of the RSNA on the referendum has yet to be published in the Official Gazette and is therefore not yet in force.

SNSD Party Adopts Declaration on RS Independence Referendum in 2018

27. As referenced above, the SNSD party adopted a declaration on 25 April entitled "Republika Srpska – Free and Independent – Future and Responsibility". In this document, the ruling party in the RS stated its intention to organize a referendum on the independence of the RS in 2018 if demands related to the distribution of competences between the entities and the state are not met by 2017. Furthermore, the Declaration suggests that RS authorities might decide at a future point to regulate "by law which decisions made by the BiH authorities shall be applicable on the territory of the Republika Srpska." SNSD President Dodik reiterated publicly that if competencies which the SNSD alleges were usurped from the entity are not "returned" by 2017, then there would be an independence referendum in 2018.

RSNA Conclusions Seek to Bind State-level Decision-makers

28. On 20 October the RSNA adopted a set of conclusions which, among other provisions, seek to oblige elected and appointed state-level officials from the territory of the RS in the BiH state institutions to request opinions from relevant committees of the RSNA prior to adopting decisions and legal acts at the state level. The conclusions also

call on the government to propose amendments criminalizing participation in the "*unauthorized transfer of competencies from the RS to the BiH level*." These conclusions represent a direct attempt to exert extreme pressure on State-level representatives from the RS to follow instructions from the Republica Srpska and the current SNSD-led authorities, and more importantly, to subjugate the State-level institutions in violation of the BIH Constitution. Although not yet in force and subject to subsequent consideration by the RS Council of Peoples, these conclusions constitute a direct attack on the autonomy and independence of State-level officials and institutions.

29. Over the last six years there has been a consistent effort by the authorities of the Republika Srpska to negate the very agreement that recognized it as an entity. The RS National Assembly Conclusions of 20th October 2015 are only the latest in a series of challenges to Dayton. These conclusions are in line with other conclusions recently adopted, by which the RSNA claims the right to accept or not accept constitutional court decisions. They rely on the false assumption that BiH was established as a confederation in 1995 by two pre-existing "states" (the RS and the Federation), and that consequently the State of Bosnia and Herzegovina can only exercise those powers that have been explicitly delegated by them, and only for as long as these two "states" agree. The conclusions formally disregard and/or reject the fundamentals of the Dayton Peace Agreement, in particular the principles established under Annex 4 of the General Framework Agreement for Peace.

Challenges to Peace and Security

30. During the reporting period, several security incidents impacted the overall political situation in the country, demonstrating the need for greater effort to be made to advance reconciliation.

Gunman Kills Police Officer in Zvornik

31. On 27 April, a Bosniak returnee from a village in the Zvornik municipality (RS) opened fire on police officers outside the Zvornik police station with a long barreled weapon. He killed one police officer and wounded two others before police returned fire, killing him. All three police officers were Serbs.

32. In response, the RS Police conducted an operation throughout the RS reportedly aimed at individuals suspected of links to terrorism, detaining several individuals, of which, after initial questioning, two remained in custody. Zvornik Mayor Zoran Stevanovic played an important role in calming the situation in Zvornik after the attack, and I wish to praise his leadership in particular for preventing any further deterioration of the security situation in that municipality.

33. While political actors throughout the country were quick to condemn the attack, some politicians from the Federation argued publicly over whether it should be qualified as terrorism and whether the RS police response had unfairly targeted returnee communities. All relevant state institutions eventually condemned the attack, and the state-level Ministry of Security was tasked to prepare measures aimed at better coordination of police in preventing and responding to similar incidents in the future. On 30 July, the BiH Parliamentary Assembly adopted the conclusions of the Joint Defense and Security committee, which described the attack on the police station in Zvornik. During the parliamentary debate, several delegates pointed to poor coordination between police bodies and unprofessional reporting, and to a lack of true capacity in Bosnia and Herzegovina to fight terrorism.

Attack on Serbian Prime Minister

34. During the 20th Anniversary Commemoration of the Srebrenica Genocide, a number of persons attacked Serbian Prime Minister Aleksandar Vucic with rocks and water bottles, causing minor injuries. The BiH Council of Ministers (BiH CoM) and the BiH Presidency condemned the attack and demanded a thorough investigation. Both houses of the BiH Parliamentary Assembly also condemned the attack and offered an apology to the Serbian Prime Minister. Prime Minister Vucic eased tensions with his statements that despite the incident, he would continue to work on reconciliation between Serbs and Bosniaks. The BiH Presidency subsequently accepted Prime Minister Vucic's invitation and visited Belgrade on 22 July, which was held in a positive atmosphere with calls for further cooperation between the two countries. I wish to praise Prime Minister Vucic for his courageous efforts before, during and after the commemoration to advance reconciliation efforts in the region.

