

Report to the European Parliament by the OHR and EU Special Representative for BiH, July-December 2002

July - December 2002

The work of the Office of the High Representative and EU Special Representative for Bosnia and Herzegovina, July-December 2002

End of year report for the European Parliament

Introduction

During the second half of 2002, the Office of the High Representative (OHR) continued its efforts to oversee the implementation of the civilian aspects of the 1995 Peace Agreement. The 5 October 2002 elections and their preparation and aftermath dominated the reporting period. During this time, the role of the EU continued to grow as prepared for the launch of the EU Police Mission (EUPM), which took over from the UN-IPTF (United Nations International Police Task Force), at the end of the mandate of the UN Mission to BiH (UNMIBH) on 31 December 2002. In the context of the Rule of Law package that had been endorsed by the PIC Steering Board, Lord Ashdown continued his efforts to step up the pace of reform, continuing to emphasise rule of law, including judicial reform and the fight against corruption. In December 2002, the Steering Board of the Peace Implementation Council (PIC) also endorsed the OHR's new Mission Implementation Plan, a comprehensive strategy for ensuring that BiH is a peaceful, viable state on the road to European integration, allowing the OHR to draw down in due course.

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Political developments

The 5 October elections were the first to be organised and run by the BiH authorities rather than the OSCE. The exercise was successful. The elections were efficiently organised and almost wholly free of violence. The BiH Election Commission functioned well and is an example of a BiH institution at its best.

In the run up to polling day, international representatives in BiH, including the High Representative himself, put a great deal of effort into encouraging electors to turn out and vote, travelling throughout the country with a "Get Out the Vote" message. However, turnout was only 54.68%, compared to 64.4% in 2000. Young people in particular did not vote.

Representatives of the nationalist SDA, SDS, and the HDZ, won the Bosniac, Serb, and Croat seats in the three-member BiH Presidency. At the State level, and in the elections for the Entity parliaments, the HDZ and SDS saw their vote drop slightly, while the SDA increased its vote by five percentage points. The SDP, which was the central party in the previous State and Federation governments, lost the biggest share of votes when it dropped from 27.3% to 16.2%.

The low turnout represented a protest at the slow pace of reform in BiH, directed above all at punishing the parties that have been in government for the last two years. A degree of election fatigue was undoubtedly at play as well, as BiH voters were called to the polls for the sixth major election in only six years. The situation in the region is dramatically different to five to ten years ago. Milosevic and Tudjman are gone, and the apparatus over which they presided all but dismantled. Of the three main nationalist parties contesting the BiH elections, two saw their votes decline. Ironically, BiH's last government was voted out not for being too radical in pursuing reform, but not radical enough. In an encouraging development, the main campaign issue in this election, for all parties including the three nationalist ones, was reform, not nationalism.

During the lengthy process of government formation, the High Representative made it clear that the IC would judge the new governments by their commitment to genuine reform, which must be demonstrated by a focus on

programmes and actions, rather than personalities and individuals. In concert with the international community, he set out six 'tests of seriousness' for assessing this commitment. He called on the governments to:

- Reform the Council of Ministers in order to establish stable, effective government,
- Reform the revenue system by establishing VAT at the State level and reforming customs,
- Reform the revenue system by beginning the process of establishing VAT at the State level and reforming customs
- Reform the political system by establishing Parliamentary Commissions to act as 'ethics watchdogs'
- Reform the business environment by rationalising taxation within BiH borders
- Reform the criminal justice system by making the State Court operational by 31 December and by supporting newly appointed judges and prosecutors
- Reform the public service by adopting and implementing civil service laws and ensuring that civil service appointments are merit based.

The OHR also continued its work to implement Lord Ashdown's stated priorities of "first justice, then jobs, though reform." During the reporting period, the OHR set up a new Unit to tackle crime and corruption, which, once fully operational, will work with local investigators to identify the lawbreakers and bring them to court, and established a new Legal Reform Unit, headed, and almost entirely staffed by, Bosnians, to work with the BiH authorities on new laws. The process of restructuring the BiH court system at all levels was begun, and the High Judicial and Prosecutorial Councils were established. Furthermore, the new State Court was set up and became operational. Finally, in co-operation with UNMiBH/IPTF, the State Information Protection Agency was established to assist in the fight against organised crime, and the police re-certification process was completed.

