

39th Report of the High Representative for Implementation of the Peace Agreement on Bosnia and Herzegovina to the Secretary-General of the United Nations



THIRTY-NINTH REPORT OF THE HIGH REPRESENTATIVE FOR IMPLEMENTATION OF THE PEACE AGREEMENT ON BOSNIA AND HERZEGOVINA TO THE SECRETARY-GENERAL OF THE UNITED NATIONS

16 October 2010 – 20 April 2011

I. SUMMARY

1. This report covers the period from 16 October 2010 to 15 April 2011. Apart from visa liberalization which came into effect on 15 December 2010, the authorities have failed to address any long-needed reforms. As a result there

has been no progress towards either European Union or NATO integration. In particular, no progress has been achieved in addressing key reforms which are required for further progress toward EU integration, such as implementing the ruling of the European Court of Human Rights in the “Sejdic and Finci” case, and adopting and implementing state-level laws on a population census and state aid. Equally, completion of the five objectives and two conditions necessary for the closure of the Office of the High Representative (OHR) has been stalled.

2. During the reporting period, legal and political actions from Republika Srpska challenging the state-level institutions of Bosnia and Herzegovina (BiH), their competencies and laws, the authority of the High Representative and the Steering Board of the Peace Implementation Council, have intensified. In April 2011, the Republika Srpska National Assembly adopted parliamentary conclusions and a decision to hold a referendum which would potentially reject the authority of the BiH Court and Prosecutor’s Office within that entity, as well as the High Representative’s authorities, in particular laws enacted by the High Representative. These actions are in conflict with the General Framework Agreement for Peace (GFAP) – Annexes 4 and 10. In addition, during the reporting period, there have been further challenges from the RS related to Annexes 2, 4 and 10 of the GFAP.
3. Since the general elections held in October 2010, the use of nationalistic and divisive rhetoric has increased substantially within both entities, at times rising to the level of hate speech. Republika Srpska authorities have openly called for state dissolution, questioning the integrity and sovereignty of BiH and refuting the legitimacy of the BiH Constitutional Court and other state level institutions. Other Republika Srpska political leaders have frequently questioned the sustainability of BiH. The same leaders also continued to challenge the rulings of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Court of Justice (ICJ) that qualified the massacre of Bosniaks who had sought refuge in the United Nations-protected area of Srebrenica in July 1995 as genocide.
4. Political leaders in the Federation have also increased their inflammatory rhetoric, and following the general elections there were calls for the establishment of a third [Croat] entity. In April 2011, two Bosnian Croat parties, HDZ BiH and HDZ 1990 led the organization of a Croat National

Assembly in Mostar to highlight their dissatisfaction with the position of Bosnian Croats within BiH. They complained about the way the Federation authorities were formed and called for a Croat majority federal unit to be formed through constitutional changes.

5. Following the general elections in October 2010, relations within the Federation became tense due to a political impasse over government formation. The two HDZ parties, in breach of the Federation Constitution, prevented the formation of the Federation House of Peoples by blocking the elections of the delegates from Croat majority cantonal assemblies to that body. This in turn prevented the timely formation of the Federation authorities, which were elected only in March 2011. At the time of writing, more than six months after elections, still not all delegates had been appointed to the Federation House of Peoples. Equally, numerous vital positions in the Federation remain unfilled due to disputes over ethnic representation in these institutions.
6. The negative political atmosphere has led to the failure of the parties to form a state-level government since the October 2010 general elections. A caretaker government has been in place at State level since the elections. In addition, the BiH Parliamentary Assembly has also not been functioning in the past six months, and no delegates to the BiH House of Peoples have been appointed from the House of Peoples of the Federation Parliament. Consequently, no legislation has been adopted at the state-level in the past six months. Equally, a regular state-level budget has not been adopted. On a more positive note, the new BiH Presidency, which is elected directly, is operational, and cooperation among the three members has improved in comparison to the previous mandate.
7. None of the outstanding objectives and conditions necessary for the closure of the Office of the High Representative (OHR) was met during this reporting period. To the contrary, there was regression in relation to state and defense property, and there have also been difficulties in implementing the objectives to fiscal sustainability and the rule of law. The Republika Srpska government has taken unilateral steps to regulate state property by adopting its own State Property Law. If implemented, this law would make completion of two of the objectives set as prerequisites for OHR's closure – specifically those dealing

with the apportionment of state and apportionment of defense property – far more difficult if not impossible. In relation to Brcko District, Republika Srpska has complied with the High Representative's 18 September 2009 Decisions on the Brcko District's electricity supply. However, the RS continues to send signals that raise questions about its commitment to fundamental provisions of the Brcko Final Award.

8. Through its continued presence, the European Union military mission in Bosnia and Herzegovina (EUFOR) has continued to reassure citizens that the environment in the country remains safe and secure despite the tense political situation. The High Representative continues to support the extension of the executive mandate for EUFOR.

II. INTRODUCTION

9. This is my fifth report to the Secretary-General since assuming the post of High Representative for BiH – as well as the post of European Union Special Representative – on 26 March 2009. The present report provides a narrative description of progress made towards attaining the goals outlined in previous reports, registers factual developments, notes relevant statements made during the reporting period, and provides my assessment of mandate implementation in key areas, not least the minimum objectives and conditions which must be met before the OHR can close. I have focused my efforts on facilitating progress in these areas, in line with my primary responsibility to uphold the General Framework Agreement for Peace in BiH, while also facilitating progress towards Euro-Atlantic integration. Regrettably, a substantial part of my efforts has been dedicated to redressing negative developments, in particular divisive actions taken against BiH's state institutions.

III. POLITICAL UPDATE

General political environment

10. On 8 November 2010, the European Union member states adopted a Decision to abolish short-term visa requirements for BiH citizens holding biometric passports. This decision entered into force on 15 December and has been widely welcomed and celebrated in the country. BiH also served a successful term as president of the UN Security Council during January 2011. These were the main positive developments during the reporting period.
11. At the same time, and despite international efforts to improve relations in the region, the overall political climate inside BiH continued to deteriorate. As a result, there has been no progress on the Euro-Atlantic integration agenda or in addressing the outstanding objectives and conditions for the closure of the OHR.