Violent Inter-Ethnic Incidents

35. On 14 July, three masked persons reportedly attacked a Bosniak returnee to the RS in Vrbanjci, near Kotor Varos, beating him and carving the Cyrillic letter "S" four times into his stomach with a knife (representing a

popular Serb national motto: Only Unity Saves the Serbs). The investigation is ongoing with the case still pending before the Banja Luka County Prosecutor's Office. No indictment has been issued.

36. On 12 August, a group of Serbs physically attacked a group of Bosniaks in Prijedor, sending one person to the hospital. The RS Police quickly identified and arrested the attackers.

37. On 15 August, a group of Croat youths left an open gas canister at the entrance to the mosque in the Bosniak village of Omerovici, in the Croat-majority municipality of Tomislavgrad in the Federation. Local police reported that they detained six people connected to the incident, and sought an additional two suspects.

III. State-level Institutions of Bosnia and Herzegovina

A. BiH Presidency

38. The BiH Presidency met regularly during the reporting period (eight regular and three urgent sessions) as it played a prominent role in seeking to advance BiH along the European integration path. Soon after the SAA between BiH and EU entered into force on 1 June, the Presidency adopted the *Master Plan for Integration into the EU*, which is a breakdown of activities and timelines for BiH to acquire EU candidate status by the end of 2017.

39. Upholding their agreement to work in a constructive atmosphere and avoid public disagreements, the three Presidency members agreed on a joint platform for presentations of the BiH delegation at the UN General Assembly held in September.

40. On 4 May, the Presidency agreed on the proposed 2015 BiH Budget, which the BiH Parliamentary Assembly subsequently adopted. On 6 June in Sarajevo, the Presidency successfully hosted His Holiness Pope Francis, whose message of peace and reconciliation was warmly received throughout BiH. On 8 October, the Presidency adopted reports on the participation of the BiH Armed Forces in international peace operations, and proposed the BiH Parliament to approve the continuation of BiH military and police partaking in missions in Congo, Mali, Afghanistan, Liberia, South Sudan and Cyprus.

BiH Signs Border Treaty with Montenegro

41. In a welcome development, at its 23 July session, the Presidency adopted the State Border Treaty between BiH and Montenegro, which was signed by the two states at a ceremony in Vienna on 26 August. The Border Treaty now needs to be ratified. I hope this positive development will help to accelerate efforts to secure border treaties with BiH's other neighbors.

B. BiH Council of Ministers

42. The BiH Council of Ministers (BiH CoM) continued to convene on a regular basis, holding 23 regular and four urgent sessions during the reporting period. The BiH CoM advanced EU-related issues, adopting the EU Reform Agenda, a draft decision on the EU Coordination Mechanism, and the Action Plan for the implementation of the Sejdic-Finci ruling. The BiH CoM also managed to adopt multi-year strategic documents in the justice sector, on transportation policy, and on combatting terrorism, corruption, and domestic violence. Playing its role to support economic development, the BiH CoM successfully participated in the 27 August Vienna summit on the Western Balkans, where it won support for a number of projects. Additionally, BiH CoM members were active in preparing the BiH institutions to address the global migrant crisis. BiH CoM officials successfully overcame obstacles in the export of milk from BiH to the EU, and harmonized money-laundering and financing of terrorism legislation and procedures to avoid enhanced measures by international financial institutions.

43. In terms of legislation, while the BiH CoM *Work Plan for 2015* envisioned the adoption of 65 legislative proposals by the end of 2015, the BiH CoM has so far adopted only four new laws and five sets of amendments to existing legislation.[5]

C. BiH Parliamentary Assembly

44. The BiH House of Representatives (BiH HoR) held eight regular sessions, while the BiH House of Peoples (BiH HoP) held seven regular sessions during the reporting period. While the legislative output of the BiH Parliamentary Assembly improved slightly, with three new laws and six amendments to existing legislation adopted, results continue to fall short of expectations.[6] Following up on the 23 February adoption of the Written Commitment on

EU Reforms, the BiH Parliamentary Assembly adopted the Reform Agenda for BiH for 2015-2018 as a framework document on 17 September.

