

Communique of the Steering Board of the Peace Implementation Council



Political Directors of the Peace Implementation Council (PIC) Steering Board met in Sarajevo on 25 and 26 March 2009. The Chair of the Council of Ministers and the leaders of the governing political parties were present at parts of the meeting.

The PIC Steering Board continued its discussion on prospects for transition, including the international community's continued future engagement in BiH. In this respect, it welcomed the ongoing preparations for a tailor-made EU strategy and a substantially reinforced role for the EU in Bosnia and Herzegovina (BiH) following the transition from the OHR to the EUSR. The PIC underlined the importance of BiH authorities taking the actions required to implement the European Partnership. This is the only way to give practical meaning to BiH's European aspirations.

The PIC Steering Board reminded the relevant authorities of the decision it took at its meeting on 27 February 2008, underlining that BiH authorities must deliver in full the five objectives and two conditions prior to OHR-EUSR transition. Until this is completed, OHR will remain in place and it will continue to carry out its mandate under the GFAP, ensuring full respect of the Peace Agreement.

The PIC Steering Board welcomed the limited but important progress achieved since it last convened in November 2008. The process of dialogue and compromise that was launched in Prud last November has contributed significantly to this progress. More dialogue, a greater readiness to find common ground and realization of already agreed actions is the key to further progress. Other political parties and stakeholders in BiH are encouraged to increase their engagement in discussions on future reforms and to support efforts to deliver the reforms required to take the country forward.

As regards the five objectives and the two conditions required for a decision on OHR-EUSR transition, the PIC Steering Board welcomed the adoption of the amendment to the BiH Constitution defining Brcko District on the basis of the awards of the Arbitral Tribunal and ensuring the District effective access to the BiH Constitutional Court. The PIC Steering Board also welcomed the adoption of the National War Crimes Strategy by the Council of Ministers in December.

Furthermore, the PIC Steering Board welcomed the adoption of the revised Strategy for the Implementation of Annex VII of the General Framework Agreement for Peace (GFAP) by the Council of Ministers, and urged the BiH Parliamentary Assembly to ensure its quick adoption and implementation, in cooperation with UNHCR.

Despite progress in addressing some of the objectives for OHR's closure, the PIC Steering Board expressed its concern about political developments in BiH since it last convened. Divisive and nationalist rhetoric challenging the sovereignty and constitutional order of BiH has continued to be frequent. In addition, it condemned actions and statements by BiH actors that pose a threat to OHR staff, challenge the authority of the High Representative and the Peace Implementation Council Steering Board, and demonstrate disdain for the Parties' obligations under Annex 10 of the GFAP and under the decisions taken by the High Representative. These types of actions

display open disrespect for the fundamental principles of the GFAP, directly impact on the political situation, are unacceptable, and have to stop.

The PIC Steering Board emphasised that the issue of constitutional reform needs to be approached from all sides in a manner that is constructive and realistic. It notes with concern that this is not yet the case. It calls on all sides to develop positions that could serve as a realistic basis for negotiations, rather than presenting ultimata or maximalist positions which challenge the GFAP. In this context it notes with concern aspects of the constitutional reform platform adopted by the RS authorities.

Furthermore, the PIC Steering Board noted with concern that the attempts to roll back previously agreed reforms and to undermine existing state level institutions have continued. These actions run counter to the GFAP and the long-established efforts of the PIC Steering Board to support state building. The authorities in BiH need to revise their approach without delay and play an active and positive role in ensuring the full and unfettered functioning of all State institutions, including those responsible for upholding the Rule of Law. In this respect, the Steering Board emphasized the need of all authorities, officials and political parties -without exception- to uphold the rule of law and to refrain from politicizing ongoing criminal cases.

The PIC welcomed the December 2008 election of the State Ombudsmen for Human Rights. The Republika Srpska must adopt without delay the law terminating the RS Ombudsman institution in order to overcome the deadlock in the merger of the three institutions.

The PIC Steering Board reiterated its full support for the High Representative, and his ability to use the full range of his authorities to ensure full respect for the GFAP and reminded all the authorities in BiH of their obligation to

ensure full compliance in this regard. In this respect, it expressed its dissatisfaction that despite its previous warning and in contradiction of Annex X and Annex IX of the GFAP, the RS authorities have continued to fail to reply to a notable number of instructions and requests by the High Representative to secure access to documents.

The performance of the Council of Ministers and the BiH Parliamentary Assembly, which completed less than 50 per cent of their respective work plans in 2008, has been disappointing. The Steering Board urged the BiH authorities and political leaders to renew their efforts to deliver necessary reforms and to ensure appointments to key state level institutions in a timely fashion. Failure to do so will result in BiH continuing to fall behind on the EU agenda.

The PIC Steering Board considered it unacceptable that the Mostar City Council has failed to appoint a new Mayor almost six months after the elections. The parties elected to the City Council are urged to meet this basic obligation to the citizens of Mostar without any further delay. The Steering Board strongly encouraged the High Representative to facilitate the resolution of difficulties arising from this situation.

The PIC Steering Board expressed strong concern over the actions taken by the relevant Federation authorities to appoint judges to the Federation Constitutional Court while disregarding the relevant responsibilities of the High Judicial and Prosecutorial Council (HJPC) as specified in the Federation Constitution. The Steering Board emphasized that the decision constitutes an attack on State level institutions and the fundamental principle of independence of the judiciary from political interference. In accordance with the Constitution of the FBiH the PIC Steering Board emphasized that only candidates proposed by the HJPC may be proposed for appointment, and calls upon the Federation House of Peoples to halt and reverse, as appropriate, any actions that are

inconsistent with its obligations under the constitution and to ensure that the Constitution is upheld.

