55th Report of the High Representative for Implementation of the Peace Agreement on BiH to the Secretary-General of the United Nations

Summary

This report covers the period from 16 October 2018 through 15 April 2019. At the outset, I note with sadness the passing in December of one of my predecessors as High Representative, Lord Paddy Ashdown. Lord Ashdown oversaw great changes in Bosnia and Herzegovina (BiH), which contributed to the stabilization of the country, setting it firmly on the path towards European integration. However, more work remains to ensure the full implementation of the General Framework Agreement for Peace (GFAP).

As the 2018 General Elections in BiH occurred just prior to the submission of my previous report, the last six months have been largely consumed with the post-election formation of authorities in the country. The state-level BiH Council of Ministers, the Federation entity government and four of the ten cantonal governments have yet to be appointed. The Republika Srpska (RS) National Assembly appointed a new RS entity Government swiftly before the end of December, as did the Sarajevo Cantonal Assembly, where the new government is led by a group of civic-oriented parties.

The delay in forming the state Council of Ministers and the Federation government stems from disagreements between the largest ethnic-based parties on necessary electoral reforms and BiH's aspirations with regard to the North Atlantic Treaty Alliance (NATO), as well as inter-party politics in the Federation. On the positive side, concrete discussions among parties about a state-level government appear to be well advanced, and the international community is looking for a new Council of Ministers to be formed as quickly as possible, focused on a forward-looking agenda of reforms.

The leaders of BiH have remained committed to BiH's aspirations for integration with the European Union (EU). In February, the BiH Council of Ministers (in a technical mandate) finalized official responses to 655 follow-up questions to the European Commission (EC) Questionnaire. BiH Presidency Chair Milorad Dodik (Alliance of Independent Social Democrats – SNSD) personally delivered the follow-up responses in Brussels in March. The EC has announced the possible issuance of an opinion by the end of May.

The election of Zeljko Komsic, leader of the civic/non-ethnic-based political party Democratic Front (DF), as the Croat member of the BiH Presidency, prompted significant backlash from the main Croat political party, Croatian Democratic Union (HDZ BiH), whose officials persistently refer to Komsic as an "illegitimate" representative of the Croat people. In December, the Croatian Parliament adopted a declaration criticizing Komsic's election and calling for constitutional changes. In January, the Croat National Assembly of BiH – an umbrella organization of Croat-prefix parties – adopted a similar declaration, which also, regrettably, rejected certain Croat-related rulings of the International Criminal Tribunal for the former Yugoslavia (ICTY).

In March, the Appeals Chamber of the International Residual Mechanism for Criminal Tribunals (IRMCT) increased the sentence against Radovan Karadzic, for genocide, crimes against humanity, and violations of the laws or customs of war, to life imprisonment. It is regrettable that many in BiH continue to promote revisionist narratives about the conflict and to deny the genocide in Srebrenica, which was confirmed by two international tribunals. In this context, the RS appointed commissions to reopen the interpretation of events in Srebrenica and Sarajevo from 1992 to 1995. These commissions will bring very little historical value or contribute to justice and reconciliation as the events in BiH are accurately documented, including as a part of legal processes against perpetrators of war crimes by domestic and international courts.

On a positive note, the Srebrenica Municipal Assembly adopted with an overwhelming majority of Bosniak and Serb representatives a decision to build a Peace Monument in Srebrenica, signaling their commitment to peace and a better future in Srebrenica. The international community should continue to encourage much needed reconciliation among all groups in BiH.

In January, the largest Bosniak party, the Party of Democratic Action (SDA), announced its intention to initiate a

procedure before the BiH Constitutional Court to dispute the name of the RS. SDA President Bakir Izetbegovic stated that his party launched the initiative because Bosniaks and Croats are discriminated against in the RS and in response to what he said were efforts by the main RS-based party, SNSD, against BiH, its territorial integrity and its Euro-Atlantic path. Although SDA has not followed through on the announced initiative, I nonetheless underline that the BiH Constitution recognizes that BiH consists of two entities, the Federation and the RS. The Peace Implementation Council Steering Board (PIC SB) has repeatedly expressed its commitment to BiH's fundamental structure as a single, sovereign state comprising these two entities.

Predictably, the announced initiative stalled political negotiations and also led SNSD and other Serb parties to threaten secession if the initiative were to proceed.[i] Unrelated to these developments, certain officials coming from the Republika Srpska continued with frequent statements denying the statehood of BiH, while advocating for the secession of the RS and a union with Serbia, saying for instance that the RS is "already separated".[ii]

In this context, under the authority vested in me under Annex 10 of the General Framework Agreement for Peace (GFAP), I reiterate that the entities have no right to secede from BiH and that the GFAP guarantees the sovereignty and territorial integrity of BiH and the internal constitutional position of the entities, the Republika Srpska and the Federation.

I. Introduction

This is my 21st regular report to the UN Secretary-General since assuming the post of High Representative for BiH in 2009. It provides a narrative description of progress made towards goals outlined in previous reports, registers factual developments, logs relevant citations, and provides my impartial assessment of implementation of the GFAP in key areas within my mandate. I have focused on addressing these areas in line with my responsibility to uphold the civilian aspects of the GFAP. I have thus continued to encourage the BiH authorities to make progress on the five objectives and two conditions necessary for the closure of the Office of the High Representative (OHR), which presupposes full compliance with the GFAP. It is imperative to insist that the authorities remain focused on full compliance, otherwise we risk encouraging further rollback of the reforms enacted to implement the Peace Agreement.

I continue to focus on fulfilling my mandate in accordance with Annex 10 of the GFAP and relevant UN Security Council Resolutions. My Office also fully supports the European integration aspirations of BiH as reflected in the adopted decisions of BiH institutions.

II. Political Update

A. General Political Environment

The main victors of the October 2018 General Elections, SDA, HDZ BiH and SNSD began serious discussions aimed at an agreement on a state-level coalition in March this year, some four months after the announcement of election results. An extended period of debate about whether any of the civic parties would join the SDA at the state and Federation levels has been a major stumbling block, with DF now seemingly ready to do so. In addition, disagreement about BiH submitting the Annual National Program (ANP) to NATO has delayed an agreement. In March, the leaders of the three parties announced agreement on a set of 10 principles the state-level coalition would follow in governing, but have not held serious talks aimed at overcoming the impasse on the ANP or on the distribution of ministerial portfolios.