45. Following months of dispute, the appointment of the Joint Parliamentary Committee for Oversight over the Work of the BiH Intelligence Agency was completed in June. On 27 August, the BiH HoR also appointed members of the BiH Parliamentary Assembly to the Parliamentary Board for Stabilization and Association between the BiH Parliamentary Assembly and the European Parliament.

46. Following the rotation of the chair of the BiH HoR in August 2015, SNSD delegates resumed full participation in the work of the House, following months of regular plenary walk-outs. I welcome their return to work.

Election Law Amendments

47. The new interagency working group, established under the auspices of the BiH Parliamentary Assembly to propose improvements to the BiH Election Law, held its first two sessions in October.

Appointment of the New BiH Ombudsman for Human Rights

48. In October, the BiH Parliamentary Joint Committee for conducting the appointment of BiH's three Ombudsmen for Human Rights interviewed 17 candidates. The selection process was conducted transparently, with the involvement of civil society, and the ranking of candidates was submitted to the BiH Parliamentary Assembly for final appointment.

IV. Federation of Bosnia and Herzegovina

Federation Coalition Breakdown

49. The governing coalition in the Federation unraveled in May over a dispute between the DF party and the HDZ BiH about party control of public companies. HDZ BiH ministers boycotted two sessions over the issue, and on 4 June, the Federation Government adopted a controversial decree on the exercise of powers in companies in which the Federation has an ownership stake, transferring authorities previously exercised by individual ministers to the government as a whole. In reaction, DF announced that the party would withdraw from the coalition by not attending government sessions, while DF ministers would remain in office until officially dismissed. Federation Vice President Milan Dunovic (DF) filed a request before the Federation Constitutional Court for the review of the constitutionality of the 4 June decree. The government continued to hold sessions as SDA and HDZ BiH ministers have a quorum to take decisions, even without the DF. On 12 June, four DF ministers (Minister of Energy, Mining and Industry, Minister of Trade, Minister of Labor and Social Policy, and Minister of Environment and Tourism) submitted their resignations to Federation President Marinko Cavara (HDZ BiH). On 15 June, Federation President Cavara accepted the Energy Minister's resignation but not those of the other DF ministers. On 15 September, the Federation President accepted the resignation of a second DF Minister, the Minister of Environment and Tourism.

50. Despite the coalition problems, the Federation Government held twenty five regular and fourteen extraordinary sessions during the reporting period, adopting six new laws and amendments to twenty seven existing laws. The Federation Parliament was less active, with the Federation House of Representatives holding two regular and three extraordinary sessions during the reporting period, adopting three new laws and amendments to eleven existing laws. The Federation House of Peoples held three regular sessions and three extraordinary sessions during the reporting period, adopting nine new laws and amendments to sixteen existing laws.

51. The Federation authorities deserve praise for having succeeded in adopting a new Federation Labor Law, a significant reform foreseen under the Reform Agenda.

52. On 20 August, the Federation Government discussed the no-confidence motion against the Government proposed on 15 July by Federation House of Peoples delegates from DF, SBB, SNSD, Nasa Stranka and SDP. On 30 September, the motion was defeated in the House.

53. Ever since the DF left the coalition, the Federation Government has been in effect a minority government relying on votes in the Federation Parliament from parties that are not part of the ruling coalition. In light of this, the SDA and HDZ BiH have been actively seeking new coalition partners. On 19 October SDA and SBB signed a coalition agreement on joint action at all levels of government. At the time of this writing, the new coalition members appear to be the SBB, SBiH and A-SDA, which together with SDA and HDZ BiH have 62 of the 98

delegates in the Federation House of Representatives.

Mostar

54. No concrete progress was made during the reporting period to implement the 2010 ruling of the BiH Constitutional Court on the Mostar electoral system. The City has no functioning City Council, the Mayor of Mostar continues in a caretaker capacity, and the citizens of Mostar continue to be denied their basic right to elect local representatives. In June, ten opposition political parties, gathered under the name *Initiative for Mostar,* initiated talks*,* which are ongoing*,* in an attempt to facilitate a breakthrough. Local officials from the SDA and HDZ BiH also restarted their talks in October.

55. The 2015 budget for Mostar was proclaimed on 8 May, and published in the Mostar City Official Gazette on 11 May. It amounts to BAM 51.2 million, which is a decrease of 9.7 percent compared to the 2014 budget.

