Results of Freedom of Information Consulting Process Announced

Sarajevo, October 5, 2000 – The OHR, and the OSCE Mission to BiH, today forwarded four amendments to the draft Freedom of Information legislation that is currently pending before Entity governments and State parliament. The OHR and OSCE have suggested to all three bodies that the proposed amendments should be incorporated into the draft legislation currently under their consideration.

These amendments mean firstly that the title of the legislation would become 'The Freedom of Access to Information Act' as it denotes more accurately the intention of the legislation, ensuring BiH citizens the right to access information held by public authorities. The second amendment would clarify that the time limits for the public authorities to comply with a request for information are maximum time limits, and that the public authorities should process requests for information in as short a period as possible. Thirdly, exemptions to the right to information, where the information is deemed sensitive, must be dealt with on a case by case basis, and no general exemptions may be accepted. Finally, the draft law is to include language referring to sanctions and penalties should the public authority not comply with the law.

These amendments are the result of numerous public information and consultative meetings held with members of the media, non-governmental organisations, civic groups, legal practitioners and members of local government in the weeks following the public release of the draft legislation in June this year.

According to the High Representative's decision on Freedom of Information and decriminalization of Libel and Defamation of July 30th, 1999, the OHR and OSCE were required to draft such

legislation, which was made public in June this year. The proposed amendments do not alter the over-all intention of the legislation and are fully in line with the decision by the High Representative. The draft Freedom of Access to Information Act will assure the public's right to access information held by governmental and other public bodies. These bodies may only deny access if they establish that disclosure would harm the legitimate aims of the public authority, for example in matters of defense, national security or crime prevention, or where the requested information involves confidential commercial interests or the privacy of a third party. All exemptions are subject to the public interest test, whereby information must still be disclosed if disclosure is justified in the public interest. The draft legislation will ensure that as much information as possible is accessible by the public at the lowest reasonable cost. It also gives individuals the right to amend or correct their personal information and to attach a commentary to it.

The OHR and OSCE welcome the contribution of BiH society in the public information and consultative meetings. These resulted in constructive comments and contributions, and were an important step in the development of the draft legislation. A large majority of the participants expressed their support for the draft legislation and shared the opinion that the adoption of such legislation in BiH will help to ensure transparency and accountability of public authorities essential in any democracy. This law will ensure that elected officials serve the BiH public rather than themselves. The OHR and OSCE are pleased that the law will be introduced into the BiH parliamentary procedure shortly and expect the Entity governments to act on the legislation in a timely manner.