Accession of Bosnia and Herzegovina to the Council of Europe: Progress Review # 9, May 26, 2000

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The Human Rights Coordination Centre was tasked by the Human Rights Steering Board to draft an assessment on the progress to date of Bosnia and Herzegovina towards meeting the accession requirements identified by the Council of Europe in May 1999. In this report the HRCC tracks progress on those requirements pertaining to Human Rights. The report is intended to provide factual updates but does not intend to provide an opinion on whether or when BiH should accede to the CoE.

It is important to note the following. The accession requirements often stipulate the passage of particular legislation. The Council of Europe does not differentiate between whether legislation is imposed or adopted; therefore, some requirements are marked as "satisfied" although the law may have been imposed by the High Representative. Also, many of the requirements only refer to adoption, but not to implementation.

Please contact HRCC if you would like copies of past reports. Please send information/comments to fax number: 387-71-447-420 to the attention of Lene Madsen, Sirpa Rautio, or Eric Frejabue, or by e-mail to lene.madsen@ohr.int, sirpa.rautio@ohr.int, or eric.frejabue@ohr.int.

UNHCR has contributed to, reviewed, and approved sections directly relevant to its mandate. The sections are noted by an asterix (*) in the text. The "®" symbol in the text indicates issues where changes have taken place since the last progress review.

Highlights>

- **Change in status of assessment requirement # 4**. The adoption in the RS of the *Law on Courts and Judicial Service* and *Law on Public Prosecutor's Office*, and the HR imposition in the Federation of the *Law on Judicial and Prosecutorial Service* provide for a new, non-political, structure for the appointment, discipline, and dismissal of judges and prosecutors. The laws must now be fully implemented
- Less than fifteen percent of applicants to domestic housing bodies have been able to repossess their house or apartment. Until this percentage increases significantly, there are potentially, tens to hundreds of thousands of admissible applications that could reach the European Court of Human Rights upon BiH accession
- The structure and content of draft laws for setting up Judicial and Prosecutorial Training Institutes were finally agreed to
- Entity Ministers of Education signed on 10 May 2000 a Declaration and an Agreement which itemise the short term and medium term reforms to be introduced all over BiH in order to inter alia desegregate the existing education systems

3. Human Rights Institutions

BiH

- ***Commitment to adequate Funding of the Human Rights Chamber, Ombudsperson and Commission for Displaced Persons and Refugees***

Not Satisfied. The Council of Ministers of BiH proposed in October 1999 (for the first time) that the funding levels for the Institutions in Annex 6 and 7 be raised from the current KM 200,000 to the level of KM 600,000. The year 2000 budget provides for KM 400.000 per institution, which remains below KM 600,000, deemed to be "adequate funding". Note that the latter sum is less than each Institution pays for local salaries at BiH salary levels.

By 3 March, the State government completed outstanding payments towards the total funding committed for 1999 to the Human Rights Chamber, the CRPC, and the Ombudsperson. The total amounts are still below KM 600,000 per institution, but do at least fulfill the amount of KM 200,000 per institution, which the state itself budgeted for 1999.

BiH, FBiH and RS

- ***Full compliance with decisions of the Human Rights Chamber and recommendations of the Ombudsperson***

In recent months, there has been a trend towards implementation of the decisions of the Chamber and the Ombudsperson. This has led, for example, to a current implementation rate of 60% of the 207 decisions of the Human Rights Chamber in which an order to a government was given. The implementation rate for cases of the Ombudsperson in which a public recommendation was given is approximately 45% of 600. One reason for the discrepancy is that the Ombudsperson seeks and achieves implementation in many cases which are not made public and not included in these statistics.

However, the Entities have not demonstrated an ability to provide any assurance that the 275,000 remaining property repossession cases (see graph below) can be resolved within a reasonable time, and certainly not within the time limits established by law. BiH is therefore not currently in a position to be able to prevent future violations of the

Convention, which is fundamental to the European Court of Human Rights system and prerequisite to the Council of Europe's Committee of Ministers determination of compliance in any particular case. In essence, the Committee of Ministers decides that there has been compliance when it is satisfied that the likelihood of a repetition of the occurrence of the violation is low. On this test, in cases involving "possessions" (including property matters), which consist of over 70% of the claims brought to the Ombudsperson and the Chamber, BiH would not be able to satisfy the compliance requirement used by the Committee of Ministers, as many thousands of similar cases are not complied with. ® Less than fifteen percent of applicants to domestic housing bodies have been able to repossess their house or apartment. Until this percentage increases significantly, the Council of Europe should be aware that under Human Rights Chamber / Strasbourg jurisprudence, large numbers (tens to hundreds of thousands) of admissible applications could reach the European Court of Human Rights upon BiH accession under the "continuing violation" principle.

