

# **24th Report by the High Representative for Implementation of the Peace Agreement to the Secretary-General of the United Nations**

**12 OCTOBER 2002-31 AUGUST 2003**

Pursuant to Security Council Resolution 1031 of 15 December 1995, which requested the Secretary General to submit to the Council reports from the High Representative in accordance with Annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8-9 December 1995, I herewith present the twenty-fourth Report.

## **SUMMARY**

1. Since taking over as High Representative on 27 May 2002. I have made clear that my aim, during my term of office, is to set Bosnia and Herzegovina (BiH) irreversibly on the road to statehood within the European Union (EU). My priorities remain the rule of law and economic reform – justice and jobs. My aim is also to continue to improve the functioning and effectiveness of BiH's key governing institutions, and ensure that they can depend on more reliable funding arrangements
2. In the period since my last report, we have made measurable progress. We have set up the Anti-Crime and Corruption Unit (formerly called the Serious Crimes Unit) within my Office, to deal with crime and corruption and have begun the process of restructuring the BiH court system at all levels. The new Legal Reform Unit, High Judicial and Prosecutorial Councils, and

Special Chamber in the State Court and a Special Department in the BiH Prosecutor's Office are now functioning.

3. On 7 March, we launched a major attack on the networks which provide funding and support for key ICTY indictees, including Radovan Karadzic. OHR has also been tasked by the Peace Implementation Council with establishing a system for domestic prosecution of war crimes.
4. The EU Police Mission was launched on 1 January 2003 and is now fully – and successfully – operational.
5. I launched the expert reform Commissions – comprised of local representatives but chaired in each case by a respected international expert – covering Indirect Tax Policy, Defence and Intelligence. A wholly locally staffed Commission was also set up to explore possible ways to achieve the unification of Mostar. This made important progress, but fell short of success. A second attempt under international community chairmanship is now underway.
6. The state-level Civil Service Agency which was created last May by imposition of the Law on Civil Service is now fully operational and an important factor in introducing, though not without some resistance, modern standards in public administration. We are now working to ensure that the Federation Civil Service Agency is fully funded and fully operational.
7. After a long process of government formation, coalition governments were formed at State, Entity, and Cantonal levels.
8. While full restoration of BiH's pre-war multi-ethnic tapestry remains a distant prospect, the implementation of property legislation, the increasing visibility and self-confidence of return communities and, most importantly, the numbers of people returning, are encouraging and mean that we are on track for the draw down of the RRTF at the end of 2003. It will be

extremely important, however, to maintain adequate local and international funding for refugee return, and international monitoring of the process, for some time after the draw down of the RRTF.

9. The media development mandate was largely completed and the Department was closed down, though there is further important and potentially contentious work to do to establish an independent functional and economically-viable Public Broadcasting System.
10. A Mission Implementation Plan for the OHR has been drawn up and was endorsed by the Peace Implementation Council at the beginning of the year, and now forms the basis for the OHR's work in BiH.

## **REPORT**

### **I- Introduction**

1. This is my second report to the UN Secretary General since taking over as High Representative on 27 May 2002. In this report, I will assess the progress made toward the goals outlined in my last report, and review developments during the reporting period.

### **II – The rule of law**

2. When I arrived in Sarajevo, I outlined my priorities as first justice, then jobs, through reform. Building on the work of my predecessor, we have made further progress in recent months. In the rule of law field, the key steps have been the following:

- On 18 October, 2002, I issued a Decision ensuring that the building and land which had been identified as the site for the Court of Bosnia and Herzegovina would be dedicated, in perpetuity, for such purposes. My objective is to have that state level court address the most serious cases of financial crime, organized crime and political corruption.

- On 1 November, 2002, I imposed a complete restructuring of the court system within Bosnia and Herzegovina, closing and consolidating courts throughout both entities in order to achieve a more efficient and more accountable judicial system. The number of first-instance courts was reduced from 78 to 47, subject matter jurisdiction was harmonized and commercial departments are to be created in 15 first-instance courts. They also provided the necessary framework to enable the High Judicial and Prosecutorial Councils (HJPCs) to announce judicial positions in the first- and second-instance courts in the Entities.
- The practical implementation of the streamlined court system has started. Meetings with the 12 Ministers of Justice have been held and visits to the courts affected were conducted to assess budget, space, renovation and equipment needs.
- On 1 November, 2002, I imposed amendments to the laws establishing Judicial Training Centers in order to make it possible for these centers to become operational and begin to provide needed training to judges and prosecutors throughout Bosnia and Herzegovina. In December 2002 the HJPCs adopted two training programmes on Criminal Procedure for judges and prosecutors.
- Thirteen disciplinary panels were established within the HJPCs to hear complaints against incumbent judges and prosecutors. During this period, 166 complaints were received by the HJPC's and forwarded to the disciplinary prosecutor. Twenty-three judges submitted their resignations, ten of whom had been previously suspended by the High Representative.
- The High Judicial and Prosecutorial Council has reviewed over 300 applications for the first wave of vacancy announcements in seven different courts and prosecutor's offices: The Court of BiH, the Prosecutor's Office of BiH, the Entity Supreme Courts and prosecutor's offices and the Constitutional Court of the RS. During the

months of November and December, 2002, the HJPC's interviewed 171 candidates for these vacancies.

