

# **Report to the European Parliament by the OHR and EU Special Representative for BiH, January - June 2004**

## **Mid -Year Report To The European Parliament**

***January - June 2004***

### **Summary**

Almost nine years after Dayton , Bosnia and Herzegovina (BiH) is now within reach of NATO's Partnership for Peace (PfP) and the launch of negotiations with the European Union (EU) for the conclusion of a Stabilisation and Association Agreement (SAA). The OHR remains focused on its overarching objective of ensuring that BiH is a peaceful, viable state on course to European integration.

In the first half of 2004 work continued on implementing the core tasks as defined in the OHR's 2004 Mission Implementation Plan (MIP) ([www.ohr.int](http://www.ohr.int)). However, in light of progress made, we reduced the number of core tasks on which OHR focuses its efforts in 2004. As was clear from the mid-year progress report presented to the PIC in June, notable advances were made on the four remaining core tasks: **Establishing Rule of Law, Reforming the Economy, Strengthening the Capacity of BiH Institutions, and Defence Reform.**

The **European Commission (EC) Feasibility Study** identified 16 general conditions for opening negotiations on a SAA with BiH in November 2003. **The BiH authorities made significant progress towards fulfilling legislative requirements** in the first 6 months of 2004. Furthermore, significant structural changes in the fields of crime prevention, judiciary, customs and taxation, development of a single economic space and the energy market have been undertaken. OHR staff worked closely with the entity and state level governments and parliaments assisting them in drafting, lobbying and implementing the necessary laws.

At its 28-29 June 2004 summit in Istanbul, **NATO announced that the NATO-led Stabilisation Force (SFOR) would be terminated at the end of 2004.** On 9 July the UN Security Council welcomed the EU's intention to launch an EU military mission from December 2004, and on 12 July 2004, **the European Council issued its decision to replace NATO's mission with an EU-led peacekeeping force (EUFOR) at the end of 2004.** EUFOR will work closely with other EU players, including the EUSR, EUPM, EUMM, and the European Commission's assistance programmes to support the objectives of the Stabilisation and Association process and the OHR's Mission Implementation Plan.

**BiH failed to qualify for entry into NATO's Partnership for Peace programme at the Alliance's Istanbul Summit in June 2004.** NATO expressed concern that Bosnia and Herzegovina , in particular the obstructionist elements in the Republika Srpska entity, had failed to live up to its obligation to cooperate fully with ICTY. BiH failed to arrest and transfer to the jurisdiction of the Tribunal war crimes indictees, a fundamental requirement for the country to join PfP. The NATO summit acknowledged Bosnia and Herzegovina 's progress in defence reform, a key condition for PfP membership, and urged BiH to continue progress towards achieving a single military force and welcomed Bosnia and Herzegovina into the Partnership for Peace once they have met the established NATO conditions. Following the NATO Summit, the High Representative, with the support of the Peace Implementation Council Steering Board, took action to identify and penalise individuals and organisations supporting suspected war criminals. 59 individuals were removed from party and other public positions and an audit of SDS party funds was launched. After identifying serious abuse, the party's funds were seized and reallocated to institutions working on the apprehension of war criminals and regulating party financing.

**The OHR continued to work on building the capacity of the State Court of BiH.** The OHR's Rule of Law Pillar supervised the recruitment of international judges and prosecutors for the special panel on organized and financial crimes within the state court.

In the rule of law sphere, **the Independent Judicial Commission (IJC)** completed its work and its mandate was terminated on 31 March while **the single High Judicial and Prosecutorial Council (HJPC)** was established at the state level on 1 May 2004. The HJPC will appoint and discipline judges and prosecutors and serve as the

foundation for a new BiH judiciary that meets the highest European standards.

**The OHR continued to support the establishment of the State Information and Protection Agency (SIPA) for BiH.** In the first half of 2004, SIPA moved into new premises. All SIPA laws have been enacted thus creating the basis for a genuine, state level police force.

**Considerable progress was made in completing the economic reforms outlined in the economic agenda that the OHR presented to the Peace Implementation Council (PIC) in December 2003.** The Bulldozer initiative entered its third phase. Energy laws have been adopted, as have other significant laws. In addition important advances in the indirect taxation and customs reform processes were made. The Indirect Tax Authority (in existence since January 2004) is starting to become operational, moving ahead with the integration of customs administration at the State level, and the introduction of VAT.