BiH

Satisfied. The State (as opposed to the entities) has been found to have violated the European Convention on Human Rights and other international conventions in very few instances, due to its limited competencies under the Constitution of BiH. The State has implemented all orders and recommendations of the Chamber and the Ombudsperson.

FBiH and RS

Despite ongoing non-implementation with respect to the *Human Rights Chamber's* decisions, some progress has been noted. The agents, who are undertaking much of the work, were appointed in early 1999. It may thus take up to mid-2000 to be able to assess whether the governments are respecting the decisions of the Chamber following the introduction of the agents' offices.

It is evident however that the level of co-operation between the Agents and the Institutions is increasing. As a result, most cases appearing before the Chamber and Ombudsperson at least have received legal argumentation by the respondent governments. There has been a high degree of success regarding interim measures issued by the *Chamber* and the *Ombudsperson*, and an increasing number of amicable solutions found, especially in Ombudsperson cases.

RS

Partially Satisfied. The RS is not meeting all obligations with regards to compliance with *Chamber* decisions. The RS has not implemented orders issued by the Chamber in the June 11, 1999 Decision of *Islamic Community in BiH v. RS*, nor has it implemented the Chamber's orders in the case of *Matanovic v. RS*, which has been outstanding since 1997. Broadly speaking, implementation has been achieved in most non-property Ombudsperson cases, but only in a minority of cases involving property repossession. In addition there has been non-compliance in a case of two disappearances, less than full compliance in cases of illegally threatened evictions, and non-compliance with regard to *Zvornik* 3 recommendations.

FBiH

Partially Satisfied. The Federation is moving towards compliance with decisions of the Human Rights Chamber, although often with the assistance/involvement of OHR, the OSCE and other international organisations. As a result of OHR involvement in legislative amendments, the Federation has complied with requirements in several death penalty cases. There are only a few cases of non-compliance with decisions of the Ombudsperson, including, length of administrative proceedings, failure to deal with the "Liska Street Incident" which took place in 1997, ordered retrials, ill-treatment by law enforcement officials. The issues of individual property and changes to JNA property legislation would not have

progressed without OHR involvement. ® All five previously-reported promised repossessions have now taken place.

FBiH and RS

- ***Establishment of a working group with OHR and Council of Europe for restructuring human rights protection mechanisms in accordance with recommendations of the Venice Commission***

Partially Satisfied. Restructuring of the human rights mechanisms is currently under discussion with the Venice Commission, the OHR, the OSCE, the relevant institutions, and State bodies. On 1 April 2000, the Venice Commission adopted a plenary opinion on the future restructuring of the human rights institutions, although a public version is not yet ready. ® The report has not yet been made public.

FBiH

- ***Passage of legislation on the Ombudsmen recommended by the Venice Commission and guaranteeing their continuing independence***

Partially Satisfied. On 28 July 1999, OHR, OSCE, and the Council of Europe proposed a draft to the Federation Minister of Justice. The draft law was on the agenda of the 9th Session of the House of Representatives of the Federation of BiH, which began on 5 October. The draft law has passed the first reading (of two) in the House of Representatives, with only minor changes. There have been delays, however, in advancement through the House of Peoples, passage by which is required for adoption of the legislation. On 21 March, the House of Peoples adopted the required legislation at first reading. The government must now review the comments of the two bodies and prepare the legislation for “proposal”, the second and final reading. The government of the Federation of BiH should have the proposed legislation by the end of May 2000, but the backlog of legislation pending before the Federation

Parliament could delay the adoption process.

