

OHR Bulletin 75 – 25 September 1998

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BiH Elections

Speaking at the press conference in which the OSCE announced the (as yet uncertified) results of the BiH September elections, High Representative Carlos Westendorp commented:

“These elections have been more peaceful, more quiet and much more democratic than the last elections. The turnout has been very high. There is more pluralism and more moderation, as a whole, in Bosnia-Herzegovina as a result of these elections. The more extreme nationalistic parties are decreasing, the monopoly of the three most important ethnic parties is decreasing – and there is more opposition in both Entities,

and among the three constituent peoples.

The central institutions are clearly going to be improved by the results of these elections. We have, already, three members of the Joint Presidency, with whom the International Community is certain that cooperation will be much better than in the past.

Another piece of good news is that in the BiH House of Representatives and House of Peoples, there will be much more pluralism. In the Republika Srpska, the Sloga Coalition together with the different Federation parties will have, according to these votes, the majority of the seats in the RS Assembly. This would indicate a possibility of increasing cooperation with Republika Srpska.

So, all in all, my assessment of these elections is as expected, an improvement in comparison with '96 and '97. Of course, this is just a step in the right direction, a step in the process of democratizing Bosnia and Herzegovina."

Steering Board

The Steering Board of the Peace Implementation Council met on 8 September in Sarajevo, at the political directors' level, to review the latest developments in the implementation of the Dayton Peace Agreement.

In spite of the present focus on election campaigns, Steering Board members noted that some progress has been achieved since their last meeting in July. For example, several laws have been passed such as the Law on Customs; the Konvertibilna Marka currency is now accepted throughout the country, passports are being issued both in the Federation and the RS, the restructuring of the media is making progress, and there have been some minority returns – limited in numbers, but significant in their meaning.

With regard to the elections, the Steering Board expressed its full support for the OSCE for its excellent job in organizing and supervising the elections as well as the pre-election campaign.

The Steering Board members reiterated their commitment to the return of all refugees and displaced persons to their homes, and called on the authorities to put more efforts into achieving this objective. The International Community has always worked towards this goal and will push especially hard to ensure that the newly-elected leaders fulfill their commitments.

Steering Board members stressed the importance of minority returns to the major cities of Bosnia and Herzegovina as a means of encouraging minority returns to the rest of the country. In that context, Sarajevo has a special obligation due to its status as the capital city and because of its noted previous multi-ethnic character. This obligation is clearly defined in the Sarajevo Declaration.

High Representative Carlos Westendorp informed the Steering Board that there has been some progress in creating the right conditions for the return of minorities to Sarajevo, and conveyed the wish of the authorities that all donors resume provision of aid to the city. The Steering Board indicated that even more needs to be done to achieve the targets of the Sarajevo Declaration, but that the efforts of the authorities are encouraging. If they continue, the members did not exclude the possibility of calling on all donors to resume providing aid to the city.

The Steering Board also discussed the deadline encoded in the Federation property and housing laws, under which occupancy rights to socially-owned flats can be reclaimed by potential returnees only until 4 October. The Steering Board noted with concern continuing problems with the submission of such claims and discussed the need for an extension of the application

deadline.

The Steering Board noted the substantial progress that has been made with media restructuring and, in particular, the work that has been done to remove political control and influence from public broadcasting. The Steering Board endorsed the High Representative's approach to the HRT question and the necessity to clarify the legal status of Erotel and the transmitters in Western Herzegovina.

They noted with satisfaction the establishment of the Independent Media Commission (IMC) and the contributions that it has already made in finding a solution to the HRT question and to regulating the work of electronic media.

The Steering Board members also discussed several other issues, including the reform of the judicial system, the Ploce negotiations and succession matters. They decided to convene again on 6 October.

Ploce/Neum Agreement

The US and OHR both stated a warm welcome for the agreement lately reached between the Republic of Croatia and Bosnia and Herzegovina, regarding BiH use of the sea-port of Ploce, and Croatia's access through the BiH coastal corridor of Neum. The OHR and the US played a key role in assisting the parties to reach this agreement.

The port of Ploce, which is located entirely on Croatia territory, is the sole access to the sea for BiH. 70% of cargo which passed through the port prior to the disintegration of the former Yugoslavia, came from BiH. Access to this port is essential for BiH economic development

The Neum corridor separates two parts of Croatia, and without full and unimpeded access through this corridor the Croatian city of Dubrovnik, one of Croatia's major tourist areas, would

be cut off from the rest of the country.