Following up on the achievements of **the Defence Reform Commission**, key appointments have been made, defence budgets were passed by the entity and state parliaments and **the first BiH Defence Minister Nikola Radovanovic was appointed in March 2004.** Key laws were adopted, including the Book of Rules on Internal Organisation for the Ministry of Defence, which was approved by the Council of Ministers on 20 May.

**The prime agency in BiH's future intelligence and security system, the Intelligence and Security Agency (OSA), became operational on 1 June 2004.** Key appointments have been made, the Book of Rules on Internal Organisation was approved by the Council of Ministers on 24 June. Democratic oversight is provided by a parliamentary commission. The OHR continues to assist in bring about the transformation of the two former entity services into one functioning agency by 31 December 2004.

In response to Prime Minister Terzic's initiative, on 2 July a Police Restructuring Commission was established with a mandate to propose "a single structure of policing for Bosnia and Herzegovina , under the overall political oversight of a ministry or ministries in the Council of Ministers."

On 28 January, the High Representative imposed a **permanent statute for the City of Mostar**, bring an end to the ethnically-based parallel structures there. The new Statute introduces ethnic balance and a range of vital national interest safeguards preventing domination by any ethnicity. At the same time, the High Representative issued a decision on the unification of the City Administration. In March 2004, the City municipalities were abolished, ending the physical division of the city. Significant progress in implementing these decisions has been achieved.

In 2003 the BiH Human Rights Commission required the RS to conduct an in depth investigation of the events at Srebrenica in July 1995. The RS government initiated the **Srebrenica Commission**, which began its work in January 2004. In June, the Srebrenica Commission published a report which, for the first time, constituted a recognition by Republika Srpska authorities of the nature and extent of the atrocities committed at Srebrenica.

### **Political developments**

The political scene in BiH was dominated in this reporting period by the consequences of two events in late 2003: the publication in November of the European Commission's Feasibility Study on the readiness of BiH to begin negotiations on a Stabilization and Association Agreement (SAA) and the issuance in December by NATO of benchmarks that the country must meet if it is to join NATO's Partnership for Peace Programme (PfP). Following the publication of these documents, all parties represented in the BiH Parliament signed a common platform pledging to undertake the measures necessary for further Euro-Atlantic integration, the first commitment of its kind in post-war BiH. In practice, the authorities have succeeded in fulfilling some of the key conditions set by the EC and NATO, notably by adopting a good deal of the requisite legislation and establishing several new state-level institutions. However, the failure of the authorities in the Republika Srpska to cooperate fully with the ICTY and the sluggish pace at all levels of government in actually implementing the reforms adopted, has limited the country's progress over the last six months.

The EC Feasibility Study identified 16 general conditions for opening negotiations on a SAA. Many of these conditions entail the adoption and implementation of significant structural reforms, including transfer of key competencies from the entities to the state of BiH.

One of the main PfP benchmarks, a state-level Ministry of Defence with command and control functions exercised

on behalf of the BiH presidency rather than the entities, has made substantial progress in the reporting period.

Yet this success has been undermined by the RS authorities' persistent failure to cooperate adequately with the ICTY, particularly in arresting persons indicted for war crimes. It was this deficiency that caused NATO to deny BiH entry into PFP at the alliance's June Summit in Istanbul . As a result the High Representative was forced on 30 June to take extraordinary measures to penalise individuals and organisations identified as supporting suspected war criminals, removing – either permanently or conditionally- 59 individuals from party and other public positions, including the RS interior minister and the president of the Serb Democratic Party (SDS). Having previously initiated an audit of the SDS finances that revealed serious and widespread abuses, Lord Ashdown ordered both that the party should create a single account and forfeit its public funding until BiH was cooperating fully with the ICTY. Public monies would otherwise flow to the SDS will in the meantime be diverted to state institutions working to apprehend or try indicted war criminals and to regulate party financing.

At the time of the last report, the OHR was engaged in talks with local leaders in Mostar. The aim was to find a compromise for a permanent statute for the City of Mostar , which was still ethnically divided into 7 local authorities with parallel institutions. At that time, two issues remained unsolved: the fate of the 6 city municipalities and the election system. As over 90 % of the content of the Statute was already agreed upon, the High Representative, with the support of the Peace Implementation Council Steering Board, decided to impose the remaining elements of a permanent statute for Mostar on 28 January 2004 . This was the latest possible date that would have allowed for the implementation of the Statute in time for the BiH municipal elections on 2 October 2004 .

To prevent the preservation of ethnic parallel structures, the Decision abolished the 6 city municipalities and transform them into City Areas under the new Statute. In effect, these City areas are now branch offices of the City administration. The new Statute also introduces ethnic quotas and a range of vital national interest safeguards in the City Council, to prevent domination by one single ethnicity. These will protect minority rights and ensure a broad ethnic balance in the future City administration.