RS

- ***Establishment of the Ombudsmen as a multi-ethnic institution***

Partially Satisfied. The *Law on the Ombudsman of the Republika Srpska* prepared by the Venice Commission and other organisations, which includes the establishment of the Ombudsmen as a multi-ethnic institution, was adopted on February 8, 2000 and came into force on 17 February 2000. The Law conforms to European standards and is in accordance with the Venice Commission Draft Law. It is important to note that this law remains to be implemented. Implementation will require action on the part of the RS authorities and will be closely monitored by OHR and OSCE. ® The three Ombudsmen have now been appointed. They are *Mr Franjo Crnjac, Mr Darko Osmic* and *Ms Slavica Slavnic*.

4. Judicial System

Adoption of legislation to achieve professional and independent prosecutorial and judicial system

® The goal of creating an independent and impartial judiciary in BiH has been promoted considerably by the adoption of judicial service laws in both entities that provide a merit-based, non-political structure for the appointment and dismissal of judges and prosecutors. It is now important that the laws be implemented fully and efficiently. However, laws and regulations providing for a new budgetary and administrative mechanism for courts and prosecution offices must also be promoted in order to prevent the executive from unduly influencing judicial decision making through courts and prosecution office budgets.

Better means for Federation and RS courts and prosecution agencies to prosecute inter-entity and inter-ethnic crime must

be created. Existing co-operative structures, including the 1998 *Memorandum on Inter-Entity Legal Co-operation and the Commission on Inter-Entity Legal Co-operation*, must be revitalized. In the Federation, a structure for prosecution and punishment of specific classes of federal and inter-cantonal crimes has already been established pursuant to imposed amendments to the Federation Law on the Supreme Court and the *Law on the Federation Prosecutor's Office*. Its proper implementation requires further structural and institutional reforms.

® Draft laws for setting up Judicial and Prosecutorial Training Institutes are being prepared in both entities with the assistance of Council of Europe/OHR experts. An Interim Inter Entity Co-ordinating Board for judicial and prosecutorial training has also been set up. This Board met at different locations in each Entity in March, April and May in order to discuss and further develop the proposed drafts. At a meeting held at Neum on May 3-4, 2000 the Interim Board and senior members of the BiH judiciary and prosecution finally agreed upon the structure and content of these draft laws. Final versions will now be prepared by the respective entity Ministries of Justice. A further interim Board meeting will be held in June 2000.

Efforts must continue at revising the existing Criminal Codes and Criminal Procedure Codes in both entities. These revisions will include changes affecting the structural relationships between courts, prosecutors and police, leading to a clarification of their roles and greater independence for judges and prosecutors. ® The international community has promoted and assisted criminal law reform in the RS and the new RS Criminal Code is at a progressed stage. Reform of the criminal procedure is still in progress. In the Federation, the international community has already assisted in the first phase of criminal reform which has been in force since 1998. The second phase of the criminal law reform aiming at further

improving the criminal code and the criminal code of procedure has been initiated, but no formal forum for this work has been established.

FBiH and RS

- ***Adoption of the laws to establish independent selection procedures for judges and prosecutors and priority to adequate judicial salaries***[1]

These laws establish special judicial commissions/councils responsible for the appointment, discipline and dismissal of judges and prosecutors. Councils should be established on both entity and cantonal levels. The international community, is currently monitoring the commissions/councils to ensure that the structures and principles provided for in this legislation are properly implemented.

FBiH

® Satisfied. The draft *Law on Judicial and Prosecutorial Service* was passed in February by the House of Representatives and eventually imposed by the High Representative on May 17. The High Representative also amended the draft law as passed by the House of Representatives in order to provide for: better oversight over cantonal commissions by the Federal Commissions; stronger guarantees for multi-ethnicity and gender balance in the commissions and the judiciary; initial judicial and prosecutorial training; improved salary structures; and procedural rules for the extraordinary period of review under which all sitting judges and prosecutors will be scrutinized.

RS

® Satisfied. The *Law on Courts and Judicial Service* and the *Law on Public Prosecutor's Office* were passed by the RSNA on April 24 and 25. The laws contain some elements of concern, ie. on immunity, judicial co-operation with other countries,

and the composition of the High Judicial Council, so the IC is currently considering various ways of promoting necessary amendments. Books of Rules providing detailed provisions for the implementation of this legislation are now being prepared with the international community's support.