General Elections Aftermath

12. The general elections in BiH were held on 3 October 2010. In its preliminary assessment, the Office for Democratic Institutions and Human Rights (ODIHR) and other international election monitoring missions considered that the elections were free and fair and generally held in line with international standards. However, they noted that the general elections – based on the Election Law and the BiH Constitution – violate the European Convention of Human Rights and its Protocols. ODIHR and other international election observers reiterated that BiH urgently needs to amend its Constitution and Election Law in this regard. Although the elections were conducted professionally by the BiH election authority, cases of electoral fraud surfaced in BiH's both entities. The BiH election authority sanctioned officials responsible for electoral fraud and reported those cases to the State Prosecutor's Office.[\[1\]](#)
13. Following the confirmation of the election results on 2 November 2010, Republika Srpska had formed a government by 1 February 2011. Government formation in the Federation was

far more complicated, and the government which was established in late March has been challenged on political and legal grounds, in particular by the HDZ BiH and HDZ-1990. A state-level government is yet to be formed, more than six months after the elections. Mayoral elections were held on 16 January in eight municipalities across BiH. In six municipalities (Bihac, Vogosca, Srebrenik, Srbac, Orasje/Donji Zabar, Odzak/Vukosavlje) elections were necessitated by the election of the incumbent mayors to legislative posts in the October General Elections. In two other municipalities (Kalesija/Osmaci and Sekovici), the mayors had been recalled under the relevant laws.

Challenges to the General Framework Agreement for Peace (GFAP)

14. During the reporting period, anti-Dayton activities have continued (specifically in relation to Annexes 2, 4 and 10 of the General Framework Agreement for Peace), and the use of nationalistic and provocative rhetoric has increased substantially.
15. In September 2010, the Republika Srpska Government tasked the responsible Republika Srpska authorities to draw up an action-plan to make a precise description of the Inter-Entity Boundary Line (IEBL) and to mark it. It threatened unilateral action in the future should attempts to demarcate the IEBL as prescribed in the Dayton Peace Agreement not proceed quickly. Worryingly, Republika Srpska authorities have adopted legal acts and still use official maps which define the RS "border" as running along the wartime IEBL through Brcko District (the IEBL in the Brcko District was abolished under the Final Award). To date, the Republika Srpska authorities have declined to provide assurances that Republika Srpska will honor Annex 2 of the GFAP and all aspects of the Brcko Final Award. The Federation provided such assurances in early 2011.
16. Political leaders from Republika Srpska have continued to

question the sovereignty and sustainability of BiH, and they have openly called for the dissolution of BiH^[2]. They have also rejected the authority of the BiH Constitutional Court, and the competences of other state level judicial institutions^[3]. In particular, on 13 April the Republika Srpska National Assembly adopted a set of conclusions rejecting the authority and the competences of state level judicial institutions as well as directly challenging the High Representative and his powers and in particular the laws enacted by the High Representative. The Conclusions undermine the entire constitutional system of division of responsibilities between the State and the Entities as established by Annex 4 of the GFAP, the Constitution of BiH, and as further interpreted by the Constitutional Court of BiH through its rulings. The Republika Srpska authorities also adopted a decision on a referendum in that entity on the BiH judicial institutions, the legislation creating them, and the powers of the High Representative. The holding of a referendum on the High Representative's powers and BiH legislation are in breach of the BiH Constitutional Framework and BiH's international obligations.

17. In response to language in the Peace Implementation Council (PIC) Steering Board's 1 December 2010 communiqué condemning genocide denial in relation to Srebrenica, the Republika Srpska authorities issued a statement describing the PIC Steering Board's position as "arbitrary", "unnecessary" and "unacceptable". They have also continued to challenge the rulings of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Court of Justice that qualified the massacre by Serbs of Bosniaks who had sought refuge in the United Nations-protected area of Srebrenica in July 1995 as genocide. These remarks have exasperated representatives of the other nationalities in BiH.

18. Since the election campaign, the leaders of the Bosnian

Croat HDZ BiH and HDZ 1990 parties have continued to call occasionally for a third [Croat] entity. In a December 2010 interview, then Federation President (Bosnian Croat) also referred to the 'realistic possibility' of BiH's dissolution.

High Representative Decisions during the Reporting Period

19. On 5 January, the High Representative issued the *Order Suspending the Application of the Law on the Status of State Property Situated in the Territory of Republika Srpska and Under the Disposal Ban*. Under the said High Representative's Order, the application of the *Republika Srpska State Property Law* remains suspended until a final decision of the BiH Constitutional Court on the said Law enters into force, taking into consideration that there is a need to preserve ownership interests of the State and other levels of government.
20. On 26 January, the High Representative issued a *Decision enacting the Decision on Temporary Financing of the Federation of Bosnia and Herzegovina for the Period January – March 2011* as a substitute for the not-yet-constituted Federation House of Peoples and to avoid the possibility of a halt to all budget payments in the Federation entity.
21. On 28 March, the High Representative suspended two Decisions issued by the Central Election Commission (CEC) pending review by the Federation Constitutional Court. Recalling the OHR Legal Opinion from 2001 and subsequent interpretation from 2007, the High Representative issued a Decision suspending the CEC decisions in order to avoid legal uncertainty. This decision remains in force for the time being.
22. In February, a Decision by the High Representative was prepared in order to annul the decision by the then Federation President and the two Vice-Presidents seeking to appoint three judges to the Federation Constitutional Court. The

Federation authorities' decision would have violated the Federation Constitution and the state level *Law on the High Judicial and Prosecutorial Council* (HJPC Law), as it ignored the respective roles of the Federation House of Peoples and the High Judicial and Prosecutorial Council in the selection process, as provided for in the HJPC Law and the Federation Constitution. Following strong pressure from the international community, the then Federation President finally annulled her own decision.

Five Objectives and Two Conditions for Closure of the Office of the High Representative

23. Backsliding occurred on some of the remaining objectives necessary for the closure of the OHR during the reporting period. Following the adoption of the *Law on the Status of State Property Situated in the Territory of Republika Srpska and Under the Disposal Ban* (RS State Property Law) on 14 September 2010, and the respective request submitted by the Caucus of delegates of the Bosniak people in the RS Council of Peoples, on 10 December 2010 the Council for Protection of Vital National Interests of the RS Constitutional Court ruled that the said law did not violate the vital interest of the Bosniak people. The Council ruled that the Republika Srpska National Assembly is competent under the RS Constitution to regulate, inter alia, the status of state property situated in the territory of Republika Srpska. The ruling also emphasized that the Council is not authorized to assess whether the contested law is in harmony with the provisions of the BiH Constitution or with international agreements.

24. In response to the ruling, and to prevent Republika Srpska from disposing of state property prior to the resolution of planned legal challenges before the BiH Constitutional Court, on 5 January 2011 the High Representative issued his *Order Suspending the Application of the Law on the Status of State Property Situated in the Territory of Republika Srpska*

and Under the Disposal Ban. Under the Order, the application of the Republika Srpska State Property Law is suspended until a final decision of the BiH Constitutional Court on the said Law enters into force, during which any change of ownership rights over state property in the territory of Republika Srpska is prohibited. On 6 January 2011, the Republika Srpska State Property Law was challenged to the BiH Constitutional Court.

25. The BiH Commission for State Property held only one session during the reporting period, on 21 December 2010. The commission reviewed over 50 requests for exemptions from the High Representative's temporary ban on transfers of State Property, seven of which were approved. Given the pending legal challenge to the Republika Srpska State Property Law and the High Representative's 5 January Order, the Commission members suspended work on a state-level draft state property law.