Along with the Statute, a Decision was issued on the unification of the City, which gave clear deadlines for implementation. A Mostar Implementation Unit was established and was, charged with assisting the Mayors in implementing the necessary reforms. The High Representative also created a Committee for Confidence Building Measures comprised of local leaders, in order to support the wider process of unification.

The implementation process has run well, although the main political parties took some time to come on board. Rules of Procedure for the new Statute have been introduced, a joint Budget adopted and a city administration systematisation plan put into effect. European financial standards have been introduced to limit fraud and corruption, municipal and cultural institutions are being reunited and work is already underway to form a professional and streamlined City Administration. A positive side-effect has been a significant increase in revenues available for capital projects, which has enabled the City to launch a range of high profile infrastructure projects for the benefit of the population as a whole.

### **Mission Implementation Plan**

In the first half of 2004 work continued on implementing the core tasks as defined in the OHR's 2004 Mission Implementation Plan (MIP) ([www.ohr.int](http://www.ohr.int)). However, in light of progress made, the number of core tasks on which OHR focuses its efforts in 2004 was reduced. The OHR's work on refugee return and displaced persons was completed by the end of 2003 and the competency transferred to the BiH Ministry of Human Rights and Refugees. The OHR has maintained a small team, the Annex VII Verification Unit (AVU) that will monitor this process until the end of November 2004. The former core task on ensuring that extreme nationalist, war criminals and their organised criminal networks could not undermine the peace implementation was incorporated in the core task "entrenching the rule of law". As was clear from the mid-year progress report presented to the PIC in June, notable advances were made on the four remaining core tasks: **Entrenching the rule of law, Reforming the economy, Strengthening the capacity of BiH's governing institutions and Embedding defence and intelligence sector reforms so as to facilitate BiH integration into Euro-Atlantic structures.**

Some of the major accomplishments include:

- The Independent Judicial Council completed its operations with the establishment of a single BiH High Judicial and Prosecutorial Council on June 1. This was a significant milestone for BiH and

achievement for the international community. (*Rule of Law*)

- The State Information and Protection Agency (SIPA) package of laws was enacted during May of this year, representing a critical step towards re-shaping the country's criminal enforcement landscape. (*Rule of Law*)
- Progress has been made in adopting several key economy-related laws, including the ISO and Transco laws, BiH state-level insurance laws (electricity sector), a BiH Law on Business Registration, a Law on Accounting and Auditing, and the Law on Registered Pledges. (*Economic Reform*)
- The Intelligence Law was adopted on time in March this year, and the Intelligence Agency (OSA) was established. (*Defence Reform*)
- The appointment of a BiH defence minister in March marked a fundamental step forward for the country. This appointment was followed by others to key state-level military posts and the establishment of the requisite defence institutions. (*Defence Reform*)
- The identity-card management programme – CIPS – has made great strides in endowing the state with the means to manage – and to vouch for the integrity of – identity documents, despite politically motivated attempts to undermine it. (*Strengthening the Capacity of BiH Institutions*)

However, many of the same problems flagged in the previous report remain issues for us today. Even with the increasingly real lure of EU and NATO membership, the reform process is taking longer than anticipated or hoped for. These delays have already manifested themselves in at least three ways:

- Drafting of key legislation often takes longer than expected, especially as we rely more on the BiH authorities and other agencies to craft essential laws.
- Draft laws are usually held up during the adoption process and frequently require multiple amendments.
- Lengthy delays in actually implementing reforms persist (e.g., in allocating permanent premises for SIPA).

In addition to pursuing the MIP agenda, OHR has devoted both time and resources to addressing other issues of importance to both BiH and the international community. Notable examples are the Srebrenica Commission and education reform, otherwise led by OSCE.

### **Entrenching the Rule of Law**

Building on our earlier work, we continued to make progress during the reporting period. Key steps taken toward firmly establishing the rule of law in BiH have included the following:

During the reporting period the success of international judges and prosecutors working with their domestic colleagues in the special panel for organised and financial crimes within the State Court of BiH was again demonstrated when the special department continued to launch prosecutions of high-profile instances of organised criminal activity. However, the recruitment of sufficient numbers of foreign judges and prosecutors remains a challenge, while the advent of a special war crimes panel will make that challenge even more critical. Unless this can be remedied by increasing the number of international judges and prosecutors, progress on establishing the rule of law in BiH could be held up. On the other hand, the establishment this year of a common registry for the special panels should result in more effective use of these limited resources.