- On 2 December 2002 all remaining judicial and prosecutorial posts for the middle and lower tier were advertised. By the closing date of 13 January 2003, more than 1600 applications had been received for the approximately 900 positions. The process of reselection will continue throughout 2003.
- On 16 January 2003, the HJPC appointed eight members to the Criminal Division of the State Court and a Chief Prosecutor and three assistants to the Prosecutor's Office of BiH.
- On 24 January, 2003, imposed the Criminal Procedure Code of BiH was imposed, which entered into force on 1 March 2003. This represents a giant leap in the process of reforming the criminal justice system of Bosnia and Herzegovina. Together with the Criminal Code, which entered into force on the same date, it renders the Court of Bosnia and Herzegovina operative.
- On 27 January, 2003, the newly appointed judges of the Court of BiH and prosecutors of the Prosecutor's Office of BiH took their oaths of office in a widely welcomed ceremony. On that same day, the Court of BiH held a ceremony recognizing its occupancy of its newly renovated temporary facilities
- We are in the process of recruiting international judges and prosecutors to serve in the special criminal panels of the Court of BiH and the special division of the Prosecutor's Office of BiH. Provisions for participation of these international members were included in the amendments imposed on 24 January.
- The Criminal Division of the Court of BiH and Prosecutors Office of BiH are off to a productive start. The prosecutor's office brought charges against eight defendants for counterfeiting. Two of these defendants entered pleas of guilty while the cases of the remaining defendants will be set for trial. Shortly

thereafter, the prosecutor's office brought charges against other accused persons for human trafficking. These are the first criminal charges brought by the State Prosecutor who was appointed at the end of January, 2003. The Rule of Law Pillar of OHR has worked closely with him to resolve issues related to the new codes enacted by the High Representative in January, 2003, as well as to find additional resources to support the work of his office.

- As promised in my last report, we have created a new unit called the Anti Crime and Corruption Unit (ACCU, formerly now as the Serious Crimes Unit) to provide my Office with a broad scope of support capabilities for the local prosecution, investigation and analysis of systemic organized crime and corruption. The ACCU in close cooperation with domestic agencies and authorities has undertaken efforts to guide and support investigations and prosecution in multiple cases. At present, the ACCU is primarily focused on guiding two major criminal investigation Task Forces initiated by my office. At times, due to political and technical limitations for the local authorities, the ACCU has also provided specialized support capacities such as forensic audit work or specialized experts as court witnesses.
- ACCU is assisting in the assessment of cases to be transferred to the Prosecutor's Office of BiH as part of the implementation of the new Criminal Code and Criminal Procedure Code of BiH.
- During early May, ACCU worked with EUPM, at the request of the Minister of Interior of the Republika Srpska, to transfer a major organized crime case to the Criminal Division of the Court of BiH and Prosecutors Office of BiH. The prosecutor's office brought charges against these defendants who were ordered to pretrial confinement. One of the international prosecutors of the Prosecutor's Office handled the matter at the direction of the chief state prosecutor. This is a very

serious case – perhaps the most significant human trafficking case in BiH's history – and the fact that it is being tackled within BiH's court system is a significant step forward.

- The Head and Deputy Head of the Rule of Law Pillar visited Belgrade on 29 and 30 April to meet with officials from the Serbian Ministry of Justice, Ministry of Interior and the Chief Prosecutor. The purpose of the visit was to offer to facilitate the creation of operational protocols between these ministries and offices and their counterparts in BiH in order to more effectively interdict criminal activities which transcend the borders of BiH and Serbia. In addition, during the visit, the OHR officials exchanged information with the Serbian officials as to specific suspected criminal activities of interest to both BiH and Serbia and arranged for further exchanges of information in regard to these suspects. Serbian officials were eager to establish the relationships suggested and to continue the exchange of such information.
- On 23 April 2003, I held a crime summit, which included attendance by the Ministries of Interior of both entities and the Ministry of Security of the state, together with the State Border Service and State Investigation and Protection Agency. The EUPM also participated in these meeting. The purpose of the meeting was to address the impending end of the state of emergency in Serbia and the possibility that many persons apprehended in Serbia might flee to BiH upon release from Serbia. At the meeting, I proposed to local officials a two- pronged approach to addressing this possibility. The short-term proposal included an immediate exchange of information with Serbian officials as to those persons to be released from custody in Serbian and, in particular, those released persons with business, family or other connections to BiH. The

longer-term solution included the development of operational protocols between appropriate agencies in BiH and Serbia to address common issues related to criminals whose activities transcend the border between the two countries. The local officials of BiH readily adopted the proposals put forward and pledged that they would undertake the suggested actions.