26. Chances are diminishing for BiH to make the reforms necessary for the start of its NATO MAP-related Annual National Program by September 2011. The parties maintain diametrically opposed views on the right of the State to own prospective immovable defense properties. At the same time, administrative and political hurdles still hinder the destruction of larger quantities of unsafe ammunition, weapons and explosives. In mid-March 2011, the BiH Presidency requested the immediate suspension of the issuance of licenses for weapons and military equipment export from BiH. The OSCE Mission to BiH and UNDP welcomed the decision in light of the recent weapons exports by BiH to Armenia and Azerbaijan in breach of BiH's commitments to the OSCE's Principles Governing Conventional Arms Transfers, and in conflict with the EU's Council Common Position 2008/944/CFSP.

27. The resolution of the Brcko electricity issue marked an important step forward in terms of the Entities meeting the

conditions for closing the Brcko Arbitral Tribunal and Supervision (although a number of Entity obligations to the Brcko District are not yet met – including debts owed to the Brcko District, Entity citizenship, voting rights, and parliamentary ratification of legislation related to allocation of indirect tax revenues). Given the progress made, the Supervisor conducted consultations with all concerned parties regarding the future of international engagement in the Brcko District. Unfortunately, questions remain regarding the Entities’- particularly the Republika Srpska’s – commitment to honoring fully all previously undertaken obligations under the Brcko Final Award. Strong, unambiguous assurances from the RS regarding its commitment to fulfilling these obligations in the future would facilitate a discussion about the possible closure of the Tribunal and Supervision.

28. There has been only limited or no progress in implementation of the two objectives for OHR’s closure already declared completed. These relate to the rule of law and fiscal sustainability.

BiH State-level Institutions

BiH Presidency

29. Two of the three members of the former BiH State Presidency – Serb member Nebojsa Radmanovic and Croat member Zeljko Komsic – won re-election in the October 2010 General Elections. SDA candidate Bakir Izetbegovic won an unanticipated victory over incumbent Haris Silajdzic as the Bosniak presidency member. The new BiH Presidency was sworn in on 10 November 2010. During the reporting period, the new Presidency has held seven regular and five extraordinary sessions.

30. The BiH Presidency has placed strong emphasis on regional cooperation. On 31 January/1 February, the Presidency visited Croatia. This was the first visit of the tripartite

Presidency to Croatia in four years and the first trip by the BiH Presidency outside BiH since the October 2010 elections. Although the two sides emphasized good relations and offered verbal commitments to European Union integration, they made little concrete progress in resolving the numerous open issues between the two countries. The BiH Presidency also visited Slovenia on 28 February, and Slovenian authorities expressed their full support for BiH's European Union perspective. Following his election, Bosniak Presidency member Bakir Izetbegovic – while visiting Serbia – apologized for every innocent victim killed by the BiH Army during the war.

Council of Ministers

31. The performance of the Council of Ministers deteriorated further during the reporting period. Although it has continued to meet regularly in a caretaker capacity since the General Elections of 3 October 2010, there has been little of substance achieved.[\[4\]](#) The Council of Ministers approved the Annual Platform on Intelligence-Security Policy and the Communications Strategy together with an action plan for its implementation for the period 2010-2011 to improve transparency in institutional decision-making. The Council of Ministers also acted on a number of appointments.[\[5\]](#)

BiH Parliamentary Assembly

32. The BiH Parliamentary Assembly has been non-operational in the past six months due to the political stalemate, and the delegates to one of the chambers, the BiH House of Peoples, have not yet been appointed. Although the political parties represented in the BiH Parliamentary Assembly have met on numerous occasions since the general elections, they have failed to agree on appointing leadership positions in the parliament. These disagreements delayed the inauguration of the BiH House of Representatives until 30 November. As a result of the political stalemate, no legislation has been

passed in the reporting period.

33. As the BiH Parliamentary Assembly was unable to appoint a new delegation to the Parliamentary Assembly of the Council of Europe after the October elections 2010, the members of BiH's national delegation to the Parliamentary Assembly of the Council of Europe lost their rights to be present in the Assembly on 11 April 2011. As a consequence Bosnia and Herzegovina will not be allowed to participate in the work of the Council of Europe Parliamentary Assembly and its committees until a new delegation is sent.

BiH suspended from FIFA and UEFA

34. BiH was suspended from the International and European Football Federations (FIFA and UEFA) on 1 April. On 5 March, the BiH Football Federation rejected changes to its statute, which were demanded by FIFA and UEFA and which would have streamlined the BiH Football Federation so that it would have one President instead of a three-member Presidency. Representatives from Republika Srpska voted against these required changes.

Republika Srpska

Government Formation

35. While the Republika Srpska Government had been approved by the Republika Srpska National Assembly on 29 December 2010, its formal approval only came on 1 February 2011, after the Vital National Interest (VNI) Panel of the Republika Srpska Constitutional Court ruled that the appointment of the Republika Srpska Prime Minister did not violate Bosniak VNI. The Bosniak Caucus of the Republika Srpska Council of Peoples had argued that appointment of the Prime Minister

(Serb) contravened the ethnic distribution of six high offices in Republika Srpska mandated by the Republika Srpska Constitution.

36. The Bosniak Caucus of the Republika Srpska Council of Peoples has also put two additional matters to the Republika Srpska Constitutional Court, one relating to that institution's decision-making processes, the other as to whether or not the Republika Srpska Council of Peoples has been legally formed. These appeals are pending. The Bosniak Caucus has also sought the opinion of the High Judicial and Prosecutorial Council of Bosnia and Herzegovina on alleged violations of age limits by Republika Srpska Constitutional Court judges.

Political Developments

37. The Republika Srpska Government has continued to criticize the BiH Missing Persons Institute (MPI) and Serbs working in that institution. Pressure against them has been especially intense during the reporting period. This has led to the resignation of Serb members of the MPI Managing Board. The campaign included picketing their offices and was amplified by media close to the Republika Srpska Government.

38. The BiH Journalists' Association, which had been founded in 2004 as a country-wide association, disintegrated after Republika Srpska-based journalists left to form their own separate association, the Independent Association of Republika Srpska Journalists, on 10 January.

Federation of Bosnia and Herzegovina

Government Formation Crisis

39. There were significant delays in forming the Federation Government, which was established only on 17 March. The government formation was prevented by political disputes between two political blocks and by significant delays by

some Cantons to appoint their delegates to the Federation House of Peoples. The Cantons in question (all of them majority Croat Cantons) acted in violation of the Federation Constitution and the BiH Election Law. At the time of writing, one of these Cantons had still not elected its delegates to the Federation House of Peoples.

