

# **Address to the UN Security Council by the High Representative for Implementation of the BiH Peace Agreement, Wolfgang Petritsch**

Mr President,

Distinguished members of the Security Council,

When I took up my mandate in Bosnia and Herzegovina in August 1999 Yugoslavia and Croatia were ruled by the same leaders who had brought about the disastrous conflicts of the 1990s. Their proxies still wielded power in BiH. Consequently refugees saw little hope of returning to their homes. Reform was effectively blocked by wartime politicians, who did nothing to overcome the internal economic divisions and the virtual absence of an adequate legislative framework. State-level institutions had been established but they were underfunded, understaffed and lacked real power. My distinguished predecessors, Carl Bildt and Carlos Westendorp, worked hard to correct this but were severely hampered by an unpromising political climate inside the country and a lack of cooperation from Zagreb and Belgrade.

Faced with this situation, my strategy was clear: Since arriving in BiH I have vigorously promoted the creation of an investment-driven — rather than an aid-dependent — market economy, the mass return of refugees to their homes (rolling back the results of ethnic cleansing), and the consolidation of institutions — legal, political, economic, social, educational and civic — which will sustain a viable democracy long after the IC has ended its extraordinary assistance and involvement in the country's affairs.

After 9/11, the potentially disastrous consequences of weak or failed states have been burned into our consciousness. The experience of BiH has shown conclusively that countries cannot recover from war or protracted civil strife simply through material aid or military assistance. They need institutions that work and they need a "culture" in which laws are properly debated and universally applied and respected. Today, with regard to Afghanistan, even skeptics accept that institution-building must be at the core of successful intervention.

Consolidating the Rule of Law has underpinned the IC strategy in BiH, since institution-building, refugee return and economic development can only be promoted in a secure environment of law and order. In this respect the work of the International Police Task Force, mandated under the Dayton/Paris Peace Accords to provide the citizens of BiH with an efficient and impartial police service, has been key to the peace-implementation efforts. I would like to take this opportunity to commend the Special Representative of the Secretary General, Jacques Paul Klein, the IPTF Commissioner, Vincent Coeurderoy and all the staff at the IPTF and UNMIBH for the strenuous efforts they have made in order to carry out this work.

On 18 February, the European Union's General Affairs Council announced that the EU is ready to establish a police mission (EUPM) which will take over from the IPTF from 1 January 2003. The EUPM, supported by the EU's institution-building programmes, will contribute to peace implementation and to the EU's overall policy in the region, notably the Stabilisation and Association Process. It represents a unique opportunity for the EU to develop its political engagement with BiH and support structural reform crucial to the country's Europeanisation process. Allow me to express my appreciation to the EU High Representative for Common Foreign and Security Policy, Javier Solana, for the decisive and constructive approach adopted by the European Union in undertaking the EUPM. The EU's initiative was welcomed and accepted by the Steering Board of the Peace Implementation Council on 28 February. I have duly informed the Secretary General of this.

Mr President,

Policing in BiH will not be fully effective as long as there is a belief that certain individuals are beyond the reach of the law. In this respect the work of the ICTY, and the cooperation given to the ICTY by the BiH authorities at the

State level and in both Entities, is crucial to the country's overall recovery. Just a few days ago, SFOR troops launched operations in Eastern Bosnia to arrest Radovan Karadzic. Let me take this opportunity to thank COMSFOR General John Sylvester and his soldiers for these courageous undertakings, necessitated by the absence of credible efforts by the RS authorities to apprehend and transfer to The Hague indicted war criminals hiding on their territory. The entity of the Republika Srpska must be left in no doubt that as long as it fails to live up to its obligations it will not receive the full backing of the IC. I remain firmly convinced that unless Radovan Karadzic, Ratko Mladic and other indictees end up in The Hague, people will not be able to turn the page and look to the future. The Serb Democratic Party (SDS), founded by Karadzic, has announced the expulsion of members indicted for war crimes. Yet the SDS will have to show practical and public support for the ICTY before this kind of statement is greeted with any sort of credence.