- The Rule of Law Pillar continued to have discussions with OSCE and the Council of Europe in regard to the future of the Human Rights Chamber. These three organizations, in consultation with local officials, devised a plan which will process the large backlog of cases pending in the chamber and also provide for future cases regarding alleged human rights violations to be handled by other institutions of BiH. There have been several meetings with the Constitutional Court and with the Human Rights Chamber in order to discuss the proposed plan and to solicit the views of these institutions in order to identify issues which will need to be resolved during implementation of the plan. This plan was presented to the Peace Implementation Council (PIC) during its meeting in the middle of June.
- The Criminal Institutions and Prosecutorial Reform Unit (CIPRU) has worked with the state court and state prosecutor's office to rebalance their budgets. Of particular importance is the rebalancing of the budget of the prosecutor's office to enable the office to employ additional prosecutors and legal staff to handle the increased responsibilities of the office.
- The Constitutional Court of BiH held a session on 30 May 2003. This was the first session of the court in more than a year. The first order of business for the court was the election of its president and three vice-presidents. One member of the court from Republika Srpska remains to be appointed.

Attacks on networks supporting persons indicted for war crimes



3. On 7 March, 2003, certain amendments to the banking agency laws in both entities so as to permit the entity banking agencies were imposed to freeze bank accounts of persons and firms providing financial support to persons impeding or obstructing implementation of the Dayton Peace Agreement (DPA). On that same date, acting on behalf of the entity banking agencies, these new provisions of the entity banking agency laws were used in order to freeze bank accounts of two individuals who we have good reason to believe have repeatedly provided financial support to persons indicted for war crimes (PIFWCs).

4. On 7 July 2003 a further set of Decisions were issued, freezing the bank accounts of several more individuals and removing Mr. Dragomir Vasic from his positions as a member of the RSNA and Counselor for Zvornik municipality. In all cases the individuals were reliably believed to be violating Article 19 of the DPA by providing material support to PIFWC Radovan Karadzic.

5. We have also benefited from close cooperation with the EU and the US. The EU has, at our initiative, put in place a visa ban list against a number of individuals suspected of obstructing the ICTY in its mandate and providing material support to PIFWCS. The US has also frozen the assets of a number of persons on similar grounds.

#### **IV – Jobs**

6. In an effort to clear the decks for a new beginning after the 5 October 2002 elections, and to finish the work of the last government in the area of economics, thirteen Decisions were issued on 21 October 2002. These Decisions were designed to help promote growth in BiH by means of a series of reforms in the banking, statistics, land registry, communications and other areas.

7. An important initiative was launched on 12 November

2002 to dismantle barriers to business growth and job creation. The Bulldozer Initiative was designed to help businesses knock down as many roadblocks and cut as much red tape as possible to free up the economy for growth. Initially, the committee was coordinated by the OHR and composed of USAID, the World Bank, the European Commission, IMF and OHR. Domestic members include the Federation of Bosnia and Herzegovina, Republika Srpska Employer's Confederation, Business Women Confederation, Foreign Investors Association and many regional or local business associations. Local business leaders are – and remain – very much in the driving seat. It is they who come up with examples of the most egregious barriers to business, and they who take the lead in campaigning for their removal.

8. In December 2002, the Bulldozer Committee presented the BiH governments with a list of 50 economic roadblocks along with their respective legal solutions. Those proposed changes were presented to the relevant authorities (State Council of Ministers, FBiH Government and RS Government) during the first quarter of 2003. Businesses or business associations that submitted the requests had an opportunity to testify before the parliamentary assemblies' committees and advocate for reform, which will reinforce their role as major contributors to economic policy through the lobbying process. Local Implementation Committees coordinated by local business associations were set up in order to insure proper reform implementation and follow-up. All 50 pieces of legislation were adopted, none imposed, by 4 June 2003, and the domestic authorities have assumed complete responsibility for the next phase of the project, which will involve six regional committees.

9. Apart from its impact on the economic reform agenda, the Bulldozer Committee and their successes represent the first major example of the growth, in the business sector at least, of a genuine Civil Society in BiH.

10. Concrete progress has also been made in a number of other areas as well during the reporting period. These include:

### **Tax and Fiscal Structure**

11. One of the tests I set out in my speech to the BiH Parliament on October 6 2002 was: “Reform the revenue system by beginning the process of establishing VAT at State level and reforming customs”. On February 2003, the Indirect Tax Policy Commission was established and tasked to undertake a number of activities to promote a single customs service for BiH and a single / State level VAT. Several presentations were made to senior politicians, technical consultations were undertaken and public presentations and debates took place concerning VAT and Customs issues.