After a successful donors' conference in the autumn of 2003 the work continued on the creation of a domestic capacity to try war crimes cases transferred from ICTY to BiH. One of the main tasks during the reporting period was the drafting of an international agreement between the High Representative and the BiH government to create a special chamber within the State Court to try such cases, as well as for the formation of a registrar's office within the court. The registry will provide the logistical and administrative support for both the special panel for war crimes and the existing panel for organised and financial crimes. This support is to include recruitment of judges and prosecutors, management of international donations, case assignments to the special panels, administration of witness protection programmes, security issues, resolution of issues relating to confinement facilities, and numerous other administrative matters. The international agreement will be signed during

September 2004 and the domestic enabling legislation necessary to carry it out should follow in October. When that happens, all responsibility for this project will fall to the Registrar's Office.

The OHR's Anti Crime and Corruption Unit reorganised itself during the latter part of 2003 into prosecutorial teams consisting of local and international prosecutors and investigators. Each of these teams has been assigned to specific cases and placed at the disposal of international prosecutors within the State Prosecutor's Office in order to support their investigations and preparation of cases for trial. A valuable dividend is the development of local capacity resulting from collaboration between domestic and foreign lawyers and investigators. The creation of a small but effective cadre of local lawyers and investigators should provide valuable assets for agencies such as SIPA and the State Prosecutor's Office. The Unit also sought to facilitate the international agreements necessary to forge cooperation between and among the enforcement agencies, prosecutors and courts in BiH and their counterparts in other countries. This to effectively fight cross border criminal activity.

The OHR worked closely with other international organisations, including the EUPM, the European Commission and the International Criminal Investigative Training Assistance Program (ICITAP), on establishing SIPA as a full-fledged, state-level police agency with the resources and authority to aggressively combat organised and international crime, corruption and terrorism. The OHR organised, managed and directed the efforts that led to the drafting and enactment of the package of laws that granted SIPA its necessary legal authority. This package also includes a Law on Police Officials, which establishes standards for the employment of police officers, as well as their promotion, demotion, powers, responsibilities and the like. Moreover, the package contained laws providing SIPA with responsibilities in the fields of money laundering and witness protection.

BiH lacks modern criminal intelligence capabilities. This deficiency has seriously impaired its ability to deal effectively with organised crime and corruption. The Criminal Intelligence Unit (CIU) in OHR has begun to work with SIPA and its advisers from EUPM to develop this capacity within the Criminal Investigations Department (CID) and to transfer CIU technology to it as it matures.

The state, entity and Brčko District governments agreed in early 2004 to form a single High Judicial and Prosecutorial Council (HJPC) to serve them all. The legislation to give effect to this agreement was duly enacted, and the new HJPC came into being as a state-level institution on 1 May 2004. The mandate of Independent Judicial Council (IJC) was consequently terminated, but with many IJC members of staff transferring to the HJPC secretariat. The HJPC will continue to employ a few international staff and the secretariat will include some foreign advisers. Although the new HJPC has no formal relationship with OHR, it will continue to work closely with the Rule of Law and Legal Departments on issues of common interest. Specifically, OHR will need to provide support to the HJPC as it attempts to deal with the unresolved issues of judicial, prosecutorial and defence counsel compensation, court budgets and minor offence courts. It is likely that OHR's continuing assistance will also be necessary to avoid the re-establishment of some courts closed in the course of restructuring, since certain legislators continue to agitate for their reopening.

After an initial slow start the work of the RS Srebrenica Commission (independent commission established to report to the RS government, following a Human Rights Chamber ruling, to investigate the events in Srebrenica in July 1995) took off in the first part of 2004. Although the OHR was not tasked with any particular action by the Human Rights Chamber's ruling, it was clear that international monitoring and stimulus to this process was necessary if it was to have the outcome sought by the Human Rights Chamber. Lord Ashdown tasked his Senior Deputy High Representative (SDHR) Bernard Fassier to monitor the activity of the RS Commission.

The Commission's June report, for the first time, constituted recognition by the RS of the origins, nature and extent of the atrocities committed in and around Srebrenica. The report also disclosed the location of previously unknown primary and secondary mass graves, documents and other evidence that may serve as bases for further prosecutions of war crimes. The report cites documents making clear that "Operation Krivaja" had three planned phases: the attack on Srebrenica, the separation of women and children, and the execution of males. The report established that, between 10 and 19 July 1995, some 8,000 Bosniaks were liquidated in a manner that constituted a severe violation of the international laws of war and that the perpetrators and others undertook elaborate measures to conceal these crimes by relocating the bodies. The Commission promised to produce a consolidated list of all the persons still unaccounted for after the July 1995 events in and around Srebrenica.

