# OHR actions regarding establishment of the Rule of Law in BiH

***1 September, 2003, to 31 December, 2003***

The following actions were taken by the High Representative during the period from 1 September, 2003, to 31 December, 2003, which relate to the establishment of the rule of law in Bosnia and Herzegovina:

- Among important legislation adopted by the Federation Parliament was the Civil Procedure Code, which is considered vital to the efforts to foster investment in new business enterprises. This code was developed by a working group with members from both the local legal community and the international community. OHR worked with Parliamentary leaders and other Federation officials to secure the adoption of this important code during October, 2003.
- The Rule of Law Pillar worked with the Constitutional Court, the Human Rights Chamber, the officials of the state and both entities, as well as other international organisations, in order to develop the plan to deal with the unacceptable backlog of cases pending before the Human Rights Chamber and to cease the flow of additional cases to the chamber. The plan was presented to the Peace Implementation Council (PIC) and approved during its meeting in June. The "roadmap" and agreement developed as a result of these consultations were agreed upon with all local officials as well as donors from the international community. The agreement was signed by all necessary officials on 25 September, 2003.
- OHR has continued to work closely with Serbian officials

to exchange documents and other information in regard to organised crime investigations of criminals operating in both countries. This exchange has been invaluable to both countries in strengthening their investigations of serious international criminal activities.

- OHR continues its leadership of a management group to establish the State Information and Protection Agency (SIPA). This group includes the EUPM and is working in conjunction with the BiH Ministry of Security in order to establish a law enforcement agency at state level which will have jurisdiction paralleling that of the state court and state prosecutor's office. The management group has dealt with all issues related to the creation of this agency including the legal framework, premises, budgeting, staffing, equipment, etc. This group has met weekly during the period of September through December, 2003. Additionally, several subgroups have met frequently during this time. The legal subgroup has produced drafts of the amendments and new laws which will be necessary to implement this expanded SIPA. Another subgroup has successfully obtained a facility to house some of the personnel of SIPA. A task force was created by the BiH Council of Ministers in response to the request of the management group. The task force is the local counterpart of the management group and these two organizations will work together to create this agency in accordance with the policy which has been established.
- OHR and the Independent Judicial Council (IJC) had several meetings during the period of September through December with officials from the state and both entities in order to facilitate negotiations to create a single High Judicial and Prosecutorial Council (HJPC). A proposed agreement to create such a body has been drafted and sent to all parties. In addition, a working group has drafted the amendments to laws necessary to carry out this agreement. In addition, IJC has

developed a transition plan in order to phase out IJC and to transition IJC into the secretariat of the permanent, nationalized HJPC. This plan includes budget projections, staffing needs, organizational proposals and suggested timelines. Thus far, there seems to be substantial opposition in the Republika Srpska to the concept of a single HJPC but OHR continues to advocate the establishment of such a body.

- Three additional international judges arrived to serve on the special panel of the Court of BiH during this period. This brings the number of international judges currently serving to six.
- OHR, through IJC and Criminal Institutions and Prosecutorial Reform Unit (CIPRU), continued during this period to work with the ministries in both entities to address the problems attendant to court and prosecutorial restructuring, including budgetary problems and problems with facilities.
- OHR, through CIPRU, continues to work with the Prosecutor's Office of BiH and Court of BiH to develop books of rules for the operations of the Special Department of the Prosecutor's Office and the Special Chamber of the Court.
- CIPRU presented a policy paper for establishment of a civil asset forfeiture program in BiH to the Peace Implementation Council (PIC).
- CIPRU has also drafted a proposed money laundering law which will be the basis for establishment of a comprehensive money laundering program. The agency to monitor this program should be included within SIPA.
- OHR, EUPM and OSCE have formed a group to monitor the "Rules of the Road" cases which are cleared by ICTY and returned to the local law enforcement and prosecutorial agencies. This group will track these cases in an attempt to ensure that they are appropriately investigated and prosecuted after clearance by ICTY. This group met during period, meetings in which ICTY

participated and several of the unresolved issues were addressed.

- OHR has referred several cases to the Prosecutor's Office of BiH during September through December, 2003. In each instance, the cases have been referred to the Special Department for further investigation.
- OHR has commenced meetings of the inter-agency working groups which will implement the project to establish a special chamber within the Court of Bosnia and Herzegovina to try war crimes deferred by ICTY as well as the most sensitive "Rules of the Road" cases. During October, OHR and ICTY hosted a donors' conference in The Hague for this project. The conference was quite successful in that it resulted in pledges of approximately 15.7 million euros for the operations of the chamber during its first two years.
- During December, the inaugural session of the Joint Executive Board of the war crimes chamber project took place. All relevant BiH authorities took part in the meeting, together is all international agencies involved, including ICTY, OSCE, Council of Europe, SFOR, EUPM, UNHCR and UN OHCHR.
- Three additional international prosecutors were appointed to serve in the special department of the Prosecutor's Office of BiH. This brings the number of international prosecutors in that department to four.
- The first trial in the Court of BiH in which international judges presided was conducted during October, 2003. Of particular note was the use of the plea bargaining provisions of the new Criminal Procedure Code.
- During October, amendments to the laws on Court of BiH and Prosecutor's Office of BiH were amended to remove the limits on the number of international judges and prosecutors in these bodies.
- OHR undertook the analysis of the budgets of the state and both entities for courts, prosecutors' offices and

police in order to assist the governments in preparation of their 2004 budgets. This was a particular challenge because of the number of new institutions created within the past year and the limitations on government expenditures imposed by international agencies.

- During November and December, OHR worked with the government of the Republika Srpska to establish the commission to investigate and report on the persons missing as a result of the atrocities at Srebenica during 1995. This report is required by the decision of the Human Rights Chamber earlier this year. OHR has worked with the government in order to ensure proper composition of the commission. ICTY and OHR will monitor the commission during its work.
- OHR provides continuing support to the Prosecutor's Office of BiH in the form of prosecutors, translators, equipment and technical expertise. In addition, OHR has worked with prosecutors in both entities during this period in order to assist with the investigation and prosecution of cases of financial crimes or corruption.
- Several meetings took place to discuss ideas put forth by EUPM and by OHR for restructuring police agencies within BiH. This issue will become clearer when the SIPA laws discussed above have been considered and adopted by BiH.