Finally, in December 2002, the High Representative set up a Task Force to monitor investigation of the ORAO arms-to-Iraq affair by the RS authorities, on the grounds that the preliminary RS report failed to address key questions. The outstanding issues included: who authorised the transactions that violated UN Sanctions, and who carried them out? Who was formally responsible for oversight of ORAO, and who is responsible for the failure of that oversight? The RS authorities were given a deadline of 3 January 2003 to provide their answers.

Economic developments

Although the High Representative maintains the priority given to Rule of Law, events during the reporting period highlighted the need to increase the pace of economic reform, and take measures to improve the operational effectiveness of BiH's governing institutions. These measures fell under the theme of *Making BiH Work*.

On 30 July 2002, the BiH authorities and IC organisations based in Sarajevo, represented by OHR, presented a joint economic reform programme to the Political Directors of the PIC Steering Board. In response to the poor state of the BiH economy, with low salaries, high unemployment, deepening poverty, and a lack of future prospects for young people, representatives of the Council of Ministers, along with both Entity Prime Ministers, committed their governments to undertaking a broad range of specific measures. These measures are intended to improve the business environment, make the government more efficient, guarantee the free movement of goods, people, services and capital in order to establish a single economic space, deliver high-quality utilities and public services, and provide an affordable safety net for the elderly and vulnerable. On 23 September 2002, the BiH authorities, together with Political Directors of the Peace Implementation Council (PIC) Steering Board, agreed that these measures, together with the Rule of Law targets, would form the "Jobs and Justice" agenda. They made it clear that this contract between BiH and the IC was binding on all BiH authorities, including the incoming governments.

The process of economic reform and institution building continues to face many challenges, particularly in the RS. Continued opposition by RS politicians to the establishment of a single economic space in BiH has continued to represent an obstacle not only to the development of the Entity itself, but also to BiH as a whole. Furthermore, under the current system, politicians, even when excluded from political functions as a result of Decisions by the High Representative, can continue to exercise political influence through economic activities such as control of public companies in strategic sectors.

However, concrete progress has been made in a number of areas during the reporting period. The State Law on

Civil Aviation, the Entity Electricity Laws, the Federation Law on Concessions, the Entity Laws on Banks, and the State Veterinary Law have all been passed. But, BiH still needs a number of others, including the Law on Communications, the Law on Statistics, and the Law on Land Registry Books. Furthermore, the State-level Civil Service agency, which was created in May 2002 by the imposition of the Law on Civil Service, is now fully operational and will play an important role in the introduction of modern European standards of public administration.

On 12 November 2002, the High Representative launched the "Bulldozer Initiative," geared to break down barriers to business growth and job creation. This ongoing effort is aimed to help private businesses eliminate as many roadblocks and cut as much red tape as possible to free up the economy for growth. Initially, the Bulldozer Committee was co-ordinated by the OHR and composed of the European Commission, the World Bank, IMF, USAID and OHR. Domestic members included the FBiH and RS Employer's Confederation, Business Women's Confederation, Foreign Investors Association and many regional or local business associations. Part of the purpose of the initiative, in addition to the introduction of important reforms, was to empower and train local groups in advocating for change, and help establish sustainable democratic mechanisms for civic participation in government. (Note: as this report was being drafted, the domestic authorities had assumed responsibility for the process, and the Entity and State parliamentary assemblies had adopted all but one of the proposed legislative changes.)

BiH in the region

The trend toward normalisation in the relationships between BiH and its neighbours continued. On 15 July 2002, the first Summit of the Heads of State of BiH, the Republic of Croatia (RC) and the Federal Republic of Yugoslavia (FRY) took place in Sarajevo. This meeting was an important step toward regional co-operation, and concluded with a joint declaration by the three Presidents reaffirming, inter alia, the principles of inalterability of the borders, constructive support for BiH's statehood and further improvements in regional co-operation.

In addition, on 17 June in Sarajevo, BiH and Croatia signed a Treaty on co-location providing the legal framework for the functioning of jointly operated border-crossing points. This development enabled the long-awaited opening of the border crossing of Kostajnica. Similar negotiations continue between BiH and the FRY on pending issues related to the State border (leading, for example, to the initialling of an agreement on the determination of border crossings) and the draft agreement on dual citizenship.