At the Federation level, a continued alliance between the SDA and HDZ BiH is considered a foregone conclusion, although this has been delayed as a third partner is sought by SDA to solidify parliamentary support for the coalition. In the Federation, the formation of authorities may also depend on HDZ BiH's insistence on the adoption of amendments to the BiH Election Law, including amendments to resolve what it sees as the issue of "legitimate representation" of constituent peoples, prior to the appointment of a new Federation Government.

Initially after the elections, some Federation-based civic-oriented political parties tried to form a coalition without SDA within the Federation, eventually succeeding in doing so in the Sarajevo Canton. In the Una-Sana canton, the Party for Democratic Activity (A-SDA) leads the governing coalition, also excluding the SDA. In the remaining four cantonal governments which have been formed, SDA or HDZ BiH dominate the coalitions. Four additional cantons are still without newly appointed governments.

In the RS, the SNSD, as the party with the largest electoral support, maintained a governing coalition with the Democratic People's Alliance (DNS) and the Socialist Party of Republika Srpska (SPRS). Following the elections, the coalition of RS opposition parties, the "Alliance for Victory" has fallen apart, as the People's Democratic Movement (NDP) joined the ruling coalition and the Serb Democratic Party (SDS) faced significant defections of members who support the ruling coalition.

Demonstrations which began last spring in Banja Luka over what activists alleged was a cover-up by the authorities in the suspicious death in March 2018 of a young student, came to an abrupt end in December, when RS Police forcibly removed protesters from the city's main square. RS authorities labeled the protesters as "terrorists" attempting a coup d'état. This development comes as the RS authorities are considering new legislative changes, over which there are concerns about meeting important international human rights standards such as freedom of assembly.

At the time of the writing of this report, the international community is also following the intended changes to the Law on Police and Internal Affairs which, among others, creates RS reserve police forces. The RS authorities' moves towards establishing a reserve police prompted strongly worded statements from a number of Federation-based parties that the Federation would consider countering with a similar initiative. Along with the announcement that the RS will criminalize disrespect for the decisions of the RS political authorities and re-criminalize defamation, the efforts seem directed to control the activities of citizens, sometimes to the detriment of their democratic rights and fundamental freedoms.

In its final report on the 2018 General Elections in BiH, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) made several critical recommendations to improve the integrity of the election process in BiH. Many of these recommendations had already been made after previous election cycles, but remained unimplemented. It is imperative that the authorities address these issues well before the next elections, which are expected to be held at the local level in October 2020.

The lack of commitment to the rule of law throughout the country, highlighted in my earlier reports, including one special report devoted to the issue, remains a serious problem. Authorities at all levels continue to disregard or reject binding decisions of the judiciary. In the reporting period, the Federation-based parties have made no effort to resolve issues stemming from the BiH Constitutional Court's decision in the "Ljubic case" or from the Court's decision on the electoral system of the City of Mostar, as a result of which local elections have not been held in Mostar since 2008. The RS continues to refuse to adhere to judgements of the BiH Constitutional Court and the BiH State Court concerning the registration of defense property and BiH Constitutional Court decisions regarding the 9 January "RS Day" holiday. While no one disputes the RS having its day, it must be organized in accordance with the legal framework and respecting the rule of law. In a March session of the RS National Assembly (RSNA), the RS Minister of Justice announced discussions within the RS Government to establish an entity-level High Judicial and Prosecutorial Council, which would represent a serious rollback of judicial reforms.

The outstanding obligation of several cantons in the Federation, including the Herzegovina-Neretva (Mostar) Canton, to amend their constitutions to harmonize them with the entity constitution and to ensure the full equality of Serbs as a constituent people is another specific area where I continue to urge local authorities to respect the rule of law. In May last year, the Federation Constitutional Court issued a new decision requiring three cantons to amend their constitutions accordingly, which none have done.

In addition to the issue of unimplemented court decisions, BiH is also facing a problem with deep-rooted public disappointment in the criminal justice system's seeming incapacity to tackle corruption and deal with organized crime. This has been reflected in two cases, one in Banja Luka and the other in Sarajevo, of young men killed under suspicious circumstances, in which activists allege a cover-up by the authorities. During his visit to BiH in March, European Commissioner for European Neighbourhood Policy and Enlargement Negotiations Johannes Hahn met with the parents of these two young men, David Dragicevic and Dzenan Memic. These cases are symptomatic of the profound disappointment of many citizens in the state of the rule of law throughout BiH.

Formation of the Federation House of Peoples After the General Elections

As previously reported, the absence of provisions in the BiH Election Law regulating the election of delegates to the Federation House of Peoples (HoP) threatened to complicate the post-election process of government formation. Since the relevant parliaments failed to address this issue, the BiH Central Election Commission (CEC) stepped in in December, adopting as a temporary solution an instruction on how Cantonal Assemblies should proceed to elect

their delegates to the HoP. This instruction also included a procedure for ensuring that all allocated seats in the Serb caucus of the HoP would be filled, addressing a long-standing problem. Looking ahead there is a need to resolve these issues permanently through the adoption of appropriate legislative changes.

While the CEC instruction recognized the direct applicability of the Federation Constitution vis-à-vis the need for representation of all constituent peoples in each canton when possible,[iii] several political actors believed it ignored another provision of the Federation Constitution related to the census, prompting legal challenges. Following BiH Constitutional Court's rejection of a request by SDA representatives in the Federation House of Representatives (HoR) on 31 January, on 17 February, the BiH CEC certified the results of the indirect election of delegates to the Federation HoP for 55 out of 58 seats, leaving three remaining seats to fill in the Serb Caucus. On 5 March, pursuant to its 27 February decision on the criteria and procedure for the allocation of missing mandates in the Federation HoP, the CEC allocated the three missing mandates in the Serb Caucus.