V. Republika Srpska

56. The reporting period in the RS has been dominated by the steps taken by the RS authorities regarding the announced referendum and political attacks on representatives in the BiH institutions from the RS for alleged betrayal of RS interests. On 4 September these attacks took on a menacing character when the RS President threatened to have legislation adopted that would introduce the crime of treason in the RS for State-level officials coming from the RS. I want to make clear that State-level officials are independent, with their own clearly defined rights and responsibilities and are not bound by orders or instructions coming from lower-level authorities

57. RS President Milorad Dodik has also continued to make statements denying genocide, reiterating his view that what happened in Srebrenica was not genocide but rather a grave crime.[7]

58. During the reporting period the RS Government held twenty-six regular sessions. The RSNA has held four regular and three special sessions. During the reporting period the RSNA adopted ten new laws and amendments to fourteen existing laws.

59. The RS authorities have continued their policy of attempting to further regulate activities of civil society and public expression. On 21 May, the RSNA removed the controversial Law on Transparency of the Work of the NGO Sector and Law on Public Gathering from the session's agenda, following strong criticism by the opposition and the NGO sector, which saw the legislation as a form of pressure against them. These two laws were seen as connected to the Law on Public Peace and Order which the RS authorities adopted on 5 February. This Law defines the internet and social networks as "public space", putting them under regulation by the aforementioned law.

Non-cooperation with the High Representative

60. RS authorities have continued their policy of denying the High Representative access to official information and documents required to fulfill his mandate. Under Annex 10 of the GFAP, all authorities in BiH are obliged to fully cooperate with the High Representative as well as with the international organizations and agencies as provided for in Article IX of the GFAP. The practice of the RS Government not to provide information and documents requested by the OHR goes back to 2007. Repeated calls by the PIC reminding them of their obligation to ensure the High Representative has full access to documents in a timely fashion have had no impact. This policy contradicts the frequent claim that the RS respects the letter of the GFAP.

61. The reporting period has also seen an escalation of verbal attacks on the OHR and the High Representative in particular. Statements include challenges to the executive authorities of the High Representative, derogatory descriptions of the OHR, and personal insults against OHR staff and the High Representative.

VI. Entrenching the Rule of Law

62. The EU-led Structured Dialogue on Justice continued during the reporting period in the shadow of the announced referendum in the RS on the state judicial institutions and the authorities of the High Representative.

Justice Sector Reform Strategy

63. On a more positive note, on 8 September, the BiH CoM finally adopted the new Justice Sector Reform Strategy for 2014-2018. The adoption followed a new round of consultations between the Entities, the Brcko District and the

state, after the RS asked for certain changes to the text previously agreed and adopted by the Federation and the Brcko District in 2014.

Anti-Corruption Efforts

64. The implementation of legislation adopted by the Federation in July 2014 to create a special prosecutors' department for corruption is still delayed. While officially in force, the legislation cannot be applied because of a lack of allocated budgetary resources. As a result, corruption prosecutions in the Federation might cease altogether, due to legal uncertainty about jurisdiction. The Federation Government should either enable the new law to be applied, or put it out of force and revert to the old jurisdictional arrangement.

War Crimes Prosecution

65. The Supervisory Board for the Implementation of the War Crimes Prosecution Strategy continues to meet regularly, with the backlog of cases in the prosecutor's offices being systematically reduced. The Board concluded that the goal of reduction of war crimes cases in the prosecutors' offices by 15% by 30 June 2015 has been met.

66. On 10 September, the Ministers of Justice of BiH, the Federation, and the RS, and the Brcko District Judicial Commission President signed a "Protocol on the Outcome of the Ministerial Meeting in the Framework of the EU-BiH Structured Dialogue on Justice," in which they stated that the National War Crimes Strategy should be revised in order to identify new feasible deadlines for its implementation and to enhance the monitoring role of the Supervisory Board.

VII. Public Security and Law Enforcement, including Intelligence Reform

67. The practice of political interference in operational policing remains a serious challenge and has continued through the delaying of appointments of police directors and the formation of the independent boards which select them. The appointment of the Director of the Federation Administration of Police is still pending due to an ongoing court dispute over the validity of an already conducted selection process. The appointments of new police commissioners in West Herzegovina Canton and Canton 10 are outstanding. The appointments of independent selection boards have been delayed in Posavina, Tuzla, and Bosnian-Podrinje cantons.

