

# Report to the European Parliament by the OHR and EU Special Representative for BiH, July 2006 – April 2007

Report to the European Parliament by the High Representative of the International Community and EU Special Representative for BiH, July 2006-March 2007

## Summary

1. The general election campaign and the subsequent negotiations to form new governments at the state, entity and cantonal levels dominated the second half of 2006 and the first quarter of 2007 in Bosnia and Herzegovina (BiH). Although I continued to encourage and support the domestic authorities in their efforts to adopt and implement the reforms required if BiH is to make further progress towards Euro-Atlantic integration, both the intense pre-election environment and the complicated post-election situation were far from conducive to success. By year's end, only Republika Srpska (RS) had a government constituted. The state-level Council of Ministers was formed in February, and a Federation government was finally established only on 30 March. By the middle of May, two of the ten Federation cantons remained without new governments.

2. The highly divisive and occasionally inflammatory rhetoric that characterised the election campaign put my resolve to promote domestic ownership to the test; but it also made it possible to make a realistic assessment of the extent to which the domestic political establishments could take on

ever-increasing responsibility for their own country's affairs. Only by establishing the reality of the situation in BiH did it prove possible to identify the mechanisms that will be required in future to assist this country in completing its transition from post-communist and post-war fragility to Euro-Atlantic integration and security.

3. Despite repeated calls during and after the election campaign for a referendum on Republika Srpska independence – and countervailing demands from the Federation to abolish that entity – these first general elections since the war to be wholly organised and run by the domestic authorities passed off peacefully and successfully on 1 October. On the other hand, the parties that employed the most vociferous rhetoric during the campaign were also the biggest winners: the Alliance of Independent Social Democrats (SNSD) of RS Prime Minister Milorad Dodik and the Party for BiH (SBiH) of newly elected Presidency member Haris Silajdzic. The electoral arithmetic meant, however, that these two parties, regardless of their opposite stands on numerous issues, were compelled to share power at state level, in the Federation and in some cantons.

4. The other notable result of the elections was the weakening of the traditional nationalist parties that had dominated the political scene in BiH since the first free elections in 1990: the (Bosniak) Party for Democratic Action (SDA), the Serb Democratic Party (SDS) and the Croat Democratic Union (HDZ BiH). Their loss of predominance among their respective electorates does not signal, however, any diminution in the salience of national (and nationalistic) issues.

5. Little progress was made during the period in meeting the preconditions for signing a Stabilisation and Association Agreement (SAA) with the European Union. The technical negotiations with the European Commission (EC) were completed successfully, with very good performances on the BiH side by

both the chief negotiator and the Directorate for European Integration. However, the failure to forge a political agreement on police restructuring precluded the initialling of an SAA during the period.

6. Constitutional reform remained a high-profile issue, although there has been no concrete progress on constitutional reform during the last six months, primarily due to the focus of the local authorities on government formation and police reform. The package of amendments narrowly defeated in the BiH Parliament in April 2006 remains on the table. However, it appears increasingly unlikely that the package will get the necessary support to be reintroduced and adopted, despite clear and repeated calls for this by the PIC Steering Board. Recent political developments have again confirmed that a broader based process of constitutional reform is an imperative for BiH for both political and functional reasons. As EUSR I have been given a mandate to "facilitate" in that process. After close consultations with both the US and within the EU I am willing to discuss with local political leaders the best possible and effective structure for such a process.

7. The debate on constitutional reform thus continues to consume much political and public space, particularly since the 26 February ruling by the International Court of Justice on the suit launched by the former Republic of Bosnia and Herzegovina against the former Federal Republic of Yugoslavia in 1993. Bosniak politicians, led by Haris Silajdzic, have seized upon the court's verdict to point out that it was the army and police of the wartime RS that committed genocide in and around Srebrenica in July 1995. They demand both that the Srebrenica municipality should be removed from RS jurisdiction and that the RS itself should be abolished through more far-reaching constitutional changes. Their Serb counterparts have responded by both defending the legitimacy of the RS and offering economic and fiscal assistance to Srebrenica residents, the Bosniak returnees among whom have threatened to

leave the town once more if their demands are not met.

8. On 3 May, I appointed Clifford Bond, former US Ambassador to BiH as my Envoy to the Srebrenica Region to facilitate progress on issues related to this Region. On 12 May, 95 Bosniac victims were buried in Bratunac after an agreement was reached between the victims' families and the competent authorities in the RS. OHR was required to play an intensive facilitating role to secure an agreement. This was a notable success, but nevertheless one which confirmed the reality that the IC continues to be needed to resolve sensitive issues, thereby addressing potential sources of political instability. In regard to the wider issue of constitutional reform, close coordination with the US government, in my capacity as EUSR, I am preparing for a broad constitutional reform process to be set up and operating in the second half of 2007.

9. In November NATO invited BiH to join its Partnership for Peace (PfP), together with Serbia and Montenegro. NATO Secretary General Jaap de Hoop Scheffer stressed in the aftermath of this decision that NATO still expected the three countries to improve their cooperation with the ICTY.