12. On the tax front, a very good progress has been made. The Commission, led by the former European Commission official Joly Dixon, an expert in EU indirect tax policy, agreed on the text of an interim law that established the Indirect Tax Authority (ITA) on July 1 – within the deadline set in my Decision. It subsequently agreed a fully-fledged framework law providing for the unification of the customs administrations in BiH, the working methods and authority of the ITA and its Governing Board. The Law will authorize the ITA and Governing Board to begin work on the establishment of VAT at the State-level.

13. This legislation meets EU standards and would equip BiH with a modern state-level system of indirect tax collection, and a single, efficient customs service, is now awaiting endorsement by the Council of Ministers and parliamentary approval. Its successful enactment into law, and the start of implementation, will be a big step, both in demonstrating that BiH is capable of taking difficult decisions in this sensitive area, in tackling fraud and corruption, and in moving towards EU compatibility. Significantly this Law breaks new ground in two other areas. This will be the first time that Article

3.5A of Dayton will be used to pass competencies from the Entities to the State and the first time administrative areas will be established which conform to the natural economic regions of BiH, and not the Inter-Entity Boundary Line.

### **Agriculture and Forestry**

14. A state-level Veterinary Law was passed but full implementation was delayed by the slow appointment of the new director for the State Veterinary Office. The new director was named in May 2003, and his initial tasks are to get the animal identification project underway, to adapt local regulations to EU standards, and to secure sustainable financing over the next 5 years.

15. A Federation Forestry Law has been passed but some amendments have yet to be addressed in Parliament, thus slowing the broad implementation effort including the closure of the existing 22 summaries (forest enterprises) and the establishment of one Cantonal Forest Enterprise per canton to regularize and increase the flow of revenues at the local level.

### **Telecommunications**

16. Progress has been made in the telecommunications sector by enacting the Law on Communications as part of the economic package. This will enable the regulator to implement rapidly a regulatory regime conducive to competition. Audits have been carried out in this sector and will be made public in the near future.

### **Electric power**

17. Progress has been made on the implementation of the institutional arrangements. The BiH Council of Ministers proposed the appointment of members of the State Regulatory Commission (SERC) to the Parliament of BIH and the next step in the appointment process is the approval from the Parliament

of BiH. Appointment of the SERC members will mark an important milestone in the reform process. Also, intensive efforts are aimed at ongoing implementation of the State Electricity Law, specifically the establishment of the State Transmission Company, State Regulator and Independent System Operator.

18. In November 2002, Bosnia and Herzegovina signed a Memorandum of Understanding on the Regional Electricity market in Southeast Europe and its Integration into the EU International Electricity Market. The Memorandum was signed under the auspices of the Stability Pact with a goal to establish an integrated regional electricity market in SEE by 2005 and ensure its integration into the EU Internal Electricity Market. The SEE Regional Market will be based on the principles set out in the Electricity Directive and other legislation related to the operation of the EU Market.

## **Transportation**

19. The state Licensing Commission has commenced licensing of international and inter-entity bus services under the recently passed **Law on International and Inter-entity Road Transportation**. Once this process is completed, we anticipate that the Licensing Commission will turn its efforts towards distribution of truck licences in the field of international and inter-entity truck transport. With the creation of the Foreign Trade Chamber of Commerce and the recent introduction of the **Law on Associations**, the establishment of the BiH Trucking Association now creates the conditions for going forward with the implementation of the TIR Carnet system which will allow BiH truckers movement throughout the EU without restrictions at borders.

20. In the field of rail transport, the Working Group on Rail Transport concluded its meetings and a draft of a new state Law on Railways of Bosnia and Herzegovina has been prepared for presentation to the Council of Ministers. The Law on Railways for Bosnia and Herzegovina provides for state level

regulation of all railway operations including safety in the country in line with constitutional powers over international and inter-entity transport with the overall objective of freedom of movement throughout BiH as well as with EU standards.

21. The Samac Bridge was finally opened to passenger traffic for both road and rail transport, while the issue of opening it to freight traffic and the location of the customs facility is continuing to be addressed.

22. The signing of the Framework Agreement on the Sava Basin took place at a ceremony in Kranjska Gora, Slovenia on 3 December. This agreement, along with the Protocol on Navigation, represents a step closer to establishing normal navigation on the Sava and through the Port of Brcko, as well as closer cooperation between neighboring countries with respect to other aspects of the Sava basin.

23. Finally, under the new structure for the Council of Ministers, a new post for a Minister of Communications and Transport has been established which will now provide a stronger basis for the development of a transportation policy and plans and for regulating transport at the state level.