## **Reforming the economy**

Significant progress was made in the area of economic reform, thus completing the issues covered by the economic agenda presented to the Peace Implementation Council (PIC) in December 2003. However, BiH's economy has yet to experience the concrete benefits that some of these reforms are intended to bring about. Nevertheless, this period has seen the domestic authorities taking ownership in respect to some important economic issues, notably the fiscal and customs reform processes.

Notable progress during the current reporting period has included the significant advances in the indirect taxation and customs reform processes. The Indirect Tax Authority (which has been operational since January 2004) is putting in place a new integrated indirect tax collection service, as well as the state-level customs service. At the same time, these new bodies will be implementing a unified set of rules, applicable to the whole country. The launch of the VAT is on track to take place on schedule at the beginning of 2006.

OHR has continued to play an instrumental role in the efforts to effect the realisation of the domestic debt resolution plan. Once this problem is fully resolved, a major obstacle to investment and job creation in the country will have been removed. The enabling law has been passed in Republika Srpska whilst the Federation is expected to pass a similar law in the near future.

Further advances were also made in the efforts to reform and restructure the public utilities sector and to create a business-friendly environment in BiH. The laws concerning the establishment of the Electricity Transmission Company and the Independent System Operator were enacted during the present reporting period. Once implemented, the laws will help ensure proper functioning of the electricity transmission system and BiH's further integration in the EU Internal Electricity Market.

In view of the need to improve the business environment and corporate governance in BiH, several pieces of legislation were drafted with OHR's support (Laws on Public Enterprises, Investment of Public Funds, and on Public Procurement). The implementation of these laws is expected to institutionalise the concept of accountability of corporate management and introduce internationally accepted accounting standards.

In its ongoing effort to reduce bureaucracy and the investment-unfriendly rules and regulations, the OHR – coordinated Bulldozer Initiative has had some notable success in the second phase of its activities. Intensive negotiations are now underway in order to transfer the ownership of this process to the domestic collaborators. Meanwhile, building on its successes, the Bulldozer Initiative embarked on its third phase in July 2004 and reform proposals have already been coming in from all parts of the country. The Framework Law on Business Registration has been adopted and the authorities are about to proceed in the creation of a single business registration system that will reduce the amount of time it takes to register a business in Bosnia-Herzegovina as well as the cost of doing so.

During the reporting period, the OHR has continued to drive efforts to centralise the process of privatisation of enterprises. In the meantime, a single information point for privatisation opportunities was established in March, namely the following website: [www.privatizacija.ba](http://www.privatizacija.ba) that offers useful multi-lingual information and data for the potential investor.

The release of the audits of the three public telecom companies revealed alarming patterns of mismanagement and incompetence, which have cost consumers and tax payers great amounts of money. In light of this development, the Entity governments committed themselves to implementing reforms aimed at improving management practices and eliminating endemic corruption in the telecom sector. With the support of the OHR, several pieces of legislation have been drafted, including the Law on Public Enterprises, the Law on Investment of Public Funds, and the Law on Public Procurement. These laws are expected to institutionalise management oversight and modern accounting standards in BiH.

### **Strengthening the capacity of BiH's governing institutions, especially at the State-level**

In the spring of 2004, the OHR developed a State Government Strengthening Plan (SGSP) designed to help the Prime Minister in his efforts to make the Ministries and Services of the BiH State-level Council of Ministers (CoM) fully operational. The SGSP focuses on two areas: staffing and premises. Staffing levels of the Ministries have remained low, mainly due to the fact that there is not enough office space available for the State institutions.

Without its composite parts – the ministries – being fully established, the CoM does not have the ability to implement the reform process. A functioning State government, moreover, is a core requirement of European Integration as stated in the Feasibility Study (“More effective public administration”) and crucial in enabling a phasing out of the OHR and a transition to full domestic ownership.

In the context of staffing the Council of Ministers, the OHR commissioned a review of the application of the State Civil Service Law by the State Civil Service Agency in March 2004. The report proposed a number of managerial and legal changes, which the Agency has since turned into an action plan. It has initiated changes to the personnel structure of the agency and is currently drafting by-laws and amendments to the Civil Service Law as proposed in the report. The OHR is working in close co-operation with the Agency on these amendments, which should be adopted before the end of the year.