68. New internal affairs legislation in Bosnian-Podrinje Canton was adopted in June 2015. Similarly, a new Sarajevo Canton Law on Internal Affairs was adopted by the Cantonal Assembly in first reading in May 2015. New police official legislation was adopted by the Federation Government in the first reading in August 2015 and awaits parliamentary procedure.

69. OHR continues to monitor changes to police legislation and encourage its harmonization in jurisdictions throughout the country.

MONEYVAL

70. On 18 September 2015, the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL) lifted its 14 April 2014 Public Statement on BiH, whereby it had called on states to advise their financial institutions to apply enhanced due diligence measures to transactions involving BiH. The Statement was lifted after the BiH Parliamentary Assembly passed amendments to the BiH Criminal Code as recommended by MONEYVAL. For the same reason, BiH was also removed from MONEYVAL's Compliance Enhancing Procedures.

Amendments to the Law on Temporary and Permanent Residence

71. In July 2015, the BiH HoP adopted amendments to the Law on Temporary and Permanent Residence, which provide for more thorough verification of residence applications. In August 2015, members of the Bosniak Caucus in the BiH HoP requested an assessment of the constitutionality of the law from the BiH Constitutional Court. The Court has not yet issued a ruling.

Removal of SIPA Director

72. In August, the BiH CoM dismissed SIPA Director Goran Zubac after the BiH Court confirmed a first-instance guilty ruling against him for Lack of Commitment in Office in relation to the non-deployment of SIPA during the 7

February 2014 riots in Sarajevo. A new selection and appointment process for the SIPA Director post is underway.

VIII. Economy

Economic Indicators

73. Compared to the same period in 2014, the available economic indicators for 2015 are encouraging. In the first eight months of the year, BiH registered a 4.9 percent increase in exports, a 0.2 percent decrease in imports and a consequent 6.2 percent decrease in BiH's foreign trade deficit. Industrial production in July increased by 2.3 percent over the same month in 2014. The price level was lower by 1.1 percent than a year ago. Continued increases were registered in indirect tax revenue collection. In the period from January to August, BiH collected BAM 4.140 billion from indirect taxes, which is 3.5 percent, or BAM 143 million, more than the same period last year. Positive trends in foreign trade and indirect tax revenue collection are expected to continue in 2015. Growth projections for this year by international financial institutions are positive and range around 1.9 percent.

74. Other available indicators are similar to those for 2014. The average net monthly salary in July amounted to BAM 838, only a 0.2 percent increase, while the average pension in June amounted to BAM 358, an increase of 1.4 percent from June 2014. The minimum pension in the RS is BAM 174 and BAM 326 in the Federation. Retirees are among the most vulnerable segments of the population, not only because of low pension levels but also due to a continued increase in the number of retired persons, which is not matched by a corresponding number of employed contributors. In the RS, the number of retirees has already exceeded the number of employed, while in the Federation, the number of employed is marginally higher. An additional problem for the sustainability of the entity pension funds is their low rate of collection of contributions.

75. Unemployment levels remain a major concern. At the end of July, there were 542,936 unemployed persons – a decrease of 1 percent compared to the same period in 2014 – and the administrative unemployment rate was still about 44 percent. The share of youth in total unemployment is about 60 percent. Also discouraging are foreign direct investment levels. According to the BiH Central Bank, foreign direct investment in the first quarter of 2015 amounted to BAM 84.7 million, a decrease of 77.6 percent compared to last year.

76. BiH's credit and business ratings have slightly improved. *Standard & Poor's Ratings Services* affirmed the "B" credit rating of BiH and its stable outlook on 11 September, based on the expectation of continued international financial assistance to the country, which balances identified deficiencies and risks such as fragile, overlapping institutions, weak fiscal management, etc. *The United Nations Conference on Trade and Development's 2015 World Investment Report* ranked BiH 4th by 2014 FDI inflows in the region of South East. The 14 September *Economic Freedom of the World: 2015 Annual Report* lifts BiH up from 85th to 78th place of 157 countries and places it for the first time in the company of economically freer countries.

Fiscal issues

77. The overall fiscal situation is somewhat better than last year, thanks to a continued increase in indirect tax revenue collection and reduced foreign debt payment obligations. Still, substantial fiscal challenges remain, also due to the absence of international financial assistance.