### **Public Administration Reform**

24. On 23 January, the Head of the Civil Service Agency who was appointed by my predecessor reported to the Chair of the Council of Ministers that the Agency is now fully operational. This Agency is key to preventing any party patronage at state level as it is responsible for the recruitment of civil servants. Whereas, the RS is setting-up a similar Agency with IC financial and technical support, my Office facilitated the drafting of a similar civil service legislation for the Federation of BiH, a commitment made by the BiH authorities under the rule of law targets. This law was adopted in May 2003 and we are now working with UNDP,

which has agreed to act as the lead agency, to ensure that the Civil Service Agency is properly funded and staffed so the Law can be properly implemented. I have concerns, however, at the remaining level of dysfunction in Government Departments and Ministers' Offices. Attention will be required to this area and to the effectiveness of the wider civil service to improve the functionality of Governments and Public Administration in general in the near future.

25. Meanwhile, serious problems are still encountered in politically motivated replacements of members of governing boards of various public bodies as well as the appointment to civil service positions.

## **V – The Political Environment**

26. The initial period following the 5 October elections was dominated by government formation, but the State-level Council of Ministers (CoM) led by Prime Minister Terzic has now been in office for some eight months. Prime Minister Terzic's administration is hampered by the constitutional dysfunction of the Council of Ministers (he does not appoint and cannot remove Ministers – they owe their existence and loyalty to Parties, not the Government) and lack of capacity and support within the institution of the CoM as a whole. As the result, output of the Council of Ministers has been low, with limited legislative activity. The restructuring of the new Ministries and bodies has also proceeded slowly.

27. The Entity governments face similar problems. In the Federation, the process of Government formation in Canton 7 was finalized at the end of June, more than eight months after the elections. The Herzegovina-Neretva Canton was the last self-government unit in the entire Bosnia and Herzegovina to put its elected government in place. This required considerable prodding from my Office, culminating with the threat of serious fines for the parties involved in the obstruction.

28. The continuing division of Mostar remained a serious problem during the reporting period. Eight years after the war, the City of Mostar is a collection of municipalities without coordination and without the capacity to generate the development of the City. A Commission comprised solely of local representatives was established in the spring to explore options for a permanent statute of the city, and to provide Mostar citizens with an opportunity to contribute to the debate about the future of their City, without interference of the international community. By the beginning of August, however, this Commission had achieved only limited results. A second attempt, with a new Mostar Reform Commission under international community auspices, will begin in September.

29. In Republika Srpska, despite some initial posturing and rhetoric, major issues such as the Independent Tax Commission, the Defence Reform Commission and now the Intelligence Commission are proceeding relatively smoothly.

30. The resignation of Mirko Sarovic as a member of the Presidency on 4 April 2003, in the wake of the ORAO arms-to-Iraq scandal, was a step towards establishing political accountability in BiH.

## **Security and Defence**

31. On 2 April 2003, in response to the ORAO issue, my Office issued several defence-related Decisions to help address the systemic weaknesses exposed by the Oraq arms to Iraq scandal. These included amendments to the Entity Defence laws and constitutions in order to ensure that a similar situation would not arise again. On 9 May 2003 I established the Defence Reform Commission, chaired by former US Assistant Secretary for Defense James Locher, which is tasked with proposing reforms, principally to the command and control of the Armed Forces in BiH, and which – if agreed – will help the country achieve its declared goal of becoming a credible candidate for membership in NATO's Partnership for Peace by January 2004.



This Commission has made substantial progress by the end of August 2003, and is due to complete its work by mid-September.

32. There have been other significant developments in the defence area. Terms of Reference for the Secretary General of the Standing Committee on Military Matters (SCMM) have been agreed and he has been invited to attend the BiH Council of Ministers, although not yet as a full member with voting rights.

33. On a more practical level the SCMM's Secretariat is due to expand (from 9 to around 88 personnel) over the next few months. This will allow the Secretariat to begin operating as a fledgling 'ministry' coordinating activity with other Ministries and acting on behalf of the State of BiH in matters relating to defence.

34. A decisive step forward has been made in reform of the intelligence services in BiH. The Expert Commission on Intelligence Reform (ECIR) headed by the former senior Hungarian intelligence official, and former Hungarian Ambassador to BiH, Kalman Kocsis, was launched end of May 2003. The Commission is tasked with producing a proposal for setting up a single intelligence structure. It was due produce the necessary legislative changes and other legal instruments, in line with democratic principles and practice elsewhere in Europe by mid September.

## **Srebrenica**

35. I continue to chair the Executive Board of the Foundation of Srebrenica-Potocari Memorial and Cemetery with my Office providing support and coordinating this important effort.

36. Following the groundbreaking ceremony that took place on 11 October 2002 at the Potocari site, the works on the Phase I of construction began. In this phase, which was completed at the end of January, the site was prepared for the burials of up to 1,000 individuals. Phase II is now following it, which

involves the provision of gravesites for approximately 9,000 additional individuals, construction of the Musala, Mutual Crypt with garden, service facilities, and parking.

37. The burials of first 600 identified individuals took place on 31 March 2003. A further 400 identified individuals were also buried on 11 July 2003.