The OHR is currently working with the Prime Minister on an action plan to move three Ministries into adequate premises before the end of the year. In the absence of a State Property Law, the process of allocating premises to the State authorities requires close co-operation also with the Entity Prime Ministers.

The Public Administration Reform (PAR) continues. At this stage, the European Commission-funded reviews of BiH’s public sector are at the core of the process. The reviews are carried out by teams composed of both national and international experts. In July 2004, as part of the reviews, a report on the country’s police forces was published and served as a basis for the establishment of a Police Restructuring Commission by BiH’s Prime Minister and Lord Ashdown. By the end of the year, the review of the public sector will produce more reports, which, in turn, will lead to the formulation of concrete actions necessary for improving BiH’s public administration. The office of the PAR coordinator will soon be moved to the Prime Minister’s office to underline the fact that the Prime Minister is in charge of the overall reform process.

Throughout the reporting period, the OHR continued to support the establishment of the Federation Civil Service Agency and the recruitment process for the first Director of the Federation Civil Service Agency. The agency should be operational by the end of 2004, while the application of the Federation Civil Service Law starts 2005. Proper supervision of this agency is essential to prevent party patronage in the process of hiring civil servants.

### **Establishing State-level civilian command and control over armed forces, reform the security sector, and paving the way for integration into the Euro-Atlantic framework**

Defence reform continues to move ahead. BiH now has a State-level Defence Ministry, headed by an effective minister. The Parliamentary Assembly is taking its oversight role seriously, and the downsizing of the armed forces is progressing steadily. Pivotal laws are in place and key appointments have been made. With the confirmation of the last of the general officers by the BiH Presidency on 21 July 2002 (Chief of Joint Staff and Deputy Chief for Operations, and Commander of the Operational Command), top military posts have been filled.

Each Entity ministry of defence has downsized by at least 25 percent. New organisational structures for both entity ministries have been adopted. The civilian part of the FBiH Ministry of Defence foresees a reduction of personnel by approximately 27 percent – to around 945 positions. The RS Ministry of Defence has reduced its posts by 42 percent – from approximately 828 to 479 positions. With the March BiH Presidency Decision on the Size and Structure of the Armed Forces of Bosnia and Herzegovina (AFBiH), the size of the AFBiH has been reduced to 12,000 military professionals, including a reduction in the reserves to 60,000 and a decrease in the conscription intake and duration of service.

As per the NATO endorsed benchmark, the 2004 defence budgets have been adopted – the State and RS defence budgets were adopted at the end of last year; the FBiH defence budget, due to late submission, was adopted in late March. The preliminary estimates for the 2005 through 2007 defence budgets are in the process of preparation. A comprehensive Defence Budgeting System has been proposed and its implementation depends on further staffing and approval. Additionally, the Common Defence Resource Management System, which includes the BiH Defence Budgeting System, is still pending.

Despite this progress, enthusiasm among the BiH authorities for defence reform implementation has waned following NATO’s Istanbul Summit. Building upon the implementation of the BiH Defence Law and the establishment of State defence institutions in the first half of 2004, the task for the second half of 2004 and for 2005 will be to develop the State’s ability to exercise its right to command and control the Armed Forces through the chain of command’s operational and administrative branches. Thus the main focus of the OHR will be on the

continuing development of BiH's defence institutions.

The Intelligence and Security Agency (OSA) became operational on 1 June 2004. The Director General, Deputy Director General and Inspector General assumed their positions as planned. Significant progress has been made in the preparation of rulebooks of which the most important one, the Book of Rules on Internal Organisation, was approved by the Council of Ministers on 24 June. The approved organisational structure defined therein has to be in place no later than 31 December 2004.

Parliamentary oversight is ensured by a BiH Parliamentary Commission, which has held several sessions. In the executive, i.e. the CoM, the work of the Executive Intelligence Committee is progressing but is slightly behind schedule since the Committee has not yet fully manned their secretariat (the Intelligence-Security Advisory Service (OSS)). As a result, some delay in completing the review process of former OBS and FOSS personnel is inevitable. However, the review of staff should nevertheless be finalised by mid-November 2004. This is meant to bring the total number of employees in OSA down to affordable yet efficient levels.

