

Communiqué of the Steering Board of the Peace Implementation Council

Political Directors of the Peace Implementation Council (PIC) Steering Board met in Brussels on 19 and 20 November 2008. The Chair of the Council of Ministers, the entity prime ministers as well as the leaders of the governing political parties were present at parts of the meeting.

The PIC Steering Board expresses its deep concern about the political developments since its last meeting on 25-26 June. After signing the Stabilisation and Association Agreement (SAA) on 16 June there has, over the last four months, been little progress in addressing reform, with ethnic and sub-State agendas prevailing over the European agenda. Divisive rhetoric challenging the sovereignty and constitutional order of Bosnia and Herzegovina (BiH), as well as the authority of the High Representative and the Peace Implementation Council (PIC) Steering Board has been frequent, further undermining inter-ethnic trust and the foundations of the state. It is particularly regrettable that such rhetoric continued through the run up to the local elections of 5 October 2008.

The PIC Steering Board welcomes the joint statement by the Presidents of SDA, SNSD and HDZ BiH of 8 November. It notes with satisfaction that the terms of the statement offer the potential to rapidly address the objectives and conditions which have been set for the transition from the OHR to the EUSR office. The political party leaders also agreed to address the issues related to the census. The PIC Steering Board welcomes the intention of the signatories of the statement to tackle constitutional reform in a pragmatic manner. The PIC Steering Board encourages stakeholders in BiH to join this consensus and invited the three political parties to seek broader consent. It calls for all these proposals to be put into concrete form in line with the agreed PIC objectives and discussed and adopted by the relevant BiH institutions; last week's Council of Minister's session is a welcome first step. These issues will also be important for BiH's further progress towards the EU.

The PIC Steering Board expresses its deep concern about the frequent challenges to the constitutional order of BiH and, in particular, to the sovereignty and territorial integrity of BiH or to the existence of the Republika Srpska as one of two entities under the Constitution of BiH. The PIC Steering Board underlined that addresses by BiH officials on behalf of institutions of BiH which do not reflect the agreed positions of those institutions are harmful and unacceptable. These types of behaviour, which directly impact on the political situation by making compromises even more difficult, have to stop.

In contradiction to previous PIC Communiqués and Declarations, there have been a number of attempts to rollback previously agreed reforms as well as lack of support to State level institutions. The jurisdiction of the State Level law enforcement and judicial authorities to operate fully in the RS must not be challenged and should be fully and unconditionally respected. The PIC SB welcomes the firm commitment to us by RS PM Dodik to comply fully, completely and unconditionally with any court order to submit documentation directly to the State prosecutors office. The PIC calls upon him to discharge this commitment promptly and will keep the situation under review. All authorities and officials in BiH, including the Republika Srpska, are required to fully co-operate with the institutions of BiH, including the Law enforcement agencies and to ensure unimpeded exercise of their responsibilities throughout the BiH in accordance with the law.

Regrettably many of these developments are not short term; they date back to the period in 2006 when the PIC Steering Board first indicated its readiness to close the OHR. The events of the last two and half years point to a failure of the BiH authorities and the political leaders to seize the opportunity to prove that they are capable of taking the country forward and are committed to upholding the GFAP. The responsibility for taking the country forward has been given to the authorities in BiH, and they now need to take the responsibility and ownership of reform to move BiH forward.

The PIC Steering Board underscores its full support for the High Representative to ensure full respect for the GFAP and requests all authorities in BiH to ensure full compliance in this regard. The PIC Steering Board calls authorities in BiH, to ensure the High Representative access to officials, institutions and documents in a timely fashion. In this respect, the PIC Steering Board notes that the RS Government has changed its policy towards the provision of information to the OHR, requiring that the OHR submit formal written requests for information. The PIC notes the fact that numerous requests in the past three months have gone unanswered, thus complicating the High Representatives ability to fulfil his mandate. Under Annex X of the GFAP, all authorities in BiH are obliged to fully cooperate with the High Representative as well as with the international organizations and agencies as provided for in Article IX of the GFAP.

The PIC Steering Board welcomes the readiness of the EU to assume a greater role in BiH following the transition from the OHR to the EUSR. The EU Foreign Ministers on 10 November welcomed a joint report by the Secretary General/High Representative, Javier Solana, and the Enlargement Commissioner, Olli Rehn, concerning greater EU involvement in BiH. They renewed their willingness to step up the EU's involvement in BiH and to assume its responsibilities by making use of all the instruments at its disposal.

The PIC Steering Board welcomed the ratification of the Stabilisation and Association agreement by BiH's Parliament. In order to ensure further progress towards European integration, the BiH authorities and political leaders need to demonstrate through concrete actions their readiness to advance reform and compromise. To this end, a change in the approach of BiH political leaders is going to be required. As underlined in the 2008 European Commission's Progress Report and in recent statements by EU officials, the BiH authorities must renew their efforts to push through the necessary reforms; otherwise they risk distancing BiH from the EU.