40. Following a months-long deadlock, on 17 March, the SDP, SDA, HSP and NSRzB parties convened a session of the Federation House of Peoples and formed the Federation government, despite the fact that not all delegates had been elected from the cantons to the Federation House of Peoples. This led to legal and political challenges from the main Croat parties – HDZ BiH and HDZ 1990, which brought the appointment of the Federation President and Vice Presidents before the BiH Central Election Commission and the Federation Constitutional Court. On 24 March, the BiH Central Election Commission issued two decisions concluding that: first, the elections of the Federation President and the Vice Presidents should be annulled; and second, that the conditions for the formation of the Federation House of Peoples had not been met.

41. As the issue of constitution of the Federation House of Peoples and subsequent formation of caucuses, election of the President and Vice Presidents as well as the nomination of the Government are matters also arising under the Federation Constitution, the HDZ parties also submitted appeals to the Federation Constitutional Court. To avoid competing claims and in order to prevent legal ambiguity, the High Representative issued a Decision temporarily suspending the decisions of the Central Election Commission. This Decision provoked strong reactions from the HDZ BiH and HDZ 1990, as well as from Republika Srpska. In the meantime, the requests to the Federation Constitutional Court have been withdrawn. The Decision of the High Representative remains in force for the time being.

Federation Budget

42. Following its adoption by the Federation Government on 24 March and the Federation House of Representatives on 25 March, the Federation Budget for 2011 was adopted by the Federation House of Peoples on 26 March. Although the budget will probably be rebalanced within 90 days, its adoption prior to the expiry of the temporary financing period on 31 March has allowed for undisturbed budget payments and has prevented new elections in the Federation.

Appointments in the Federation

43. Due to strained relations in the Federation, numerous vital positions have remained vacant for over two years. These include three seats on the Federation Constitutional Court bench. Moreover, the Federation has failed to meet obligations under its Constitution for an equal distribution among the three constituent peoples of six key positions in the entity's executive, legislative and judicial institutions.

44. On 3 February, the then Federation President and the two Vice-Presidents signed a decision seeking to appoint three judges to the Federation Constitutional Court. This decision violated the Federation Constitution and the state level *Law on the High Judicial and Prosecutorial Council*, ignoring the prescribed role of the Federation House of Peoples and the High Judicial and Prosecutorial Council in the selection process. However, following strong pressure from the international community, the then Federation President annulled her decision appointing the judges, citing the withdrawal of the Croat candidate's application as the reason.

IV. EUROPEAN PARTNERSHIP PRIORITIES AND VISA LIBERALIZATION

45. There has been no progress addressing the European Partnership priorities during the reporting period. Key EU

conditions, such as the adoption of a state-level census law, a state-level state aid law and necessary amendments to the BiH Constitution and the BiH Election Law, were not met. Reforms designed to create a single economic space, including the adoption of a single law on obligations and the establishment of a single system of banking supervision, also remain blocked.

46. Following the recommendation of the European Commission and its approval by the European Parliament, the Council of the European Union adopted a Decision on 8 November 2010 to abolish visa requirements for BiH citizens. The Decision came into force on 15 December 2010. The new visa-regime allows BiH citizens who are in possession of a valid BiH biometric passport entry into the Schengen area, Bulgaria and Romania without a visa. BiH authorities have issued more than 630,000 biometric passports.

47. With regard to the implementation of the April 2008 laws on police reform, the BiH Council of Ministers, in February 2011, amended an earlier decision on the Handover of Tasks, Facilities, Equipment and Employees between BiH Ministry of Security, SIPA and the Directorate for Police Coordination allowing for a special pay increment for police officials employed in the Directorate for Police Coordination. In October 2010, the BiH Council of Ministers adopted a Conclusion approving the Information on Construction of a New Facility for the Agency for Education and Advanced Training of Personnel, which included a financial projection for the construction of the new facility for the aforementioned Agency.

V. PUBLIC ADMINISTRATION

48. Numerous senior service appointments remain long overdue at the state-level, including the appointment of a new Head of the Communications Regulatory Agency (over three years overdue), the Head of the Indirect Tax Authority, members of

the Communications Regulatory Agency Council (a year and a half overdue), and the General Manager of the Company for the Transmission of Electric Power in BiH (one year overdue), all of which affect the efficiency of decision making in these institutions.

49. In October 2010, the Federation Constitutional Court adopted another decision that weakened Federation institutions and opened the door to further Constitutional Court challenges to Federation and cantonal legislation. In the ruling, the Court determined that certain Articles of the *Law on Federation Ministries* were not in accordance with provisions of the Federation Constitution, and that education and cultural policy belonged to the competency of the cantons. The Court gave the Federation Parliament six months to harmonize inconsistent provisions with the Federation Constitution, during which time the provisions shall remain in force on an interim basis. This judgment was the second successful initiative by the former Federation President to challenge legislation related to the distribution of entity and cantonal responsibilities. The implementation of this decision will impact future Croat-Bosniak coalitions at the Federation level, as Croats are expected to seek decentralization and broader local autonomy for the cantons. During the reporting period, the majority of the Cantons took steps toward establishing their own civil service administrations.

50. The BiH Public Administration Reform Strategy and its various action plans remain only partially implemented.

VI. CONSTITUTIONAL REFORM

51. No concrete progress has been made on constitutional reform during the reporting period. However, under a German initiative the main political parties in BiH continued their discussions about constitutional reform issues, such as the implementation of the 2009 ruling by the European Court for

Human Rights in the “Sejdic-Finci” case. These discussions did not lead to concrete results due to the general political impasse in the country.

VII. ENTRENCHING THE RULE OF LAW

National Justice Sector Reform Strategy

52. The 22 December 2010 5th Ministerial Conference saw numerous messages of support for the judiciary from both entities and the international community. The President of the High Judicial and Prosecutorial Council called for improved judicial coordination.

53. In 2010, the Justice Sector Reform Strategy 2009-2013 saw 52 per cent of its activities fully and 29 per cent partially implemented. However, these numbers are misleading as most of the alleged successes were either of less importance or actually achieved by the High Judicial and Prosecutorial Council. Activities requiring legislative amendments to ensure a higher degree of coordination, such as the Federation Law on Prosecutor’s Offices, remain pending.

54. The five functional working groups met twice during the reporting period (in November 2010 and April 2011). The 9 December 2010 session of the Technical Secretariat – not attended by the Entities’ Ministries of Justice – was exclusively dedicated to preparing the 5th Ministerial Conference, but also concluded that the approach to implementation must be changed. This is also the position of the international partners monitoring the implementation process, who have decided to move from a simple monitoring of the process into a more pro-active support to the implementation of the Strategy’s identified key projects, by engaging directly all new Ministers of Justice. This approach is also favored by representatives of institutions responsible for implementing the strategy.