5. Constitutional Court

BiH

- ***Commitment to adequate funding of the Constitutional Court in a manner which sustains its independence and implementation of its decisions***

Unsatisfied. The state has offered 50,000 KM towards the funding of the constitutional court. This is inadequate to ensure independence and implementation of decisions.

6. Compliance with the European Convention on Human Rights

Continued revision of legislation to ensure compliance with the ECHR:

BiH

- ***Adoption of Immigration and Asylum Law ****

Satisfied. The House of Peoples, the second Chamber of the BiH Parliamentary Assembly, adopted the *Law on Immigration and Asylum* on December 3, 1999. The law was published in the BiH Official Gazette on 23 December 1999 and entered into force on December 31. The Law establishes the legal framework for the admission and stay of aliens, as well as the criteria and procedure for determining refugee status and granting asylum in BiH.

Outstanding issue: All necessary by-laws need to be adopted to ensure the implementation of the law. In particular, the following steps must be taken to achieve the full

implementation of the law: issuance of comprehensive instructions at the State and Entity level; establishment of, and appointment of staff for the bodies foreseen in the law, i.e. an Appeals Panel under the Council of Ministers, and a unit fully qualified in refugee law within the Ministry of Civil Affairs and Communication; transfer of Entity-held records regarding decisions on entry and stay of aliens made prior to the entry into force of the law to the Ministry of Civil Affairs and Communications. UNHCR, OHR, EU Phare and the Ministry for Civil Affairs and Communication have established a joint working group to address the drafting of the by-laws. This process is currently on-going.

BiH, FBiH, and RS

- ***Adoption of Law on Associations and Foundations respecting independence of Non-Governmental Organisations***

Partially Satisfied. Two draft laws (entities/state) on association and foundations which are based on the LEA (Legislation Education Advocacy) draft have been finalized. The Council of Europe and the International Centre for Not-for-Profit Law have reviewed the draft laws and provided comments, which have been incorporated by the OHR. At the same time a working group in the RS has sent its draft to the OHR. The RS draft has been reviewed by the OHR and will be submitted to the RS parliament. Concerning the Federation and BiH, OHR will submit the drafts to the relevant bodies which will present the drafts to their respective parliaments for review.

RS and FBiH

- ***Establishment of groups to examine compatibility of legislation with ECHR, and regular consultation with OHR and CoE on legislative initiatives***

Partially Satisfied. The Ministry of Justice of the Federation

and the Ministry of Justice of *Republika Srpska* established ECHR compatibility groups of five members each in 1998 (FBiH) and 1999 (RS) respectively. There is a coordinator in the Ministry of Foreign Affairs. However, while some members of the groups have taken part in a study visit to Hungary to discuss the compatibility procedure, the groups have not met officially or started their work of drafting reports assessing the compatibility of domestic legislation with the ECHR. The Council of Europe has therefore recently decided to change the composition of the groups. There is consultation with OHR and CoE on legislative initiatives, but this is predominantly initiated by the international organisations rather than by government ministries.

RS and FBiH

- ***Legislation on Conscientious Objection and Alternative Service***

Unsatisfied. Legislation in both Entities falls short of ensuring the right to conscientious objection and alternative service to military service, both regarded as essential components of the right to freedom of thought, conscience and religion (article 9, ECHR and Recommendation No. R (87) 8, issued by the Council or Ministers of the Council or Europe in 1987).

RS

- ***Revised Law on Internal Affairs***

Unsatisfied. The RS National Assembly passed amendments to the *Law on Internal Affairs* in its session on 14 and 15 July. UNMIBH completed a preliminary review of the latest version of the Law and found serious inconsistencies with the Dayton Agreement, the European Convention on Human Rights, the Framework Agreement on RS Police Restructuring, Reform, and Democratization, as well as established policies which guide implementation of the police reform. Additionally, the Law was

found to lack specificity in many areas.

UNMIBH proposed a full review of the law and requested the expertise of the CoE in its redraft. CoE Experts, OHR, and UNMIBH representatives met in Banja Luka on 18 November 1999 to discuss this issue, and agreed to proceed with redrafting the law. This redraft is to be led by OHR, in line with comments from the CoE and input from UNMIBH. The latter input consolidates the CoE comments with necessary changes to assure consistency with the *Framework Agreement on RS Police Restructuring, Reform, and Democratisation*.