10. In December BiH scored another success when, after hard negotiations over agricultural imports with its neighbours, it joined the Central European Free Trade Agreement (CEFTA). Just as PfP is an anteroom to full NATO membership, CEFTA provides the Western Balkan states with a single set of EU-harmonised trade rules. Meanwhile, economic growth remained healthy, with an increase in real GDP (despite the one-time boost in inflation to 6.8 per cent following the introduction of VAT) and rising exports.

11. The security situation was stable during the reporting period. Only few security incidents or cases of nationally motivated violence or vandalism were noted. The most serious took place around Mostar and in areas of Bosniak return to the

RS during the summer of last year.

12. As noted above and predicted in my previous report, the uncertain regional situation and, in particular, mounting tension occasioned by both the approach to and deferment of a Kosovo status decision impacted unhelpfully on BiH politics and political discourse over the period. The independence referendum in Montenegro in May set the scene for much loose and inflammatory talk of both “self-determination” in Republika Srpska and abolition of the entities in the Federation during the election campaign. This continued as Belgrade officials attempted to link the fates of Kosovo and the RS. Prime Minister Dodik also used the renegotiation of the parallel relations agreement with Serbia, Belgrade’s offer to build a new bridge across the River Sava at Bosanska Raca, and the lucrative sale of the entity’s telecommunications operator to its state-owned Serbian counterpart to reinforce his close economic and political connections with Serbia.

13. OHR/EUSR staff continued to work towards fulfilling the OHR Workplan and revised Mission Implementation Plan (MIP) that were approved by the Peace Implementation Council in March 2006 as well as carrying out the EUSR mandate. Our efforts were hampered, however, both by pre-election politicking and by the post-election interregnum as parties slowly negotiated the formation of new coalition governments. The Workplan and MIP completion rates suffered accordingly. At the end of April, the PIC Steering Board approved a Workplan for May 2007 onwards.

14. It was this uncertain regional environment, combined with the virtual halt in reform and the prolonged void in government following the elections, that convinced me that it would be rash to proceed with the planned closure of OHR and transition to a solely EUSR operation in BiH after June 2007. The Peace Implementation Council Steering Board endorsed this view at its meeting in Brussels on 26-27 February. In line with the general consensus of PIC Steering Board members,

there was agreement to aim for OHR closure by 30 June 2008 and to review the situation in October 2007 and February 2008. The PIC Steering Board underlined that the policy of ownership remains the guiding principle and that the International Community will help Bosnia and Herzegovina to make the final steps from peace implementation to Euro-Atlantic integration as soon as possible. Russia stated that it was unable to join this consensus and that it would make conclusions consistent with UN Security Council Resolution 1722. I had announced in January that I would not seek an extension of my mandate beyond June 2007. On 11 May, the Peace Implementation Council Steering Board decided to appoint Ambassador Miroslav Lajčák as the next High Representative for Bosnia and Herzegovina. The Office of the High Representative (OHR) has informed the Security Council of the United Nations and the Council of the European Union of this appointment.

### **I. Political developments**

15. The results of the 1 October general elections were certified on 27 October – a few days before the legal deadline – but the broad contours of the resulting political landscape in BiH had been far more quickly discernible. The big winners were Milorad Dodik (and his SNSD) and Haris Silajdžić (and, to a slightly lesser extent, his SBiH). Their victories were also victories for the radical and polarising political rhetoric they had employed during the campaign, which had centred on their antithetical conceptions of the future constitutional order in BiH. The irony of the result is that their two parties are now condemned to cohabitation in government and future progress will largely depend on the ability of Dodik and Silajdžić to find mutually acceptable compromises.

16. The other notable result of the October poll was the blow administered to the ‘big three’ nationalist parties – the SDA,

SDS and HDZ BiH – that had dominated their respective people's political horizons since 1990. Although diminished in strength, all three will, however, continue to be important players. In fact, only the SDS has been excluded from a share in power at the state and entity levels. The traditional nationalist parties' relative or absolute defeats did not mean, of course, a defeat for nationalist politics. The victors simply proved more adept at mobilising national sentiments and issues, accusing the formerly dominant nationalists of having failed to stand firm on salient national issues such as constitutional reform and the balance between state and entity prerogatives.

17. With 41 out of the 83 seats in the RS National Assembly, Dodik came close to winning an absolute majority and more than doubled the SNSD's previous total of 19 seats. The SDS, by contrast, saw its tally fall from 26 to 17 seats. It promptly repudiated its latterly moderate leader and defeated candidate for re-election as RS president, Dragan Čavić, and turned to the right. Dodik, for his part, needed only to offer ministerial office to a few smaller parties to construct a strong majority and, then, to reshuffle his existing cabinet. Having done so, he won confirmation by the RSNA on 29 November.

18. In the Federation, the SDA retained its position as the biggest Bosniak party with 28 seats in the lower house, but this loss of just four mandates understated the party's relative defeat in the face of the SBiH's jump from 15 to 24 seats and Silajdžić's clear victory over SDA leader Sulejman Tihić in the race for the Bosniak place on the BiH Presidency. The long-dominant Croat party, the HDZ BiH, lost half of its previous 16 seats in the Federation lower house, but still edged out the breakaway HDZ 1990, which won seven. On the other hand, the HDZ 1990, in combination with smaller Croat parties, claimed leadership of the majority Croat coalition once all the cantonal assemblies had elected their

delegates to the upper house, the House of Peoples.