While presenting economic opportunity for BiH and respecting Croatia's sovereignty and territorial integrity, the Ploce/Neum agreement that has now been achieved also represents an attempt by both countries to move into a new era of mutual confidence and economic cooperation.

The agreement was initialled in Zagreb on 10 September by Hrvjoe Sarinic, Chief of Staff to President Tudjman; and Nenad Porgas, Economy Minister of the Government of Croatia. It was initialled for the OHR by Ambassador Klein, Principal Deputy High Representative; and for the US by special US envoy Ambassador Richard Sklar, both of whom acted as mediators during the negotiations. The agreement was initialled for the Bosnian side on 9 September by President Izetbegovic, Dr Silajdzic (Co-Chair of the Council of Ministers) and Minister Kurtovic, Foreign Trade Minister.

Ambassador Sklar said: *"This agreement is a step that is good for Croatia, Bosnia and for stability in the Balkans. It is an economic and business agreement that will benefit the economies of both countries."*

Ambassador Klein said: *"This is a dramatic step. It shows that we are moving into Europe. This is what the future is about. Open trade, open borders and commerce."*

Presidency

Owing to the BiH elections this body has not met since the 37th session in August.

Council of Ministers

At a special session on 31 August, timed to take place before the final session of the BiH parliament before the September elections, the Council of Ministers adopted the following:

The Law on Amendments to the Law on Immunity, the Law on Administrative Taxes of the BiH and Amendments to the Law on Travel Documents to the Law on BiH Passports.

However, these laws were received too late to be considered by the Parliamentary Assembly and will pass for approval at the next parliamentary session. Several by-laws from the Ministry of Foreign Trade were also adopted.

At the final session of the CoM before the elections, on September 10th, The CoM also adopted the statute of the Agency for the Improvement of Foreign Investments, and adopted five decisions on the regulation of foreign trade, including the classification of the export-import goods, and conditions for the registration of contracts on long-term economic cooperation. The Council appointed Ivan Skoko as the deputy of the Croat member in the Independent Media Commission (IMC).

The Council of Ministers at its 24 September session adopted an instruction on the temporary admission of refugees from Kosovo. The CoM passed the important UNHCR-drafted instruction, at the urgent request of the High Representative, in order to provide a legal framework for the status of Kosovo refugees in BiH and their basic humanitarian needs. The members accepted the agreement between Finland and Bosnia on the second phase of reconstruction of the central heating systems in Sarajevo and Doboje, valued at 12 million Finnish marks.

The Council regretted that the furnishing of the Marijn Dvor building for common institutions, promised by the European Union, has already been delayed for several months because of a delay in the contract signing.

The council decided that the Foreign Ministry should be staffed with appropriate personnel, in accordance with the Rule Book on Internal Organization adopted in December 1997, within ten days, in cooperation with the OHR.

HRT and Erotel

The activities of Croatia Radio Television (HRT) have been the subject of several demarches issued by the International Community to the Croatian government. They have also been the subject of decisions by the OSCE BiH, the Media Experts Commission (MEC) and the Electoral Appeals Sub-Commission (EASC). Prior to the September elections the IC expressed its grave concern over a pattern of bias on the part of HRT, tending to exclusive promotion of the interests of the HDZ BiH, at the expense of other political parties and opinions. HRT programming was transmitted in BiH by Mostar-based firm Erotel.

The IMC placed the disputed transmission sites, facilities and frequencies under its own temporary legal custody, until such time as Radio-Television BiH (RTV BiH) and Erotel reach an agreement. This agreement must be acceptable to IMC and in accordance with the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP).

The IMC warned that Erotel must change its editorial practice to ensure that it conforms in the future with the IMC broadcasting code of practice issued in August of this year.

Discussions between Erotel and RTV representatives have begun under the auspices of the IMC, in a constructive manner.

Both Erotel and RTV BH have professed willingness to discuss issues of mutual interest and concern.

While insisting on a proper legal framework for broadcasters in the Federation, the IMC has also stated its commitment to ensuring that the Croat community and other minority communities throughout BH have access to programming that specifically serves the interests of their community, consistent with the European Charter for regional or minority languages.