BiH, FBiH, RS

- ***Law on Citizenship****

BiH

Satisfied. The *BiH Law on Citizenship* was imposed by the High Representative and entered into force on the 1st of January 1998 on an interim basis, pending adoption by the BiH Parliamentary Assembly, without amendments and conditions. On the 27th of July 1999, the Law was adopted by both Chambers of the BiH Parliamentary Assembly and was published in the Official Gazette on 26 August, 1999 (13/99).

Outstanding: The law still requires the adoption of implementing instructions, notably concerning registration of those who acquired citizenship *ex lege* on the basis of RBiH citizenship legislation. Also, the Madrid PIC urges the relevant BiH governmental authorities to conclude bilateral agreements with respect to citizenship, with neighboring countries, with the assistance of the High Representative, as soon as possible, but no later than June 30, 1999.

RS

Partially satisfied. The *RS Citizenship Law* was passed by the RS National Assembly in December 1999 and entered into force

December 14, 1999. However, during the RS National Assembly, some last-minute amendments were adopted which are not fully in line with the State Citizenship Law. ® Amendments to the Law, which will ensure full compliance of the *RS Citizenship Law* with the BiH Citizenship Law, are pending before the RS National Assembly. The RS National Assembly was to discuss the amendments on April 24, 2000 but the Assembly was disbanded; it shall continue its session on May 29, 2000. The RS Government has also promised to pass the necessary regulations for the implementation of the Law. In particular such regulations will enable those former SFRY citizens, who under the Law are entitled to BiH and RS citizenship, to apply for it.

FBiH

Not satisfied. The adoption of the *FBiH Law on Citizenship* has been problematic. The draft Law was agreed upon in April 1998 by a working group comprising representatives of OHR, UNHCR, the FBiH and the Council of Europe. All provisions of the Law were in compliance with the BiH Citizenship Law. However, the FBiH Ministry of Interior subsequently, unilaterally, and without the knowledge of OHR revised certain provisions of the draft Law delegating the decision-making competence from the FBiH to the Cantonal level. After OHR intervention the Ministry of Interior reverted to the previous draft in compliance with the BiH Law and submitted the draft to the FBiH Government for further procedure. The FBiH Government forwarded the draft Law to the FBiH Parliament December 3, 1999 and it is currently pending before both Chambers of the FBiH Parliament. * It is scheduled on the agenda of the next session of the House of Representatives. The draft Law needs urgent adoption, since former SFRY citizens who took up permanent residence in BiH before 1998 are eligible for BiH citizenship as of 1 January 2000.

RS

- ***Adoption of the Criminal Code and Code of Criminal Procedure***

Partially satisfied. Efforts to revise the *Criminal Code* and *Criminal Procedure Code* are ongoing. The passage of the Criminal Code is pending, having received an initial vote. It is on the agenda of the 11th session of the RSNA, scheduled on May, 29. ® The Criminal Procedure Code has undergone review by the Council of Europe experts and is being prepared with the working group for presentation to the Ministry of Justice. It is expected that this will be placed before Parliament before August for final passage.

7. ICTY

- ***Full co-operation with the ICTY***

Unsatisfied. ® SFOR detained 1 PIFWIC, Dragan Nikolic on April 22, 2000, who served during the war as the camp commander in "Susica Prison Camp" located in the muinicipality of Vlasenica. This is the 7th arrest by SFOR within the past 7 months. In total, SFOR has now detained twenty alleged war criminals in BiH, which is to be added to the 18 who surrendered or have been apprehended in third countries. More than half of the public indictees who remain at large originate from BiH.

9. Property Laws (Return of Refugees and Displaced Persons)*

- ***Full co-operation and compliance with Annex 7 on Refugees and Displaced Persons of the Dayton Peace Agreement in the Implementation of the property laws***

Unsatisfied. The legal framework for return of refugees and displaced persons, including the implementation of decisions of the Commission for Real Property Claims of Displaced Persons and Refugees (CRPC), was set in place by the High Representativeąs Decisions of 27 October 1999. Although

notable progress has been made over the past several months, implementation of the laws remains the exception, rather than the rule.