In general, the transformation in the intelligence and security sector is proceeding satisfactorily. Though a sensitive subject, working groups staffed from the former intelligence agencies have co-operated in good spirit to draft a new set of by-laws and are preparing the full transformation of the two former services into one fully functioning agency by 31 December 2004. Obviously, these formal preparations are only part of the challenge. Suspicions will only gradually be overcome, practical details will have to be sorted out and conflicts will undoubtedly surface. While the ultimate responsibility for implementing the Agency will continue to lie with the BiH authorities – in particular the Prime Minister and the Council of Ministers, it will be necessary to continue with assisting, monitoring and guiding the implementation of this process. In this context, the post of Supervisor for Intelligence Reform has been established. The High Representative has appointed Kalman Kocsis, who himself oversaw the reform of the Hungarian intelligence service, to the position. He will work with OSA's management to ensure that the Agency's development proceeds according to plan.

In co-operation with Prime Minister Terzić, the Police Restructuring Commission was formally established on 2 July. Its mandate to restructure BiH's police forces and to propose "a single structure of policing for Bosnia and Herzegovina, under the overall political oversight of a ministry or ministries in the Council of Ministers." Wilfried Martens, former Prime Minister of Belgium, is chairing the commission and David Blakey, a former UK Inspector of Police, is serving as his deputy.

### **BiH in the region**

The successful BiH chairmanship of the South East Europe Co-operation Process (SEECF) – including the hosting of the first meeting of regional Ministers of Defence – demonstrated the capacity of BiH to play a helpful political role on the regional scene, as well as the utility of the SEECF as a regional forum.

The first international investment conference organised by the BiH Government took place in Mostar on 26/27 February. Although sadly marked by the tragic death of FYROM President Boris Trajkovski the Conference helped foster significant business contacts and investment opportunities. Apart from the enormous political and economic signal that this conference sent out to the international business community, 12 concrete investment projects were presented to potential investors.

The wave of ethnic violence that hit Kosovo in mid-March did not spill over into Bosnia. The country remained calm, proving the solidity of the growing strength of political stability in BiH.

With Serbia and Montenegro, normalization of relations is proceeding. The election of President Tadic is encouraging in this respect. Bilateral forums are functioning on a regular basis, providing opportunities for discussion of, for example, longstanding border issues on the Drina river. It is hoped that these issues will be resolved in the near future.

BiH and Croatia are well ahead with the normalization of their relations. Prime Minister Sanader has taken a constructive approach towards BiH and the BiH Croats in particular. Border issues with Croatia are almost entirely resolved, with the noticeable exception of Ploče. Meetings at the presidential level between Croatia and BiH are taking place twice a year and provide an excellent forum for bilateral cooperation.

The elevation of Croatia to formal EU candidate status was well received in BiH, helping to demonstrate that the



prospect of eventual EU membership is a real one, and providing an incentive to the BiH authorities to re-double their reform efforts.

## **BiH and the European rapprochement process**

### **EC Feasibility Study**

The BiH authorities made considerable progress during the first 6 months of this year towards fulfilling the legislative requirements of the EU Feasibility Study. Eighteen laws were adopted, many of which introduce significant structural changes in the fields of crime prevention (SIPA package), the judiciary (HJPC), customs and taxation (ITA law), developing a single economic space (Business Registration Law, BiH Insurance Law and the laws establishing Institutes for Standardisation, Meteorology and Intellectual Property), and the energy market (ISO, TRANSCO).

An additional twenty-one laws have been adopted by the Council of Ministers and await enactment by the BiH Parliamentary Assembly. These relate to public broadcasting, Phytosanitary matters, market standards (General Food Safety Law, Market Surveillance Law, General Product Safety Law and Technical Requirements and Conformity Assessment Law), the judiciary (Amendments to the Law on State Court and State Prosecutor's Office), the introduction of VAT (Law on Payments into the Single Account and Allocation of revenues, Law on Customs Policy, VAT Law), budget control (State Finance Law), and police reform (Law on Border Protection of BiH and State Border Service). These laws are expected to enter into effect by the end of October 2004.

It can be expected that the BiH authorities will have completed the majority of the required legislative steps by the end of October 2004. OHR together with the EC remains heavily involved in fostering the adoption of these laws and strengthening the capacity of the BiH institutions capacities to implement legislation. Main focus for the coming months will be the implementation of the legislation related to the EC Feasibility Study.

### **Handover SFOR-EUFOR**

At its 28-29 June 2004 summit in Istanbul, NATO announced that the Stabilisation Force (SFOR) would be terminated. On 9 July the UN Security Council welcomed the EU's intention to launch an EU military mission from December 2004, and on 12 July 2004, the European Council issued its decision to replace NATO's mission with an EU-led peacekeeping force (EUFOR). Concurrently, NATO will establish a headquarters, which will assist the BiH authorities in continuing defence reforms.