The IMC wishes to see the media of BH function in a proper and lawful manner, and that the frequency spectrum is used in an equitable, rational and efficient way, in accordance with international obligations.

Returns

RRTF adopts revised Code of Practice for housing repair:

In July 1997, the Return and Reconstruction Task Force (RRTF) adopted a general Code of Practice for reconstruction projects in Bosnia and Herzegovina, which aimed to ensure that all repair work would be carried out consistently with the Peace Agreement, and protected the legal rights of pre-war inhabitants.

Since then, the need has arisen to revise that Code, following significant changes to Federation property and housing laws and other developments which have affected reconstruction in practice.

A revised Code of Practice has been issued, updated by a group of interested RRTF members, in light of the changes. It has been accepted in principle by those representatives, and is put forward to the RRTF and to donors with a recommendation that it be adopted as the revised and current version of the Code of Practice for Reconstruction.

The Code of Practice sets out basic principles and procedures to be followed by reconstruction agencies to ensure that reconstruction projects, and the return of refugees and displaced persons to repaired housing units, take place on a sound legal basis. The principles and procedures will ensure that internationally funded reconstruction activities are conducted in accordance with Annex 7 of the General Framework Agreement for Peace in Bosnia and Herzegovina (GFAP), and domestic law where this law also complies with the terms of the GFAP. Donors are encouraged to apply the new Code of Practice as a package of conditions on all funding allocated

to housing reconstruction works in Bosnia and Herzegovina.

First Meeting of the Return Facilitation Group, 17 September 1998

Background

The Luxembourg PIC Steering Board session conclusions encouraged the RRTF to strengthen its links with relevant actors in neighboring countries. Since then, discussions have been ongoing between the RRTF and UNHCR and OSCE in Croatia and Bosnia. It has been agreed on to create an RRTF-like mechanism in Croatia, which will be the RRTF's counterpart for cross-border returns.

This mechanism, which has now been named the "Return Facilitation Group" (RFG), held its inaugural meeting Sept. 17 in Zagreb.

The OHR (through its chairmanship of the RRTF) is a full member. The RFG is co-chaired by the UNHCR and the OSCE.

The RFG will have two functions: to support and assist in the implementation of the Croatian government's Return Plan (adopted 26 June); and to act as a counterpart to the RRTF for cross-border return between BiH and Croatia.

Andy Bearpark, the Deputy High Representative for the Return and Reconstruction Task Force (RRTF), is a full member of this group and will act as the link between the RFG and RRTF. OHR believes that regional return is the key to enabling people to move back to their homes of origin and is delighted that a counterpart structure to the RRTF has now been established in Croatia: this opens up the prospect of more rapid return movements between Croatia and BiH.

Central Bosnia returns

Back at the local level, the status of Bosniak returns to the village of Gacice in the Vitez municipality continued to hit the headlines as Bosnian Croats renewed their protests. On 21 September Bosnian Croat residents of Gacice blocked the

entrance to the village as they had first done on August 6 and 7 after the initial return movement. The Bosniak returns of early August had followed protracted negotiations and the signing, by the HDZ Mayor of Vitez and the local HDZ party chief, of the July 31 "Vitez Agreement". This agreement, brokered by Federation Mediator Christian Schwarz-Schilling, gave the go-ahead to plans for Bosniak return to the villages of Gacice and Donja Vecerska, but in early August Bosniak returnees who had been cleaning and repairing their houses were forced to leave Gacice after a tense night of protests by Bosnian Croat residents who set up a roadblock into the village.

This was followed by another series of negotiations, some held in Vitez and chaired by Senior Deputy High Representative Hanns H. Schumacher. The outcome of these was that a first return of 25 families should take place in September before the elections, followed by further returns later on.

After blocking the main road to the town again on 21 September, leaders of the Croat war widows association set out a further conditions for the resumption of return, that included limiting return to the current list of 25 families, conditioning future returns on reciprocal Croat return to the village of Bukovica, the removal of names from the list of Bosniak returnees to Gacice and improvements being made to the water system.

The local authorities met with representatives of the OHR on the 23 September to present their demands. OHR responded that there could be no blackmail and conditionality, and that it fully supported the order signed by the Cantonal Minister of the Interior and his deputy to the cantonal police to maintain freedom of movement on the road to Gacice.

At the same time, OHR stressed that numerous efforts are being made to identify funding for Croat returns to villages in Travnik municipality. As a result of very succesful talks held

in Travnik, the return of 36 Croat families to Bukovica is scheduled for October 10.