The registration of claims is largely complete in both entities. Approximately 210,000 claims for houses and apartments have been registered both in the Federation and in the Republika Srpska. However, a combination of open political obstruction, lack of political support, and insufficient allocation of resources has meant that processing of the claims is very limited.

® To date, the Federation has issued decisions on approximately 33% of the claims, resulting in repossession by approximately 14% of the claimants. The Republika Srpska has issued decisions on approximately 18% of the claims filed in that Entity, resulting in repossession by approximately 7% of the claimants. Thus, in BiH, 26.6% of the claims have been decided and 10.6% of the claimants have actually repossessed their property. Some areas of the country, such as the Croat controlled Cantons 7, 8 and 10, have, and for all intents and purposes, almost completely failed to implement the property laws. This is in stark contrast with Canton 1, where all eight municipalities are processing claims and evicting illegal and temporary occupants at a relatively high rate.

By and large, there remains a lack of will on the part of housing authorities to tackle multiple occupancy and other forms of misallocation of housing stocks. While shortage of accommodation remains a major practical problem in many places, there is little sign that the responsible authorities are making efforts to maximise their use of housing stocks, and/or create the necessary alternative accommodation to facilitate implementation of the housing law. There are indications throughout BiH that there is ongoing misuse of municipal housing stock, which should otherwise be available for accommodation. In Sarajevo, for example, there are reports that secondary allocation of accommodation is provided by

housing authorities to people who do not meet the criteria defined in the legislation. In many municipalities there are indications that available housing stock is given to officials, rather than being used for humanitarian and social housing.

The responsible authorities in both Entities, especially Republika Srpska, have not provided the personnel and material resources that the task of resolving property claims would require. Commitments have been made by the Republika Srpska Government to improve budgetary allotments to the MRDP, but this has not yet translated into improved implementation.

Outstanding. With standardised legislation in both Entities, and improved public tolerance for return in most parts of the country, there is a prospect of initiating a self-sustaining return process throughout this year. International efforts will need to focus on institution-building, increasing the capacity and professionalism of housing administrations, and to limit political interference. Close attention will be given to budgetary processes, staffing decisions and training. Efforts will be made to build formal channels of communication between different municipalities and across the Inter-Entity Boundary Line, to enable co-ordinated implementation.

FBiH and RS

- ***Revised laws to guarantee the right to return of individuals whose apartments have been permanently reallocated to another person***

Satisfied. The High Representative issued a Decision on 13 April 1999, by which new permanent occupancy rights were 're-converted' to temporary occupancy rights, to be resolved through the administrative claims process. This Decision has been accepted by both Entities and published in the respective Official Gazettes. Implementation has begun slowly. However, as the category of new permanent occupancy right holders

includes many well-connected people, there is strong resistance to evictions, and strong international pressure is required to achieve any progress.

FBiH and RS

- ***Revised Law on Housing Relations***

Satisfied. Amendments to the problematic provisions were adopted by the Federation Parliament in January 1999, and imposed in Republika Srpska by a Decision of the High Representative on 13 April 1999. Following these amendments, it is no longer possible to cancel the occupancy rights of individuals owing to their displacement as refugees or displaced persons. Prior court decisions canceling occupancy rights on this basis have been annulled.

FBiH and RS

- ***Establishment of a mechanism to ensure access to and recognition of personal documents***

Unsatisfied. An advisory committee is preparing draft legislation regarding access to public administrative documents. Efforts by the competent authorities with regards to recognition of documents are at an early stage, and will require further concerted input on their part in the future. The Draft law was submitted to the House of Representatives on 19 April 2000, which voted against.

In relation to documentary evidence for the property claims process, access to documents remains problematic in many parts of the country. Claims without supporting documentation are wrongfully refused at the filing stage, whilst copies of documentation remain extremely difficult or expensive to obtain from cadastral administrations and property book services. A number of municipal housing authorities have no access to the cadastre or housing records, either because they have been destroyed or because they are held elsewhere

(usually across the IEBL). In the case of Drvar, as with some other municipalities, agreement on copying these records has proved difficult to reach.