38. At the request of surviving family members and following consultations with the Republika Srpska authorities, on 25 March 2003 I issued a Decision transferring the ownership of the Battery Factory "A.S." a.d. Srebrenica to the Foundation of the Srebrenica-Potocari Memorial and Cemetery. The Decision also established a Commission, which is to determine the compensation to be paid by the Republika Srpska to the current owners and users of the Battery Factory before September of this year. The Battery Factory site has a special place in the memory of Srebrenica families, as it was the last place many of them saw their beloved relatives alive. This Decision had the full support of the Srebrenica-Potocari Memorial Foundation's Executive Board. The Foundation, in consultation with families of victims, will determine the future use of the Battery Factory site.

39. The Executive Board of Foundation has made intensive efforts over the period in question to raise funds, without which the Foundation would have been unable to implement the project. As a result of these fundraising activities the Foundation has received contributions of around 3.5 million Euro that allowed work to begin at the site. The Human Rights Chamber issued a decision on 7 March 2003 ordering the Republika Srpska Government to pay 2 million KM by 7 September this year to the Foundation and another 500,000 KM each year for the following 4 years. Since families opposed such a decision, the Executive Board agreed to proceed with fundraising activities and to consult families on how to use these funds once when the Republika Srpska pays. Therefore approximately an additional 1.5 million Euro are still needed

to complete the project and the Executive Board continues to request the assistance of potential donors.

40. On 20 September 2003, former US President Clinton will be the guest of honour at the official opening of the Cemetery, at the invitation of the Foundation.

### **BiH in the Region**

41. A significant step was reached between BiH and Croatia when Croatia managed, in January 2003, to ratify the provisionally applied Agreement on determination of border crossings of 6 April 2001. This is the first bilateral agreement to enter into force in this field. The newly constituted BiH Presidency and President Mesic have agreed to do their utmost to complete pending procedures and negotiations regarding border issues and dual citizenship, and in early February, they initiated the draft Agreement on the local border zone regime and the three annexes to the Co-location Treaty of 17 June 2002. These documents are now waiting to be signed by both Foreign Ministers.

42. Two developments in the relationship between BiH and the then-FRY deserve a special mention. First, an Agreement on dual citizenship was signed on 29 October 2002 in Belgrade by the BiH Minister for Civil Affairs and Communications and the Yugoslav Minister of the Interior. This Agreement has been ratified in 2003 by both countries and has now entered into force in both countries. Second, both heads of delegations to the commissions dealing with border issues initialed in December the draft Agreements on the local border zone regime and on a simplified regime to be applied in a zone in the Eastern part of BiH enmeshed with the territory of Serbia and Montenegro.

43. The 12 March 2003 murder of Serbian Prime Minister Zoran Djindjic was a terrible blow to the region. The best tribute to Zoran Djindjic's memory will be to continue the work in

which he was engaged to secure progress and stability in the region, and its integration into mainstream Europe, and in so doing to demonstrate that attacks such as this cannot defeat democracy. Increased cooperation between BiH and its neighbours in the fight against criminal networks – as described above – will be an important part of this.

### **International Criminal Tribunal for Yugoslavia (ICTY)**

44. The plan for domestic trial of war crimes in a special panel of the Court of BiH has been the subject of several meetings during 2003. Meetings were held with the Ministries of Justice, as well as the prosecutors of both entities and the state. In addition, OSCE and Council of Europe were invited to offer comments to the proposals. The recommendations resulting from the discussions with these groups and ICTY were presented to the PIC and approved by the PIC on 12 June. The PIC Steering Board Political Directors decision called for the establishment of a War Crimes Chamber within the Court of BiH, and a War Crimes Department within the State Prosecutor's Office. I have been tasked to establish and co-chair with the relevant BiH authorities an Inter-Agency Implementation Task Force (ITF), involving other relevant international organizations, to coordinate the implementation of the project

### **VI – Returns**

45. The number of refugees returning continues to be strong, exceeding 102,000 in 2002. According to UNHCR statistics, the total of registered returns to and within BiH has risen to nearly 1 million people, including some 390,000 so-called minority returns. The State Ministry for Human Rights and Refugees, together with relevant Entity Ministries – assumed a greater leadership role the return process during 2002 and moved closer towards ownership of the remaining process. Despite this, many challenges towards achieving “sustainable return” remain.

46. On 30 January 2003, the Peace Implementation Council endorsed an Annex VII (GFAP) Strategy, drawn up by the BiH authorities, UNHCR and my Office in order to ensure that the progress continues. Beyond recognizing the need to facilitate as many as 500,000 additional returns in BiH under domestic leadership over the next four years, the Strategy provides a roadmap to build additional capacity within domestic institutions to take on these tasks as International Organizations scale down their operations, recalibrate resources to address other priorities, and in some cases, phase out completely. The Strategy calls for the Reconstruction and Return Task Force (RRTF) to draw down by the end of 2003.