The PIC Steering Board strongly condemned attacks on journalists and NGO representatives in BiH. These attacks are part of an alarming trend of increased pressure on journalists throughout BiH. The PIC Steering Board called on local authorities at every level of BiH to condemn attacks on journalists and NGO's and to take appropriate measures to hold those responsible to account. Failure to properly address attacks only serves to encourage limitations on the basic democratic principle of freedom of the media and represents a continued failure to fulfil the freedoms protected by the GFAP accords and BiH's many international commitments.

The PIC Steering Board noted that BiH is being affected by the global economic downturn and urged the authorities in BiH at all levels to engage in a coordinated and strategic way so that they can agree and implement the measures necessary to meet the economic and financial challenges facing the country.

The Steering Board urged the competent authorities to ensure rapid progress in the following areas to complete the five objectives of the OHR work plan:

On Objective One – Acceptable and Sustainable Resolution of the Issue of Apportionment of Property between State and other levels of government:

The BiH Council of Ministers needs to initiate the process of establishing an inventory of state property. The Chairman of the Council of Ministers needs to ensure this step is taken without any further delay and that its scope reflects the scope of work of the State Property Commission, established by the Council of Ministers in 2004. In parallel, the State Property Commission needs to complete a draft law on state property, which subsequently needs to be adopted by the BiH Parliamentary Assembly. The comprehensive inventory will serve

as the basis for an intergovernmental agreement on state property that will be envisioned by the adopted BiH Law on State Property. Once the law and intergovernmental agreement have entered into force, the process of registering State Property needs to be initiated.

On Objective Two – Acceptable and Sustainable Resolution of Defence Property:

The Ministry of Defence must prepare a transfer agreement for immovable defence property. The Ministry of Defence must also prepare the annex to the transfer agreement, providing technical details of the properties required for future defence purposes, as identified by the existing Presidency Decision on the size, structure and locations of the Armed Forces. The State and entity authorities must then adopt the transfer agreement for immovable defence property. The BiH authorities also need to fully implement the Transfer Agreement on movable defence property. As a part of this Agreement, the BiH Presidency needs to approve the plan for the surplus ammunition, weapons and military equipment to pave the way for the sale, destruction or donation of excess stocks.

On Objective Three – Completion of the Brcko Final Award:

The relevant BiH authorities need to ensure the entry into force and full implementation of the constitutional amendment on the Brcko District. The Entities and the District must resolve remaining issues under the Final Award, such as mutual debts, entity citizenship, and a memorandum of understanding on electricity supply.

On Objective Four – Fiscal Sustainability:

There is a need for fiscal coordination in BiH to be further consolidated. Therefore, the competent authorities need to

ensure the proper functioning of the Indirect Taxation Authority (ITA) Governing Board and the National Fiscal Council.

On Objective Five – Entrenchment of the Rule of Law:

The relevant authorities need to speed up the implementation of the National Strategy for Dealing with War Crimes, the National Justice Sector Reform Strategy, and the Law on the Movement and Stay of Aliens and Asylum. The continued presence of a small number of former foreign fighters is a problem which must be addressed in line with Annex 1A of the GFAP, which requires such persons to have left Bosnia and Herzegovina within 30 days of entry into force of the GFAP.

The PIC Steering Board underlined the importance of the BiH authorities delivering these requirements in full as soon as possible to allow for the transition from the OHR to the EUSR office. The PIC Steering Board underscored its full support for the High Representative to facilitate accomplishment of these objectives and conditions in a manner consistent with the overall goal of entrenching reform and ensuring BiH meets its commitments for Euro-Atlantic integration. The PIC Steering Board requested the High Representative to undertake all appropriate measures to ensure that the above objectives are met. It also reminded political leaders and the authorities that a positive assessment of the situation in BiH by the PIC Steering Board, based on full compliance with the Dayton Peace Agreement, is the second condition which the PIC has established for OHR's closure. To fulfil this condition, it remains critical that BiH political leaders as well as authorities at all levels of government fully comply with the GFAP and avoid inflammatory statements and actions that threaten the Peace Agreement or that may lead to the deterioration of the political and security situation in the country.

The PIC Steering Board welcomed the resolution of the European

Parliament of 15 January 2009, calling on the institutions and the countries of the EU to make 11 July a day of commemoration of Srebrenica's genocide, and it recommended that BiH also commemorates the day in an appropriate fashion.

The Steering Board called upon the competent authorities of Bosnia and Herzegovina to fulfil their obligations under international law to cooperate fully with the ICTY, by facilitating the arrest of Ratko Mladic without further delay, and by dismantling his support network.

The PIC Steering Board reminded the authorities and political party leaders that BiH is an internationally recognized sovereign state whose territorial integrity is guaranteed by the GFAP. Any challenge to the basic features of the GFAP will be considered as unacceptable, including unilateral actions aiming at endangering the constitutional order of BiH. The High Representative will continue to ensure full respect for the GFAP and he will continue to monitor progress in respect of the objectives and conditions which have been established for OHR's closure. The PIC Steering Board will keep the situation under constant review.

The PIC Steering Board looks forward to working closely with High Representative Valentin Inzko, and it welcomed the adoption of the UN Security Council resolution 1869 (2009) in this regard on 25 March. The Steering Board underlined that the High Representative retains the necessary instruments to counter challenges to the GFAP. The Steering Board expressed its appreciation for the important contribution made by Miroslav Lajcak to peace implementation and Bosnia and Herzegovina's progress towards integration into Euro-Atlantic structures.

The next meeting of Political Directors will take place in Sarajevo on 29/30 June 2009.