FBiH

- ***Full implementation of the Decisions of the Human Rights Chamber concerning former Yugoslav National Army (JNA) apartments***

Partially Satisfied. . A Decision of the High Representative on 1 July 1999, agreed in advance with the Federation Government, establishes criteria for determining which former occupants of JNA apartments should be considered refugees with the right to return. For those granted the right to return, procedures have been established for recognizing their pre-war contracts on sale. For those not permitted to return, they will be reimbursed for any money paid towards purchase of the apartment. Where the individual is unable to reach an agreement with the Ministry of Defense, the responsible court will have full jurisdiction to adjudicate.

The recognition of contracts of sale of those who remained in possession of their apartment is proceeding satisfactorily. Repossession of JNA apartments, however, has made little progress due to insufficient administrative capacity in the Sarajevo Cantonal Housing Department.

RS

- ***Establishment of an effective property claims process***

Partially satisfied. This accession requirement refers explicitly to the establishment of offices to receive claims, including staffing, funding, and other resources. The issue of implementation is discussed above and is not part of this specific requirement.

The Republika Srpska Ministry of Displaced Persons and

Refugees has established a network of municipal offices, which are operational, although with insufficient capacity for the task. While there have been few reported incidents of individuals being completely prevented from making their claim in Republika Srpska in the past months, there continue to be reports of obstacles throughout the filing process. The Republika Srpska Government has agreed with the international community on budgetary and other measures to strengthen the administrative claims process in the coming months. However, this has yet to be achieved and there are indications from the field that the funding remains inadequate in many parts of the RS.

11. Education

Overall progress in the current education system in BiH remains unsatisfactory for a number of reasons, including lack of material resources, lack of access or facilities for disabled children and the gender imbalance that exists in relation to male-dominated directorial positions in schools. However, the major problem lies in the effective division of the education system along ethnic lines, which acts to inhibit sustainable minority return and ethnic re-integration; further, it encourages future destabilisation through radicalising, and thus polarising, another generation of citizens. To address this issue the international community focuses on excising offensive materials from text-books and on promoting multi-ethnicity and tolerance in the classroom.

- ***Substantial progress in the amendment of textbooks, including withdrawal of all offensive materials by beginning of 1999/2000 school year***

Partially satisfied. Some progress has been made towards removal of offensive materials from all textbooks. This ongoing exercise, involving extensive negotiations with local education authorities and substantive work by local teams of experts followed by consultations with an International

Independent Commission, is an interim step, to be followed by substantial further improvement of textbooks, to ensure that they eventually meet European standards. Continuous pressure from the international community remains necessary. Extensive spot checks carried out in schools throughout the country between late October and late December (whereby approximately 10% of all the schools were actually visited) revealed that the level of compliance is generally acceptable. However, compliance is better in the Federation than the RS, and higher in primary than secondary schools. Schools following the Bosniak curriculum have the highest compliance level, followed closely (except in some problematic mixed areas of the Herzegovina Neretva and Central Bosnia Cantons) by schools with the Croat curriculum. Schools following the Serb curriculum have the lowest compliance levels, in part because the Ministry issued a different instruction from that issued by OHR, and a new set of textbooks was surreptitiously introduced in the Republika Srpska in September 1999, which were not reviewed by the expert teams of the other constituent peoples of BiH.

- ***Review of the education system in order to eradicate all aspects of ethnic segregation***

Unsatisfied. In most cases the education system in BiH is effectively entrenched along ethnic lines. Eradication of all aspects of ethnic segregation can only be achieved over the long term through continuous pressure from the international community and growing involvement of the civil society in the education system and provided the political will exists on the part of the national and local authorities. Under the Federation constitution, education is a cantonal competence, except where the municipality has a different majority ethnic population from the canton as a whole, where it is a municipal competence; in the Republika Srpska however, education is an Entity responsibility. In the Federation, the Deputy Minister continues to see ethnic segregation as necessary to protecting

the rights of the Croat constituent people whose numbers were reduced from 750.000 before the war to about 400.000 now. In this respect several cases of physical segregation have been reported by the OSCE and the report of the International Human Rights Law Group.

A symposium on the curricula of the "national" subjects was held in Sarajevo on February 7 and 8 in which the participants agreed to adopt the Swiss model, which, while it allows a great degree of autonomy for each canton, also requires a sophisticated level of co-ordination and exchange between the cantons and between the Entities. The symposium was designed to pave the way towards a sustainable education system. No joint curriculum can be envisaged in the short term but a process has now been initiated which will produce gradual change which should eventually lead to a more integrated education system in BiH on the basis of accepted European standards and norms.