If approved by the ICTY under the 1996 Rome Agreement, commonly known as the "Rules of the Road procedure", war crimes cases may be tried by BiH courts. I am acutely aware of the sensitivity and importance of such trials, which are not only aimed at bringing perpetrators to justice but also play a key role in the overall reconciliation process. In light of a plan proposed by the ICTY Prosecutor last year regarding possible remission of ICTY cases to BiH, my Office is currently engaged in discussions with the ICTY and the UN Office of Legal Affairs here in New York with a view to cooperating on a consultancy project which will identify the resources that are needed to try more war crimes cases in BiH. The consultancy will begin shortly. It is being funded by the Governments of the United Kingdom and Sweden, and will entail close co-operation with other UN agencies, international organisations and BiH authorities.

While international efforts in the broad sphere of the Rule of Law have yielded results, progress in some areas has fallen short of expectations because there has not yet been a thorough reform of the judiciary. The Judicial System Assessment Program (JSAP), set up by UNMIBH two years before, was terminated in November 2000. As a consequence of JSAP's closure, my office was tasked to set up the Independent Judicial Commission. On 14 March last year, I issued the Decision formalising the establishment of the IJC and determining its mandate.

However, the IJC reported to me a rather alarming picture: Judges and prosecutors, many of whom gained office during or immediately after the war on ethnic or political rather than professional grounds, are often unfit to carry out their duties. There is a lack of adequate financing and courts are often subject to undue external influence.

Following a request from the PIC, I presented last week a reinvigorated programme of judicial reform measures for 2002/03 to the Political Directors of the Steering Board. This combines a restructuring of the BiH court system and a de-politicised appointment procedure, with the introduction of a High Judicial Council. It also encompasses the reform of key laws, including civil and criminal procedure codes.

This package of targeted measures is a response, in large part, to calls by the domestic authorities for firmer action to tackle corruption and address problems in the judicial system through a comprehensive review. The Council of Europe was invited to work on the details of the strategy in order to develop a system for BiH that is compatible with modern European standards.

Indeed, "the Europeanisation" of BiH – crystallised in the imminent accession of the Country to the Council of Europe and the EU Road Map itemizing steps which BiH must take in order to move closer to eventual EU membership – is the overarching context for promoting the Rule of Law and advancing the main IC agenda for BiH's recovery. We have promoted the functional integration of BiH through the creation of effective State-level independent regulatory institutions such as the Communications Regulatory Agency and the soon-to-be established State-level Electricity Regulatory Commission.

In another state-building development, which – literally — manifests itself in the home of almost every BiH citizen, we have made significant and visible progress in establishing a modern public broadcasting system spanning the entire country. This has been a complex and necessarily controversial project, which still faces resistance from entrenched political interests as it deals with an area of public life that affects everyone. Yet the IC and the domestic broadcasters – management and oversight boards alike – have pushed through reforms, with the object

of reducing political influence over media and providing citizens with unbiased information and improved programming.

Mr President,

BiH has reached a crucial juncture in its path towards permanent recovery. The main political parties are discussing how to implement the Constitutional Court's Decision on the constituency of Peoples throughout BiH. This is the test case of whether BiH will develop into a state committed to human rights and the rule of law, and to the protection of the individual as well as the protection of BiH's three Constituent Peoples and the group of the so-called Others. The implementation of this decision puts an enormous burden on the still fragile political system in BiH. Yet this is a moment when the country must establish internal equilibrium founded on a constructive interdependence of all groups. There is still a widely held view that compromise and consensus are a kind of weakness. We are striving to change this deeply ingrained attitude, an attitude not confined to BiH alone. The talks now underway are part of a process through which the implementation of the Dayton Peace Agreement is evolving into something broader and deeper. This evolution – transcending the limitations of Dayton — is an incremental process, yet truly democratic in nature. It has again highlighted the evolutionary potential of Dayton. The very fact that the Constitutional Court of BiH, an institution provided for in the Dayton Constitution, has triggered this process indicates that the Dayton system is capable of reforming itself. Even well intended statements from abroad risk jeopardising this process which I view as “ownership” in the making. I believe that the parties must be given every opportunity to produce “home-grown” solutions, arrived at by BiH leaders for the benefit of BiH citizens.