19. A feature common to both entity parliaments elected in 2006 is that the number of parties winning seats was reduced, so making political management easier. No Croat parties, for example, won seats in the RSNA, though the number of Croat deputies (elected as SNSD candidates) remained the same at four. The number of predominantly Bosniak parties winning seats in the RSNA remained the same (three), but their total number of seats fell from ten to eight. On the other hand, the SNSD won two seats in the Federation parliament.

### **Government formation**

20. The SDA and SBIH leaders quickly agreed in October on an undefined post-election coalition, but serious talks about forming a state-level government did not begin until mid-November. They continued in desultory fashion until year's end, but picked up speed and purpose in January. The major sticking point throughout was which of the two HDZs would share power, since the SDA preferred the HDZ BiH and the SBIH wanted a partnership with the HDZ 1990, which had also opposed the March set of constitutional reforms. For its part, the HDZ BiH long rejected any notion that both Croat parties should enter government. In the end, the Council of Ministers confirmed by parliament on 9 February and the Federation government finally established on 30 March contained ministers from both Croat parties.

21. Despite the fact that the business of forming the state and Federation governments was long and tortuous, it was a positive sign that the SNSD was determined both to occupy the prime executive post at state level, so according the chairmanship of the Council of Ministers enhanced importance, as well as to take ministerial office in the Federation for the first time. In addition to the chairmanship of the CoM, the SNSD took two of the more important state-level ministries. It was an equally healthy sign that there were no



demands that the international community should intervene to broker a deal. Although Dodik stated before the CoM was established that the governing majority would be a purely mathematical combination – not a real coalition – and that the SNSD would focus on running ‘its’ ministries, his interest in the chairmanship and the calibre of his ministerial nominees hinted otherwise.

22. Although the six parties that signed up to the March 2006 package of constitutional reforms won the two-thirds majority of seats that would be required to pass the amendments on a second attempt, two (the SDP and SDS) have gone into opposition and announced that they can no longer be counted upon to back the amendments, while a third (the SDA) is split internally on the issue. The combination in government of parties wholly opposed to the package (SBiH and HDZ 1990) with those who still favour it (SNSD and HDZ BiH) and one that is now equivocal (SDA) means that no clear way ahead is yet visible. The PIC Steering Board nonetheless reaffirmed in February its view that early adoption of the package would constitute a positive first step and provide a basis on which to establish a broader process by mid-2007 that would enable Bosnia and Herzegovina to acquire the attributes of a modern European state.

23. As noted above, the new but little changed RS government was confirmed in office on 29 November, celebrating in mid-March the achievements of its first 100 days in power while Federation politicians were still wrangling over portfolios – and particularly those to be allotted to the Croat parties. Once this was done, however, there was a rushed attempt on 22 March to subvert the process whereby my office vets nominees for five sensitive ministries. The ostensible reason for the sudden haste was the need to adopt and enact the Federation’s 2007 budget before the expiry of the temporary financing authority on which the caretaker government had operated.

24. Having warned parliamentarians that vetting was not yet

complete and that the 10-usual workday period required for vetting had not yet expired, I asked them to postpone their session for the day or two. However, the House of Representatives nonetheless proceeded to elect the new government. I was thus compelled to nullify the House's vote on 23 March. Since one ministerial candidate did not, in the event, pass the vetting procedure, I asked the relevant party (the SBiH) to nominate another. This it promptly did, so permitting an accelerated vetting procedure and a new session of parliament on 30 March. The cabinet was duly confirmed and the 2007 budget passed.

25. The new Federation House of Representatives had convened within the prescribed deadline on 21 November, but did so only to swear in MPs and to recess. Most cantonal assemblies did not even do that. Moreover, the cantons' failures to respect deadlines made it impossible to form the Federation House of Peoples (which is elected from the cantons) and the BiH House of Peoples (two-thirds of whose members are elected from its Federation counterpart) before February. In addition, there will continue to be a small 'deficit' of Serbs in the Federation House of Peoples, since not enough were elected to the cantonal assemblies. Moreover, in May, seven months after the elections, two cantons remained without new governments forcing me to engage party leaders to resolve this unacceptable situation.

### **Party-political realignments and reactions**

26. The immediate post-election period saw the weakened leaders of the SDA and SDS facing revolts over their parties' disappointing results. While Tihić (SDA) survived, Čavić (SDS) was forced out in mid-November. The SDS has now reverted to the intransigence of its earlier days, but is unlikely to be able to outflank Dodik in this regard. The newly elected SDS leadership has nevertheless been openly flirting with former SDS officials removed for support of Persons Indicted for War Crimes (PIFWCs).

27. The new HDZ 1990 bucked the trend established by earlier breakaway parties from the HDZ BiH by winning a substantial number of seats at the state, Federation and cantonal levels. The HDZ 1990 benefited from perceptions that it was backed by both the HDZ government in Zagreb and the Catholic Church, as well as from the conviction in the autumn of HDZ BiH leader Dragan Čović for financial crimes when he was Federation finance minister.