War Crimes Prosecution Strategy

55. There has been some progress in implementing the National Strategy for Processing of War Crimes. A database of outstanding war crimes cases has been established and the categorization of these cases has started. This has enabled an estimate about how many cases will be dealt with by the state level judicial institutions and how many by lower levels. Importantly, the number of indictments in war crimes cases in 2010 has significantly increased in comparison to previous years. Also, the transfer of cases from the state to the entity level has started, with 45 cases transferred so far.

Regional Judicial Cooperation

56. Regional judicial cooperation in enforcement of court decisions^[6] has continued to improve. By mid February 2011, the BiH Ministry of Justice had received 38 requests for enforcement of criminal sanctions from Croatia, enforcing five, and 11 requests from Serbia, enforcing two to date. BiH sent 44 requests to Croatia, (three enforced), and 44 to Serbia (four enforced). In December 2010, the Court of BiH Appellate Division confirmed the eight-year sentence rendered in Croatia in the high profile case against a former member of the Croatian Parliament for war crimes against civilians, who is now serving his sentence in a penitentiary facility in BiH.

57. Following controversies regarding two cases of arrest of BiH citizens pursuant to warrants issued by the Serbian prosecutor's office for alleged war crimes (Jurisic case in Serbia and Ganic case in Great Britain), the situation seemed to have stabilized with the adoption of a resolution at the INTERPOL General Assembly meeting in November 2010^[7] in relation to co-operation with new requests concerning genocide, crimes against humanity and war crimes. This resolution concluded a process initiated by INTERPOL in June

2009 in relation to the issuance of an international red arrest warrants by Serbian authorities in relation to the Ganic case.

58. However, on 5 January 2011 a citizen of Croatia was arrested in BiH at the border crossing in Orasje on the basis of an arrest warrant for war crimes issued by Serbia. Following hearings in BiH, on 3 March 2011 the War Crimes Prosecutor's Office of Serbia dropped the charges for lack of evidence. This case emerged in spite of the *Agreement on Cooperation in the Prosecution of Perpetrators of War Crimes, Crimes against Humanity and Genocide* signed between the Chief State Attorney of the Republic of Croatia and the War Crimes Prosecutor of the Republic of Serbia in October 2006. Similarly, Jovan Divjak, a BiH citizen and former general, was arrested in Austria on a Serbian warrant in relation to the so-called "Dobrovoljacka Street" case.^[8] The same incident had led the London's City of Westminster Magistrates' Court to reject in July 2010 Serbia's request for extradition of Ejup Ganic, stating in its ruling that "*these proceedings are brought and are being used for political purposes and as such amount to an abuse of process of this court*".

Other Rule of Law Issues

59. In accordance with the plans of the Registries of the Court and the Prosecutor's Office of BiH, the total number of international judges has dropped from six to four,, all working on war crimes cases. They are supported by six international legal officers (three in the Court and three in the Prosecutor's Office), four international investigators, and one international advisor in the Prosecutor's Office Department for Organized Crime, Economic Crime and Corruption. All positions are fully financed. After positions of international prosecutors in the Prosecutor's Office Department for Organized Crime, Economic Crime and Corruption were cut at the end of 2009, it appears

there has been no progress in organized crime and corruption cases previously dealt with by the international prosecutors. In particular, this tendency appears to hold true for cases involving certain high level political figures.

60. Long term international support to the Court and Prosecutor's Office of BiH should be ensured by the adoption of a Medium Term Institutional Development Plan to help identify future priority projects at a time of decreased funds available for state judicial institutions. However, growing problems have appeared in relation to the activities of the Transition Council, the coordination body that supervises the implementation of the Registry agreement. The process of integration of the Registry into BiH institutions is experiencing delays, primarily due to the lack of support from the competent authorities, respectively the BiH Ministry of Justice and Ministry of Finance. The BiH Ministry of Justice has not yet completed integration of the Court's Criminal Defense Service. The 2004 IT system used by the Court and the Prosecutor's Office requires immediate upgrading to avoid collapse. The lack of space to accommodate the two institutions creates additional problems. While some international donors expressed interest in financing solutions, delays are encountered in fulfilling technical obligations.

61. The Federation Constitutional Court lacks three out of nine judges, which means that the Court is still unable to rule on cases of vital national interest.

High Judicial and Prosecutorial Council Working Group

62. The High Judicial and Prosecutorial Council's (HJPC) working group tasked to draft amendments to the *Law on the High Judicial and Prosecutorial Council of BiH*, has met regularly over the past months. This working group, comprised mostly of representatives of the judiciary (from HJPC, the State, the Entities and the Brcko District) and

one representative of the international community, has concentrated its work on the composition of the council, election of its members, appointment and discipline of judges and prosecutors. Once the HJPC proposal is finalized, the BiH Ministry of Justice intends to appoint a new, more restricted working group to prepare the final text of the amendments to be submitted to the Council of Ministers.

State Prison

63. The building of the State Prison, which is now estimated to cost 39.6 million Euro, has been increasingly criticized as being too expensive and not adapted to BiH's needs, in particular by representatives from Republika Srpska. Overall prison capacity was increased in both Entities, and authorities from both entities have indicated that their newly created prison space complies with all European standards while costing less than the State Prison. The project of introducing electronic bracelets for house imprisonment of persons sentenced to short terms (up to one year) or for conditional release is on stand-by, since the amendments planned by the Federation government to Federation criminal legislation and to the special law on execution of criminal sanctions are pending.

Fight against Corruption

64. There has been little progress in the fight against corruption. Recently, the High Judicial and Prosecutorial Council has repeatedly called for the judiciary to dedicate more time and means to the fight against corruption. Looking more concretely at the work of the BiH Prosecutor's Office Special Department for Organized Crime, Economic Crime and Corruption, five indictments for abuse of office were filed and confirmed by the Court of BiH in 2010, and none so far in 2011. The BiH Prosecutor's Office, however, indicated at the beginning of 2011 that a number of important corruption-related indictments would be filed shortly.

65. There was little progress on the appointment of a permanent director (and two deputies) of the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption. The special committee appointed by the BiH Parliamentary Assembly, responsible for initiating the selection procedure for the Director of the Agency, established a ranking list of the candidates in December 2010. However, the final appointment of the Director and two deputies by the BiH Parliament cannot be completed because the BiH House of Peoples has yet to be constituted. Since June 2010, an Acting Director has headed the Agency, even though this temporary appointment is not in compliance with the law. The establishment and functioning of the Agency for the Prevention of Corruption and Coordination of the Fight against Corruption was a requirement for the 2010 decision on visa liberalization by the EU.

Public Security and Law Enforcement

66. There have been increased efforts by the Federation and cantonal authorities to update internal affairs legislation to increase the operational and budgetary independence of police commissioners from their respective Ministries of Interior. The process of reviewing the laws on police officials currently in force has continued.