The PIC Steering Board reminds the authorities of the decision it took at its meeting on 27 February 2008 that the five objectives and two conditions must be delivered by the BiH authorities prior to OHR-EUSR transition. Until such time as the PIC Steering Board determines the five objectives and two conditions are met, OHR will remain in place and continue to carry out its mandate under the GFAP, ensuring full respect of the Peace Agreement. Rapid progress is required particularly in the following areas to complete the necessary objectives and conditions:

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

The PIC Steering Board welcomes the political agreement on State Property reached on 8 November as well as the High Representative's intention to facilitate the resolution of State Property in a manner that endows the State with ownership over assets needed to fulfil its Constitutional responsibilities. The PIC Steering Board urges all authorities involved in resolving this issue to build on the spirit of compromise of 8 November and deliver the necessary results. The authorities should cooperate fully with the High Representative, including with respect to information he may request to facilitate the resolution of this objective.

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

The PIC Steering Board urges the BiH authorities to fully implement the Transfer Agreement on movable defence property, signed in March of this year, and to finalize, sign and implement an appropriate Transfer Agreement on immovable defence property. The PIC Steering Board notes with concern the slowness with which the BiH authorities acted towards finalizing the transfer of immovable defence property, and underlines that fully implementing the Transfer Agreements on movable and immovable defence property will enable to meet the "defence property" objective. Further to this, the PIC Steering Board welcomes the development within the joint statement made by the Presidents of SDA, SNSD and HDZ BiH of 8 November whereby ownership over immovable defence property will be vested at State level pursuant to the Transfer Agreement, and expresses its support to this Agreement being implemented with respect to the "defence property" objective.

On Objective Three - Completion of the Brcko Final Award:

The PIC Steering Board notes that the Brcko District itself must be given a mechanism by which it can have guaranteed access to the BiH Constitutional Court concerning disputes it may have with the Entities and the State regarding their obligations under the Awards of the Arbitral Tribunal and the status and powers of the District. The establishment of such a mechanism is a prerequisite for the Supervisor to notify the Tribunal that the conditions to terminate the role of the Arbitral Tribunal have been met, and thus pave the way for termination of Supervision itself. The PIC Steering Board reminds that the Awards of the Arbitral Tribunal are, per Annex 2 of the GFAP, final and binding on all parties. The PIC Steering Board welcomes the Supervisor's report that all major elements of the Final Award under his authority are nearly all completed. The PIC Steering Board thus urges political leaders and members of the BiH Parliamentary Assembly, as a matter of urgency, to take all necessary steps to establish the required mechanism with the necessary two-thirds majority in the BiH House of Representatives for which the 8 November agreement suggests can be obtained. The PIC Steering Board takes note of the Supervisor's ability, under the Final Award, to seek appropriate remedies from the Arbitral Tribunal if such an agreement is not timely concluded.

On Objective Four - Fiscal Sustainability

The PIC Steering Board welcomes the adoption of the Law on the National Fiscal Council and of a permanent arrangement for the allocation of revenues from indirect taxation. Considering also the potential impact of the international economic turmoil on BiH, the PIC Steering Board urges the BiH authorities to continue to strengthen fiscal coordination, by *inter-alia* ensuring regular meetings of the ITA Governing Board with full attendance.

On Objective Five - Entrenchment of the Rule of Law:

While BiH authorities have adopted the National Justice Sector Reform Strategy and the Law on Aliens and Asylum, with regard to the latter problems remain with the adoption of regulations on BiH visas. The PIC Steering Board is concerned about the delays in adopting a Strategy for Prosecution of War Crimes in BiH. The PIC Steering Board calls upon the working group to submit the Strategy to the Council of Minister for its adoption by the end of the year.

The PIC Steering Board underlines the importance of the BiH authorities delivering these requirements as soon as possible to allow the transition from the OHR to the EUSR office. The PIC Steering Board discussed prospects for such transition as well as the future international engagement in Bosnia and Herzegovina, and will continue its reflection on this issue at its next meeting.

The PIC Steering Board appreciates the work being done to review the Annex VII implementation strategy by State and Entity Ministries. This process is being facilitated by the UNHCR and the OHR. The Steering Board expressed the hope the BiH Council of Ministers will adopt the strategy and look to its swift implementation and translation into concrete actions and results.

The PIC Steering Board also reminds political leaders and the authorities that a positive assessment of the situation in BiH by the PIC SB, based on full compliance with the Dayton Peace Agreement, is the second condition. To fulfil this condition it remains critical that BiH political leaders fully comply with the Dayton Peace Agreement avoiding any inflammatory statements that threaten or violate the Peace Agreement.

The PIC Steering Board welcomes the arrest of ICTY indictee Radovan Karadzic on 21 July. The Steering Board calls upon the competent authorities of Bosnia and Herzegovina to fulfil their obligations under international law to cooperate fully with the ICTY, by facilitating the arrest of all ICTY indictees, including Ratko Mladic, without further delay, and by dismantling their support networks, as well as addressing witness protection issues.

BiH is an internationally recognised sovereign state whose territorial integrity is guaranteed by the GFAP. The Steering Board underlines that the International Community retains the necessary instruments to counter destructive tendencies and that it will not allow attempts to undermine the GFAP, whether from inside or outside the country. The OHR will continue to ensure full respect for the GFAP and to monitor progress in respect of the objectives and conditions and the PIC Steering Board will keep the situation under constant review.

The next meeting of Political Directors will take place in Sarajevo on 25 and 26 March 2009.