47. Property Law Implementation (PLIP) made decisive progress during the reporting period. The countrywide repossession rate of 67% promises nearly full implementation by the end of this year. The large urban centers such Sarajevo and Banja Luka however, remain a source of concern, as they lag well behind the Entity averages of 71% and 61% in the Federation and RS respectively. As approximately 40 000 claims remain unimplemented in both Entities, the focus now is to ensure adequate budgeting for alternative accommodation at all appropriate levels of government. In addition, the domestic authorities, with the assistance of the IC, will introduce a package of minor amendments to the property laws aimed at ensuring adherence to the principles of transparency and rule of law embodied in the New Strategic Direction for Property Law Implementation. As partners, the IC and domestic institutions will also work to ensure a smooth transfer of CRPC responsibilities to the local institutions.

48. Increasing leadership in the property repossession process by the BiH Ministry for Human Rights and Refugees, together with the responsible Entity Ministries is welcome. But that success raises increasing concerns about the lack of harmony in the property laws in the region. There remains

some 21 000 Croatian Serbs who occupy the homes of others and who still seek to either repossess their homes in the Republic of Croatia and/or return. Increasingly, these families face eviction under BiH's laws without their own long term housing solutions because the recent amendments to the property laws in Croatia have not gone far enough and have yielded little real results. Similarly, pre-war residents of other neighboring countries in the Region (Slovenia) have approached my Office similarly concern about their own eviction and similarly unable to repossess property and return to their own prewar homes in the region. Solutions within Croatia and other former Yugoslav states must be identified for these individuals and this requires compatible property law throughout former Yugoslavia.

49. However, returns to BiH from other parts of the region progress with increasing numbers of returns from both Croatia and increasingly from Serbia and Montenegro.

50. As returnees attempt to reintegrate into society, combined domestic and international efforts must ensure that their individual choice is sustainable. The legal framework necessary to ensure returnees' unbiased access to socio-economic facilities and opportunities is largely in place, but information on and enforcement of the applicable laws and agreements remains limited. To increase returnees' awareness of their rights, my Office has developed a number of public information campaigns that provide information on access to employment opportunities, education, health, and utilities.

51. Many DPs still do not return to their pre-war residences because they feel they would be unable to rebuild their lives there. While many of the concerns are well grounded, some are based on incomplete information. To encourage DPs to consider return, my Office developed media programmes that increase the visibility of successful returnees and provide factual information on return conditions. In addition, my Office, SERDA and the country's Employment Bureaus are jointly

developing a system to make information on vacancies around the country more widely accessible.

52. Further, there are many employment creation initiatives around the country, often targeting returnees in particular, but no study ever compared the effectiveness and efficiency of the different approaches followed. To aid donor agencies in their programme designs for 2003, my Office conducted a survey among implementing organisations and provided donor agencies with their feedback on the advantages and drawbacks of the various types of programmes. These efforts are aimed at rebuilding BiH's multiethnic society with opportunities for all citizens, including refugees, DPs, returnees and the domiciled communities.

53. Although we are on track for the draw down of RRTF, and the handover of responsibility to local authorities at the end of 2003, there are still major tasks ahead. Draft legislative amendments have been agreed on some items, but must still be presented to the BiH parliaments. Discussion still continues among IC and with BiH ministries on two important institutional aspects: the Return Fund and the prospective BIH institution which should review CRPC claims.

54. The fact that at a time when refugees and DPs are returning in large numbers, international financial assistance is rapidly decreasing, remains also a concern. Furthermore, BiH domestic funds remain insufficient to cover needs.

## **VII. European Union Police Mission (EUPM)**

55. On 1 January 2003, the European Union Police Mission (EUPM) began operations in Bosnia and Herzegovina (BiH). It followed on from the UN International Police Task Force (IPTF) operation and is intended to build on and secure the IPTF's successes in police reform. I would like to pay tribute to the United Nations for their achievements in Bosnia and Herzegovina with the International Police Task Force (IPTF)

and to thank them for the smooth transition to the EUPM operation.

56. The EUPM is the European Union's first crisis management operation under the European Security and Defence Policy. The Mission consists of 500 police officers and 50 civilian experts from 33 states, led by Police Commissioner Sven Frederiksen, under my overall supervision in my capacity as Special Representative of the European Union. Commissioner Frederiksen knows that he can count on my total support, both as part of the EUPM chain of command and as High Representative.

57. On 24 January, 2003, I issued Decisions which will enable the EUPM to recommend to me the removal, as a last resort, of police officers who obstruct the implementation of the GFAP. The same set of Decisions enabled OHR to monitor trials and investigations in certain circumstances, another role previously performed by IPTF. I will not hesitate to take action, if the Commissioner requests it of me, against any police officers that obstruct the work of the EUPM and the implementation of the GFAP.