67. In November 2010, the BiH Ministry of Security set up a working group for drafting amendments to the BiH *Law on Police Officials* to permit the Directorate for Police Coordination to employ active police officials directly from other police bodies in BiH until 31 December 2012. This temporary exemption from normal employment procedures could result in accelerated recruitment of new staff in the Directorate. The working group concluded its work in January 2011 and forwarded its proposal to the Ministry of Security. In November 2010, the caretaker Federation Government appointed a new Director of the Federation Police Administration for a four-year mandate.

VIII. ICTY COOPERATION

68. During the reporting period, BiH's cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) remained satisfactory, the priority still being the arrest of Ratko Mladic. This was confirmed during the visit of the ICTY Chief Prosecutor to BiH in April 2011.

69. On 22 December 2010, the UN Security Council adopted a Resolution establishing a residual mechanism to finish the remaining tasks of the ICTY. This body will have the authority to prosecute the most senior persons indicted by the ICTY who are arrested after the completion of the ICTY mandate, as well as those persons who interfere with the administration of justice. This body will not be able to raise new indictments but will be able to conduct review proceedings, supervise the enforcement of sentences and decide on pardons or commutations of sentences. For budgetary and logistical reasons, it has been recommended that the ICTY archives and the seat of the residual mechanism be placed at the same location. The ICTY is expected to complete its work by 31 December 2014.

War Criminals Escape

70. Four individuals, sentenced for crimes against humanity by the Court of BiH remain at large. Radovan Stankovic, sentenced to 20 years imprisonment, escaped from prison in Foca in May 2007 with the assistance of local authorities. His case was the first to be transferred by the ICTY to the Court of BiH. Two other indictees, sentenced to 13 years and 17 years respectively, escaped in May 2009 and May 2010 while under prohibitive measures awaiting delivery of their final verdicts. In December 2010 a fourth accused escaped immediately before the pronouncement of a first instance sentence of 27 years imprisonment for crimes against humanity.

IX. REFORMING THE ECONOMY

71. Economic data for 2010^[9] showed signs of improvement in selected areas. BiH's exports increased by 29.45 per cent over 2009, while imports increased by 10.78 per cent. As a result, the total foreign trade deficit shrunk by 5.66 per cent. Total industrial production also rose by 4.2 per cent in the Federation and 5 per cent in Republika Srpska. The average net salary in BiH in 2010 amounted to 408 Euro, an increase of 1 per cent, while the average pension amounted to 170 Euro, a 1 per cent decrease. Annual inflation was 2.1 per cent. Unemployment and investment data are worrisome: registered unemployment at the end of December was estimated at 522,080 people or 43 per cent, while foreign direct investments in 2010 decreased by 71.4 per cent from 2009.

Indirect Taxation Authority Difficulties

72. The Indirect Taxation Authority (ITA) Governing Board has still not agreed on any long-standing issue within its competence. Since 24 June 2008, there has been no agreement on new indirect tax revenue allocation coefficients, despite the obligation under the *Rulebook on Coefficient Calculation and Payments to the Entities*^[10] that they be decided on a quarterly basis. There has been no rebalancing of the collected and distributed indirect tax revenues, which is also contrary to the obligation to rebalance provided for in the Rulebook. No action has been taken to set up the ITA Governing Board's Final Consumption Unit, although it was agreed by the Board on 24 June 2008. Finally, the ITA Governing Board has not yet agreed on a permanent methodology for reallocation of road toll revenue foreseen by the *BiH Law on Excise Tax*. This blocks 10 per cent of all road toll revenue collected since 1 July 2009, which currently amounts to over 10 million Euro.

73. Republika Srpska authorities have threatened to block all fiscal decisions in BiH because of an alleged debt of 35 million Euro between the ITA and Republika Srpska. They have

threatened with new measures to preserve the revenues belonging to Republika Srpska, stressing that those do not exclude returning indirect taxation competences transferred to the State in 2003. These claims can be read in the context of the Republika Srpska's continued challenges to the indirect taxation system and the State's competence for it.

Fiscal Council

74. The BiH Fiscal Council made no progress toward adopting a *Global Framework of Fiscal Balance and Policies in BiH for the Period 2011-2013*^[11]. The absence of a Global Framework and consequently of a 2011 State budget,^[12] poses the risk that the State will remain on austere temporary financing.^[13] As a consequence, all payments at the State level are now limited to salaries and utilities only. All other payments are either fully suspended or can only be approved in exceptional circumstances. No budget user can initiate any new or expand any current program activity. The temporary financing regime directly affects the State Institutions' ability to meet their legislative and Euro-Atlantic integration obligations.

75. The failure to adopt a Global Framework affects the State and the Entities, as it blocks disbursement under the IMF Stand-By Arrangement and EU Macro-Financial Assistance, without which neither Entity can meet its 2011 financial commitments. The Federation already faced suspension of all budget payments twice this year, and the OHR had to intervene on both occasions. On 26 January 2011, the High Representative enacted the *Decision on Temporary Financing of the Federation for the Period January – March 2011*, which allowed for undisturbed budget transactions in the first quarter of 2011. The High Representative's 27 March 2011 *Order Temporarily Suspending Certain Decisions of the BiH Central Election Commission* allowed for the parliamentary

adoption of the 2011 Federation budget on 26 March 2011.^[14] Republika Srpska is in a difficult situation as well and – as noted above – is seeking to fill the budget. The situation will worsen if IMF and EU disbursement criteria are not met.

Electricity Transmission Company

76. There has been little progress in addressing the problems related to the BiH Transmission Company (Transco). Due to the political situation, the company's management and most of its Management Board are in technical mandates. This includes the Audit Board, which plays a key role in the selection of an independent auditor. The General Manager's refusal to permit an independent audit follows his refusal to permit the State Auditor to conduct an audit in Transco in September 2009. Moreover, all major investments in the electricity transmission infrastructure remain blocked, despite deposited investment funds that have grown to over 100 million Euro. The electricity transmission grid has not been upgraded for almost three years and its capacity to sustain all the grid users is at risk. In a 3 February 2011 assessment, these problems were noted by the three trade unions representing Transco workers from Banja Luka, Mostar and Sarajevo. All share identical views, even though their ethnic composition is different.

X. RETURN OF REFUGEES AND DISPLACED PERSONS

77. On 24 June 2010, the BiH House of Peoples adopted a revised Strategy for the Implementation of Annex 7 of the GFAP. Due to the absence of a new government, there has been no progress made in implementation. There are still approximately 113,000 persons registered as internally displaced, more than 7,000 of which live in poor conditions in collective centers.

78. A new UNHCR envoy working on the protracted displacement

situation in the Western Balkans, visited the region in February to work with the governments to devise regional refugee return projects. The revised Annex 7 Strategy will be part of regional discussions, and gives a good opportunity to further the aim of the Strategy to close the chapter of displacement in BiH by 2014. With the UNHCR office in BiH acting as the lead international agency in this field, the OHR will continue to support its efforts.