28. The major non-nationalist (or non-national) party, the Social Democrats (SDP), failed to make significant headway, but is set to remain the strongest opposition party in the state and Federation parliaments. The party's one success, the election of its candidate, Željko Komšić, to the Croat seat on the Presidency stemmed from the split between the two HDZs and the votes of SDP loyalists among all three constituent peoples. The explicitly Croat parties cried foul and denounced the legitimacy of a Croat supposedly elected by non-Croats, but their protests petered out rapidly. SDP leader Zlatko Lagumdžija subsequently called for a vote of confidence in his leadership, which he won easily.

29. Claims by Dodik that the secessionist rhetoric that characterised the campaign in the RS would evaporate after the election have, by in large, been borne out by events. On 28 March RS President Milan Jelic stated that the SNSD had abandoned its pre-election agitation in favour of a referendum, given that the international community, including OHR, had made it clear that the RS could not be abolished without its citizens' consent. There was thus no need for a referendum. The RS prime minister did, however, keep the notion of a referendum alive by proposing instead to call one on policing should the existence of the RS police be threatened. (This was an idea he borrowed from the SDS.) RS-based NGOs, however, have continued to agitate on behalf of referenda on both policing and secession.

## **Constitutional Reform**

30. As noted above, the future of the first-ever package of constitutional amendments in post-Dayton BiH remains uncertain. Nonetheless, constitutional reform was an inescapable subject during the coalition negotiations and will remain high on the agenda no matter how divided the new governments may be on the issue. Although nearly everyone agrees that constitutional change is necessary if BiH is to have functional, affordable and EU-compatible governance, few agree on the nature and scope of the reforms. Most Serbs want an explicitly federal state composed of three 'national-majority' units, though any effort to define the prospective boundaries of such units undermines potential Serb-Croat concord on this point. Bosniaks, on the other hand, continue to favour an integral or 'civil' state, the territorial sub-units of which would be merely administrative – and certainly not national or constituent. This is unacceptable to Serbs and Croats because they see it as guaranteeing Bosniak majority rule.

31. Bosniaks' determination to pursue the goal of unitary BiH has been reinforced by the International Court of Justice's 26 February verdict. The court's finding that the wartime institutions of the RS were responsible for genocide in Srebrenica has provided an opening: first for demanding Srebrenica's removal from RS jurisdiction, then for the elimination of the RS police and, eventually, for the abolition of the entity itself.

32. Although both the US government and I had hoped to work for speedy adoption of the modest package of amendments that failed in April, making it clear that this was but the first step in what would have to be a more thoroughgoing process of constitutional reform, the omens are far from good at present. In the medium term, however, the dysfunctionality of the political system and the the pressure of recent events as well as the increasing awareness for the need of constitutional change in civil society could forge the

necessary consensus for change. This will require an effective structure, combining both domestic and international experts, and a well-equipped secretariat to support a constitutional reform commission. There will thus be a key role for the international community to play, particularly the EU, led by the EUSR, and the US in both supporting the initiation of this effort and facilitating progress over the next few years.

33. Also on the constitutional front, I was obliged on 23 March to issue an order to assure the integrity of decisions taken by my predecessors and myself and to make sure that the authorities of Bosnia and Herzegovina abide by their obligations under the Dayton Peace Accords and UN Security Council resolutions. The need for this order arose from a July 2006 ruling by the BiH Constitutional Court on an appeal for redress from two persons removed from office by my predecessor in 2004 in relation to non-cooperation with the ICTY. The court, although not directly challenging this decision, had ordered the state authorities to take steps to establish a remedy for such removal decisions. My order establishes a procedure whereby the authorities will be able to comply with the Constitutional Court's ruling without, at the same time, violating their obligations to respect and implement decisions of the High Representative taken under Annex 10 of the General Framework Agreement for Peace. The order prohibits the establishment of any review mechanism by the BiH authorities while obliging them to refer such matters to the High Representative, as Chair of the Peace Implementation Council Steering Board.

34. This order was made following close consultations with PIC Steering Board members and others. On 27 February the PIC Steering Board had reminded all institutions that Bosnia and Herzegovina's international obligations under the GFAP and the United Nations Charter must be respected and called upon me to take appropriate actions to ensure that BiH fulfils these

international obligations.

## **II. OHR Mission Implementation Plan**

35. Thirty Workplan items remain outstanding. The PIC Steering Board asked me in February to revise the Workplan to focus on remaining Dayton implementation requirements and on consolidating the reform of state-level institutions necessary for the stability and sustainability of Bosnia and Herzegovina.

36. Work continued, however, on ensuring that Workplan items could be completed once the new governments were in place and normal legislative business resumed. In almost all cases the impediments have not been technical, but reflected an absence of engagement and determination on the part of the governing authorities. It remains to be seen how much political will the state and entity governments will prove able to mobilise. The fact that the blockage in the work of the Council of Ministers following the ICJ verdict was overcome in mid-March – and some important decisions taken – may augur well.