The launch of the EU Force in BiH marks the beginning of a new phase in BiH's recovery- its transition from the era of Dayton to the era of Brussels. The EU force will work with the EUSR/HR, the EUPM, the EUMM, and the European Commission's assistance programmes to support the Stabilisation and Association process and the OHR's Mission Implementation Plan. The EU Force will help to buttress the EU's comprehensive approach towards BiH, and support BiH's progress towards EU integration by its own efforts.

NATO's long-term political commitment to the country will remain unchanged and the establishment of a NATO headquarters will constitute NATO's residual presence in the country. The NATO HQ Sarajevo will assume leadership, in particular, of the defence reform process in BiH on behalf of the international community.

Since the formal decision, planning has continued apace, and joint visits by EU and NATO leaders have reinforced the unity of purpose of the two organizations.

### **EUPM**

Following the tragic death of the EUPM Head of Mission, Commissioner Sven Fredriksen, in January 2004, Commissioner Kevin Carty (Ireland) was appointed as Head of Mission by the Council of the European Union and assumed his duties on 1 March 2004. During the reporting period, the EUPM continued with the implementation of its seven programmes. Notable progress has been achieved in several areas.

The fight against major and organised crime has been assisted by the development of a standardised National Intelligence Model throughout the country. Standardising the CID system across the Entities and Brcko District paves the way for the State level agencies (State Investigation and Protection Agency/SIPA, State Border

Service/SBS, Interpol working under the umbrella of the Ministry of Security) to work more effectively with these lower level bodies.

EUPM, with the generous support of other international stakeholders, set up a free Crime Hotline, called 'Krimo Lovci' (Crime Catchers) in March 2004. Citizens of Bosnia and Herzegovina can now, free of charge and anonymously, report any crime to local police officers, who are monitored by EUPM.

Progress in the fight against major and organised crime, including in the area of human trafficking, received international recognition: The 2004 Fourth Annual Trafficking in Persons Report, issued by the US Department of State, acknowledged this progress by upgrading BiH from tier 3 to tier 2.

SIPA is now established, and becoming operational. EUPM, OHR and other stakeholders developed a package of laws, adopted by BiH's Parliamentary Assembly during the reporting period that will make the Agency the cornerstone of the fight against major and organised crime. SIPA moved into temporary Headquarters in Sarajevo in May 2004 pending resolution of its final premises. In addition, SIPA has already established two Regional HQs in Banja Luka and Mostar. All three offices are currently staffed with a total of a 131 local employees who are mentored, monitored and inspected by EUPM. Recruitment of future employees will continue in the second part of the year.

The State Border Service (SBS) has continued to enforce its mandate. It has intensified its cooperation with SFOR and other Entity-based police forces, increasing the number of joint border operations. Moreover, a new law providing SBS with a strengthened legal basis is currently under discussion. Finally, it should be noted that during the reporting period and for the first time Persons Indicted for War Crimes (PIFWCs) were arrested by SBS while attempting to cross the BiH border. These arrests constitute an additional step in the development of SBS as a modern and effective Border Police.

The last report referred to the existence of numerous problems related to the certification process conducted by the United Nations International Police Task Force (UN/IPTF) during its mandate in BiH. Immediately following the termination of UNMIBH's mandate in December 2002, numerous police officers who had been denied certification by the UN/IPTF have challenged the legality of their dismissal and some have been reinstated in their functions following favourable decisions by domestic courts.

On 25 June 2004, the President of the UN Security Council made a statement on behalf of the Council that called upon the authorities of BiH to ensure that all UN IPTF decisions were fully and effectively implemented. Meanwhile, discussions have been taking place between the OHR and the UN on how best to handle frequent allegations of injustices by former police officers, some supported by the representative of another UN agency in BiH. To that end, OHR staff has met with UN officials in New York to seek a remedy for these problems

### **EU Special Representative (EUSR)**

When appointed High Representative in May 2002, Lord Ashdown was also appointed EU Special Representative to BiH (EUSR). In the last two years, his role as EUSR has steadily grown, as the EU role itself has grown in BiH. This trend continued during the reporting period. At the end of June, Lord Ashdown made his first broadcast in BiH as EUSR, and a special EUSR web-site – the first dedicated EUSR web-site in the world – was launched. It can be found at [www.eusrbih.org](http://www.eusrbih.org), and contains further information about Lord Ashdown's role as EUSR. The EUSR also hosts regular meetings of the EU family and regularly briefs EU Heads of Mission. As EUSR, Lord Ashdown is part of the chain of command of the EU Police Mission (EUPM), and will have a role in providing political guidance to the incoming EUFOR Commander.