Bugojno and Prozor-Rama Municipalities review progress on returns

The Joint Municipal Committee for Prozor/Rama-Bugojno met in Prozor/Rama on 16 September, attended by Senior Deputy High Representative Hanns Schumacher, to discuss progress in returns between the two municipalities. The two municipalities saw a significant shift in population between them during the war and the Prozor-Bugojno MoU agreed between the two municipalities on 19 June, 1998, with the assistance of Ambassador Schumacher created the joint municipal committee and outlines additional measures to support return. Both municipalities will meet in Sarajevo on 7 October with Ambassador Schumacher to review the situation: high on the agenda will be the lists of double occupancy that the municipalities were supposed to provide by August 31, the return of elected and police officials, and the employment of minorities in the municipal administration.

Mostar returns

The Herzegovina-Neretva Canton has seen a number of successful Serb returns over the summer months, including the return of 15 families in the last week to the village of Lisani in Mostar's North municipality. There was a setback in Rastani, however, in the Mostar West municipality, when a small group of Serbs tried to return on 26 September but were met with resistance by Bosnian Croats in the area who set up illegal roadblocks overnight. However, it has been agreed that discussions will take place between the Serb displaced persons from Rastani and the Municipality in the next few days, with the aim of successfully enabling return within the following 15 days.

Human Rights

Property and Housing Legislation

In light of obstruction by the Authorities of implementation of the property and housing laws in the Federation, which has prevented many refugees and displaced persons from claiming their pre-war apartments, the High Representative imposed an extension of the deadline for filing claims for a further six months.

The OHR, in cooperation with the CRPC, OSCE, UNHCR and ECMM, will continue monitoring the claims process over the coming months, and where necessary, intervene further to ensure that the property rights of refugees and displaced persons are protected.

The deadline of 31 August set at Luxembourg for the Republika Srpska to adopt property and housing laws consistent with the Peace Agreement was not met by the government. The High Representative has made it clear that following the elections, the new Republika Srpska government must ensure that the necessary property and housing laws are in place in the Republika Srpska as a matter of the highest priority.

Inter-Entity Judicial Cooperation

On 25 September, the first out-of-court session of a Federation court in the other Entity occurred on the basis of the Memorandum of Understanding on Legal Assistance between Institutions of the Federation and Republika Srpska. The session included a reenactment at the scene in a war crimes trial currently before a Federation Court and is an important step towards encouraging more effective inter-entity legal cooperation.

Additionally, on several occasions witnesses were examined in court in order to satisfy a request for judicial cooperation by a court of the other Entity.

Cooperation with the ICTY

On 27 September, SFOR detained a Bosnian Serb indicted for war crimes by the International Criminal Tribunal for former Yugoslavia (ICTY). Stevan Todorovic, has been indicted for crimes allegedly committed in Bosanski Samac and has been transferred to the Hague.

A serious violation of the Rules of the Road by Republika Srpska Authorities occurred during August and September with the arrest of a Bosnian Croat prior to the individual's file having been sent to the ICTY Office of the Prosecutor for review.

Despite interventions by the Office of the High Representative, as well as the subsequent decision of the ICTY Deputy Prosecutor at the beginning of September that the evidence submitted by the Republika Srpska authorities in this case was insufficient, the individual remained in detention for one month in Foca prison. Republika Srpska authorities released the individual only following a decision by the Election Appeals Sub-Commission that he must be released as the arrest was in violation of the Rules and Regulations of the Provisional Election Commission.

Brcko

Supervisory Order

On August 24th, 1998, Brcko Supervisor Robert W. Farrand issued an order on Return to Unoccupied Property in the RS Municipality of Brcko. The Order instructed the Executive Board of the RS Brcko Municipality to conduct a public information campaign throughout the area of supervision, on two-way return possibilities and procedures.

The Executive Board was also ordered to compile a list of all local communities in the area of supervision, excluding those which are already priority return areas. The Board was required to produce an inventory of all unoccupied property in the area of supervision for which the Commission for Real

Property Claims has issued prima facie notification, excluding property in the already designed priority return areas.

The multi-ethnic police was instructed to produce, within seven days, updated security plans for the existing return areas. To date, the Supervisor is satisfied with the level of compliance by the Municipality. As far as the police are concerned, they have essentially complied, although details need to be adjusted.