## **III. Reforming the economy**

37. Now that the new governments are in place it is imperative that they should both rise to the challenges ahead and deal with a substantial backlog of essential fiscal and economic legislation. The country not only needs to maintain sound macroeconomic policies, but it must also make substantial progress on the structural reforms required to lay the foundations for sustained, private sector-led growth.

38. That said, economic growth has remained relatively robust, and it is likely that real GDP growth of 5 per cent in 2005 will increase to 5.7 per cent when the figures for 2006

are confirmed. The introduction of VAT inevitably impacted on retail prices, producing a one-time rise in the average rate of inflation to 6.8 per cent. Exports have picked up and, with improved statistics, the current account deficit should show a narrowing from 21 per cent of GDP in 2005 to about 13.5 percent of GDP in 2006. The external deficit, however, remains very large.

## **VAT Introduction**

39. The successful introduction of value-added tax was the undoubted high point of economic reform in 2006. Projected revenue collection from VAT for 2006 was KM 3.5 billion. Actual revenues far exceeded the initial projection, reaching a final total of slightly more than KM 4 billion. There continues to be intense disagreement, however, over the formula for allocating these revenues among the entities and Brcko District, making it clear that the current methodology represents a constant source of contention. As a consequence, revenues from the Single Account have only been allocated on a monthly or bi-monthly basis, and sometimes in arrears. This contention has also caused delays in reaching an agreement on the National Fiscal Council, which still has no basis in law and has, therefore, neither an effective mechanism for breaking deadlocks among its members nor any means of enforcing its decisions.

## **Budgets**

40. The effects of the unsatisfactory level of intergovernmental coordination and the lack of a law on the National Fiscal Council were again obvious. Preparation of the 2007 budgets continued to be marred by such weaknesses. Governments are boosting their spending in an inefficient and shortsighted manner, albeit not dangerously. But this tendency poses a fiscal risk if revenues stagnate, let alone drop, for the governments quickly came to rely on steadily increasing revenues during 2006.

## **Business Environment**

41. Progress in improving the business environment, restructuring corporations and making structural reforms slowed in 2006. According to the World Bank Business Environment and Enterprise Performance Survey 2006, improvements have mainly been made in taxation, customs and trade regulation. However, all efforts to centralise banking supervision at state level or to adopt laws crucial for creating a single economic space in BiH (e.g., laws on obligations and pharmaceuticals) have failed or been postponed. My office has also been engaged in improving the business environment through institutional support for business associations and trade chambers, as well as in encouraging socio-economic dialogue.

42. Corporate restructuring has proceeded slowly and progress in strengthening enterprise governance has been modest in comparison to neighbouring countries. The absence of political interest or will has stymied significant privatisation efforts in the Federation, although there has been significant progress in the RS in privatising a number of large companies.

## **Infrastructure reform**

43. While the demand for most modes of transport is growing markedly, the absence of an overall national infrastructure policy is a major problem. This is partly due to the lack of institutional capacity, but also to politics, particularly in the railway sector. The situation is slightly better in the electricity industry, which has been restructured with significant assistance from the World Bank, European Commission and several other donors. The main challenges will be to increase the power-generation capacity in a transparent and competitive process with the objective of achieving a balance between risks and benefits, both for BiH and investors.



#### IV. Strengthening the capacity of BiH's governing institutions, especially at state level

44. The state, entity and Brcko District governments adopted the National Public Administration Reform (PAR) Strategy prepared by the BiH PAR Coordinator during the reporting period. Six inter-governmental working groups were established to work on its implementation. The strategy encompasses the six horizontal PAR areas: human resources, legislative drafting, administrative procedures, information technology, institutional communications and public finance. OHR provided both political support and technical assistance throughout the adoption process.

45. Although the working groups have been set up, implementation of the action plan has yet to begin in earnest. This will need to be the focus in coming months, and OHR will, within its means and capabilities, seek to assist the authorities in doing so. Initiating the implementation of the comprehensive PAR action plan is a key short-term priority of the European Partnership and a condition for signing a SAA.

#### V. Establishing state-level civilian command and control over the armed forces, reforming the security sector and paving the way for integration in the Euro-Atlantic framework

46. NATO member states invited BiH to join the alliance's Partnership for Peace (PfP) on 29 November 2006. This signified fulfilment of one of the main benchmarks of success in defence reform. Meanwhile, work continued throughout the period on transferring all property identified by the BiH Ministry of Defence as necessary for defence purposes from the entities to the state. This effort was hampered, however, by the RS government's repeated refusals to comply with the relevant provisions of the Defence Law. Work on transferring EUFOR's residual Dayton tasks and functions to the BiH

authorities also intensified. But BiH remains in need of legislation providing for the oversight of movements of weapons and military equipment (WME) within the country, including the structures required to ensure implementation. The domestic authorities worked as well on programmes aimed at safely disposing of surplus WME. However, without transfers of ownership by the entities, these programmes cannot be implemented.