B. Decisions of the High Representative during the Reporting Period

Despite frequent challenges to the rule of law and the GFAP during the reporting period, I continue to refrain from using my executive powers, in accordance with the Peace Implementation Council (PIC) Steering Board's policy emphasizing "local ownership" over international decision-making.

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

Progress on Objectives

During the reporting period, the BiH authorities made limited progress toward meeting the requirements of the 5+2 agenda established by the PIC Steering Board as necessary for the closure of the OHR.

State and Defense Property

My office continues to advocate for the adoption of comprehensive state-level legislation fully based on the principles of the 2012 BiH Constitutional Court decision as the only acceptable and sustainable resolution of the issues of State and Defense Property. The OHR also continues efforts to monitor the adoption and implementation of relevant property-related laws and decisions aimed at protecting the interests of the State of BiH prior to the enactment of appropriate legislation. This also refers to implementation of the Law on the Temporary Prohibition of Disposal of BiH State Property, better known as the State Property Disposal Ban, violations of which represent serious challenges to the rule of law and may produce legal, practical and financial complications for all parties involved.

Although the requirement to register prospective military property located in both entities is a condition for BiH participation in the NATO Membership Action Plan (MAP), it is primarily a rule of law issue separate from the NATO context. The requirement stems from final and binding decisions of the BiH Court and the BiH Constitutional Court, the Succession Agreement, the BiH Law on Defense, and relevant decisions of the BiH Presidency.

The continued refusal of competent RS authorities and senior RS officials to implement these legally binding decisions presents a serious challenge to the rule of law. For example, for nearly three years, the RS Administration for Geodetic and Property-Related Legal Affairs has failed to enforce a final decision of the BiH Court in the case of the prospective defense location in Han Pijesak and register that property under the ownership of the State of BiH.

Fiscal Sustainability

In accordance with my mandate, including my coordination responsibilities, the OHR continued to follow, analyze and report on developments and legislative actions related to fiscal sustainability in BiH. Fiscal sustainability, understood as the government's ability to maintain credible revenue levels and service its obligations in the long run, is crucial to functional governance at all levels. OHR's activities in this area included monitoring and reporting to the PIC Steering Board on the activities of the BiH Indirect Taxation Authority (ITA) Governing Board, in which the OHR is the only international community representative, and the BiH Fiscal Council.

The portion of the state budget allocated to the institutions of BiH (as opposed to debt servicing) has been frozen at the same level since 2012. While this has so far allowed for the basic functioning of the state institutions, I am concerned about the state authorities' ability to meet the challenges of the country, including responding to emergencies, fulfilling international obligations and meeting the requirements under European integration, without

the ability to budget for their needs.

While the BiH Fiscal Council held no sessions in the reporting period, the ITA Governing Board held five, of which one (on 5 December) was interrupted due to lack of quorum. Subsequent sessions showed no substantive change in entity approaches to the settlement of outstanding mutual debts arising from indirect tax revenue allocations over the last seven years. The entities continued their disputes over revenue allocation coefficients, which have not been adjusted since the second quarter of 2017. The failure to adjust coefficients and settle debts in line with the ITA Governing Board regulations results in inter-entity debt, undermines confidence and provides a pretext for challenges to the indirect tax system and its institutional structure. The existing ITA system is the backbone of BiH's fiscal stability and essential to the functioning of governance institutions at all levels in the country.

Challenges to the indirect tax system and its institutional structure also stem from a continued lack of trust within the ITA Governing Board and the perception of its abuse for political party interests. The most recent demonstration of it was the 27 March Board session, in which it debated criminal charges filed by the Federation Prime Minister (SDA) against the State and Federation Finance Ministers (HDZ BiH) for alleged financial damage to the Federation caused by their support in July 2018 for the temporary share of road toll revenues intended for road and highway construction. The Board adopted an opinion rejecting the allegations.

Brcko District

During the reporting period, my new Principal Deputy and Supervisor for Brcko District, Michael Scanlan, invested efforts to incentivize the District leadership to make progress on reforms aimed at strengthening the stability, efficiency and accountability of institutions, reinforcing the rule of law, creating economic opportunities and improving the wellbeing of citizens.

In March, the Brcko District Finance Directorate commenced the fiscalization process in line with the 2016 Law on Fiscal Systems, prepared with OHR expert assistance. The introduction of fiscal cash registers will further integrate the District into the BiH legal system and empower its institutions to fight the gray economy and generate revenue. Until now, Brcko District was the only place in BiH outside the fiscalization system, with negative implications on the country's efforts to avoid tax evasion.

Also in March, the Brcko District Assembly adopted the long outstanding loan agreement for the Brcko Port modernization, unlocking financing by the European Bank for Reconstruction and Development and the European Union for this infrastructure investment. The modernization of the only river port in BiH is expected to open the door to other infrastructure projects of public interest in Brcko and to contribute to expansion of the business sector.

In late March, prior to the expiry of the temporary financing period, the Brcko District Assembly adopted the 2019 budget, thus allowing for continued functioning of District institutions and the fulfilment of their obligations to budget beneficiaries. Earlier, on 18 March, the Assembly also adopted a set of laws regulating salaries and remunerations of employees in District institutions, to enter into force on 1 July 2019. This is the first time salaries have been harmonized in the District in 10 years.

During the reporting period, the Brcko District Finance Directorate, with expert support from the OHR, also finalized a new Draft Law on Budget aimed at improving fiscal discipline, transparency and responsibility in spending. The draft was submitted for review by relevant institutions in early April, ahead of consideration by executive and legislative authorities, and its adoption is expected by September 2019.

Entrenching the Rule of Law

BiH Law on Foreigners and BiH Law on Asylum

My office continues to provide support and assistance to the BiH authorities in implementing the 2015 BiH Law on Foreigners and the 2016 BiH Law on Asylum.

Anti-Corruption Efforts

Federation legislation establishing a special prosecutor and court department for fighting corruption and organized crime, adopted in 2014, remains unimplemented.

Following the recommendations of relevant international bodies, in the previous period the BiH High Judicial and Prosecutorial Council (HJPC) adopted rules requiring the declaration of assets for judges and prosecutors. However, on 5 March, at the request of the Association of Judges of the BiH Court, the BiH Agency for Protection of Personal Data prohibited the HJPC from processing the personal data of judges and prosecutors. The HJPC announced that it would appeal this decision.