XI. MOSTAR

79. On 26 November 2010, the Constitutional Court of BiH ruled on a case submitted by the HDZ BiH that a number of provisions of the Mostar City Statute were unconstitutional. The provisions in question are primarily related to the electoral system for the City Council. While Croat-dominated parties expressed discontent that the ruling did not go far enough, Bosniak-dominated parties expressed concern that it will impact negatively on power-sharing in the city.

80. On 4 April 2011, the Mostar City Council unanimously adopted the City budget for 2011. Given the delays and disputes that have surrounded the adoption of the budget in previous years, this decision offers a ray of hope that the Mayor and the City Council can press ahead and address a wide range of long standing challenges facing the City on its path to full re-integration.

XII. BRCKO DISTRICT [\[15\]](#)

81. The Brcko District Supervisor, the European Commission and the Energy Community Secretariat, continued to work on the Brcko electricity issue. By late January 2011 steps had been taken that effectively closed the Brcko electricity issue.[\[16\]](#)

Tax Revenue Distribution

82. This issue is important to Brcko because 65-70% of the

District revenues come from indirect taxes. To date, however, there is no permanent solution. The protection of Brcko's interests rest on a decision imposed by the High Representative in 2007. Given the RS's formal rejection of the High Representative's authority to legislate, given prior collusion by the Entities to short-change the District, and given the District's lack of a vote on the ITA Governing Board, there are questions as to the sustainability of this arrangement following the eventual departure of OHR. Brcko District Institutions have been encouraged by the Brcko District Supervisor to develop their own proposals as a viable basis for negotiations with the Entities, but have so far failed to do so.

Voter Rights

83. Approximately 25 per cent of Brcko's residents (28,000 persons) could not cast their votes in the recent General Elections, as Brcko residents without entity citizenship are unable to vote. This prompted a decision by the Central Election Commission allowing Brcko residents to declare an Entity voting option in cases where they had neither Entity citizenship nor a declared Entity voting option. Approximately 3,000 Brcko residents used this opportunity and expressed their preference. The number of people without entity citizenship continues to increase as new ID cards are issued. In order to resolve the issue, the Federation will need to enact relevant regulations. Only after all these conditions are fulfilled and Brcko District residents are fully able to declare or change their citizenship will this issue be resolved.

XIII. DEFENSE REFORM

84. In January 2011, the President of the Republika Srpska stated publicly that Republika Srpska would insist on a referendum on NATO membership. Rhetoric aside, BiH made no progress on resolving defense property, a condition for

starting NATO's Membership Action Plan and Objective 2 in the so-called "5+2 agenda" of objectives and conditions for the closure of OHR.

85. Due to paralysis in forming a state-level government, the BiH State budget for 2011 has not been approved. The BiH Ministry of Defense and the Armed Forces of BiH personnel are therefore faced with limited possibilities to engage in training and other activities during the first months of 2011.

86. Between January 2010 and April 2011, the BiH Armed Forces released close to 2,000 military personnel from duty. Around half of those registered for a follow-on NATO Trust Fund – the so-called *NATO Perspektiva Program* – to assist military personnel to transition into civilian jobs. Fewer than a hundred have received assistance to date. The BiH Ministry of Defense met with the Entity Pension Funds and the Entity Ministries for Veterans to discuss the *Amended Law on Service in the AFBiH*. The law was amended just before the October 2010 elections to provide more generous retirement benefits for the soon-to-be-released personnel. Under the legislation, approximately 80 per cent of *NATO Perspektiva Program* beneficiaries are able to exercise the option for earlier retirement, provided funds are found in the BiH state budget. Due to the lack of a state budget, no such funding was made available. Numerous retired soldiers threatened to disrupt the Military World Ski Championships, taking place in BiH from 21-25 February 2011, unless benefits were paid under the amended provisions of the law. Although protests were held in front of the BiH Parliament, no major disruptions to the sports competition were reported.

XIV. INTELLIGENCE REFORM

87. At its regular session, held on 9 March 2011, the BiH Presidency approved the 2011 Intelligence-Security Policy

Platform, which contains the general work guidelines for the BiH Intelligence-Security Agency, OSA. The BiH Parliamentary Assembly has yet to adopt any of OSA's Annual Intelligence-Security Policy Platforms.

88. On 1 February 2011, the Secretariat of the BiH Joint Parliamentary Assembly Committee for Oversight of OSA's Work was again fully staffed, as the posts of the Committee's Secretary and Expert Adviser were filled, following personnel changes in late 2010. The new Committee members are still to be appointed, due to the failure of the Federation to elect delegates to the BiH House of Peoples.

XV. EUROPEAN UNION MILITARY FORCE (EUFOR)

89. EUFOR's troop strength was reduced to some 1,400 personnel after October 2010, but it retains the capacity to bring in over-the-horizon reserves. Its headquarters and peace enforcement capability are based in the Sarajevo area, with liaison and observation teams present throughout the country. EUFOR has also continued to work closely with the Bosnia and Herzegovina Armed Forces, and the introduction of capacity-building and training mandates were welcomed by the BiH Armed Forces as a step towards further strengthening BiH capacities. Contributing to a safe and secure environment continued to be the key EUFOR role – one widely welcomed by BiH citizens. EUFOR also helped the OHR and other international organizations to fulfill their respective mandates. In so doing, EUFOR has continued to serve as an important factor of stability in the country.

90. Preparations are underway to continue EUFOR's executive presence beyond 2011. It is important for EUFOR to retain an executive mandate for at least some months after the closure of the OHR. The European Union Special Representative has continued to offer political guidance and support to the EUFOR mission.

XVI. THE EUROPEAN UNION POLICE MISSION (EUPM)

91. The European Union Police Mission (EUPM) has continued to support the development of the law-enforcement agencies in BiH in the fight against organised crime and corruption, enhancing cooperation between police and prosecutors, police and the prison structure, as well as in promoting accountability within police bodies. The mission has continued its work on the harmonisation of the legal framework for police officers and police bodies and supported further implementation of the police reform laws of April 2008, through its mentoring of the Directorate for Police Coordination. All bodies and agencies foreseen by the April 2008 police reform laws are now formally established and possess the necessary conditions to begin to function. In view of the expiry of its mandate at the end of 2011, the mission will continue to focus on developing the operational and coordination role of the Directorate for Police Coordination, strengthening SIPA as the lead investigative agency, promoting cooperation among law enforcement agencies and fostering cooperation between police officials and Ministers of Interior.

XVII. EUROPEAN UNION SPECIAL REPRESENTATIVE (EUSR)

92. The EU Special Representative (EUSR) mandate has been extended until 31 August 2011. The EUSR has continued to coordinate the various EU missions on the ground. In line with his mandate, the EU Special Representative has offered local political guidance to EUFOR and EUPM. Cooperation with the EU Delegation and the EU member states has also been intense.