78. Concerns about increasing public debt remain. According to the *Information on the State of the Public Debt of BiH on 31 December 2014*, prepared by the BiH Ministry of Finance and Treasury, total public debt amounts to BAM 11.5 billion, of which the foreign debt is BAM 8.2 billion and the domestic debt is BAM 3.3 billion. This means that total public debt in BiH in 2014 increased by BAM 1.089 billion, or 10.44 percent.

79. Broken down by entity, the Federation public debt at the end of 2014 amounted to BAM 6.36 billion (foreign: 5.25 billion; domestic: 1.10 billion), while the RS public debt amounted to BAM 5.05 billion (foreign: 2.89 billion; domestic: 2.16 billion). It is also worth noting that the RS share in the total domestic debt is estimated at 65.75 percent, with the Federation share at 33.63 percent, and the Brcko District at 0.63 percent.

80. The continuing trend of indebtedness of the "General Government of BiH" (which includes all levels of government, social welfare funds and public road directorates) was also noted in the *Information on Fiscal Sustainability of BiH* prepared by the BiH Directorate for Economic Planning. According to the *Information*, the verified public debt at the end of 2014 reached 42.2 percent of GDP. The situation is worse in the RS, where the government sector debt reached 60 percent of GDP, while in the Federation such debt is estimated at 38.8

percent. The BiH Directorate for Economic Planning warned that the high indebtedness of the RS could jeopardize the overall fiscal sustainability in BiH. Growing public debt throughout the country led to an increase in debt servicing obligations, which reached 12 percent of budget revenues in 2014. This is four times more than at the beginning of 2008. An increase in debt servicing obligations is particularly evident with regard to domestic debt. Although domestic debt accounts only for one third of the total debt, the amount needed for its servicing in 2014 was almost equal to the amount needed for servicing the external debt.

81. Due to the pace of government formation, the *Law on Budget of the BiH Institutions and International Obligations for 2015* (State Budget) was adopted by the BiH Parliamentary Assembly only on 18 May. It amounts to BAM 1.563 billion, which is a 13 percent decrease from 2014. Of this amount, BAM 613 million is planned for servicing the foreign debt, which is a 28 percent decrease compared to 2014, while BAM 950 million goes to financing the BiH institutions. The amount available for financing the BiH institutions, of which BAM 750 million comes from indirect tax revenue, has been locked at the same level for four consecutive years. Based on the *Global Framework of Fiscal Balance and Policies in BiH for the period 2016-2018* that sets a budget framework of the BiH institutions for the relevant period, the amount for financing the BiH institutions, including the amount they receive from indirect tax revenue, is unlikely to increase over the next three years. While this does not pose a risk to the functioning of the BiH institutions, it does raise questions concerning the fulfillment of their obligations, including those relevant for the EU and NATO.

82. Both entity budgets show significant reliance on international and domestic borrowing: 27.5 percent of the total amount in the 2015 Federation Budget and 21.8 percent of the total amount in the 2015 RS Budget. Fiscal pressures have additionally increased, due to the absence of international financial disbursements caused by the failure to meet commitments under the IMF Stand-By Arrangement that expired on 30 June. Those were somewhat mitigated by stable indirect tax revenues and domestic borrowing through the issuance of government securities. However, both entities are looking into alternative financing options to cover the budget gap that should have been covered by international financial assistance, and in this regard both will have to rebalance their 2015 budgets. While the Federation Parliament adopted a rebalanced budget on 9 October, substituting IMF funds with domestic borrowing, to date the RS has taken no steps toward rebalancing its budget. This points to the need for renewed negotiations with international financial institutions, primarily the IMF, on a new financial arrangement. Initial discussions between BiH and the IMF have already been conducted, but IMF approval of any future arrangement with BiH will depend on the country's progress in meeting a number of prior actions, including some of the outstanding requirements from the previous Stand-By Arrangement. One of those is a new Labor Law, which the Federation adopted on 30 July and the RS has yet to adopt.

83. The fiscal situation at the cantonal level in the Federation improved in the first six months of 2015 compared to the same period last year. The reasons for improvement included a 12 percent increase in domestic revenue, a 3 percent decrease in total expenditures and spending limits in the first quarter of the year due to temporary financing. A comparison of the consolidated budget execution reports for the first half of 2014 and 2015 shows that the cantonal budgets in 2015 recorded a surplus of BAM 84.9 million, while in 2014 they had a deficit of BAM 42.7 million. These are positive developments as the cantons are of key importance for the fiscal and social stability of the Federation and the state. Despite this, the Federation has been trying to secure additional funds to meet shortfalls in revenue.