47. After much political wrangling and discussion of relative national representation in the Armed Forces of BiH (AFBiH), on 5 July 2006 the state Presidency finally adopted a decision on their size and structure that allows for the development of an increasingly integrated force. This offers a solid basis for future progress while providing immediately for the AFBiH to have niche capabilities in the spheres of de-mining and explosive-ordnance disposal. There is a realistic ratio of officers to non-commissioned officers and soldiers (2:3:5). The force will be fully professional, with no conscripts and no passive reserve. PfP membership will help ensure that improvements continue to be made, particularly since BiH has begun to participate in the NATO force-development process. The BiH Chief of Joint Staff has produced an implementation plan with timelines for the stand-up of all elements of the AFBiH. This plan aims to ensure that the legally defined dates for the formation of headquarters and the assignment of battalions to them can be met. It is likely, however, that these timelines will slip, owing to the fact that the selection process for military personnel is not yet complete.

48. BiH submitted its Presentation Document to NATO before the end of 2006. It has been accepted and BiH is now preparing its Individual Partnership Plan. On 16 March 2007 BiH also signed a NATO Security Agreement that defines parameters for the exchange of information between NATO and BiH, including document handling, security clearances and the like. The initial phases of the Planning and Review Process

have also begun.

49. Although not a defence-reform issue *per se*, BiH recently dispatched its fifth rotation of the Explosive Ordnance Disposal platoon serving with the US-led coalition in Iraq.

Each contingent has served for six months. Platoon members are volunteers drawn from the AFBiH as a whole and, as with other, smaller deployments in the past (e.g. with the UN in Ethiopia/Eritrea), they comprise members of all three constituent peoples.

50. The BiH Intelligence and Security Agency (OSA) fine-tuned its organisational structure during the reporting period in order to take on the responsibility for security vetting prescribed by the Law on the Protection of Secret Data. A first batch of OSA employees commenced training on both operational and analytical aspects of the agency's work. Such training, as well as consultations with international experts, remained a priority. Both executive control and parliamentary oversight of OSA continued to mature.

51. OSA underlined its ability to act as the key point of contact in BiH for counter-terrorism efforts through its membership of several international forums for intelligence cooperation. Bilateral donors provided both training and material assistance. OHR will continue to work with the OSCE Mission to BiH and other partners to consolidate the agency's compliance with all aspects of the laws that regulate it and to ensure both proper executive control and effective parliamentary oversight.

## **VI. BiH in the region**

52. As a multinational state whose three constituent peoples also inhabit its neighbouring countries, BiH cannot escape regional disputes or instability. Even the ordinary politics of Croatia, Serbia and Montenegro impact upon it. The RS

government, in particular, has felt compelled to do Belgrade's bidding on numerous occasions.

53. As I have emphasised above, however, the uncertainty over Kosovo's future status and the delays in the announcement of the UN mediator's proposals had an especially baleful influence during the 2006 election campaign and thereafter. In fact, this risk of regional instability is a principal reason why I concluded that it would be rash to close OHR and renounce the Bonn Powers as early as 30 June 2007, the target date set by the PIC in June 2006. Until such time as Kosovo's status is both settled and accepted – and arguments and passions attempting to draw BiH into the equation are moot and spent – fundamental changes in the nature of the international engagement in BiH must be considered carefully. The country may be peaceable and secure, but it is also vulnerable, both to external developments and their domestic reverberations, as well as to homegrown political instability. The reverberations set off by the 26 February verdict of the International Court of Justice are a case in point.

54. Any perceived diminution of international interest in BiH or any apparent weakening of resolve to uphold its sovereignty and territorial integrity could invite trouble. NATO's invitation to BiH to join PfP had a decidedly reassuring effect. Signature of a SAA with the EU would provide an even greater fillip

55. BiH still has minor border disputes with Serbia and Croatia, though the potential quarrel over Zagreb's plan to build a bridge between the mainland and the Peljesac peninsula that would have restricted BiH's access to the Adriatic seems to have abated. Another longstanding irritant to regional relations – the constitutional bars on extradition of their nationals by Croatia and Serbia – remains unresolved, although cooperation among prosecutors continues to improve. Bosniak politicians' efforts to call the dual-citizenship agreement with Serbia into question following Montenegro's departure

from the state union and subsequent lack of interest in concluding a similar agreement with Croatia have lately been overcome.

## **VII. BiH and the Stabilisation and Association Process**

56. The technical rounds of SAA negotiations completed in 2006 proved constructive. Their focus was on trade concessions, the movement of goods, approximation of laws, law enforcement and competition rules, mutual assistance in customs matters, dispute settlement mechanisms, and transitional periods. No breakthroughs were made, however, on the preconditions for signing a SAA: police restructuring, public broadcasting reform and ICTY cooperation.

57. In addition to this, RS PM Dodik has made a number of public statements suggesting that the RS will challenge before the BiH Constitutional Court existing key reforms such as VAT and public procurement that have been central to the EC decision to open SAA negotiations with BiH. Moves to challenge existing reforms rather than delivering outstanding reforms such as police reform would represent a serious and worrying development.