War Crimes Cases

On 30 November 2018, the BiH Court's Appellate Panel acquitted former commander of the Army of the Republic of BiH (ARBiH) forces in Srebrenica Naser Oric, who was finally and bindingly acquitted by ICTY in 2008, and fellow ARBiH member Sabahudin Muhic of charges of war crimes against prisoners of war.

On 20 March 2019, the Appeals Chamber of the IRMCT confirmed the 2016 ICTY conviction of Radovan Karadzic, founding member of the Serbian Democratic Party who served as the first RS President and Supreme Commander of RS armed forces, for genocide, persecution, extermination, murder, deportation, and other inhumane acts (forcible transfer) as crimes against humanity, as well as for murder, terror, unlawful attacks on civilians, and hostage-taking as violations of the laws or customs of war in relation to his participation in the overarching joint criminal enterprise, the Sarajevo joint criminal enterprise, the Srebrenica joint criminal enterprise, and the hostages joint criminal enterprise. The IRMCT increased the ICTY Trial Chamber's 2016 sentence of 40 years of imprisonment to life imprisonment.

On 28 March 2019, the Appeals Chamber of the BiH Court confirmed the acquittal of former Croatian Defense Council battalion commander Mile Puljic of charges of committing crimes against humanity in Mostar in 1993 and 1994. The BiH Court acquitted Puljic in May 2018 but the BiH Prosecutor's Office appealed the verdict and the Appeals Chamber ordered a retrial. With the confirmation of Puljic's acquittal, there can be no further appeal.

D. Challenges to the General Framework Agreement for Peace

Challenges to the Sovereignty and Territorial Integrity of Bosnia and Herzegovina

As previously noted, during the reporting period, statements continued challenging the sovereignty and territorial integrity of BiH, with BiH Presidency member Milorad Dodik again the most frequent exponent of such proclamations.[iv] In March, an association called the "Croatian Community of Herzeg-Bosna," in reference to the wartime breakaway proto-state, held a Congress in Mostar, in which the wartime Herzeg-Bosna was praised.

In January, the Peace Implementation Council Steering Board responded to an announced intention that the name of one entity might be challenged in front of the BiH Constitutional Court, as well as statements threatening the secession of one of the entities, and the declaration adopted by the Croat People's Assembly on 26 January 2019, in which verdicts of the ICTY were rejected. In response to these developments, the PIC called on parties to refrain from further divisive action and rhetoric and reiterated its "commitment to the territorial integrity and fundamental structure of BiH as a single, sovereign state comprising two entities and that there will be no redrawing of the map of BiH."

RS Position on Military Neutrality

As previously reported, in October 2017, the RSNA adopted its *Resolution on the Protection of the Constitutional Order and the Proclamation of Military Neutrality*, by which the entity sought to proclaim "military neutrality", despite the exclusive competency of the BiH state for foreign policy under the constitution and despite the fact that the BiH Presidency and other institutions had already passed decisions on this issue. Since foreign policy and defense are State competencies, the Resolution had no legal effect. However, the Resolution has now been invoked as a reason for the RS to reject the registration of prospective defense property in the RS under the ownership of BiH and the submission of the BiH ANP to NATO. In practical terms it is now being invoked to block crucial processes, which represents a direct challenge to several fundamental aspects of the GFAP, including the BiH constitutional order and its sovereignty.

Rhetoric on War Crimes

Senior political figures from the RS continue to deny and belittle the genocide committed in Srebrenica, which has been confirmed by two international tribunals,[v] and to reject the verdicts and findings of international courts in

war crimes cases.[vi] Having in mind the 2004 RS Government Report on Srebrenica, which had officially acknowledged the involvement of RS military and police forces in the July 1995 events in Srebrenica, this reversal highlights the extent to which the reconciliation process has deteriorated over the last several years. Similarly, as mentioned above, the Croat National Assembly of BiH, in its January declaration also rejected certain rulings of the International Criminal Tribunal for the former Yugoslavia (ICTY)[vii]

It is disturbing that after more than two decades since the war in BiH ended, senior political figures and certain segments of society have failed to come to grips with the past and continue to deny judgements of ICTY and the IRMCT. Such attitudes greatly hinder the prospects for lasting reconciliation in the country.

III. State-level Institutions of Bosnia and Herzegovina

A. BiH Presidency

The newly-elected members of the BiH Presidency – Milorad Dodik (SNSD), Zeljko Komsic (DF), and Sefik Dzaferovic (SDA) – took their oaths of office on 20 November. While the members have been outspoken about their differences on a number of issues, the new Presidency held one regular and 19 urgent sessions, and has managed to find unity on several important topics.

In December the BiH Presidency adopted two robust statements on EU integration and the protection of BiH property in Croatia. Subsequently, the Presidency members unanimously supported an agreement on the reduction of mobile roaming tariffs amongst Western Balkans countries, a request for reports on potentially hostile actions of foreign intelligence agencies involving BiH citizens, and requesting Croatia to relocate a nuclear waste site planned near the BiH border.

In January, the Presidency members paid a collective visit to the EU headquarters in Brussels, praising the EU's commitment to BiH and expressing hope that BiH might achieve candidate status this year. Dodik traveled to Brussels again in March to deliver BiH's follow-up responses to the EC Questionnaire, and called on the EC to issue an opinion that would bring BiH closer to candidate status. Presidency members also individually visited Serbia, Russia and North Macedonia.

While all members support BiH's EU path, NATO membership remains a contentious issue. Presidency members Dzaferovic and Komsic insist that all relevant previously adopted decisions approving BiH's NATO aspirations must be respected, while Dodik opposes BiH membership in NATO, citing the RSNA's October 2017 declaration on "the military neutrality" of that entity, linking the RS position to neighboring Serbia's declared neutrality.

From his inauguration speech onward, Dodik, who chairs the Presidency for the first eight months, has emphasized his focus on the interests of the RS, while Dzaferovic and Komsic advocate for strengthening the capacities of the BiH State.