However, time is of the essence. The current constitutional discussions must produce a successful outcome within days, so that the necessary amendments can be made to the Entity constitutions and the BiH Election Law within the timeframe required to hold general elections on schedule in October. These elections will be the first postwar polls organised by the domestic authorities and will introduce a four-year election cycle, which should further enhance the stability of the political system.

As the Rule of Law has begun to take hold, the number of returning refugees, throughout BiH, has increased dramatically. Last year, more than 92,000 so-called minority returns were recorded, a 36 percent increase over the corresponding figure for 2000, which had been termed a “breakthrough” at the time by the US-based NGO Human Rights Watch. If this rate is maintained – and I believe it can be maintained – mass return will be completed within two years. Here I would like to mention UNHCR's crucial role in what I believe is a historic achievement, which just two years ago seemed extremely unlikely.

Since the end of 1997, more than 102,000 property claims have resulted in repossession – that is 41 % of all such claims in BiH! We will hit the 50 % mark shortly – thus meeting a key condition of the EU Road Map.

We can be proud that the corner has at last been turned, but this is not the time to relax our efforts. Adequate funding must be sustained until the return process has been completed.

The momentum of refugee return is unstoppable because a new kind of consciousness has developed in BiH. Public Servants and politicians alike have no other choice than to fulfil their obligations, since I have removed those who have failed to do so. For their part, returnees have been empowered to claim what is theirs by right, and have been offered practical support in the form of improved policing and material assistance. People have realised that practical politics, not nationalist rhetoric, will solve their economic and social problems.

Furthering BiH's complex and ambitious double transition from war to peace and from communism to democracy and market economy, we have established a modern business-oriented banking system based on a stable currency, and we have set about creating a legal environment that will attract foreign investors.

As resources are channeled towards wealth creation that will benefit a majority of the population, the IC, under the leadership of the OSCE and SFOR, has exerted pressure on the Entity governments to end wasteful and unsustainable military spending. In November, the armed forces presented plans for drastic downsizing, and work is now being done to reduce BiH's defence spending to a manageable 2 percent of GDP – the West European average.

Also in the security field, the process of providing BiH with a modern system of issuing identity documents – a development which will at once serve as an effective device in the efforts against terrorism and bring closer the possibility of visa-free international travel for BiH citizens – has been taken up seriously by the domestic authorities after years of delay. The five laws required to implement the so-called Citizens Identification Protection System were passed by the Parliamentary Assembly of BiH at the end of 2001. In the wake of 9/11, the BiH authorities acted quickly to ensure that no terrorist organisation can make use of BiH as a safe haven or staging post.

Addressing a bitter and still divisive legacy of the war – disputes over the rebuilding of monuments destroyed by nationalist forces – I issued, on 8 February, a series of Decisions transferring responsibility for granting reconstruction permits from the municipal authorities to the Entity Ministries of Urban Planning. The ministries have been given clear criteria and time lines on which to issue or withhold permission for rebuilding. We now have an institutional framework for the implementation of Annex Eight of Dayton, which provides for the restoration of national monuments, and a model for dispute resolution that could be adopted in other areas.

The Srebrenica Massacre left a legacy of war, more bitter than any other. I welcome the UN recovery programme for Srebrenica which aims to address the extraordinary social and economic problems there. It will underpin the efforts of the International Community in the context of the Srebrenica Action Plan to facilitate returns to the area.