58. EUPM's programmes are intended to cover all areas of law enforcement. At the outset of the mission, however, priority has been given to two particular issues: safety of returnees and the fight against organised crime. Trafficking in human beings is part of this latter priority and will be addressed as part of this effort.

59. The EUPM is not, however, a substitute for BiH police engagement. Seven years after the war, it is time for BiH authorities to take on their law enforcement responsibilities. Local ownership is the key to an effective and sustainable Rule of Law. It is also the key to the country's progress toward European integration. The EUPM's role designed accordingly to monitor, mentor, advise and assist BiH in this process, but not to do its work for it.



## Media Development

60. On 31 December 2002, I closed OHR's Media Development Department. The PIC Directives called for "the establishment of free and pluralistic media throughout BiH." More concretely, they called for establishment of a politically independent, transparently funded public service broadcasting sector in conformity with European standards. This should be balanced by a strong and viable commercial sector. Both sectors should be regulated by a strong, independent regulatory body, which would determine standards for content and allocate media frequencies. In order further to enhance freedom of expression, the PIC called for the adoption of legislation covering Freedom of Information and the decriminalisation of Defamation, consistent with accepted international democratic standards, etc.

61. OHR Media Development played the leading role in promoting these policies. The following achievements have been made in implementations of these Directives:

- The Communication Regulatory Agency (CRA), established in 1998, became an indigenous, independent and self-sustaining broadcasting and telecommunications regulator in accordance with best international practice. The CRA has successfully completed the process of issuing long-term licences for all those broadcasters that qualified.
- The BiH Parliament in August 2002 adopted the package of laws on public broadcasting system in BiH. Previously, two High Representative Decisions were regulating this area and provided for the establishment of the Federation Television in October 2001, the launch of the state-wide BH Radio 1 in May 2001 and the launch of the first element of the BiH Television, BiH TV Main News in May 2002.
- In the commercial broadcasting sector, the Open Broadcast Network survived the rapid withdrawal of international financial aid in 2000 and has successfully

attracted international investment. Also, the US funded Mreza Plus commercial TV network is making headway towards economic sustainability. Sustainability of both the commercial and public broadcasting sectors has been significantly enhanced by the CRA Broadcast licencing process, which reduced the over-saturated market of almost 300 broadcasters by nearly 30%.

- With the Defamation Law enacted in the Federation BiH in November 2002, Freedom of Information laws consistent with accepted international democratic standards are now in place on entity and state levels.
- With regard to the Press, self-regulation was opted to serve as a major defense to democratic freedoms. The establishment and subsequent operations of the Press Council for Bosnia and Herzegovina has been a major step forward in protecting press freedoms and promoting journalists ethics. It is now up to the Press Council to prove that it is capable to enforce adherence to the principles laid down in the BiH Press Code.

62. The OHR will continue monitoring developments in the BiH media, and assisting where necessary, in accordance with its mandate under the DPA. The mandate of my Broadcasting Agent expired on 30 June 2003, and we are now working to ensure that the BiH authorities establish a sustainable mechanism for financing the CRA that will ensure its continued independence and the maintenance of European standards.

### **Mission Implementation Plan**

63. In December 2002, the PIC Steering Board endorsed OHR's Mission Implementation Plan (MIP). (The full text of the MIP can be found on our website at [https://www.ohr.int/ohr-info/ohr-mip/default.asp?content\\_id=29145](https://www.ohr.int/ohr-info/ohr-mip/default.asp?content_id=29145)) The MIP outlines six Core Tasks for OHR:

- Entrenching the rule of law
- Ensuring that extreme nationalists, war criminals, and

their organized criminal networks cannot reverse peace implementation

- Reforming the Economy
- Strengthening the capacity of BiH's governing institutions, especially at the State-level
- Establishing State-level civilian command and control over armed forces, reform the security sector, and pave the way for integration into the Euro-Atlantic framework

## **Promoting the sustainable return of refugees and displaced persons**

64. Each task is divided into several sub-programmes, and OHR Departments are responsible for defining and implementing the steps toward each goal. During the reporting period, we presented the PIC Steering Board with two informal updates, in April and June. A formal report on and assessment of the first year of the MIP will take place at in early 2004.

## **Reporting Schedule**

65. In order to better satisfy the requirements of Security Council Resolution 1031 of 15 December 1995, which requested the Secretary General to submit to the Council reports from the High Representative in accordance with Annex 10 of the Peace Agreement and the Conclusions of the London Peace Implementation Conference of 8-9 December 1995, I propose to submit my reports to you for onward transmission to the Security Council on a more regular schedule. The next report will cover the period from now until 31 December and you will receive it in January 2004. From then on, reports will cover a six-month period and you will receive them in January and July. Should you or any Council member require information at any other time, I would be pleased to provide an update in the form of a letter.

Sarajevo, August 2003