B. BiH Council of Ministers

In the absence of a new BiH Council of Ministers (CoM), the CoM from the previous mandate continued to meet regularly in a technical mandate, holding 14 regular and two urgent sessions. The CoM continued to focus on EU issues, the ratification of international treaties, telecommunications, various documents governing the work of the CoM, and migrant issues. The CoM adopted four items of legislation, one of which was the draft 2019 State Budget. The CoM did not agree on the adoption of BiH's first ANP, a requirement for activation of the NATO MAP for BiH, due to repeated withdrawals of the topic from session agendas.

On 24 February, the CoM adopted 655 follow-up responses to the EC Questionnaire, which the EC will assess in preparing its opinion on BiH's application for EU membership. The follow-up questions served as further explanation to some of the initial 3,242 answers to the Questionnaire. The answers were provided through the Coordination Mechanism on EU Issues in BiH.

The CoM adopted several strategies and action plans, including the 2018-2022 Strategy on Implementation of Intellectual Property Rights, the 2018-2025 Anti-Mine Activity Strategy, the 2018-2022 Gender Action Plan, the Program of Economic Reforms through 2021, and the 2019 CoM Work Plan.

Due to the failure of the BiH Parliament to adopt the draft 2019 State Budget, the CoM continued to adopt quarterly decisions on provisional financing of the BiH institutions.

C. BiH Parliamentary Assembly

Following the October 2018 General Elections, both Houses of the BiH Parliamentary Assembly (PA) have been constituted and have elected parliamentary leadership at inaugural sessions, but neither House has held further sessions.

The BiH HoR held its inaugural session on 6 December, electing its Collegium: Borjana Kristo (HDZ BiH) as HoR Speaker, Denis Zvizdic (SDA) as First Deputy HoR Speaker and Nebojsa Radmanovic (SNSD) as Second Deputy HoR Speaker.

In its inaugural session on 28 February, the BiH HoP established the three caucuses of the constituent peoples and elected its Collegium: Bakir Izetbegovic (SDA) as Speaker, Dragan Covic (HDZ BiH) as First Deputy Speaker and Nikola Spiric (SNSD) as Second Deputy Speaker.

IV. Federation of Bosnia and Herzegovina

With a new Federation Government still not appointed following the October 2018 General Elections, the previously appointed government has continued its work in a technical mandate, holding 17 regular and 11 extraordinary sessions. In December, the Government adopted the draft 2019 Federation Budget along with the draft *Law on Execution of the Budget* and the *Law on Federation Budgets*, followed by the Federation HoR and the Federation HoP endorsing the legislation on 9 January and 20 February, respectively.

The Federation HoR has held its inaugural session and three regular sessions, and the Federation HoP its inaugural and one regular session.

Federation Parliamentary Leadership Incomplete

In the Federation HoR's inaugural session in November, representatives appointed HoR Speaker Elvir Karajbic (SDP), after which all SDA and HDZ BiH representatives left the session, claiming that conditions for appointing the Speaker and Deputy Speakers were not fulfilled. The HoR continued its inaugural session on 9 January, failing to elect the HoR Deputy Speaker from the ranks of the Croat people, although three candidates were proposed.

In the inaugural session of the Federation HoP, delegates appointed the HoP Speaker from the ranks of the Croat peoples and Deputy Speaker from the Bosniak people, but rejected the Serb candidate for Deputy Speaker as proposed by the six SDP delegates in the Serb caucus.

No Progress on Local Elections in Mostar

In the reporting period, the responsible political parties held no discussions to reach an agreement to enact amendments to the BiH Election Law that would regulate local elections in the City of Mostar, where there have been none since 2008. I urge the parties to initiate talks to finally resolve this issue and enable the citizens of Mostar to enjoy the same democratic right to elect their local leaders as the citizens in the rest of the country enjoy.

The Constitutional Status of Serbs in the Federation Cantons

The High Representative's 2002 decision enacting amendments to the Federation Constitution within the wider implementation of the BiH Constitutional Court's decision on the equality of constituent peoples determined that all three constituent peoples are equal in the Federation, that the official languages of the Federation are Bosnian, Croatian and Serbian, and that the official scripts shall be Latin and Cyrillic. Cantons remain obliged to harmonize their constitutions with the Federation Constitution. Last year, the Federation Constitutional Court decided that several provisions of the constitutions of Posavina, Herzegovina-Neretva, and West Herzegovina Cantons do not conform with the Federation Constitution in this regard and ordered the assemblies of those cantons to amend their respective constitutions accordingly, which none have done.

I urge the cantonal authorities to implement the Federation Constitutional Court's judgement without further delay to ensure the equal status of Serbs in the Federation.

V. Republika Srpska

Following the October 2018 General Elections, the Republika Srpska government was among the first governments to be formed in Bosnia and Herzegovina. The SNSD continues to lead the RS ruling coalition, together with its partners from the previous mandate the Democratic People's Alliance (DNS) and the Socialist Party (SPRS), and with Ujedinjena Srpska, the People's Democratic Movement (NDP) and the newly formed party Democratic Alliance (DEMOS) also added to the coalition. The new government, led by Prime Minister Radovan Viskovic (SNSD), has met regularly. According to available information, the RSNA held three regular and three special sessions, adopting 6 new laws and 3 sets of amendments to existing laws.

The RSNA also restructured the RS Government, expanding the portfolios of two existing ministries and creating two new ones, including a Ministry for European Integration and International Cooperation, while abolishing the RS Ministry for Displaced Persons and Refugees and establishing the RS Secretariat for Displaced Persons and Migration.

The period has been marked by rhetoric and action from the RS authorities aimed at limiting the political activities of elected and appointed officials to the BiH institutions, in a way that seeks to control their ability to carry out their constitutional prerogatives, as defined under the Dayton Peace Agreement. In October, the RSNA passed a set of conclusions entitled the "Constitutional position of the RS and protection of its interests in BiH joint institutions," in which elected and appointed officials from RS to BiH institutions are commanded to seek opinion from the RSNA on issues of interest to the RS.