In 2000 and 2001 I issued Decisions setting aside land for a cemetery and memorial at Potocari in Srebrenica, and a marker stone was formally installed on the site on the sixth anniversary of the massacre on 11 July 2001. The proposal made by the associations of the victims' families to add the nearby Battery Factory site as a location for the memorial is being considered at the moment and a site assessment of the property is being undertaken, funded by the US government. However, I continue to urge these associations to proceed without delay to plan for the burial of the remains which have been exhumed and prepared for interment.

Mr President,

Early in my mandate, I introduced the concept of "Ownership" – or "odgovornost" as they say in the local languages – to address the dependency syndrome of BiH and to encourage the BiH authorities at all levels to meet their responsibilities. Today, international peace implementation officials face a healthy amount of pride on the part of BiH leaders, civic activists and citizens – this I see as proof that they have the genuine will to start "owning" problems and take responsibility for their country's future.

With the Alliance for Change, a coalition of reform-oriented parties which displaced the nationalist establishment in government at the beginning of 2001, there are finally politicians leading the country who support and defend BiH's statehood. With assistance from the IC – extended in a spirit of evolving partnership – they have, among other things, passed the Election Law and prepared BiH for Council of Europe membership.

This has taken place against a backdrop of nationalist decline. In November the HDZ BiH, a party which continues to have a strong following among BiH Croats, abandoned its attempt to split away from BiH constitutional order. Last April I placed the Hercegovacka Banka – which had been used as an HDZ conduit for illicit funds – under Provisional Administration, thus depriving the party of much of its capacity to finance parallel institutions and extra-constitutional activities. This, coupled with the withdrawal of support from Zagreb – whose reform-minded authorities play a very positive role – convinced the HDZ BiH that its "self-rule" adventure was leading nowhere.

Mr President,

As the circumstances of peace implementation have considerably changed, the IC has adapted its engagement so as to meet new challenges in the most effective way. In the spring of 2001 I was asked by the Foreign Ministers of the EU and the Contact Group to oversee the streamlining of international civil implementation structures in BiH.

An exhaustive effort has been made, in close co-ordination with UNMIBH, the IMF/World Bank, the OSCE, SFOR and the European Commission, to develop an all-encompassing package which will substantially improve co-ordination and efficiency. The general consensus on the four core strategic areas, around which the streamlining package has been developed, is proof that the priorities which I proposed in September 1999, and which you supported, were and still are the right ones.

Let me share with you key elements of the final streamlining plan:

The PIC Steering Board, of course, remains the overall board of directors, the body to whom I report. In BiH there will be a cabinet-style body of international agency heads, chaired by the High Representative and responsible for cross-cutting policy development, supported by an inter-agency Situation Group.

At the centre, there will be four task forces covering the core strategic areas of economic reform, refugee return, institution building and the rule of law.

Finally, there will be a restructured field presence based on new joint areas of responsibility and the co-location of all key agencies.

We have reached the final stage of peace implementation where more must be done with fewer resources and everything must be prepared for a hand-over to the BiH authorities. This streamlined model will deliver a leaner, less bureaucratic IC presence with reduced overall costs. It is being put into effect immediately.

In concluding, Mr President, let me inform you and the distinguished members of this body of my intention to leave my post at the end of May. This is my last presentation to you, but I will send a final report to the Secretary General at that time.

I am convinced that BiH can and will be a viable state if we continue to implement our overall plan with firmness and consistency. It is essential that we do not lose focus at this crucial stage. Forces bent on destruction and division are not yet completely defeated.

Yet the contours of a stable and self-sustainable BiH, based on the Dayton/Paris Accords and firmly on course to Europe are at last coming into view. BiH has normalised its relations with its neighbours and now speaks as an equal and respected member of the community of sovereign states in Southeastern Europe. I am proud that I have played a part in bringing this about.

When I leave my post in May, I am confident that my distinguished successor and friend, Paddy Ashdown, with your continued support, will further build on the solid foundation we have put in place. He will have the opportunity to finally return Bosnia and Herzegovina to its rightful place, into the hands of its citizens.

Thank you