93. The EU is finalizing preparations to establish a reinforced, single EU Representative in BiH who will take the lead in supporting BiH on EU related matters. The High Representative will thus no longer be double-hatted as the EUSR. The single EU Representative (EUSR and head of the EU Delegation) will have a broad and balanced set of instruments to maximize the incentives provided by the EU,

in line with established procedures. The EU is also determined to support the GFAP and has adopted a set of restrictive measures in this regard.

FUTURE OF THE OFFICE OF THE HIGH REPRESENTATIVE

94. The Peace Implementation Council Steering Board met at the level of Political Directors twice during the reporting period, on 30 November and 1 December 2010 and on 29 and 30 March 2011. The Peace Implementation Council Steering Board has continued to express its concern over the political situation in the country, as well as the ongoing failure to address the remaining objectives and conditions for the closure of the OHR. As a result of the BiH authorities' failure to meet these objectives and conditions the Steering Board has thus far been unable to take a decision on the closure of the OHR. The next meeting of the Steering Board of the Peace Implementation Council is scheduled to take place on 6 and 7 July 2011.

XVIX. REPORTING SCHEDULE

95. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I herewith present my fifth regular report. Should the Secretary-General or any Security Council member require information at any other time, I would be pleased to provide an additional written update. My next regular report to the Secretary-General is scheduled for November 2011.

[1] The Central Election Commission initiated disciplinary proceedings against polling station committee members in

polling stations where election fraud occurred. To date the Central Election Commission has sanctioned more than 40 polling station members, and referred the cases to the BiH State Prosecutor. More cases are currently under review.

[2] “BiH is still an experiment by foreigners and in order for people here to live better this country must be divided.” RS President Milorad Dodik,,10 March 2011

[3]“Any decision made by the BiH Constitutional Court contrary to our own will not be accepted by the RS.” RS President Milorad Dodik 15 January 2011

[4]It adopted two new laws and five amendments to existing legislation. One of the laws was previously imposed by the High Representative.

[5]The Director and Deputy Director of the Plant Health Administration, Director and two Deputy Directors of the BiH Institutions Common Services and President of the BiH Competition Council. The Council of Ministers finally removed the Acting Director of the Indirect Taxation Administration (ITA) and appointed a new Acting Director for 90 days, tasking the ITA Governing Board to conduct and complete the recruitment procedure for the nomination of a Director within 90 days. The appointment of the Acting Director violated the *Law on Ministerial, Council of Ministers’ and Other Appointments* that states short-term appointments cannot exceed two months and cannot be renewed.

[6]Amendments to bilateral agreements on mutual enforcement of court decisions in criminal matters between BiH, Croatia and Serbia, and on legal aid in civil and criminal matters between BiH and Serbia are in force. The BiH Ministry of Justice also reached agreements on the mutual enforcement of court decisions in criminal matters and on legal aid with Montenegro in July 2010 (to be ratified), and is presently negotiating similar amendments to the existing agreement with the Former

Yugoslav Republic of Macedonia. These agreements were signed to prevent convicted persons from fleeing to neighbouring countries to avoid serving their sentence.

[7] INTERPOL, General Assembly, 79th session, Doha, 8-11 November, Resolution AG-2010-RES-10. By this Resolution, INTERPOL closed the process initiated in June 2009 with the purpose of avoiding possible misuse of INTERPOL. It decided that requests concerning genocide, crimes against humanity and war crimes, when submitted by a member country concerning a national of another member country, shall not be processed via INTERPOL channels if that other member country protests against the request within thirty days.

[8] The case carries the then-name of the Sarajevo Street where the event took place on 3 May 1992 when a JNA (Yugoslav People's Army) convoy retreating from Sarajevo was attacked by the R BiH territorial defense, police forces and paramilitary units resulting in a number of casualties. Retired Republic BiH General Jovan Divjak was a senior officer present at the location of the incident when it occurred.

[9] Source of information: BiH Economic Planning Directorate, BiH Statistics Agency, BiH Foreign Trade Chamber.

[10] The *Rulebook on Coefficient Calculation and Payments to the Entities* was adopted by the ITA Governing Board on 24 June 2008.

[11] Based on the budget calendar, the Framework should have been adopted by the end of May 2010 to allow for the preparation of 2011 budgets at all levels. Disagreement between the Entities and the State on the State's share of 2011 indirect tax revenue is the reason for delays.

[12] On 31 March 2011, the BiH Council of Ministers adopted the Draft State Budget for 2011 and forwarded it to the BiH Presidency as the official budget proponent. However, in the absence of a Global Framework, the chances of seeing the Draft Budget adopted are minimal. Moreover, the budget adoption would require approval by

both parliamentary houses at the State level and the BiH House of Peoples has not yet been constituted.

[13] The *Decision on Temporary Financing of State Institutions and International Obligations for the Period January-March 2011* was adopted by the BiH Council of Ministers on 28 December 2010. On 12 January 2011, the BiH Council of Ministers adopted *Operational Measures for the Implementation of the Decision on Temporary Financing of State Institutions and International Obligations*. On 31 March 2011, the BiH Council of Ministers extended the *Decision on Temporary Financing of State Institutions and International Obligations* until the end of June 2011.

[14] The 2011 Federation Budget was published in the “*Official Gazette of the Federation of Bosnia and Herzegovina*”, number 14/11 of 30 March 2011.

[15] Please also review paragraph 15 of this report with reference to the importance of the Inter-Entity Boundary Line for Brcko

[16] On 21 December 2010, the RS National Assembly adopted amendments to the RS *Electricity Law* that are in line with the State Law as amended in September 2009. On 28 December 2010, the State Electricity Regulatory Commission (SERC) launched internal procedures required to assume regulatory oversight over Brcko, and on 29 December, the Brcko District Assembly harmonized its Law on Electricity with the State Law related to SERC’s responsibilities in Brcko. All these developments created conditions for the Public Utility Company (PUC) to conclude a 12-month renewable contract for electricity supply to Brcko with Elektroprivreda RS on 30 December 2010. The contract allows Brcko residents to be supplied under transparent conditions and regulated prices. On 12 January 2011, SERC adopted a set of Brcko-related bylaws, namely the Rulebook on Issuance of Temporary Licenses for the Performance of Activities of Electricity Distribution and Supply in Brcko District and the Rulebook on the Method for Determining Temporary Tariffs for Non-Eligible Customers in Brcko

District. At its 18 January session, SERC adopted the Decision on issuance of temporary license to the Public Utility Company for activities of electricity distribution and supply in Brcko District. The Decision was issued for the period from 19 January 2011 until 18 January 2013. On 27 January 2011, SERC determined temporary tariff rates electricity prices for non-eligible (tariff) customers in Brcko District.