In December, BiH Presidency Chair/SNSD President Milorad Dodik said that changes and amendments to the RS Criminal Code would include a prison sentence of three years or more for those refusing to respect the decisions of RS bodies. RS President Zeljka Cvijanovic (SNSD) reiterated that in a subsequent meeting with the ruling coalition, in which representatives drafted a document calling for changes and amendments to criminal legislation in the RS regulating those who disrespect decisions and positions of the RSNA regarding the constitutional position, status, competencies, and vital and strategic interests of the RS. The document further calls all on RS members of the BiH CoM and other BiH institutions not to participate in activities leading to BiH accession to NATO.

The RS Government's intent to introduce more restrictive regulations (e.g. the imposition of political decisions by RS institutions on elected politicians at the state level; re-criminalization of defamation; and limitations on civil society organizations and the media; amendments to the Law on Public Peace and Order), if adopted in their current form would curtail the democratic rights of citizens to exercise their freedom of expression and freedom of assembly, among others. Under Annex 4 and 6 of the GFAP these are rights which the parties committed themselves to protect.

RS Government Appoints Srebrenica and Sarajevo Commissions

On 7 February, the RS Government appointed the heads and members of the commissions for the investigation of events in Srebrenica and Sarajevo from 1992 to 1995. The appointment of the commissions fulfills the RSNA's request, in its 14 August 2018 conclusions, to the RS Government to repeal its 2004 Srebrenica Report (in which the Government had acknowledged the involvement of RS military and police forces in the July 1995 events in Srebrenica) and establish independent international commissions to investigate the entire war period in Srebrenica as well as Sarajevo. The PIC Steering Board, in its 5 December 2018 Communique, deplored the RSNA Conclusions about the report of the RS Government's Srebrenica Commission and reaffirmed that the events in Srebrenica from 10 – 19 July 1995 have been conclusively qualified as genocide by international tribunals and national courts alike.

Non-cooperation with the High Representative

The RS Government continues to deny my office access to official information and documents as required under Annex 10, Article IX of the GFAP, which obliges all authorities in BiH to fully cooperate with the High Representative. Repeated calls by the PIC SB reminding the RS authorities of their obligations in this regard have so far had no impact. The practice of the RS Government not to provide information and documents as requested by the OHR contradicts frequent RS claims that the entity respects the letter of the GFAP.

VI. Public Security and Law Enforcement, including Intelligence Reform

The longstanding practice of improper political interference in operational policing has not diminished.

Authorities in Posavina Canton in the Federation still have not remedied damaging changes to police legislation,

including restoring a deleted provision as required by the 2007 UNSC Presidential Letter on police denied certification by the former UN International Police Task Force. I will continue to follow this development and report on whether BiH is in overall compliance with the UNSC directive. Another provision creates the possibility for former police who enter politics to later return to police service, which represents direct improper political influence.

On 29 March, the Sarajevo Cantonal (SC) Government dismissed the SC police commissioner based on the SC Independent Board's (IB) proposed negative evaluation of the police commissioner.

Herzegovina-Neretva Canton made no progress in appointing a new police commissioner. The mandate of the previous police commissioner expired in September 2018 and the canton has not had a functioning Independent Board since March 2017.

In October 2018, Bosnian-Podrinje Canton appointed a new police commissioner. On 22 October, following a substantial delay, the Una-Sana Canton (USC) Government appointed a police commissioner. On 14 November, the Brcko District Assembly appointed a Chief of the Brcko District Police. On 7 February, the Federation Government appointed the Federation Deputy Director of Police. On 22 February, the Federation Government accepted the resignation of the Federation Director of Police, while the Federation Independent Board has scheduled interviews for his replacement for 15 April.

On 27 March, the Tuzla Canton Assembly adopted a budget that includes a separate police budget but on the same day the Zenica-Doboj Cantonal Assembly adopted a budget that does not include a separate police budget, despite the legal requirement to do so.

My Office is currently engaged in efforts to improve police legislation in Brcko District that would strengthen a merit-based selection process of police managers, which could eventually be replicated in other jurisdictions in BiH.

VII. Economy

The BiH Council of Ministers' Directorate for Economic Planning estimated 2018 economic growth at 3 percent, the same as in 2017 and as in other Western Balkan countries. Compared to 2017, exports, imports and industrial production in 2018 increased by 7.6, 6 and 1.6 percent, respectively. Inflation was 1.4 percent. The administrative unemployment rate is now estimated at 34.8 percent, while the real unemployment rate, calculated on the basis of the BiH Statistics Agency's Labor Force Survey, is 18.4 percent. The total number of registered employees in November was 2.4 percent higher than in the same month in 2017.

The average net salary and pension in BiH were higher in December 2018 than in the same month of 2017, at BAM 906 (5.1 percent increase) and BAM 386 (6.3 percent increase). The minimum pension was BAM 187.8 in the RS and BAM 348.1 in the Federation.

In March, *Standard & Poor's Rating Services* affirmed BiH's credit rating of "B" and changed its outlook from "stable" to "positive." The banking sector is assessed as generally stable and liquid. According to BiH Central Bank data, commercial banks registered a record profit of BAM 367.1 million in 2018, an 8.9 percent increase over 2017. However, foreign direct investments in the first nine months of 2018 increased by only 0.1 percent compared to the same period in 2017.

The findings of international non-profit organizations indicate that almost half of the country's population is vulnerable to poverty. Estimates suggest that some 600,000 people live on BAM 3-5 per day, with ca. 128,000 children receiving social assistance and 100,000 children vulnerable due to their family situation, of whom 40,000 live below the minimum living standards.

It is striking that despite the economic hardships faced by many families, many of those who have emigrated from BiH over the last several years cite the overall political and social environment as the reason for their departure. The BiH Union for Sustainable Return and Integration estimates that more than 173,011 people – or 48,932 families – have emigrated from BiH over the last five years.

Fiscal Issues

Fiscal stability has been maintained, mainly due to the continued growth of indirect tax revenue as the key revenue source for all levels of government. Indirect tax revenue in 2018 totaled BAM 7.59 billion, the highest

since the establishment of the BiH Indirect Taxation Authority. Nonetheless, the indirect tax system is exposed to challenges and attempts to weaken its institutional structure, including most recently those referred to in the section on Fiscal Sustainability.