84. The situation is particularly difficult in the capital city of Sarajevo, where city financing was never adequately regulated. Amendments to the *Law on Allocation of Public Revenues of the Federation of Bosnia and Herzegovina* in May 2014 omitted the city, and as a consequence the city has not received any indirect tax revenue since then. To remedy the situation, the High Representative wrote to the Chair of the BiH CoM and to the Federation and Sarajevo Canton Prime Ministers on 16 September and requested that an appropriate legal solution be put in place without delay that will secure both the status and the issue of financing for the City of Sarajevo, in a fair and sustainable manner. The OHR has also engaged with the relevant authorities to identify and adopt an interim solution that would provide immediate financing, thereby ensuring the continued functioning of the City until the problem is resolved more systemically.

International Obligations

85. The 30 July BiH Parliamentary Assembly adoption of the *Framework Transport Policy of BiH for the Period 2015-2030* set sustainable transport development as a crucial element of the overall economic development of the country. Its adoption was an important prerequisite for BiH's access to available financing in 2015.

86. On 23 September, the Energy Community Ministerial Council declared BiH in persistent breach of its Energy Community Treaty obligations in the gas sector and discussed the possibility of sanctions should progress not be made by its next meeting in 2015. In the absence of progress on a law regulating the gas sector in BiH that would bring BiH in line with its obligations, the Energy Community Ministerial Council decided on 16 October to suspend BiH's right to participate in certain decision-making procedures falling under the treaty, and to suspend reimbursement for BiH representatives at Energy Community meetings. The Council also invited the EU to take appropriate measures for the suspension of financial support granted to BiH in the sectors covered by the Energy Community Treaty. According to the Council Decision, the effect of the sanctions is limited to one year upon its adoption and will be subject to review at the next Ministerial Council meeting in 2016. The required law has not been adopted due to continued opposition of the RS authorities to the regulation of certain aspects of the gas sector at the state level and the designation of a state regulator for gas.

IX. Return of Refugees and Displaced Persons

87. Upholding the right of refugees and displaced persons to return to their pre-war homes remains central to the full implementation of Annex 7 of the GFAP, which requires state and entity level authorities "to create in their territories the political, economic, and social conditions conducive to the voluntary return and harmonious reintegration of refugees and displaced persons, without preference for any particular group."

88. While the provision of appropriate accommodation for displaced persons remains essential, an environment that is conducive for sustainable return is equally important and requires the full implementation of the Return Strategy that was adopted by the authorities in 2012. In this respect, I remain particularly concerned about the difficulties that continue to arise in the education sector in several returnee communities, not least the ongoing dispute regarding the use and name of official languages primarily in the RS's education system, but also in a number of cantons in the Federation, which is causing unnecessary difficulties for pupils and parents.

X. Media Developments

89. Efforts to establish an independent and viable public broadcasting system in BiH continue to encounter difficulties, not least due to the long-running failure to establish the Public Broadcasting System (PBS) Corporation to facilitate co-operation amongst the three public broadcasters.

90. The ongoing failure of the Public Broadcasting System Board to register the PBS Corporation has also undermined the changeover from analog to digital terrestrial broadcasting. The BiH Ministry of Communications and Transport (BiH MoCT) purchased equipment for the first phase of digitalization, but the RS public broadcaster conditioned its transfer and installation on the transfer of the ownership rights to the individual broadcasting services. On 3 August 2015, the BiH CoM adopted a decision transferring ownership rights over specified digitalization equipment to individual broadcasting services. On 1 October 2015, the BiH MoCT and the three public broadcasters signed a contract that regulates this matter further, and appears to be unblocking the digitalization process.

91. I remain concerned about the financial sustainability of the public broadcasting system as interim contracts for collecting the radio-television tax with telecom operators expire at the end of the year, and there is no indication that a new method for collecting the tax is close to agreement.

92. The BiH CoM still has not appointed a new director to the state-level Communications Regulatory Agency (CRA), which regulates and oversees public and private electronic media (television and radio) throughout the country. This appointment appears to be blocked due to political negotiations over appointments to other state institutions. The 8-year failure to appoint a new director continues to have a detrimental effect on the CRA's functioning.

XI. Defense Matters

93. The pace of the disposal of ammunition, weapons and explosives stockpiles has improved, but remains relatively slow. The risk of accidental explosion remains due to ageing stockpiles and poor storage conditions. An agreement to establish a mechanism through which surplus stockpiles could be sold remains out of reach, and this method of disposal remains a concern given the poor quality of the material in question.