Economy

USAID has issued a credit of DM 1,4 million to the Pioner company for the construction of a liquid concrete plant in Brcko. The establishment of such a factory will contribute substantially to the economic revitalization of the area. OHR-North is working with the Municipality to ensure a suitable location of the plant can be provided soon, so that this credit turns into bricks and mortar without delay.

The 2 million Ecu (approximately 4 million DM) Phare-agriculture program for Brcko has been completed. Phare is the largest European Union grant assistance program for Central and Eastern European countries. It is a unique initiative to support these countries through the process of economic reform and strengthening of democracy. In Bosnia and Herzegovina, the agricultural sector alone received a total of 20 million Ecus (approximately 40 million DM) in 1998.

Reconstruction

On September 6th, two ceremonies were held to inaugurate three major USAID projects in the Brcko area. They include the restoration of power to six high-priority return areas in the Zone of Separation (ZOS) and the rehabilitation of the Brcko railway station and the Municipal building. US Ambassador Richard Kauzlarich, Brcko Supervisor Robert W. Farrand and USAID mission director Craig Buck attended both ceremonies. RS President Biljana Plavsic and Prime Minister Milorad Dodik were also guests at the railway station ceremony. All the

speakers emphasized that these projects will make a substantial contribution to the improvement of the quality of life of the people, and will boost industry and commerce.

Freedom of Movement

The project for joint BiH licence plates and common vehicle registration document, launched in February 1998, was based on a regulation attached to a Memorandum of Understanding signed by Entity Prime Ministers and the CoM, In spite of this authorisation the project initially encountered numerous problems due to political obstruction. However, in response to the overwhelming public demand, the obstruction was withdrawn, and the project implemented – perhaps the first occasion on which the BiH populace succeeded in directly changing the policy of elected officials.

The first deadline was issued for 1 June 1998. Following this date, BiH motor vehicles could not cross international borders without the common plates and registration document. Full implementation was delayed due to non-cooperation from the Republic of Croatia; however, in response to a strong request from the High Representative, and in its role as a member of the Peace Implementation Council, Croatia too complied.

The final deadline of 30 September indicates that the local police will consider BiH motor vehicles without the common plates and registration document to be in violation of traffic regulations, and penalties will be exacted. This deadline does not however apply to carriers of diplomatic plates. The BiH Foreign Ministry has been tasked with finding a solution for BiH Diplomatic plates, which will be issued only to accredited diplomatic and international missions. The latter are therefore exempt from the deadline given by the HR.

OHR, the UN Mission to BiH (UN MiBH) and local parties have worked hard together on the implementation of this project. All are pleased to note that by the expiry of the deadline,

approximately 790 000 BiH motor vehicles, out of a total of approximately 800 000, will be carrying the correct plates and document.

Finally, concerning Freedom of Movement, traffic across the Inter-Entity Border Line (IEBL) has, from the month of April until July of this year, increased by 100% – and is still rising.

Inter-Entity Links – The BiH Telecommunications Law

Full support has been expressed by the International Telecommunications Union (ITU) for the new BiH telecommunications law, the drafting of which was hosted and participated in by the ITU. State and Entity experts also participated in producing the draft, which was accepted (with minor modifications) by the BiH Council of Ministers, at its mid-August session. The law has been passed on an interim basis by the High Representative, on 11 September. It was passed in order to expedite the regulation of BiH telecommunications, since the BiH Parliament was unable to pass the law at its final pre-elections session.

The law lays down the fundamental principles of BiH telecommunications policy, details of which will be encoded in regulations made on the basis of the law. Among other articles it envisages the establishment of an independent regulatory agency for telecommunications, whose function will be to establish conditions for providing inter-Entity and international telecommunication services. The agency will, also, ultimately control media frequencies. The steering board of the agency is to be appointed by the CoM.

The law recognises the existence of the three PTT operators in Bosnia: the BiH PTT public corporation, HPT Mostar and Telekom of the RS, without prejudice to their ultimate legal status, thus clarifying the situation and enabling increased

cooperation.

Diary

30 September:

SCMM session

6 October:

Steering Board

The OHR Bulletin is produced by the Public Affairs Department of the Office of the High Representative in Sarajevo and aims to give an overview of what is happening on the ground in the civilian implementation of the Dayton Agreement.

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