Except for the RS, the 2018 General Elections delayed adoption of 2019 budgets. The state-level institutions have been on temporary financing since 1 January. While it has no temporal limitation and as such does not pose a risk to continued functioning of the institutions, temporary financing limits the scope of their operations.

In January, the BiH CoM adopted the *Draft Budget of BiH Institutions and International Obligations for 2019* in the amount of BAM 1.791 billion. Of this amount, the financing proposed for the state institutions is BAM 966 million. While this is an increase of BAM 16 million or 2 percent over the amount that the state institutions have been locked at since 2012 (see above), the state's share of indirect tax revenue, which makes up about 80% of its funding, remains locked. The draft budget is pending before the BiH Presidency as the official budget proponent to the BiH Parliamentary Assembly.

The newly constituted Federation HoR and HoP adopted the 2019 Federation budget on 9 January and 20 February, respectively, in the amount of BAM 2.65 billion, an 11 percent decrease from 2018, with a deficit of BAM 630 million (a 3 percent increase). Debt servicing decreased by 13 percent and is planned at BAM 969.9 million. Key challenges to budget stability in the Federation in 2019 stem from renewed demands from war veterans for new legislation to increase the transparency and efficiency of budget spending for war veterans and regulate their entitlements. The fiscal consequences of the proposals to date are impossible to assess. The legislation remains pending parliamentary approval.

The Federation Parliament also adopted amendments to the *Law on Federation Budgets*, which provided a legal basis for the 7 March proclamation of the 2019 City of Mostar budget of ca. BAM 57 million by the Mostar Mayor with the approval of the Mostar Head of Finance. All cantons in the Federation have also adopted 2019 budgets.

The RSNA adopted the 2019 Budget, the 2019 Decisions on Short-Term and Long-Term Borrowing Plans and the 2019-2021 Economic Reform Program in December. The adopted budget totals BAM 3.256 billion, a 2.5 percent decrease from 2018. Domestic revenues are planned at BAM 2.6 billion and borrowing at BAM 592 million. The main expenditures include pensions of BAM 1.1 billion, and civil servant salaries of BAM 756 million.

In its 2019 borrowing plan, the RS Government envisaged BAM 371 million from long-term borrowing through loans and bonds, and short-term borrowing through treasury bills of up to 8 percent of regular public revenues in the previous fiscal year. Due to the budget liquidity crisis, the RS Government borrowed BAM 30 million in December and BAM 60 million in January from the escrow account generated by the privatization of Telekom Srpska and RS Oil Industry, which should be refunded by the end of 2019. According to the 2019-2021 RS Government Economic Reform Program, the main economic challenges stem from losses, overstaffed public companies, increased borrowing and health sector sustainability. The RS economy also struggles with chronically high unemployment, especially youth unemployment.

According to the information adopted by the BiH CoM on 28 March, BiH public debt at the end of 2018 totaled BAM 11.1 billion, of which 73.8 percent constitutes foreign and 26.2 percent internal debts. The Federation share in the overall public debt is 52.1 percent and the RS share 46.7 percent. Compared to 2017, overall public debt at the end of 2018 on average increased by BAM 111 million or 1 percent, of which foreign debt increased by 4.5 percent and internal debt decreased by 7.6 percent. The public debt share in BiH's GDP in 2018 was estimated at 32.9 percent.

International Obligations

BiH has been in breach of obligations under the Energy Community Treaty since 2015, when the Energy Community first introduced sanctions against it for non-compliance in the natural gas sector. The non-compliance stems from longstanding entity disputes over regulating certain aspects of the gas sector at the state level and the consequent failure to adopt state-level legislation to that end. On 29 November, the Energy Community Ministerial Council again announced measures against BiH if it fails to comply with its commitments in the next six months.

Unilateral financial cutbacks imposed by the RS on the BiH Public Railways Corporation in 2016 and 2017 deprived the Corporation of funds equivalent to one RS annual budget contribution. However, in 2018 the RS fully complied with its financial obligations. The RS Government's 16 March 2017 conclusion requesting the RS Ministry of

Transport and Communications to initiate a review of the Agreement between the Federation and the RS on the Establishment of a Joint Public Railway Corporation as Part of the Transportation Corporation remains in force and continues to pose a threat to the sole Corporation established (in 1998) under Annex 9 of the GFAP.

IX. Return of Refugees and Displaced Persons

The realization of the right of refugees and displaced persons to return to their pre-war homes remains central to the fulfillment of Annex 7 of the GFAP, as it requires authorities at all levels "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."

Recent incidents have undermined the confidence of returnees to areas where their ethnic group represents a numerical minority. On 10 March, the Ravna Gora Serb ultra-nationalist Chetnik movement (Serb nationalist supporters of WWII Chetnik leader Drazen Mihajlovic) held its annual gathering in the Visegrad area, most wearing black uniforms and insignia similar to uniforms worn by Serb paramilitaries in the 1990s. The BiH Prosecutor's Office is looking into the possibility of criminal charges being brought against some participants for the offence of incitement to national, racial and religious hatred, discord or hostility.

Also in March, a Muslim cleric in the town of Novi Grad reported receiving threatening messages on his mosque's social media account. In Prijedor, a mosque was vandalized and in a separate incident a Serb resident attacked his Bosniak neighbor, reportedly for displaying the BiH state flag. In Vlasenica, a returnee found several explosive devices on his property. Police in Prijedor arrested suspects in both incidents there.

Education remains a contentious issue in several returnee communities. The RS authorities continue to refuse to acknowledge the right of Bosniak returnee schoolchildren to refer to their language as "Bosnian," despite a 2016 decision of the BiH Constitutional Court guaranteeing this right, opting instead for the selective application of a provision of the entity constitution referring to "the language of the Bosniak people" while referring to the language of the other two constituent peoples as "Serbian" and "Croatian."

Serb returnee parents in some parts of the Federation, continue to seek the introduction of the Serbian language in their children's education, without success.