Since there is a strong regional dimension to the returns issue, with 21 000 Croatian Serbs with refugee status still present in BiH, in many cases occupying Bosniac – or Croat-claimed property in the RS, OHR continues to work to convince the Croatian government of the urgent need to ensure the rights of this refugee population are honoured. Their return to Croatia is prevented by the continuing lack of facilitating property legislation in that country – in particular the lack of legislation enabling the return of socially owned property. A similar problem affects a small population of former Slovenian residents. These populations are an added burden on the BiH authorities, since it adds to their already pressing obligations to provide alternative accommodation for people who must leave claimed property.

BiH and the European rapprochement process

During the reporting period there were visits by the EU Secretary General / High Representative for CFSP, Javier Solana, by the Commissioner for External Relations, Chris Patten, and the Political and Security Committee of the European Union to BiH. Each visit underscored the deepening engagement of the EU in Bosnia and Herzegovina, through the Stabilisation and Association process and the launch of the EUPM. *

At midnight on 31 December 2002, the European Union Police Mission (EUPM) began its operations in Bosnia and Herzegovina (BiH). It followed on from and built upon the successes of the UN International Police Task Force (IPTF). The transition from the IPTF to the EUPM operation proved seamless and effective, owing in great part to the support of then-SRSG Ambassador Jacques Paul Klein.

The EUPM was the European Union's first crisis management operation under the European Security and Defence Policy. The EUPM consists of 500 police officers and 50 civilian experts from 33 states, led by Commissioner Sven

Frederiksen. The EUPM operates under the overall supervision of the High Representative / EU Special Representative.

The EUPM launch marked the beginning of a new era for policing in Bosnia and Herzegovina. It stood as evidence that progress had been made in transitioning from post-conflict stabilisation to capacity building and reform.

Seven years after the war, it was time for BiH authorities fully to take on their law enforcement responsibilities. The EUPM mandate was designed accordingly to monitor, mentor, advise, and assist the BiH authorities in this process. To support the local authorities, not to do their work for them.

EUPM's programmes would cover all areas of law enforcement. At the outset of the mission, however, priority was been given to two issues: safety of returnees and the fight against organised crime. Trafficking in human beings was part of the latter priority.

Increased cooperation among BiH police, with neighbouring police forces in the Balkan region and with international agencies such as Europol and Interpol was another EUPM priority from the outset.

Bosnia and Herzegovina also made strides forward in the Stabilisation and Association Process during the reporting period. On 30 September, the Commission and the Council declared the the Road Map "substantially completed," due to further progress by the Bosnian authorities.. This moved Bosnia and Herzegovina forward towards Europe and paved the way for the next step in the process, the launch of a Feasibility Study. Nevertheless, the Council and the Commission noted the need for the BiH authorities to step up the pace of reform in order to move towards Europe more efficiently and quicker.

On October 30, the High Representative, Paddy Ashdown, briefed NATO and the EU on the reform process that is underway in Bosnia and Herzegovina. During this visit he also stressed the overriding importance of tackling organised crime in BiH and in the region in general. The High Representative reiterated that the establishment of the rule of law must be a priority properly reflected in the co-operation between the region and the EU. In this regard he stressed the importance of the EUPM highlighting that it will take on the problem of organised crime by bringing the full weight of the EU to bear in a co-ordinated fashion.

Also an important issue that arose during the reporting period was regarding the creation of a state-level military structure. Lord Robertson wrote a letter on 11 November to the new BiH Presidency to insist on the creation of state-level command and control structure for all BiH's armed forces as a prerequisite for PFP accession.

Mission Implementation Plan

During the reporting period, OHR began work on a comprehensive Mission Implementation Plan which defines the core tasks that OHR must ensure are completed if BiH is to become a peaceful, viable state on course to European integration, allowing the OHR to phase out its activities. This document, which was approved by the PIC Steering Board at their January 2003 meeting, will be discussed in more detail in subsequent reports.

The final version is available online at https://www.ohr.int/ohr-info/ohr-mip/default.asp?content_id=29145.