### *Police Reform*

58. In December 2006, the Directorate for Police Restructuring Implementation ("Directorate") completed its 36-page final report, "Proposed Plan for the Implementation of the Reform of Police Structures in Bosnia And Herzegovina," as mandated by the October 2005 Agreement on Restructuring of Police Structures (Political Agreement). The Directorate submitted its report to the BiH Ministry of Security on 27 December 2006 and on 3 January 2007 the Ministry of Security forwarded it to the secretary general of the caretaker Council of Ministers.

59. The report was the result of 12 months' work, during which the Steering Board of the Directorate held 28 meetings (15 during the reporting period). There were numerous delays, however, stemming largely from the RS government's obstruction of and objections to the legitimacy of the process, notwithstanding the fact that the RS National Assembly had adopted the Political Agreement and Serb ministers in the CoM had supported the formation of the Directorate. RS opposition to the process culminated in a decision in May 2006 to downgrade RS representation on the Steering Board to that of observer. Directorate members from RS institutions maintained their status as observers for the remainder of the Directorate's mandate, although Serb representatives of the state continued to participate.

60. As a result of these delays and obstructions, the report was submitted three months after the deadline foreseen in the October 2005 Political Agreement and minus some of the elements specified by that agreement. In particular, it does not include draft legal acts or rulebooks, a timetable for the overall implementation period, or a map of police regions.

61. The proposed policing system provides for an organisationally integrated structure with decentralised police operations and decision-making. The consolidation of administrative services (human resources, finance, procurement, IT/communications), which are currently duplicated in each of the existing fifteen police forces, is perhaps the most far-reaching aspect of the report. The new system also envisages a single forensics centre and police academy. The local policing level would operate with fairly extensive autonomy, although the future Director of Police and the Directorate for Police Coordination would provide an operational hierarchy.

62. The report also offers concrete solutions designed to implement the three guiding principles set by the European Union:

- All legislative and budgetary competencies for all police matters must be vested at the state level.
- No political interference with operational policing.
- Functional local police areas must be determined by technical policing criteria, where operational command is exercised at the local level.

63. As for the first principle, the report clearly establishes that the state should have exclusive legislative competency for all police matters and that other levels of government cannot legislate on police matters. The report also envisages a single police budget to be adopted by the BiH Parliamentary Assembly. Regarding the second principle, the report provides for numerous oversight mechanisms designed to keep politics out of policing, mainly through parliamentary watchdogs and institutions such as the Independent Board and Public Complaints Office. On the third principle, the report enumerates specific technical guidelines and criteria for forming local policing areas, but it does not contain a map suggesting what they should be.

64. In line with the Political Agreement, the state and entity governments and parliaments will need to adopt the Directorate's proposal, along with any agreed amendments. Because of the earlier withdrawal of RS support from the Directorate, continuing Serb determination to maintain the RS name for police forces deployed on its territory and reinforced Bosniak determination that no such thing should happen, the forging of a political consensus on the Directorate's report, let alone the number and shape of local policing regions, has thus far proved impossible. My office has organised or participated in numerous meetings among party leaders this year, as well as conducting bilateral negotiations.

65. At several points it has looked as if progress was being made, most notably at a meeting of Serb and Bosniak leaders on 14 March, the day before EU Enlargement Commissioner Olli Rehn

arrived in Sarajevo. Although Dodik on that day shifted his position significantly towards meeting the three EC principles, Silajdzic and Tihic deemed this to be insufficient, offering to compromise only after Rehn had left and Dodik had back-tracked. On 12 April, the RS National Assembly adopted conclusions that call into question the RS' commitment to police restructuring, not least due to its explicit calls to amend the 5 October 2005 Agreement which was the basis for opening SAA negotiations in November 2005.

66. Failure to reach political agreement and, then, quickly to translate such an agreement into parliamentary acts and legislation on implementation may make it increasingly difficult for BiH to sign a SAA before the end of 2007. However, OHR/EUSR has continued its contacts with the key political players. Commissioner Rehn's letter of 8 May to the BiH Prime Minister has put pressure on key actors and highlighted the choice between progress on the SAA and stagnation. The US has also played an important and constructive role. OHR/EUSR remains available to facilitate talks to reach a solution.

### **VIII. EUFOR / Operation Althea**

67. The European Union Military Mission (EUFOR) continued to conduct operations to ensure compliance with the General Framework Agreement for Peace and to maintain a safe and secure environment. EUFOR troops conducted a number of operations, including presence patrolling, observation activities, weapons' collections and specific operations targeted at the support networks of war-crimes indictees and associated criminal elements. Thanks to improvements in the security situation, EUFOR started to reduce and, in some areas, to end routine patrolling towards the end of 2006.

**68.** EUFOR maintained some 6,000 troops from 22 EU member



states and 12 other countries. The force remained deployed in three regional multi-national task forces based in Banja Luka, Mostar and Tuzla, in addition to 44 Liaison and Observation Teams (LOT) throughout the country.