X. Media Developments

The environment for media professionals in BiH remains challenging According to the BiH Journalists' Association and its Free Media Helpline, from September 208 until 1 April, there were 35 reported violations of journalists' rights, which included five death threats. In February, the trial commenced against individuals charged with attempting to murder TV BN journalist Vladimir Kovačević, who was brutally attacked on 26 August 2018. The alleged attack by an SDA municipal official in March against a photojournalist for the online news magazine "Žurnal" resulted in a criminal complaint. Media professionals in Republika Srpska have voiced their concerns over the announced changes to the RS Law on Public Order, expressing concern that the provisions of the new law could affect freedom of expression and assembly.

There continues to be no progress in the functioning of the BiH Public Broadcasting System (PBS), and its independence is still compromised by problems in financing and management and a reluctance to implement the legal requirements for system integration. These problems are reflected in a delay in the digitalization of broadcast signals since 2015 and inconsistencies in the method of collecting radio-television tax.

XI. European Union Military Force

The EU military mission in BiH (EUFOR) with its continued executive mandate plays a vital role in supporting BiH's efforts to maintain a safe and secure environment. In this context, I remain concerned over the disproportionate purchases of long-barrelled weapons by some law enforcement agencies.

With this in mind, I believe monitoring weapons and ammunition stocks from the BiH Armed Forces and the police services is an appropriate measure to ensure better situational awareness and promote confidence building across a highly fragmented law enforcement sector.

XII. Future of the Office of the High Representative

The PIC SB Political Directors met in Sarajevo on 4-5 December 2018 to assess progress in implementing the GFAP, again underlining their unequivocal commitment to BiH's territorial integrity and sovereignty, and their full support to me as the High Representative in ensuring respect for the GFAP and carrying out my mandate under Annex 10 and relevant UN Security Council Resolutions. The Political Directors emphasized the need to complete the 5+2 agenda, which remains necessary for the OHR's closure. The PIC SB next meets in June 2019 in Sarajevo.

Streamlining operations is a responsibility we all share and the results of my office's efforts over time are evident. Since the beginning of my mandate in 2009, the OHR's budget has reduced by 53 percent and my staff by over 58 percent. Resources must follow the mandate and as there is still work ahead of us, further cuts would take us beyond streamlining. Without the appropriate level of resources, the capacity to fulfill my mandated responsibilities, implement the Dayton Peace Agreement and fulfill the conditions for closure is restricted.

XIII. Reporting Schedule

In keeping with the practice of submitting regular reports for onward transmission to the UN Security Council as required by Security Council Resolution 1031 (1995), I herewith present my 21st regular report as High Representative. I would be pleased to provide additional information at any time, should the UN Secretary-General or any member of the UN Security Council require it. The next regular report to the UN Secretary-General is scheduled for October 2019.

NOTES:

[i] "If this reaches the Constitutional Court, we have said… We all gathered, both the government and the opposition, and said that we would undertake measures for determining our status. There should be no doubt over what that would mean, we will undertake measures, carry out a referendum and secede from Bosnia and Herzegovina." *BiH Presidency Chair/SNSD President Milorad Dodik, RTS "Uptinik," 26 February 2019*

[ii] "[Foreigners] know that Serbs would secede from BiH at the first opportunity to do it without violence and war, and Milorad Dodik is not the only one who thinks so, but the majority of people." *BiH Presidency Chair/SNSD President Milorad Dodik, Radiosarajevo.ba/Srna, 10 January 2019*

"BiH is not the place of our freedom, our freedom is only the RS connected with Serbia, and that is what we see." *BiH Presidency Chair/SNSD President Milorad Dodik, Radiosarajevo.ba/Srna, 10 January 2019*

"We are already separated, it just has not been declared yet (…) The most stable option would be if Serbs were to unite in a single prosperous state of Serbia." *BiH Presidency Chair/SNSD President Milorad Dodik, Večernje Novosti, 15 April 2019*

[iii] The BiH Constitutional Court has not yet decided on a legal challenge to this provision filed by the then BiH HoR Chair Borjana Kristo (HDZ BiH) in January 2018.

[iv] "When Kosovo declared itself independent, two days later we said: the moment Kosovo joins the UN and is accepted, we feel it is our right to secede our Republic. This is what our resolution states(…)Another thing, I will say this publicly for the first time, I think that in this regard, if there is such a constellation, Croats will also not miss the opportunity to secede from Bosnia and Herzegovina." *BiH Presidency Chair/SNSD President Milorad Dodik, RTS "Uptinik," 26 February 2019*

"But at the same time, I cannot rule out any developments in the future, even a declaration of independence by the Republika Srpska, whatever the context may be. I think this is entirely rational." *BiH Presidency Chair/SNSD President Milorad Dodik BHRT "Jedan", 4 April 2019.*

"All if this will end with a referendum. The basic right on which we have conceptualized each of our activities is the right of a people for self-determination…" *BiH Presidency Chair/SNSD President Milorad Dodik, ESPRESO INTERVJU NEDELJE, 8 April 2019.*

"BiH is a failed state. That is clear to everyone except for international players." *BiH Presidency Chair/SNSD President Milorad Dodik*, RTRS, 9 April 2019.

[v] “Genocide has not been committed, you know that. A serious crime was committed, which has been sanctioned in such a way that a significant number of perpetrators – almost all of whom were not defended by the RS – have received their sentences for that, but those who have committed crimes against Serbs have not. And that’s the problem.” *BiH Presidency Chair/SNSD President Milorad Dodik, Alternative TV Banja Luka, 15 January 2019*

[vi] “Did Karadzic make any decision to attack civilians somewhere? No.” *BiH Presidency Chair/SNSD President Milorad Dodik, Pink TV, 19 March 2019*

[vii] “We reject the qualifications of the ICTY on the Joint Criminal Enterprise that are unfairly and unfoundedly attributed to the Republic of Croatia, the Croatian Republic of Herzeg-Bosnia and the Croat Defense Council. Such a malicious qualification is unfortunately being used as an attempt to accomplish wartime goal of one side in the war in BiH of eliminating the Croat people as a political subject in BiH. The ICTY was not qualified in the case “Prlic et al,” nor is it qualified at all, as they themselves adjudicated in 2007, to decide on the matters of state responsibility, because they have criminal jurisdiction that extends only to individuals.” *HNS BiH Declaration, 26 January 2019*