XII. European Union Military Force

94. The European Union military mission in Bosnia and Herzegovina (EUFOR) continues to play an important role in supporting BiH's efforts to maintain a safe and secure environment. This, in turn, assists my Office and other international organizations to fulfil their respective mandates. EUFOR's presence on the ground, including through its liaison and observation teams, remains an important contribution to stability and security.

XIII. Future of the Office of the High Representative

95. The PIC Steering Board political directors met in Sarajevo on 9-10 June 2015 to underline their unequivocal commitment to BiH's territorial integrity and sovereignty. The PIC Steering Board also reinforced the need to complete the 5+2 agenda, which remains necessary for OHR's closure. The next meeting of the PIC Steering Board meeting is scheduled to take place on 1-2 December 2015.

96. Since the beginning of my mandate in March 2009, the OHR's budget has been reduced by over 44 percent and my staff by over 51 percent. Given these deep cuts, it remains essential that I am equipped with the budget and staff required to carry out my mandate effectively, as I am entitled to under Annex 10 of the GFAP.

XIV. Reporting Schedule

97. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the UN Security Council, as required by Security Council Resolution 1031 (1995), I herewith present my fourteenth regular report. Should the UN Secretary-General or any UN Security Council member require information at any other time, I would be pleased to provide an additional written update. The next regular report to the UN Secretary-General is scheduled for April 2016.

Notes:

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[1] "You won't find anyone in the RS who does not agree with the thesis that it is inevitable that one day the RS and Serbia will in some way be the same in the legal state and political sense." Milorad Dodik, *Vijesti.ba*, 18 October 2015; "BiH will collapse; it will collapse with them and without me. I believe that I have even contributed to its sustainability. But it will fall apart." Milorad Dodik, *Newsweek Srbija*, 21 September 2015.

[2]"We have told everybody that we want a dialogue. If you do not want to have a dialogue with us, if you do not want to harmonize BiH with Dayton, in 2017 our proposal will be a referendum on the status of the RS. And that status implies a free and independent Republika Srpska." Milorad Dodik, *NIN magazine*, 28 May 2015; "In that regard we said clearly that, unless there are visible and tangible elements of stabilization of the RS in accordance with the Constitution until 2017, meaning that many competencies that were stolen must be returned, in 2018 the RS will carry out a referendum on its status, to determine its status. The proposal will be an independent state." Milorad Dodik, *Blic online / FENA, Istocno Sarajevo SNSD Congress*, 25 April 2015.

[3] "I am ready to be sacrificed so that we could exercise our right to a referendum because Srpska is the meaning of the historical struggle of these people. We are free in Srpska today. We must never stop fighting for independence." Milorad Dodik, *Večernje novosti*, 27 July 2015; "Now I am glad that the SNSD adopted the Declaration with which we do not call for a war but for the UN Charter, which defines that peoples have the right to self-determination until secession…in the referendum we will ask the citizens whether they want to live in an independent RS, and if they say "yes", we will make that decision. If NATO wants to arrest us all because of that, let them do it." Milorad Dodik, *Blic online / SRNA*, 13 May 2015.

[4] "We Serbs have the right to regulate our two states – Serbia and the RS, and we will do it; our message is that there is room for everyone who wants peace, cooperation, good and comfortable life." Milorad Dodik, *RTRS,* 4 August 2015; "We are fighting for a state…It's about a state here which is called Republika Srpska. It brought its territory and sovereignty, its capacity into the Dayton Bosnia and Herzegovina, which is a state only in the international legal sense, while it has no competences internally." Milorad Dodik, *N1*, 28 July 2015.

[5] The 2015 Budget, the Law on Asylum, the Law on Foreigners, and the Law on Non-Working Days during Religious Holidays, as well as amendments to the BiH Criminal Code, the Law on Misdemeanors, the Law on Consumer Protection, the Law on Salaries and Allowances in BiH Institutions, and the Law on Associations and Foundations).

[6] The 2015 Budget, the Law on Custom Policy, the Law on Obligations in Civilian Navigation, as well as amendments to the BiH Criminal Code, the Law on the Public Broadcasting System, the BiH Residence Law, the Law on Salaries in BiH Institutions, the Law on Misdemeanors, and the Law on Personal Identification Number.

[7] *Večernje Novosti*, 26 May 2015.