69. The EU decided in principle on 11 December to downsize EUFOR during 2007. The EU's Political and Security Committee confirmed this decision on 27 February. Implementation has begun and is due to be completed in the summer, when EUFOR will consist of some 2,500 troops in country. The new force posture that is planned provides for the retention of one battalion and two Independent Police Unit companies, based at Camp Butmir near Sarajevo, while additional battalions will be available 'over the horizon' to reinforce EUFOR at short notice. EUFOR will, however, maintain a countrywide presence in the form of LOT deployments, the purpose of which is to provide EUFOR with real-time situational awareness.

70. As a result of new common operational guidelines established between EUFOR and EUPM, EUFOR ceased to conduct independent operations targeting organised crime. Instead it backs up domestic law enforcement agencies when their requests for support are endorsed by EUPM. Having fulfilled its mandate, the EUSR-chaired Crime Strategy Group formerly tasked with overseeing the coordination and coherence of the EU's Security and Defence Policy in support of the BiH authorities' fight against organised crime closed down in November.

## **IX. EUPM**

71. The European Union Police Mission (EUPM) continued its successful work in co-location with the local police during the reporting period. It implemented its refocused mandate and strengthened further its cooperation with EUFOR. With the Common Operation Guidelines in place, EUPM took the lead in supporting BiH in the fight against organised crime and

corruption, as tasked by the EU's PSC. The establishment of the Criminal Justice Interface Unit (CJIU) charged with addressing deficiencies in cooperation between police and prosecutors was a positive step. The CJIU focused on enhancing both general and case-specific cooperation in order to facilitate effective investigations and prosecutions, as well as to contribute to strengthening the integrity of the country's criminal justice system. EUPM was actively engaged in promoting police restructuring and was in particular involved in the Directorate for Police Restructuring as the permanent international member of the Directorate's Steering Board.

72. Pursuant to an operational review conducted at the end of the year, EUPM concluded that greater effort was required to support the ongoing battle against organised crime and corruption, including the provision of more hands-on advice regarding specific cases, in addition to general guidance.

#### **X. EU Special Representative (EUSR)**

73. In line with my dual mandate as European Union Special Representative in Bosnia and Herzegovina (Council Joint Action 2006/49/CFSP), I continued to promote the priorities listed in the European Partnership document of 2006, as well as the implementation of the GFAP. I was in particular engaged in promoting an agreement on police restructuring, along the three EU principles, among key political leaders. I also worked for constitutional reform, which remains essential to both rationalise and strengthen the country's governance and, by extension, to equip BiH for eventual EU integration, with the aim to launch a broad, ownership-based process. In response to renewed politicization of the Srebrenica issue following the ICJ verdict, I was closely involved in promoting a coordinated EU, wider International community and local engagement on the future development of Srebrenica and the eastern RS. My team and I have also been actively involved in addressing the long-lasting issue of decertified police

officers, which found a solution on the basis of a proposal put forward by the UK.

74. In the field of the fight against organised crime, COMEUFOR, the EUPM Commissioner and I agreed to revise the terms of reference for the EU Crime Strategy Group during the reporting period.

75. In my EUSR role I also continued to ensure internal EU coordination and coherence of EU actions in BiH. Regular contacts with other Heads of EU missions (European Commission, EUFOR, EUPM, EUMM, Presidency) enabled information sharing and coherent analysis of main developments. The political aspect of EU actions is systematically examined by my team and myself, with EU coherence in mind. I in particular provided political oversight of the EUPM and political advice to EUFOR, and benefited from a good cooperation with both. There are a host of coordination mechanisms at various levels of the EUSR organisation. The Head of Political Department convened weekly "ESDP meetings" gathering advisors from EUFOR, EUPM, EUMM, also the EC Delegation. Regular consultations with the EC Delegation focused, among other things, on identifying priorities for the Instrument for Pre-Accession programming process for 2007. Besides, encouraging a coherent and global EU media strategy has been a priority to me, and the EU missions' communication staffs have regularly met to coordinate our campaigns. I would like to thank Operation Commander Reith, COMEUFOR Withauer, Police Commissioner Coppola and EUMM Head of Mission Maryse Daviet for their excellent cooperation. I would also like to express my appreciation to Ambassador Kourkoulas for the excellent cooperation with the European Commission Delegation.

## **XI. Reinforced EU Engagement in BiH and**

## **the Closure of OHR**

76. OHR and EUSR members of staff worked towards meeting the conditions required for the transition from OHR to EUSR following the PIC Steering Board Political Directors' decision in June 2006 that OHR should prepare to close in June 2007. As I have emphasised throughout this report, however, developments on both the regional and domestic scenes have been far from propitious, ultimately causing the PIC to decide on 27 February to maintain OHR. This means that OHR and EUSR will continue to work in tandem, but with the latter assuming increased prominence as the somewhat slower transition process proceeds.

77. In the meantime, the General Affairs and External Relations Council had on 16-17 October welcomed the second joint report by SG/HR Javier Solana and Enlargement Commissioner Olli Rehn on a reinforced EU Presence in BiH in the context of the closure of the OHR. In accordance with my mandate, on 23 November I submitted a detailed proposal for the consideration of the Council on the mandate, structure and resources required for a reinforced EU engagement in BiH. Working groups in Brussels examined the issues involved and the Council adopted a new joint action (legal basis) in January 2007. This will now need to be reviewed.