® This was confirmed on 10 May 2000 when the Entity Ministers of education signed both a Declaration formulated as a strategic plan and an Agreement formulated as an operational plan which itemise the short term and medium term reforms to be introduced all over BiH in order to desegregate existing education systems, harmonise curricula and textbooks, recognise diplomas, certificates and professional qualifications, and thus facilitate the return of refugee families throughout the country.

- Accession of Bosnia and Herzegovina to the Council of Europe: Progress Review # 9 (Chart)

HRCC[2] Member Organizations

OHR: Under the Annex 10 of Dayton Agreement, the Office of the High Representative is tasked with co-ordination of civilian aspects of peace implementation in Bosnia. OHR maintains a regional human rights presence, and works closely with other

agencies who monitor the human rights situation, to develop strategies and co-ordinate interventions. For more information about the OHR generally or about human rights specifically, please contact:

Office of the High Representative Emerika Bluma 1 Sarajevo, Bosnia	tel: 387-71-447-275 fax: 387-71-447-420 web:www.ohr.int

OSCE: Human Rights Department (HRD) The OSCE mandate derives from Article XIII of Annex 6 of the Dayton Agreement. HRD has staff in OSCE's 27 Field Offices and 4 Regional Centers, which allow the OSCE to ensure full coverage of the territory of BiH and makes the organisation a direct actor in addressing human rights issues. The HRD focuses on property and other return related issues; education; employment and; rule of law. The Human Rights Department interprets its mandate to include inter alia: monitoring, investigating and intervening on allegations of human rights abuses.

OSCE Human Rights Department Dzenetica Cikma 2/4 Sarajevo, Bosnia	tel: 387-71-444-444 fax: 387-665-236 web:www.oscebih.org

UNHCR: The United Nations High Commissioner for Refugees is the lead organisation for the implementation of Annex 7 of the Dayton Agreement, which guarantees the right of displaced persons and refugees to return to their homes of origin. Protection Unit: UNHCR Protection Unit provides international protection and assistance to refugees abroad, displaced persons, as well as other persons of concern through its offices throughout Bosnia and Herzegovina and the network of Legal Aid/Information Centres. To create a framework conducive

to safe and dignified return and to promote return opportunities, UNHCR has been involved in various human rights areas: return, property, citizenship, customs, travel documents, amnesty, pensions, gender. Tools of involvement range from assisting in the creation of an appropriate legal framework, monitoring the situation on the ground, interventions, producing reports and issuing position papers in relation to persons still in need of international protection.For more information about UNHCR in Bosnia, please contact:

UNHCR Unis Building Tower A Fra Andela Zvizdovica 1 Sarajevo, Bosnia	tel: 387-71-666-160 fax: 387-71-470-171 web: www.unhcr.ch

UNMIBH/IPTF Human Rights Office: The existence of International Police Task Force is mandated by Annex 11 of the Dayton Agreement. Under Security Resolution 1088, the IPTF's work includes "investigating or assisting with investigations into human rights abuses by law enforcement personnel." The main objectives of the Human Rights Office are to: investigate human rights violations by law enforcement agents; design remedial measures to correct such violations; and to monitor and ensure the implementation of corrective measures. To implement these objectives, the Human Rights Office carries out investigations into serious incidents of police misconduct and conducts comprehensive inspections of law enforcement agencies to address persistent endemic institutional deficiencies. The Human Rights Office is comprised of 145 International police and 17 international civilian staff, deployed throughout the country.

UNMIBH Mese Selimovica 69 Sarajevo, Bosnia	tel: 387-71-496-265 fax: 387-71-496-539

OHCHR: As of December 1998, the OHCHR in Bosnia and Herzegovina is part of the Office of the Special Representative of the Secretary General (SRSG, in charge of the UNMIBH). It focuses its activities on human rights training and on issues of gender and discrimination, with particular emphasis on social and economic rights. It continues to support the mandate of the Special Rapporteur of the Commission on Human Rights and participates in the work of the Human Rights Co-ordination Centre (HRCC) of the OHR. The legal authority for its presence is based on annual resolutio